



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Concluding observations on the combined nineteenth to
twenty-first periodic reports of Netherlands**

Addendum

**Information received from the Netherlands on follow-up
to the concluding observations***

[Date received: 1 September 2016]

* The present document is being issued without formal editing.

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Paragraph 12

In light of its general recommendation Nos. 15 (1993) on article 4 of the Convention and 35 (2013) on Combating Racist Hate Speech, the Committee recommends that the State party adopt a firm stand against the use of hate speech for political purposes, increase efforts to combat racially motivated hate speech and ensure that criminal acts perpetrated on grounds of intersectionality between ethnic origin and religion are duly investigated and prosecuted.

1. Hate speech is strongly condemned and the Government takes firm measures in combating expressions of a discriminatory nature. On 22 January 2016 the Government sent a letter to parliament (Parliamentary Papers, House of Representatives, 30950, No. 84) describing further measures to combat discrimination. Tackling discrimination on grounds of ethnicity, religion and skin colour was explicitly addressed in the national action plan against discrimination. During the Dutch Presidency of the Council of the European Union (1 January to 30 June 2016) emphasis was placed on combating hate crime and hate speech. The Netherlands' active stance on these issues resulted in the formation of a High Level Group to discuss EU policy against racism, xenophobia and other forms of intolerance. Central themes over the coming period will be the position of hate crime victims, ethnic and racial profiling by the police, and combating online hate speech. Several subgroups to this High Level Group have been set up, focusing on the practical development and actual implementation of envisaged policies. One of these subgroups focuses on the way hate crime is reported and recorded in member states. On 28 April 2016 an online compendium was presented in Amsterdam outlining members states' successful methods for increasing willingness to report hate crimes, improving their registration and strengthening cooperation between the parties involved in combating racism and discrimination. The examples in the compendium were selected for their transferability to other member states. There is also a subgroup on online discrimination (see paragraph 12 (e)). The achievements of the Dutch Presidency in relation to this issue have been recorded in the Council Conclusions on the Application of the EU Charter of Fundamental Rights in 2015, adopted on 9 June 2016 (see page 7 and further of the Conclusions).

2. Where politicians express their views, the Government highly values freedom of expression as a precondition for a vital democracy. This freedom, however, is not absolute and finds its limits in the law. Sections 137c and 137d of the Criminal Code expressly prohibit intentional insult of, or incitation to hatred, discrimination or violence against, a group of people on grounds of race, religion, personal conviction, gender, sexual orientation or handicap. These provisions equally apply to politicians and any other citizens. The public prosecution service, in its pivotal role of protecting society against discrimination, makes a first assessment of whether certain expressions made in public exceed the limits of freedom of expression. In case of difference of opinion, the opinion of the courts may always be sought.

The Committee also recommends that the State party:

- (a) **Conduct research concerning the root causes, and monitor all trends which may give rise to racist and xenophobic behaviour, and assess and combat its consequences;**

3. The Government is making ongoing efforts to gain a clear picture of the nature, scale and causes of discrimination in the Netherlands, based in part on the annual reports of the municipal anti-discrimination services (ADVs), the police, the Public Prosecution Service and the Netherlands Institute for Human Rights. In addition, more in-depth information is being obtained from research on discrimination and specific forms of and grounds for discrimination. For example, studies have been carried out into discrimination in recruitment and selection procedures, into cases of discrimination against Muslims in

schools and into approaches to tackling discrimination against LGBT people in residential environments. A study into what triggers anti-Semitism has already been completed, a similar study into discrimination against Muslims is ongoing and a third is planned in the context of the International Decade for People of African Descent.

(b) Ensure that victims of racist crimes are afforded wider access to free legal assistance;

4. Victims of discrimination can obtain advice and assistance from various sources. They can contact their municipality's anti-discrimination service for free assistance. Municipalities have an obligation to provide this service under the Municipal Anti-Discrimination Services Act. People who have experienced discrimination may also submit a complaint to the Netherlands Institute for Human Rights or report the incident to the police. If necessary, the municipal anti-discrimination service can provide support during these procedures. Victims can also institute civil proceedings or, if the perpetrator is being prosecuted, join these criminal proceedings to obtain damages. Depending on their level of income the individual may be entitled to free legal advice from the Legal Aid and Advice Centre (*Juridisch Loket*). Victims with a low income may under certain conditions also be entitled to secondary legal aid. The Legal Aid Act provides for primary legal aid in the form of assistance from the Legal Aid and Advice Centre and secondary legal aid through the assignment of legal advisers, including lawyers. Those who receive secondary legal aid have to pay a contribution towards the costs of the legal assistance they receive. Victims of a violent crime with a racist motive are entitled to free legal assistance, regardless of their income.

