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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Third periodic reports submitted by States parties  
under articles 16 and 17 of the Covenant**

**Addendum**

**THE NETHERLANDS\*** \*\* \*\*\*

[5 August 2005]

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\* The second periodic reports concerning rights covered by articles 10 to 12 (E/1986/4/Add.24), 6 to 9 and 13 to 15 (E/1990/6/Add.11-13) submitted by the Government of the Netherlands were considered by the Committee on Economic, Social and Cultural Rights at its third session (see E/C.12/1989/SR.14-15) in 1989 and at its eighteenth session (E/C.12/1998/Add.13-17) respectively (Concluding observations E/C.12/1/Add.25).

\*\* The information submitted by The Netherlands in accordance with the guidelines concerning the initial part of reports of States parties is contained in the core document (HRI/CORE/1/Add.66).

\*\*\* This document has not been edited before being submitted for translation.

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## **Introduction**

1. This report is submitted pursuant to the revised guidelines regarding the form and content of reports to be submitted by States Parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/1991/1).

2. This report covers the period from 1 January 1996 to 31 December 2002. It is a response to the Concluding Observations of the Committee (E/C.12/1/Add.25) and covers the rights mentioned in articles 1-2 and 6-15.

3. This report covers the Netherlands (the European part of the Kingdom), while the report on the Netherlands Antilles will be submitted separately, and the report on Aruba will be submitted at a later stage.

### **THE NETHERLANDS (EUROPEAN PART OF THE KINGDOM)**

#### **1. REACTIONS TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE**

##### **1.1 Applicability of the provisions of the Covenant within the Kingdom**

4. The Committee recommended that the extent to which the provisions of the Covenant can be made directly applicable in the Dutch legal system be reviewed.

5. The application of treaty provisions in the national legal system is explicitly provided for in the Dutch Constitution. Article 93 of the Constitution reads as follows: "Provisions of treaties and of resolutions by international institutions which may be binding on all persons by virtue of their contents shall become binding after they have been published". Furthermore, Article 94 states: "Statutory regulations in force within the Kingdom shall not be applicable if such application is in conflict with provisions of treaties that are binding on all persons or of resolutions by international institutions". This conveys the fact that some international legal standards have direct application and that a directly applicable international standard has priority over national law.

6. Criteria have been established in case law to determine whether a treaty provision is directly applicable. It is the responsibility of the national courts to decide whether a national regulation should be made inapplicable in a given situation if it is in conflict with such a provision. In judging whether a treaty provision can be directly applicable in the national legal order, consideration is given to the nature and content of the provision, as well as to its wording. If a particular provision is directed at citizens and gives rise to a claim without any further implementation laws being required, it can be directly applied in the Dutch legal order. If the provision in question is directed at the State, and includes phrases such as "bear responsibility for" "take steps" or "guarantee", citizens cannot then, generally speaking, directly base any claim on such a provision and hence the said provision cannot be directly applicable in the national legal order. A provision directed at the State can only have direct application if its nature and content clearly allow a citizen to base a claim thereon. One example is a State-directed ban on discrimination, on which a citizen can base a claim for equal treatment.

7. In the Dutch government's view, this means that the direct application of eligible treaty provisions is sufficiently guaranteed.

8. The nature and content of the Covenant, as well as the wording of the articles, indicate that it is aimed at the gradual and increasing achievement of objectives by means of legislation and further implementation measures. As a result, most provisions cannot be applied directly. All the more so because, where further implementation laws are required, this implies a certain freedom of choice for the national legislature regarding the way in which the rights to be guaranteed are given substance. Simply accepting direct application of provisions that need to be worked out in greater detail would mean that it would be left to the national courts to put the objectives set down in the Covenant into practice. As already indicated in the second report, the Dutch government is set on implementing the obligations imposed on the government under the Covenant within a democratic process. This will enable a better response to social developments.

9. It should again be stressed that this does not mean that economic, social and cultural rights are considered to be of less value than other human rights. The key issue is whether the rights set out in a treaty or covenant are determined in a sufficiently specific and precise way as to enable them to be applied without further intervention from the national legislature.

### **1.2 Equal wages and access to employment for men and women**

10. The Committee recommended that the government intensify its efforts to guarantee men and women equal access to employment and equal pay for work of equal value. New figures are expected in 2004 relating to pay differentials between men and women. A decision will then be made on whether there is reason to step up the measures implemented or introduce new, additional measures. Until then the comprehensive policies already under way will be continued. These include specific measures aimed at preventing unjustified pay inequalities, as well as general measures as part of equal opportunities policy designed to increase the number of women in employment, i.e. a two-pronged policy is being followed. The specific measures aimed at preventing pay inequalities are outlined in section 3.2.1.2, paragraphs 185-192. The measures designed to give men and women equal access to employment are discussed in section 3.1.2, paragraphs 137-155, and section 3.2.3, paragraphs 199-210.

### **1.3 Endeavours to root out racial discrimination in the labour market**

11. In its suggestions and recommendations, the Committee stated that the government of the Netherlands should continue its endeavours to root out racial discrimination in the labour market with a view to facilitating the integration of immigrants and their families into national life.

#### **Developments and objectives**

12. In the 1990s the Dutch economy was booming. Employment was up, unemployment was down and fewer people were claiming social security benefits. People from ethnic minorities also benefited. Table 1 paints an optimistic picture; whereas employment among ethnic

minorities was 26% in 1994, by 2002 it had fallen to 10%, which means that the government's goal of reducing unemployment among ethnic minorities to 10% by 2002 appears to have been achieved.

13. Although the socioeconomic position of ethnic minorities has clearly improved, it is evident that they are still a relatively disadvantaged group. For instance, unemployment among ethnic minorities is still three times higher than among ethnic Dutch people, the proportion of long-term unemployed is larger, the occupational level of ethnic minority workers is considerably lower, a proportionately large share of ethnic minority workers do not have a permanent contract and benefit dependency is much higher than among ethnic Dutch people. It can therefore be concluded that, despite all the positive developments, the socioeconomic position of people from ethnic minorities is still vulnerable in 2003.

14. If the economic recession is taken into account, it is expected that people from ethnic minorities will be hit disproportionately hard. This is because ethnic minorities, more so than native Dutch people, have to rely on lower-skilled or flexible jobs, which are usually the first to go during a recession. Moreover, there is a real chance that in situations where labour supply is plentiful, people in less attractive supply categories, including ethnic minorities, have to go to the back of the queue. The unemployment figures of Statistics Netherlands (CBS) for 2003 will give a definite answer on this issue in 2004.

15. As stated in the coalition agreement (the agreement concluded by a new government when it embarks on a new term of office), the government aims to restore the strength and competitiveness of the Dutch economy by providing incentives for employment creation and labour market participation and to do so in a sustainable manner. Over the next few years it is economically vital and socially desirable to increase the effective supply of labour to include groups that currently have a low participation rate. In view of the ageing population and the decline in the percentage of young people in the population as well as the relatively strong growth in the ethnic minority population, an upturn in labour force participation among ethnic minorities is of crucial economic importance.

16. The difference between labour force participation among ethnic minority groups and native Dutch people is considerable: 50% and 68% respectively in 2002. If demographic ageing, the relatively strong growth in the ethnic minority population and the important role of work in integration are all taken into account, the importance of increasing labour force participation among ethnic minorities is underscored.

17. In accordance with the Lisbon objectives (European employment strategy), the overall employment rate should be raised to 70% by 2010. The previous government set the target of increasing labour force participation among ethnic minorities by three-quarters of one per cent a year, which means that - based on the 2001 figures - the rate of participation among ethnic minorities should have increased to 54% by 2005. With regard to unemployment, the gains made in the past few years should at least be maintained. Ethnic minorities must not be disproportionately affected by the downturn in the labour market. There is a possibility that the new government will issue new guidelines.

**Table 1**  
**Labour force participation and unemployment among native Dutch people and ethnic minorities 1995-2002**

	Unemployment (%)								Net labour force participation rate (%)							
	1995	1996	1997	1998	1999	2000	2001	2002	1995	1996	1997	1998	1999	2000	2001	2002
Total	8	7	6	5	4	3	3	4	58	59	61	62	64	65	65	66
Dutch people	7	6	5	4	3	3	3	3	60	61	62	64	65	67	67	68
Ethnic minorities <sup>1</sup>	26	22	20	16	14	10	9	10	37	39	42	44	45	48	50	50

*Source:* Statistics Netherlands (CBS) based on *Enquête Beroepsbevolking* (Labour Force Survey).

<sup>1</sup> Of non-Western ethnic minority origin, i.e. at least one of the parents was born in a non-Western country.

### **Labour market policies for ethnic minorities**

18. To achieve the European objectives and the government's targets, efforts to step up labour market policies for ethnic minorities, as announced and initiated in 2000, will continue unabated. The principle underlying target group policies is that, first and foremost, they supplement general labour market policies. Wherever ordinary labour market policies fail to meet individual needs sufficiently, additional measures are introduced. Parties within and outside government who are responsible for and involved in labour market policies will be encouraged, where necessary by means of an unorthodox approach, to take action and to incorporate any actions that prove to be effective into ordinary policy. The ultimate aim is that labour market policies should be planned and implemented so as to ensure that ethnic minorities benefit proportionately from them. The parties chiefly involved in target group policies are the Centres for Work and Income (CWIs), the municipalities, the Employee Insurance Schemes Implementing Body (Uitvoeringsorganisatie Werknemersverzekeringen, UWV), employers, employers' associations and minority interest groups.

19. To match labour supply and demand and to promote the sustainable integration into employment and labour productivity of people from ethnic minorities, the focus needs to be firmly on providing training for both jobseekers and workers. The accessibility and quality of initial education must be of a high standard to ensure that ethnic minority newcomers to the labour market at least have the qualifications they need to participate effectively in working life. Research conducted by the Research Centre for Education and the Labour Market (ROA)<sup>1</sup> has highlighted the need for the low-skilled, including many people from ethnic minorities, to be educated up to secondary vocational (MBO) level. According to the ROA, training low-skilled workers and unemployed people will contribute significantly to reducing bottlenecks in the labour market. Special attention should be devoted to the relatively large group of ethnic minority young people who enter the labour market without any basic qualifications, i.e. early school leavers. If a return to education is no longer possible, dual courses combining study and work experience can help young people gain basic qualifications on the job (for further information about these dual courses, see paragraphs of this report). The Netherlands should also invest in further training for ethnic minority employees to improve their career opportunities and promote sustainable employability.

20. Any improvement in socioeconomic position will also bring about social changes that are a priority for both society and politicians. It has been proven that socioeconomic prosperity leads to less crime among ethnic minorities, which tends to promote a climate of safety. Work also plays an important part in ensuring successful integration. By actively participating in Dutch life, ethnic minority workers learn Dutch language and culture more quickly and disadvantage is not perpetuated from one generation to the next. Finally, any improvement in socioeconomic position, and the positive effect this has on areas such as safety and integration, will improve the image people have of the ethnic minority community, thereby averting the threat of segregation. The inevitable conclusion is that over the next few years it is of both economic and social importance to concentrate on improving the labour market position of ethnic minorities.

21. The next few paragraphs contain examples of specific policy initiatives and activities that have been or are being undertaken by and for the parties responsible with a view to achieving the objectives set. Policies aimed at women and more highly qualified refugees are also outlined and the importance of the use of dual courses combining study and work experience is emphasised.

### **Centres for Work and Income (CWIs)**

22. Within the Work and Income Implementation Structure (SUWI), work takes precedence over income. In order to implement this principle, the tasks of seeking work and claiming benefit are no longer separate. Wherever possible, the CWIs seek to structure their services within a “one-stop shop”. The first step is for the CWI to check if there is any suitable work for a particular client and to place him or her immediately in employment. The CWI also determines the chances of jobseekers finding work, i.e. they are classified according to their job prospects. People who are considered to have a good chance of finding work (classified in phase 1) are eligible for active placement by the CWI. For people who are thought to have poorer job prospects (classified in phase 2, 3 or 4) the CWI offers advice on reintegration. The details of this advice, together with the jobseeker’s benefit details, are sent to the municipality or the UWV to enable them to determine entitlement to benefit. Special arrangements are made and specific instruments used to ensure that ethnic minority jobseekers benefit proportionately from the services of the CWIs.

23. Within the context of the 2003 annual plan, arrangements have been made with the CWIs about incorporating the individually tailored one-on-one approach of the voluntary agreement on ethnic minorities with the employers’ organisation Royal Association MKB-Nederland (see paragraphs 38-39) into the standard procedures of the CWIs. It was agreed that the CWIs would provide additional services for ethnic minority phase-1 jobseekers in 2003. For instance, employers wishing to take on ethnic minority workers would be offered intensive services in the form of a number of extra procedures, such as personal introduction at employers’ premises and supervised induction. The CWIs would also give ethnic minority jobseekers support with job-hunting activities and spend more time on placement activities. It was agreed that, on balance, the CWIs would provide about two hours’ worth of extra services for each ethnic minority jobseeker. As part of the job-hunting offensive, ethnic minorities would be the focus of special attention to ensure that proportional placement results are achieved. CWI figures show that a more than proportionate percentage of ethnic minority jobseekers were placed in employment in 2003. More than 16% of phase 1 jobseekers are from ethnic minorities. The results of this approach are monitored by means of regular quarterly CWI reports.

24. By continuing with this successful approach the CWIs will be in a position to fulfil a "gatekeeper" function for ethnic minority groups within the new Work and Income Implementation Structure. After all, the approach developed as part of the voluntary agreement on ethnic minorities with MKB-Nederland (see paragraphs 38-39) has resulted in ethnic minority phase 1 clients finding work more quickly than used to be the case. This prevents them from unnecessarily having to go through a reintegration programme at a later stage in order to find a job.

25. The CWIs decided in 2003 to use minorities business advisers as senior advisers on work and income, specialising in giving advice to businesses on ethnic minority matters. These advisers keep in touch with employers with potential placement opportunities for ethnic minority jobseekers with a view to improving recruitment and placement procedures. They also provide placement and support services for mainly ethnic minority jobseekers. Some of the advisers perform tasks associated with the interculturalisation of the CWI organisation itself and carry out activities within the context of the Employment of Minorities (Promotion) Act (Wet SAMEN), such as analysing annual reports on this Act and providing advice on intercultural personnel policy. The minorities business advisers have advised a total of 4,180 companies, brought in 2,857 vacancies and drawn up 226 intercultural management plans for businesses and institutions.

26. The CWIs have a very clear role in integrating people into Dutch society. Their efforts are consistent with the aim of adopting a more tailored approach - including starting activities at the right time designed to get people back to work (e.g. a dual course combining study and work experience) - during the integration process. The wishes of the person in the integration programme and the opportunities open to him or her as regards reintegration into employment, training or a dual course (for further information about dual courses, see paragraphs 54-56 in this report) will be clarified during the administrative intake procedure. Since 1 January 2003 the CWIs have also submitted applications for international credential evaluation within the context of the integration survey. This evaluation of foreign diplomas will help get people back to work, particularly those in integration programmes and more highly qualified refugees.

## **Municipalities**

27. Within the Work and Income Implementation Structure (SUWI) municipalities are responsible for the reintegration and participation of people in receipt of a benefit from the municipality and of non-benefit claimants. Special arrangements are made and specific instruments used to ensure that ethnic minorities benefit proportionately from the policies designed to promote reintegration and participation.

28. Within the context of the Agenda for the Future, it has been agreed with the Association of Netherlands Municipalities (VNG) that an extra effort should be made to bring about a comprehensive system of participation, reintegration and job creation by means of a coordinated approach. The agreements entered into include measures to speed up, improve and modernise the way in which the reintegration of benefit claimants is tackled. To give practical substance to the agreements with the VNG, administrative agreements were entered into with the 30 largest municipalities in the Netherlands (the G4 and the G26) covering the period 2001-2004. A case management grant scheme has been introduced for small and medium-sized municipalities, with performance-related agreements being made with the municipalities on the number of reintegration programmes to be completed and the percentage of people coming off benefit and

into work. In order to provide fresh incentives, municipalities will be given the opportunity to implement projects. In view of the large proportion of benefit claimants of non-Western origin (31% in the Netherlands and as much as 49% in the four main cities), the agreements with the G4 and the G26 stipulate that the aim is to get a proportionate number of ethnic minority jobseekers off benefit and into work. It has also been agreed with the G26 that dual courses combining study and work experience will be introduced for members of ethnic minorities who are newly arrived in the Netherlands (newcomers) and for established migrants, and that more highly qualified refugees will be the focus of special attention. Within the G26 three projects aimed at the reintegration of refugees are now under way. For support and advice on developing programmes or projects aimed at more highly qualified refugees, municipalities can turn to the Foundation for Refugee Students (UAF Job Support) until the end of 2003. This organisation is funded by the Ministry of Social Affairs and Employment. Through its local branches, the Dutch Refugee Council encourages municipalities to set up projects and shares its expertise on this particular target group.

29. To give an extra boost to efforts to reintegrate ethnic minority jobseekers with very poor job prospects, the Ministry of Social Affairs and Employment gives 28 municipalities a grant to develop a project-based approach aimed at helping people in this group get a job or training. The grant is known as SPAG in Dutch (*Stimuleringsprojecten Allochtone Groepen*, Ethnic Minority Promotion Programme). This programme seeks to increase the participation of ethnic minorities in regular training and reintegration institutions and the take-up of municipal instruments. It began in 1994 and was initially aimed at young Antilleans and Arubans, but was extended in 1998 to benefit young people from Turkey and Morocco as well. In April 2000 the successful SPAG programme was extended by three years. Since 1 May 2001 both young people and older people from various minority groups have been the target group. The grant scheme will run until 1 May 2004, when participating municipalities must transfer their SPAG projects to existing regular institutions. The Ministry of Social Affairs and Employment helps municipalities in various ways to ensure that SPAG is an integral part of their policies. An implementation format has been developed and the methods used will be detailed in July 2003 based on best practices in the 28 SPAG municipalities.

30. The promotion programme has added value in that intensive, personal attention can be devoted to ethnic minority jobseekers with multiple problems (low level of education, problems learning Dutch, debts, housing problems, single motherhood), who would not otherwise have received such attention. The programme is also very successful in reaching people from ethnic minorities who do not benefit from the usual employment instruments. The outreach approach, where people are visited at home or in a public meeting place, has proved to be highly effective. During the period from 1 May 2001 to 1 October 2002 more than 3,800 people participated in the SPAG programme, of which more than 1,100 (29%) had already been involved in the previous programme period. By October 2002, 25% of the participants had found work or started training or a social activation programme, 12% had dropped out and 63% were still taking part in the SPAG programme.

#### *Employee Insurance Schemes Implementing Body (UWV)*

31. Within the SUWI structure the UWV is responsible for the reintegration and participation of people who are dependent on employee insurance. As with the other partners in the system (CWIs and municipalities), the Minister of Social Affairs and Employment has entered into

agreements with the UWV to ensure that people from ethnic minorities benefit proportionately from UWV policies. To minimise the number of ethnic minority workers having to claim benefit under the Disablement Benefits Act (Wet op de Arbeidsongeschiktheidsverzekering, WAO) and to promote reintegration, agreements are made with the UWV, in the context of the annual plan, specifically aimed at this target group. These supplement the general measures that contribute to achieving the stated objectives.

32. Comparatively speaking, people of Turkish and Moroccan origin are more likely to receive a disablement benefit than native Dutch people, and are more often certified wholly unfit for work. Accordingly, the UWV has agreed to adapt the services it provides to these groups so as to reduce the chance of workers having to claim disablement benefit and increase the number of people leaving the benefit system. Partly in the light of the fact that established migrants claiming benefit will in future be required to complete an integration programme, agreements have been entered into with the UWV regarding the design of dual courses for ethnic minorities combining study and work experience. The term "established migrants" refers to members of ethnic minorities who came to live in the Netherlands before the Newcomers Integration Act (WIN) came into force. Under this Act the government pays for integration programmes for newcomers.

### **Employers**

33. Perception, prejudice or discrimination can seriously hamper the entry of ethnic minorities to labour organisations. The relative disadvantage they suffer in job applications does not always indicate intentional discrimination, however. The organisation of the recruitment and selection process, the use of biased psychological tests and a failure to match the recruitment channels of employers with the job-hunting channels of ethnic minority jobseekers are all factors that can contribute to fostering a climate of unequal treatment of ethnic minorities in the labour market and within labour organisations. Discrimination in the workplace also hinders the integration of ethnic minority workers. The annual reports of the Equal Treatment Commission (CGB) and reports prepared by the National Bureau against Racial Discrimination (LBR) indicate that most of the discrimination complaints received concern work. To combat negative perceptions and discrimination, intentional or otherwise, promote multicultural personnel policies and get people from ethnic minorities into entry-level and step-up jobs, various instruments have been put in place by and for individual companies, sectors and employers' and employees' associations. These include the Framework Voluntary Agreement with Large Companies, the voluntary agreement on ethnic minorities with the employers' association MKB-Nederland, the Labour Market Service Point for small and medium-sized businesses, the .KOM project (*Krachtig Ondernemen met Minderheden* - Strong Minority Enterprise) and the Employment of Minorities (Promotion) Act (SAMEN).

### **Framework Voluntary Agreement with Large Companies**

34. The goal of concluding voluntary agreements with at least 100 large companies to get people from ethnic minorities into entry-level and step-up jobs and promote multicultural personnel policies was amply achieved when the 110th voluntary agreement was signed in March 2002.

35. The companies concerned operate in various sectors, including the financial sector, temporary employment, manufacturing, wholesale/retail and construction. In signing the

voluntary agreements, these businesses have committed themselves to a wide variety of agreements, such as training staff on multicultural personnel policy (66%), achieving the target on recruiting a certain number of people from ethnic minorities (58%), taking account of cultural aspects, for example by introducing non-culturally biased selection tests (38%), setting up dual courses combining study and work experience (36%), implementing measures to get people from ethnic minorities into step-up jobs (30%) and offering training opportunities (26%). Within the Ministry of Social Affairs and Employment a special project agency (*Ruim Baan voor Minderheden*) has been set up to support companies with the implementation of the voluntary agreements, thereby acting as a bridge between policy and practice.

36. The implementation of the agreements is monitored by an independent research agency. In April 2003 the Minister of Social Affairs and Employment sent Parliament a summary of the findings of the second interim report. The main conclusions of this report are set out below.

37. Conducting a multicultural personnel policy is on the agenda at senior management level. In many companies the position of ethnic minority employees and the underlying factors are being given more explicit consideration and are better understood: there are now fewer prejudices. Companies are investing in the target group and in bringing together different cultures in the workplace. They recognise that the voluntary agreement with the government is a stimulus to take action and to keep working towards more multicultural personnel policies. However, the implementation of the agreements, particularly those relating to entry-level jobs, does seem to be susceptible to cyclical trends. One particular side effect is that the conclusion and implementation of the voluntary agreements has brought the government and the companies in question closer together. New partnerships have been formed between companies, municipalities, Regional Labour Market Policy Platforms (RPAs), Regional Training Centres (ROCs), CWIs and central government. The Ministry of Social Affairs and Employment tries to help resolve any problems that arise in these partnerships. Within the context of newly formed networks, several of the voluntary agreement companies get together to share their experience and expertise and learn from one another's example. The voluntary agreements are due to come to an end at the end of June 2004. An evaluative final report on the Framework Voluntary Agreement for Large Companies will be submitted to Parliament in mid-2004.

#### *MKB minorities voluntary agreement*

38. The voluntary agreement on ethnic minorities with the Royal Association MKB-Nederland (the employers' association for small and medium-sized businesses) came to an end on 31 December 2002. Up until then the voluntary agreement had helped some 62,000 ethnic minority jobseekers find work in small and medium-sized companies since it began on 18 April 2000. The idea was to incorporate an individually tailored one-on-one approach into the standard procedures of the CWIs. It was agreed that the CWIs would provide additional services for ethnic minority phase 1 jobseekers in 2003. For instance, employers wishing to take on ethnic minority workers would be offered intensive services in the form of extra working procedures, such as personal introduction at employers' premises and supervised induction. The voluntary agreement also led to closer contact between the CWIs and employers in small and medium-sized companies. Employers were notified that the approach advocated in the voluntary agreement had been incorporated into the standard procedures of the CWIs and were urged to continue using it. Various products were developed within the context of the voluntary agreement. The booklets "Bring some colour into your company" and "How do I get the best out of my workforce?" contain practical tips for employers concerning the recruitment,

selection, retention and employability of ethnic minority personnel. In the booklet “Vacancy line matches supply and demand” employers in small and medium-sized businesses talk about their positive experiences. The booklet “Keys to success: an impression of a large-scale labour market project” describes the results of the voluntary agreement and how they were achieved, and was presented to the Minister of Social Affairs and Employment and the Minister for Immigration and Integration during the concluding meeting on 9 December 2002.

39. The Labour Market Service Point for small and medium-sized businesses was launched on 1 April 2001 with financial support from the Ministry of Social Affairs and Employment covering a period of two years. It is a joint initiative of the CWIs, MKB-Nederland and the Ministry of Social Affairs and Employment and supports employers in small and medium-sized businesses in their efforts to develop a well-balanced, effective multicultural personnel policy. Support is provided in the form of advice to sectors and companies on such topics as recruitment and selection, staff training, career guidance and career development. Over the past few years the Service Point has also developed several products, for instance to encourage employers to organise language training classes as a way of enhancing the employability of ethnic minority employees. With this aim in mind a booklet and a tool kit have been prepared, containing detailed information about language training for non-Dutch speakers and an instrument for diagnosing a company’s language needs.

### **Strong Minority Enterprise (.KOM)**

40. The aim of the .KOM project is to develop and implement a sector-oriented approach to enable companies to exploit the huge potential of ethnic minority workers. The project is an initiative of the sectors themselves and was launched in 2000. Initially it focused on three sectors (hotel & catering, security and transport & logistics), but was extended in 2001 via regional pilot schemes to include a further two sectors (construction and cleaning). On 24 January 2002, in the presence of the former Minister of Social Affairs and Employment, the five sector organisations signed a framework agreement and implementation agreements were concluded with four regional labour market policy platforms. The .KOM project concluded on 19 February 2003 with a conference at which the instruments developed were presented. During this event the five sector organisations announced that they were planning to continue, armed with the knowledge and experience gained from the .KOM project. The outcome of the .KOM project, together with the findings of the voluntary agreement on ethnic minorities with MKB-Nederland and the Framework Voluntary Agreement with Large Companies, will be considered during the evaluation of the Employment of Minorities (Promotion) Act.

41. The working approach of the two-pronged policy (getting people into employment and keeping them there) adopted in the project forms the basis for the form and content of the end products of the .KOM project. The product dubbed “.KOM box” comprises a CD-ROM containing all the instruments developed during the project in the various sectors. Based on a programme approach, the instruments are arranged in five stages. For each of the five stages, instruments were developed during the project on two levels: the company and the shop floor. The booklet entitled “Strong Minority Enterprise” succinctly describes the basic principles, approach and results of .KOM. The aim is to inspire and motivate other sectors to pursue the goal of strong minority enterprise. Upon completion of the pilot schemes each sector published a workbook containing information about how to get more people from ethnic minorities into employment and the importance of keeping them there.

## **The Employment of Minorities (Promotion) Act**

42. The Employment of Minorities (Promotion) Act (SAMEN) is intended to be an instrument designed to support individual companies in conducting a multicultural personnel policy. The Act requires employers with at least 35 employees to keep separate personnel records and to submit an annual report on the measures taken by the company to achieve proportionality under the Act. In recent years a great deal has been done to support employers in implementing the Act and in conducting a multicultural personnel policy. For instance, on the website [www.wetsamen.nl](http://www.wetsamen.nl) employers can find all the relevant information (in Dutch) about the Act and about multicultural personnel policies and can view annual reports submitted.

43. The result of these measures is that a growing number of companies now comply with the Employment of Minorities (Promotion) Act (more than 81% in 2001). Analysis of the annual reports reveals that the proportion of ethnic minority employees has more or less stabilised (8.5% in 2001 compared with 8.6% in 2000). On balance, the percentage of ethnic minority jobseekers taking up employment is higher than the number of departures (14.5% compared with 12.6%). The number of measures introduced by companies to improve the position of ethnic minority employees has increased by 17%; this corresponds to an average of four measures per company. Large companies (>500 employees) comply with the Act more often (66.1%) than small businesses with 35-49 employees (38.4%). The government/education/healthcare sector has the highest compliance rate (71.4%). The Institute of Multicultural Development (FORUM), the National Bureau against Racial Discrimination (LBR) and the National Ethnic Minorities Consultative Committee (LOM) have notified companies and municipalities that have failed to fulfil their legal obligations. The purpose of this action was to improve compliance with and implementation of the Act. The possibility of having civil proceedings instituted against them prompted some organisations to comply. The action made it clear that the companies notified were not unfavourably disposed towards the Act, but simply needed practical support in fulfilling their statutory obligations.

44. The year 2002 is the last year for which companies had to submit an annual report. In view of the fact that the Employment of Minorities (Promotion) Act is due to expire on 31 December 2003, an evaluation of the Act got under way in the autumn of 2002. The evaluation report should be available in June 2003, at which point the government will formulate its position on whether and how employers should be supported in conducting a multicultural personnel policy. One important point is to reduce the regulatory and administrative burden for employers.

45. The expiry of the Employment of Minorities (Promotion) Act is stipulated in the Act itself. It has already been extended once and will therefore automatically lapse. The government's response at that point will consider whether follow-up measures aimed at employers are necessary to encourage them to recruit multicultural personnel.

## **Ethnic minority organisations**

46. Ethnic minority organisations can form a useful link between ethnic minority groups and the government. By encouraging their own members to make use of the available employment instruments, ethnic minority organisations can play an important part in reducing unemployment and promoting labour force participation. They have also been involved in providing information about the Equal Treatment Act (AWGB) and SUWI. In the context of the voluntary

agreement on ethnic minorities with MKB-Nederland, they have liaised with the CWIs to organise local information meetings for ethnic minority jobseekers. Discussions are held with the Ministry of Justice within the forum of the National Ethnic Minorities Consultative Committee.

