

Netherlands Institute for Human Rights

Report

To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands

July 2021

Table of Contents

1	Introduction.....	- 4 -
2	General introduction.....	- 2 -
2.1	Developments and trends 2015-2020.....	- 2 -
3	National framework and infrastructure to combat and prevent racial discrimination (article 2)	- 6 -
3.1	Need for coordinated and comprehensive policies	- 6 -
3.2	Addressing institutional racism	- 6 -
3.2.1	Screening and reviewing laws, policies and practices on racial discrimination -	6 -
3.2.2	Risk of racism in (semi)automated decision-making based on risk-profiles. -	8 -
3.3	Complaining about racial discrimination	- 9 -
3.3.1	Low number of reports to the police	- 9 -
3.3.2	Collective complaints to deal with racial profiling	- 10 -
3.4	Strengthening municipal Anti-Discrimination Services (ADV's).....	- 10 -
3.5	Combating racial discrimination under criminal law	- 11 -
3.5.1	Prosecution of offences with a discriminatory motive	- 11 -
3.6	Preventing and combating online discrimination.....	- 13 -
3.7	Caribbean Netherlands (article 60)	- 14 -
4	Employment (article 5 e (i))	- 15 -
4.1	Discrimination on the labour market.....	- 15 -
4.1.1	COVID-19 creates additional challenges to protect against discrimination in employment.....	- 15 -
4.1.2	Discrimination in access to employment.....	- 15 -
4.1.3	Discrimination by employment agencies and intermediaries	- 16 -
4.1.4	Algorithms and discrimination in recruitment processes	- 17 -
4.1.5	Access to the labour market: refugees	- 18 -
4.2	Government policy.....	- 19 -
4.2.1	Action plans	- 19 -
4.2.2	Human rights approach to discrimination in employment	- 20 -
4.3	Discrimination at the workplace.....	- 20 -
5	Education (article 5 e (v))	- 22 -
5.1	Unequal opportunities for children with an immigration background.....	- 22 -
5.1.1	The impact of the COVID-19 pandemic on equal opportunities in education-	22 -
		-
5.2	Discrimination in access to internships	- 23 -

5.2.1	The impact of the COVID-19 pandemic on internships.....	- 24 -
5.3	Discrimination is underreported.....	- 25 -
6	Housing (article 5 e (iii)).....	- 26 -
6.1	Access to housing: the rental market.....	- 26 -
6.2	Access to housing: municipal policies.....	- 26 -
6.3	Housing policy for Roma, Sinti and travellers	- 28 -
7	Discrimination in the public domain.....	- 30 -
7.1	Discrimination and hate speech in various public domains	- 30 -
7.2	Ethnic profiling by law enforcement.....	- 31 -
Annex.....		- 33 -

1 Introduction

By presenting this report, the Netherlands Institute for Human Rights (hereinafter: the Institute) provides the Committee on the Elimination of Racial Discrimination (CERD) with information on the status of the implementation of the International Convention on the Elimination of all forms of Racial Discrimination in the Netherlands. It covers the period from 2015 to 2020.

The Institute constitutes the National Human Rights Institution of the Netherlands and has been accredited with A Status since May 2014. The Institute protects, monitors, explains and promotes human rights in the Netherlands through research, advice, and awareness raising. Its mandate also covers urging the government to ratify, implement and observe human rights treaties. One instrument used by the Institute to carry out this mandate is reporting to human rights treaty bodies, including the CERD.

The mandate applies to the European part of the Netherlands as well as the islands of Bonaire, St. Eustatius, and Saba.

2 General introduction

2.1 Developments and trends 2015-2020

There appears to be an increased awareness and recognition that (institutional) racism exists in the Netherlands. This is due to the protests by the Black Lives Matter movement, the day care benefits scandal (discussed below), and repeated reports on ethnic profiling by the police. In response to the global anti-racism protests, and in contrast to prior statements, Prime Minister Rutte publicly stated in June 2020 that discrimination in the Netherlands is of a systemic nature and that people should not be judged on the basis of their origin.¹ This is the first time that a government representative publicly acknowledged the existence of institutional racism in the Netherlands which is a deviation from past government responses.

Recent research by the Netherlands Institute for Social Research (SCP) on perceived discrimination in the Netherlands confirms that people with an immigration background, and Muslims in particular, experience the highest levels of discrimination in Dutch society. They experience discrimination in all domains, including the labour market, the housing market, education, sports and social media.²

The day care benefits scandal illustrates that discrimination also occurs as a result of state institutions' laws, policies and practice. Over the course of two decades, as many as 26,000 parents were wrongly accused of having fraudulently claimed child care allowances. They were ordered to repay child support benefits, which led to bankruptcies, unemployment, divorces and people losing their homes. An investigation into the scandal by the Dutch Data Protection Authority concluded that some of the tax authority's methods to detect cases of fraud were unlawful and discriminatory: by singling out childcare benefit applicants on the basis of their (dual) nationality for special scrutiny it had unlawfully differentiated on the basis of nationality. The processing of such personal data, moreover, formed a serious and improper breach of the General Data Protection Regulation (GDPR).³ A report by a parliamentary investigation committee called the

¹ See for the press conference

<https://www.rijksoverheid.nl/documenten/mediateksten/2020/06/03/letterlijke-tekst-persconferentie-minister-president-rutte-en-minister-de-jonge-na-afloop-van-crisisberaad-kabinet>

(Rutte, quote: "Het systemische probleem wat in heel veel landen zit, ook in Nederland, waarin mensen niet altijd worden beoordeeld op hun bijdrage, maar worden beoordeeld op groep, geslacht, geloof, seksuele geaardheid of wat dan ook. Dus gronden van discriminatie worden gevonden op terreinen waar mensen helemaal niets zelf aan kunnen doen, of keuzes die zij volledig rechtvaardig gemaakt hebben." [The systemic problem that many countries have, is also present in the Netherlands, where people are not judged for their contribution, but on their belonging to a certain group, their sex, their religion, their sexual orientation or any other ground. So grounds for distinction are found not in issues people can control themselves, or the choices they have rightfully made.]

² Sociaal Cultureel Planbureau, *Ervaren discriminatie in Nederland II*, Iris Andriessen, Justin Hoegen Dijkhof et al., Den Haag, maart 2020 (Netherlands Institute for Social Research (SCP), *Perceived discrimination in the Netherlands II*, <https://www.scp.nl/publicaties/publicaties/2020/04/02/ervaren-discriminatie-in-nederland-ii>

³ Data Protection Authority, *Belastingdienst/Toeslagen. De verwerking van de nationaliteit van aanvragers van kinderopvangtoeslag* [Dutch Tax and Custom Administration / Benefits. Processing the nationality of childcare benefit applicants], Den Haag: 2020. It must be said that the DPA, although it found proof of discriminatory practices with regard to the registration and processing of nationality data, did not establish that the orders to repay child support benefits were the result of discriminatory decisions by the Dutch Tax and Custom Administration.

scandal “unprecedented injustice” and a violation of fundamental principles of the rule of law.⁴

The day care benefits scandal did not erupt in a vacuum. The UN Special Rapporteur on racism, E. Tendayi Achiume, who visited the Netherlands in 2019, concluded that members of ethnic and religious minority groups are not seen as ‘really Dutch’.⁵ According to the Special Rapporteur, the fact that even members of second and third generation immigrants, who are born and raised in the Netherlands, continue to be seen as ‘non-Dutch’ and ‘different’ contributes to their discrimination.

Research on Dutch public opinion about the integration of ethnic and religious minorities corroborates the Special Rapporteur’s conclusion. It illustrates that Dutch people with a non-immigrant background believe that people with an immigrant background are not integrated and are not open towards Dutch people and culture. People with an immigrant background emphasize the importance of respect for each other’s culture and traditions. While it is accepted that integration is a shared challenge, people do not take this responsibility easily. Many native Dutch continue to see Dutch nationals with an ethnic minority background as ‘others’ who bear the responsibility to assimilate to Dutch culture.⁶

The rise of populist political parties and their emphasis on the right to freedom of expression as a right without limitations appears to be linked to a normalisation of racist speech in the public domain. This severely impacts the rights and dignity of people who are humiliated and discriminated against on the grounds of skin colour, ethnicity and national descent.

Finally, the outbreak of the COVID-19 pandemic and subsequent lockdown measures has further exacerbated ethnic and racial inequalities in the domain of housing, work, and education. Persons with an immigrant background have faced additional disadvantages in their access to labour and internships. Especially children of lower incomes and immigrant families suffered from the closing of schools, lacking the material and immaterial support at home to enjoy equal opportunities in education.

While racial discrimination continues to be a persistent problem in all domains, including state institutions, a number of positive developments can be witnessed as well. These include actions against racism in professional soccer, a motion adopted by Parliament condemning discrimination against persons of Asian origin in connection with the coronavirus, and Members of Parliament responding to racist comments on social media by other parliamentarians. There also appears to be more explicit support for the view that racist speech is not acceptable and is harmful to individuals and society as a whole.

⁴ The parliamentary examination committee on daycare benefits (Parlementaire ondervragingscommissie Kinderopvangtoeslag (POK)), *Ongekend Onrecht*, 17 december 2020. The parliamentary committee found that the orders to repay child benefit support had been unjustified and had been executed without due consideration of the disproportional effects these orders had of the private and family life of the families concerned. The parliamentary committee, however, did not establish that these orders had been given on discriminatory grounds. This question is still under investigation by the Netherlands Institute for Human Rights.

⁵ E. Tendayi Achiume, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her visit to the Netherlands](#), A/HRC/44/57/Add.2, Annex.

⁶ SCP, *Burgerinitiatieven 2019-4*. Den Haag 2019, p.4.