(c) Vigorously combat racist behaviour in sports, particularly in football;

5. Discriminatory chants in football are unacceptable. Where such incidents occur, clear and immediate intervention is called for. Professional football clubs and the Royal Netherlands Football Association (KNVB) agreed in February 2016 to act more swiftly in response to incidents of this nature in stadiums. Besides investigating incidents and imposing disciplinary measures, it is also essential to raise awareness and improve education about discrimination. The KNVB has made it obligatory for professional football clubs to draw up an anti-discrimination policy. Football clubs will be joining the nationwide anti-discrimination campaign "*Zet een streep door discriminatie*" ("Put a line through discrimination") in the second half of 2016. Part of the campaign involves drawing attention to the tools amateur football clubs have at their disposal to deal with discrimination and exclusion both on and off the pitch.

(d) Consider revising rules applicable with a view to simplifying the legal requirements to punish hate crime;

6. While assessing whether utterances made by an individual constitute the offence of insulting a group of persons or of inciting discrimination, Dutch courts also carry out a contextual review. They examine whether the utterances concerned constitute a contribution to the public debate and merit protection for this reason. If this is the case, they will examine whether the utterances are nevertheless unnecessarily hurtful. If so, the utterances are punishable. This approach may give the unjustified impression that it is more difficult to prosecute such offences than is strictly necessary. This is not the case. Moreover, the contextual review is necessary as it ensures compliance in every case with the requirements ensuing from treaty obligations that protect the freedom of expression, which also apply in cases involving the aforementioned offences.

- (e) **Actively promote among the media and Internet service providers awareness of the importance of avoiding stereotypes and discriminatory attitudes and of the intrinsic value of diversity.**

7. Since 2015 the Government has held several expert meetings on discrimination and social media. Various stakeholders were invited, including internet and social media businesses, organisations that gather reports of internet discrimination and organisations that promote responsible internet use. The aim of these meetings is to share information and exchange ideas. The various stakeholders were asked to indicate what role they see for themselves in combating discrimination on the internet, what issues they face and what scope they see for improvement. Subsequently, agreements were concluded on better cooperation between social media companies and the Dutch complaints office for online discrimination (*Meldpunt internetdiscriminatie*, MiND). During its EU Presidency the Netherlands repeatedly stressed the importance of combating online hate speech at EU level. These efforts resulted in a Code of Conduct being agreed between the European Commission and IT companies Twitter, Facebook, YouTube and Microsoft. The Code of Conduct calls on the companies to remove discriminatory content within 24 hours. One of the subgroups set up during the Dutch Presidency is responsible for follow-up.

Paragraph 24

The Committee recommends that the State party strengthen its measures to vigorously tackle discrimination in employment, and for that purpose:

- (a) **Increase measures to effectively prevent discrimination in employment, including the implementation of policies relying on anonymized CVs;**

8. In response to the Social and Economic Council (SER) advisory report entitled *Discriminatie werkt niet!* (“Discrimination doesn’t work!”) of 25 April 2014, the government presented an action plan on labour market discrimination on 16 May 2014, setting out concrete steps to vigorously tackle this issue. The action plan includes 42 measures divided into five categories: enforcement, notification and registration, knowledge and awareness, diversity policy, and research. Following the September 2015 report to parliament on the progress made in implementing the action plan, six additional measures were added. A second report is planned for autumn 2016. The measures concerned include:

- A diversity charter, which was introduced on 2 July 2015 with the participation of the unions and employers’ organisations;
- A multiannual nationwide anti-discrimination campaign, which was launched on 2 September 2015;
- A campaign on labour market discrimination, which was launched on 31 May 2016, as part of the wider campaign, focusing on the recruitment and selection stage. The campaign has a wide basis and targets discrimination on the grounds of gender, age, origin and sexual orientation. It is intended to make employers aware of unconscious bias;
- The creation of a labour discrimination team within the Social Affairs and Employment Inspectorate, which will focus specifically on combating discrimination in the workplace. The team will investigate whether companies have a policy on preventing workplace discrimination. If not, the inspectors can require the company to draw up such a policy and, if necessary, impose a fine;

- Terminating contracts with companies that have been convicted of discrimination. A model agreement has been developed for hiring flexible labour. This agreement contains a specific termination clause that applies if the company is convicted of labour market discrimination. Standard texts and clauses have also been developed as part of this campaign, so that this procedure can be applied in other areas too;
- Monitoring small-scale initiatives with anonymised CVs, in line with a parliamentary motion passed in December 2015. The objective is to provide an overview of the possibilities and limitations of using anonymised CVs as a way to combat labour market discrimination. Pending the outcome of these monitoring activities, the Government has deemed the wide-scale introduction of anonymised CVs undesirable, given the varied experiences with such measures worldwide. The outcome of the monitoring activities will be submitted to parliament along with the second progress report on the action plan in autumn 2016.

