



**Report of the Kingdom of the Netherlands under article 9 of the  
Convention on the Elimination of Racial Discrimination 2018**

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## **I. Introduction (Observations 1–6, 40, 43, 45–47)**

- In pursuance of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination ('the Convention'), the present report by the Kingdom of the Netherlands is submitted in accordance with the Guidelines for the CERD-specific document to be submitted by States parties under article 9, paragraph 1 of the Convention (CERD/C/2007/1 of 13 June 2008).
- This, the consolidated twenty-second, twenty-third and twenty-fourth report, covers the period from August 2015 to September 2018 and follows on from the consolidated nineteenth to twenty-first periodic report submitted to the Committee in January 2013, which covered the period from April 2010 to April 2012. The information contained in this previous report was updated to include the period from January 2007 to March 2010 for the purpose of the Committee meetings of 18 and 19 August 2015. Having considered the consolidated report, the Committee adopted concluding observations at its meeting of 26 and 27 August 2015.
- This report is structured in accordance with the Committee's concluding observations (CERD/C/NLD/CO/19-21) dated 28 August 2015. Supplementary information has been provided concerning developments in the period under review that relate to specific articles of the Convention. Issues dealt with in the previous period are not reiterated if not considered relevant to the current situation in the Netherlands. The Netherlands supplied detailed information on 19 September 2016 on the recommendations mentioned in paragraphs 12, 24 and 28.

- On 22 December 2016 the Committee asked for additional information concerning the interim report of 19 September 2016. As requested, that information has been incorporated into this consolidated report.
- As mentioned in its previous report, the Kingdom intends to await the outcome of the debate within the UN on reforming the convention committees before deciding on the use of the common core document.
- The numerous legislative, administrative, educational and cultural reforms and projects detailed in the present periodic report are partly inspired by the implementation of the Durban declaration.
- With regard to the Kingdom of the Netherlands it is important to recall that the Kingdom consists of four countries: the Netherlands, Aruba, Curaçao and St Maarten. The islands of Bonaire, St Eustatius and Saba are part of the country of the Netherlands. Each country is responsible for implementing the provisions of the Convention and reporting on implementation. This report covers the four countries of the Kingdom of the Netherlands. Chapter II contains the report of the country of the Netherlands. Chapter III contains the reports of the country St Maarten. Where relevant the text specifies to which part or parts of the Kingdom a passage applies.
- Pursuant to article 132a, paragraph 4 of the Constitution, rules may be laid down and other specific measures may be taken for the Caribbean part of the Netherlands (Bonaire, St Eustatius and Saba) in view of the special circumstances that fundamentally distinguish these

public bodies from the European part of the Netherlands. In the context of the constitutional transition that took place within the Kingdom in 2010, it was agreed that the legislation of the Netherlands Antilles would initially be retained and that the legislation in the European part of the Netherlands would be phased in gradually to give the islands the opportunity to implement all the new legislation.

- In consequence of this legislative restraint, it has been provided, *inter alia* in section 2 of the Netherlands Institute for Human Rights Act, that the latter institute is not yet competent to investigate complaints alleging discrimination in the Caribbean Netherlands. In 2017 the Institute conducted evaluations of the Netherlands Institute for Human Rights Act and several pieces of equal treatment legislation (the Equal Treatment Act, the Equal Treatment (Men and Women) Act and article 7:646 of the Civil Code). In so doing, the Institute addressed their territorial scope. In addition, in its report of 21 April 2016, entitled 'Towards an acceptable level of human rights provision in the Caribbean Netherlands', it recommended, in light of the implementation of the UN Convention on the Rights of Persons with Disabilities, building up public support for making equal treatment legislation applicable in the Caribbean Netherlands.

- In response to the above evaluations, in the autumn of 2018 the government announced its intention to commission a study to determine what needs to be done to declare the equal treatment legislation and Chapter 2 of the Netherlands Institute for Human Rights Act applicable (in phases) for the Caribbean public bodies. This study will incorporate factors such as whether it is preferable to introduce the legislation in the short or longer term and the burden that introducing the legislation will

impose on the administrative authorities and residents of these public bodies.

- It is standard policy that all reports submitted to the UN human rights bodies are also submitted to the Dutch parliament for information purposes. Once submitted in this manner, these reports have the status of parliamentary papers and as such are made available to the public on various websites.

## **II. Responses to concluding observations of the Committee on the Elimination of Racial Discrimination**

- In its concluding observations of 28 August 2015 (CERD/C/NLD/CO/19-21), the Committee expressed its concerns and made recommendations on a number of subjects, to be dealt with under this heading.

### **A. National framework for tackling discrimination**

#### **- *Constitution, other legislation (Observations 9, 10, 14)***

- In the Netherlands everyone is equal and everyone has the freedom to be themselves. The principle of equality is enshrined in article 1 of the Constitution. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever is not permitted. Article 1 is elaborated in several acts of parliament. The most important of these are the General Equal Treatment Act (AWGB), the Equal Treatment (Disabled and Chronically Ill People) Act (WGBH/CZ), the Equal Treatment in Employment (Age Discrimination) Act (WGBL), the Equal Treatment (Men and Women) Act (WGB/MV), the Civil Code, and the Criminal Code.

- In addition, as evidenced by the history of the development of these provisions, the term 'race', as referred to in article 1 of the Constitution and as further elucidated in articles 137c and 137d of the Criminal Code as well as in the equal treatment legislation, should be understood in accordance with the essence of the enumeration in article



1 of the Convention, which refers to colour, descent, and national or ethnic origin as well as 'race'.<sup>1</sup>

- Both direct and indirect forms of discrimination are included in the definition of racial discrimination in domestic law.

- ***National Action Programme on Discrimination (Observations 14a, 21b)***

- The Netherlands pursues a wide-ranging approach to combat discrimination, which encompasses all grounds, including race. This approach has been adopted because of the many similarities that exist in the underlying mechanisms that give rise to prejudice and discrimination. With a view to effectiveness, many measures, such as the provision of anti-discrimination services and efforts to tackle labour market discrimination, transcend the specific grounds for discrimination.

- The government's approach to combating discrimination is enshrined in the National Action Programme on Discrimination (2016). Complementary to this are a number of specific action plans, of which the Action Plan on Labour Market Discrimination (2014) is relevant here.

- The government sends the House of Representatives annual progress reports on the measures in these action plans. The most recent of these progress reports (2018) is appended to these observations. Furthermore, these action plans are embedded in the wider-ranging

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<sup>1</sup> Parliamentary Papers II 1967–1968, 9724, no. 3, p. 4.

National Action Plan on Human Rights (2013), which is currently being updated.

- The government takes the view that in addition to the generic approach to combating discrimination, discrimination on the grounds of ethnicity and racism merit specific attention. Consequently, specific measures are in place, complementary to the wide-ranging approach, which focus on discrimination on the grounds of ethnicity, religion, skin colour, disability, chronic illness, or LGBTI background. These have accordingly been included as supplementary sections, in addition to the generic measures in the National Action Programme on Discrimination. There is therefore no need for a separate action programme.

- ***Reporting offices - ADVs (observation 7, 8)***

- Part of the National Action Programme on Discrimination consists of tackling discrimination at local level. Under the Municipal Anti-Discrimination Services Act all municipalities in the Netherlands are required to provide an anti-discrimination service (ADV) where people can submit complaints about discrimination and receive independent support and advice. There are currently 38 ADVs which together perform these statutory tasks for all municipalities.

- The actual structure and functioning of these anti-discrimination services were investigated thoroughly in 2017. Another investigation carried out in 2017 looked at the ways in which municipalities give substance to their local anti-discrimination policy and ADV provision. The findings produced a clear picture of the strengths of local anti-

discrimination policy and the ADVs, and of the points on which they could be improved.