The Institute welcomes these actions, as well as the serious efforts of the central government to address racism. It nonetheless emphasizes the need to further step up efforts to prevent and tackle racial discrimination, including by evaluating and revising state institutions' laws, policies, and practices.

3 National framework and infrastructure to combat and prevent racial discrimination (article 2)

3.1 Need for coordinated and comprehensive policies

The Institute devoted its 2019 Annual status report to discrimination in the public sphere.⁷ Despite efforts of the authorities, discriminatory behaviour in public is widespread. The Institute concluded that steps towards more effective policies are necessary, as well as more coordination of policies of different state agencies to tackle discrimination (see further chapter 7).

At present, various ministries are involved in preventing and combating different forms of discrimination. A variety of policy and action plans co-exist, each with their own focus and their own target groups. All these plans are by their nature temporary. The plans taken together do not constitute a comprehensive policy, encompassing all forms of discrimination on all ground in all spheres. The national government, which bears final responsibility for guaranteeing human rights, must play a coordinating and steering role to pursue a coherent and comprehensive policy to prevent and combat all forms of discrimination. Therefore, the Institute recommended in its Annual status report the appointment of a national coordinator on discrimination. The Institute welcomes the steps the government has taken to follow-up on this recommendation, as well as the setting up of a steering group to improve coordination between ministerial departments dealing with discrimination.

Suggestion for a question:

Can the government elaborate which steps it takes, in addition to the appointment of a national coordinator on discrimination, to ensure a more coherent and comprehensive policy to prevent and combat all forms of discrimination?

3.2 Addressing institutional racism

3.2.1 Screening and reviewing laws, policies and practices on racial discrimination

As a result of the increasing awareness about institutional racism in the Netherlands and in light of the day care benefits scandal, the government has taken several measures to address racial discrimination, including by state institutions. In response to the day care benefits scandal, it has instructed the compensation of parents who were wrongfully accused of fraud. Although important steps are made, not all parents have yet received compensation due to delays in the proceedings, and information is not always timely provided about the decisions or the process.

As many were denied the right to effective access to justice during the scandal, the government has also focused on improving access to justice, for example by pointing out to

⁷ Netherlands Institute for Human Rights, *Being yourself in public without fear for your safety*, 2019 Annual status report on human rights in the Netherlands, 2020.

them the possibility of raising a discrimination complaint at the Institute. The government has stated that it will follow the judgment of the Institute.⁸ In the meantime, the Institute has received several requests for decisions in which it will have to determine whether individuals were directly or indirectly discriminated by the tax authority. As its mandate in the area of social security is limited to finding discrimination on the basis of race, it will have to establish whether the problems faced by the parents constituted a form of unequal treatment because of their skin colour, national and ethnic descent ('race').

Furthermore, the Senate will start a broad-scale investigation into the effectiveness of anti-discrimination legislation, both in law and in practice. Also, the government will structurally strengthen the anti-discrimination infrastructure, with financial boosts for the Institute and the local anti-discrimination provisions, the installation of departments at the central government dealing with discrimination policy and the establishment of the National Coordinator Racism and Discrimination (NCDR). The latter is a new high-level central governmental officer, who is meant to coordinate governmental discrimination policy and legislation, and cooperate with various stakeholders, including civil society, the government departments on discrimination and the Institute. Finally, the Institute has received additional funding to develop trainings for public officials on bias in their decision-making in order to prevent discrimination.

The Institute welcomes these developments and the serious efforts of the central government to address racial discrimination, including by state institutions. Many of the developments are relatively new, and will have to be put into practice in the coming years. Little can be said about their effectiveness at this point.

In the mean time, the Institute wishes to draw your Committee's attention to the fact that the daycare benefits scandal brought to daylight a fundamental problem of structural inequality and discrimination entrenched in state law, policy and institutions. For instance, similar concerns about the problems displayed in the daycare benefits scandal have been raised with regard to the regulations, policy and practice of asylum seekers and irregular migrants.⁹ In order to prevent future scandals, the state must address the roots of the problem and fundamentally review its existing and future laws, policies and practices on possible racial bias and discrimination.

Suggestion for questions:

How will the government prevent that existing and new laws, regulations, policies, and practices discriminate, stigmatize or disproportionately disadvantage people on the basis of their race or any other ground?

⁸ State Secretary Van Huffelen, *Vierde voortgangsrapportage Kinderopvangtoeslag [Fourth progress report on day care benefits]*, The Hague, 4 December 2020, par. 2.6.

⁹ Vereniging Asieladvocaten en juristen Nederland (VAJN) en Specialistenvereniging Migratierecht Nederlands (SVMA), [Ongehoord onrecht in het vreemdelingsrecht](#), april 2021.

In what manner will the government monitor the effectiveness of the recent measures taken to address racial discrimination and bias in law, policy, and practice?

3.2.2 Risk of racism in (semi)automated decision-making based on risk-profiles

To carry out their task, many public authorities rely on (algorithmic) risk profiling techniques, for instance to detect fraud or other types of crimes. Selecting people for additional control may be necessary and legitimate under strict conditions, but also raises a number of concerns.

The lack of transparency in and oversight over automated risk-profiling and decision-making has been an issue for debate. This issue arose prominently in the June 2020 judgment of the district court of The Hague on the use of the Systemic Risk Indication system (SyRI).¹⁰ The system was formally introduced in 2014 to uncover social security fraud by linking and analyzing (personal) data from a database of various public authorities. The system would signal to the respective authority any person that was indicated as posing a heightened risk to commit fraud with allowances, benefits and taxes. According to the court the system was disproportionate because the government had insufficient oversight over the functioning and use of the risk model, making it very difficult, if not impossible, to verify the decisions made. In the absence of safeguards that would compensate for the lack of oversight, it would be impossible for the government to check whether the system would unintentionally discriminate individuals and groups.

In the day care benefits scandal, the lack of transparency on the automated decision-making processes contributed to further perceived and real injustice. It was often not clear for the dual-nationality families affected why they were selected for additional control, nor what the reasons were for the finding that they had committed fraud and had to repay childcare allowances. In some cases this amounted to tens of thousands euros and resulted in the loss of jobs, homes and mental healthcare. The sense of injustice was aggravated by the very limited judicial review by the administrative courts of the decisions taken by the tax authority until October 2019, when the Council of State reversed its previous case law and left more room for discretionary decision-making in individual cases.¹¹

Although the Institute recognizes the value of algorithmic decision-making, it is concerned that without strong safeguards and proper oversight such automated processes may (unintentionally) discriminate against individuals on the grounds of race or any other ground. Such is even more problematic as the information on which decisions are based, can be biased. Automated risk profiling and decision making can consequently reinforce or even amplify existing inequalities and discrimination.

In its legislative advice on the government's law proposal 'Data processing by partnerships' (*Wetsvoorstel gegevensverwerking door samenwerkingsverbanden*), the Institute warned for such bias and its discriminatory effects. The law, if adopted, would give the government greater algorithmic profiling powers similar to those used by the tax authority

¹⁰ District Court The Hague, ECLI:NL:RBDHA:2020:1878 (English version).

¹¹ ABRvS 23 oktober 2019, ECLI:NL:RVS:2019:3536 and ABRvS 23 oktober 2019, ECLI:NL:RVS:2019:3535.

but then at a large scale. In its legislative advice, the Institute considers it conceivable that the risk profiles may be based on a person's place of residence, social status, or origin. This can lead to a one-sided and incorrect picture of, for example, the extent to which fraud occurs among certain groups, with the further stigmatization of racialized minorities as a result.¹²

The Institute considers it paramount that legal protection is ensured against (automated) discriminatory decisions as well as practices, and that such requires transparency and effective judicial oversight.

Suggestion for questions:

What measures does the government take to guarantee strong safeguards and effective judicial oversight of the (semi) automatic decision-making systems by public authorities, in order to prevent discrimination, stigmatisation or the disproportionate disadvantaging of people on the basis of their race or any ground?

In what manner will the government improve the right to appeal public authorities' decisions, including those made by means of algorithmic risk-profiling?

3.3 Complaining about racial discrimination

3.3.1 Low number of reports to the police

Victims of discrimination can submit complaints to various authorities, including the Institute,¹³ the National ombudsman and the police. Each authority has its own mandate. Research shows that only a very limited number of reports is submitted to one of these authorities.¹⁴ Various factors play a role, including little awareness of complaints mechanisms and little faith in the outcome. According to research, victims do not expect reporting to the police to have effect, nor that they will be treated respectfully, nor that the discriminatory motives will be recognized and acknowledged. A particular source of concern is that victims of discrimination do not consider that an individual complaints procedure can actually contribute to ending racial discrimination. It is therefore important that the adequacy and accessibility of information on complaints procedures continues to be monitored, and that victims are supported in submitting a complaint, and receive other forms of victim support whenever necessary. At the same time, all professionals involved should have the necessary expertise to assist victims of discrimination.

Suggestion for questions:

How will the government monitor to what extent the information available on complaints procedures is adequate and accessible?

¹² Institute, [Advies inzake het wetsvoorstel Wet gegevensverwerking door samenwerkingsverbanden](#), 24 juni 2021, p. 3.

¹³ An overview of the complaints and opinions of the Institute on the ground race, nationality and religion is attached can be found in the Annex.

¹⁴ S. van der Aa, J. Claessen & R. Hofmann, *Speciale behoeften van slachtoffers van hate crime ten aanzien van het strafproces en de slachtofferhulp*, [Specific needs of victims of hate crime in criminal proceedings and victim support], Den Haag: WODC, 2020.

What steps will the government take to ensure that the police and other complaint bodies possess the necessary skills and expertise to effectively support victims of discrimination in submitting a complaint?