### **Policies for specific target groups**

#### *Women from ethnic minority groups*

47. The objective (formulated by the second Kok government) is to raise the net labour force participation rate among women from 51% in 1999 to 65% by 2010. On the basis of autonomous trends, the inevitable conclusion is that without additional efforts this percentage will not be achieved. One way to make a significant contribution would be to encourage ethnic minority women to participate in the labour force. In recent years more women from ethnic minority groups have entered the labour market. However, compared with 2001, the rising trend came to a halt in 2002 and the net rate of participation among this group has remained steady at 40% according to provisional figures from Statistics Netherlands (CBS). This means that ethnic minority women continue to be at a disadvantage compared with indigenous Dutch women (56%). The rate of participation within the group of ethnic minority women is actually quite diverse. Surinamese women have about the same level of participation as Dutch women (56% in 2002), while participation among Turkish and Moroccan women is relatively low (32% and 30% respectively in 2002).

48. In view of their numbers and potential, ethnic minority women can make a significant contribution to raising future labour force participation among ethnic minority groups as a whole. The additional measures announced by the government in its formal response to the advice of the Committee for Ethnic Minority Women's Participation (AVEM) should contribute to removing the labour market obstacles for this group and ensure that they are reached more effectively. At national level a steering group is being set up with the task of implementing these measures and supporting municipalities in their role as coordinators of initiatives for women from ethnic minority groups.

49. The 2003 policy letter on Equal Opportunities and Family Matters announced an integrated action plan on equal opportunities for ethnic minority women and girls, with special emphasis on education, labour force participation, economic self-sufficiency, sexual self-determination and self-development. In that context work began in March 2003 on the publication of an interministerial survey, which presents an overview of existing government policies on ethnic minority women and girls. This survey will culminate in an action plan by the end of 2003.

#### *More highly qualified refugees*

50. With a view to getting more highly qualified refugees back to work, an action plan was drawn up and presented to the House of Representatives in April 2002. This plan is based on a whole chain approach: progress in this area starts right back at the asylum-seeking stage, which is followed by integration into society, further training and reintegration into employment. Investing in an appropriate programme early on in the process and at various subsequent stages increases the chance that more highly qualified refugees will find work more quickly and that the job will be commensurate with their level of education and work experience. A steering group will monitor the progress and effectiveness of the proposed measures in the action plan.

51. In the context of the action plan, the following are just some of the measures taken. Since 1 January 2003 every adult asylum seeker who leaves the Asylum Seekers Reception Services has been given a personal programme file. The CWIs then take care of any applications for international credential evaluation (IDW application) (as of 1 January 2003). Under a partnership between the Empowerment Centre for Recognition of Prior Learning (EVC), the Netherlands Organisation for International Cooperation in Higher Education (Nuffic) and the Foundation for Refugee Students (UAF), EVC methods for more highly qualified refugees are being assessed and made more widely available. The opportunities to pursue higher education have improved since 1 January 2003 as a result of the withdrawal of the regulations governing necessary training. The UAF has set up a website (as of 1 February 2003) to enable interested parties to benefit from its expertise.

52. The monitoring project "Position of ethnic minorities and their use of social services" (*Positie en Voorzieningengebruik Allochtonen*, SPVA) is a periodic survey on the socioeconomic and socio-cultural position of the four largest ethnic minority groups in the Netherlands. Compared against national averages, their position is measured quantitatively in a large number of policy areas. The monitoring project covers the period 2001-2004. The Ministry of Social Affairs and Employment co-financed the project in order to get a number of large groups of refugees involved in the survey. The data on refugees will be published during the first quarter of 2004.

53. The principle of recognition of prior learning (known as EVC in Dutch) provides people from ethnic minorities, particularly more highly qualified refugees, with the opportunity to quickly improve their job prospects in a variety of ways. Identifying a person's competencies, assessing them against formal qualifications and, where possible, giving them official recognition by means of certificates or even a diploma offers objective proof that people possess qualities that meet the educational requirements recognised as standard in the Dutch labour market. In addition to this formal effect of EVC, there is the stimulating socio-psychological effect of the appreciation of existing human capital. As might be expected based on past experience, this stimulus prompts people to work to acquire any competencies they may not have. This is another factor that contributes to sustainable integration into employment. In the case of ethnic minorities, in particular newcomers, it is also possible to look at competencies such as their knowledge of Dutch and their familiarity with the Dutch work culture and with Dutch culture in general. All in all EVC can lay the foundation for a personal development programme (professional, socio-cultural and linguistic) that should lead to further integration. The EVC Knowledge Centre, an initiative of the Ministry of Economic Affairs, the Ministry of Education, Culture and Science and the Ministry of Social Affairs and Employment aimed at workers, and the Empowerment Centre EVC, which, with the help of European funding from the Community initiative EQUAL, focuses on developing EVC for diverse target groups, are being urged to speed up development of usable EVC instruments for ethnic minorities. The basic assumption is that they will use their broker function to put pressure on other relevant parties in order to achieve this goal.

### **Dual courses**

54. Dual courses combining study and work experience offer participants the opportunity to combine paid work and learning. This enables swift and sustainable reintegration, reduces benefit dependency and ensures that employers' demand for manpower is met. Where these types of dual courses are used, international credential evaluation (IDW) and - where

possible - EVC are usually appropriate. Dual courses can be used for different groups, but are ideal for newcomers, established migrants, more highly qualified refugees, women wishing to return to work (including those from ethnic minority groups) and early school leavers (including those from ethnic minority groups). To illustrate this point, the importance of dual courses for newcomers, established migrants and more highly qualified refugees is explained below. Central government will continue to promote the use of these courses.

55. Dual courses in conjunction with IDW and, where possible, EVC are an appropriate instrument for newcomers and established migrants to enable them to combine integration and work. This contributes to the objectives of reintegration into employment and integration into Dutch society. In a work situation ethnic minority employees can put the Dutch they have learned into practice, enabling them to master the language more quickly, and can gain insight into Dutch society and its customs, values and standards. This option also satisfies their need to earn their own income, which is a major reason for people dropping out of "regular" integration programmes. Dual courses in conjunction with IDW and, where possible, EVC offer more highly qualified refugees the prospect of rapid reintegration into employment that is commensurate with their capabilities and qualifications and meets growing demand for better educated personnel. Numerous municipalities and organisations are already gaining experience of these dual courses. The Integration Front Office is helping about a dozen municipalities to set them up and carry them out. Furthermore, in the context of the Framework Voluntary Agreement with Large Companies, agreements have been entered into with about 40 businesses on setting up these types of dual courses; municipalities have agreed to do the same as part of the Agenda for the Future.

56. The goal in the next few years is to develop dual courses into fully-fledged employment instruments. In the shorter term, in 2003, the aim is that the parties responsible for and involved in labour market policy (including municipalities, the UWV, the CWIs, the reintegration agencies, the social partners, employers and the Regional Labour Market Policy Platforms) should be made fully aware of the importance of dual courses and should promote their use. An advisory report on "dual courses combining language acquisition & employment" by the Social and Economic Council/Council for Work and Income (SER/RWI) is in preparation. It is expected to be ready in October 2003 and will include the results of the survey on dual courses that is being conducted by the consultancy firm Cap Gemini Ernst & Young, as well as the outcome of an expert meeting on 18 June 2003, organised by the Ministry of Social Affairs and Employment.

### **Specific measures to promote equal treatment and non-discrimination of ethnic minority groups**

57. In equal treatment and non-discrimination policy a distinction is made between standard and specific policy. Standard policy is understood to mean equal treatment policy that is aimed at all target groups that are protected against discrimination by law. Where standard policy does not help specific target groups enough or does not take the individual characteristics of the target group sufficiently into account, specific measures are implemented.

58. Under equal treatment legislation, namely the Equal Treatment Act (AWGB), the Equal Opportunities Act (WGB), the Equal Treatment (Working Hours) Act (WOA), Articles 7:646 - 7:649 of the Dutch Civil Code, Section 125g of the Central and Local Government Personnel Act, and the Equal Treatment (Temporary and Permanent Contracts) Act

(WOBOT), discrimination on the grounds of religion, belief, political opinion, racial or ethnic origin, sex, nationality, sexual orientation, civil status, working hours or employment contract is not permitted. By the end of 2003 disability and chronic illness will also be added to the list. The Equal Treatment (Disabled and Chronically Ill People) Act comes into force on 1 December 2003. A bill prohibiting age discrimination in employment is currently making its way through Parliament and is also due to enter into force on 1 December 2003.

59. For a summary of standard equal treatment measures, including the “Article 13 project”, see section 3.1.2, paragraphs 137-159.

60. Below is a summary of measures specifically used to promote equal treatment and non-discrimination of ethnic minority groups.

*The project “The Prize, the Code and the Monitor”*

61. The project called “The Prize, the Code and the Monitor” has been launched as part of the European EQUAL programme. The long-term aims are to reduce the obstacles on the demand side of the labour market that hinder full participation among people from ethnic minorities and to promote equal opportunities for ethnic minority employees. The Ministry of Social Affairs and Employment provides half of the funding for the project.

62. The project comprises three components: the Prize, the Code and the Monitor, each of which is inextricably linked. As part of the Prize component, employers are questioned about the participation of ethnic minority employees in their company and about any policy initiatives in place to stimulate participation. The Monitor asks for information about cases of discrimination in the workplace. The Code of Conduct is targeted at employers by offering them examples of good practices and supporting them in setting up and implementing codes of conduct.

63. The project aims to achieve the following results:

- During the project period, regularly introduce the quality prize component in at least eight ADB areas (ADB: anti-discrimination bureaux);
- Support at least eight ADBs in building up their capacity to introduce and maintain the “Prize Code Monitor” in their area;
- Inform all bureaux that are members of the National Federation of Anti-Discrimination Bureaus (LVADB) about how the project can be used as an instrument to combat discrimination in the labour market;
- Set up an accessible website about codes of conduct ([www.gedragscodes.nl](http://www.gedragscodes.nl)), a website about the Prize, a website about the Monitor and a website about the whole project;
- The 20 or so nominated companies in at least eight areas should reflect on their diversity policy;
- In each area at least one company should actively seek to develop and implement policy further, with the help of its local anti-discrimination bureau, using the prize money from the Prize.

*The project "Towards a Workforce Without Discrimination" (TWWD)*

64. The TWWD project, which is also co-financed by the EQUAL initiative, seeks to work towards a truly non-discriminatory working environment. Discrimination must be made a subject for discussion, both within and among labour organisations, without people feeling guilty. As part of the work programme, two projects are being set up:

1. One specifically aimed at what goes on in the workplace.
2. The other aimed at people from ethnic minorities trying to set up in business.

65. The TWWD project aims to achieve the following results:

- In association with the trade union FNV and other organisations and institutions, research is being conducted into the effect of instruments and methods that have been developed in the past few years to promote equal opportunities for ethnic minority employees in labour organisations. The aim of the project is to create a climate within labour organisations in which there is no place for discrimination either at policy level or in the workplace;
- The emphasis is very much on the conduct of people and companies involved in the project: What are you doing? And why are you behaving like that? The instruments used are peer supervision and coaching. The idea behind it is that people often have very fixed views. Coaching and the networks are important tools in breaking through that barrier. The intention is therefore that the participants in the companies taking part in the project form a network together in order to support one another in achieving their objectives and to further the process aimed at equal treatment of people from ethnic minorities. Based on this network, other new networks will be formed, which in turn will spawn yet more. The basic assumption is that there is already some support in the labour organisations for policies aimed at ethnic minority groups;
- Based on the experience gained by network participants, a transferable method will be developed with the aim of bringing about a shift to a non-discriminatory culture in labour organisations.

*Glasshouse horticultural project for ethnic minorities*

66. As part of the glasshouse horticultural project for ethnic minorities, LTO-Nederland (the Dutch Organisation for Agriculture and Horticulture), in collaboration with the trade unions FNV and CNV and the Ministry of Social Affairs and Employment, has developed a code of conduct, a training programme and a monitoring system. These instruments will be used to prevent and combat discrimination against ethnic minority workers in the glasshouse horticultural sector. The following activities have now reached fruition:

- The code of conduct, including the complaints regulations, was officially presented to the Minister of Social Affairs and Employment on 3 December 2001 and a communication plan has been prepared to publicise and distribute it. The Minister has submitted a copy of the code of conduct to the Labour Foundation for information,

which responded by announcing that it would commend it to the attention of the employers' and employees' associations that consult within the Labour Foundation;

- A training programme has also got under way, with the first certificates being recently (in June 2002) awarded to ethnic minority employees who successfully completed the Dutch language and workplace technology course. The course also considered the participants' work colleagues and supervisory managers. Another aspect of the syllabus was social and communication skills.

*FNV project*

67. As part of efforts to promote equal treatment of ethnic minority employees in the area of labour relations and within labour organisations, FNV has received a grant for a project that uses a decentralised approach with the aim of encouraging employee representatives to pursue an effective policy in this area. Small and medium-sized companies are a particular focus of attention. A booklet has been published containing good practice examples of initiatives and special corporate policies aimed at recruiting and keeping ethnic minority workers. This includes a checklist, in which the main aspects of the approach used in the practical examples are set out. A survey has also been distributed by FNV union leaders among works council members and employees in labour organisations, in which questions are asked about the ethnic minority policy conducted in the labour organisation. The project will be rounded off with a working conference at which the results of the project will form the basis for exploring with FNV union leaders, trade union activists, works council members, personnel officers and immediate superiors how long-term policies for ethnic minority employees can be conducted in a way that is inspiring for the whole organisation. The project is due to come to an end on 31 October 2003.

*Turkish Community Advisory Association /Moroccan and Tunisian Alliance*

68. Faced with evidence that people from ethnic minorities are not sufficiently familiar with the Equal Treatment Act, the Ministry of Social Affairs and Employment has financed a couple of projects of organisations that represent ethnic minority groups, namely the Turkish Community Advisory Association (IOT) and the Moroccan and Tunisian Alliance (SMT). The aim of the projects is to exchange information about equal treatment in the workplace for the various target groups that are already covered or will be covered by equal treatment legislation.

69. This involved using the media, preparing leaflets and holding local and national conferences. A training course was also organised, and a special website set up. To help achieve the objectives, collaboration was sought with the trade union FNV and with various NGOs that specialise in ethnic minorities, equal treatment and non-discrimination. This culminated in an expert meeting, at which the IOT and SMT gave a presentation on the projects; the various NGOs involved, together with other organisations representing ethnic minorities, then discussed the experience gained and explored the possibility of further cooperation.

*Ethnic minority recruitment and selection survey*

70. A survey on the recruitment and selection of people from ethnic minorities was completed in 2001. This qualitative survey looked at the job-hunting behaviour of ethnic minority jobseekers and the recruitment and selection behaviour of employers in six sectors. The main problems that emerged on the employers' side were the often generalised and negative image they harboured, their lack of familiarity with exclusion processes, their failure to make

effective use of recruitment channels (no separate policy), miscommunication during job interviews and failure to adopt objective selection criteria. Ethnic minority jobseekers were found to be highly motivated, yet had an ineffective job-hunting and interview strategy. SEOR survey on career development for ethnic minority employees.

71. The survey entitled "*Doorstroom van etnische minderheden op de werkvloer*" (Careers of ethnic minorities within companies), which was conducted by the economic research and consultancy firm SEOR in Rotterdam, was submitted to Parliament on 23 April 2002.

72. The survey examines the differences in internal and external career development between native Dutch and ethnic minority employees, as well as the personnel and organisation policies of labour organisations and the extent to which these take account of ethnic minority employees. Internal career development refers to moving on to another job within the same labour organisation, while external career development involves changing employer. Sectors that employ a considerable number of ethnic minority workers were chosen for the survey (food industry, retail, logistic companies, banking and insurance, and hospitals, nursing homes and old people's homes).

73. The results of the survey contribute to a better understanding of the position of ethnic minority employees as regards quantitative data on their mobility in the labour market. The qualitative part of the survey offers a number of interesting pointers for policy, but cannot be regarded as representative, given that the scale of the survey limits the value of the results. The quantitative part of the survey shows that the extent to which people have managed to secure a reasonably permanent position in the labour market determines the differences between ethnic minority and native Dutch workers. The more permanent this position is, the smaller the differences.

74. As far as external career development is concerned, there are only minor differences between native Dutch people and ethnic minorities, with the latter changing employer slightly less often. Sex and education are not significant factors in explaining the difference. Age does seem to have some influence: young people from ethnic minorities seem to change their job slightly less often than young Dutch people.

75. With regard to internal career development, the industry and/or sector influences the extent to which ethnic minorities are represented within it. In the case of over-representation, as in wholesale/retail and in the hospitality industry, in general there is less evidence of internal career development. Where there is generally speaking a relatively high level of internal career development, as in public administration, ethnic minority employees are under-represented.

76. In view of the low level of response, the results of the qualitative part of the survey, in which personnel officers and employees were interviewed, have only limited value. The results outlined hereafter should therefore be treated with great caution. One striking fact to emerge is that, as yet, there seems to be little experience of the intercultural management instrument (as part of diversity policy). There are signs that the capabilities of ethnic minority employees tend to be underused more often than is the case with native Dutch employees and that ethnic minority employees have fewer opportunities to discuss their ambitions with management and central support staff. This supports observations from other research, which noted that the job level of ethnic minorities within labour organisations is often below their level of education.

*TNO study of good practices to prevent undesirable behaviour at work*

77. The TNO Work and Employment Institute recently completed a study on “Desirable policy against undesirable behaviour: examples of good policies to combat undesirable treatment at work”, which brings together sixteen examples of good practices that go further than simply combating discrimination.

78. Three types of undesirable treatment are identified: aggression and violence, discrimination and hooliganism. Aggression and violence include the following types of behaviour: verbal aggression (e.g. swearing, shouting or tormenting), physical aggression (e.g. hitting or grabbing), psychological aggression and intimidation (e.g. threats, blackmail, bullying, “mobbing” or stalking) and sexual harassment (e.g. wolf whistles, comments or assault). Fourteen of the sixteen good practices studied include efforts to combat and prevent discriminating behaviour. In most cases an integrated approach is used and no explicit distinction is made between different types of undesirable treatment or different target groups, including ethnic minorities.

79. The good practices studied have all been posted on the website of the Ministry of Social Affairs and Employment.

#### **1.4 Measures promoting access of persons between 55 and 65 to the labour market**

80. The Committee encouraged the Dutch government to adopt measures to promote the access of persons between the ages of 55 and 65 to the labour market. The Dutch government endorses the importance of increased labour force participation among older people and since the second report has introduced measures to promote access of this group to the labour market. During the 1990s the participation rate among older people increased.

81. The government’s current target with regard to older people is that at least half of the people aged 55-64 in 2030 should still be in gainful employment by then. This involves an annual increase in the labour force participation rate by an average of 0.75%.

82. The policy designed to achieve this target comprises:

- Tax incentive scheme: lowering the wage costs of older workers, by means of a reduction in disablement insurance contributions as of 1 January 2002, will encourage employers to keep employing older workers. This relates to payment of social security contributions under the Disablement Benefits Act (WAO);
- Measures to reduce the number of older workers taking early retirement:
  1. The tax credit for older workers was increased in 2002 to encourage them to keep working. Older workers (aged 57 and over) receive an extra reduction in tax payable to encourage them to stay in work longer. The older the worker, the greater the tax advantage enjoyed.
  2. Conversion of voluntary early retirement schemes into flexible pension schemes.

3. In order to make the Unemployment Benefits Act (WW) less attractive as a redundancy scheme, individual employers are expected to pay part of the unemployment insurance contributions of older workers;
- Since 1 May 1999 people aged 57½ and over have been obliged to register as unemployed and accept any work offered. The government is planning to introduce an obligation for people who have recent work experience and are over the age of 57½ to apply for jobs.

83. Efforts to combat age discrimination can also help increase labour force participation among older people. The government submitted a bill prohibiting age discrimination in employment to the House of Representatives in December 2001 in implementation of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. Discrimination on the grounds of age is not permitted, unless it is objectively justified. The bill covers employment as a whole, from recruitment, selection and terms and conditions of employment to placement and dismissal.

### **1.5 Budgetary allocations for social welfare programmes and vulnerable groups**

84. The Committee urged the Dutch government to ensure that the reduction of budgetary allocations for social welfare programmes does not adversely affect economic, social and cultural rights. In so far as this recommendation concerns the reform of the social security system, it can be reported that there is no question of a reduction in social assistance benefit. Anyone who is lawfully resident in the Netherlands and who has insufficient means to support himself is entitled to a guaranteed minimum income benefit under the National Assistance Act (ABW). During the reporting period benefits were linked to the minimum wage. In other words, benefits are increased in line with the statutory minimum wage. See also section 3.4, paragraphs 225-240.

### **1.6 The welfare of the family**

#### **Introduction**

85. The Dutch government is seeking a more effective approach to domestic violence. Violence has a huge influence on how safe society is and how safe people actually feel. This applies as much to violence in public as to violence in the home. Although domestic violence usually takes place behind closed doors and the victims seldom report it to the police, various studies conducted in the Netherlands and elsewhere suggest that domestic violence occurs on a large scale, more so than any other type of violence.<sup>2</sup>

86. Domestic violence is violence committed by someone in the victim's family circle. It can take the form of physical, sexual or psychological violence. Examples of the latter include threatening and menacing behaviour. It happens in all sections of society and in all cultural groups, both in cities and in the rural environment.<sup>3</sup> Perpetrators may be relatives - parents, grandparents, children, uncles or aunts - or someone in the victim's immediate circle, such as family friends, partners or ex-partners. Victims may be men or women, boys or girls. So domestic violence is not directed solely at women, although it is a documented fact that 80% of the perpetrators are men.<sup>4</sup> It is therefore necessary to tie in with activities developed to combat gender-specific violence against women.

## International dimension

87. Since the UN World Conference on Women in Beijing in 1995 and the UN Special Session of the General Assembly on “Beijing +5” in 2000, there is much stronger interaction between national and international policies. National policies on preventing and combating violence are influenced by agreements and discussions regarding this topic in such international bodies as the United Nations (UN), the European Union (EU), the Council of Europe, the International Labour Organisation (ILO) and the Organisation for Security and Cooperation in Europe (OSCE). On the other hand, the Dutch government shares insights, experiences and good practices gleaned from national equal opportunities policy with these bodies.

88. In line with the priorities at UN level, the European Union has placed efforts to prevent and combat violence against women within the context of the “pursuit of human rights” and has incorporated them into the Community framework strategy on gender equality (2001-2005). The EU is insisting on the systematic collection of information as the basis for effective policy measures and policy monitoring. The Netherlands is making an active contribution in this area.

89. Over the past few years the Netherlands has worked hard, particularly within the UN, to combat violence against women. For instance, on the initiative of the Netherlands, the United Nations General Assembly (UNGA) has adopted resolutions relating to traditional practices, such as female genital mutilation, which affect the health of women and girls,<sup>5</sup> and a resolution on working towards the elimination of crimes against women committed in the name of honour.<sup>6</sup> The latter action placed this subject firmly on the international agenda. During the 59<sup>th</sup> Session of the UNGA, the Netherlands again tabled a resolution on combating honour crimes.<sup>7</sup> As a follow-up to these earlier resolutions, the Netherlands will co-sponsor an omnibus resolution in 2003 on violence against women, giving prominent attention to eliminating honour crimes and female genital mutilation. In pursuing these initiatives, the Netherlands’ intention is to heighten awareness of certain difficult and controversial subjects, which it is hoped will spur countries to amend their legislation and will give a boost to support policy conducted by international organisations and non-governmental organisations, with a view to improving the position of women.

## National dimension

### *Preventing and combating domestic violence*

90. The report entitled “Domestic violence - nature, scope and support” (*Huiselijk geweld - aard, omvang en hulpverlening*) (Intomart, Hilversum, 1997), which was published in 1997, stated that domestic violence<sup>8</sup> is a serious social problem: more than 40% of the men and women interviewed claimed to have been the victim of some form of domestic violence at some point; 30% claimed to have been the victim of domestic violence that had considerable consequences, such as anxiety, depression or divorce; 11% sustained physical injury as a result of domestic violence; 27% were confronted with violence on a daily or weekly basis; and 21% had been the victim of violence for longer than five years. Many of these problems are not apparent; only 12% of cases are reported to the police and 6% result in charges being pressed.

91. On 1 October 2000 the Minister of Justice gave the go-ahead for a project called Preventing and combating domestic violence (*Voorkomen en bestrijden van huiselijk geweld*), which had a twofold aim: to enable ministries and national organisations to step up their efforts to tackle domestic violence, and to develop a more effective approach to the problem. Several

ministries were involved in the project (Justice; Education, Culture and Science; Interior and Kingdom Relations; Health, Welfare and Sport; and Social Affairs and Employment), along with dozens of national organisations. The policy document “Private Violence - Public Issue”, which went before Parliament in April 2002, is the end product of the project. It describes not only the policies that were already being implemented at the time it was published, but also more than fifty new measures designed to achieve an effective approach to domestic violence.

92. The project aimed at preventing and combating domestic violence and the policy document “Private Violence - Public Issue” set many initiatives in motion. In the past few years, domestic violence partnerships have been formed in dozens of municipalities and protocols have been drafted on cooperation between the police, the Public Prosecution Service, the Probation Service, women’s support organisations and welfare organisations.

93. Combating domestic violence has become a key objective of the policy of organisations like the police, the Public Prosecution Service, women’s support organisations and a growing number of municipalities. The most directly involved organisations have introduced processes that result in more attention being focused on their approach to domestic violence and in the development of new methods and initiatives.

94. The measures mentioned in the policy document “Private Violence - Public Issue” are in the areas of coordination and organisation, interventions targeted at victims and perpetrators and at any children involved, public awareness and knowledge, information gathering and monitoring. An interministerial consultative group (made up of representatives from the ministries of Justice; Education, Culture and Science; the Interior and Kingdom Relations; Health, Sport and Welfare; and Social Affairs and Employment) and a formal consultative group comprising people who work in the field have been created to ensure that the proposed policy is translated into practice.

95. Key objectives of policy include:

1. Support for municipalities: cooperation in tackling domestic violence should mainly be developed at local level. In recent years the Ministry of Justice has supported cooperation projects in more than 20 municipalities. These serve as an example to other municipalities.
2. Domestic violence in the ethnic minority community: a large-scale survey<sup>9</sup> has been conducted into domestic violence in the ethnic minority community, revealing that this kind of violence is a common occurrence (26% of respondents indicated that they had been confronted with domestic violence at some point), but is extremely difficult to discuss openly.
3. Eviction of perpetrators: various studies have explored the possibility of incorporating into the Dutch legal system the option of evicting domestic violence offenders.
4. Therapy for perpetrators: the social services are devoting more attention to therapy for domestic violence offenders. Forensic psychiatrists have developed forms of therapy that effectively help break the cycle of violence. Furthermore, there are now more system-oriented forms of therapy and support available.

5. Children who witness domestic violence: an exploratory study<sup>10</sup> has shown that about 100,000 children witness violence between their parents. According to the same study, many of these children (about 40%) appear to be at increased risk of having behavioural or other problems; some even develop a violent behaviour pattern themselves. The Ministry of Justice's "Policy rules for subsidising crime prevention projects 2002" (*Beleidsregels voor subsidiëring van projecten criminaliteitspreventie 2002*) offer scope for projects aimed at children who witness domestic violence.

96. In December 2002 the Ministry of Social Affairs and Employment published its policy document "A safe country where women want to live" (*Een veilig land waar vrouwen willen wonen*), which set out the government's policy response to the report "The prevention and limitation of violence against women" (*Het voorkomen en bestrijden van geweld tegen vrouwen*) by the Netherlands Institute of Human Rights.

97. The policy response had been promised in the long-range policy plan on equal opportunities (2000-2010), in which the government announced that it would take stock of the policy on prevention and elimination of violence against women. The policy document sets forth the policy framework of the wide-ranging subject of "violence against women" and outlines the basic principles, the recent activities of central government, the general policy conclusions and ways in which equal opportunities policy might be better coordinated: by urging, renewing and promoting monitoring activities with a view to preventing and eliminating violence against women. The aim is therefore not to initiate separate policy programmes to prevent and eliminate violence against women *alongside* the existing projects that are part of regular gender mainstreaming policy, but to *contribute* to current anti-violence initiatives from the equal opportunities point of view, such as:

- The National Action Plan to combat sexual abuse of children (NAPS);
- The prostitution policy monitor following the lifting of the general ban on brothels;
- The Dutch National Rapporteur on Trafficking in Human Beings (NRM);
- The policy aimed at suppressing sexual violence;
- The policy on preventing female genital mutilation;
- The policy on combating sexual harassment at work, in education, in the healthcare sector and in the police force.

#### *Policy on eliminating female genital mutilation*

98. In 2001, in correspondence with the House of Representatives,<sup>11</sup> the Minister of Justice explained Dutch policy on preventing and eliminating female circumcision and gave a summary of all the activities carried out by government departments and civil society organisations in the areas of public information and professional development. The following topics were addressed:

1. The extent to which female circumcision occurs.

2. The measures available in legislation and disciplinary law to combat it.
3. What is happening in the areas of public information and professional development.
4. Whether female circumcision gives grounds for political asylum.
5. Conclusions reached and follow-up policy.

99. The aforementioned letter from the Minister of Justice succinctly describes the problems that occur in preventing and eliminating female genital mutilation. Owing to the fact that the subject is taboo both in the countries of origin of the population groups concerned and, in particular, in the Netherlands, no facts and figures are available. This is true not only for the Netherlands, but also for many other European countries. The Equal Rights Policy Coordination Department (DCE) of the Ministry of Social Affairs and Employment therefore commissioned a study in the autumn of 2002 to explore the problem of parents from a number of different countries and cultures having their daughters circumcised in their country of origin or in another country where female circumcision is traditionally practised, i.e. where it is not against the law.

100. The question must be addressed regarding to what extent amending the Dutch criminal law, including abolishing the requirement of dual criminality, can make a positive contribution to solving this problem. It is expected that the amendments made to the criminal law in France and Sweden, and the practical effects of these changes, will set a good example for the Netherlands.

#### *Pilot studies for a Local Women's Safety Index (VVI)*

101. There is still room for improvement if the Netherlands is to ensure proper monitoring of national developments in the nature and scale of violence against women. In 2002 the DCE commissioned a pilot study on local monitoring of women's safety. The aims of the study are to provide insight into existing indices relating to violence against women and to produce models that may perhaps be used in local pilot studies.