- To encourage municipalities to pursue an effective anti-discrimination policy, central government commissioned the development of anti-discrimination policy guidelines for municipalities in 2018. These guidelines bring together a number of studies on effective anti-discrimination methodologies and local best practices.
- The National Ombudsman is an independent institution that handles complaints about and investigates cases where the authorities have acted improperly. The National Ombudsman Act also applies to the actions of the administrative authorities of the public bodies Bonaire, St Eustatius and Saba. Residents of the Caribbean Netherlands can submit complaints to the National Ombudsman concerning the actions of their local authorities, the National Office for the Caribbean Netherlands, the police, or the Public Prosecution Service, including complaints about racism or discrimination. Twice a year the Ombudsman's investigators hold drop-in consultation sessions in the Caribbean Netherlands. The Ombudsman also personally visits the public bodies with some regularity. In addition, people can enlist the National Ombudsman's help by telephone, through Skype, Facebook, or WhatsApp, or by submitting a digital complaint form. In 2017 the Ombudsman received 142 complaints from the Caribbean Netherlands.
- The Netherlands Institute for Human Rights Act is partly applicable in Caribbean Netherlands. This means that the Institute can carry out much of its mandate here, such as making recommendations, providing information through its website, and conducting investigations. Once

again, in the context of legislative restraint, the Institute is not yet competent to pronounce on the question of whether any distinction has been made within the meaning of equal treatment legislation.

- ***Legal assistance (Observation 12b)***

- Victims of discrimination can apply to several places for advice and support. First, members of the public can apply to municipal anti-discrimination services (ADVs), which provide assistance free of charge. In addition, anyone who experiences discrimination can submit a complaint to the Netherlands Institute for Human Rights, free of charge, or report the matter to the police. If necessary, a municipal anti-discrimination service can provide support. A victim also has the option of instituting proceedings under civil law, or, in the event of prosecution, of joining the criminal proceedings with a claim for damages. The Legal Aid and Advice Centre can give advice, free of charge, to people who are eligible for it on the basis of their income. In addition, subject to certain conditions, victims with a low income may be able to obtain additional legal assistance.<sup>2</sup> Victims of a racist crime of violence can obtain legal assistance free of charge, regardless of income.

- ***Monitoring***

- The Netherlands has encouraged the publication of annual multi-agency reports giving data from the police, ADVs, the Netherlands Institute for Human Rights, and MiND (the complaints office for online discrimination), at regional as well as national level. The reports, which

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<sup>2</sup> The Legal Aid Act provides for primary legal assistance by the Legal Aid and Advice Centre and additional legal assistance in the form of assigning legal assistance providers to act as lawyers. Additional legal assistance involves a financial contribution.

apply a uniform methodology, give a coherent overview of incidents and complaints of discrimination as registered in the Netherlands.

- In 2017 the most common ground for discrimination as reported to both the police and ADVs was ethnic origin. The police registered 1,450 incidents involving discrimination on the basis of ethnic origin (41% of the total), slightly more than one-third of which had to do with the person's black or dark skin colour. A total of 1,800 incidents were reported to the ADVs, a decline relative to 2016.

- To encourage more people to report discrimination, the smartphone app 'Meld discriminatie NU' ('Report discrimination NOW') was launched in 2008. This additional digital channel can be used to report incidents to an anti-discrimination service (ADV). In addition, the website [discriminatie.nl](http://discriminatie.nl) lists all ADVs and advises victims of discrimination on where to submit a complaint.

#### - ***Criminal prosecution***

- To tackle discrimination effectively, criminal proceedings should always be viewed in the framework of wider-ranging efforts. Criminal prosecution should be deployed as *optimum remedium* in the fight against discrimination, that is to say since criminal law alone cannot yield an enduring response to discrimination, criminal proceedings are always placed in the context of other interventions. If an intervention outside the criminal law is the most meaningful and effective, the Public Prosecution Service may decide against instituting criminal proceedings.

## **B. Freedom of expression, hate speech and the media**

### **- *Political speech, freedom of expression (Observation 14f)***

- Open debate on social issues is essential in a democratic society, including debate on issues relating to the exercise of constitutional freedoms. The Dutch Constitution along with international human rights conventions provide the foundations for these freedoms and have given rise to basic principles that are largely shared across society.

- Freedom of expression is interpreted broadly in the Netherlands, especially when an expression can be seen as contributing to public debate. In recent years, several politicians have been prosecuted for expressing opinions that the Public Prosecution Service deemed to have gone beyond the limits of freedom of expression. In addition, several members of the public have been convicted of insulting and discriminating against politicians.

### **- *Hate speech (Observations 11, 12d)***

- The Government wishes to draw a clear line at forms of expression that can be qualified as hate speech. The coalition agreement includes a proposal to increase the sentences imposed for hate speech because of the gravity of this offence. Raising the maximum sentence emphasises that the government is on the side of those who are insulted or experience discrimination, and those who feel threatened in their existence in the Netherlands. These stiffer sentences also act as a deterrent. The increase in the maximum sentence for inciting hatred and violence will be incorporated into the Bill to amend the Criminal Code in

the context of the reassessment of the way in which certain topical forms of crime are defined as criminal offences.

- Online hate speech can be reported to the police or to an anti-discrimination service, or to the complaints office for online discrimination (MiND). MiND is the national body for reporting online discriminatory utterances that constitute criminal offences. Members of the public can report discriminatory content. When it receives a report, MiND starts by looking to see if the content is still online. It then determines whether the content constitutes a criminal offence under articles 137c to 137e of the Criminal Code and the relevant case law. If so, MiND asks the administrator or moderator of the website concerned to take the content down. If a repeated request to this effect is ignored, MiND draws up a report file for the Public Prosecution Service. The Public Prosecution Service can launch criminal proceedings in response to such a report.

- In addition, the Public Prosecution Service is vigilant as regards criminal utterances, especially when they provoke public debate. Efforts are also under way to make it easier to report hate speech, for instance by concluding agreements at European level with social media platforms.

- ***Media (Observation 12e)***

- The Netherlands has free, independent, pluralistic and high-quality media – commercial as well as publicly funded. Journalists and programme-makers are free to write, publish and broadcast what they wish. Central government does not interfere with content. The

government may never check content in advance. This is laid down in both the Constitution and the Media Act.

- Part of media policy in the Netherlands is providing for public broadcasting, to make sure that this service meets the democratic, social and cultural needs of society. It also seeks to ensure that the public media reflect society, with its wide range of beliefs, opinions and interests, in an independent and balanced way. The government does not interfere with the content of the media, in view of the importance of its independence, and therefore does not take any specific action to encourage methods of self-monitoring by the media. However, the Netherlands welcomes any initiative taken within the media sector to implement methods of self-monitoring. In addition, media professionals and companies have their own codes of conduct and editorial statutes.
- Since September 2017 the government has lent its support to a new initiative, the 'Coalition on Image-Forming in the Media'. A number of public and commercial media outlets have joined this initiative to combat stereotyping by striving to promote more balanced representations in the media.



## **C. Civic integration, employment practices and raising awareness**

### **- *Civic integration (Observation 21a, 22b, 29, 30)***

- Newcomers to the Netherlands have an obligation to go through the civic integration procedure. The main target groups are asylum residence permit holders and family migrants. The Civic Integration Act was amended in 2013. The system now has three pillars:

1. Participants in a civic integration programme have their own responsibility to attend classes and take the exams.
2. Participants are required to pass the exams testing Dutch language skills and a knowledge of Dutch society and of the labour market.
3. A free market for language courses providers. Civic integration participants purchase a course themselves. To this end they can apply for a loan, which in the case of asylum residence permit holders is converted into a non-repayable grant upon successful completion of the civic integration procedure. Family migrants have to pay for the classes and exams themselves, but they may apply for a loan, depending on their income.

- On 1 October 2017 a new element was added to the civic integration exam: the participation statement section. This section introduces newcomers to the core values of Dutch society.

- There was a large influx of refugees in 2015 and 2016 and certain problems came to light. Over the past few years, improvements have

been set in motion within the current statutory frameworks because of lagging pass rates and newcomers finding it difficult to get jobs. The preliminary procedure leading up to civic integration at Asylum Seekers' Centres (AZCs) has been intensified and municipalities now receive €2,370 (up from €1,000) for each asylum residence permit holder to pay for social support. This involves helping people to navigate their new surroundings and choose a civic integration course.