3.3.2 Collective complaints to deal with racial profiling

In General recommendation no. 36, your Committee encouraged States parties ‘to consider establishing mechanisms for the collective enforcement of rights in the context of racial profiling.’¹⁵ The limitations of the current possibilities to submit collective complaints has come to the fore in recent discussions on racial profiling. At present, collective complaints can be submitted to the Institute. However, the Institute’s mandate to deal with complaints against official authorities is limited. The Institute cannot deal with complaints that concern unilateral government action, such as police behaviour or the exercise of functions by local authorities, besides in the domain of social services. The National ombudsman can deal with complaints on such actions, but does not have as much expertise on non-discrimination and equal treatment law. The law establishing the Ombudsman’s mandate does not provide for a collective complaints procedure. Under administrative law, collective complaints are possible only if a formal decision has been taken, which is not the case for many discriminatory practices.

The Institute therefore concludes that introducing a collective complaints procedure to deal with cases and situations of racial profiling is necessary to complement existing mechanisms. This will help to assess whether racial profiling has taken place and to bring such practices to an end, as recommended by your Committee.

Suggestion for a question:

What steps will the government take to provide for a mechanism for collective complaints on racial profiling?

3.4 Strengthening municipal Anti-Discrimination Services (ADV’s)

The Institute supports the efforts of the Minister of the Interior and Kingdom Relations to strengthen the system of anti-discrimination services (ADV’s), as expressed in the Minister’s Letter to parliament ‘Strengthening municipal anti-discrimination services’.¹⁶

In the letter, the Minister addresses aspects such as the expertise, independence and accessibility of the ADV’s. These are of great relevance, since the Anti-discrimination services play an essential role in assisting individuals who wish to initiate proceedings on alleged discrimination by submitting a request for an opinion with the Institute or starting proceedings before a court. In addition, they play an important role in mediating a settlement between the individual who claims to have been discriminated against and the

¹⁵ CERD, November 2020, General recommendation No. 36 (2020) on preventing and combating racial profiling by law enforcement officials, CERD/C/GC/36, par. 24.

¹⁶ Minister of the Interior and Kingdom Relations, [Strengthening local Anti-discrimination services](#), Letter to the House of Representatives, 16 October 2019.

company or organization concerned. This can help in finding individual solutions, and prevent further legal proceedings.

To be able to perform all their tasks adequately, the anti-discrimination services need to be able to continue to maintain and strengthen the necessary (legal) expertise. Moreover, they need adequate funding to further develop and implement their preventive tasks. Municipalities have non-earmarked funding from the Municipal Fund at their disposal for this task. Recent developments in the daycare benefits scandal have resulted in an announcement for extra funding of the Municipal Fund, in order to enable the ADV's to play a larger role in preventing and combating discrimination.¹⁷

According to the Institute, the Minister of the Interior and Kingdom Relations should monitor whether ADVs are sufficiently resourced and have the necessary expertise to be able to perform all tasks adequately assigned by the law.

Suggestion for a question

How will the government monitor whether ADV's are sufficiently resourced and have the necessary expertise to perform all their tasks adequately?

3.5 Combating racial discrimination under criminal law

3.5.1 Prosecution of offences with a discriminatory motive

In the registration of offences concerning discrimination, distinctions are made between facts that concern specifically discriminatory offences and common offences where discrimination played a role (abbreviated to CODIS facts).¹⁸ The former include hate speech and exclusion on a discriminatory ground. The latter include, for example, cases of violence where discrimination played a role.

The Public Prosecutor Service's figures on discrimination show that in 2020 157 discrimination facts were forwarded to the prosecutor. Most facts concern discrimination on the ground of race, antisemitism and religion or belief (respectively 57%, 19% and 13%). In addition, the prosecutor received 252 facts of common offences in which discrimination played a role. Most of these facts related to offending an individual, and in most cases (56%) the discrimination ground concerned was race, followed by antisemitism (9%) and religion or belief (4%).¹⁹

The official guidelines of the Public Prosecution Service instruct that the discriminatory aspect or discriminatory motive constitutes an aggravating factor when formulating a recommendation on the sentence to court.²⁰ The prosecution of racially motivated violence is possible only if the police examine and register (alleged) discriminatory motives at an

¹⁷ Answers of the Minister of Interior Affairs K. Ollongren to questions of members of the House of Representatives Van Baarle en Azarkan about the current state of affairs on discrimination and racism in the Netherlands, 1 June 2021, answer to question 11.

¹⁸ The figures distinguish between 'facts' and 'cases'. A case can consist of a number of facts, so when one individual is suspected of various facts, this can be dealt with in one case.

¹⁹ Public prosecution service, [Cijfers in beeld 2020, Discriminatiecijfers Openbaar ministerie](#) [Figures 2020, Overview of figures on discrimination Public prosecution service], 2021.

²⁰ Public prosecution service, Official guidelines on discrimination, and Guideline for criminal procedure discrimination.

early stage of the investigation. When a racial motive is not registered, it cannot be included in a criminal investigation and subsequently in the prosecutor's advice on the sentence.

The Institute considers it paramount that discriminatory aspects or discriminatory motives that play a role in an offence remain visible wherever relevant, and are properly investigated, prosecuted and tried. Current practice warrants improvement. Research indicates, for instance, that the nature of the police administration hinders the distinction between specific cases of discrimination and CODIS cases. Furthermore, even the cases that are considered by the police as constituting CODIS facts, are not always registered as such by the Public Prosecution Service. When a case is brought before a judge, prosecutors sometimes do, and sometimes do not, demand a higher sentence because of the discriminatory aspect. The same holds true when the judge decides on the sentence to be imposed.²¹

The Institute therefore recommends that the government facilitates the registration of a (possible) racial motive in police reports and by the Public Prosecution Service, and to train staff to structurally ask victims and suspects about possible motives whenever these may exist.

As explained above, the possibility to impose a higher sentence when an offence is committed with a discriminatory motive is laid down in the guidelines of the Public Prosecutor Service. A proposal to amend the Criminal Code to the effect that a higher sentence can be imposed in such cases was submitted to the House of Representatives in January 2021.²² The Institute considers that the introduction of a legal provision would offer more concrete guidance to the Public prosecutor in advising the court on the appropriate sentence to be imposed on the perpetrator of a racially motivated crime. Doing so, would also contribute to making the considerations of the court more clear and transparent. Further, this would raise awareness among the general public of the gravity of such violence.²³ To this effect, the Institute has requested that the legislative proposal clarifies what to classify as "discriminatory intent or motive".

Suggestion for questions:

How will the government ensure that police authorities and Public Prosecution Service promptly investigate and register the possible existence of a discriminatory intent or motive when individuals report a crime?

How will the government ensure that discriminatory intent or motives are included in the indictment and sentencing of crimes, by both the prosecution and criminal courts?

²¹ P. Kruize, & P. Gruter, [Discriminatieaspect als strafverzwarende omstandigheid. Cijfers en praktijkervaringen](#), [Discriminatory aspect as aggravating circumstance. Figures and experiences (with a English summary)], Den Haag: WODC, 2020.

²² Parliamentary papers, House of Representatives, 2020-2021, 35 709, no. 2.

²³ Netherlands Institute for Human Rights, 24 August 2020, Reactie van het College voor de Rechten van de Mens op het voorstel van wet van de leden Buitenweg en Segers tot wijziging van het Wetboek van Strafrecht in verband met de invoering van het discriminatoir oogmerk als strafverzwaringsgrond [Comments to the draft law proposed by parliamentarians Buitenweg and Segers to amend the Criminal Code to introduce a discriminatory motive as an aggravating circumstance.]

3.6 Preventing and combating online discrimination

In 2020, 72 percent of the complaints registered by the Complaints office for internet discrimination (MiND) concerned ethnic origin.²⁴ It particularly concerned reports of online discrimination against black people on the basis of their skin colour (16%) and against refugees (55%). MiND has the authority to request the removal of discriminatory content, and to submit a report to the Public Prosecutor Service if such a request is not complied with.

As many racist expressions take place online, and the increase in racial discrimination can largely be attributed to manifests written online, a structural and integral approach to prevent and combat discrimination in the public sphere, including online discrimination, is needed.²⁵ As far as online discrimination is concerned, the government considers that the private parties involved, such as social media corporations, play a primary role in providing for a discrimination-free environment ('self-regulation'). This implies that individuals should be able to submit a complaint to the responsible party, which should then decide on the appropriate response. If the individual concerned is not satisfied with the follow-up, legal proceedings can be initiated. This may entail civil proceedings (e.g., tort) or reporting to the police. However, the current possibilities fall short in combating racial discrimination online.

The European Commission against Racism and Intolerance (ECRI) concluded in 2019 that the existing system for preventing and combating hate speech is 'not robust enough'.²⁶ It considered that hate speech remains online for a long time. ECRI recommended the authorities to 'build up awareness among internet users about the prohibition of hate speech, continue motivating internet companies to enforce the existing codes of conduct, and task and fund an organisation to monitor proactively the internet for hate speech'.²⁷ In its response, the government pointed to a forthcoming amendment of the Media Act, to include an obligation for video platform services to safeguard that video platform services take appropriate measures to protect the general public against content that incites violence or hatred through codes of conduct.²⁸

The Institute recalls that the government should continue to monitor whether self-regulation provides for effective protection against online hate speech. If this is not the case, additional measures are necessary. In addition, the Institute calls on the government to oversee the proper implementation of the Public Prosecutor's Guideline on Discrimination.²⁹ When registering reports on online discrimination, the police are required to register the account name used, the manner in which the expression was made public and the length of time it was public. The current version of the Guideline is in force since 1 January 2019. It is important that its implementation is monitored regularly.

²⁴ MiND, *Jaarcijfers 2020* [Figures 2020], 2021, p. 5.

²⁵ Netherlands Institute for Human Rights, *Being yourself in public without fear for your safety*, 2019 Annual status report on human rights in the Netherlands, 2020.