#### *National Action Plan to combat sexual abuse of children*

102. As a result of the agreements entered into at the World Congress against commercial exploitation of children, which was held in Stockholm in 1996, a policy document and an action plan have been developed to combat sexual violence against children.

103. The National Action Plan to combat sexual abuse of children (NAPS) was a follow-up to the 1999 Memorandum "Suppression of sexual abuse of and sexual violence against children (*Aanpak Seksueel Misbruik van en Seksueel Geweld tegen Kinderen*) and contained details of current and planned measures.

104. The NAPS, which was presented to the House of Representatives on 19 April 2000, brought together all the activities designed to combat this kind of abuse. A project team comprising representatives from government and various civil society organisations monitored the implementation of the action plan. The NAPS was discussed with the House of Representatives during a meeting on 15 May 2000. A second progress report was submitted to Parliament in a letter dated 11 December 2001. The NAPS project was completed by mid-2002.

A further report was sent to the House of Representatives in October 2002, and considered on 5 December during a meeting held to discuss policy or topical issues. The NAPS final report went before Parliament on 11 November 2002.

105. Sexual abuse of and sexual violence against children can only be tackled properly if it is possible to identify it at an early stage and intervene with appropriate help for the victims. It is a question of empowering children. The police and the Public Prosecution Service must be able to take action, backed by good legislation, and it is important to develop effective treatment methods for sex offenders, who must be well supervised when they return to society. Using this chain approach the NAPS creates links between the various activities of the ministries and organisations involved. That is why the approach adopted covers care provided both by the government and by institutions and individuals working in the fields of prevention, support, punishment and regulation. Other areas that the NAPS focuses on include the elimination of child pornography on the Internet and child sex tourism, as well as research and public information.

### **1.7 The school and course fees act**

106. In the Netherlands the parents of pupils in general secondary education, vocational secondary education and special secondary education who are not of compulsory school age are asked to pay school fees for their children's full-time education or course fees for their part-time education. In its observations (numbers 19 and 29) on the previous report, the Covenant Committee expressed concern about the consequences of rising school fees in the Netherlands on equal access to education for all income groups. The main problem lay in the system whereby fees were increased on a three-yearly basis. Until 2000 school fees were fixed once every three years at 20% of the estimated personnel and material costs per pupil of secondary education. This could lead to substantial increases in fees. There was also the option of revising fees for each of the two subsequent school years, based on the government wage index for civil servants in the previous calendar year. This system of annually fixing school fees was changed in 2001. School fees are now annually index-linked to the consumer prices index, the measure of inflation. The last increase in school fees was in 1999; since then they have only been adjusted in line with inflation. Table 2 shows that since 1999 there have been no huge leaps in fees. As a result of the introduction of the new system, the average increase in school fees has been halved. The last three-yearly adjustment under the old system (1999/2000) pushed up fees by 21% compared with the level three years earlier (1996/1997). The current system results in a 10% increase over a three-year period. Course fees, which have to be paid for part-time education, are also index-linked annually to adjust for inflation.

**Table 2**  
**Trends in school fees (amounts in €)**

	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
School fees	663	684	684	805	827	852	885	916

107. Parents of pupils who are 16 and over on 1 August are asked to pay school fees. Access to education is guaranteed because the fees for lower and middle-income families (with an annual taxable income of up to approximately €27,000) are paid in full under the Fees and

Educational Expenses (Allowances) Act (WTOS). This scheme was extended in 2001/2002, with the result that more parents are now eligible for an allowance. Since 1 August 2001 partial compensation has also been possible for the income group above an adjusted joint income of €27,983, depending on income and on the number of school-age children. School fees do not therefore prevent children of poor parents taking part in education. (Further details about the Act are given in section 3.8.4, paragraphs 489-503.)

### **1.8 Complying with the obligations under the Covenant**

108. The Kingdom of the Netherlands consists of three countries: Aruba, the Netherlands Antilles and the Netherlands. Each country has its own government and parliament, elected by its own people. Some matters are administered jointly, through the institutions of the Kingdom, such as the Government of the Kingdom of the Netherlands (in which all three countries of the Kingdom are represented). These matters concern “Kingdom affairs”, which include the maintenance of independence, defence, foreign relations, the safeguarding of fundamental human rights and freedoms, legal stability and proper administration. Consultation and coordination are also assured for matters that are not Kingdom affairs, but in which a reasonable degree of coordination is in the interest of the Kingdom as a whole. Furthermore, the three countries of the Kingdom respect one another and render one another aid and assistance, materially and otherwise. The countries govern themselves according to their own wishes, subject only to certain conditions imposed by their being part of the Kingdom.

109. Responsibility for the implementation of the provisions of the Covenant in Aruba, the Netherlands Antilles and the Netherlands lies primarily with the respective government of each country. If the Committee deems that any part of the Kingdom is in breach of the Covenant, it should address itself to the Government of the Kingdom of the Netherlands. If the breach applies to only one of the three countries, then the Government of the Kingdom of the Netherlands will take up the matter with the government of that country.

## **2. GENERAL PROVISIONS OF THE COVENANT: ARTICLE 2**

### **2.1 Rights of non-residents**

110. The Benefit Entitlement (Residence Status) Act (*Koppelingswet*) came into effect on 1 July 1998. Under this Act, foreigners without legal residence status in the Netherlands are not entitled to social services by decision of an administrative authority. The basic rule is that foreigners are only eligible (under certain conditions) for social services if they are in valid possession of a residence permit. Anyone who is awaiting a decision on his or her application for a permit has no entitlement, with the exception of asylum seekers and a few other categories of foreigners. Without a residence permit, foreigners can only claim education, medically necessary care and legal aid. With regard to migrants’ right to work, see paragraphs 156-159.

### **2.2 Promoting economic, social and cultural rights worldwide**

111. In addition to the information provided in the core document (HRI/CORE/1/Add.66), the following should be added as far as the role of international cooperation in the implementation of the International Covenant on Economic, Social and Cultural Rights is concerned.

112. The main objective of the overall development cooperation policy of the Netherlands is to combat absolute poverty. The realisation of the political, economic, social and cultural rights of people is part and parcel of this policy. At the heart of this policy are three strategic interconnected choices. These are, firstly, investment in people, in particular the poor, in order to increase their productive capacity; secondly, improved provision of basic needs; and thirdly, greater participation by the poor in the process of political decision-making. These three choices have in common the fact that they not only accord special weight to the distribution of income (as a result of the economic process), but also to the institutional factors of production in the broadest sense, such as the distribution of land, capital and access to education, health care and other basic amenities, as well as to people's cultural identity. In this way the Netherlands' policy does justice to the international consensus that poverty is multidimensional and includes economic, social, political, safety and cultural facets. It also reflects the broad agreement among major international donors that a rights-based approach to development is crucial to ensure sustainable poverty reduction. Promoting respect for economic, social and cultural rights through development cooperation is closely linked to the Dutch policy of promoting respect for human rights in general, since respect for civil and political rights is a basic requirement for full enjoyment of economic, social and cultural rights in the long term, and vice versa. Thus, as part of the development cooperation programme ongoing efforts are being made to promote the realisation of civil, political, economic, social and cultural rights, both at policy dialogue level and in practice.

### **3. IMPLEMENTATION OF SPECIFIC RIGHTS**

#### **3.1 Article 6**

##### **3.1.1 The right to work**

###### **3.1.1.1 Situation, level and trends in employment, unemployment and underemployment**

113. Tables 3 and 4 show unemployment and labour force participation broken down by target group.

**Table 3**

**Trend in unemployment broken down by target group**

	1990 %	1995 %	2001 %	2002 %
General	6.9	8.1	3.4	4.1
of which:				
Women	10.9	11.1	4.7	5.0
Young people (15-24)	10.3	13.2	7.2	8.5
Older people (55-64)	4.4	5.1	2.6	3.0
Ethnic minorities <sup>1</sup>	26.2	25.7	7.7	8.9

*Source:* Statistics Netherlands (CBS), *Enquête beroepsbevolking* (Labour Force Survey).

<sup>1</sup> Four largest minority groups: Turks, Moroccans, Surinamese and Antilleans/Arubans.

**Table 4****Trend in labour force participation broken down by target group**

	1990 %	1995 %	2001 %	2002 %
General of which:	55.2	57.8	65.4	65.7
Women	38.8	43.5	53.4	54.4
Young people (15-24)	42.1	38.6	45.3	44.3
Older people (55-64)	35.4	38.6	48.7	50.7
Ethnic minorities <sup>1</sup>	35.7	37.7	51.7	52.5

Source: Statistics Netherlands (CBS), *Enquête beroepsbevolking* (Labour Force Survey).

<sup>1</sup> Four largest minority groups: Turks, Moroccans, Surinamese and Antilleans/Arubans.

114. The Dutch labour market benefited enormously from the upsurge in world trade in the second half of the 1990s. Together with the rise in the level of education, pay restraint throughout the 1980s and a large part of the 1990s, and a more flexible labour market, this resulted in a substantial drop in unemployment and an increase in labour force participation. Wages have increased sharply since 1997, mainly due to labour shortages.

115. The combination of sharply rising wages in the Netherlands and pay restraint abroad has put pressure on Dutch competitiveness, with the result that the current economic downturn has been felt more keenly in the Netherlands than elsewhere in the European Union. The present recession has hit some vulnerable groups in the labour market relatively hard. Unemployment among young people, in particular, is rising fast. There are several reasons for this:

- Many young people have temporary employment contracts that are not renewed in economically difficult times;
- School leavers find a job less quickly when the labour market is less buoyant;
- During the last economic boom many young people left school early, enticed by the high wages offered in the labour market. Now that the economy is doing less well they constitute a vulnerable group because of their low level of education.

116. A youth unemployment action plan is currently in place to check rising unemployment figures among young people. The aim of the action plan is to get every unemployed young person either back to work or back in education within six months. At local level employers, employees, municipalities, training institutions and other interested parties will enter into agreements to combat youth unemployment.

117. Ethnic minority groups are also disproportionately hard hit by the worsening situation in the labour market. There are various reasons for this:

- Many ethnic minority employees work on the basis of a temporary or part-time contract. When the labour market is less buoyant, employers often do not renew these kinds of contracts;

- Demand for low-skilled work is falling. Many ethnic minorities in the Netherlands are low-skilled, with the result that unemployment among this group is rising relatively quickly;
- Language disadvantage stands in the way of many employers taking on ethnic minority workers, which hinders their integration into the labour market.

118. Labour force participation among women has increased substantially in the past ten years, although they are still lagging behind men in this respect. The Netherlands is aiming to increase the number of women in employment to 65% by 2010 (in paid work of 12 hours or more per week) for equal opportunities reasons (economic self-sufficiency of women) and economic reasons (to offset demographic ageing). It is anticipated that the target employment rate among women will only be achieved if:

- Attention continues to be devoted to increasing the scope and application of existing measures to combine work and family responsibilities. More highly qualified women, in particular, tend to keep on working after the birth of their children, albeit mainly in part-time jobs;
- Additional policy is formulated to encourage certain groups of women who have a low participation rate in the labour market to find work and to enable them to do so, particularly in the light of the current deteriorating economic situation.

119. With regard to this last point, attention is focused on women wishing to return to work who are not in receipt of benefit, specifically low-skilled - often ethnic minority - women. In this context an Updated Action Plan for Women Returners has been formulated, containing concrete actions for the period 2003-2005. The target is to get 50,000 women returners in gainful employment by the end of 2005. The Committee for Ethnic Minority Women's Participation (PAVEM) has also been set up to identify methods and techniques that municipalities can use to stimulate the social integration and participation of these women.

### **3.1.1.2 Availability of work for jobseekers**

120. There are several long-term measures promoting the reintegration of jobseekers:

- Comprehensive Strategy: this strategy has been introduced within a European context to combat unemployment in general and youth unemployment and long-term unemployment in particular. Every jobseeker must be offered a reintegration programme within 12 months of registering as unemployed, within six months in the case of young people. This prevents short-term unemployment becoming long term, which would hamper the reintegration process;
- The existence of the poverty trap means that working is not always financially more rewarding than being on benefit, which acts as a disincentive for benefit claimants to look for a job. Various measures are designed to combat the poverty trap:
  1. Increase in the employed person's tax credit: employees receive an extra reduction in tax payable to make work financially attractive.

2. Reduction in municipalities' income-support measures.
3. Reform of housing benefit scheme: benefit increases progressively as income rises;

– Inability to combine work and family responsibilities prevents women, in particular, from participating in the labour market. Labour supply would increase if people were better able to do this. The Netherlands has therefore introduced various measures to make it easier to combine work with a family:

1. Introduction of a “life-course savings scheme”: from 2003 employees can save up to finance unpaid leave.
2. Amendment of the Work and Care Act: this Act provides for an entitlement to a maximum of ten days' paid carer's leave for employees.
3. Introduction of the Basic Childcare Provision Act: this Act streamlines the various financial schemes into one uniform scheme, under which parents can receive a financial contribution towards the cost of childcare (demand-driven funding);

– Effective reintegration market: reintegration policy is intended for people who are not able to find work entirely through their own efforts. To this end, it is aimed at:

1. Benefit claimants who can, in principle, find work in the mainstream labour market as a result of active placement efforts and sanctions.
2. Benefit claimants, where labour supply does not match demand or where there is a productivity problem. In particular, this involves training, wage cost subsidies and work experience places;

There are still many opportunities for the first group, with 100,000 vacancies available. More intensive placement efforts on behalf of this group of unemployed prevent long-term unemployment. This preventive approach is most cost-effective. An offensive aimed at filling current vacancies should produce results quickly. One important factor here is to make the initial benefit interview and the reintegration advice given more effective tools in the reintegration process. This would enable the CWIs to free up more time for placement activities. A reintegration budget is available for the group of people for whom active placement efforts are not enough. To enable them to provide tailored solutions (i.e. to purchase reintegration programmes tailored to clients' individual needs), municipalities and the Employee Insurance Scheme Body (UWV) are given plenty of scope by means of a reintegration budget that can be disposed of at their discretion. Here, the barriers between the different instruments are removed and each individual budget is incorporated into one reintegration budget. Municipalities can use this budget to purchase reintegration programmes in the private reintegration market. Reintegration agencies can spend funds on, for example, training, wage cost subsidies and placement and are paid for each person placed in a job (output financing). These broad lines of policy will be pursued for the next few years.

### **3.1.1.3 Labour productivity**

121. Training is important in order to create productivity growth. Training for the employed is primarily the responsibility of the social partners and collective labour agreements are the main framework within which it is organised and funded. The Dutch government encourages training for the employed, for instance through tax concessions and the use of European Social Fund (ESF) resources.

122. One example is the training allowance, whereby a percentage of training costs may be deducted from taxable profits (employers in the profit sector) or from salaries tax and social insurance contributions (employers in the non-profit sector). Another example is the tax reduction for education, whereby an employer may deduct an amount for employees who are undergoing training as part of a block or day-release scheme (*Beroepsbegeleidende leerweg*, BBL). With effect from 2002 the reduction also applies to former unemployed people aged 23 and over to help them obtain basic qualifications. This age limit will be abolished in 2004.

123. Training costs are tax deductible for individual employees. The Career Break (Funding) Act offers employees financial assistance to take leave for the purpose of study or caring for their family. In the period 1994-1999 ESF Objective 4 was used in the Netherlands for training for the employed, enabling them to retain their job and adjust to changes in their working environment. During this period over 100,000 employees received training. Over the period 2000-2006 it will be possible in the Netherlands to apply for an ESF grant under ESF Objective 3 for training for the employed. This includes training for employees to help them obtain basic qualifications, training for people with a secondary vocational education (MBO) to help them obtain a more demanding post, thus freeing up their job for people with lower qualifications, and training to help employees acquire skills in a different sector. The aim is to increase workers' employability.

### **3.1.1.4 Free choice of work**

124. Article 19, paragraph 3, of the Dutch Constitution stipulates that the right of every Dutch national to a free choice of work shall be recognised, without prejudice to the restrictions laid down by or pursuant to Act of Parliament. The rules governing the non-competition clause are set out in Article 7:653 of the Dutch Civil Code. This type of clause can be defined as a clause entered into by an employer and an employee, where the latter is to some extent restricted in his or her ability to find work elsewhere upon termination of the employment contract. A non-competition clause usually contains a description of the activities in which the employee may not engage once his or her employment has come to an end, and the geographical extent of the clause. Breach of a non-competition clause often attracts a fine.

125. Article 7:653 of the Civil Code protects the interests of the employee, without ruling out the ability of the employer to enter into a non-competition clause. One of the ways in which protection of the employee's interests is guaranteed is the stipulation that the non-competition clause is only valid if it is agreed by the employer and employee and set down in writing in the employment contract. Furthermore, if an employee has not reached the age of majority at the time the non-competition clause is agreed, the clause is invalid. On application by an employee,

a court can wholly or partially annul the non-competition clause, with retrospective effect, on the grounds that it unfairly prejudices the employee's interests. The employee can also claim compensation from the employer for the duration of the time his or her activities are restricted by the non-competition clause. The court may decide to grant compensation if the clause to a significant extent prevents the employee from finding work elsewhere.

126. In a bill to change the rules governing the non-competition clause, which is still making its way through Parliament, the government proposes a number of amendments to the present statutory regulations with the aim of ensuring better protection for employees. Under the new law a non-competition clause would be valid for a maximum of one year and the employer would be obliged to pay the employee fair compensation, for the specified duration of the restriction, upon termination of the employment contract if the clause is enforced. Furthermore, the amount of the compensation payable by the employer must be stipulated either as a fixed sum or as a specific percentage of the employee's pay and the non-competition clause must specify the geographical area and the activities to which the clause applies.

### **3.1.1.5 Career guidance and vocational education**

127. As mentioned in section 3.1.1.3, paragraphs 121-123, training for the employed is primarily the responsibility of the social partners. The government supports this through various tax measures and the ESF.

128. Statistics Netherlands (CBS) has published information about in-company training relating to 1999 (*Statistiek Bedrijfsopleidingen*). These statistics show that in 1999 four out of ten employees, i.e. about half a million people, took part in in-company training. In 1999 companies spent €3 billion on this kind of training, twice their expenditure in this area in 1993. The most popular are computer courses, followed by courses on technology, personal skills, environmental issues and matters relating to occupational safety and health.

129. Traditionally a number of risk groups take part in in-company training courses: low-skilled workers, women, ethnic minority and older employees, and people employed in small companies. One striking fact is that, if we compare participation in training in 1993 and 1999, these groups are making up arrears.

130. The government has primary responsibility for funding training for non-working jobseekers. It has delegated the organisation of this training to intermediaries (UWV and municipalities). Several instruments are available for training this group.

131. The 1998 Jobseekers Employment Act (WIW), which is implemented by the municipalities, provides for a comprehensive service for young people up to the age of 23. The Act offers municipalities the possibility of training young people who are unable to find a job on their own and/or subsidising work experience places with regular employers. If training and/or work experience does not lead to a job within 12 months, the young person concerned is offered a job.

132. Since 1995 the government has funded extra jobs for the long-term unemployed (referred to since 1 January 2000 as entry-level and step-up jobs, *ID-banen*) in the public and non-profit sectors, as well as the associated supplementary costs, such as training. To make it easier to combine work and learning, there are now more opportunities to follow programmes combining training and employment within entry-level and step-up jobs and under the Jobseekers Employment Scheme. Under the latter, for instance, combination with block or day-release schemes (BBL) is now possible.

133. In the formal initial education system, primary education is followed by either a general programme or a full-time vocational programme, ranging from pre-vocational secondary education (VMBO), through secondary vocational education (MBO) to higher professional education (HBO). At each level a full range of vocational courses is offered (economics, engineering and technology, personal and social services and health care, and agriculture). Pupils can start doing VMBO from the age of 12.

134. To promote lifelong learning, the Netherlands is seeking to introduce recognition of prior learning (known as EVC in Dutch). EVC involves identifying competencies acquired in some way (e.g. in the workplace or in education), for instance by means of an individual portfolio or a demonstration of a person's capabilities. Competencies and proof of competencies are compared against a standard (such as the qualification structure for vocational education). If necessary, competencies may be recognised by means of a Dutch diploma. In most cases, however, further training will be required in order to obtain such a diploma.

135. With the help of a government grant, the EVC Knowledge Centre has been launched for the period covering 2001-2004. This Centre collects, processes and distributes information about EVC. The Empowerment Centre EVC, which is linked to the EVC Knowledge Centre, has been set up with the task of developing the EVC system for non-traditional target groups (jobseekers, people returning to work, refugees, immigrants and partially work-disabled people).

### **3.1.1.6 Difficulties overcome with regard to these objectives**

136. The growth in employment over the period 1996-2001 has led to a sharp rise in the number of people in employment. The participation rate has risen to more than 70%. Participation is not equally distributed, however. Special attention still needs to be paid to the long-term unemployed, women, ethnic minorities, older people (55-64) and the disabled. Several instruments are used to increase participation among these groups. These include training and work experience, but also measures to tackle the poverty trap and make it easier for people to combine work and family responsibilities (see also section 1.3, paragraphs 11-79 and section 3.1.1.2, paragraph 120).

### **3.1.2 Equal opportunities in the labour market**

#### **Existing legislation**

137. Between 1995 and 2003 various changes were made to the law to ensure that employees have equal opportunities in the labour market.

138. In the case of the Equal Opportunities Act, two amendments were introduced:

- The inclusion of a division providing for equal treatment in the area of pensions supplementing a statutory social security system: in implementation of the “Barber Directive” (Council Directive 96/97/EC), a new division entitled “Equal treatment with regard to pension schemes” was added to the Equal Opportunities Act in March 1998. Among other things, section 12b of this division prohibits discrimination between men and women when deciding who may participate in a pension scheme, the content of a pension scheme, or the way in which it is implemented;
- The inclusion on 1 January 2001 of a special rule on the burden of proof: under this rule, the burden of proof is shifted to the other party, thereby strengthening the position under procedural law of the party alleging discrimination. The new rule reads as follows: “If a person who believes that he/she has suffered discrimination as referred to in this Act adduces facts at law that give rise to suspicion that discrimination has indeed taken place, the other party must prove that no contravention of this Act has occurred.” The introduction of this new provision transposes Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex into Dutch law. The removal of obstacles related to burden of proof makes existing national equal treatment legislation more effective. This new rule on the burden of proof will eventually (probably by the end of 2003 or the beginning of 2004) also apply in cases of discrimination on other grounds (e.g. race, nationality, sexual orientation, religion, belief, age, disability or chronic illness).

### **New legislation**

139. The Equal Treatment (Working Hours) Act came into force on 1 November 1996 and provides for the equal treatment of public and private sector employees who have different working hours. It amends article 7:648 of the Dutch Civil Code, so as to prohibit employers from discriminating in conditions of employment between full-time and part-time workers when the employment contract is entered into, extended or terminated, unless there is objective justification for such discrimination. This article also applies to other people who work under the authority of an employer. The Act also amends the corresponding provision for public servants, namely Section 125g of the Central and Local Government Personnel Act, under which part-time workers are entitled to proportionately the same pay, the same bonuses and the same number of days' holiday. This also applies to the accumulation of pension rights.

140. The Equal Treatment (Working Hours) Act is of particular importance to women, since more women tend to work part-time. It is easier to rely on this Act to contest unequal treatment on the grounds of part-time working than to invoke the prohibition of indirect discrimination on the basis of sex. Under the new Act, it is no longer necessary to collect data on the numbers of men and women who work full-time and part-time in a particular company.

141. The Equal Treatment Commission (CGB) is responsible for monitoring compliance with the Act. The Commission can - either upon written request or of its own accord - examine whether there has been discrimination within the meaning of Article 7:648 of the Civil Code or Section 125g of the Central and Local Government Personnel Act. The Commission's decisions are not legally binding.

142. The Equal Treatment (Temporary and Permanent Contracts) Act (WOBOT) came into force on 22 November 2002. Under this Act, employers may not discriminate between employees on permanent contracts and those on temporary contracts, unless there is objective justification for doing so. The new Act does not apply to agency staff (temps). This Act is of particular importance to employees with temporary employment contracts. Relatively speaking, these tend more often to be women and ethnic minority workers. The Equal Treatment Commission monitors compliance with the Act.

### **Forthcoming new legislation**

143. The Equal Treatment in Employment (Age Discrimination) Act and the Equal Treatment (Disabled and Chronically Ill People) Act are due to come into force on 1 December 2003.

144. Under the bill prohibiting age discrimination in employment, age discrimination would be permitted only if there were objective justification for imposing an age limit. The prohibition on age discrimination would apply to every aspect of employment, from recruitment, selection and placement to terms and conditions of employment and termination of contract. It would also apply to vocational training, vocational guidance, career planning and membership of employers' or employees' associations and professional associations. The bill is due to become law on 1 December 2003.

145. The bill on the equal treatment of disabled and chronically ill people would entitle people who have a disability or suffer from a chronic illness to effective alterations to enable them to play a full part in society. Initially, this would cover the areas of employment, vocational training and public transport. At some point in the future entitlement would be extended to other areas, such as housing and access to goods and services.

146. Public authorities, businesses and institutions would have to make the necessary alterations if disabled and chronically ill people ask them to do so. However, this may not impose any disproportionate burden on those required to put them in place. Effective alterations are defined as measures that are appropriate and necessary to enable a disabled or chronically ill person to participate in the life of society like any other person. This concept will be defined in more detail in the case law. The bill also prohibits unjustified discrimination on the grounds of disability or chronic illness.

147. Disabled and chronically ill people would also be able to complain to the Equal Treatment Commission, for example in the event of failure to make the requested alterations. This also applies under the Equal Treatment (Temporary and Permanent Contracts) Act (WOBOT).

## **Policy measures**

148. Legislation alone is not enough: policy is also needed. Although the principle of equal treatment is broadly established in legislation, in practice there is still evidence of discrimination in the workplace. Research has shown that, while there is support for equal treatment, employers and employees are not yet fully familiar with legislation on the subject. That is why the Ministry of Social Affairs and Employment has launched a project with the aim of seeing the principle of equal treatment fully accepted and upheld in the workplace. The “Article 13 project”, as it is known, began in 2002 and will run until 2004 and involves close cooperation with employers’ and employees’ associations, the Equal Treatment Commission and various non-governmental organisations.

149. The project concerns all non-discrimination grounds in the Equal Treatment Act, namely sex, race, nationality, religion, civil status, sexual orientation, belief and political opinion, in addition to temporary/permanent nature of a contract and working hours. The new grounds of age and disability and chronic illness will of course also be included in the project.

150. Initially the project comprises the following elements:

- Equal treatment on the agenda of works councils;
- Equal treatment and small businesses;
- Expert meeting on equal treatment;
- Information in general and specialist publications.

### **Equal treatment on the agenda of works councils**

151. A special training package has been developed for people who train works council members. The package is a teaching module on equal treatment that can be used in its entirety, or in sections, to tie in with a subject that is of interest to the works council, such as the company’s personnel or pay policy.

### **Equal treatment and small businesses**

152. This project involves working closely with the employers’ organisation MKB-Nederland, or one of its offshoots, and has yielded the following results. MKB-Nederland has written a special on equal treatment, which has been distributed to all affiliated members. On the instructions of the Ministry of Social Affairs and Employment, the Labour Market Service Point for small and medium-sized businesses has set up a website on the theme of equal treatment. This same subject is being specifically considered by the consultancy MKB Adviseurs and the training firm MKB Cursus & Training. The latter has incorporated various aspects of equal treatment into training courses for employers. MKB Adviseurs have included questions about equal treatment in their quick scan, an instrument that employers can use to review their company’s economic situation, personnel policy, etc.

## **Expert meeting on equal treatment**

153. In November 2003 an international expert meeting is being organised to discuss a number of legal and other aspects of equal treatment. One of the items on the agenda is encouraging compliance with and enforcement of equal treatment legislation. Section 3.2.1.2, paragraphs 185-192, deals with policies aimed at equal pay.

## **Medical Examinations Act**

154. The Medical Examinations Act (WMK) places restrictions on medical examinations as part of a job application procedure. In the Netherlands, in principle, an employer may not check up on the physical health of a job applicant. This is only permitted if a medical examination is necessary for a job because the applicant's own health or that of others may be at risk. Such an examination may only take place if the applicant has already been selected. The applicant is provided with written information about the examination beforehand and is informed first of the results of the examination. He or she then decides whether the examining doctor may pass on the results to the prospective employer. If the applicant does not agree with the results, he or she is entitled to a second examination. The applicant may not be asked about pregnancy during the medical examination. The following rules apply:

1. No questions may be asked about the health of an applicant during the job interview. Nor may an employer inquire with a former employer about the applicant's sick leave record.
2. The pre-employment medical examination may only be carried out by a member of the occupational health service.

The Medical Examinations Act strengthens the job applicant's position and provides protection against possible unjust risk selection on the basis of health.

## **Pre-employment Medical Examination Complaints Committee**

155. The law is important, enforcement equally so. The Pre-employment Medical Examination Complaints Committee was set up in 2002 as a direct result of the Medical Examinations Act. This independent body examines complaints about medical examinations during job application procedures and issues an opinion. The Committee's opinion is not binding. However, if the Committee finds that a medical examination has contravened the law, this makes it easier for the applicant to prove it in a civil court.

## **Migrants and the right to work**

156. Since October 1998 any person who comes from outside the European Union and who wishes to stay in the Netherlands for more than three months must be in possession of authorisation for temporary stay (*machtiging tot voorlopig verblijf, MVV*). Applications for an MVV can be submitted to the Dutch diplomatic or consular mission. Non-EU nationals who want to work in the Netherlands require a residence permit and a work permit if they wish to stay for more than three months. The Immigration and Naturalisation Service (IND) decides whether to issue residence permits, while the Centres for Work and Income (CWIIs) issue work permits.

157. Since 1 January 2003 the IND has had one central section that deals with labour immigration, where employers can submit applications for an MVV for work purposes (including paid work experience and practical training) and request information about the procedure. This system is mainly intended to speed up the application process and make it more manageable. Employers usually hear from the IND within four weeks of the CWI's decision regarding a work permit whether there is any objection to granting an MVV.

158. Migrants who are lawfully resident in the Netherlands have the same rights and duties as Dutch nationals as far as employment is concerned. In the areas of work and working conditions, lawfully resident foreigners are therefore treated equally in every respect. The 1994 Equal Treatment Act (AWGB) prohibits discrimination on the grounds of race in employment matters (recruitment and selection, terms and conditions of employment, training during or prior to employment, and promotion). The Equal Treatment (Implementation of EC Directives) bill would prohibit discrimination on all grounds, including race, with regard to membership of or involvement in an employers' or employees' association or a professional association.