- In this connection, the government has announced several major changes that it seeks to implement in 2020. Municipalities will play a key role in supporting people who are required to pass a civic integration exam, the goal being that everyone participates in society, preferably through paid work. The standard language proficiency level in civic integration will be raised from A2 to B1, for which extra funds will be made available. There will be an intake procedure carried out by the municipal authority. Civic integration, employment and participation will be more closely linked, and special attention will be paid to self-reliance and making procedures easier for asylum residence permit holders.
- Several different learning pathways will be set up, attuned to ability. An educational pathway for young people should result in their obtaining a school-leaving certificate, which will improve their prospects on the job market. A separate pathway will be designed for those who have difficulty with the civic integration programme and learning Dutch. They will no longer be exempted from the civic integration obligation (as they are now). Instead, they will receive the support they need to acquire a command of Dutch and become self-reliant in the Netherlands as far as is possible.

- People who want to come to the Netherlands for family reunification or family formation usually need to obtain an authorisation for temporary stay (MVV). An MVV is issued once the person has passed the Basic Civic Integration Examination Abroad. The Basic Civic Integration Examination Abroad consists of three parts: knowledge of Dutch society, speaking, and listening comprehension. The language proficiency level is A1.

- The Basic Civic Integration Examination Abroad is monitored twice a year. On 9 July 2015 the Court of Justice handed down a judgment on the Civic Integration Examination Abroad. In response to this judgment, the grounds for exemption were expanded and the fee attached to the Basic Civic Integration Examination was reduced.

- ***Integration into the labour market, employment practices (Observation 14d, 15a, 15b, 22a, 23, 24b)***

- The government in its capacity as an employer seeks to prevent labour market discrimination in the broad sense of the term. Thus, in 2015–2016 all ministries signed the Diversity Charter and formulated action plans that are currently being implemented. In addition, since 2016 the government has participated in the programme Inclusive Government, involving exchanges of knowledge and experience with a range of government sectors with a view to promoting diversity and inclusion. The Strategic Government Personnel Policy 2025, which was adopted in 2018, also seeks to prevent labour market discrimination in the broad sense. In relation to ethnic diversity, it has been agreed to aim for a higher percentage of employees with a non-Western migration background in more senior positions. The percentage of employees with

a non-Western background working for central government has risen from 8.7% to 10.3% in recent years (2013–2017).

- Diversity policy is also part of the HRM policy of the police, the Public Prosecution Service and the courts. Being open to – and able to deal with – differences is part of the work of police officers, public prosecutors and judges, and part of their view of their profession. For this reason, the police, the Public Prosecution Service and the judiciary all seek to achieve diversity in recruitment. To this end, recruitment and selection teams are trained to select candidates impartially.
- The curriculum of the Police Academy deals with legislation relating to discrimination, and teaches social and communication skills for a diverse society, including how to deal with dilemmas and polarisation. Basic police training deals with diversity in the module Multicultural Skills (MCV) and in practical assignments. In addition, education and training are provided to raise awareness of diversity and to help prevent ethnic profiling. The Police Academy is also seeking to achieve greater diversity in the composition of its teaching staff.
- Over the past few years, the government has invested heavily in a range of programmes and incentive measures aimed at improving the position of and job prospects for members of specific ethnic minorities on the labour market. Within the programme Further Integration on the Labour Market, interventions are being developed that aim to improve the position of members of ethnic minorities on the labour market. The programme focuses on several groups, such as asylum residence permit holders and their family members, young people and the long-term unemployed. For young people, the emphasis is on improving study

choices, ways of combining employment and studying, and overcoming discrimination (for instance in relation to work placements). The efforts targeting young people build on the experience gained with the City Deal Youth Unemployment Action Plan. Other measures to help the long-term unemployed include intensive support, combinations of employment and study, and strengthening diversity skills.

- ***Labour market discrimination (Observation 23, 24a, 24c)***

- Since May 2014, the Dutch government has been working to minimise, and ideally eradicate, labour market discrimination through two action plans: one to combat labour market discrimination in general (2014) and one more specifically targeting pregnancy discrimination (2017). Some of these measures, more than sixty in total, are generic and tackle all discrimination grounds.

- The current government's coalition agreement, 'Confidence in the Future', identified labour market discrimination as a key concern and announced a follow-up to the Action Plan on Labour Market Discrimination.

- In June 2018, the government sent a letter to the House of Representatives explaining the main points of the renewed Action Plan on Labour Market Discrimination. The Action Plan is aimed at all employers, employees and the general public. It seeks to combat discrimination on all grounds in recruitment and selection procedures, including pregnancy discrimination and pay discrimination between women and men. The implementation plan, which further develops the

points of the Action Plan, was presented to parliament in November. It has three main tracks:

1. Monitoring and enforcement: the renewed Action Plan on Labour Market Discrimination will give the Social Affairs and Employment Inspectorate broader powers, enabling them to supervise and enforce antidiscrimination rules in regard to employers' recruitment and selection procedures. These must contain adequate safeguards that prevent and combat discrimination against job applicants. In this connection, it will also be explored how the Inspectorate can supervise third parties offering recruitment and selection services, such as employment agencies.
  2. Investigation and instruments: applicable instruments, developed for employers, personnel officers and members of works councils to combat prejudice in recruitment and selection procedures.
  3. Knowledge and raising awareness: promoting the acquisition of knowledge about, and raising awareness of, labour market discrimination and exclusion, and ways in which well-intentioned employers can prevent them. Information campaigns and meetings will also be held to underscore the importance of an inclusive and diverse workforce.
- Since 2015 it has been standard government policy to refuse to sign any contract with a company that has been convicted of discrimination by a final and unappealable judgment. Any existing contract with a company that is convicted of discrimination by a final and unappealable judgment will be terminated if legally possible. To this end, standard clauses and passages have been drawn up and should be incorporated where appropriate in the central government's model

agreements and tender documents. These clauses and passages are available to any individual employer, both within and outside the government.

- To combat work placement discrimination, the government's efforts are based on three pillars:

1. A pilot scheme involving orientation visits to places of work, enabling students and companies to get to know each other.
2. Training courses that teach professionals how to use objective criteria in selecting candidates in an impartial manner.
3. A social media campaign to publicise the existence of the work placement discrimination reporting office.

- ***Raising awareness (Observations 13a, 14e)***

- The Netherlands Institute for Human Rights provides training courses for HR staff (and those training for this position), employers and employment agencies about the influence of stereotypes in recruitment and selection procedures ('Selection without prejudice'). It also draws attention to the prejudice that a non-Dutch name sometimes triggers among employers.

- In order to make people more aware of the inadmissibility of discrimination, a multi-year campaign was launched in 2015, entitled 'Zet een streep door discriminatie' ('Strike Out Discrimination'). A digital platform ([www.zeteenstreepdoordiscriminatie.nl](http://www.zeteenstreepdoordiscriminatie.nl)) presents all the points promoted by this campaign and offers resources to local authorities and civil society organisations to help them spread the campaign's message themselves.

- In addition to the overarching campaign ([www.zeteenstreepdoordiscriminatie.nl](http://www.zeteenstreepdoordiscriminatie.nl)), several secondary campaigns were designed in 2017 which set out to raise awareness about specific forms of discrimination and give organisations guidance on rooting out discrimination themselves.
- The first of these secondary campaigns concerns labour market discrimination, specifically in recruitment and selection procedures, and its main aim is to raise employers' awareness of this issue.
- In 2017 the secondary campaign 'Work placement discrimination' was repeated. It drew the attention of employers, schools and students to the available tools to tackle work placement discrimination. In the framework of the City Deal Youth Unemployment Action Plan, a toolbox was developed to combat this form of discrimination (<https://www.zeteenstreepdoordiscriminatie.nl/wie-doen-mee/campagne-onderwijs>). The programme Career Orientation and Equal Opportunities was launched in partnership with Secondary Vocational Education (MBO) Services to help educational institutions combat discrimination of students seeking work placements.
- The secondary campaign 'Discrimination: talk about it in class' was launched in April 2017 to promote an open conversation about the unacceptability of discrimination at primary and secondary schools, with a range of tools developed specifically for children aged 10 to 16.
- To promote equality and diversity in the workplace, until 2020 the government will be supporting the Labour Foundation's Diversity



Charter: a network of employers provides the source for best practices, which are widely disseminated and where possible incorporated in practical instruments for employers who want to start addressing or intensifying their efforts on this issue.