²⁶ ECRI, 2 April 2019, ECRI Report on the Netherlands (fifth monitoring cycle), Strasbourg: ECRI, 2019, par. 45.

²⁷ *Idem*, par. 46.

²⁸ *Idem*, Appendix, Government's viewpoint, p. 8.

²⁹ [Aanwijzing discriminatie](#).

Suggestion for questions:

How will the government monitor whether the measures taken to encourage self-regulation by private companies in combating online discrimination are effective?

How will the government ensure the proper implementation of the 2019 Prosecutor's Guideline on discrimination to effectively combat online discrimination?

3.7 Caribbean Netherlands (article 60)

The Equal Treatment Act and other more specialised equal treatment acts do not apply on the islands of Saint Eustatius, Bonaire and Saba. The Institute considers there is not sufficient justification for the difference in legal protection against discrimination between the European part of the Kingdom and the Caribbean part. The government announced in 2018 that it would examine what is necessary to implement these acts on the islands, but so far no concrete steps have been taken to their implementation. The Institute has repeatedly called on the government to speed up this process.

Suggestion for a question:

Can the government elaborate on the steps it takes, and the related timeframe, to implement the Equal Treatment Act and other equal treatment acts in the Caribbean part of the Kingdom and to provide for a mechanism to deal with complaints on discrimination?

4 Employment (article 5 e (i))

4.1 Discrimination on the labour market

The Dutch labour market is characterised by persistent inequalities between ethnic groups. If compared to persons with a Dutch background, individuals with an immigration background are more often unemployed, work in lower sections of the labour market and have a lower income. Further, they more often have flexible contracts and work in low-paid jobs.³⁰ According to various studies, racial discrimination on the labour market is a significant factor that contributes to these inequalities.³¹ The Institute welcomes the various steps taken by the government to address labour market discrimination, such as the Action plan on labour market discrimination and the proposed Act to monitor equal opportunities in recruitment and selection of employees and measures aimed at raising awareness of discrimination. It sees room for improvement, and addresses a number of issues in this section.

4.1.1 *COVID-19 creates additional challenges to protect against discrimination in employment*

In its 2020 Annual status report, the Institute dealt with the impact of the COVID-19 pandemic on human rights in employment. It observed that, in this area, the pandemic had a severe impact on, among others, persons with an immigration background and on migrant workers. This is due to the fact that they more often have a flexible contract, which can easily be terminated. Moreover, as a consequence of the nature of their employment contract they are not always eligible for unemployment benefits. In its report, the Institute calls on the government to take due account of existing vulnerabilities in developing and implementing measures to recover from the pandemic.³²

Suggestions for question:

Which measures will it take to guarantee that the impact of the COVID-19 pandemic does not create an additional disadvantage for persons with an immigration background?

4.1.2 *Discrimination in access to employment*

The 2020 report of the Netherlands Institute for Social Research (SCP) on experienced discrimination, concludes that persons with an immigration background most frequently experience discrimination on the labour market. This occurs especially in access to employment. Dutch persons of Turkish and Moroccan origin seeking employment

³⁰ Willem Huijnk, *Werk in ontwikkeling? Veranderingen sinds begin deze eeuw in de arbeidsmarktpositie van personen met een niet-westerse migratieachtergrond*. [Work in progress? Changes in the labour market position of people with a non-western immigration background since the beginning of this century], Den Haag: SCP, 2020.

³¹ L. Thijssen, M. Coenders & B. Lancee, 'Etnische discriminatie op de Nederlandse arbeidsmarkt. Verschillen tussen etnische groepen end de rol van beschikbare informatie over sollicitanten' [Ethnic discrimination in the Dutch labour market: Differences between ethnic minority groups and the role of personal information about job applicants], in: 94(2) *Mens en Maatschappij*, pp. 141-176.

³² NIHR, *Human rights in the Netherlands 2020, The impact of the COVID-19 pandemic on the protection of human rights on the labour market*, Utrecht: NIHR, 2021.

experience discrimination much more frequently (51%) than Dutch persons without an immigration background (19%). 48 percent of persons with a Surinamese background, 44 percent of persons with an Antillean background, and 35 percent of persons from Central and Eastern European have reported that they experience discrimination in finding employment.³³ In an empirical study it was concluded that candidates with an immigration background with equal qualifications as other candidates were less likely to be invited for a job interview. This affected all people with an immigration background, but people with a non-western background were affected most. The research also revealed that policy interventions should be focused on employers' conduct and procedures rather than on improving the application letters submitted by members of minorities.³⁴

The importance of having a good start on the labour market after completing education was shown in a study on the consequences of inequalities in accessing the labour market for young people who finished secondary vocational education (mbo).³⁵ On average, graduates with an immigration background have 20 percent less chance to obtain a job than students without an immigration background. It was found that more than half of the differences between these two groups cannot be explained by factors such as their socio-economic status, their family status and the choice for a study without good prospects for a job. It was concluded that discrimination could be a factor. Ten years after graduation, the differences in participation on the labour market are still visible. Young people with a non-western immigration background less often have permanent contracts and more often have flexible contracts. As a consequence, their position is more vulnerable in times of economic recession and crisis (see before).

4.1.3 Discrimination by employment agencies and intermediaries

Discrimination by employment agencies and intermediaries is another persistent problem, that is addressed in the government action plan on labour discrimination. A recent investigation by the Inspectorate of Social Affairs and Employment found that certain types of employment agencies comply in 40 percent of the cases with discriminatory requests on the grounds of ethnic origin by potential employers.³⁶ Throughout the years, the Institute has regularly recommended the government to take more action to enforce existing legislation against discrimination and to increase its efforts to prevent discrimination also in this sector.

In December 2020, the government submitted to Parliament the Bill Supervision of recruitment and selection free from discrimination'.³⁷ The draft bill contains measures to be taken by employers, recruiters, and employment agencies. In its advice on the draft law³⁸, the Institute welcomes the draft that obliges employers and employment agencies to

³³ Iris Andriessen *et al.*, *Ervaren discriminatie in Nederland II*, [Perceived discrimination in the Netherlands II], Den Haag: SCP, 2020, table 2.7 at p. 50.

³⁴ Thijssen *et al.*, (*supra*, note 31), p. 170.

³⁵ Paul Bisschop *et al.*, *De overgang van het mbo naar de arbeidsmarkt. De positie van jongeren met een migratieachtergrond belicht*, [From mbo to the labour market. The position of young people with an immigration background], Amsterdam: SEO Economisch onderzoek, 2020.

³⁶ Inspectie SZW, [Rapport Inspectie SZW mystery calling-onderzoek arbeidsdiscriminatie](#), [Report Inspectorate SZW mystery calling investigation labour discrimination], 2019.

³⁷ [Wetsvoorstel Toezicht gelijke kansen bij werving en selectie](#) [Bill Supervision of recruitment and selection free from discrimination], 11 December 2020.

³⁸ Netherlands Institute for Human Rights, Advice on the draft law available at mensenrechten.nl

take measures to prevent discrimination in hiring employees. The Institute also welcomes the envisaged larger role of the Inspectorate to act not only when discrimination has occurred, but also in preventing discrimination. Notably by acting upon complaints concerning discrimination, examining the policies of employment agencies and using the findings on self-regulation by branch organisations to decide on further action.³⁹ It observes, however, that the government continues to rely largely on self-regulation by employment agencies. It recommends further elaboration of standards in order to make clear which measures employers and intermediaries should take. Also, it recommends that measures be taken to guarantee that employers pay structural attention to discrimination. The Institute reiterates that the government should monitor to what extent the measures taken result in combating labour market discrimination.

4.1.4 Algorithms and discrimination in recruitment processes

The Institute is also concerned about discrimination on the ground of race and religion, or both, that might occur when recruiters use algorithms in their recruitment procedures. It has examined how the use of algorithms in recruitment and employee selection processes can lead to discrimination. It observed that there is a risk that digital tools that make use of artificial intelligence (AI) can reinforce existing patterns of discrimination and possibly also generate new forms of exclusion. The Institute recommended that the government take steps to raise awareness among citizens about the risks of discrimination by algorithms by providing accessible information, to engage with employers on the risks involved in using algorithms for recruitment and employee selection, and to provide information to algorithm developers on their legal obligations under equal treatment law and other legislation.⁴⁰

As part of the government's labour market discrimination action plan, the Ministry of Social Affairs and Employment has commissioned the Netherlands Organisation for Applied Scientific Research (TNO) to conduct an exploratory study into digital labour market discrimination.⁴¹ The study concludes that increasing awareness and knowledge of the risk of discrimination in the use of recruitment technologies is a necessary first step to reduce the risk. Another recommendation is to encourage employers and intermediaries to use only validated recruitment technologies for selection and assessment. The Inspectorate of Social Affairs and Employment could monitor companies' use of these technologies. Further, users of recruitment technologies will have to monitor and reduce the risks of unauthorized use of protected personal data (using a data protection impact assessment, or DPIA). Because the Equal Treatment Act offers additional protection to persons seeking a job in comparison to the General Data Protection Regulation, it is recommended to investigate which steps a user of the recruitment technologies has to take in order to

³⁹ [Hoofdlijnen Actieplan arbeidsmarktdiscriminatie 2018-2021](#), p. 4.

⁴⁰ NIHR, [When computers review your CV, who review the computers? Algorithms and discrimination in recruitment and selection](#), Utrecht: NIHR, 2020, p. 5.