159. In matters of taxation, foreign workers and their families in the Netherlands are at no disadvantage in relation to Dutch workers and their families. No distinction is made according to nationality. Under the 2001 Income Tax Act (IB) it is possible for non-resident taxpayers (i.e. taxpayers who are not resident in the Netherlands for tax purposes) who have Dutch income to opt for the same tax regime as resident taxpayers (i.e. taxpayers who are resident in the Netherlands for tax purposes). If they do not take up this option, for income tax purposes they are treated in accordance with the regime for non-resident taxpayers, as indicated in a previous report (July 1982). The double taxation conventions with Belgium and Germany include special provisions. Under the convention with Belgium, which was in force until 31 December 2002, residents of Belgium are entitled to the same personal deductions and allowances by virtue of their civil status or family composition as residents of the Netherlands. The double taxation convention between the Netherlands and Germany contains a provision under which the Netherlands must, under certain conditions, grant certain allowances to residents of Germany where at least 90% of their total income - or, if they are married, at least 90% of the total income of both spouses - is taxed in the Netherlands.

### **3.1.2.1 Vocational guidance**

160. With the introduction of the Adult and Vocational Education Act (WEB) in 1995 and changes in the Secondary Education Act (WVO), responsibility for career advice and guidance shifted to educational institutions themselves. Since then, funding has no longer gone to intermediary organisations. Educational institutions are responsible for the quality assurance, availability and accessibility of these services. Given the autonomy of the institutions, service provision and the degree of integration with the education on offer will vary from one institution to another. The government provides funding by means of lump-sum payments to each individual institution. The institutions can independently decide whether to purchase from third parties or provide the services themselves.

161. Since 2002 there has been a new organisational structure for employment services and social security. One important aspect of this is the establishment of 131 Centres for Work and Income (CWIs), which provide information and counselling services in the area of work and income, particularly career information and counselling. This information is available free of charge to both jobseekers and the employed.

162. Thirty-five collective labour agreements give employees the opportunity to obtain advice on the direction or development of their career. Eight of these agreements containing provisions on career advice specify a budget for this particular purpose.

163. Table 5 provides information regarding the working population.

**Table 5**

**Working population aged 15-64 broken down by sex, age, ethnic origin and level of education, 1990-2002 (annual averages)**

	1990	1995	2000	2001	2002	1990	1995	2000	2001	2002
	x 1,000 persons					as % of the corresponding population group				
Total	5 644	6 063	6 917	7 064	7 141	55	58	65	65	66
Men	3 686	3 814	4 164	4 209	4 219	71	72	77	77	77
Women	1 958	2 249	2 755	2 856	2 922	39	44	52	54	54
15-24	973	776	821	854	838	42	39	44	45	44
25-49	3 902	4 387	4 792	4 839	4 839	68	71	78	79	79
50-64	769	900	1 305	1 372	1 464	35	39	48	49	51
Native Dutch	-	-	5 835	5 912	5 961	-	-	67	67	68
Ethnic minorities	-	-	457	511	572	-	-	48	50	50
Turks	-	-	91	103	103	-	-	44	48	46
Moroccans	-	-	58	75	84	-	-	34	42	46
Surinamese	-	-	134	138	138	-	-	63	62	61
Antilleans/Arubans	-	-	41	44	51	-	-	55	54	57
Others	-	-	132	151	196	-	-	45	47	47
Other foreigners	-	-	626	642	608	-	-	63	63	64
Primary	610	491	584	590	530	32	32	38	39	38
MAVO	383	413	446	468	458	35	37	45	46	43
VBO	1 023	916	937	973	958	54	53	58	60	60
HAVO/VWO	256	307	408	401	396	38	46	54	52	56
MBO	2 109	2 388	2 592	2 674	2 710	70	70	76	77	76
HBO	844	1 055	1 296	1 301	1 399	75	73	79	79	80
WO	388	481	653	653	687	82	81	88	87	86

*Source: CBS, Enquête beroepsbevolking (Labour Force Survey).*

Native Dutch = Persons of whom both parents were born in the Netherlands.

Ethnic minorities = Persons of whom at least one parent was born in former Yugoslavia or in a country in Central or South America, Africa or Asia, with the exception of Japan and the former Dutch East Indies.

Key to types of education:

MAVO: junior general secondary; VBO: pre-vocational; HAVO/VWO: senior general secondary/pre-university; MBO: secondary vocational; HBO: higher professional; WO: university.

### **3.1.2.2 Exceptions: research on gender-specific occupations**

164. In accordance with the reporting obligation in the Second Council Directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, the Ministry of Social Affairs and Employment commissioned a study in 2002 to ascertain whether the exceptions that are made in Dutch legislation for gender-specific occupations are still current in the light of social trends.

165. The study shows that most of the existing exceptions for gender-specific occupations are still necessary and are also consistent with the case law of the Court of Justice of the European Communities and the amended Second Directive.

166. The Decree containing the exceptions has, however, been amended on a couple of points. The amendments are as follows:

- The exception relating to working outside Dutch jurisdiction is to be amended. This paragraph of the Decree stipulates that occupational activities in other EU member states and in non-EU countries may be reserved for people of a particular sex under specific conditions. Now that the exceptions for gender-specific occupations are consistent in most EU countries, the first paragraph is to be scrapped. The second paragraph is to be retained, because the Netherlands, the EU and the EU member states have no influence on the legislation in the countries referred to in this exception.
- The present very generous exception for the armed forces (“the professional activities in the armed forces to be designated by the Minister of Defence” may be excluded) is to be restricted. Paragraph i of Article 1 of the Gender-Specific Occupations Decree grants the Minister of Defence authority (without any special stipulations) to indicate which professional activities in the armed forces are gender-specific. The researchers consider such broad authority to be inadvisable. They confirm, however, that the Minister of Defence has been cautious in exercising this authority in practice and has in fact only used it for two professional activities, one in the Netherlands Marine Corps and the other in the Netherlands Submarine Service. This application is not contrary in any way to Council Directive 76/207/EEC. The researchers therefore advise that Article 1, paragraph i, should be amended and restricted to the posts referred to above.

167. The recommendation of the researchers will be accepted and the exception amended accordingly. The text of Article 1, paragraph i, will be changed to “professional activities in the Marine Corps and the Netherlands Submarine Service”. The argument put forward is that the Marine Corps places very strenuous physical demands on candidates. The chance that women would meet the physical requirements is so small that only very few would make it through the selection procedure. This is confirmed during testing of women for other physically demanding posts in the armed forces. The presence of a very small number of women in a unit, combined with the fact that operational conditions preclude any sort of privacy, can cause tensions to run high, which can interfere with operational deployment.

168. Likewise in the Netherlands Submarine Service, the lack of privacy combined with the need to live in a confined space for a long time can jeopardise operational deployability. Investing in separate facilities would only be possible at a very high cost.

### **3.1.3 Workers with more than one full-time job**

169. The phenomenon of people being forced to take a second job in addition to their full-time job in order to ensure a proper standard of living for themselves and their family does not exist in the Netherlands. The statutory minimum wage and the Dutch social security system provide sufficient income to guarantee a proper standard of living.

## **3.2 Article 7**

### **3.2.1 Wage determination in general (methods)**

170. The Netherlands has a system of free wage determination. Under Section 10 of the Wages Act (*Wet op de Loonvorming*), the Minister of Social Affairs and Employment can, under very special circumstances and for a specific limited period of time, determine general rules regarding wages and other terms and conditions of employment that can be valued in terms of money. During the reporting period the Minister did not implement any wage measures in accordance with Section 10 of the Act.

#### **3.2.1.1 Minimum income**

##### **Minimum wage**

171. For information about determining the minimum wage and linking it to the average increase in the collectively agreed rate of pay (based on about 130 large collective labour agreements), please refer to the report on the application of the Minimum Wage Fixing Convention, 1970 (ILO Convention No. 131) (see Appendix 1). The increase in the collectively agreed rate of pay is the standard increase in pay (applicable for all employees) as agreed in the collective labour agreements.

172. The last report on this Convention described the results of the study conducted in 1998 on the application of the minimum wage in the Netherlands. It was also reported that a new study was expected early in 2003. Supplementary to the report to the ILO, it can be mentioned that this new study on the application of the statutory minimum wage in the Dutch business sector was completed by the Labour Inspectorate in March 2003.<sup>12</sup>

173. The study reveals that an estimated 68,000 employees in the Dutch business sector between the ages of 15 and 65 earn less than the statutory minimum wage, i.e. 1.1% of all employees in the Netherlands. Approximately 130,000 employees have a gross wage equal to the statutory minimum wage, i.e. 2.1% of all employees in the Netherlands.

174. Underpaid workers and workers whose income is on a par with the minimum wage mainly tend to be women and young people working part-time. Often they have a lower-level job providing care or services and are employed in small businesses in the “Retail”, “Hotel & Catering” or “Agriculture” sectors. Being underpaid does not necessarily imply unwillingness on the part of the employer to pay the right amount. The study shows that in many cases it is due to incorrect calculation of the minimum wage.

175. Compared with the previous study, the number of underpaid workers has increased (from 36,000 to 68,000). According to the Labour Inspectorate, this absolute increase can largely be explained by the growth in employment from about 4.9 million to 6.1 million workers.

### **Enforcement of the Minimum Wage and Minimum Holiday Allowance Act**

176. With regard to the Minimum Wage and Minimum Holiday Allowance Act (WMM), there are no new developments to report. The provisions of this Act are part of employment contract law and are therefore governed by private law. Employees who are paid less than the statutory minimum wage can institute civil proceedings against their employer to claim back the shortfall, with the option of first submitting a complaint to Labour Inspectorate.

### **Trends in income**

177. The table below provides information about trends in income over the period 1993-2003 and about the breakdown between minimum wage, the private sector and the public sector.

**Table 6**  
**Actual trends in purchasing power 1993-2003**

Year	Minimum wage		Modal private sector		Modal public sector	
	(1973 = 100)	(Change per year) (%)	(1973 = 100)	(Change per year) (%)	(1973 = 100)	(Change per year) (%)
1993	108.8	-0.60	108.2	0.6	95	-0.7
1994	107.0	-1.70	107.7	-0.4	93.5	-1.5
1995	106.7	-0.30	108.5	0.7	92.6	-1.0
1996	106.9	0.20	108.9	0.4	94.2	1.7
1997	106.9	0.00	109.1	0.2	93.1	-1.2
1998	109.5	2.40	110.9	1.6	93.9	0.9
1999	109.6	0.10	110.7	-0.2	94.4	0.5
2000	111.4	1.70	111.8	1.0	95.5	1.2
2001	121.6	9.10	119.4	6.8	99.5	4.2
2002*	124.3	2.20	119.6	0.2	99.3	-0.2
2003*	124.5	0.20	118.0	-1.3	97.8	-1.6

*Source:* Netherlands Bureau for Economic Policy Analysis (CPB), Central Economic Plan 2003.

\* Estimate.

### **Supplementary pensions**

178. As of December 2000, the principle of equal treatment with regard to surviving dependants' pension was put into effect in the Pension and Savings Funds Act (Pensioen- en Spaarfondsenwet). Under the Equal Treatment (Pensions) Decree, anyone reaching retirement age has the option of converting a surviving dependants' pension into a higher old age pension, an old age pension that can be received earlier or a higher old age pension that can be received earlier. This means that retired people who have no surviving dependants can cash in their surviving dependants' pension (equal treatment for married and single people). Pension entitlement for men and women must also result in equal benefits. Research has shown that the

existing rule of equal benefits for men and women does not necessarily prompt the introduction of national gender-neutral rates or mortality tables. The latter are tables giving the life expectancy of different age groups. These statistics are important for calculating the extent of pension commitments.

179. The equal treatment provisions will also apply to defined contribution schemes from 1 January 2005. It is not yet known whether and how this will lead to the use of gender-neutral rates or mortality tables.

180. Under an Act of Parliament dated December 1999, it is not possible to defer funding of pension rights.

181. Between 1999 and 2001 a voluntary agreement on pensions existed between employers' associations, employees' associations and the government. The agreement's main goals were to modernise pension schemes and adjust the contribution-free allowance<sup>13</sup> to take account of individualisation, threshold age, investment policy, indexation, etc. and to monitor the affordability of supplementary pensions. An evaluation of the voluntary agreement indicated that these objectives had been achieved.

182. Implementation of pension schemes is now more closely monitored. The scope for intervention and the sanctions for failure to comply with the rules are enshrined in law. More professional monitoring should prevent employers failing to fulfil their pension commitment to employees because of irresponsible accounting and internal control procedures, investment policy or the content of the pension scheme.

183. The content of a pension scheme is a term and condition of employment and hence the responsibility of both employer and employee. However, pensioners also have an interest in the way their pension scheme is implemented by the pension fund. In the course of time two voluntary agreements have been concluded between employers' and employees' associations on the one hand and organisations of pensioners on the other, with the aim of ensuring the latter's participation in the way a pension scheme is implemented. Carrying through the agreements was difficult at first, but as the second voluntary agreement gets under way there is optimism about getting pensioners involved in the implementation of pension schemes.

184. For further information about supplementary pensions, please refer to the report to the European Commission entitled "National Strategy Report on Pensions The Netherlands 2002" (see Appendix 2), which states that the Dutch pension system fulfils the eleven objectives of the European Council in the area of pension provision (Laeken European Council, December 2001). The system offers the over-65s an adequate income, is affordable in the longer term and is well prepared for future social trends such as demographic ageing, increasing labour force participation among women, and part-time working.

### **3.2.1.2 Equal pay for work of equal value**

#### **Pay differentials**

185. Some trends in pay differentials are highlighted in Chapter 6 of the Labour Inspectorate report on the position of men and women in the private and public sectors in 1998 (available only in Dutch, see Appendix 3). This shows that pay differentials between men and women fell

from 26% (uncorrected) (1993 figure) to 23% (1998 figure), and from 9% (corrected) to 7%. In the public sector the pay differential was 15% (uncorrected) and 4% (corrected). Another Labour Inspectorate report on pay differentials between men and women was published in 2002 (based on 2000 figures) and showed that the uncorrected pay differential between men and women in the private sector was still 23% and that the corrected pay differential between men and women remained the same between 1996 and 2000 (7%). In the public sector the uncorrected pay differential between men and women was 15% in 2000, while the corrected pay differential was 3%. This is a 1% decrease compared with 1998.

186. The uncorrected differentials can partly be explained by differences in job level, training and number of years' service. The corrected differential cannot yet be fully explained. It may be due to pay discrimination, but other factors may also be involved. The studies published by the Labour Inspectorate provide representative data on pay differentials between men and women only at macro level. Only an analysis of individual situations can determine whether there is truly an unjustified difference in pay. The Ministry of Social Affairs and Employment has therefore commissioned a company-level pilot study on equal pay according to gender, race and working hours (for further information about this, see under "Policy", paragraph 192).

## **Legislation**

187. For some considerable time now the Dutch Civil Code has stipulated that employers are not allowed to discriminate between men and women in the area of terms and conditions of employment. The Equal Opportunities Act contains more detailed provisions. All workers can invoke this legislation in dealings with their employers. Men and women must receive equal pay for work of equal value. The basis used is the pay that a worker of the opposite sex, employed in the same undertaking as the employee in whose interests a salary comparison is being made, generally receives for work of equal value or, failing that, for work of nearly equal value.

188. The term "work of equal value" encompasses not only the same work or almost the same work, but also other types of work that are "equal" in terms of job evaluation. Workers whose work is compared must, however, be employed in the same undertaking.

189. Finally, if an employee can point to a colleague who performs equal work or work of equal value and earns more, it is the employer who must prove that this difference does not constitute pay discrimination.

190. During the reporting period the time limit for lodging a civil suit by an employee who, in contravention of the law, does not receive equal pay was extended from two to five years. It is therefore possible to claim wage arrears over a longer period.

191. The new legislation mentioned below, which was discussed in section 3.1.2, paragraphs 137-159, also has an impact on equal pay for men and women:

- In March 1998 the inclusion in the Equal Opportunities Act of a division providing for equal treatment in the area of pensions supplementing a statutory social security system;

- The entry into force of the Equal Treatment (Working Hours) Act on 1 November 1996;
- The entry into force of the Equal Treatment (Temporary and Permanent Contracts) Act (WOBOT) on 1 December 2002.

## Policy

192. The government is encouraging equal pay through the Action Plan on Equal Pay, which was presented to Parliament on 8 May 2000. This Action Plan comprises the following elements:

- Consulting with the social partners to urge them to tackle unequal pay. This has resulted in an equal pay checklist, which the Labour Foundation has developed for the employers' and employees' associations that confer within this joint consultative body.
- Developing instruments:
  1. In 2001, for instance, the Ministry of Social Affairs and Employment commissioned a tool for checking gender-neutral job evaluation. This tool is now used by system holders who, together with representatives of the social partners, check the gender-neutrality of various systems of job evaluation. The Equal Pay Quick Scan will be ready in mid-October 2003.
  2. A micro pilot study on equal pay got under way in 2002. This is the company-level study mentioned above. At the moment data on pay differentials between men and women is only available at macro level. Only an analysis of individual situations can determine whether there is truly an unjustified difference in pay. The Ministry of Social Affairs and Employment commissioned Utrecht University to develop a method to test for unjustified pay discrimination within labour organisations. The results were presented to Parliament in January 2003 and the method is currently being translated into an easy-to-use management tool. This will enable organisations to test their own pay system to see whether there is any unjustified pay discrimination. For the results, see section 3.2.1.2, paragraphs 185-186 ("Pay differentials").
- Commissioning research, in which the Equal Treatment Commission and the social partners are involved:
  1. The Action Plan on Equal Pay announces that the Equal Treatment Commission, with a grant from the Ministry of Social Affairs and Employment, is to develop a software programme to analyse pay systems. On the basis of a "quick scan" an evaluation can be made quickly and efficiently on whether further research is required. This will make it possible on a large scale to test pay systems and pay policies for discriminatory elements without creating long waiting times or delays. The quick scan can increase support for submitting pay policy to the Equal Treatment Commission and hence contribute to policy measures aimed at equal pay. The quick scan is currently being developed.

2. Biennial research by the Labour Inspectorate on pay differentials between men and women, native Dutch and ethnic minority employees and full-time and part-time employees.
3. The Ministry of Social Affairs and Employment commissioned research into new flexible pay systems and equal pay. It was found that many organisations and all the ministries studied use variable remuneration, e.g. an individual or team bonus and profit sharing. The researchers established that women did not trail way behind men in the area of variable remuneration. There is a need to be alert, however, as there are indications of some difference in the variable remuneration of men compared with women (9% more men than women receive an individual bonus). There are also signs of potential problems, such as restricted access to variable remuneration and unclear or undocumented procedures. As a result of restricted access, female employees may qualify for a variable remuneration component relatively less often than their male colleagues. If only people in certain jobs have access to variable remuneration, often they are field staff or production process workers. According to the research, women tend to be employed in this type of work less often and are in fact strongly represented in support jobs. Restricted access to certain higher job levels will often put women at a disadvantage because they are usually over-represented in lower job levels. Stipulations with regard to minimum length of service can also lead to discrimination between men and women in view of the fact that female employees have a shorter period of employment on average. The possible types of discrimination mentioned do not mean that there is evidence of prohibited unequal remuneration within the meaning of the Equal Opportunities Act. Discrimination may be justified by objective factors. The existence of a works council or a Personnel and Organisation Department in a company has a positive effect on the link between the application of variable remuneration policy and pay differentials between men and women. In response to the findings of the study, the information published by the Ministry of Social Affairs and Employment about equal pay focuses explicitly on the application and introduction of variable remuneration. The attention of works councils is also drawn to the fact that they have some authority in this area. The information is not, however, confined to the equal treatment of men and women; other groups such as native Dutch and ethnic minority employees are also involved in the project.

- Providing information (the Ministry of Social Affairs and Employment has compiled various brochures and currently also posts information on its website about equal treatment and equal pay).
- Providing grants to support relevant initiatives by employers' and employees' associations, including the checklist of the Labour Foundation and a website about equal pay by the trade union FNV.

### 3.2.2 Safe and healthy working conditions

193. The main legislation in this area is the 1998 Working Conditions Act, which came into force on 1 November 1999 and replaced the 1980 Working Conditions Act, which was reported on in the previous report. The main change was that the 1998 Act made it possible for the Labour Inspectorate to impose administrative fines. See the report on the application of the Occupational Safety and Health Convention 1981 (ILO Convention No. 155) covering the period from June 1995 to June 1999 (Appendix 4) and the latest report on the application of the Labour Inspection Convention 1947 (ILO Convention No. 81) (Appendix 5).

#### 3.2.2.1 Exceptions

194. No categories of workers are excluded from the scope of the 1998 Working Conditions Act.

#### 3.2.2.2 Occupational accidents and diseases

##### Accidents

195. Fatal occupational accidents must be reported to the Labour Inspectorate. Road traffic accidents while travelling to or from work or during working hours are excluded.

**Table 7**

##### Number of fatal occupational accidents reported to the Labour Inspectorate

Year	No. accidents
1997	108
1998	88
1999	98
2000	101
2001	83
2002	83 (provisional figure; still under investigation)

**Table 8**

##### Number of deaths reported to the Labour Inspectorate, broken down by sector

Sector	% Distribution jobs	Average number of deaths 1997-2000	Risk factor sector	1997	1998	1999	2000
Agriculture	2	10	5	11	10	12	9
Manufacturing	18	23	1.3	25	21	15	29
Construction	7	25	3.6	30	20	26	25
Wholesale/retail, hotel and catering	23	13	0.6	12	13	13	13
Transport	5	8	1.6	4	7	11	10
Services; other	45	19	0.4	24	16	19	16
Unknown	0	2	-	3	2	3	1
Total	100	100	1	109	89	99	103

196. The Labour Inspectorate has registered fatal accidents centrally only since 1997. The Netherlands has no central registration of non-fatal occupational accidents. The number of non-fatal occupational accidents has been determined since 2000 by means of a survey of employees conducted by Statistics Netherlands (CBS). This survey does not cover commuting accidents, but does include road traffic accidents during working hours. The number of occupational accidents that resulted in more than three days' sick leave is shown in the table below:

**Table 9**

**Occupational accidents of employees (with a contract > 4 hours/week)  
resulting in sick leave > 3 days**

Year	Number	Incidence %
2000	74 000	1.1
2001	65 000	0.9
2002	73 000	1.1

**Occupational diseases**

197. To enable information about the incidence and nature of occupational diseases to be collected, company doctors have been obliged since 2000 to report occupational diseases to the Netherlands Centre for Occupational Diseases (NCvB). A broad definition of occupational disease applies: a disease or disorder that has occurred predominantly during work or as a result of working conditions.

198. The number of occupational diseases reported in 2000 was 6,063, compared with 5,593 in 2001 and 5,335 in 2002. It is likely that a considerable number go unreported. Most of the reported cases (43% in 2002) concern disorders of the bone and muscular system. Hearing problems and psychological disorders are also reported often. In the Netherlands the cause of an illness or disease is irrelevant in determining entitlement to benefit. These figures cannot therefore be compared with statistics concerning claims awarded for occupational diseases, as may be provided by other countries.

**3.2.3 Equal opportunities for promotion**

199. The Dutch government is very keen to increase the number of working women and to ensure women take up more senior positions. Only a quarter of management posts are filled by women; the real figure should be more than one-third, given the previous job experience of these managers. Women have least chance of being in a senior post in the profit sector: only 5% of senior management in the business world (boards of management and supervisory boards) are women (2002 Equal Rights Monitor).

200. It is primarily the responsibility of and in the interest of organisations themselves to change this. The Equal Treatment Act (AWGB) allows companies, non-profit organisations and the government the scope to conduct an affirmative action policy, but they are under no obligation to do so. They may also conduct this kind of policy for people from ethnic minorities.

201. The Dutch government encourages and facilitates affirmative action in various ways. Firstly, it provides information for employers and employees about equal treatment and affirmative action and the framework within which this kind of policy can be conducted. The Equal Treatment Commission also disseminates information about equal treatment and affirmative action.

202. The Dutch government also encourages and facilitates the advancement of women into more senior jobs in business and in the non-profit sector. With the support of the government, top people in the Dutch business world work through a network of ambassadors to help women move on to more senior positions. The network spreads the message that a balanced management team is in the interest of business. The underlying principle is that diversity at all levels within an organisation leads to better business management and ensures that the organisation is more in step with both the labour market and the consumer market.

203. The “Mixed” project was launched in September 2002 with a grant from ESF-EQUAL and aims to improve the mobility and career opportunities of women in the labour market. The project has three main thrusts: to increase and highlight the reserve of female talent in companies and organisations, to create conditions for exploiting that talent more effectively and to ensure that measures designed to help women move onwards and upwards become an integral part of regular personnel policy. Companies and organisations are now being invited to take part in about thirty pilot schemes.

204. Furthermore, target figures for increasing the proportion of women in more senior jobs have been set for various sectors of the labour market (business, non-profit sector, politics, government). These targets are actually guidelines, however; organisations themselves are responsible for meeting them.

205. Table 10 shows some of these targets.

**Table 10**  
**Target figures for increasing the proportion of women in more senior jobs**

	Situation 2000-2002 (%)	Target for 2010 (%)
House of Representatives	36	50
Top-ranking officials	7	25
Senior management business	4	20
Senior management non-profit sector (health care and social services)	25	45
Senior management non-profit sector (other)	13	35

*Source:* Multi-year policy plan on gender equality, 2002.

206. The first benchmark review for business was recently published, containing data on the mobility of women broken down by sector. A summary of the figures can be found on the website of the Mixed project ([www.mixed-equal.nl](http://www.mixed-equal.nl)). The difference between the potential and actual percentage of women in more senior positions appears to be most marked in business services.

**Table 11****Proportion of female managers per sector and per sector of industry**

Sector	Sector of industry	Proportion of women (%)	Proportion of women with higher education (%)	Proportion of female managers (%)
Profit	Agriculture and fisheries	27	13	17
	Manufacturing and construction	17	16	5
Non-profit	Commercial services	38	26	17
	Non-commercial services	61	53	37
Public	Education	54	55	28
	Health care and social services	79	64	54
Public	Culture and other services	53	44	38
	Public administration	37	36	23

*Source:* Statistics Netherlands (CBS) *Enquête Beroepsbevolking 2002* (2002 Labour Force Survey); 2002 Equal Rights Monitor.

207. The benchmark review gives companies a basis for setting their own objectives specially tailored to their sector. Over the next few years it will be developed into a self-screening instrument for companies, with tips on how to improve their situation. It will also be developed into an instrument for monitoring developments both at sector of industry level (tracked in the Equal Rights Monitor) and at individual company level. Finally, a transnational benchmark will be developed as part of the Mixed project.

208. The results of a study on gender-aware personnel policy within government, aimed at incorporating diversity into the government's regular personnel policy, will be published after the summer of 2003. Government agencies are being asked to provide annual key figures on labour participation among women, which can be used as the basis for a labour participation index. This index will also contain information about the policy of government agencies: the extent to which and the way in which they focus on incorporating diversity into their regular personnel policy.

209. Publication of the benchmark review and the labour participation index will show the progress that the government and the business sector are making in their efforts to increase the number of women in more senior jobs.

210. Finally, next year a "male-female professions" partnership will be launched with the aim of exploring new ways to cut across horizontal segregation (the predominantly female and male professions) in the labour market.

### **3.2.4 Reasonable working hours and breaks, time off, holidays, etc.**

211. As indicated in the second report in paragraph 93, the Working Hours Act (ATW) came into force as of 1 January 1996. The details concerning this Act given in the second report are still correct. The Act complies with Council Directive 93/104/EC concerning certain aspects of

the organisation of working time and offers the social partners a great deal of scope for consultation. It also addresses the objective of a better combination of work and home life. A qualitative evaluation of the Working Hours Act was carried out in 2001 and the main conclusions were as follows:

- There is no reason for far-reaching changes to the standards and the basic principle of a double system of standards;
- The regulations must be made less complex and the Act can be made more effective in some areas;
- Company-level negotiations on working hours and breaks should be encouraged, also with a view to the second objective of the Act, which is to enable a better combination of work and other activities. Openness and transparency in company policy are additional objectives.

212. Table 12 shows that the actual average weekly working hours<sup>14</sup> of the total working population is decreasing.

**Table 12**  
**Average weekly working hours of the total working population**

1997	31.1 hours
1998	31 hours
1999	30.9 hours
2000	30.8 hours

*Source:* 1997 - *Sociaal Economische Maandstatistiek* (monthly socioeconomic statistics) March 2000, Table 2.2.13.a.

1998 - *Sociaal Economische Maandstatistiek* December 2000, Table 2.2.13.a.

1999/2000 - Statline.

213. There have been no new developments since the second report with regard to the right to paid statutory minimum leave, or with regard to gender discrimination, children under the age of 16 and young people (16-17 years old).

### **3.3 Article 8**

#### **3.3.1 The right to freedom of association**

214. There have been no new developments since the second report.

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

215. There have been no new developments since the second report.

### **3.3.1.2 The right of trade unions to affiliate with national federations and international trade union organisations**

216. There have been no new developments since the second report.

### **3.3.1.3 The right of trade unions to function freely**

217. There have been no new developments since the second report.

### **3.3.1.4 Information regarding number and structure of trade unions and their membership**

#### **Structure of trade unions in the Netherlands**

218. In the Netherlands the main trade unions are affiliated with one of the three trade union federations: the Netherlands Trade Union Confederation (FNV), with about 1,200,000 members, the National Federation of Christian Trade Unions in the Netherlands (CNV), with about 360,000 members, and the Trade Union Federation for Middle Classes and Higher Level Employees (MHP), with about 175,000 members.

219. The FNV is made up of FNV Bondgenoten (general; 500,000 members), AbvaKabo (civil servants), Bouw- en Houtbond FNV (building workers), Horecabond FNV (hotel and catering workers), FNV KIEM (artists and typographers) and a few small unions.

220. The main unions represented in the CNV are CNV Publieke Zaken (public-sector employees), CNV Bedrijvenbond (industry, food and transport workers), CNV Dienstenbond (services workers) and CNV Hout- en Bouwbond (building workers). The unions representing personnel in the public and quasi-public sectors account for more than 50% of the membership.