## **D. Raising awareness and tackling racism and discrimination in education**

### **- *Equal opportunities (Observations 31, 32)***

- Education plays a vital role in overcoming inequality of opportunity between social groups. In the Netherlands, the conditions necessary to achieve equal opportunities for all appear to be improving slowly but surely. The government will continue this approach. The coalition agreement provides for the following measures and objectives:

1. Strengthening of early childhood education;
2. Efforts to redress educational disadvantages in schools for children who are at risk of lagging behind because of factors such as social surroundings;
3. Improving literacy rates;
4. Reducing inequality in education through an equal opportunities alliance, involving local authorities, schools, civil society organisations and central government. The main target group consists of children with poorly educated and/or low-income parents.

- The government has introduced a new indicator to determine the amount of funding schools receive, to arrive at a more effective approach to disadvantage. Besides measuring educational disadvantage, this indicator also takes account of the time that the child has lived in the Netherlands, the parents' country of origin and any debts the family may have.

- The government will facilitate agreements to make it easier for pupils to progress from prevocational secondary education to secondary

vocational education (MBO) and from MBO to higher professional education.

- In principle, admission to a vocational education course is a right. This applies to courses at all levels of MBO. The government is preparing a continuous learning pathway from vocationally oriented to general secondary education.
- The government is monitoring the impact of decentralised selection in higher education, to prevent the emergence of unintended negative effects.

- ***Citizenship (Observations 26c)***

- Education plays an important part in the transfer of fundamental values and in combating racism and discrimination in any form. Since 2006, primary and secondary schools have had a statutory obligation to devote attention to active citizenship and social integration. In recent years, the Inspectorate of Education has noted that schools recognise the importance of citizenship education, but the quality of teaching in this subject leaves room for improvement. The government is therefore working to clarify the statutory citizenship teaching objectives for primary and secondary schools. One of the key principles here is the emphasis on developing respect for and knowledge of the basic values of a democracy governed by the rule of law, as enshrined in the Constitution and human rights documents. The relevant Bill will be put before the House of Representatives in 2019. Strengthening the position of citizenship education in the curriculum is part of a wider review of the curriculum. In secondary vocational education (MBO), citizenship

education will be improved through the implementation of the 2017-2021 Citizenship Agenda for Secondary Vocational Education. In addition, the government intends to tighten the MBO exit qualifications for citizenship education, in particular with regard to acceptance of diversity, including ethnic, religious, sexual and gender diversity.

- ***Curriculum (Observation 16d)***

- The attainment targets for pupils in the lower years of secondary school and the topics included in the 'Dutch Canon' focus explicitly on subjects such as the Netherlands' history of involvement in slavery and the ability to view current tensions and conflicts in the world in their historical context. In addition, the history examination syllabus for prevocational secondary education (VMBO; since 2014) and senior general secondary and pre-university education (HAVO and VWO; since 2015) covers themes such as European hegemony, colonialism and the slave trade. The government will continue to ensure that the curriculum for all forms of compulsory schooling includes lessons on slavery, the slave trade and colonialism.

- ***Safe school climate (Observations 13e, 14c)***

- Schools must ensure a socially safe school climate for all pupils, regardless of origin, religious belief, sexual preference or gender. The 2015 Safety at School Act imposes on schools an obligation to pursue a policy on social safety and to designate a person to coordinate this policy, as well as a confidential adviser who acts as the primary contact for pupils and parents in matters of bullying.

- Schools are also obliged to annual monitor pupils' perception of personal safety, their well-being, and any erosion of safety, and to pass on the results to the Inspectorate of Education. In this monitoring procedure, schools are not obliged to ask pupils specifically whether there is any bullying on grounds of racism, but most schools do so nonetheless.

- ***Media literacy***

- Media literacy is important in developing pupils' capacity for critical thinking. The government therefore encourages the critical and conscious use of the media through the website [Mediawijzer.net](http://Mediawijzer.net), which helps young people to gather, assess and interpret information. [Mediawijzer.net](http://Mediawijzer.net) is a national expertise centre that seeks to promote the media literacy of children and young people under 18 years of age. It embraces more than 1,000 network partners and media literacy professionals and conducts activities such as national campaigns and research, with the aim of helping young people, teachers and parents or guardians to use both digital and other forms of media critically and consciously.

## **E. Tackling racism and discrimination – specific measures**

### **- *General (Observation 14)***

- The government seeks to ensure that the needs of everyone in the Netherlands, regardless of origin, religion or belief, are addressed by mainstream policy in fields such as education, employment and healthcare. If certain groups or individuals start to fall behind in this respect, specific measures are taken.
- The National Action Programme on Discrimination and the accompanying progress reports also incorporate the measures that are specifically geared towards tackling anti-Semitism, discrimination against Muslims, and racism against black people.

### **- *UN Decade for people of African Descent (Observations 15c, 16a, 16b, 16c, 17, 18, 41)***

- The activities planned in the Netherlands for the UN Decade for People of African Descent are geared towards strengthening efforts to combat racism.
- After the Netherlands launched its participation in the Decade, the government organised a public conference in 2016, in close collaboration with civil society organisations working in the field and members of the public. The conference chiefly provided an opportunity for knowledge-sharing, self-empowerment, cooperation and forging closer ties.

- In addition, a competition was held for stories written for young children about the equality of people with different ethnic origins, with a special focus on people of African descent. In addition, the government launched a competition to encourage innovative ideas on raising awareness about anti-black racism and combating prejudice.
- A number of educational projects in the period 2017–2018 set out to raise awareness in Dutch society of the existence of anti-black racism, combat prejudice, negative image-forming and stereotypes, and increase the resilience of people of African descent in the face of discrimination in the Netherlands.
- At two widely attended gatherings, participants from Afro-descendant communities prioritized themes and ideas for activities, to be carried out via social initiatives.
- In 2018–2019 the government is supporting social initiatives by making resources available for two funds: the UN Decade Social Fund (Oranje Fonds) and the UN Decade Culture Fund (Prince Bernhard Cultuur Fonds). These funds support innovative cultural and social initiatives aimed at combating racism, in particular anti-black racism.
- In addition, the government is providing resources in 2018–2019 to establish an organisation to support the development of project plans.

At several locations around the Netherlands, the country's colonial history and its history of participation in the slave trade are highlighted.

Museums play a key role here. For instance, the National Museum of World Cultures devotes attention to the culture and history of Africa in several ways. It will soon have a permanent exhibition on the Netherlands' history of slavery. The National Maritime Museum and the Rijksmuseum also examine the country's history of participation in the slave trade and its colonial history. The latter museum is mounting an exhibition on the Netherlands' involvement in slavery in 2020 and has the task, together with the Netherlands Open Air Museum in Arnhem, of making a visual representation of the topics in the 'Dutch Canon', including the Netherlands' colonial past. Several other institutions have also organised exhibitions on these subjects. The government is engaged in talks with the municipality of Amsterdam on how central and local authorities can work together to facilitate a museum that will address the history of slavery. The government attaches great value to the annual national commemoration, in Amsterdam on 1 July, of the Netherlands' history of participation in the slave trade and allocates resources to make this commemoration possible.

A survey has been conducted to reveal the exclusion mechanisms that exist in relation to people of African descent in the Netherlands.

- In 2016-2018 a Black Achievement Month was held in several cities.. These events highlighted noteworthy contributions by Dutch people of African descent by means of exhibitions, debates, plays, dance performances and films. The central government made a financial contribution to this initiative of Nationaal instituut Nederlands slavernijverleden en erfenis (NiNsee).
- The Dutch government does not have any data on how people self-identify in ethnic terms. Research shows that such self-identification



is unreliable and not useful. Furthermore, database registration of sensitive personal data of this kind, which enjoy extra protection pursuant to the Personal Data Protection Act, is prohibited. Information is available for country of birth.

This statistical data is collected and updated annually and presented in the Core Indicators of Integration for various categories (including groups with an African background: Surinamese background, Antillean/Aruban background, other Caribbean and Sub-Saharan background). It covers the themes of labour participation, social assistance benefit recipients, crime, perceived health, marriage, income, attainment of a basic qualification, unemployment, employees (main employment) and employees (more than 20 hours) (see <https://www.cbs.nl/nl-nl/maatwerk/2018/47/kernindicatoren-integratie-2018>).