⁴¹ TNO, *Digitale arbeidsmarktdiscriminatie. Inzicht in de risico's op arbeidsmarktdiscriminatie door de inzet van recruitment technologieën in werving en selectie*, [Digital labour market discrimination. Exploring the risks of labour market discrimination by applying recruitment technology in recruitment and selection], Den Haag: TNO, 2019.

comply with the ‘obligation to ascertain’, *i.e.*, the obligation to take reasonable steps to establish that an automated system does not lead to discriminatory results.⁴²

Suggestion for a question:

How will the government prevent professional recruiters and employers from the risks of (hidden) discrimination by using semi-automated processes in the recruitment and selection procedures?

4.1.5 Access to the labour market: refugees

The labour market participation of refugees holding a residence permit is low; it is difficult for them to access the labour market. 43 percent of refugees who received a residence permit in 2014 was employed by mid 2020. They are at a much higher risk of falling into poverty, with women and low-literate individuals being particularly vulnerable. The Social and Economic Council of the Netherlands (SER) expressed its concern about this low rate and recommended that refugees with a residence permit receive effective support in accessing the labour market. It recommended the government to address the systemic issues which constitute obstacles as well as issues of implementation.⁴³

Refugees’ increase in participation in the labour in the past years was halted by the coronavirus pandemic. Further, they often have temporary contracts, work part-time and in the hospitality industry.⁴⁴ Their education and work experience often do not meet the demands of the Dutch labour market, and they often do not sufficiently master the Dutch language. Providing assistance to access the Dutch labour market requires teaching to improve their Dutch language skills and sometimes also to train other skills and competences facilitating access to the labour market.⁴⁵ However, many initiatives to teach such skills were restricted or (temporarily) stopped during the coronavirus pandemic.⁴⁶ Moreover, research shows that asylum seekers had hardly a chance to work in healthcare, despite a proven shortage of personnel⁴⁷

For refugee women, accessing the labour market is even more difficult.⁴⁸ Researchers identified various explanations. One is the fact that refugee men often arrive first in the Netherlands, followed by their wife and children. Therefore, men are supported first by the government in finding a job. Once they found a job, the need for the government to help their wives to find a job too has become less urgent. By not taking into account the needs for economic independence for refugee men and women alike, the government

⁴² Ibid., p.10.

⁴³ SER, *Integration through work: creating more employment opportunities for newcomers* [[English abstract](#)], Den Haag: SER, 2019.

⁴⁴ CBS, *Asiel en integratie 2021. Cohortonderzoek asielzoekers en statushouders*, [Asylum and integration 2021. Cohort study on asylum seekers and status holders. [English summary](#)]. Den Haag: CBS, 2021.

⁴⁵ VNG, 'Inclusie en discriminatie op de arbeidsmarkt bij inburgering' uit: *Handreiking lokale aanpak inclusie en discriminatie*, Den Haag: VNG, oktober 2020.

⁴⁶ Denktank Coronacrisis 2020 (*supra* noot 44), p. 30-32.

⁴⁷ Dutch Advisory Committee on Migration Affairs, *Verkenning: “Van asielzoeker naar zorgverlener”* [*Explorative study: “From asylum seeker to healthcare provide”*], 11 May 2021.

⁴⁸ Inge Razenberg, Merel Kahmann & Marjan de Gruijter, [‘Mind the gap’: barrières en mogelijkheden voor de arbeidsparticipatie van vluchtelingenvrouwen](#), [‘Mind the gap’: obstacles and opportunities for refugee women’s labour participation], Utrecht: KIS, 2018, p. 4 and 9-10.

reinforces traditional gender roles and does not encourage women to participate in society on an equal footing with men and be economically independent.⁴⁹

As the Institute concluded in its 2020 Annual status report, the coronavirus pandemic undoubtedly affected the labour market. It is likely that the effects will last in the coming years. Many individuals will have problems in accessing the labour market. This holds true in particular for individuals who already experienced problems in finding employment. The government should take steps to guarantee that everyone has equal opportunities to access the labour market. This may require targeted measures to eliminate obstacles to access the labour market and to increase opportunities.⁵⁰

Suggestion for a question:

Which steps will the government take to guarantee the rights of persons who are most at a disadvantage in accessing the labour market, such as young persons with an immigration background and refugees with a residence permit, including women.

4.2 Government policy

4.2.1 Action plans

The Government adopted two programmes to deal with discrimination on the labour market: an Action plan discrimination on the labour market 2018-2021 and 'Further integration on the labour market'.⁵¹ The programme 'Further integration on the labour market' aims to structurally improve the situation of young people with secondary vocational education (mbo) on the labour market. The programme contains a well-structured approach with evidence-based measures and instruments that can help to effectively combat discrimination of young people with an immigrant background in employment and internships.

As regards the Action plan, the Institute sees room for improvement. In particular, the Action plan lacks clearly defined targets and information on how the proposed projects will help to meet the targets. Therefore it is unclear how to assess the effectiveness of these measures. In a reaction to the Action plan, the Institute has recommended the government to formulate clear targets that focus on combating labour discrimination on the grounds of race and religion. Whereas the government pays due attention to ways to report and register discrimination, the Institute has pointed out that more measures need to be taken to actively prevent and combat discrimination. Further measures should be taken to eliminate stereotypes and prejudices in order to prevent discrimination in recruitment and selection processes by employers and employment agencies.

Suggestion for questions:

⁴⁹ *ibid.*

⁵⁰ NIHR, Human rights in the Netherlands 2020, The impact of the COVID-19 pandemic on the protection of human rights on the labour market, Utrecht: NIHR, 2021.

⁵¹ *Actieplan Arbeidsmarktdiscriminatie 2018-2021 and Verdere integratie op de arbeidsmarkt (VIA)*, Kamerstukken II (2017-2018), 29 544, nr. 834 (Actieplan) en Kamerstukken II (2017-2018) 29 544, nr. 821 (VIA).

Which steps will the government take to implement its action plan on labour market discrimination?

Which steps will the government take to monitor whether the measures in the action plan to prevent discrimination are effective, in particular on combating labour discrimination on the grounds of race and religion?

4.2.2 Human rights approach to discrimination in employment

In more general terms, the Institute calls on the government to adopt a more coordinated and comprehensive approach to discrimination in employment as a human rights issue. In a report on the implementation of the United Nations Guiding Principles on Business and Human Rights in the Netherlands, the Institute concluded that there is as yet little awareness that these principles are relevant also for the activities of businesses on Dutch territory. For example, issues such as exploitation of migrant workers and discrimination are rarely addressed from a human rights perspective. The Institute considers that the government can play a role in increasing attention for human rights, for example by linking issues such as labour market discrimination to other human rights policy documents, such as the government's National action plan on business and human rights. Such a more integral approach would underline the interrelatedness of human rights. This would also benefit enforcement of existing laws and regulations.⁵²

Suggestion for a question:

What steps is the government planning to take in order to strengthen a discrimination free labour market in order to fulfil its international obligation to guarantee access to the labour market for all?

4.3 Discrimination at the workplace

Also at work, persons with an immigration background experience discrimination more frequently. The SCP report on experience discrimination shows that employees with a Turkish background experience discrimination at work almost three times more frequently than persons with a Dutch background (59% to 20%). 57 percent of persons with a Moroccan or Surinamese background, and 48 percent of persons with an Antillean background, and 53 percent of persons from Central and Eastern Europe have experienced discrimination at work. Persons with an immigration background more often report discrimination at work because of offensive comments and 'jokes' by co-workers and management. More generally, they report twice as often that temporary contracts were not extended or that they were fired, regardless of whether the decision was based on discriminatory accounts or not.⁵³

The extent of perceived discrimination on the labour market is higher among second generation immigrants, *i.e.*, persons whose parent(s) came to the Netherlands and are

⁵² NIHR, *Bedrijfsleven en Mensenrechten. Een onderzoek naar de stand van de implementatie van de United Nations Guiding Principles on Business and Human Rights in Nederland [Business and human rights. An investigation into the implementation of the UNGP]*, Utrecht: NIHR, 2020, p. 25.

⁵³ Andriessen *et al.*, (*supra*, note 33), table 4.6 at p. 78.

born, raised and educated in the Netherlands. Researchers explain this by pointing to the 'paradox of integration': members of the second generation are more aware of existing differences, are well integrated and compare themselves to people in the same position without an immigration background.⁵⁴ According to the Institute, however, this also shows that the problem of racial discrimination does not disappear as a result of the fact that second generation immigrants had their education in the Netherlands and speak Dutch fluently. People who have perceived discrimination, report that they give up applying for jobs or accepted jobs below their level of education and skills.⁵⁵

Suggestion for a question:

What measures does the government mean to adopt to eradicate racial discrimination at the workplace and how will it monitor the effectiveness of existing and new measures?

⁵⁴ Andriessen *et al.*, (*supra*, note 33), pp. 141-142.

⁵⁵ Andriessen *et al.*, (*supra*, note 33), pp. 157-158.

5 Education (article 5 e (v))

5.1 Unequal opportunities for children with an immigration background

The Inspectorate of Education reports that social and ethnic inequalities in secondary education have increased over the years 2003-2018. Inequalities can partly be attributed to unequal access to educational resources, cultural assets and wealth at home. Students with parents with high education and without an immigration background have more parental resources at their disposal that are beneficial to their school results. Such resources include being able to assist with homework, providing for tutoring and coaching in homework.⁵⁶

In the Netherlands, primary schools advise children on their level of secondary education. These recommendations are based on school tests as well as a teacher's recommendation. Children in primary education with an immigration background and with parents with a lower income and lower education, have a chance to receive a recommendation to pursue education at a lower level than they could be recommended on the basis of their school results.⁵⁷ Whereas on average 15 percent of all students reported that teachers underestimated their capabilities, at least 40 percent of students of Dutch-Turkish or Dutch-Moroccan origin reported this.⁵⁸ One of the factors that may contribute to these differences are teachers' (subconscious) prejudice, to the effect that they have lower expectations of children with a lower socio-economic background and/or an immigration background.⁵⁹

5.1.1 The impact of the COVID-19 pandemic on equal opportunities in education

The Inspectorate of Education reported that inequality of opportunities in education continue to exist and have increased during the COVID-19 pandemic.⁶⁰ As a result of the lockdowns, students at all levels of education stayed at home and received remote teaching, with a few exceptions. Parents were given a large responsibility in home-schooling their children. This had a serious impact on the well-being of all students, and the school results of a significant number of children were negatively affected. As elaborated above, inequalities are due to differences in both material and immaterial resources, with the result that children with an immigrant background and/or lower social-economic status are especially disadvantaged.⁶¹ Further, the government decided that there would be no final school test in primary education. This decision to have the teachers' personal recommendation as a sole source for school advise had a negative effect on students with an immigration background, since their capacities tend to be

⁵⁶ Inspectorate of Education, *supra* (note 60), p. 103-104.