(b) Review all current obstacles experienced by young members of minority groups and adopt specific measures, long-term policies and strategies with an effective monitoring and evaluation mechanism to address the root causes of unemployment among young members of minority groups, as well as specific measures to provide them with training and vocational skills training in order to improve their opportunities to access the labour market;

9. Young members of minority groups are enjoying growing success in education. Between 2003 and 2014 the number of young people with an immigrant background and a high level of education doubled. However, this has not had a positive effect on their employment prospects. Young minorities are approximately 2.3 times more likely to be unemployed than non-minority young people. The Netherlands Institute for Social Research has pointed out that discrimination accounts for part of the discrepancy between the employment prospects of minorities and non-minorities in this age group. Many employers have the best intentions and want to select applicants based on quality, but still apply various unconscious exclusion mechanisms. Young people from ethnic minority groups are less likely to be invited to job interviews than non-minority applicants with the same skills set. Central government and five cities (Amsterdam, The Hague, Eindhoven, Leeuwarden and Zaanstad) have set up “City Deal”. Together with a wide range of partners they are seeking innovative solutions to help young members of ethnic minorities in disadvantaged neighbourhoods, who, in principle, function well but are at risk of being left behind. These solutions are intended to overcome problems specific to this group of young people. They may, for example, lack employment or job-search skills or they may have chosen the wrong course of study. These solutions will benefit all young people in the neighbourhoods in question and, if effective, could be rolled out more widely. One example of a City Deal solution is a programme aimed at tackling discrimination in work placement selection procedures and reducing its impact on students at institutions for vocational secondary education (MBO). The government is working with MBO institutions in all five cities to develop three methods to overcome negative stereotyping in the transition from education to work placement and the job market. These three methods involve raising awareness about discrimination and negative stereotyping, introducing young people from minority groups to potential employers through relevant networks, and encouraging employers and young people to get better acquainted with each other.

(c) **Ensure that employers and employment agencies that discriminate are adequately and effectively sanctioned.**

10. The Government wants to set a good example by not working with companies that discriminate on the labour market. Government contracts with companies that have been convicted of discrimination are therefore terminated. A model agreement for hiring flexible labour has been drawn up. This agreement contains a specific termination clause that applies if the company is convicted of labour market discrimination. Standard texts and clauses have also been developed as part of this campaign, so that the procedure can be applied in other areas too. These clauses have been included in all standard government contracts since October 2015 and can be applied where appropriate. To encourage their widespread use, the clauses were published in a newsletter and on the PIANOo Public Procurement Expertise Centre's publicly accessible website in October 2015. PIANOo is part of the Ministry of Economic Affairs and was set up to professionalise procurement by all public authorities. Please also refer to the answer to paragraph 24(a).

Paragraph 28

The Committee recommends that the State party establish an effective arrangement for a dialogue with representatives of minority groups in order to be properly informed about their problems and needs, and to develop and implement, with their participation, policies and programmes to improve their situation and prevent and eliminate racial discrimination against them. The Committee recommends that the State Party make such a dialogue mandatory both at the central level and at the level of provinces and municipalities.

11. The Government considers a dialogue with society on integration-related issues as one of the main pillars of its integration policy, as it serves the following purposes: gathering information on developments in society, managing social tensions by providing access to key figures in communities at crucial moments, cultivating public support for policy, encouraging civil society organisations to implement inclusive policies, and enhancing interconnectedness. The government has deliberately not limited this dialogue to a small number specific groups or group representatives. To make the most effective use of dialogue as an instrument, central and local government authorities are in contact with a wide range of businesses, opinion leaders, migrant organisations and religious organisations. This flexible dialogue is led by current issues and does not exclude any parties or topics outright. A range of issues from policy on newcomers to participation in society and other more sociocultural topics may be discussed. The Government has not given dialogue partners any decision-making powers because this would entail an institutionalisation of the dialogue, which would not be in keeping with the current super diversity in society.