The Annual Report on Integration only contains statistical data on relatively large groups (people with a Surinamese background and people with an Antillean background), differentiated by sex (net participation, unemployment, untapped labour potential, social assistance benefit recipients, unemployment benefit recipients, incapacity benefit recipients).

- ***Sinterklaas (Feast of St Nicholas)***

Sinterklaas is a centuries-old tradition that is shaped by society and that has endured by changing. The government does not direct this process. The decentralised nature of Sinterklaas, with hundreds of local committees, schools and volunteers joining forces to organise the St

Nicholas festivities means that public debate arises in many different places. The dialogue about this issue must be conducted primarily at local level. Changes have been effected in many places in recent years in the figure of Pete.

- ***Roma and travellers (Observations 19, 20)***

- Over the past few years, the government has focused on the following avenues within its generic policy framework to promote the integration of Roma and Sinti: tackling early school leaving, the Participation Act, measures to tackle discrimination, implementing instruments arising from the programme to tackle the exploitation of Roma children (2011–2016), the right to self-determination (particularly combating forced marriages), strengthening dialogue, international cooperation, and developing and sharing knowledge.
- The government intends to launch a pilot in 2019 in which mediators provide support and guidance with a view to improving participation in education and progression to the labour market.
- The government has made financial resources available for projects and activities conducted by NGOs and Roma organisations, which directly or indirectly improve the position of Sinti and Roma in Dutch society. These should focus on the following themes:
  - Commemorating the events of the Second World War;
  - Combating discrimination and prejudice;
  - Strengthening advocacy and representation;
  - Encouraging education, including the provision of study grants;
  - Creating jobs;
  - Promoting respect for culture and identity;

- Providing intermediaries with advice and guidance.
- In response to a report issued by the National Ombudsman, *Woonwagengewoner zoekt standplaats* ('Traveller seeks site'), the government initiated consultations with representatives of Roma, Sinti, and travellers and representatives of local authorities and housing associations, to draw up a new policy framework setting out criteria for local policy on caravans and traveller sites. In developing this policy framework, the National Ombudsman and the Netherlands Institute for Human Rights were also involved. On 12 July 2018, this new policy framework was presented to the National Ombudsman and sent to the House of Representatives and municipalities. The policy framework acknowledges that municipal housing policies must take account of the specific housing needs of Roma, Sinti and travellers, and must respond to the need for sites and caravans. It calls on local authorities to revise their policy on caravans and sites where necessary. In addition, the government is commissioning a periodic survey on the number of sites in the various municipalities in order to measure progress, and will provide advice on the implementation of the policy framework.

- ***Gender (Observations 35, 36)***

- One of the priorities of the government's equal opportunities policy is to increase women's economic independence. However, employment levels and economic independence are lower among women from ethnic-minority and other groups with poor prospects on the job market, such as single mothers and women with a low level of education.

- Through the programme ‘Further Integration on the Labour Market’ (VIA), the government seeks to improve the position of people with a non-Western background on the job market. Where possible, the effectiveness of various strategies will be assessed for both women and men.
- The government wants newcomers to the Netherlands, both men and women, regardless of the type of residence permit they have, to be able to participate in society as soon as possible, preferably through paid employment. In the further elaboration of its policy, special attention is paid to the position of women. This includes using the available scope for helping women asylum residence permit holders towards labour participation.
- ‘Tel mee met Taal’ is the joint literacy action programme of the ministries of Education, Culture & Science (OCW), Health, Welfare & Sport (VWS), Social Affairs & Employment (SZW) and as from 2019 also the Interior & Kingdom Relations (BZK), to reduce and prevent functional illiteracy. The programme initially ran until the end of 2018 and has been extended for the whole of 2019 – as a transitional year – to allow for the development of follow-up measures from 2020 onwards. This topic will continue to receive undiminished attention. The government accords high priority to the development of language skills and to tackling functional illiteracy among both native Dutch speakers and second-language speakers.
- Equal opportunities policy includes a project especially for vulnerable women entitled Education for Women with Ambition (EVA). The EVA Toolkit includes a clear description of the approach and offers

instruments and strategies to partner organisations for recruiting and encouraging women with functional illiteracy who want to take steps towards achieving economic independence and financial self-reliance. EVA emphasises the connection between empowerment and basic skills in local programmes and women's progression in this regard. It generally involves a smooth handover and a continuous learning pathway. In 2019, efforts will be made to embed EVA further into the adult literacy programme 'Tel Mee Met Taal'.

- ***Sport, soccer (Observation 12c)***

- In 2011 the Ministers of Health, Welfare & Sport and of Security & Justice presented parliament with an action plan entitled 'Towards a safer sporting environment'. The plan was subsequently implemented. Although the sports sector in the Netherlands is self-regulating, it goes without saying that action is taken against physical and verbal behaviour that violates provisions of Dutch and international law.
- Alongside action by the criminal justice authorities, the action plan enables the sports sector to work on preventing undesirable behaviour (including discrimination), tackling excesses, and encouraging positive forms of behaviour. The action plan applies to all branches and levels of sport in every age group.
- The action plan, which is still being implemented, has helped to heighten awareness among sports officials of the need to monitor the safety of the sporting environment. People involved in the sports sector experience less undesirable behaviour than before. Also, despite

perceptions of growing lack of civility and respect within society, fewer people in the sports sector feel unsafe.

- In soccer, the programme partners (local authorities, the national football association (KNVB), police, the Public Prosecution Service, soccer clubs and central government) have agreed that action must be taken in response to anti-Semitic, racist and other discriminatory chants at soccer matches. The KNVB has drafted national guidelines with which clubs must comply. These state that clubs and supporters' clubs are jointly responsible for combating discriminatory chants, and that such chants can lead to matches being suspended. This approach is also supported by two projects of the Anne Frank Foundation.

- The Fancoach project focuses on football supporters found guilty of taking part in anti-Semitic or racist chants. The core of this approach is to teach groups of fanatical supporters about the Jewish history of their city and their club.

- The Fair Play project is a game that is played by young people in the form of a workshop. The project is a partnership between professional soccer clubs and sports departments of municipal authorities. The aim is to make the young people aware of the significance and consequences of discriminatory behaviour.

- ***Ethnic profiling (police) (Observations 13, 14b, 14g, 25, 26a, 26b)***

- Discriminating between people in police checks without any objective justification is prohibited in the Netherlands. The Dutch police Force

Command does not allow ethnic profiling.<sup>3</sup> The force continues to develop a wide range of measures to more effectively combat discrimination and ethnic profiling.

- There have been several research publications on the nature and extent of ethnic profiling by the police. None of these studies conclude that ethnic profiling by the police is systematic. However, this does not mean that the problem is not recognised. A wide-ranging set of measures exists to tackle ethnic profiling within the police, including the programme ‘De kracht van het Verschil’ (‘The Strength of Difference’).
- One measure that has been developed within this programme is the Operational Framework for Proactive Police Checks. It is established policy that the police can only carry out proactive stop and check procedures on the basis of objective grounds, including behaviour, possibly in relation to other facts or circumstances. The operational framework is intended to make police officers aware of the steps that apply to the professional exercise of proactive checks on the basis of objective grounds, including treating people in an appropriate, professional manner.
- The police service is also developing an app for proactive checks (MEOS app). If an officer conducts a proactive check, or intends to do so, the app can show whether the person (or vehicle) has been checked before, and what the outcome was. The officer can take this into account in the interaction and when deciding whether to carry out the proactive

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<sup>3</sup> The police service uses the following definition of ethnic profiling: the use by the police of criteria or considerations relating to race, skin colour, ethnicity, nationality, language or religion in investigations or in law enforcement – whether at operational or organisational level – without any objective justification. This definition corresponds to that used by Amnesty International.

check. In addition, the database will provide the police organisation with more insight into the nature and extent of proactive police checks.

- At the end of 2016, the police made it easier to submit complaints about police action through a complaints app. A total of 46 complaints of ethnic profiling were received by the police through various channels in the course of 2017. It is not possible to indicate how many of these complaints were justified.