⁵⁷ Institute, *Netherlands Institute for Human Rights Report tot he 84th session of the Committee on the Rights of the Child pre-sessional working group for adoptino of the list of issues prior to reporting fort he Kingdom of The Netherlands (5th and 6th report)*, June 2019, par. 7.1

⁵⁸ Andriessen *et al.*, *supra* (note 33), p. 70.

⁵⁹ Lisette Swart *et al.*, [De waarde van eindtoetsen in het primair onderwijs. CPB-Policy brief](#) [The value of final tests in primary education], Den Haag: CPB, 2019, p. 12.

⁶⁰ Inspectorate of Education, *Staat van het onderwijs in Nederland 2021* [The state of education in the Netherlands 2021], p. 95.

⁶¹ Thijs Bol, [Inequality in homeschooling during the Corona crisis in the Netherlands. First results from the LISS panel](#) (working paper), 2020, p. 1.

underestimated and teachers more often advise them to pursue education at a lower level, as described above.⁶²

Suggestions for question:

Can the government elaborate on the measures it has taken to increase equal opportunities for all children in education, regardless of their background and socio-economic status, and how it monitors the effectiveness thereof, especially in light of the negative impact the coronavirus pandemic appears to have on the children?

5.2 Discrimination in access to internships

Discrimination of students with an immigrant background searching for an internship is a persistent problem too, both in secondary vocational education (mbo) and in higher vocational education (hbo). Various groups of students, in particular ethnic and religious minorities, experience discrimination when searching for an internship. For example, in 2017, 89 percent of students without an immigration background who are following secondary vocational education managed to find an internship within three or less applications, while this was the case for 76 percent of students with a non-western background. According to researchers it is likely that this is partly caused by discrimination and negative stereotyping.⁶³ This is a cause for concern, in particular for students in secondary vocational education, where performing an internship is a prerequisite for graduation and a stepping stone for finding work after graduation. The perceived, or actual, discrimination discourages students and constitutes a risk for dropping out from school.

A recent study showed that secondary vocational education students with a name indicating a non-western immigration background encounter discrimination when searching for an internship as well as during their internship. This was particularly the case in the commercial services and IT sectors. No such discrimination was found in the sector health and welfare. The researchers stressed that this problem not only exists for these students, but also for students in higher vocational education.⁶⁴

In its own work, the Institute has received many reports on discrimination of students of non-Dutch origin or with a Muslim background in vocational education who apply for

⁶² Inspectorate of Education, [The state of education in the Netherlands 2021](#), [partly available in English], The Hague: Inspectorate of Education, 2021, p. 21.

⁶³ Research Centre For Education and the Labour Market, *MBO Stages en de migratieachtergrond van studenten* [Internships in secondary vocational education and the migration background of students], *Factsheet ROA-F-2018/17*, ROA, Maastricht University, 2018. See also E. Klooster, S. Koçak, & M. Day, *Mbo en de stagemarkt, wat is de rol van discriminatie?* [Secondary vocational education and internships: what is the role of discrimination?] Utrecht, Verwey-Jonker Instituut, 2016.

⁶⁴ Iris Andriessen et al., *Ongelijke kansen op de stagemarkt. Onderzoek naar objectief vastgestelde en ervaren stagediscriminatie in het mbo in Utrecht* [Unequal opportunities at the internship market. Investigation into objectively established and perceived discrimination in secondary vocational education in Utrecht], Utrecht: Verwey-Jonker Instituut, 2021.

internships.⁶⁵ It notes that wearing a headscarf may constitute an obstacle to finding an internship, especially with an employer in the private sector.

The government acknowledges the problem of discrimination of students in secondary vocational education trying to find internships. The responsible ministers have expressed their concern and reiterate the importance of internships for access to the labour market.⁶⁶ The government has taken various measures to realise equal opportunities for students looking for an internship, some of which address discrimination. For example, it established a new complaints office for discrimination concerning internships. Further, the government initiated a campaign for equal opportunity and against discrimination, aiming at awareness raising and empowering students. It includes a call for action for employers, schools and students.

While the Institute welcomes the steps taken, it also notices that it not always clear to what extent the various measures will address discrimination by employers. The Institute considers that the actions of the government should be of a more structural nature.⁶⁷ Teachers are not trained in dealing with discrimination and do not know what steps are to be taken to combat discrimination by employers. There are often no protocols or guidelines that teachers can follow when students report discrimination. The Institute has called upon the government to point out to schools that they have their own responsibility to protect students against discrimination by employers. It also called on the government to raise awareness among students about their rights.⁶⁸

5.2.1 The impact of the COVID-19 pandemic on internships

The measures taken to combat COVID-19 undoubtedly had an impact on the number of available internship positions. For many students, no place was available at all. Schools found creative solutions, but the graduation of many students was postponed because an internship is a mandatory part of their curriculum. Those who were able to graduate have less hours spent on practical experience, which may influence their opportunities in finding employment.

Suggestion for questions:

Can the government elaborate on the measures it takes to prevent and combat discrimination in access to internships and protect students experiencing discrimination?

What measures will the government take to mitigate the impact of the COVID-19 pandemic and future crises for students seeking internships?

⁶⁵ Information from meetings organized by the Institute in 2018; see also the opinions of the Institute on the terrain of recruitment and selection, which include cases about discrimination in the access to internship (Annex, Table 4).

⁶⁶ Parliamentary papers II, 2019-2020, 31 524, nr. 443.

⁶⁷ *Letter of the Institute to the vaste Kamercommissie SZW*, 30/11/2018. See also the Institute's letter over de hoofdlijnenbrief 'implementatieplan arbeidsmarkt discriminatie 2018-2021', 2018.

⁶⁸ Letter of the Institute to the Ministry of Education, 21 augustus 2018.

5.3 Discrimination is underreported

The Inspectorate of Education states that the number of reports of discrimination in education submitted to the Confidential Inspectors in 2019-2020 was relatively low (51 times, which is comparable to previous years). 75 percent of the reports concern discrimination on the ground of ethnic origin.⁶⁹ This number of reports is low, in particular in light of the high rates of discrimination experienced by students with an immigration background.⁷⁰

Only one in six students who have perceived discrimination report this. If they do so, they turn to the responsible official within the educational institution. Others turn to Anti-discrimination services, the Institute or the police. A worrisome amount of 83 percent does not report their experience at all.⁷¹

Researchers find that there is a high threshold for students to turn to professionals within the school. Students also report that they do not expect that teachers can help them, as they lack the necessary expertise and do not know where they can submit formal complaints of discrimination, such as the municipal anti-discrimination services and the Institute.⁷²

Suggestion for a question:

What measures will the government take to remove any real and perceived obstacles for students to report discrimination in education?

⁶⁹ Inspectorate of Education, Meldingen vertrouwensinspecteurs in het onderwijs. Factsheet over het schooljaar 2019-2020 [Reports confidential inspectors in education. Factsheet on school year 2019-2020, The Hague: 2021, p. 7.

⁷⁰ Andriessen *et al.*, *supra* (note 33), see figure 8.4 at p. 145.

⁷¹ Andriessen *et al.*, *supra* (note 33), p. 71.

⁷² Andriessen *et al.*, *supra* (note 64), p. 46.

6 Housing (article 5 e (iii))

6.1 Access to housing: the rental market

Research shows that discrimination in access to housing on the rental market exists. One in three persons searching a rental home suspect that they are discriminated against by owners or intermediaries (e.g., real estate agencies). People with a non-western immigration background, in particular Moroccan-Dutch and Turkish-Dutch individuals, perceive discrimination twice as often as people without such background.⁷³ It is likely that the real number is much higher, since many prospective tenants who perceive discrimination do not report this.⁷⁴

A subsequent study commissioned by the government provided further insight into discrimination on the ground of ethnic origin in access to housing. 8 percent of men with a Polish name, 12 percent of men with a Moroccan name, and 7 percent of women with a Moroccan name encounter more problems in renting a house than individuals with a Dutch sounding name.⁷⁵ This is particularly the case in towns other than the four largest Dutch cities. A majority of real estate agents are willing to accommodate requests of owners to exclude persons with an ethnic minority background as prospective tenants. Many are aware that they are not allowed to do so but cooperate nonetheless.⁷⁶

The Institute welcomes the government's acknowledgement of the seriousness of the problem and the steps it takes to address discrimination in the housing sector. The government considers the research findings 'alarming'.⁷⁷ It has announced to begin working on more awareness-raising among prospective tenants and private parties offering rental housing, developing possibilities for administrative enforcement by municipalities, and options to regulate private parties offering rental housing and their intermediaries. The government expects that these measures will increase the willingness to report discrimination. It has announced progress reports to monitor whether the measures proposed will reduce discrimination on the rental market by intermediaries.

Suggestions for a question

What additional action is the government planning to take in order to combat the persistent lack of equal access to the housing market?