221. The MHP is an umbrella organisation, which in turn houses other umbrella organisations, such as the Unie van Onafhankelijke Vakorganisaties (federation of independent trade unions, UOV), the Vereniging van Nederlandse Verkeersvliegers (Dutch airline pilots association), the Beroepsorganisatie Banken en Verzekeringen (banking and insurance professional body, BBV) and the Centrale van Middelbare en Hogere Functionarissen bij Overheid, Onderwijs, Bedrijven en Instellingen (confederation of managerial and professional personnel, CMHF).

222. In addition to these three trade union federations there are various other trade unions, which often represent small groups of workers, such as the Trade Union for Engine Drivers and Conductors (VVMC). There are also a few ideological unions such as the Calvinist Reformist Social Union (RMU) and the Reformed Social Alliance (GMV), and others such as the Landelijke Belangen Vereniging, a national independent union representing special interests.

223. The trade unions not affiliated with the “big three” have an estimated total membership of 150,000.

### **3.3.2 The right to strike**

224. With regard to the right to strike, there have been no new developments since the second report. It should be mentioned, however, that when Article 6 of the European Social Charter was adopted, the Dutch legislature included an explicit restriction to ensure that not everyone employed in the public sector would have the right to take collective action. The Charter came

into force in the Netherlands on 22 May 1980 with a restriction on strike action by public servants. This restriction was intended to be temporary, but has not yet been officially lifted. In principle, the Dutch courts rule on strikes by public servants in the same way as they do on strikes in the private sector.

### **3.4 Article 9**

#### **3.4.1 Social security**

225. The Dutch social security system comprises the following branches:

- Medical care;
- Cash sickness benefits;
- Maternity benefits;
- Old age benefits;
- Disablement benefits;
- Surviving dependants' benefits;
- Unemployment benefits.

Work disablement benefits are covered under the general disablement scheme. For a description of the main features of the various schemes, the nature and level of the benefits and the method used to finance the schemes, see the enclosed leaflet entitled "A short survey of social security in the Netherlands" (Appendix 6).

#### **3.4.2 Government expenditure (key figures and index figures)**

226. Social security expenditure in the Netherlands as a percentage of GDP fell from 32.5% to 27.4% between 1990 and 2000 (source: Eurostat, Social Protection Expenditure and Receipts). More recent figures that are also internationally comparable are not available. These figures are broken down into the following categories:

- Sickness/health care;
- Disability;
- Old age;
- Family/children;
- Unemployment;
- Housing;
- Social exclusion + other.

This drop in expenditure is due partly to policy (reforms of the social security system) and partly to the state of the economy (higher growth and related lower numbers of benefit claimants).

**Table 13**  
**Social protection expenditure as % of GDP**

	Social protection expenditure as % of GDP <sup>1</sup>	
	1990	2000
Netherlands	32.5	27.4
Germany	25.4	29.5
France	27.9	29.7
Belgium	26.4	26.7
UK	23.0	26.8
Denmark	28.7	28.8
Sweden	33.1	32.3
Finland	25.1	25.2
Austria	26.7	28.7
Spain	19.9	20.1
EU	25.5	27.3
US	-	-
Canada	-	-
Australia	-	-

*Source:* Eurostat, Social Protection Expenditure and Receipts;

<sup>1</sup> Every year the EU member states provide Eurostat with very detailed data on expenditure and receipts of social protection schemes. The way in which the data is provided is modelled on ESSPROS, the European System of integrated Social PROtection Statistics.

### **3.4.3 Supplementary private insurance**

227. Everyone is of course free to take out supplementary private insurance to top up the official (public) social insurance system. Given that the level of benefit and cover provided under this insurance depends on a variety of factors (type of insurance, which private insurance company, amount of the premiums, duration of the insurance), it is not feasible to discuss this subject here in detail. In this context the government refers to the occupational and private pension system as an example of supplementary insurance. This is described in the enclosed leaflet entitled “The old age pension system in the Netherlands” (Appendix 7).

### **3.4.4 Population groups that do not have full access to the social security system**

228. All residents and employed persons in the Netherlands are insured under the Dutch social security system. No distinction is made on the grounds of nationality, race or sex.

### **3.4.5 Developments regarding social security benefits and insurance**

229. Since the previous report there have been radical changes in the field of social security. The main ones are discussed below.

230. Since 1 January 1996 it has only been possible to claim child benefit for children under the age of 18, because since that date young people older than 18 who are still studying have, in principle, been entitled to student finance. For further information on this subject, see the enclosed leaflet entitled "A short survey of social security in the Netherlands", in particular the section on the General Child Benefit Act (AKW) (Appendix 6).

231. On 1 March 1996 sickness benefits as governed by the Sickness Benefits Act (ZW) were privatised to a large extent; since then employers have been legally obliged to continue paying an employee's wages for a maximum period of 52 weeks in the event of sickness. Under the Dutch Civil Code, employers are legally obliged to pay at least 70% of the last earned wage or - where this is less than the minimum wage - the minimum wage. The Sickness Benefits Act still exists as such, but only as a safety net for cases where there is no employer that can be held responsible for continued payment of wages.

232. The General Surviving Relatives Act (ANW) came into force on 1 July 1996, replacing the Widows and Orphans Benefits Act (AWW). One important difference in the new legislation compared with the old is that married couples and co-habiting partners have equal rights as regards benefit entitlement. For further information on the General Surviving Relatives Act, for example concerning benefit conditions, amount of benefit, etc., refer to the enclosed leaflet "A short survey of social security in the Netherlands" (Appendix 6).

233. The Disablement Benefits (Self-employed Persons) Act (WAZ) and the Disablement Assistance (Young Disabled Persons) Act (WAJONG) came into force on 1 January 1998, replacing the General Disablement Pensions Act (AAW). The Disablement Benefits (Self-employed Persons) Act insures against loss of income as a result of long-term incapacity for work by self-employed persons, spouses working in the family business and professionals. The Disablement Assistance (Young Disabled Persons) Act provides for a minimum benefit for young disabled persons. For further information on this legislation, refer to the enclosed leaflet "A short survey of social security in the Netherlands" (Appendix 6).

234. The (Re)integration of the Work Disabled Act (REA) came into force on 1 July 1998. With this legislation the government is seeking to improve employment opportunities for people with a work disability and minimise the financial risks for employers who take on work disabled people. The Act also offers compensation for any additional costs incurred in making alterations to the workplace and the like. For further information, see the enclosed leaflet (available only in Dutch): "Regelingen rond reïntegratie" (Appendix 8).

235. On 1 January 2002 some fundamental changes were made to the way social insurance schemes for employees are implemented. The regional employment offices have been replaced by regional centres for work and income (CWI's). The CWI's have also taken over several tasks from municipalities and implementing bodies. Furthermore, the implementing bodies for employee insurance schemes now come under one central organisation: the Employee Insurance Schemes Implementing Body (UWV). The Council for Work and Income (RWI) has also been

set up to guarantee a sufficient level of participation by employees, employers and municipalities. The RWI advises the Minister of Social Affairs and Employment on matters relating to work and income and also subsidises companies that promote the reintegration of unemployed people and social security beneficiaries.

236. The Export Restrictions on Benefits Act (BEU) entered into force on 1 January 2002. Under this Act, as of 1 January 2000 only people who reside in the Netherlands, or in a country with which the Dutch government has signed a bilateral or multilateral treaty containing agreements for monitoring the justification of the payment and the entitlement to benefits. These export restrictions do not apply to residents of a European Union country or a country that belongs to the European Economic Area (EEA). In June 2003 bilateral agreements of this kind had been concluded with 35 countries, and a further 49 were in preparation.

237. The new National Assistance Act (ABW) was introduced in 1996. This Act provides a minimum income for all persons residing legally in the Netherlands with inadequate financial resources to meet their essential living costs. Social assistance is designed to enable the individual or family to provide for themselves. It is a full income provision, with freedom of spending. The National Assistance Act is the safety net in the Dutch social security system. It provides for income when all else fails.

238. Social assistance benefits are means- and partner-tested. The underlying principle is that everyone must support themselves as much as possible. Generally speaking, social assistance benefit claimants have to fulfil a number of obligations. For instance, they are required to register with the public employment office, actively seek work and be willing to participate in training and other forms of reintegration, in so far as this is necessary. Social assistance benefit claimants are compulsorily insured for medical expenses under the Compulsorily Insured Persons (Health Insurance Act) Designation Decree. There is a right of objection and appeal against a decision of the implementing body.

**Table 14**

**Expenditure under the National Assistance Act (ABW) (in €)**

Type	1996	1997	1998	1999	2000	2001	2002
ABW (million)	4 936	4 770	4 292	4 105	3 986	4 018	4 350
IOAW/IOAZ (million)	520	238	231	248	254	248	238
Number x 1 000 benefit years	525	505	467	426	394	370	379

IOAW: Older and Partially Incapacitated Unemployed Workers Income Act.

IOAZ: Older and Partially Incapacitated Former Self-employed Persons Income Act.

239. As mentioned above, the Benefit Entitlement (Residence Status) Act was introduced on 1 July 1998. This Act led to some changes with regard to access to social security benefits and insurance. Since this date benefits (e.g. social assistance benefit) can no longer be given to illegal immigrants or persons resident in the Netherlands on a discretionary basis, subject to the agreements made in the context of the Netherlands' obligations under the European Convention

on Social and Medical Assistance (ECSMA). This means that only foreigners that are legally resident in the Netherlands within the meaning of the 2000 Aliens Act can claim benefits. For further information on the Benefit Entitlement (Residence Status) Act (*Koppelingswet*), see Appendix 9: “Aliens and Verification of Residence Entitlement in the Allocation of Provisions”.

240. The Work and Income (Implementation Structure) Act (SUWI) came into force in 2001. This Act introduced organisational changes, with the different benefits agencies working together. This had no notable benefit-related consequences for the National Assistance Act (ABW).

### **3.5 Article 10**

241. For information regarding the implementation in the Netherlands of the UN Convention on the Rights of the Child (CRC), see the second periodic report of the Netherlands on the implementation of the CRC (The Hague, March 2002). For information regarding facts and figures about the Dutch population under the age of 25 and about specific aspects of Dutch youth policy, refer to the following publications:

- “Young People in the Netherlands 2001” by Statistics Netherlands (Voorburg/Heerlen, March 2002);
- “Children & Youth Policy 2001” by the Ministry of Health, Welfare and Sport (The Hague, August 2001); and
- “Youth & Policy in the Netherlands” by the Netherlands Institute for Care and Welfare - International Centre (Utrecht, August 2001).

The website at [www.youthpolicy.nl](http://www.youthpolicy.nl) (in English) also has a range of fact sheets and brochures on childcare, early childhood education, parenting support, youth care and youth participation.

#### **3.5.1 Meaning of the term “family” in Dutch society**

242. The family is the basic unit of society and as such should be strengthened. It is entitled to receive comprehensive protection and support. In different cultural, political and social systems, various forms of the family exist. The rights, capabilities and responsibilities of family members must be respected. Women make a huge contribution to the welfare of the family and to the development of society, a fact that is still not recognised or considered in its full importance. The social significance of maternity, motherhood and the role of parents in the family and in the upbringing of children should be acknowledged. The upbringing of children requires shared responsibility of parents, men and women and society as a whole. Maternity, motherhood, parenting and the role of women in procreation must not be a basis for discrimination or restrict the full participation of women in society. Recognition should also be given to the important role often played by women in many countries in caring for other members of their family.

#### **Family**

243. In the past few decades the average age at which women in the Netherlands have their first child has increased to 29.1 years. Women are having their children later, and they

are having fewer children. An increasing number have no children. On average ethnic minority women in the Netherlands have more children than Dutch women, but the difference is dwindling. A family includes on average two children. One in four marriages ends in divorce.

244. Population data on individual lifestyles in the Netherlands shows that in the 1960s more than 90% of all households constituted a family and that in the 1990s this was still the case for more than 80% of the total population. Families include couples with children, single-parent families and couples without children. Although most children grow up in two-parent families with a mother and a father, the number of single-parent families is slowly increasing. Two thirds of single-parent families are the result of a divorce and about one-tenth are the result of the death of one parent. The remaining 25% are unmarried parents. After a divorce, 80% of the children remain with the mother, 15% live with the father and 5% live elsewhere. On average households have grown smaller, which is partly accounted for by the ageing of the population, leading to an increase in the number of elderly people living alone. Another factor is that young people who leave the parental home often live on their own for some time before getting married or living with a partner. The increased age at which women have their first child is also a contributing factor.

#### *How children are being raised*

245. A number of studies provide insight into the situation of children being raised in families in the Netherlands. The majority of families in the Netherlands provide a healthy child-raising environment, both in the material and the non-material sense. Internal family relationships are characterised by stability and harmony, according to both parents and children. Compared with earlier times it would appear that families today show greater recognition of the autonomy and the social and moral development of children. The parent-child relationship is more likely to be based on mutual affection than on parental authority over the children. Typically, families in the Netherlands exercise authority through limited negotiation: 75% of young people (12-18 years) indicate that they can make their own decisions but that they are required to consult with their parent(s). Although the father and mother still bear the final responsibility for managing the family, their authority is no longer taken for granted. Studies have shown that there are distinct phases in this negotiation process. During the early years the parents are in control and the children are expected to obey. From about the age of eight this is replaced by an intensive form of communication that serves to negotiate the rules, while in conflict situations both sides look for a win-win resolution. This information must, however, be placed in context. Each study has also shown that there is a fairly consistent group that deviates from this positive picture. Most studies do not adequately represent ethnic minority families. To date, very little research has been done into child-raising in ethnic minority families.

#### *Family problems*

246. About 10-15% of families in the Netherlands do not conform to this view of child-raising. It is hard to pinpoint what characterises these families. A great deal of research has been done in the Netherlands to determine how children are raised in specific family situations, and what the consequences are. This research was often spurred by public or political debate about the possible negative consequences of the specific family situation on the raising of the child - for instance the advanced age of the mother when giving birth to her first child, working mothers who use childcare, the effect of same-sex parents on the child's development,

the effect of divorce and of poverty and parental unemployment. In each of these cases, the results have shown that the effects on the children have been negligible. Two have been shown to have a negative effect: divorce and poverty. In the case of divorce the children are at higher risk of developing problems - this is usually determined by factors such as the relationship between the ex-partners and the opportunity to remain in contact with both parents. Research into the effect of poverty on the development and raising of children has clearly shown that there is a negative effect on the social, cognitive and emotional development of children (2-12 years) in these families. Recent estimates suggest that 265,000 children are living in low-income families. A number of these children are living at or below the poverty line. Research has shown that single-parent families are more likely to be low-income than two-parent families. This group also contains a disproportionate number of ethnic minority families.

247. It is estimated that approximately 25,000 children are living in families where there are alcohol-related problems. The number of children living in families where one or both parents are addicted to drugs is estimated to be between 5,000 and 8,000. An increasing number of babies are being born addicted to drugs: about 1,000 a year.

248. There are also increasing numbers of young people who are homeless or living on the streets. Each year about 30,000 young people run away, not just from home, but also from residential facilities. In due course most young people go back or find accommodation elsewhere. Then there is a group of about 6,000 or 7,000 young people who have no permanent home. This concerns young people under the age of 25 who have had no permanent home for at least three months. Most are aged between 15 and 18. Alcohol and drug abuse is very common, as is crime (burglary and theft). Most homeless young people come from a problematic family background.

#### *Income and expenditure of young people*

249. Three-quarters of young people aged 15-19 who live at home have their own income. Of the 20-24 year-olds nearly every one has an income of his or her own. Most youth income is the result of employment; only a small percentage comes from student loans or social security benefits. Young people are more likely to work in jobs that pay minimum wages. School pupil income usually consists of parental contributions (pocket money) and money earned through odd jobs, like babysitting or washing cars. Boys are more likely to spend their money on alcohol and computer games, while girls are more likely to spend it on clothes, presents and cosmetics. The older the pupil, the more he or she is able to spend.

#### **3.5.2 Age of civil majority**

250. Anyone who is not a minor is of age. A minor is someone who has not yet reached the age of eighteen and who is not and has not been married or in a formal co-habitation relationship. A minor needs permission from his or her parents or guardian to get married or enter into a registered partnership. If the required permission is not obtained, the minor can apply to the limited jurisdiction sector of a district court for permission. An underage woman can also petition the children's judge to have her declared of age if she has reached the age of sixteen and wishes to take care of and raise a child for whom she has parental responsibility (Art. 1:233 in conjunction with Art. 1:35, 36, 80a paragraph 6, 253ha Civil Code).

### **3.5.3 Protection of the family**

#### **Marriage and registered partnership**

251. Couples of the same sex have been able to marry since 1 April 2001. Besides marriage, it has been possible since 1 January 1998 for two partners to formalise their co-habitation relationship in a registered partnership. Two people of different sex or of the same sex may enter into this kind of partnership.

#### **Law of parentage**

252. The law of parentage was revised on 1 April 1998. The criterion henceforth used is whether or not there is a family-law relationship with the child. The terms legitimate, illegitimate and natural child have been dropped. New terms such as “biological father” have been introduced. Legal maternity has also been enshrined in the law.

253. Since 1 April 1998 the court has been able to determine paternity on the basis that a man is the natural father of the child or that the man, as the mother’s partner, has agreed to an act that resulted in the conception of the child. The petition to determine paternity can be submitted by (a) the mother, unless the child has reached the age of sixteen, or (b) the child. The death of the man is not an impediment. Paternity cannot be determined if (a) the child has a father, (b) marriage between the man and the child’s mother is precluded by law, or (c) the man is a minor under the age of sixteen. The petition by the mother must be submitted within five years of the birth of the child or within five years of the day on which the identity and whereabouts of the natural father become known to the mother.

#### **Parental responsibility for a minor**

254. The parents of a child born in wedlock have automatic joint parental responsibility for that child (Art.1:251, paragraph 1, Civil Code). Parents who are not and have never been married to one another and who have never had joint parental responsibility for their children can exercise joint parental responsibility if this is entered in the parental responsibility register at the request of both parties (Art.1:252, paragraph 1, Civil Code). Parents do not need to be living together, but they must have a family-law relationship with the child. If only the maternity of a child has been established, or if the parents of a child are not and have never been married to one another and do not have joint parental responsibility, the mother has automatic parental responsibility for the child (Art.1:253b, paragraph 1, Civil Code).

255. If the parents have entered into a registered partnership, they have automatic joint parental responsibility for a child born of their relationship (Art. 1:253aa Civil Code). Here, too, they must have a family-law relationship with the child.

256. If a child is born in wedlock or within a registered partnership between a parent and a non-parent (for example a marriage between two women), they have automatic joint parental responsibility for this child, unless the child has a family-law relationship with someone else (e.g. through acknowledgement) (Art. 1:253sa Civil Code).

## **Parental responsibility after legal separation and divorce**

257. The Dutch Civil Code was amended on 1 January 1998. Parents share parental responsibility for their children, even after legal separation or divorce. This situation can only change if one or both parents petition the court to determine that, in the best interests of the child, sole responsibility should be conferred on one of them. This has to do with the notion that divorce should violate the right to respect for family life as little as possible (Art. 1:251, paragraph 2, Civil Code).

## **Family reunification**

258. The same requirements for family reunification apply to both migrant workers and Dutch nationals. Migrant workers must therefore have sufficient means of support to provide for their spouse and/or family, i.e. they must have a net income that is at least equivalent to the standard social assistance benefit payable to married couples/families. It is assumed that a migrant worker can provide adequate accommodation with this income.

259. Family members who form part of the nuclear family (i.e. the migrant worker's partner or spouse and any minor children) are eligible for family reunification. Another member of the family of a migrant worker can also be granted residence status for the purpose of family reunification if, in the Minister's opinion, the alien concerned actually forms part of and - in his or her country of origin - already formed part of the household of the person with whom this alien wishes to live, or if leaving the alien behind would, in the Minister's opinion, be disproportionately harsh.

260. Children up to the age of 17 may be admitted for the purpose of family reunification. The above also applies to children who have reached the age of majority. This means that an of-age child can be admitted for the purpose of family reunification, provided that child, in the Minister's opinion, actually forms part of and - in his or her country of origin - already formed part of the household of the person with whom the child wishes to live, or if leaving the child behind would, in the Minister's opinion, cause disproportionate hardship.

## **Facilities for family-based care**

261. Policy in the Netherlands is based on the assumption that parents/guardians are primarily responsible for raising their children. In addition, the government provides certain services to support parents in their tasks. The most important facilities are parental leave arrangements, childcare, pre-school playgroups, after-school activities for teenagers and parenting support.

## **Work and family responsibilities**

262. Over the past 15 years the Dutch government has developed a raft of measures to support families in which both parents (or in the case of lone parents: the parent) are (is) active in the labour market.

263. The Work and Care Act, which came into force on 1 December 2001, is currently the main support instrument, together with the Working Hours (Adjustment) Act (WAA). The Work and Care Act incorporates existing and new leave arrangements that entitle employees to take leave when it is necessary or desirable for the purposes of care. The Act gives entitlement to

pregnancy and maternity leave, birth leave, adoption leave, emergency leave and other short periods of leave, short-term care leave and parental leave. During pregnancy and maternity leave and adoption leave employees receive a benefit payment equal to 100% of their last salary (up to a maximum) out of the General Unemployment Fund (AWF). During birth leave, emergency leave and other short periods of leave the employer is obliged to continue paying the employee's full salary; employees on short-term care leave are paid 70% of their salary.

Parental leave is unpaid.

264. The Working Hours (Adjustment) Act gives workers the individual right to increase or decrease their working hours. This Act does not apply to companies with fewer than ten employees: in this case employers are expected to make their own arrangements.

265. In the area of work and family responsibilities, the role of the government in relation to that of the social partners has explicitly been considered in developing policy. This led to the view that it was in the interests of both employers and employees, as well as of society at large, to develop initiatives to help people combine work and family responsibilities more effectively. With the introduction of statutory leave entitlement in the Work and Care Act, the interests of employers have been taken into account by clearly formulating the conditions for and the target groups of such leave entitlement. For instance, in the case of short-term care leave, the employee is under the obligation to make a reasonable case for the need to take leave. This refers not only to the need to take care of a child, partner or parent, but also to the fact that the care must be provided by the employee in question and that no other option is available.

266. In addition, the Work and Care Act and the Working Hours (Adjustment) Act offer solutions tailored to individual needs: exceptions are possible, entitlement to specific rights is subject to certain conditions and with some leave arrangements it is possible to exchange leave.

267. Possible exceptions are indicated on account of the fact that the law stipulates which elements of a statutory leave arrangement are open to more flexible interpretation by the parties negotiating collective agreements, the works council or employee representatives. The term "subject to certain conditions" refers to the fact that an employer can refuse an employee's request if the company's or organisation's interests would be seriously damaged. Exchangeability of leave arises where leave can be exchanged for holiday entitlement over and above the statutory minimum, longer working hours, shorter working hours or overtime. This flexibility can ensure that employees do not unnecessarily accumulate different kinds of leave. Within the specified framework employers and employees can make choices that suit both sides.

268. The Work and Care Act also includes a career break funding scheme, which can be used to finance unpaid leave for care or study purposes. Subject to certain conditions, an employee taking unpaid leave can receive a payment out of the General Unemployment Fund. In addition, there are two fiscal schemes that help employees take unpaid leave. The paid parental leave tax incentive scheme encourages employers to continue paying their employees (in full or a percentage of their salary) while they are on parental leave. Under the scheme an employer is entitled - subject to certain conditions - to claim a reduction in the salaries tax and social security contributions paid by the employer. The leave-saving scheme enables employees to save up for longer periods of unpaid leave to be taken at some point in the future. Under this scheme they can set aside up to 10% of their gross annual salary in a special savings account. No tax is levied on the balance in this account until the amount saved is actually used.

269. The schemes designed to fund longer periods of unpaid leave will be combined into a new “life-course savings scheme”, which was announced by the previous government in 2002 and again by the present government in its coalition agreement. This will be a tax-favourable savings scheme that will make it financially possible for people to take periods of unpaid leave (for whatever purpose) throughout their working life.

270. The Work and Care Act does not of course provide for any leave entitlement for the self-employed, but in some cases they are entitled to a benefit payment for a period equal to that of employees' leave. This applies to the 16-week benefit payment before and after childbirth and the four-week benefit payment in the case of adoption. These payments come out of the Self-employed Disability Fund (AOFZ). The present government intends to abolish compulsory disablement insurance for the self-employed and the associated fund. The consequences of this for benefit payments for the self-employed during maternity and adoption leave are still being examined.

271. Both the Work and Care Act and the Working Hours (Adjustment) Act are currently being evaluated. One important question concerns the effectiveness of policy: does this legislation sufficiently meet the needs of the intended target group (and sub-groups within each target group)? Is there perhaps a difference between the number of working people or employees who need a scheme and the number of people actually taking up such a scheme? Are there obstacles preventing take-up of work and care schemes? Can and should these obstacles be eliminated through additional policies?

272. Based on the evaluation, the government will decide its stance by the end of 2003 on any amendments to the Working Hours (Adjustment) Act. A government position paper on the Work and Care Act will be presented to Parliament at the end of 2004.

### *Childcare*

273. The Netherlands has two types of facilities for children of pre-school age. For children aged 2-4 years, there are pre-school playgroups that take children for several half-days a week. Their primary objective is educational: to provide young children with an opportunity for playing and socialising. These playgroups have gained in social and political importance in recent years, particularly from the point of view of prevention, because they allow developmental problems to be identified at an early stage. The playgroups are mainly used by families in which one of the parents does not work.

274. The second provision is childcare. These services are primarily aimed at helping people to combine work and family responsibilities. They consist primarily of day-care facilities for 0-4 year-olds, home day care and after-school care for 4-12 year-olds, and teenage care (after-school activities) for 12-16 year-olds. Parents also use a range of informal types of care in addition to officially recognised facilities.

275. As far as the provision and regulation of general childcare are concerned, for many years the Netherlands lagged behind other European countries. Now, however, the Netherlands is catching up and, among other things, new legislation on childcare is being prepared. A scheme to extend childcare and after-school care is also being introduced with the aim of creating a

substantial number of extra places. Facilities for teenagers are a recent development. There are currently experimental projects being implemented and this will be followed by a recommendation about the future of this type of care.

276. Childcare facilities are legally required to establish a parents committee. This serves as a discussion forum and the members are entitled to submit advice on every subject that is of relevance to the clients or to the organisation. In general, parent participation is gradually increasing, as is the flow of information to the parents.

#### *Parenting support and developmental stimulation*

277. Supporting parents in raising their children is an essential part of preventative youth policy. The national government has formulated two conditions regarding this support:

- Support in child-raising must be aimed at strengthening existing capabilities and the active involvement of parents and children, rather than making them dependent on these services or facilities;
- The support must be compatible with the culture and specific needs of the parents.

The national government strives for a coherent, stimulating and client-oriented approach that is based on the problem-solving ability of the parents.

278. Together with the Ministry of Justice, the Ministry of Health, Welfare and Sport has undertaken an initiative to introduce a programme for Parenting Support and Developmental Stimulation in the community. The programme will run until the end of 2002 and strives to strengthen the support networks available to parents (both formal and informal) and to exploit the strengths of the parents and children themselves. The programme covers the full spectrum of parenting support, from general to specific and from mild to intensive. The activities include information exchange and programme development, increasing access, and integrated and project-based approaches. There are various types of facilities such as parenting support offices, where parents can get their questions answered, neighbourhood networks and training programmes such as child-raising courses or video home training.

#### *Support for children and young people*

279. Parenting support is primarily aimed at the parents. Since 1979 there has also been a facility that serves children and young people: the Child Line. The Child Line provides help, advice and information by phone to all children and young people aged 8-18 years. The Child Line never asks for a name or address and treats all information as confidential, so that there is no significant barrier for those who want to use it. The Child Line only refers to a support agency at the specific request of the child itself, or if it is considered essential. The Child Line provides training for people who work with children, e.g. teachers, school doctors, etc. Child Line is mainly staffed by volunteers, who are supported by some professionals.

#### *Protecting children and young people in the family*

280. The Netherlands has an extensive network of resources that provide care to children and young people who are experiencing problems or failings in their upbringing and transition to

adulthood. This can include intervening in the family situation. This is classified as compulsory care: care that is provided to children whose development is being seriously threatened and/or who are being abused at home. Compulsory care is available to children up to 18 years of age.

#### *Child Protection Board*

281. The Child Protection Board, which is the responsibility of the Ministry of Justice, is called in when children are seriously threatened in terms of their development. The Board does not provide care, but assesses what measures and form of care are best for the child and the parents. The Board is charged with three important tasks: protection, divorce and parental right of access, and criminal proceedings involving minors. In addition, the Board is authorised to get involved in other issues where the interests of the child are at stake, such as adoption, name changes and placing children in foster care. The Board is also responsible for juvenile rehabilitation and compulsory community service for young people.

282. One of the main tasks of the Board is protection. In situations where the development of the child is threatened, the Board carries out an investigation and can ask the court to impose a child protection order (compulsory or voluntary).

283. Divorce and parental right of access: parents have a right of access to their children after divorce. The basic assumption is that parents should arrange this between them. However, if the parents are unable to agree on an arrangement concerning parental access, the Board will make a recommendation to the court, based on the best interests of the child.

284. Punishment: the Board is involved in cases where minors are suspected of committing a crime. The Board advises on punishment that is aimed at improving the behaviour of the child. The Board also always considers whether the child needs help.

285. Family guardianship: if a child's development is seriously under threat, the Board carries out an investigation and makes a recommendation to the children's judge. This may be a recommendation for compulsory or voluntary treatment. If it becomes clear that parents are failing in the upbringing of their children to such an extent that the child's physical and emotional well-being is at risk, the Board can advise the court to impose a child protection order, for example divestment of parental responsibility. A less drastic measure is a family supervision order. This means that a social worker from a family supervision agency is appointed to the family. The social worker monitors the situation within the family and reports to the children's judge.

#### *Foster care and adoption*

286. When children are placed in a foster family, it is always on the understanding that the desired end result is to return the child to his or her family, although this may not always be possible. Currently, major efforts are under way to improve foster care in the Netherlands. If children are no longer able to live at home, they may be put up for adoption. The Netherlands has signed and ratified the Hague Convention on intercountry adoption. This Convention aims to ensure that adoptions are carried out in such a way that the child's interests are put first, and that his or her constitutional rights are respected in accordance with international law. This includes a provision that each country should strive to keep children in their country of origin.