## **F. Involvement of civil society partners (Observations 27, 28, 42)**

- The government attaches great value to active public discourse on matters relating to diversity and ethnicity. The diversity of the Dutch population has greatly increased in recent years. In 1972, 9.2% of the population in The Netherlands had a migrant background compared to 22.1% in 2016, and this percentage is set to rise further. Moreover, this section of the population is itself becoming more diverse, with only one-third coming from 'traditional' ethnic-minority groups<sup>4</sup> and two-thirds from a wide variety of other countries. In The Hague and Amsterdam, people from ethnic-minority groups now make up the majority of the population, at 51.2 % and 51.1% respectively. These dynamics, these changes, underscore the importance and the necessity of pursuing the course of flexible dialogue.

- Flexible dialogue means the government consults a range of partners, depending on the issue: professional experts, opinion leaders, those with knowledge gained by experience, and/or representatives of groups. The form taken by these consultations depends on the issue and the parties involved. In practice, therefore, they vary a great deal. For instance, in the context of the Decade for People of African Descent, several round-table meetings were organised. Representatives of Turkish organisations are consulted in studies into Turkish-Dutch people's sense of belonging, and people taking part in the civic integration procedure are involved in revising the civic integration system. This includes all types of people undergoing civic integration: family migrants and highly skilled migrants as well as refugees.

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<sup>4</sup> Turkey, Morocco, Suriname, former Netherlands Antilles.

- Engaging in a dialogue with society also means being alert to signals from society. The Social Stability Expertise Unit (ESS) at the Ministry of Social Affairs and Employment maintains contact with key figures from ethnic-minority communities and organisations representing them. The unit also supports local authorities by enhancing their knowledge base.

## **G. Asylum seekers (Observations 21c, 21d, 22c, 33, 34)**

- In the first place, the Netherlands wishes to emphasise that it fully respects the prohibition of refoulement.
- The Netherlands has a system of reception and accommodation for asylum seekers, including those whose applications have been rejected, so that aliens need not find themselves homeless and living on the street. The existing system thus complies with international obligations.
- Applications for residence permits are carefully assessed. Within the current system, applicants are given shelter during the asylum procedure. The asylum procedure is also open to those who have not produced any documents to corroborate their identity. A person who is issued with a residence permit is offered housing by the municipal authority after leaving the reception centre.
- An alien whose application is rejected is given 28 days, in principle, to leave the country. During this period, the person retains the right to shelter. Once this period has expired, he or she may be given shelter in restrictive accommodation (VBL), where return is facilitated. Those housed in a VBL also receive food, medical care and other facilities. Admission to a VBL is contingent upon the alien's making an effort to effect their departure.
- Supplemental to the above-mentioned framework, additional possibilities exist for failed asylum seekers and illegal aliens who may be particularly vulnerable as a result of their individual situation. Minor

asylum seekers whose applications have been rejected, whether or not they are unaccompanied, are entitled to accommodate (along with their family members) until they reach the age of majority as long as their departure has not been effected. If their medical condition is such as to temporarily pose an obstacle to departure, aliens can request their departure be postponed. If this request is granted, they are entitled to shelter and the financing of their medical treatment. The 'no-fault' policy provides for aliens who cannot return to their country of origin through no fault of their own. All persons residing unlawfully in the Netherlands are entitled to essential medical treatment.

- To improve the system's effectiveness, eight national aliens facilities (LVVs) will be established. Central and local authorities plan to develop the LVVs together in the near future. The idea is that persons residing in the Netherlands without a residence permit or shelter provided by the State will receive support at the LVVs to find an enduring solution to their illegal residence and will be given shelter during this process.
- In the Netherlands, the detention of aliens is a measure that is applied with great restraint (as a last resort). Furthermore, many safeguards are attached to this immigration detention. The grounds for detention have been incorporated into Dutch legislation, in accordance with EU legislation. Those whose asylum applications have been rejected, including after any application for judicial review, are required to leave the Netherlands of their own volition. The Dutch government offers several forms of support to achieve this independent departure. If an alien does not use this support, and their departure is also not accomplished through the intensive assistance of the Repatriation and

Departure Service and alternative supervisory measures, they may be put in detention as a last resort, provided the grounds for detention are fulfilled and there is some prospect of the alien's removal to the country of origin or a third country.

- The Netherlands is currently revising the detention regime. To this end, the government has drafted a Return and Aliens Detention Bill, which has been passed by the House of Representatives. The Bill provides for a uniform regime for aliens detention under administrative law and more firmly embeds the alternatives to detention in legislation. The Bill's will in principle give more freedom and autonomy to aliens being held in immigration detention with regard to how they spend their day, as well as more freedom of movement and more opportunities for contact with the outside world. In addition, checks (such as those for contraband and dangerous items) will be carried out in a less intrusive manner. The Bill also contains special rules and provisions for vulnerable groups such as families with children (in the highly exceptional cases in which they are placed in detention). The Bill emphasises that measures which may be necessary in the interests of security in detention facilities should be applied in a graded fashion, with action aimed at de-escalation being taken wherever possible.

- The regime for immigration detention in the Netherlands complies with national and international standards for detention, and upholds fundamental rights. The aforementioned Return and Aliens Detention Bill will give the immigration detention regime a new, separate framework, especially focused on the situation of aliens who are (in most cases) obliged to leave the country. The Bill is emphatically based on the principle of minimum restrictions and comprehensively addresses the

fundamental constitutional conditions. The rules under the new regime will be more relaxed than under the current situation, allowing for a more individualised approach.

- The Committee's recommendation that domestic violence be included as grounds for asylum appears to be based on an incorrect understanding of Dutch policy. Domestic violence generally takes place within the private sphere and therefore does not constitute grounds for persecution in the meaning of the Refugee Convention. The situation may be different if, depending on the underlying reason, the government in the country of origin refuses to provide protection: for instance, if a woman is denied protection because she belongs to a specific minority or because she is active in the political opposition.
- Each case is assessed individually. Besides examining the application in light of the Refugee Convention, the authorities also examine it in light of article 3 of the European Convention on Human Rights.
- For unaccompanied minor asylum seekers (AMAs) a new system of reception was introduced in 2016 with an emphasis on small-scale residential units. AMAs receive guidance and support in these facilities. Children under 15 years of age are placed with foster families wherever possible. In addition, the specific form of accommodation is tailored to the individual's prospects. Where premature departure may reasonably be assumed and/or suspicious circumstances are noted, an AMV is placed in a protected residence facility where additional security and surveillance measures are in place. In addition, since 2017, officials such as youth protection workers and aliens police officers conduct a

multidisciplinary risk analysis of the young person's vulnerabilities in the first six weeks after placement in a protected residence facility. This helps them determine the young person's needs, including care needs, what kind of follow-up accommodation would be suitable, and whether he or she will require supplementary supervision and protection there.

- There is a major focus on LGBT people. Discrimination or violence towards vulnerable groups in the reception centre, in any form whatsoever, is not tolerated. In the event of a criminal offence, the police is always called. In some cases, the victim will be transferred to a different place within the facility. Another possibility is transfer to a different form of accommodation, such as a Reception Centre for Intensive Supervision or a welfare facility. The Central Agency for the Reception of Asylum Seekers (COA) assesses what is needed in each individual case. An assessment is also made of what the person needs in terms of medical and psychological aftercare. A study was recently carried out to improve the method for assessing the credibility of asylum applications by LGBT people. The results led to a number of measures being taken: in particular, the instructions for interviewing staff and decision-makers were revised, and personnel of the Immigration and Naturalisation Service (IND) are to be offered supplementary training.

## **H. Dutch companies abroad (Observations 37, 38)**

- The promotion and operationalisation of the UN Guiding Principles on Business and Human Rights (UNGPs) is of great importance to the Netherlands. The Netherlands implements the UNGPs by way of the National Action Plan on Business and Human Rights, through which the government makes it clear to businesses that they are expected to uphold human rights. The UNGPs are incorporated into the OECD Guidelines, and both frameworks are cornerstones of Dutch policy. In a recent policy letter to the House of Representatives (Letter to Parliament 26 485, no. 271), the government wrote that it is aiming for 90% of large businesses in the Netherlands to explicitly endorse the OECD Guidelines by 2023 as the frame of reference for their international activities.