6.2 Access to housing: municipal policies

The goal of the Special Measures for Metropolitan Problems Act, which entered into force on January 2006, is to combat segregation in order to protect the quality of living and

⁷³ Andriessen *et al.*, *supra* (note 33), p. 83.

⁷⁴ Anita Böcker, Ashley Terlouw & Ezgi Özdemir, [Discriminatie bij de verhuur van woningen? Een verkennend onderzoek naar verklaringen en de mogelijke aanpak](#) [Discrimination at the housing rental market. Exploratory research into causes and possible measures to tackle it], Nijmegen: RU, 2019, p. 93.

⁷⁵ Art. 1/Radar, [Gelijke kansen op een huurwoning in Nederland? Monitor discriminatie bij woningverhuur](#) [Equal opportunities to obtain rental housing in the Netherlands? Monitor discrimination at the rental housing market], Art. 1/Radar, 2021, p. 2.

⁷⁶ *Idem*, p. 30.

⁷⁷ Minister of Interior and Kingdom relations, 23 April 2021, Letter tot he House of representatives, [Discriminatie op de woningmarkt; uitkomsten onderzoek en vervolg](#) [Discrimination in rented housing: research findings and follow-up].

security in certain areas. Municipalities can refuse certain groups of persons who want to live in a specific area (section 8), including on grounds of social economic status (their income has to be 120 percent of the statutory minimum wage) or a criminal record. The Act is employed by various municipalities, and is applied to a number of 52.000 addresses in the Netherlands.⁷⁸

The Grand Chamber of the European Court of Human Rights decided in a case in 2018 that the Act was not in breach with the right to freedom of movement (Article 2 Protocol No. 4 ECHR), but did not decide on the compatibility of the Act with the prohibition of discrimination, as such fell beyond the scope of the case.⁷⁹ According to the Institute, however, the Act may contribute to stigmatisation and discrimination of individuals with a low income, and may disproportionately affect persons with an immigration background. It targets groups that are already in a vulnerable position. In addition, there is no evidence that the Act is effective in increasing the security and quality of living in certain areas.

Similar concerns have been raised more recently about the (intended) demolition of 535 social rental homes in the municipality of Rotterdam (the area is called ‘Tweebosbuurt’). The aim is reducing the number of affordable homes, despite the overall climate of predicted growing shortages of affordable housing and homelessness in Rotterdam. Five UN Special Rapporteurs requested the Dutch government for additional information about the housing policy and call upon the government to prevent evictions.⁸⁰ According to the rapporteurs, the plan would disproportionately affect migrants and individuals and families of minority an immigrant background, and contribute to their further social vulnerability and risk of falling into homelessness. In addition, the residents in the Tweebosbuurt were insufficiently consulted and did not receive assistance in finding alternative housing.

The Institute is concerned about the Rotterdam housing policy as described, and the execution thereof, because of the discriminatory effects it may have.⁸¹ It underscores that the government, including municipalities, need to respect, protect and fulfil human rights, and it urges Rotterdam to enter into a dialogue with the residents on a very short term.

Suggestion for questions:

How will the government ensure that municipal housing laws and policies do not discriminate against persons on the grounds of race or migration background?

What measures does the government mean to take to ensure effective participation of persons and residents affected by local housing policies?

⁷⁸ R. Bouma & F. Damen, ‘Met omstreden wet weren gemeenten bijstandsontvangers in kansarme wijken’ [‘Municipalities ban welfare recipients in underprivileged neighbourhoods with controversial law’], *NOS*, 30 november 2020.

⁷⁹ ECtHR (GC) 6 November 2017, app. No. 43494/09, *Garib v. the Netherlands*, par. 102.

⁸⁰ Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the right to development; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues; and the Special Rapporteur on extreme poverty and human rights, AL NLD 3/202119 April 2021, p. 1.

⁸¹ Institute, ‘Waarom vijf mensenrechtenrapporteurs van de Verenigde Naties zich uitlaten over het woonbeleid van Rotterdam’ [‘Why five Special rapporteurs of the UN get involved with the Rotterdam housing policy’], *CRM*, 29 June 2021.

6.3 Housing policy for Roma, Sinti and travellers

The Institute welcomes steps by the government to eradicate discrimination of Roma, Sinti and travellers in the enjoyment of their right to enjoy their cultural identity. An important aspect of this right is for families to live near each other in mobile homes on sites. The 2018 Policy framework for municipal traveller sites, drafted by the Ministry of the Interior in close consultation with representatives of the groups concerned, municipalities, the Institute, the National ombudsman and other stakeholders, aims to protect their rights.⁸² Upon request of the Ministry, the Institute advised on the human rights framework relevant for the Policy framework.⁸³ The policy framework aims to put an end to the practice of many municipalities to reduce the number of available places on sites. The Institute had ruled in several individual cases that this practice violates the Equal Treatment Act. Further, the policy framework aims to guarantee that a sufficient number of places is available to enjoy the right to cultural identity by living closely to relatives. The new policy framework is an important step to better protect the human rights of Roma, Sinti and travellers and to prevent future violations of their human rights.

Municipalities are responsible for the implementation of the policy framework, since they coordinate housing policies. The Association of municipalities (VNG) has published a Guide for municipalities, focusing on human rights aspects of policy concerning travel sites as well as on the practical problems that municipalities encounter when implementing the policy framework. This Guide was drafted in cooperation with municipalities, housing corporations, the ministry of Interior and Kingdom Affairs and travellers, and the Institute provided information on the human rights framework.⁸⁴

In order to facilitate the implementation of the policy framework by municipalities, a platform (Platform 31) established by the Minister of Interior provides for a knowledge and learning programme.⁸⁵ Through the platform, the government and various stakeholders can address the questions and problems travellers are confronted with under the new policy framework.

Some concerns remain. The Institute receives information about municipalities that are not willing to expand the number of traveller sites, despite the fact that the policy framework and the opinions of the Institute make clear that there is a human rights obligation to do so if there is evidence of a shortage of locations within a municipality. Considering that the shortage of caravan sites is a direct result of past government policies that violated the rights of travellers, the government has an obligation to provide for redress expeditiously by creating places. The Institute is well aware that assessing the needs and then embarking on a diligent decision-making process to realize new locations can take a number of years.

⁸² Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, *Beleidskader gemeentelijk woonwagen- en standplaatsenbeleid*, juli [Policy framework for municipal traveller sites], July 2018.

⁸³ Institute, *Advies inzake het woonwagen- en standplaatsenbeleid aan de minister van Binnenlandse Zaken en Koninkrijksrelaties naar aanleiding van de formulering van een nieuw beleidskader met betrekking tot het gemeentelijk woonwagen- en standplaatsenbeleid* [Advice concerning the traveller camps policy to the Minister of Interior in response to the formulation of a new policy framework on municipal traveller sites], March 2018.

⁸⁴ A. Durmus et al., [Wegwijzer gemeentelijk woonwagen- en standplaatsenbeleid](#), [Guide on local policies on travel sites], Den Haag: VNG, 2021.

⁸⁵ Platform 31, *Omdenken doen doen: gemeenten gaan voor mensenrechten-proof woonwagenbeleid*, 2020 [Municipalities aiming for a fundamental rights proof campsites policy].

Since travellers have been on waiting lists for years, the Institute urges the government to encourage municipalities to examine possibilities for swift. This may include temporary solutions, pending more permanent planning adjustments.⁸⁶

Suggestion for questions:

What measures will the government take to monitor the full implementation of the Policy framework for municipal traveller sites by all municipalities?

What measures will the government take to guarantee that municipalities take prompt and appropriate measures to guarantee a sufficient number of places for Roma, Sinti and travellers to enjoy their right to cultural identity and to live on sites within a reasonable time?

⁸⁶ NIHR, 16 December 2020, [Brief aan de Vaste commissie voor Binnenlandse Zaken voor het Algemeen Overleg Discriminatie](#) [Letter to the standing committee on interior affairs on behalf of the general debate on discrimination].

7 Discrimination in the public domain

7.1 Discrimination and hate speech in various public domains

Many people who belong to an ethnic minority and people who manifest their religion with, for example, a headscarf or a kippah, or who belong to an ethnic minority, face discrimination in public. Dutch Muslims of Turkish and North-African origin, people of (sub-Saharan) African origin and (visibly) Jewish people are mostly affected.⁸⁷ According to CIDI, the hotline for antisemitic incidents, 30 percent of the total of 135 reported incidents in 2018 concerned the direct environment (neighbourhood) of people, and 95 incidents concerned online discrimination.⁸⁸ In 2020 CIDI reported considerable higher rates of antisemitism: it received 35 percent more complaints about antisemitism on the street, higher than ever before.⁸⁹ In addition, people have reported violence against (Jewish) cemeteries or mosques, including painting and placing a pig's head.⁹⁰ Many Jewish people report that they feel that they cannot openly manifest their religion.⁹¹

The monitor on discrimination against Muslims reports a large number of verbal abuse, threats and physical abuse against women wearing a headscarf.⁹² As of recently, discrimination of individuals of Asian origin became more visible. The Amsterdam Police received more than 2000 reports of verbal (online and offline) discrimination from the Chinese community in the period after the COVID-19 outbreak.⁹³ Further, according to a 2020 report by the Fundamental Rights Agency on Roma and Travellers in Europe, 43 percent of the Sinti and travellers living in the Netherlands reported experienced discrimination in the public domain (both offline and online). 83 percent of the Roma reported discrimination in the public sphere.⁹⁴

Discrimination is reported to take place on the street, in neighbourhoods, on sports fields, in football stadiums, in public transport, in clubs and restaurants, and online. This type of discrimination can manifest itself as xenophobic insults, calling names, (sexual) intimidation, bullying, physical and violent attacks.