*Advice and Reporting Centres for Child Abuse and Neglect*

287. Since the 1970s, the Netherlands has had a national network of agencies - advice centres staffed by medical doctors - that specialise in child abuse (including neglect and sexual abuse). Since 1996 these bureaux have been merged into Advice and Reporting Centres for Child Abuse and Neglect. These centres are centralised facilities that handle questions and give advice on reporting child abuse. A centre has been established in each province and in the larger metropolitan areas. The centres work closely with the Child Protection Board. All reports of abuse or requests for advice are documented.

288. Child abuse covers a wide range of threatening behaviour - physical, emotional or sexual - by those responsible for raising a child, behaviour that could lead to severe physical or emotional damage to the child. Five different categories of abusive behaviour have been defined: physical mistreatment, emotional mistreatment, physical neglect, emotional neglect and sexual abuse. Experience in recent years has shown that most cases involve a combination of these categories. The particular problems that characterise each family situation dictate how the parents and child should be helped. Initially, intervention is based on the voluntary acceptance of help. If necessary, the Child Protection Board may become involved at a later stage.

289. Every province has child abuse prevention teams that, on request, organise events such as information sessions, courses on recognising the signs of child abuse, etc. The target groups are childcare professionals, teachers, youth care workers, family doctors, parents, etc.

**Families with a minimum income**

290. Raising children is the parents' own responsibility. The government helps by making good some of the money families spend on their children. This also applies to families with a minimum income.

291. Table 15 shows that for families with children and a low income during the period 1995-2002, the development in their generic purchasing power was better than for families with no children.

**Table 15**

**Development in the generic purchasing power of families with a guaranteed minimum income as % per annum**

	1995	1996	1997	1998	1999	2000	2001	2002	Cumulative
Single people	-0.4	-0.1	0.3	2.0	0.3	1.2	2.9	1.4	8.1
Single-parent family	-0.2	0.0	0.2	1.9	0.4	1.4	4.1	2.0	9.8
Couple with no children	-0.4	-0.2	0.5	1.9	0.1	0.8	3.2	1.3	7.5
Couple with children	-0.2	-0.2	0.4	1.9	0.1	1.3	4.3	1.8	9.8

*Source:* Ministry of Social Affairs and Employment.

292. The improvement in the purchasing power of families with children is mainly due to policy-related increases in child benefit (in particular in 1996 and 2000) and the introduction of the child tax credit and the combination tax credit in 2001. The development in generic purchasing power shown in the table above excludes specific measures, such as allowances for educational expenses and municipal income policy. The educational expenses allowance was increased during the period 1998-2002.

293. The number of children growing up in minimum-income families has been falling since 1995. About six out of the ten children in households with an income close to the minimum come from a single-parent family. An increasingly smaller proportion of single-parent families are dependent on a minimum income. Whereas in 1995 more than half (54%) of single-parent families had a minimum income, in 2000 this figure had fallen to 39%. Besides the upturn in employment, other contributory factors have been the increase in the number of childcare places and the activation policy pursued.

294. Table 16 shows that between 1995 and 2000 the number of children in families with an income close to the minimum fell from 11% to 9%. This is linked with the substantial increase in employment from 1995 on, which has also benefited minimum-income families with children.

**Table 16**

**Trend in the number of children up to the age of 18 and the number of single-parent families with an income up to 105% of the guaranteed minimum income**

	1995	1996	1997	1998	1999	2000*
No. children x 1 000	367	359	357	341	329	324
As % of total number of children	11%	11%	11%	10%	10%	9%
No. of single-parent families x 1 000	122	116	117	110	111	109
As % of total number of single-parent families	54%	50%	49%	44%	42%	39%

*Source:* Statistics Netherlands (CBS).

\* Provisional figures.

**Encouraging social participation of lone parents**

295. Many municipalities have schemes to encourage social participation, including participation in social, sports and cultural activities and holidays.

296. Prior to 2001 there were no specific agreements with municipalities regarding the social activation of unemployed lone parents with children under the age of five. In 2001 various municipalities signed administrative agreements, undertaking to devote more attention to the activation of lone parents on social assistance, a group that represent nearly one-third of the total number of social assistance claimants. Lone parents with a child younger than five, who are exempt from the obligation to seek work stipulated in the National Assistance Act (ABW), were also targeted with a view to being reintegrated into employment. It is very important for municipalities to provide tailored solutions to match the capabilities of the parent concerned.

297. To encourage the social activation of lone parents and get them off social assistance, municipalities have several activation instruments at their disposal, some of which are specifically designed for lone parents. One such instrument is the exemption scheme whereby lone parents with children younger than five may earn a certain amount without this affecting their social assistance benefit (minimum €86 plus half of the excess up to a maximum of €158). There are also additional funds available for childcare, for example.

### **3.5.4 Maternity protection**

#### **3.5.4.1 Various forms of protection**

298. The Working Hours Act includes a number of special rules for women in relation to pregnancy and motherhood. Pregnant employees are entitled to extra breaks and, in principle, are not obliged to do night work or overtime. Pregnant employees are also entitled to a stable and regular pattern of working hours and breaks. The employer must organise work so that female employees do not have to work from four weeks before their expected due date until six weeks after they have given birth.

#### **Total duration of pregnancy and maternity leave**

299. Under the Work and Care Act female employees are entitled to at least 16 weeks' pregnancy and maternity leave, starting six weeks before the expected due date (but no later than four weeks before this date) until ten weeks after they give birth. If a woman takes less than six weeks' leave prior to the birth, the days are added to her post-natal maternity leave. Total pregnancy and maternity leave may be more than 16 weeks if the woman takes more than six weeks' pre-natal leave. This may be the case, for example, if she gives birth after the due date.

#### **Benefits (cash social security benefits)**

300. Under Dutch legislation the payment of pregnancy and maternity leave for female employees is provided for in the Work and Care Act. To obtain maternity benefit, the woman applies, through her employer, to the Employee Insurance Scheme Implementing Body (UWV), or - if she has no employer - directly to the aforementioned body. The maternity benefit paid is equal to her daily wage (100%) and comes out of the General Unemployment Fund, except for the amount paid by the government out of the Implementation Fund.

301. Female employees who are unfit for work as a result of pregnancy or childbirth for longer than the specified period of maternity leave are covered by the Sickness Benefits Act (ZW), under which benefit is paid for up to 52 weeks.

#### **3.5.4.2 Groups of women who cannot rely on protection**

302. See under exceptions for the self-employed, mentioned in section 3.5.3, paragraph 270. Domestic helps are fully insured, with the exception of those who usually work fewer than three days a week.

### **3.5.5 Measures for the protection and assistance of children and young people**

303. In the Netherlands the legal framework for people under the age of 18 carrying out work comprises the Working Hours Act (ATW), the Child Labour Regulations, which are based on this Act, the Policy Rule on non-industrial work/auxiliary work of a light nature, the Policy Rule on exemption from the ban on child labour, the Working Conditions Act and the Working Conditions Decree, which is based on this Act. This raft of legislation applying to children and young people, which came into force on 1 January 1995 or was phased in after that date, replaced the existing but out-of-date legislation, which offered more opportunities for helping people make the transition to the labour market.

304. The legislation governing work performed by people under the age of 18 is designed to ensure that the child's safety, health and welfare are not at risk at any time and that the work carried out does not have any adverse effect on the child's physical or psychological development. The basic principle applied is that people under the age of 16 may not carry out work, though some exceptions are possible. This takes account of prevailing standards and values in society and the place of the child in society. Research has shown that performing paid activities outside school hours does not necessarily have a purely negative impact on children (and young people). It can also have educational advantages by enabling them to gain experience, providing social contact and giving them an insider's view of the labour market. The research reports also point out that the work in question must be viewed positively in itself, provided it is of a light nature, is of limited duration and does not interfere with school attendance. In addition, the normative guidelines must reflect the fact that permitted work may not have an adverse effect on the child's health, safety and development. No prohibition on work applies for 16 and 17-year-olds, who may carry out work within the aforementioned legal framework. A number of activities stipulated in the legislation are prohibited for 16 and 17-year-olds or only permitted under strict expert supervision. The reason for this is that, broadly speaking, young people are more physically and psychologically developed than children. This is reflected in the standard working hours and breaks that apply for young people (set down in the Working Hours Act), which are more generous than those for children. The normative guidelines do, however, take account of the fact that young people are subject to the part-time compulsory education ruling, which means that any work they do may not interfere with their schooling (Section 4:4 (1), Working Hours Act).

305. As mentioned earlier, there are a number of exceptions to the prohibition on work for people under the age of 16. The standards can be found in the Child Labour Regulations. These regulations include rules for the 13-15 age group concerning the frequency with which, the times at which and the number of hours for which work may be carried out. The rules also cover such aspects as assistance, supervision and clarification of the type of work that is permitted. This is worked out in greater detail in the "Policy Rule on non-industrial work/auxiliary work of a light nature".

306. Finally, it should be mentioned that Article 1.37 of the Working Conditions Decree stipulates that if young employees are carrying out work in a business or establishment, this work should be adequately and expertly supervised and that if the work is associated with specific hazards, it may not be carried out if adequate supervision has not been organised.

## **Worst forms of child labour**

307. In February 2002 the Netherlands ratified ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour. The age limit used in the Convention for the worst forms of child labour is 18.

308. National law was already largely in line with the Convention. With regard to Article 3b, however, some amendments were recently introduced, in accordance with the obligations under the Convention. The General Brothel Prohibition (Repeal) Act entered into force on 1 October 2000 and makes exploitation of underage prostitutes and the performance of sexual acts with a prostitute aged 16 or 17 a criminal offence. The partial amendment of public decency legislation came into effect on 1 October 2002, raising the age limit for child pornography from 16 to 18 and making virtual child pornography and exploitation of minors for pornographic performances a criminal offence.

309. Sexual abuse of a minor between the age of 12 and 16 can now be prosecuted without a complaint having to be lodged. Before the law was changed anyone committing this offence could only be prosecuted if charges were brought by the victim, his or her legal representatives or the Child Protection Board. Victims in the stipulated age group now have the right to be heard, giving them the opportunity to tell their side of the story.

310. As mentioned, the age of any young persons shown in pornographic images has been raised from 16 to 18. This means that the dissemination, exhibition, production, distribution and possession of pornographic material is a criminal offence if the person shown in the images is younger than 18. This discourages the commercial sexual exploitation of minors.

311. Virtual child pornography also became a criminal offence on 1 October 2002. Modern technology makes it possible to digitally manipulate images in such a way that the suggestion of child pornography is evoked, even though no actual abuse may have been committed. In practice this is difficult to prove. In order to effectively combat child pornography, for example on the Internet, virtual child pornography has now been made a criminal offence, even in those cases where it cannot be conclusively established that no child has been abused.

312. Article 6 of ILO Convention No. 182 stipulates an obligation to design and implement programmes of action to eliminate as a priority the worst forms of child labour. The Dutch government works on the assumption that Dutch legislation already provides for an adequate prohibition on the worst forms of child labour. The Dutch action programme - unlike that of many other countries - is therefore not so much directed at eliminating the worst forms of child labour through regulatory measures, but rather focuses on preventing children getting involved in child labour and on enforcing the existing legislation, which provides for the prohibition of the worst forms of child labour. This means that the projects in the action programme are primarily aimed at prevention, public information and supervision. However, since the Dutch government attaches great importance to the elimination of the worst forms of child labour worldwide, the programme also includes an overview of the Netherlands' international activities in this area.

313. The action programme is in three parts (A, B and C). Part A summarises the work of the Labour Inspectorate in monitoring compliance with the legislation applicable to work and young people and public information activities. Part B deals with efforts to combat sexual violence

against children and refers to the National Action Plan to combat sexual abuse of children (NAPS), which went before Parliament on 19 April 2000. The NAPS was completed in 2002. Finally, Part C examines the Netherlands' international activities, providing an overview of a number of international projects and programmes supported by the Netherlands.

314. In accordance with Article 6 of ILO Convention No. 182, the programme of action is designed and implemented in consultation with the competent government agencies and the social partners, taking into account the views of other interested parties (NGOs). Initial consultations took place before work began on drawing up the action programme with the primary intention of identifying the wishes of the aforementioned organisations. Based on this an outline action programme was drafted and submitted to Parliament together with the bill, the explanatory memorandum and the detailed report. Once the draft had been worked on in greater detail the social partners and a number of NGOs were consulted, both orally and in writing. The final action programme went before Parliament in March 2001.

315. In ratifying this Convention the signatory State automatically accepts the obligation to report periodically on compliance with the Convention. The government must submit a report every two years on ILO Convention No. 182, indicating the current status of pertinent legislation, implementation practices and any problems that a member state experiences in implementing the standards. This report will also include information about the progress of the action programme and any changes made to it.

316. In February 2002 the Netherlands organised an international conference on child labour: *Combating child labour - Building alliances against hazardous work*. The conference had a dual purpose: firstly, to exchange expertise and experience regarding the identification of what constitutes hazardous work and regarding the practical implementation and enforcement of rules and regulations in this area; and secondly, to promote cooperation between various actors, an essential prerequisite if child labour is to be combated effectively. The conference delegates came from more than forty countries and represented governments, the social partners, labour inspectorates, international organisations and NGOs.

317. Following the Combating Child Labour conference in The Hague, the Dutch Labour Inspectorate agreed to set up and maintain a helpdesk on behalf of the International Association of Labour Inspection (IALI) on hazardous child labour issues ([www.iali-aiit.org](http://www.iali-aiit.org)). This helpdesk is now available to IALI members and has a broker function, offering to search for different kinds of mutual support that may be available. It also acts as a point of information exchange, e.g. on strategies for tackling child labour that have been shown to be successful. The database will be expanded as the helpdesk is further developed.

318. Dutch labour inspectors also participate in workshops providing training for labour inspectors in developing countries in the field of child labour and occupational safety and health.

319. In 2002 the Ministry of Social Affairs and Employment set up the *Jongerenloket* on its website ([www.minszw.nl](http://www.minszw.nl)), a special helpdesk for young people with information about work (holiday jobs, minimum wage, tax) and also about what kind of work young people of different ages may and may not carry out. Visitors to the site can also ask the Minister of Social Affairs and Employment questions.

### **3.5.5.1 Paid work**

320. In 2000, the Labour Inspectorate in the Netherlands completed a study entitled “Young people in the labour market” (available only in Dutch) (Appendix 10).

### **3.5.5.2 Work carried out in family businesses and in households**

321. Children aged 13 and over are permitted to do light work of a non-industrial nature on farms and in family retail businesses. Although child labour is monitored, no reliable specific figures are available on the employment of children in family businesses in agriculture and the retail sector.

### **3.5.5.3 Protection of specific groups of children**

#### **Family supervision order**

322. A family supervision order may be made (under Art.1:254, paragraph 1, Civil Code) if a minor is growing up in such a way that his or her moral or mental welfare is seriously at risk and other means of averting this danger have failed or are expected to fail. Officially, one of the parents, another person who is taking care of and raising the minor as part of the family, the Child Protection Board or the Public Prosecution Service may apply to the children’s judge. In practice, however, it is nearly always the Child Protection Board that makes an application for a family supervision order once it has carried out an independent investigation. In principle, the Board institutes an investigation when a case is referred to it by the Youth Care Office. When the court issues a family supervision order, the Youth Care Office supervises the minor and ensures that help and support are offered to the minor and to the parent with parental responsibility. The parent thus retains parental responsibility for his or her child, but this can be curtailed by:

- Written instructions concerning the care and upbringing of the minor. The parent and the minor must follow these instructions;
- Placing the child in care. This can only be done under a care order issued by the children’s judge. A care order is based on an assessment of the child’s best interests. It is valid for up to a year and can be continually renewed for a further 12 months. At the end of the first year the children’s judge re-assesses the situation. The petitioner or other interested parties can appeal against the decisions of the children’s judge.

#### **Divestment of parental responsibility**

323. Divestment of parental responsibility with the parents’ consent can be pronounced if one of the parents is unfit or unable to take care of and raise the child. If the parent opposes divestment, it can still be pronounced on specific grounds, such as following a six-month family supervision order or an 18-month care order, where the desired result has not been achieved. With this kind of divestment the parent is deprived of parental responsibility. Divestment of parental responsibility without the parents’ consent requires more serious grounds, such as abuse or gross neglect of the child or the perpetration of specific crimes against the child. Here, too, the parent is deprived of parental responsibility.

### **Unaccompanied minor aliens**

324. Unaccompanied minor aliens occupy a special place in Dutch aliens policy. Minors in this category can submit an application for asylum and this is carefully assessed against the criteria for granting a temporary asylum residence permit in accordance with standard aliens policy. The assessment framework used is identical to that for adult asylum seekers, while taking into account the special position in which minors can find themselves.

325. Unaccompanied minor asylum seekers who are granted a residence permit are placed under the responsibility of the "Nidos" family supervision and guardianship agency, which traditionally focuses its efforts on integrating these young people into Dutch society.

326. The principle underlying the policy is that unaccompanied minor aliens whose application for an asylum residence permit has been denied have to return to their country of origin or to another country to which they might reasonably go. This is also in the interests of the child. Only a few children who become uprooted or homeless ultimately benefit from being separated from their parents and their home environment. The interests of the child require, in principle, that the ties with parents, family and/or social environment be restored. This is why each individual case is considered on its own merits to determine whether repatriation is possible and sensible. If that is not the case, the minor may, under certain conditions, be eligible for a normal temporary residence permit, subject to the restriction "residence as an unaccompanied minor alien". The temporary permit is not issued on application, however; where appropriate, it is granted at the discretion of the competent authorities. Even where this normal residence permit is granted, the underlying principle is that unaccompanied minor aliens must leave the country as soon as possible, and at any rate before they reach the age of 18.

327. To encourage repatriation and to ensure that minors are as well prepared as possible, two pilot projects were launched in the Dutch towns of Vught and Deelen in 2002 and 2003. These are based on the principle of a campus, where certain house rules and basic standards are applied. An intensive daily programme is organised, aimed at preparing minors for their return to their country of origin. The campus operates according to the "transcultural competence-oriented method". There are two distinct phases:

- During the initial phase the main aim is to create a safe and stable living environment. This allows the minor to adapt to the rules and regulations of the campus and to learn to live independently and with others;
- During the follow-up phase (about eight weeks after arrival) the emphasis is on helping the minors to develop a sense of responsibility.

The project is reviewed monthly by all the parties involved at various stages in the asylum process. The results of an interim evaluation will be published in the summer of 2003. The final evaluation will take place around 1 January 2004 upon completion of the pilot projects. The outcome of these evaluations will determine whether the campus model is to be introduced on a long-term basis.

### 3.6 Article 11

#### 3.6.1 Right to an adequate standard of living

##### 3.6.1.1 The current standard of living

328. Between 1990 and 1995, net household income increased by 14%, a rate equal to inflation over this period. Between 1995 and 2000, income increased at a rate exceeding inflation. This was partly due to an increase in employment. All groups benefited from this improvement, as shown in table 17.

**Table 17**

**Average net household income 1990-2000**

	Average net household income x €1 000			Increase 1990-1995 (%)	Increase 1995-2000 (%)
	1990	1995	2000		
Total all households	18.4	20.9	24.8	14	19
With children <18	21.7	25.0	29.9	15	20
Lowest 25% of households	10.6	12.0	14.3	13	19
Highest 25% of households	33.3	37.4	44.8	12	20
Age <25	7.8	8.5	10.3	9	21
Age >65	14.7	16.7	20.1	14	20
Employed	21.1	24.3	27.9	15	15
Unemployed, disabled	9.9	11.5	13.5	16	17
Inflation rate				14	12

##### 3.6.1.2 Economic situation (key statistics and index figures)

329. The Netherlands has a comprehensive system of social benefits guaranteeing its citizens an adequate minimum income. These benefits are based on the statutory minimum wage. Changes in the gross statutory minimum wage are in turn based on the trend in wage rates. Additional income provisions cover specific types of expenditure on housing and children. Municipalities can offer special assistance with costs that are not met under other schemes.

330. The net minimum benefits are differentiated by household type. In 2000 they were about €5,900 for single persons, €8,300 for single parents and €11,900 for couples. This is exclusive of additional benefits, which can add an extra 30-35% of the net benefit. The proportion of all households on minimum incomes decreased between 1995 and 2000 from 8.5% to 7.7%. This was mainly due to an increase in employment.

### 3.6.2 Right to food

#### 3.6.2.1 Implementation of this right

331. The Netherlands is a net exporter of food and food products. The amount of food available in the Netherlands therefore greatly exceeds domestic demand. Food imports are generally motivated by shortages of particular foods due to the climate or season. Price considerations can also play a role.

### **3.6.2.2 Government policies on food production**

332. In view of the ample supply of food to meet domestic demand, government action focuses chiefly on the safety and quality of the food available and the consequences of food production for the environment and for patterns of consumption. Government action is increasingly determined by the policies of the European Union and consequent legislation.

333. A major development in relation to food safety is the adoption of the EU's General Food Law Regulation, containing important provisions on matters such as the traceability of foodstuffs. Enforcement of food safety rules in the Netherlands is the responsibility of the Food and Consumer Product Safety Authority (VWA).

334. With regard to food quality, there are signs of an increasing emphasis on the food industry's own responsibility to ensure the quality of its products. Legal controls on product characteristics other than basic quality requirements are being reduced. Here too, there are signs of an increasing influence of EU legislation on matters such as organic farming, geographical indications, designations of origin and traditional speciality guarantees.

335. Although there are signs of increasing interest in such European controls on food quality, little use is currently being made of them in the Netherlands. Dutch agriculture has traditionally concentrated more on the production of large quantities of uniform high-quality goods than on speciality food products. In any case, extensive forms of agriculture are difficult to practise in a country as densely populated as the Netherlands.

336. Farming in the Netherlands is increasingly subject to controls designed to protect the environment, working conditions, animal welfare and food safety. Once again, these are mainly EU-inspired. Regulations on the use of fertilisers and pesticides have had a particularly heavy impact on farming methods.

337. Measures to integrate agriculture and environmental protection are also being promoted. The aim is to modify farming methods so that they are not only productive, but also serve environmental objectives like the protection of endangered plant and animal species, sustainable water management and land use etc. If this means that farmers incur extra costs, these may in certain circumstances be compensated.

338. Policies on the growing of genetically modified crops demonstrate a degree of caution. Encouragement is being given for research and development work on new varieties but the introduction of genetically modified varieties into the environment is subject to stringent licensing controls. Where the sale of genetically modified foods is concerned, the policy is to give consumers the greatest possible freedom of choice. This is being achieved via public information campaigns and labelling.

### **3.6.2.3 Information on nutrition**

339. Nutritional education is directed principally at fostering healthy eating habits. A leading role in it is played by the Food and Nutrition Information Office, an organisation financed by the Ministry of Agriculture, Nature and Food Quality and the Ministry of Health, Welfare and Sport. Campaigns on healthy eating focus on obesity prevention, balanced diets, food hygiene, allergies, etc.

### **3.6.2.4 Equitable distribution of world food supplies**

340. The Netherlands efforts in this respect are focused on:

- Strengthening the capacity of developing countries to analyse, monitor and address the food insecurity of vulnerable groups;
- Financing food aid targeted at vulnerable groups.

341. In May 2001 the Netherlands embarked on a partnership programme with FAO aimed at strengthening the organisation's capacity to assist developing countries in the fields of food security, agro-biodiversity and forestry. As regards food security, the programme is strengthening the capacity of the organisation to assist developing countries to analyse, monitor and address food insecurity and to build up local capacity in this respect. The annual financial contribution for food security is €3 m.

342. While smaller financial contributions have been made available to NGOs active in the field of humanitarian assistance, the lion's share of Dutch food aid is made available to WFP through cash donations, in particular for food aid in the case of emergencies (EMOPs) and protracted crises and refugee situations (PRROs). The Netherlands has also contributed substantial sums to FAO's operations in support of post-crisis rehabilitation. An important component is improving access to seeds and tools. Throughout the period, overall annual spending has fluctuated around €60 m. The ICRC is also an important recipient of Dutch funding for humanitarian assistance (approximately €30 m a year), part of which is used for food aid interventions.

343. Since the Netherlands acknowledges that - by and large - food insecurity is a problem of food access rather than food availability, it gives priority to the provision of food aid based on local procurement. To make this possible, all food aid throughout the reporting period was made available on an 'untied' basis. The Netherlands is convinced that this way of providing food aid is important to ensure an equitable distribution of world food production and trade. It encourages local rural economies, increases income opportunities and reduces the risk of aid dependency.

### **3.6.3 Right to housing**

#### **3.6.3.1 Information about the situation in the Netherlands**

344. The main sources of detailed statistics on the Dutch housing situation are:

- "Cijfers over wonen", published annually by the Netherlands Ministry of Housing, Spatial Planning and Environment (available only in Dutch);
- "Statistics on Housing in the European Community", published - in principle - annually for the regular EU meetings of Housing Ministers (and also containing specific data on the Netherlands). The 2003 edition was published by the relevant ministry in Finland in cooperation with the Netherlands.

### **3.6.3.2 Vulnerable and disadvantaged groups within society**

#### **Homeless individuals and families**

345. In the Netherlands, people who are homeless are usually suffering from a combination of psychological and/or social problems and the lack of a place of their own in which to live is only one aspect of a complex situation. No one in the Netherlands is homeless because of a housing shortage or a lack of information on available housing. Most experts agree that there are currently about 30,000 homeless people in the country out of a total population of 16.1 million (2002 figures). Most of them live in some kind of hostel, boarding house, etc. Housing associations and other bodies play a role in finding appropriate independent accommodation for the homeless, in consultation with municipal social services etc. Only a small minority of the homeless sleep rough on the streets (between 1000 and 3000). Financial assistance specifically for homeless people is provided by the Ministry of Health, Welfare and Sport.

#### **Housing conditions**

346. On the basis of representative samples taken in 1989-1991, approximately 5% of all Dutch dwellings are regarded as being 'in serious disrepair', while another 15% lack certain basic amenities or are unfit for habitation. Statistics show that the proportion of dwellings without a shower or bath fell from 2% in 1994 to 0% in 2000. In the same year, the proportion of dwellings without individual central heating (but with other types of heating appliances) was 21%. Some 960,000 dwellings - 18% of the total housing stock - show some degree of technical deficiency. The pre-Second World War housing stock contains more dwellings in some degree of disrepair than the post-war stock. In general, owner-occupied housing is in a better state of repair than rented accommodation. Within the rental sector, it is privately rented housing that is most in need of refurbishment.

#### **Illegal occupancy**

347. The reduction of illegal occupancy is now regarded as an important issue. Illegal occupancy is taken to mean the subletting of dwellings contrary to municipal rules on multiple occupancy and/or contrary to the terms of the tenancy. There are no exact figures on the problem, but it is thought to occur mainly in places of relative housing shortage and in the major cities. Action to combat it is taken by municipalities and landlords. Cases of illegal occupancy sometimes involve people who are illegally resident in the Netherlands or situations in which accommodation is offered to such people. This sometimes leads to over-occupancy and uncontrolled internal alterations, perhaps resulting in to hazardous situations (fire risks or dangerous structural deficiencies). In addition to action by municipalities to enforce building regulations and rules on multiple occupancy etc., criminal proceedings are sometimes also instituted in such cases. Research shows, however, that a considerable proportion of illegal occupants are relatives or friends of those legally occupying the dwelling concerned.

#### **Evictions**

348. In 2002, there was a slight decline in the number of tenants in rent arrears. However, the figure is still very high, especially in the four major cities. In general, housing associations are alert to such problems and, as a result, have a good insight into the causes of rent arrears. They

are taking many forms of action to reduce arrears and this has reduced the total number of evictions by them. However, there has been an increase in the number of evictions as a result of antisocial behaviour. The total number of evictions is still very small, although exact figures are unknown. There is no lack of legal protection against arbitrary eviction in the Netherlands. The law provides protection for all those who have been evicted or face the prospect of eviction.

### **Affordability**

349. The housing policies pursued by the Dutch government are targeted primarily at particular groups of people who are unable to provide adequate housing for themselves, or need some help to do so. These groups are defined (in the Annual Housing Budget of 2002/2003) in terms of expendable annual income: single-person households (aged 65 or under), with an income of €17,700 or less; single-person households (aged over 65), with an income of €15,725 or less; multi-person households where the head of the household is aged 65 or under, with an income of €23,759 or less; and multi-person households where the head of the household is aged over 65, with an income of €20,500 or less. Around 2,282,080 households are regarded as belonging to these groups. This is equivalent to around 36.4% of all Dutch households (as at 1 January 2000). Provided that they are legally resident in the Netherlands and subject to certain conditions, all these people are eligible for some kind of state housing assistance.

350. It is estimated that on 1 January 2000 around 87,000 households were spending too large a proportion of their total income on rent, compared with 106,000 in 1994. The reduction was due to the success of policy measures implemented over the intervening period. The background to such policy measures is the fact that 60% of the existing housing stock consists of affordable rented accommodation with rents of up to €455 a month (as at 1 January 2000). This means that, in principle, there are sufficient numbers of dwellings to accommodate the policy target groups. On the other hand, a larger group of about 726,000 households are considered to be spending too small a proportion of their total income on rent. Figures on people receiving housing benefit to help them pay their rent can be found elsewhere in this report, as can a description of the measures taken to provide such benefit and other data. Almost all people eligible to receive such benefit apply for it.

### **Obtaining accommodation**

351. About 5% of people in the policy target groups are considered to be in urgent need of housing or re-housing (as at 1 January 1994). The definition of 'urgent need' is determined by the municipality and/or housing association concerned on the basis of municipal by-laws approved by higher authorities. Eligible candidates are put on waiting lists. Most of those in urgent need of housing already have some form of accommodation, such as a normal dwelling or rented room(s), or accommodation provided by their families or friends; they are, therefore, in search of alternative, more suitable accommodation. The average time spent on waiting lists before finding alternative accommodation is about two years. In cases of extreme urgency, however, the waiting period may be much shorter. If necessary, temporary housing can be provided (for example, in an emergency hostel or boarding house). Measures taken to reduce these municipal waiting lists include the construction of new subsidised housing and encouraging people to move to more expensive accommodation if they can reasonably afford to do so. On a national basis, the housing shortage has been reduced from 3.5% in 1994 to 1.8% in 1998.