- To achieve this ambitious goal, it is important that companies are familiar with the OECD Guidelines. The government uses a range of instruments and methods to inform companies about the OECD Guidelines and to help with their implementation. Voluntary agreements on international corporate social responsibility are an important instrument here, enabling the Netherlands to take steps to combat human rights violations. A concrete example is that the parties to the Dutch Banking Agreement (DBA) published a report (in August 2018) containing a value chain analysis of the role of banks in cocoa value chains and ways of combating human rights violations. The report contains recommendations for parties and the participating banks. After the cocoa sector, a value chain analysis of the palm oil sector was launched. Other examples of how the government reaches companies are the programmes conducted with the aid of strategic partners such as



the Initiative for Sustainable Trade and Solidaridad. These programmes cover several chains, including palm oil and soya beans.

- As regards the Dutch oil and gas sector, which fall under the extractive industries, in 2016 the government asked the National Contact Point (NCP) to investigate the degree to which this sector is implementing the OECD Guidelines for Multinational Enterprises. Based on the NCP's findings, the government will determine whether there is scope for a policy response.

Finally, an evaluation of the policy on voluntary agreements will start in autumn 2019. This is in accordance with the coalition agreement, which states that work on voluntary agreements on international corporate social responsibility will be continued and that after two years, the government will consider whether to adopt binding obligations and, if so, what the nature of such obligations should be.

## **I. Research (Observation 12a)**

- Through the National Action Programme on Discrimination, the government is also striving to develop interdisciplinary expertise on the causes of discrimination and the effectiveness of interventions. The Knowledge Platform on Integration and Society has commissioned a study into effective interventions, such as training courses, dialogue and debate, geared towards raising awareness of and combating prejudice and discrimination. Other efforts include annual networking meetings on tackling discrimination, which focus on the exchanging and sharing of knowledge between academics, local and other policymakers, and civil society organisations.

- In the Netherlands the registration of the country of birth (of individuals or their parents) is used to monitor the social participation of groups, especially newcomers. This objective information comes from the Municipal Personal Records Database (GBA) and can be combined with other data to provide information on socioeconomic position (employment, education and participation), including a differentiation by gender.
- In addition, the government acknowledges that it is necessary to examine specific background factors associated with forms of discrimination, such as discrimination against Muslims, anti-Semitism, and anti-black racism. This has led to research into the position of certain groups in Dutch society, as well as the inclusion and exclusion processes that play a role in this regard. Examples include the periodic reports on integration produced by the Netherlands Institute for Social Research (SCP), research into experiences of discrimination as well as in-depth studies such as 'Causes and trigger factors in anti-Semitism' (2015) and 'Causes and trigger factors in discrimination against Muslims' (2016). In addition, field research is conducted periodically into discrimination in recruitment and selection procedures in the labour market.

## **J. International conventions (Observation 39)**

- As mentioned in its previous report the Netherlands will not accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) owing to its provisions concerning national policy on social welfare and services.
- The Kingdom of the Netherlands signed the UN Convention on the Rights of Persons with Disabilities of 13 December 2006 on 30 March 2007. The Convention was approved for the entire Kingdom on 12 April 2016. The Netherlands ratified the Convention on 14 June 2016, with the exception of the Caribbean Netherlands. It was decided that the Convention would not apply there for the time being. The Convention entered into force in the European part of the Netherlands on 14 July 2016.

## **K. Annexes**

- Letter to the House of Representatives of January 2016 on the National Action Programme on Discrimination
  - Annexe 1: Measures
  - Annexe 2: Specific policy
  
- Letter to the House of Representatives of March 2018 on further integration on the labour market
  
- Letter to the House of Representatives of April 2018 on progress in the government's approach to tackling discrimination, including 5 Annexes:
  - Annexe 1: Progress of the (generic) measures of the National Action Programme on Discrimination
  - Annexe 2: Progress on specific measures from the National Action Programme on Discrimination
  - Annexe 3: Progress in measures concerning the Labour Market Discrimination Action Plan and Pregnancy Discrimination Action Plan
  - Annexe 4: Discrimination statistics for 2017 (in Dutch language)
  - Annexe 5: Incidents involving discrimination as a criminal offence 2017 (Public Prosecution Service) (in Dutch language)
  
- Letter to the House of Representatives of July 2018 on the main outlines of the process to reform policy on civic integration
  
- Letter to the House of Representatives of August 2018 on equal opportunities and placement discrimination in secondary vocational education (MBO)

- Factsheet: The integration of groups with a migration background in 2018, October 2018
- Letter to the House of Representatives of November 2018 on the Action Plan on Labour Market Discrimination
- Statistics Netherlands, Annual Report on Integration 2018, November 2018. Data for 2017, socioeconomic position by origin and sex for groups with an African background (Surinamese, Antillean/Aruban)

### **III. Information from the Government of St Maarten relating to articles 1 – 7 of the Convention**

#### **Article 1**

St Maarten has one of the most diverse populations in the region, comprising an estimated 117 different nationalities. Both the Constitution and the Criminal Code protect citizens from discrimination. Importance is placed on the criminalisation of any form of discrimination. Article 16 of St Maarten's Constitution states that 'everyone in St Maarten shall be treated equally in equivalent circumstances'. Discrimination on any grounds whatsoever is prohibited.

#### **Article 2**

Sensitisation to discrimination is a component of law enforcement training policy. Part of this training includes a sociology course that highlights issues within the community and the procedures law enforcement officers must follow when confronted with racial or other social problems. Profiling courses are also being implemented for immigration officers based on procedures to curb racial and other forms of discrimination. The former Brooks Tower Accord policy provided a grace period during which illegal residents who met certain criteria could legalise their status. Children born on the island to parents who were unlawfully resident at the time were also given an opportunity to legalise their status regardless of nationality, ethnicity or social standing. On a cultural level, different racial, ethnic, and national groups are encouraged to take part in national parades and events as a way to highlight and honour the multifaceted St Maarten identity. They also have freedom to express, practise and celebrate their own cultures, religions and beliefs by holding their own events and parades or by other

means they consider appropriate. St Maarten is in the process of establishing its Intangible Cultural Heritage list. The intention is to also add the current practices, cultures and beliefs of the various ethnic groups residing on St Maarten to this list in the near future.

The Ministry of Education, Culture, Youth and Sport is responsible for education within Public and Subsidised schools. By making education accessible to everyone aged four to eighteen, the Compulsory Education Law curbs practices that may give rise to racial and cultural discrepancies.

The St Maarten National Discipline Policy Planning Framework for Elementary Education, introduced in 2017, urges all Public and Subsidised schools to address the needs of students of all cultural backgrounds. Schools are required to establish a communication plan to promote trust and engage parents in the school's disciplinary procedures. In addition, schools are also required to conduct psychological assessments and provide a secure learning environment.

### **Article 3**

Any individual who feels they are being discriminated against on the basis of race, ethnicity etc. can file a complaint with the relevant authorities, such as the police, and the case will be taken up by the public prosecutor. There are indications that housing options on the island are linked to income, rather than ethnic background, and therefore ghetto-forming is a trend that must be monitored. Because of the island's history and racial climate, there is no systematic racial and/or ethnic segregation. People may wish to live in areas where others from their country of origin reside, but due to the population density of the island

this is not easily achievable and most residential areas contain a mix of ethnicities.

Statistics show that people of different races, nationalities or ethnic origin who fall within the higher income categories (NAF 4,000 and higher) have more access to affordable, good quality housing. In the previous report, it was said that the Ministry of Public Housing, Spatial Development, Environment and Infrastructure was designing a new housing policy. This is still being analysed. The aim of the policy is to correct ghetto-forming by means of newly developed strategies to help people on low incomes acquire affordable housing. These measures will prevent people from becoming dependent on accommodation in shantytowns.

#### **Article 4**

Discrimination is criminalised in article 2:60 of the Criminal Code. This article defines discrimination as follows: A person who, in public, either verbally or in writing or through images or through data from automated work, intentionally makes an insulting statement about a group of persons because of their religion, belief, political affiliation, race, colour, language, national or social origin, or physical, mental disability or gender or heterosexual or homosexual orientation, or membership of a national minority.

#### **Article 5**

With its Constitution, national laws and policies, St Maarten strives to guarantee the rights of everyone. St Maarten is also bound by many human rights conventions. In order to implement the Convention properly, specific information concerning refugees must be available.