An overwhelming majority of the reported complaints about discrimination in the public domain that the Institute received in 2019 concerns verbal insults, both offline and online.⁹⁵ The figures of hotlines show that online discrimination is on the rise. In 2018, 26 percent of the reports on online discrimination at MiND, the complaints office for online

⁸⁷ Andriessen *et al.*, *supra* (note 33), p. 85 *et seq.*; [Discriminatiecijfers in 2020. Een rapport over registraties van discriminatie-incidenten door de politie, en meldingen bij antidiscriminatievoorzieningen en andere organisaties in Nederland](#) [2020 Figures on discrimination. A report on registered incidents of discrimination by the police, anti-discrimination services and other bodies in the Netherlands]

⁸⁸ CIDI, Monitor antisemische Incidenten 2018.

⁸⁹ CIDI, 18 February 2020.

⁹⁰ I. van der Valk (ed.), *Targeting of Mosques* [Mikpunt Moskee], Amsterdam: Brave new books, 2019.

⁹¹ Research *Eenvandaag*, 2018.

⁹² Ewoud Butter, Roemer van Oordt & Ineke van der Valk, [Monitor Moslimdiscriminatie, Vierde rapportage](#). [Monitor on discrimination against Muslims], 2021.

⁹³ 'Chinezen laten eindelijk van zich horen', [Chinese people speak up], [online interview with William Chew](#), chair of the Chinese network of the Amsterdam police, March 2020.

⁹⁴ FRA, [Roma and Travellers in six countries](#), Vienna: FRA, 2020, p. 37 *et seq.*

⁹⁵ NIHR, 2019 Annual status report. Veilig jezelf zijn in het openbaar. Utrecht, 2020, p. 51-53, pp. VII Annex.

discrimination, related to ethnic origin.⁹⁶ In 2018 17 percent of the discriminatory facts registered by the Public Prosecutor's office took place on internet; more than 50 percent of these facts related to skin colour or ethnic or national descent (mostly 'group insults' and 'hate speech').⁹⁷ Also Jewish people and Muslims often face discrimination online; 94 percent of the complaints about discrimination on the grounds of religion relate to islamophobia.⁹⁸ As discussed in the introduction, after the rise of populist parties that portray freedom of speech as an absolute, unlimited right, the use of intolerant and racist speech in the public (online) domain has increased, changing the contours of the public debate in the Netherlands.

Suggestion for a question:

What measures will the government take to address discriminatory behaviour in the public domain?

7.2 Ethnic profiling by law enforcement

In the Netherlands there is an ongoing debate about racial profiling by public authorities, particularly by law enforcement officers. The debate about discriminatory effects of police powers and practices to preventively stop and search (groups) individuals has gained more momentum after the killing of George Floyd and the subsequent global Black Life Matters protests. As indicated in the End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of her mission to the Kingdom of the Netherlands in 2019, there is substantial evidence of racial profiling during traffic control, identity checks, preventive searches and border stops.⁹⁹

A 2017 survey by the EU Fundamental Rights Agency (FRA) revealed that Dutch Muslims have, compared to Muslims in other European countries, the lowest level of trust in the police.¹⁰⁰ In a 2020 study by the Netherlands Institute of Social Research, 90 percent of Turkish, Moroccan, Surinamese Dutch and people with roots in the Dutch Caribbean indicated that they were being monitored more than others by the police, in comparison with 32 percent of native Dutch.¹⁰¹ A 2016 study commissioned by the government revealed that the police used proactive investigatory stops that disproportionately target ethnic minorities.¹⁰²

⁹⁶ College voor de Rechten van de Mens, *Quickscan race*, 2019.

⁹⁷ Openbaar Ministerie, *Cijfers in beeld 2018. Overzicht discriminatiecijfers Openbaar Ministerie*, 2019.

⁹⁸ MiND, *Jaarcijfers 2018. 2019*. See also SCP (2020), *Ervaren discriminatie 2019*, p. 149 (concept) (including figures of the Jewish hotline CIDI).

⁹⁹ End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of her mission to the Kingdom of the Netherlands, The Hague, 7 October 2019, par. 26.

¹⁰⁰ European Union Agency for Fundamental Rights, *EU MIDIS-II. Second European Union Minorities and Discrimination Survey Muslims—Selected Findings*, 2018.

¹⁰¹ Andriessen *et al.*, (*supra*, note 33), p. 84. Sociaal en Cultureel Planbureau, *Ervaren discriminatie in Nederland (Experienced Discrimination)*, I. Andriessen, Iris Andriessen, Henk Fernee, Karin Wittebrood, Den Haag 2014.

¹⁰² L. Kleijer-Kool and W. Landman, "Boeven vangen": Het spel tussen politieagenten en de ander' ["Catching Crooks": The game between police officers and the other'], 6 *Tijdschrift voor Cultuur en Criminaliteit* 1, p. 42-65.

The National Police has made several reforms over the past years in order to prevent racial profiling by police officers. Such include the introduction of a professional code (Handelingskader), training module for police officers and the drafting of several regional-level policy documents to promote better registration of discriminatory incidents, improve cooperation and prevent ethnic profiling. The UN Special Rapporteur commended the police for its recent reforms.¹⁰³ She was concerned, however, about the fact that the government does not monitor or collect data to assess the impact of these new reforms, and that no measures were taken to collect disaggregated data on ethnicity in police stops. Indeed individuals still experience profiling by the police on the basis of their ethnicity, national descent and skin colour.

By contrast, the Royal Netherlands Marechaussee (RNM), tasked with border control, continues to allow for the use of risk profiles that are (partly) based on race. This resulted in proceedings brought before the court by a group of non-governmental organisations and two individuals in mid 2021. According to them the practice of the RNM amounts to racial profiling. The RNM argued that race is only one of the factors that are used, and that it is a relevant factor to ensure effective border control. The case has not yet been decided by the district court.

The Institute finds it necessary to have more legal certainty about the limits of legitimate profiling and racial profiling. To date there are various interpretations by international, European and national judicial authorities on whether ‘race’ may be one factor amongst other factors for risk indication purposes, depending often on the legal system within which it is decided. The issue is whether the use of race as a factor is only prohibited when it is a sole and decisive factor, or that its mere inclusion amounts to discrimination. The Institute indicated that the use of race as a factor should always be objectively justified: this means that it is insufficient for authorities to mention that other factors also played a role. Justification is especially necessary as practice indicates that ethnicity often plays a decisive part in selection decisions.¹⁰⁴

Suggestion for questions:

What measures will the government adopt in order to prevent that race is used without objective justification as a factor by public authorities in (automated) risk-profiling processes, in particular those employed by public officials and law enforcement officials?

What measures will the government take to prevent racial profiling by law enforcement officials, including by collecting disaggregated data on race and ethnicity and by monitoring the impact of reforms?

¹⁰³ *ibid*, par. 26-31. End of Mission Statement of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance at the Conclusion of her mission to the Kingdom of the Netherlands, The Hague, 7 October 2019, par. 26-31.

¹⁰⁴ Institute, , 9 June 2021. Position paper: Debat over etnisch profileren vraagt om meer juridische duidelijkheid [*Position paper: Debate on ethnic profiling requires more legal clarity*], 9 June 2021.

Annex

Table 1: Complaints on basis of race, nationality and or religion, received by the Institute 2015-2020

	2015	2016	2017	2018	2019	2020	Total
Number of complaints on the basis of race *	85	87	60	93	64	89	478
Number of complaints on the basis of nationality*	19	20	17	30	33	43	162
Number of complaints on the grounds of religion*	24	26	13	17	23	17	120
Number of Complaints on two or three of the following grounds: Race, nationality and religion	10	14	12	11	33	11	91
Total	138	147	102	151	153	160	851

* This includes only the complaints on the basis of race (not in combination with nationality and religion), it is possible that it includes cases that combine race with other grounds (such as age and gender).

Table 2: Opinions on basis of race, nationality and or religion, issued by the Institute 2015-2020

	2015	2016	2017	2018	2019	2020	Total
Number of opinions on the basis of race *	35	36	29	28	27	18	173
Number of opinions on the basis of nationality	6	7	2	2	6	9	32
Number of opinions on the grounds of religion	12	13	7	9	6	8	55
Number of Opinions on two or three of the following grounds: Race, nationality and religion	5	8	3	0	5	3	24
Total	58	64	41	39	44	38	284

Table 3: Complaints and opinions on religion: religion of the complainant, 2015-2020

	Number of complaints on the basis of religion *	Number of opinions on the basis of religion *
Christian	16	8
Islamic	85	45
Jewish	8	2
Hindu	0	0
Buddhist	0	0
No religion	8	3
Other religion	5	1
Total	86	59

*Possibly it includes cases that combine religion with other grounds (such as nationality or race, but also age and gender).

Table 4: Opinions of race, nationality and religion disaggregated by terrain, issued by the Institute 2015-2020

	Number of opinions on the basis of race */**	Number of opinions on the basis of nationality **	Number of opinions on the grounds of religion**	Number of Opinions on two or three of the following grounds: Race, nationality and religion**	Total number of opinions on specific terrain**
Recruitment & Selection	35	7	17	6	65
Appointment	2	1	5	2	10
Termination of employment relationship	4	1	5	3	13
Working conditions	5	0	7	4	16
Other or not further specified, including working circumstances	21	3	2	8	34
One of the operative parts ('dicta') concerns goods and services; incl. advice on choice of education or profession	57	21	19	7	104

Other or not further specified, e.g. freedom of profession & social protection	46	0	1	1	48
Total number of opinions	173	32	55	24	284

* This includes only the cases on the ground of race (not in combination with nationality and religion); it is possible that it includes cases that combine race with other grounds (such as age and gender).

** The figures for the fields do not add up to (grand) total number of opinions: one opinion can cover multiple terrains.