## Types of housing

352. In 1994, 52.4% of all ordinary Dutch housing was rented, the remaining 47.6% being owner-occupied. By 1 January 2001, the proportion of owner-occupied housing had risen to 53%. About 81% of the rental sector consists of social rented accommodation: dwellings owned and let by housing associations (of which there were 550 in 2003) and other non-profit-seeking and municipal housing authorities; the remaining 19% are private rented dwellings, owned and let by private individuals or profit-seeking organisations such as pension funds and insurance companies. ('Public sector housing' in the sense of social housing provided, owned and let by the state is limited to the housing stock of the municipal housing authorities. They serve the same target groups as the housing associations.) These percentages more or less correspond to the proportion of the population in the various tenure categories.

353. In addition to ordinary housing as defined in the Buildings Decree (see below), there are various other types of residential accommodation: rented rooms, houseboats, student flats, holiday homes, etc. These currently amount to around 450,000 units. They can serve as temporary residences, but may also be occupied for longer periods. Almost half of the households occupying such units are young single-person households (students), mainly living in metropolitan areas and medium-sized towns.

### 3.6.3.3 Legislation

354. Article 1 of the Dutch Constitution states that all people must be treated equally. Discrimination is not permitted in any grounds whatsoever. This also applies to housing. Article 22, paragraph 2, of the Dutch Constitution states explicitly that it is the concern of the authorities to provide sufficient living accommodation. Entry into a home against the will of the occupant is permitted only in the cases laid down by or pursuant to Act of Parliament, only by those designated in the same way for the purpose and subject to certain specific conditions (art. 12 of the Dutch Constitution). Expropriation is allowed only in the interests of the general public and only in cases of emergency, against prior assurances, as determined by law (in the Expropriation Act). The major Act of Parliament governing housing is the Housing Act of 1901. This Act has been amended several times since then. The Housing Act confers on the municipalities of the Netherlands the authority to prevent and counteract undesirable housing situations; the following main elements of the Act give substance to this:

(a) Municipal councils are obliged to issue building regulations based on the Buildings Decree. The Buildings Decree applies to all municipalities and establishes minimum quality requirements for new housing, the existing housing stock and its use. The municipalities are not allowed to impose additional requirements (see also below);

(b) Permission in the form of a building permit issued by the municipality must be obtained before housing construction may begin, to enable the municipality to ensure that the stipulated minimum quality requirements will be met. The Buildings Decree aims to guarantee the structural quality of buildings in terms of safety, health, functionality and energy-efficiency. It is in line with European Union legislation. New amendments to the Housing Act entered into force on 1 January 2003. The Act now recognises three categories of structures: those requiring no building permit, those requiring only a reduced building permit, and those requiring full building control procedures. The Act defines the types of structures falling into the first

two categories. In doing so, it distinguishes between the front, side and back of the dwelling. Building work at the back of the dwelling is less likely to require a building permit. The new version of the Housing Act also provides for speedier decisions on building permit applications and for uniform procedures for the submission of building permit applications throughout the Netherlands;

(c) An application for a building permit may be refused if the building plans are not in line with the spatial planning (land-use) plans of the municipality. Such land-use plans are regulated in the 1965 Spatial Planning Act as amended in 1985. Municipalities play a central role in such planning. Provisions include procedures for public participation;

(d) Municipalities have a duty to investigate the quality of the existing housing stock, and to take appropriate action where dwellings are substandard or over-occupied;

(e) Municipalities must take measures to inspect buildings and construction; they must have building and housing inspection departments responsible for issuing building permits, summonses and declarations of unfitness for human habitation, and for investigating the condition of housing in their areas;

(f) It is the duty of central government to oversee the housing activities of municipalities and housing associations (see below). Following two catastrophic fires, one in a firework depot in Enschede (in May 2000) and one in a café in Volendam (at New Year 2001), new measures have been taken by municipalities, provinces, central government and the private sector. More attention is now being paid to safety and enforcement has been tightened up. Inspections are now more stringent and more frequent, and there is improved cooperation between authorities. Various statutory measures have been announced;

(g) The Act addresses various issues relating to the official recognition of housing associations. The primary statutory duty of officially recognised housing associations is to house people who, due to their relatively low income or personal circumstances, have difficulty in finding suitable accommodation for themselves. Such associations are independent, private non-profit-seeking organisations with a public task. Their responsibilities and organisation are regulated by the Subsidised Rented Sector (Management) Decree;

(h) The Act also affects the scope for financial housing assistance. Subsidies are aimed at reducing the cost of house construction (regulated in the Housing Subsidies Decree), the cost of land for housing (the Location-Related Subsidies Decree), and the individual rents paid by tenants (Housing Benefit Act). The Housing Subsidies Decree was rescinded in 2000. The Housing Act provides a basis for many decrees (only some of which are referred to above).

355. After the Second World War, many new laws were enacted in relation to housing. Although they were initially intended to be temporary measures, they have often become more permanent. The main ones are:

- The Housing (Allocation) Act of 1947, later replaced by the almost identically named Housing Allocation Act (see below);
- The Reconstruction Act of 1950, now for the most part no longer in force;

- The Rent Act, also of 1950, which formed the basis for periodic rent increases. This Act was replaced in 1979 by the Residential Tenancies (Rent) Act and the 1986 Rent Commissions Act.

The Residential Tenancies (Rent) Act and the Rent Commissions Act were repealed on 1 August 2003. The civil law provisions of the Residential Tenancies (Rent) Act were incorporated on the same date into an updated Book 7:4 of the Civil Code, while the remaining provisions of that Act were incorporated, together with the provisions of the Rent Commissions Act in an updated form, into the Residential Tenancies (Rent) (Implementation) Act.

356. The Residential Tenancies (Rent) Act contains provisions on the renting and letting of living accommodation. It stipulates that a single general set of rules on rents is to apply to the entire country; rents for living accommodation are so far as possible to reflect the quality of the accommodation concerned (a specific, detailed rating or valuation method has been devised to determine quality and value in terms of a certain number of 'valuation points'); there is to be a balanced distribution of rights and duties between tenants and landlords; disputes concerning acceptable rent levels are to be resolved without going so far as to terminate the rental agreement and there is to be a clear and efficient procedure for settling disputes about rents (via the rent commissions and limited jurisdiction sectors of district courts). The Act also contains provisions on the appointment, tasks and procedures of the rent commissions.

357. Rent commissions are responsible for resolving disputes about reasonable rents and changes to rents. More serious cases may have to go before the court. The members of the commissions are experts. There are currently 59 rent commissions. The number of secretariats supporting their work was reduced from 16 to just one central secretariat in 2001. Since the late 1990s, there has been a marked reduction in the workload of the rent commissions, but the trend in the number of cases requiring their consideration is expected to level out from 2003 onwards. In 1994, the number of cases considered was 99,901; in 2002, the figure was down to 70,000. The Landlord-Tenant Consultation Act, which entered into force in 1998, imposes a duty on landlords to inform their tenants of any plans concerning work in/on their dwellings and the adjacent area, the demolition of dwellings, their allocation and letting policies, their policies on rent levels, etc. The Urban Regeneration Policy Document published in 1997 describes the task of urban regeneration: the physical revitalisation of the cities by means of integrated action to improve housing, amenity (public spaces and planting) and the quality of the environment (soil remediation and noise reduction).

358. In 2000, the Urban Regeneration Act entered into force. The aim of the Act is to achieve greater decentralisation of policy development and implementation in the urban regeneration field.

359. Urban regeneration policy is directed at improving the quality of life in the cities. This is to be achieved via a closer match between supply and demand in the housing market, combating the drift of people on middle and higher incomes to the suburbs, and the transformation/restructuring and improvement of public spaces. The policy is also intended to help improve social and economic conditions and to enhance safety and security.

360. The Urban Regeneration Act lays the basis for the Urban Regeneration Investment Budget, which brackets together funding for a number of urban regeneration subsidy schemes (including those for the physical revitalisation of city centres) for the period from 2000 to 2010. These subsidies are intended primarily as a way of triggering investment by other parties (housing associations, private investors, project development companies and industry), from whom the bulk of the finance will have to come.

361. The Urban Regeneration Investment Budget involves participation by several ministries - Housing, Spatial Planning and the Environment; Economic Affairs (until 2005); Education, Culture and Science (from 2005); and Agriculture, Nature and Food Quality - and forms the physical lynchpin of the government's policy to revitalise the major cities via integrated action to address their physical, economic, social and safety problems. Thirty municipalities receive subsidies directly out of the Urban Regeneration Investment Budget to help fund the urban regeneration measures identified in their long-term investment plans. The other municipalities can receive such funding via the provinces. In December 1999, covenants were signed with the municipalities which receive the funding directly. In mid-2000, the provinces concluded agreements with the remaining municipalities. For the initial period of operation of the Urban Regeneration Investment Budget (2000-2005), just over €1.9 billion is available. For the second period (2005-2010), the size of the Budget has yet to be decided.

362. The Municipalities (Preferential Rights) Act of 1981 gives municipalities a right of first refusal on land offered for sale in their areas. The Act was initially brought into force in 1985, simultaneously with the Urban and Rural Regeneration Act, and then applied only to city-centre neighbourhoods in which urban regeneration was being undertaken. In 1996 its scope was extended to include municipalities designated as urban expansion areas. Since then, it has been further extended to include all land intended for or given a non-agricultural use, where the current use is different from that designated in the plan. Subject to the approval of the Senate, the scope of the Act is now to be extended again to include all municipalities.

363. The Housing Benefit Act of 1985 created a legal basis for the practice of providing rent relief for individual tenants, which had in fact existed since about 1970. In 1997 the Act was extensively amended.

364. Housing benefit is a key instrument of housing policy in the Netherlands. Dutch social housing policy has always been characterized by an awareness of the need to protect individual tenants against, for instance, excessive rent rises. Nowadays, about one million households receive this kind of relief; this is about a third of the total number of households in rented accommodation. The number of recipients has increased gradually over recent years from 917,000 in 1992 to 963,000 in 2002. The present state budget for housing benefit is about €1.5 billion; actual total expenditure is approximately the same. The maximum amount of benefit paid annually to each recipient is €3,600 (2002 figure) but the average amount paid is much less: about €1,500 per year, which is equivalent to about €125 per month per recipient. As a proportion of the total amount of rent to be paid by the tenant, housing benefit is, on average, about 42%. Around 40% of the recipients are retired people. A multi-person household (irrespective of the exact number of household members) on the minimum wage can receive, on average, the equivalent of about 15% of its income from housing benefit. On 1 January 2002, the Promotion of Home Ownership Act entered into force. The aim of the legislation is to promote home ownership among people on low incomes by introducing home purchase grants.

The target group for the scheme is the same as for housing benefit. However, take-up of home purchase grants has been far lower than expected because of the low price ceiling imposed on the dwellings for which the grants can be obtained. The Vacant Property Act of 1981 entered into force in 1986 and was last amended in 1992. The Act regulates the temporary letting of unoccupied premises. The number of vacant properties in the Netherlands is relatively small, amounting to 2.3% in 1990; this level of vacancy is to some extent inevitable and, indeed, necessary to enable the housing market to function properly. Certain elements of the Vacant Property Act have now been incorporated into the Housing Allocation Act (see below). The Act gives municipalities discretion to license landlords for a period of 3 years to offer lets on a temporary basis (maximum 5 years) in the case of dwellings that have been vacant for a long time as a result of restructuring. At the end of such temporary lets, the tenants have no further security of tenure. Draft legislation now before parliament would increase the maximum period from 3 to 5 years. The ministry is also considering whether the 'urgent own use' statutory ground for terminating a tenancy agreement contained in Book 7:4 of the Civil Code can be expanded to make it easier for landlords who specialise in student lets to terminate such tenancies once students have completed their courses of study. Landlords would still have to go to court but the procedure would be simplified.

365. The 1993 Housing Allocation Act replaced an earlier Act of 1947. The Housing Allocation Act is designed to achieve a balanced and equitable distribution of scarce residential accommodation. It deals with both the distribution and the composition of the housing stock. In connection with the freedom of settlement, freedom to dispose of private property, and the non-discriminatory nature of legislation, explicit reference is made to international agreements, including article 12 of the International Covenant on Civil and Political Rights, article 13 of the Universal Declaration of Human Rights, and Protocol 4, article 2, to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

366. The basic premises underlying the Act are freedom of settlement and the right to own property. The Act is in force throughout the Netherlands but, in line with its basic premises, is activated only when there is a scarcity of affordable living accommodation for lower-income groups. This is why the scope of the Act has been limited to dwellings up to certain maximum rent levels or purchase values; below these levels, a housing permit is required. For dwellings with higher rents or purchase values, no housing permit is required (except in certain specified cases). The restrictions on the acquisition of housing permits are less stringent in the Housing Allocation Act than in the previous legislation, partly because of the current wish to facilitate regional housing mobility.

367. The target group for the Act are the municipalities, which are responsible for ensuring the availability of adequate residential accommodation for their populations generally, and in particular for people on low incomes, the elderly, the disabled and asylum seekers. The municipalities have a duty to concern themselves with the accommodation of these socially and economically weaker sections of the population. They can do so in a variety of ways, including drawing up waiting lists ranking certain categories of people in search of residential accommodation in terms of priority.

368. The Housing Allocation Act gives municipalities the power to requisition vacant residential properties for a period of no more than 10 years. It also gives them the power to determine in their by-laws whether a permit is needed for the subdivision of a dwelling and

stipulates the grounds for refusing such permits. Under the Act, municipalities may likewise determine whether residential accommodation may be used for other than residential purposes and whether residential accommodation units may be combined. The objective of all these provisions is to retain accommodation in residential use or improve the level of occupancy of the existing housing stock.

369. Legislation relevant to land use, land distribution, land allocation, land zoning, land ceilings, expropriation (including provisions for compensation) and land planning, (including procedures for community participation) includes the Spatial Planning Act of 1965, the Expropriation Act of 1851 and the 1981 Municipalities (Preferential Rights) Act referred to above.

370. Provisions concerning the rights of tenants to security of tenure and protection from eviction, housing finance and rent control (or housing benefit), affordable housing, etc. are contained in the Civil Code, the Residential Tenancies (Rent) (Implementation) Act and the Housing Benefit Act.

371. Private-sector landlords have the same freedom to set rents as landlords in the social sector (housing associations). However, their stock is sometimes rather older (pre-Second World War) and may not be properly managed and maintained. Moreover, they often impose steep annual rent increases. In 1999, the Ministry of Housing took action to deal with this situation. Rather than adopting a stricter policy on rent levels for private landlords, it anticipated the integrated reform of tenancy law which came into operation on 1 August 2003 (see preceding paragraph) by including a 'maintenance procedure' in the Residential Tenancies (Rent) Act. This enables rent commissions to set much lower rents (on either a temporary or a permanent basis) for accommodation showing deficiencies seriously reducing its fitness for habitation. The aim of this sanction is to ensure that landlords act more swiftly to make good such deficiencies.

### **Non-discrimination**

372. Certain specific groups may be mentioned here, although it should be noted that any discrimination in their regard, in the housing field as elsewhere, has traditionally been positive. The current aim is to meet the housing needs of these specific groups so far as possible within the framework of mainstream housing policy. For instance, previous specific legislation regarding caravan dwellers and caravan sites has now been incorporated into the Housing Subsidies Decree, the Buildings Decree and the Residential Tenancies (Rent) Act. However, specific measures may prove necessary in future.

### *Asylum seekers*

373. A distinction is drawn between (a) asylum seekers who need accommodation while awaiting a formal decision on the award of a residence permit, and (b) asylum seekers who have obtained a conditional or permanent residence permit and for whom mainstream housing must be found. Taking both groups together, about 60% are single people, while 40% belong to a complete or incomplete household. Current policy makes central government directly responsible for the accommodation of the people in group (a). They are housed in a number of reception centres scattered throughout the country.

374. Under the Housing Allocation Act, the accommodation of people in group (b) is the responsibility of the municipalities. Every six months, the Minister of Justice (or at present the Minister for Integration and Immigration) publishes in the Government Gazette the number of refugees and asylees granted residence permits and expected to require housing. The Ministry of Housing has made additional subsidies available to facilitate housing provision for these people, including temporary accommodation needed to bridge the period until mainstream housing can be constructed or made available for them. Such temporary accommodation may be built on sites which are not currently designated for housing in municipal land-use plans. Housing allocation procedures (municipal ordinances) have been modified to improve the chances of the people concerned in the housing market.

375. Rental contracts for temporary accommodation of this kind are subject to normal rent and letting legislation (Civil Code, art. 7A). They are deemed to be dwellings within the meaning of the Residential Tenancies (Rent) Act referred to above. This means that stipulations concerning their valuation, maximum rent increases, etc. are similar those applying to other rented accommodation. The quality standards for such temporary accommodation are not permitted to differ from those prescribed in the Buildings Decree for mainstream housing. Nowadays, however, relatively little use is made of such temporary dwellings. This is partly due to the sharp decline in the numbers of asylum seekers, which means that sufficient accommodation can now be found within the existing housing stock.

376. Tables 18, 19 and 20 show the numbers of asylum seekers overall and the numbers of asylum seekers who obtained some form of temporary or permanent residence permit in the period between 1996 and 2002.

**Table 18**  
**Number of asylum seekers**

1996	19 900
1997	31 500
1998	42 000
1999	38 300
2000	33 600
2001	25 300
2002	13 000

**Table 19**  
**Number of asylum seekers in reception centres awarded residence permits**

1996	22 300
1997	17 000
1998	15 000
1999	9 500
2000	9 700
2001	8 500
2002	8 900

**Table 20****Numbers of asylees housed by municipalities**

1996	15 300
1997	16 900
1998	15 500
1999	12 900
2000	8 200
2001	5 800
2002	8 400

377. Asylees holding residence permits are treated in the same way as any other ordinary Dutch citizen on the housing market. Since the introduction of the Benefit Entitlement (Residence Status) Act on 1 July 1998, illegal immigrants in the Netherlands are no longer entitled to benefits such as housing permits. On 1 April 2001, the Aliens Act - in force since 1967 - was replaced by a new Act of the same name. The Aliens Act 2000 contains, among other things, new rules and procedures in relation to applications for asylum in the Netherlands. It does not, however, change the way in which asylum seekers are accommodated while awaiting the outcome of their applications for asylum. Nor does it change the arrangements for the accommodation of those whose applications have been accepted (asylees). The provinces have supervisory tasks. The distribution of responsibilities between the different tiers of government is to be incorporated in the Housing Allocation Act referred to above.

*The elderly*

378. The rising average age of the population will necessitate special housing measures. It is expected that by the year 2015 over 40% of heads of Dutch households will be aged 55 or older. Government policy is aimed at enabling the elderly to live independently for as long as possible. Measures include installing lifts and making other internal adaptations in existing dwellings. Increasing attention is also being paid to constructing housing in such a way that it can easily be adapted at a later date. For elderly people who are in need of more care and services, sheltered homes have been developed in recent years. This development parallels a reduction in the capacity of residential homes for the elderly. In 1992 there were 1,498 residential homes of this type, accommodating 126,929 people.

*Disabled people*

Legislative changes have been made with regard to grants for housing adaptation measures for disabled people. These are available under the Services for the Disabled Act out of funds which are now administered by the municipalities.

**Policy on caravans**

379. The repeal of the Caravan Act on 1 March 1999 represented a major advance in the normalisation of policy on mobile homes. Municipalities and housing associations have their own respective responsibilities to provide accommodation for people in their areas, including those who prefer to live in caravans. The municipalities are responsible for local housing

policies and the housing associations have a responsibility to cater for caravan dwellers who fall within their target groups. The number of caravan sites in the Netherlands has increased over the years: in 1994 there were 9,250 (compared, for example, to 7,058 in 1987). The shortage of sites for caravan dwellers in comparison is not disproportionate in terms of the general housing shortage.

### **Repeal or reform of existing legislation detracting from the fulfilment of the right to housing**

380. There has been no repeal or reform detracting from the legislative measures designed to ensure adequate housing outlined above.

### **Legislation restricting speculation on housing or property**

381. Regulations on social and other housing subsidies used to include anti-speculation provisions designed to prevent house-sellers (whether individual home-owners who have received subsidies in relation to their properties or housing associations owning subsidised housing) from making unduly large profits. Since January 1989 such anti-speculation provisions are no longer included in the subsidy regulations. Nowadays, the policy is to allow the municipalities to impose anti-speculation conditions. Central government is not allowed to interfere with their discretion in this respect. As in the past, municipalities also have powers to impose such conditions in relation to non-subsidised properties.

### **The environment**

382. As stated above, the Buildings Decree lays down a number of minimum quality requirements on various matters, including health. The requirements under this heading concern not only levels of noise, light, moisture, ventilation and air quality, but also the avoidance of building materials which are detrimental to health (e.g. formaldehyde), etc. A separate decree exists with regard to the removal, storage and use of asbestos. In 1995, the Ministry of Housing, Spatial Planning and Environment published its Sustainable Building policy programme which announced that sustainable building would be given a statutory basis. The first step in this direction was the inclusion of the Energy Performance Coefficient (EPC) in the Buildings Decree. In 1995 the EPC was 1.4. In 1998 it was reduced to a more stringent 1.2 and in 2000 to 1. In addition, the statutory building controls on domestic properties were amended to enable the inclusion of environmental requirements. So far, no use has been made of this power. Sustainable building is being achieved via voluntary agreements with various parties involved in house-building and via incentive schemes such as the Energy Performance advice scheme for house-builders. This was introduced in 2000 and is supported financially by fiscal incentives known as Energy Premiums.

383. Important provisions relating to housing and environmental planning in the Netherlands are also contained in the Environmental Management Act, the Soil Protection Act and the Noise Abatement Act.

## **Housing associations**

384. For more than a century, the Netherlands has had special organisations which serve the public interest by providing affordable housing. They are known as housing associations. Between the end of the Second World War and the mid-1990s, central government furnished these organisations (and the municipalities) with loans and subsidies to build huge numbers of dwellings to meet the post-war housing shortage. Housing associations are independent non-profit-seeking private-sector bodies (associations or foundations) which operate within a statutory framework laid down in the Housing Act and the Subsidised Rented Sector (Management) Decree. They have a long tradition and wide experience of providing good quality, affordable housing. Between them, Dutch housing associations own a total of approximately 2.4 million housing units (35% of the country's overall housing stock). At the time of writing (mid-2003), there are around 550 housing associations. This follows a substantial decline in numbers over the last few years as a result of amalgamations.

385. Housing associations are crucial to the achievement of government objectives in the housing field. Their large numbers of properties and huge financial power make them key players in urban regeneration and in efforts to achieve a sustainable and accessible national housing stock. In the latter respect, due attention needs to be paid to the increasing numbers of elderly people in the population and care must be taken to guarantee continuing affordability in the future. At the time of writing, central government is taking measures to ensure financial continuity and to prevent any neglect of the associations' specific remit. Six performance areas have been laid down in statute for the associations and they are required to meet specific targets within these. The six performance areas are the quality of the housing stock, rental policies, the quality of the residential environment, housing and care, tenant participation in policy and management, and financial continuity. The associations are required to report annually to central government on their performance in each of these areas. The challenge for central government is to allow the associations sufficient freedom of action, while at the same time actively encouraging them/spurring them on to improve their performance. In 2000 and 2001, central government formulated new priorities in housing policy, including the role of the housing associations. The promotion of home-ownership is now a policy objective in its own right and policy is increasingly focusing on the two themes of urban regeneration and housing and care.

### *The financial structure of the housing association sector*

386. Through to the mid-1990s, the system of loans and subsidies created a close financial relationship between central government and the housing associations. This relationship was terminated in 1995 by a specific Act of Parliament cancelling both the outstanding central government loans and the subsidies to which the housing associations were still entitled. The result of this 'grossing up' operation was to create a financially healthy social housing sector.

387. Since then, central government has confined its subsidies to those designed to act as incentives for house-building by other parties. The relationship between central government and the housing associations is now based on the supervision of performance in the areas mentioned above (those specified in the Subsidised Rented Sector (Management) Decree. Legal and economic ownership of the relevant part of the national housing stock now rests with the housing associations themselves.

388. Two institutions have been established to ensure a viable funding structure for the sector. The Central Housing Fund (CFV) is a central government body with powers to oblige any housing association that is in financial difficulties to take measures to remedy them. It is resourced via sector-wide levies. In addition, the majority of the sector's loans (for purposes of investment in maintenance and new build projects) are mutually guaranteed by the associations, with the local and central government authorities acting as a safety net. This arrangement is achieved in practice via a special Social Housing Guarantee Fund (WSW), established by the sector specifically for this purpose. The WSW has reached agreements with the local authorities and central government on the practical arrangements for their safety net function. The existence of the WSW and the government safety net means that borrowing can take place at significantly lower interest rates. As a result of the existence of the WSW, the CFV, central government supervision and the associations' own initiative, a revolving fund has been created and the quality of the social housing stock is being maintained. Accordingly, changes in the housing stock are now dictated primarily by changing housing demand and policy priorities, within a financial framework which generally provides ample scope for the necessary developments.

389. Over recent years, the financial position of the sector has improved. The assets of housing associations have increased not only as a result of a cautious approach to risk and future expectations in the past, but also because of the growth in the Dutch economy through to 2000, low interest rates and the boom in house prices in the Netherlands. The sale of rental properties has brought the associations substantial gains. At the time of writing, however, returns from the sale of rental properties are declining as would-be buyers find it increasingly hard to finance such purchases.

390. In mid-2002 it was realised that the overall assets of the housing association sector were more than €9 billion in excess of the amount required to fulfil current housing policies, taking account of all future risks, returns and necessary investments in the maintenance of the current housing stock. This situation raised political expectations at central government that the excess assets could be used to make the necessary investments in urban regeneration mention above (especially in the 50 priority neighbourhoods currently designated).

### **Affordable housing**

391. The 1993 Subsidised Rented Sector (Management) Decree, mentioned above, offers housing associations a greater degree of self-reliance and freedom to determine their own policies and respond to market forces. An important new measure taken under this Decree is what is called 'rent pooling'. This enables the housing associations to make larger differentiations between individual dwellings when increasing rents. Previously, they were bound to make generic rent increases at levels prescribed by central government. Now, they can vary the increases for individual properties, although the total sum of the rent increase across the board must equate to that prescribed by central government. There are also new measures regulating the relationship between housing associations - as social landlords - and their tenants. The housing associations are now obliged to make arrangements for tenant participation in policy and management matters. Furthermore, certain detailed provisions on financial and other aspects of the management of housing associations have now been revoked, allowing the associations greater self-reliance and self-determination. At the same time, however, the housing associations are expected to give a retrospective annual account of their activities, especially in terms of fulfilling their explicit responsibility to provide affordable accommodation for

lower-income households. These accounts must be rendered to the municipal authorities in whose areas the (often locally based) associations operate. Nevertheless, ultimate responsibility for the supervision of the housing associations still rests with the Minister of Housing, who may undertake investigations and impose sanctions on his/her own initiative.

392. Because their position in the housing market is weaker than that of the landlord, tenants are protected against extreme demand-driven rent increases by the Residential Tenancies (Rent) (Implementation) Act. This provides two major protections in this respect: (1) a ceiling on individual rents based on a points system for valuing properties; (2) an annual ceiling on rent increases. The legislation applies to tenants of all landlords, whether social or commercial, and for all rented housing below a certain price ceiling. Only about 5% of all rented housing is currently above this price ceiling.

393. For tenants in social housing there is an extra limitation for the period from 1 July 2002 to 1 July 2005: total rent increases for a sitting tenant over that period must not exceed the rate of inflation by more than 0.4%. This provides extra protection for such tenants (often households on low incomes).

394. The Dutch housing scene used to be characterized by a large degree of subsidization and the proliferation of different subsidy schemes. Although many of these schemes still exist, no new government financial commitments are being made under them and they will therefore gradually decline and disappear.

395. As far as construction/development subsidies in housing are concerned, there are now two subsidy schemes, which have recently been introduced and described in two separate decrees:

- (a) Housing-related subsidies, as formulated in the Housing Subsidies Decree; and
- (b) Location-related subsidies, as formulated in the Location-Related Subsidies Decree.

These subsidy schemes are mainly targeted at a designated number of specific, large urban regions in the Netherlands where construction of a total of 460,000 dwellings is planned for the 1995-2005 period.

396. The housing-related subsidies are intended to reduce the cost of building low-cost housing (social rentals), thereby reducing their rents and making them affordable for lower-income groups. It is expected that only about a quarter of all new house-building in the 1995-2005 period will be subsidised. This is about 25,000 dwellings a year, costing on average approximately 12,000 guilders per dwelling. Total construction costs of such dwellings (including the cost of land) are calculated at about 140,000 guilders. This means an average initial monthly rent of 725 guilders. At this rent level, tenants will still be eligible - at least, on that criterion - to receive housing benefit (details of which are given elsewhere in this document). The subsidies can also be allocated to housing-related activities such as the construction of mobile homes or major refurbishment of certain privately rented dwellings.

397. The location-related subsidies are meant to reduce the costs of land development for housing. An average subsidy of 4,500 guilders per dwelling is available for this purpose.

Irrespective of how they spend the subsidies described above, the municipalities concerned are expected to act in concert with housing associations, project developers and other actors on the housing market to help achieve the construction of the required number of houses.

398. Besides these subsidies, mention must be made of four funds. The Central Housing Fund (CFV) was set up in 1988 and is a fund created by and for housing associations. Its capital is fed by compulsory payments from these associations. It is also called the 'Solidarity Fund', because its function is to provide financial help for housing associations with inadequate financial reserves. In the past (until 1988), this was the responsibility of central government, the municipalities and the housing association concerned. However, once the housing associations were considered to have amassed sufficient financial reserves of their own, they took over sole responsibility. The Fund is now an independent body in which central government and the Union of Dutch Local Authorities (VNG) are also represented.

399. The Social Housing Guarantee Fund (WSW), set up in 1984, is a private fund that guarantees loans made by housing associations for the construction of new social rental housing and the improvement of existing housing in this sector; a few years ago, the scope of guarantee activities was widened. Lower interest rates can be obtained thanks to the existence of the Fund. The Fund's resources are supplied by the capital market. Central government used to act as guarantor but the present role of central government and municipalities is confined to counter-guaranteeing the loans.