Policies on asylum and refugees that comply with the European Convention on Human Rights and the United Nations Convention against Torture are in place. It is important to note that St Maarten is not party to the 1951 UN Convention relating to the Status of Refugees. Consequently, persons who enter the territory cannot claim asylum under the Convention. Therefore, foreign nationals requesting asylum are processed as foreign nationals requesting a humanitarian permit. A humanitarian permit is a residence permit based on humanitarian grounds. The requirements are derived from legislation and policy and mentioned in the application form. If the asylum seeker does not receive such a permit, the authorities can expel the asylum seeker to a country where he or she would be accepted. Where it concerns discrimination against a certain race or nationality, known practices within Immigration demonstrate that discrimination of refugees on the basis of race is not a factor in the processing of residency.

### *The right to inherit*

Race is not a factor in any legislation related to the right to inherit. In the previous report it was noted that the National Ordinance on Judicial Establishment of Paternity had been approved by Parliament and was awaiting publication. The National Ordinance not only makes it possible for a child, his or her mother or the court of guardianship to apply for the father's name to be formally established; it also allows for children born out of wedlock to have the same legal status as those born within a marriage (Civil Code Book I). The law was published on 1 February 2013 and came into effect on 1 May 2013. The law was amended in 2016, giving the parent the right (parental rights) to exclude a child born in or out of wedlock from their will (Civil Code Book IV).

### *The right to freedom of peaceful assembly and association*

The Constitution of St Maarten protects freedom of association as well as freedom of assembly and the right to demonstrate. Furthermore, St Maarten is bound by the Convention concerning Freedom of Association and Protection of the Right to Organise.

### *The right to form and join trade unions*

There is a National Ordinance on Collective Labour Agreements that protects the right of trade unions to protect the rights of their members. Membership of trade unions is open to all. There are no restrictions on asylum seekers, migrants, minorities or members of certain political groups.

### *The right to housing*

Access to adequate and affordable housing is insufficient on St Maarten because the current supply does not meet demand. Moreover, the structural quality of many houses is not in keeping with the island's Building Code (1935), especially in certain neighbourhoods. This has resulted in housing of an unacceptable standard in impoverished areas where the lowest income groups tend to be located. Migrants from the Caribbean islands are quite often located in these areas with a mix of affordable housing that is both adequate and inadequate. They are predominantly of African descent.

Affordable housing projects (since 1995) tend to be built on flat-land sites not in close proximity to areas of economic activity. This results in concentrations of dwellings occupied by people of the same social status (in terms of income). This is not in favour of a positive image for affordable housing areas. Furthermore, fast deterioration of the areas is

a risk in such communities. However, it is clear that race, ethnicity and segregation are not in any way related to such deterioration.

*The right to public health, medical care, social security and social services*

At present, the healthcare system in St Maarten is privatised.

Discrimination in health care is prohibited by the Constitution. There are different insurance schemes for different groups in society. In total there are six different insurance schemes, as presented in the table below:

<b>Law</b>	<b>Target group</b>	<b>Financing</b>	<b>Entitlement</b>	<b>Excluded</b>
Sickness Insurance (ZV)	Employees and former employees + family members  Over-60s included based on policy	Wage-based premium paid by employer and employee  Sickness Fund	Healthcare	Employees earning more than the set wage limit  Self-employed persons
Accident insurance (OV)	Employees  Surviving dependants	Wage-based premium paid by employer  Accidents Fund	Healthcare needed because of accident on the job  Benefit in case of disability related to accident on the job  Benefit for surviving dependants + costs of funeral in case of death	

			related to accident on the job	
Medical Aid (PP)	Residents with Dutch nationality without income or income below NAF 3,758.30  Without Dutch nationality if indefinitely admitted and min. of 5 years' residence	Government	Identical to civil servants (OZR)	
Civil Servants Regulation (OZR)	Civil servants + family members	Wage-based premium paid by civil servant  Government covers all costs	Healthcare	
Retired Civil Servants Regulation (FZOG)	Retired civil servants (60+) + family members	Premium based on pension income  Premium contribution by active civil servants  FZOG Fund	Healthcare	
Exceptional Healthcare Costs Ordinance (AVBZ)	Residents  Employees who are obliged to pay income tax	Income-based premium  AVBZ Fund	Exceptional healthcare costs such as long-term care	
Private insurance	<i>Other than above</i>		<i>In policy</i>	<i>Risk rating and risk</i>

				<i>selection</i>
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The social security system comprises general old age pension benefits (AOV), (employee/employer) medical coverage, financial assistance, medical assistance and legal assistance. All persons, regardless of race or ethnicity, have access to these social security provisions. Financial and medical assistance programmes (welfare) are available only to Dutch nationals and are regulated in the Ordinance of Financial and Medical Assistance.

In St Maarten, non-Dutch nationals are in most cases not eligible for welfare. This is because welfare resources are limited and because the regulations governing residence permits stipulate that non-nationals are responsible for their own financial well-being while residing on St Maarten. However, exemptions can be made for persons holding a temporary or permanent residence permit, if that person's living conditions are sub-standard. The application process is the same for all persons seeking financial and/or medical assistance (Dutch and non-Dutch).

The entire population of St Maarten, including migrants and Dutch nationals, is eligible for AOV, employee medical coverage and legal aid (if they meet the criteria). The criteria for these social provisions do not include nationality; this ensures that all persons, regardless of their nationality, ethnicity or sex, have medical coverage while formally employed and AOV upon reaching the pensionable age. The criterion for legal aid is an income ceiling; persons whose income is above the minimum wage do not qualify. However, in labour disputes (between employer and employee) where the applicant's earnings are above the

income ceiling, but the applicant is heavily in debt, he or she can petition the Minister of Justice for an exemption to be made.

### *The right to education and training*

The Law on Compulsory Education dictates that all children between the ages of 4 and 18 are to be integrated into the education system.

Whereas non-recognised schools catered to illegal immigrant groups in the past, phased implementation of the Law on Compulsory Education has resulted in increased enrolment, particularly in government schools.

As enshrined in our Constitution, Dutch and English are the official languages. The language of instruction in St Maarten schools can be either English or Dutch. There are no other languages used as a language of instruction even though there are 101 nationalities with varying mother tongues in our school system. Parents have the freedom to choose if they wish to enrol their children in a Dutch or English school and admittance cannot be denied based on mother tongue.

In 2017 the Ministry of Education, Culture, Youth and Sport introduced a policy on Transitional Classes. The Transitional Classes Policy is intended to encourage language proficiency in English and Dutch, particularly for those students whose mother tongue is a foreign language. The policy requires teachers to obtain an English as a Second Language (ESL) certificate or a bilingual certificate. The implementation of the policy has been halted since the devastation caused by Hurricane Irma. The Ministry of Education, Culture, Youth and Sport is focused on the reconstruction of schools in partnership with the World Bank.

### *The right of access to any place or service intended for use by the general public*

The Police Corps of St Maarten verified that there are no restrictions based on race to any places or services intended for use by the general public. All facilities are open to individuals of any race/ethnicity, gender, religion etc. By all indications there have been no reports of individuals being barred from such facilities and/or institutions on the basis of race. Several government bodies adhere to the principle that anyone who experiences racial discrimination, or any other form of unfair treatment, is entitled to seek and pursue legal recourse.

### **Article 6**

The implementation of Foundation Based Education (FBE) involved a complete restructuring of the primary education system. One of the aspects of the FBE is the introduction of the native language of the majority of the population as the language of instruction. In St Maarten this is English. In accordance with the Constitution, the Dutch language is also part of the curriculum. Another objective of FBE is to provide specific information in the most prevalent foreign languages. Therefore, information on the FBE system is provided for parents in English, Dutch, Spanish and Haitian Creole.

The FBE curriculum for primary education includes a section on 'Philosophy of Life'.

This subject area of the FBE curriculum teaches tolerance and acceptance towards others. The five basic values of 'Philosophy of Life' are love, truth, peace, proper conduct and non-violence. These values contribute to the promotion of tolerance and a secure learning environment for all students within all Public and Subsidised schools.

'Art & Culture Orientation', offered in cycle II of the FBE curriculum, allows for artistic expression, and raises cultural awareness through activities such as music and art compositions.