400. Both of the aforementioned funds operate effectively and provide the funding necessary to housing associations.

401. The Guarantee Fund for Owner-Occupiers (WEW) was set up in January 1995. Though the Fund is not intended to serve the rental sector, it is of relevance here because it enables owner-occupiers who lack sufficient means to acquire a house of their own by obtaining a mortgage guarantee from the Fund. The capital used to be provided by central government and the municipalities via a guarantee construction known as the 'municipal guarantee'. This role has now been taken over by the Guarantee Fund for Owner-Occupiers, which provides what is known as a 'national mortgage guarantee'. Its purpose is similar to that of the former municipal guarantee: the promotion of home-ownership. The Fund's capital is provided by contributions from the mortgage lenders themselves. This enables the Fund to operate in a financially independent way. The role of central government and the municipalities is confined to preventing the Fund from going bankrupt if it should run into financial difficulties.

402. The National Restoration Fund (NRF) was established in 1985. It provides low-interest mortgage loans for the restoration of listed buildings. These now include low-cost pre-Second World War dwellings. The Fund's capital is furnished by central government. It works as a revolving fund. On 1 September 2002, the NRF launched new arrangements by which house-owners are able to finance the restoration of their homes in a quick and simple way.

### **Land use**

403. In principle, all measures concerning the designation of land use are taken at municipal level in the context of the local land-use plan, which is the only legally binding spatial planning document in the Netherlands. Virtually every part of the country is covered by a local land-use

plan. That is not to say that other tiers of government (provincial and national) do not have a considerable influence on policy (at national level through policy statements, guidelines and financial controls and at provincial level through regional plans).

404. The Netherlands is a small, very densely populated country with an elaborate spatial planning system operating at three levels (municipal, provincial and national). There is very little unused or under-utilized land. The category of 'misused land' could be taken to include areas where the soil has been contaminated (often, for example, as a result of industrial use). Under the National Environmental Policy Plan, great efforts are being made to decontaminate these areas and make them available for normal use.

405. Housing policy in the Netherlands is focused, in the first instance, on achieving the maximum utilization of land within the boundaries of designated existing large cities and towns ('VINEX' locations). Where necessary, this is being done via intensification (in other words, an increase in housing density). This policy is clearly expressed in the national spatial planning policy document (known by the acronym 'VINEX'). Where this option proves impracticable (for example, in the case of The Hague, which has virtually no remaining land that can be used for housing), land as close as possible to the existing city/town is to be used, even if it has to be decontaminated, providing the expense is not too great.

## Budget

406. Table 21 shows housing expenditure in the context of the national budget.

**Table 21**

**The national budget, budgeted housing expenditure and housing expenditure as a percentage of the national budget (in Dutch guilders, unless stated otherwise)**

Year	Total national budget (x 1 m)	Housing budget (x 1 m)	Housing budget as % of total national budget
1970	29 524	2 590	8.77
1975	62 815	5 490	8.74
1980	114 893	8 964	7.80
1985	166 737	14 360	8.61
1990	186 029	12 249	6.58
1995	233 282	43 287 <sup>a</sup>	18.56
1996	205 630	5 663	2.76
1997	210 898	5 689	2.70
1998	217 705	5 704	2.62
1999	225 260	5 823	2.59
2000	283 870	5 615	1.98
2001	286 500	5 583	1.95
2002	290 492	4 952	1.71
	(€131 820)	(€2 247)	

<sup>a</sup> This very high one-off figure was the consequence of a financial trade-off between central government and housing associations/institutions aimed at increasing the financial self-reliance of the latter (the 'grossing-up' operation described in paragraph 386).

### 3.7 Article 12

#### 3.7.1 Government expenditure (key statistics and index figures)

407. The Dutch health care system is in some ways unique. The Netherlands has an exceptional, mixed system of public and private health insurance. A well-functioning health service is considered a constitutional right. In order to provide this care for the population of the Netherlands, the government plays an active role in legislating for health care and in the financing of the health service. Statutory insurance packages are compiled on the basis of various laws, which also determine the premiums and contents of these packages. There is also provision for additional medical expenses insurance, which is based on private law and is normally referred to as 'private insurance'. Dutch health care insurance falls into three categories: 1) insurance against serious medical risks for all inhabitants, 2) income-related health insurance, and 3) additional insurance, which can be taken out voluntarily to supplement the two statutory schemes. The content of these packages varies greatly, as does the premium and any own risk cover. The figures in table 22 relate to all three categories of insurance.

**Table 22**

**Total expenditure on health as a percentage of  
Gross Domestic Product in the Netherlands**

1996	1997	1998	1999	2000	2001	2002
8.3	8.2	8.1	8.2	8.2	8.5	9.1

*Source:* OECD Health Data 2004, 1st edition.

#### Costs of illness in the Netherlands

408. Chronic illness causes a large proportion of Dutch health care expenditure. Every four to five years, a large study is undertaken to identify the costs of illness in the Netherlands. These costs are distributed unequally over the various ICD groups. The patterns for men and women are more or less identical: high expenditure on mental illness, cardiovascular disease and diseases of the digestive system; relatively low expenditure on diseases of the blood, congenital malformations and infectious diseases. A rather surprising feature is the relatively low expenditure on cancer, one of the major causes of mortality in the Netherlands.

409. In both sexes, Dutch health care expenditure increases exponentially with age, reaching approximately €30,000 per capita at the age of 95 (in 1999). The cost profile by age category shows a high peak for women between 70 and 90 years of age and a smaller peak for women of child-bearing age (25-40 years). This pattern is similar to that in many other countries and shows the impact of ageing on total national health expenditure.

410. The major diseases or disease groups associated with the highest costs in the Netherlands are mental retardation, dementia, stroke, coronary heart disease and other chronic conditions, such as visual impairments. Other high-cost health issues are dental problems and pregnancy. Dutch cost of illness data are also available by care sector, sex and age group (RIVM, 2002; [www.costofillness.nl](http://www.costofillness.nl)).

411. The Dutch health care system has recently been confronted with rapid increases in expenditure on pharmaceuticals and home care, and waiting lists have become a serious problem. Injections of additional funding have helped to reduce the latter.

### 3.7.2 Statistics

#### 3.7.2.1 Child mortality

412. Perinatal health outcomes are under pressure in the Netherlands. Until the early eighties, Dutch perinatal and infant mortality rates were amongst the lowest in the world, reflecting high standards of public health and health care with, at that time, an unusually high rate of home births. More recently, however, a further decline such as that observed in the Scandinavian countries and elsewhere has failed to appear in the Netherlands. Dutch perinatal mortality rates are currently above the average for the new EU. This is probably due to a cluster of increasing risk factors due to the observed growth in the proportion of pregnant women who carry an increased perinatal risk. An increasing percentage of births are to women from ethnic minorities and indigenous Dutch women are increasingly delaying the decision to have children. A comparatively large number of Dutch women are now giving birth after their 35th birthday. Advanced maternal age is associated with increased health risks for the baby. Increased rates of in vitro fertilisation, increased numbers of multiple births and relatively high rates of smoking during pregnancy also contribute to the Dutch risk profile.

413. In the Netherlands, health care and prevention around childbirth is still largely in the hands of midwives, although the proportion of births taking place in hospital is rising steadily over time. There are no indications that home births increase the perinatal health risks of Dutch babies.

414. Despite the strong increase in perinatal risk factors described above, the perinatal mortality rate has not risen in the Netherlands; it has merely stabilised and failed to decline further. In view of the significant changes in perinatal risk profiles, this may even suggest that improvements have occurred in areas such as lifestyle and/or health care and prevention around birth which are counteracting the increased risks.

**Table 23**

**Infant mortality, deaths per 1,000 live births in the Netherlands**

1995	2000	2001	2002
5.5	5.1	5.4	5

*Source:* OECD Health Data 2004, 1st edition.

#### 3.7.2.2 Life expectancy

415. In 2003, life expectancy at birth was 76.2 years for Dutch men and 80.8 years for Dutch women (CBS, 2004). At 65 years of age, the difference in life expectancy between men and women is still almost four years (15.3 years versus 19.1 years).

416. The life expectancy of Dutch men at birth is rising less rapidly than the EU15 average. Nonetheless, the Netherlands still occupies a relatively favourable position in terms of life expectancy at birth for men. In comparison with other European countries, a relatively large number of elderly Dutch men die from lung cancer, Chronic Obstructive Pulmonary Diseases (COPD), pneumonia and prostate cancer.

417. The life expectancy of Dutch women continues to lag further behind the EU15 average than that of men. Their life expectancy is stagnating and has now fallen below the EU15 and even the EU25 average. Again, lifestyle-related causes of death, especially smoking, are more prevalent than in many other European countries. A similar development has been observed in Denmark, where the effect of unhealthy lifestyles is even more marked. For more information about Dutch life expectancy, see the RIVM report "Heath on Course?" (2003) ([www.rivm.nl](http://www.rivm.nl)).

418. That averages do not tell the whole story is demonstrated by the case of Dutchwoman Hendrikje van Andel-Schipper, who recently became the oldest person in the world and has celebrated her 114th birthday on 29 June 2004.

**Table 24**

**Life expectancy of males and females at birth in the Netherlands (in years)**

	1995	2000	2001	2002
Females	80.4	80.5	80.7	80.7
Males	74.6	75.5	75.8	76.0

*Source:* OECD Health Data 2004, 1st edition.

### **3.7.2.3 Access to health care**

419. In the Netherlands, everyone is entitled to necessary medical treatment. Where people have health care insurance, some or all of the costs of such treatment are met by that insurance. Uninsured people must meet the costs themselves. Health care providers who are unable to collect payment for necessary medical treatment given to aliens with no legal right of abode in the Netherlands can apply for reimbursement out of a special-purpose fund set up under the Benefit Entitlement (Residence Status) Act.

420. The Netherlands has a mixed system of public and private health insurance. The two statutory public health insurance schemes are governed by the Exceptional Medical Expenses Act (AWBZ) and the Health Insurance Act (ZFW) respectively. Under the AWBZ, everybody who is legally resident in the Netherlands has statutory insurance against the costs of long-term nursing and care. The ZFW insurance scheme covers employees, self-employed people, social security and other benefits claimants, pensioners and people living on social assistance, and their families, provided that the household income is below a certain level (set annually). Aliens with no legal right of abode are not covered by either scheme. Around 60% of the population is insured against the costs of curative medical treatment under the ZFW. People who are not insured under the ZFW can take out private medical insurance. The Private Medical Insurance Access Act obliges private medical insurers to accept those seeking private medical insurance for the first time and to offer them a standard insurance package at a standard premium, both of

which are prescribed by government. Aliens with no legal right of abode are excluded from this provision. There is a law in preparation (The Health Insurance Act) that will change this system substantially per January 2006. The difference between the ZFW insurance scheme and the Private Medical Insurance Access Act will disappear. All Dutch citizens will be obliged to insure themselves for the same standard package prescribed by the government.

### **3.7.3 Vulnerable groups as regards health care**

#### **3.7.3.1 Possible adverse effects of policy and/or legislation and measures to alleviate them**

##### **Socio-economic inequalities in health**

421. With regard to health, vulnerable groups within society tend to be those with a low socio-economic status. Average life expectancy of people in these groups is 3.5 years less than that in groups with a high socio-economic status. They can also expect to spend more years in relatively poor health (they suffer physical incapacity for 10 years longer and feel less well for 15 years, see RIVM report “Health on Course? ( 2003). Ethnic minorities are over-represented in the group with a low socio-economic status.

422. A report on the causes and determinants of these socio-economic inequalities in health was published in March 2001 (“Reducing Socio-Economic Inequalities in Health. (SEGV-II) Final Report and Policy Recommendations from the Dutch Programme Committee on Socio-economic Inequalities in Health - Second Phase. Health Research and Development Council of the Netherlands”). On 16 November 2001, the government published a position paper based on this report and one on health in the major Dutch cities (RIVM, “Gezondheid in de Grote Steden”, November 2001; available only in Dutch ([www.rivm.nl](http://www.rivm.nl))). In the position paper, the government pledged to strive to add 3 years to the healthy life expectancy of people in groups with low socio-economic status by 2020. To achieve this will require measures directed both at improving the socio-economic status of the people concerned and at promoting healthy lifestyles and improving the availability and effectiveness of health care for people in lower socio-economic groups. The Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science have already started to take measures in the first of these areas (for example, to allay poverty and reduce educational disadvantage).

423. The promotion of healthy lifestyles is the key theme of the policy document “A Longer, Healthier Life 2004-2007. Partly a question of healthy behaviour” (“Langer Gezond Leven 2004-2007. Ook een kwestie van gezond gedrag” ([www.rivm.nl](http://www.rivm.nl))), published in December 2003. This identified the reduction of avoidable health risks as a policy aim. The development of measures in the priority areas specified in this policy document (smoking, obesity and diabetes) includes a specific focus on people at a health disadvantage. In addition, the issue of health is included in the new Urban Policy Framework (GSB II, 2005-2009, Ministry of the Interior and Kingdom Relations). In that context, central government has reached agreement with the 30 major towns and cities that they will take measures to reduce health disadvantage, and in particular to prevent and reduce obesity among children and teenagers in disadvantaged urban areas. Urban Policy is based on an integrated approach focusing both on the physical environment and on social conditions.

### 3.7.3.2 Measures to improve the lives of children

#### Marketing of alcohol

424. In early 2000, the Minister of Health, Welfare and Sport agreed a code with the drinks industry on the advertising and sale of alcohol. This was partly designed to protect children against aggressive marketing of alcoholic beverages. For example, there is now a ban on alcohol advertising directed at minors or likely to be seen by large groups of young people. In the autumn of 2003 there will be consultation with relevant producers, parts of the catering industry and retailers on further restrictions implementing the Council of the European Union's *Recommendation on the drinking of alcohol by young people, in particular children and adolescents* (2001/458/EC). If the alcohol industry is unwilling to agree to further restrictions, the minister will bring a draft Advertising Decree under the Licensing and Catering Act before parliament.

#### Anti-smoking policies

425. Dutch policies to discourage the use of tobacco have three main aims:

- To prevent young people from becoming smokers;
- To reduce the number of smokers and to help smokers stop smoking if they wish to do so;
- To protect non-smokers.

To achieve these aims, an integrated and transparent package of measures is being implemented. It includes public information, legislation, duties on tobacco, enforcement action and research.

426. Research shows that the level of smoking among young people has remained unchanged for a number of years. It is lower among girls than boys. In 2002, 74% of girls were non-smokers compared to 71% of boys (source: STIVORO annual report, 2002, [www.stivoro.nl](http://www.stivoro.nl)).

#### Public information

427. The Dutch Foundation on Smoking and Health (STIVORO) campaigns for a smoke-free future and aims 'to improve public health in relation to smoking and in particular to reduce the consumption of tobacco'. Its campaigns target adults and young people separately. In the case of the latter, the aim is dissuade them from starting smoking. STIVORO's programme of action to achieve this comprises the following projects:

- A multimedia campaign entitled 'US' (marketing experiment to enhance the image of non-smoking among young people);
- Individual 'no-smoking' agreements;
- Campaign to encourage traditional no-smoking agreements;

- ‘Smoke-free school’ campaign;
- Provision of information for use in oral and written assignments by primary school children (‘Kim’);
- Development of an integrated package for use in schools to promote on-going learning about the dangers of smoking;
- Linking the subject of smoking to existing activities (‘Code Name Future’);
- Research and development work on ways to influence young people to stop smoking;
- Research and development work on ways to influence parents;
- Research on trends in smoking among young people.

The Ministry of Health, Welfare and Sport subsidises STIVORO’s campaign to influence young people. A sum of €1,361,341 is earmarked for anti-smoking propaganda addressed at young people in general and in schools in particular, and a sum of €1,361,341 for further work on the marketing experiment to enhance the image of non-smoking among young people.

#### *Legislation and enforcement*

428. On 17 July 2002 various amendments were made to the Tobacco Act. They included an important provision to prevent young people from becoming smokers by banning the sale of tobacco to anyone under the age of 16. The ban has been in force since 1 January 2003. Retailers have a duty to ensure that they do not sell tobacco products to anyone below this age and run the risk of being fined between €450 and €4,500 if they do so. On 1 January 2003 it also became illegal to sell packets containing fewer than 19 cigarettes or to provide tobacco products free of charge. Fines for non-compliance are on the same scale as those for the sale of tobacco to a person under the age of 16.

#### **3.7.3.3 Improvement of living and working conditions**

429. Since 29 March 2002, European Council Directive 98/24/EC on the protection of the health and safety of workers from the risks related to chemical agents at work has been fully implemented. Since 2002, the Netherlands has completely satisfied the requirements of Euratom Directive 96/29/EC concerning measures to protect workers against ionising radiation. For details of the relevant measures, see the text of these directives (Appendix 11 and 12). There is no sign of any specific effect on the situation of vulnerable or disadvantaged groups.

#### **3.7.3.4 Prevention, treatment and control of diseases**

##### **Prevention**

430. The government has set up, maintained and funded a childhood vaccination programme under which 95% of children in the Netherlands have been vaccinated against diphtheria, whooping cough, tetanus, polio, haemophilus influenza, mumps, rubella and measles. In 2002, meningitis C vaccination was added to the national programme and by the end of the year all children up to the age of 19 had received it.

431. An effective infrastructure has been put in place to combat infectious diseases. The Control of Infectious Diseases and Investigation of Causes of Disease Act and the Public Health (Preventive Measures) Act give the municipal authorities a key role in combating infectious disease. This local infrastructure functions well and takes care of approximately 90% of infectious diseases and epidemics. The National Coordinating Office for the Control of Infectious Diseases plays a special role in combating the remaining 10% of more serious and extensive epidemics. The government is currently working on further improving the infrastructure for these crisis situations.

432. Organisations funded by government or private means help in the fight against specific diseases. They conduct research, carry out monitoring and preventive tasks and try to improve treatment. These organisations include the Travel Vaccination Coordinating Office, the STD Foundation, the Centre for Information on Hepatitis, the AIDS Fund Association, various cancer research organisations, the Royal Tuberculosis Association and the Rheumatoid Arthritis Association.

433. The government is devoting increasing attention to prevention. There is a heavy emphasis on healthy lifestyles and early diagnosis and treatment. The Working Conditions Act and safety, health and welfare services play an important role in the prevention of occupational disease. Health protection is of a high standard and there is adequate monitoring of compliance with the regulations.

434. The total health care system comprises general practitioners, services which are easily accessible for all and which can be consulted anonymously, municipal health services, out-patient clinics, general hospitals and hospitals specialising in particular fields.

### **3.7.3.5 Curative medical assistance and care**

**Table 25**

#### **Practising physicians, density/1,000 (head of population)**

	2000	2001	2002
Netherlands	3.2	3.3	3.1

*Source:* OECD Health Data 2004, 1st edition.

435. The Netherlands has a well-developed system of primary care, which is normally directly accessible. Providers are often independent and include general practitioners, home care institutions, dentists, midwives and physiotherapists. General practitioners fulfil a gatekeeper role in the Dutch system and refer patients on for hospital care and specialist care. Recently, there has been some pressure on this part of the system because of an emerging shortage of general practitioners (Health on Course? (2003). Most Dutch medical specialists working in general hospitals are self-employed. Often, they are members of partnerships and practise only in the hospital setting. However, there is now a slight trend towards working in private practice outside the hospital. Dutch hospitals and other health care institutions are generally of a private, not-for-profit nature. The remainder are publicly owned. Out-patient care is an integrated part of the Dutch hospital system.

436. Besides the particular way in which it is organised and financed, the Dutch health care system has some other peculiarities. Some of these reflect general attitudes of the Dutch public and their doctors towards health care delivery.

437. Dutch people are not entirely satisfied with their health care system. In a number of surveys, 73% said they were very or fairly satisfied. Higher scores have been recorded in France and Austria (78% and 83% respectively), but much lower scores in Greece, Portugal and Italy, ranging from 19% to 26 % ([Eurobarometer survey, 1999](http://www.europa.eu.int); [www.europa.eu.int](http://www.europa.eu.int)). A WHO study on the 'Level of prompt attention' (Evans, 2002) records a relatively low score for the Netherlands, compared to 20 other European countries.

438. Home births are common in the Netherlands. Although fewer than in the past, a large percentage of deliveries in the Netherlands are still attended only by midwives and many mothers (around 30%) still plan to give birth at home. The Dutch perinatal care system is also characterised by low rates of caesarean sections.

439. Dutch doctors are not criminally liable for euthanasia subject to certain conditions. Under a new Act introduced on 1 April 2002, doctors who perform euthanasia are no longer criminally liable provided they have followed the prescribed procedures and reported death by non-natural causes to the regional euthanasia review committee. Euthanasia may only be carried out at the explicit request of the patient. It allows patients to end their lives with dignity after having received every available type of palliative care. In the Netherlands, euthanasia is understood to mean termination of life by a medical practitioner at the request of a patient. This definition also covers assisted suicide. As euthanasia is illegal in many other countries, it is currently impossible to judge whether euthanasia occurs more frequently in the Netherlands than in other countries.

440. Care for people with mental disabilities is an integrated aspect of Dutch health care. The Dutch health care system has a strong mental health component. A considerable proportion of total Dutch health care spending goes on care for people with mental disabilities and other mental health care (RIVM report "Health on Course?" (2003)), including drug and alcohol abuse treatment facilities.

441. There is low rate of antibiotic use and consequently a low rate of antibiotic resistance in the Netherlands. Until recently, the Netherlands has spent relatively little on pharmaceuticals. The potentially undesirable overuse of antibiotics is limited by medical guidelines. This has contributed to the relatively low rates of antibiotic resistance in the Netherlands as compared to many other European countries.

442. Abortion is legal in the Netherlands subject to certain conditions. One of these is that the pregnancy has not progressed beyond 24 weeks. Because of advances in medical science, more very premature babies can now be kept alive. This has led to the practice of restricting abortion to the first 21 weeks of pregnancy. A woman may only have an abortion if she and her doctor both feel that her circumstances are compelling. Her doctor must inform her of other solutions, and may only perform the abortion if the woman has reached her decision voluntarily and after due consideration. To give her time to consider her decision, at least five days must elapse between the first consultation and the actual termination. Abortion is governed by specific legislation. This situation coincides with low abortion rates in the Netherlands.

### **3.7.4 Costs of health care and their effect on the elderly<sup>15</sup>**

443. During the big economic boom of the 1960s, the Netherlands introduced a social insurance scheme covering the whole population. Under the relevant legislation - the Exceptional Medical Expenses Act (AWBZ) - the scheme originally covered no more than the cost of care provided in nursing homes. Domiciliary nursing was included in the 1970s, other domiciliary care in the 1990s, and care in residential homes in 2001.

444. The scheme now covers the cost of care for the elderly, whether provided in the community, in residential homes or in nursing homes. The premium is included in income tax. The scheme is implemented on a risk-free basis by the health insurance providers and because nearly everybody in the Netherlands has a normal health insurance, almost everybody is covered in that way. The benefits are provided in kind. In other words, the insurers contract care providers to deliver the amount of care required. The insurers pay care providers directly for their services and the patients never see a bill. The prices are regulated by a law on health care pricing and supervised by a tariff council. There is an income-related system of co-payment under which patients who receive care pay part of the costs.

445. Access to care is regulated by an independent authority that assesses patients' needs. The policy is to enable elderly people to remain in their own homes for as long as possible and to deliver the necessary care wherever possible on a domiciliary basis.

446. The Netherlands has 340 nursing homes, accommodating 62,000 beds. This is equivalent to places for around 6% of the population over the age of 75. The total cost in 2003 is equivalent to 5475 million US dollars. The total number of residential homes for the elderly is around 1340 and they offer 107,000 places. This is equivalent to around 11.5% of the population over the age of 75. There is at least one such residential home in every town. The average age of admission is around 83 and the average length of stay is somewhere between 3.5 and 4 years. The total cost in 2003 is equivalent to 4135 million US dollars. Most of the people admitted to residential homes are on low incomes. People with higher incomes prefer private service apartments and pay for them themselves.

447. The total number of organisations in the Netherlands providing domiciliary care is around 175 and they serve, on average, 420,000 people. The total cost in 2003 is equivalent to 3260 million US dollars. To put the costs of care for the elderly in perspective: total expected costs in 2003 are nearly 13 billion US dollars, which is equivalent to around 2.7% of GDP.

## **3.8 Article 13**

### **Freedom to provide education**

448. The freedom to provide education that is enshrined in the Dutch Constitution has had a fundamental impact on the education system of the Netherlands. While the government is responsible for providing education in public-authority schools, anyone who wishes to establish a school on the basis of religious or other convictions is, in principle, free to do so and to organise teaching in the school. In practice, such schools are usually established by associations

or organisations representing a particular religion, philosophy of life or educational philosophy. There are many different types, but the majority are either Roman Catholic, Protestant or non-denominational. These days, Islamic schools are also being established. Nearly 70% of the country's school-age population (in primary and secondary education) attend such schools.

### **Funding of education**

449. Public-authority and the other schools as described in the previous paragraph have equal status in the Constitution and this applies to funding too. The latter schools receive the same allocations from the public purse as the public-authority schools, provided they choose to comply with the requirements and conditions to which the public-authority schools are bound by law. Numerous regulations have been drawn up and supervisory bodies established as a result. The competent authorities of public-authority schools are the municipalities, while those of the other schools are the school boards, which are appointed by the executive committee of the association or organisation that established the school.

### **Organisation of the education system**

450. The Dutch education system is organised as follows (see also Figure 1):

Primary education for children between the ages of 4 and 12.

Special education: a variety of provision for children and young people between the ages of 3 and 20 with special needs.

Secondary education for young people from the age of 12, comprising: pre-vocational secondary education (VMBO), general secondary education (HAVO), and pre-university education (VWO).

The first two or three years of all the above forms of secondary education are devoted to basic secondary education, a broad curriculum of academic and technical subjects.

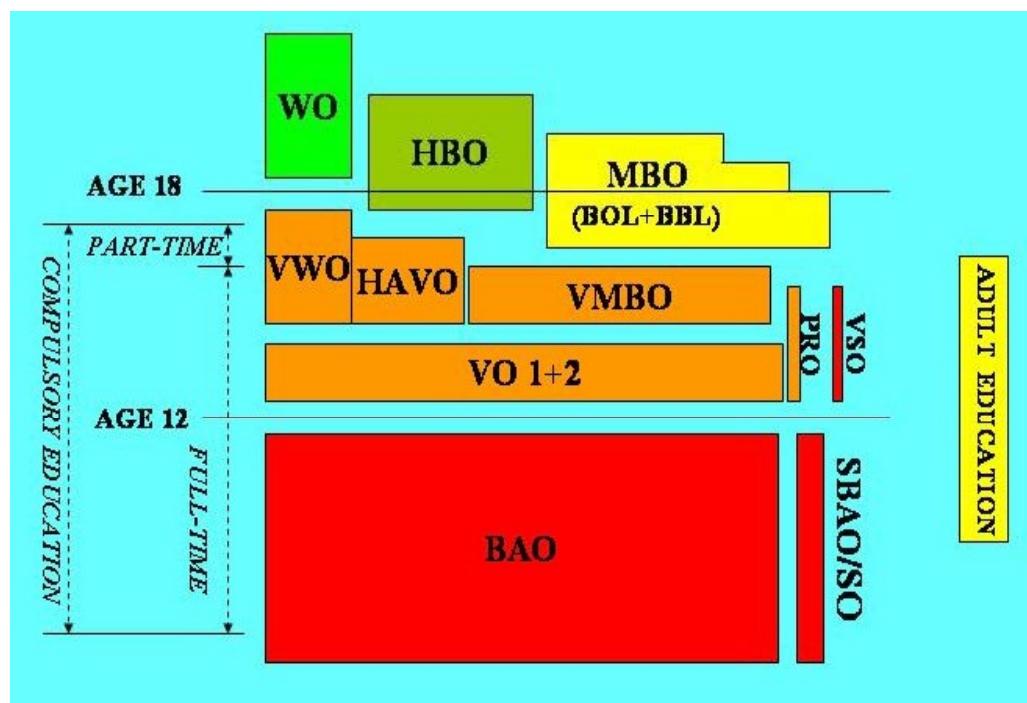
Higher education, comprising: higher professional education (HBO), university education (WO), the Open University (OU), and international education.

Adult and vocational education, comprising: vocational education (MBO), part-time MBO, apprenticeship training, tailored courses, non-formal adult education, adult basic education, and adult general secondary education (VAVO).

Recognized courses provided by commercial educational institutes.

451. Courses vary in length and level and it is possible to move from one to the other. In 2001, 37% of the population had completed upper secondary education and 26% held a higher education qualification.

**Figure 1**  
**Organisation of the Dutch education system**



BAO	Mainstream primary education
BBL	Block or day release in vocational education
BOL	Full-time vocational training
HAVO	General secondary education
HBO	Higher professional education
MBO	Vocational education
PRO	Practical training
SBAO	Special primary education
SO	Special education
VMBO	Pre-vocational secondary education
VO	Secondary education
VSO	Secondary special education
VWO	Pre-university education
WO	University education

*Source:* Key Figures for Education, Culture and Science in the Netherlands 1999-2003

**Table 26**  
**Key figures for Dutch education**

	1999	2000	2001	2002	2003
Participants (x 1,000)	3 430	3 465	3 505	3 538	3 578
VO, BOL, HBO and WO qualifications (x 1000)	350	356	355	365	368
Numbers leaving with VO, BOL, HBO and WO qualifications (x 1,000)	162	178	184	184	
Institutions	9 026	8 936	8 855	8 748	8 762
Staff (FTEs x 1,000)*	274	284	292	306	273
Educational expenditure (x €1 million)			17	19	
	14 770	16 202	818	009	19 721
Student finance (x €1 million)	2 074	2 417	2 318	2 152	2 682

*Source:* Key Figures for Education, Culture and Science in the Netherlands 1999-2003.

\* Last year not including staff in WO.

Expenditure according to OCW annual reports (not netted);

Educational expenditure including university research and university medicine.

**Table 27**

**Number of participants in the Dutch education system in 1999-2003**

Number of participants (x 1,000)	1999	2000	2001	2002	2003
Total	3 429.6	3 464.8	3 505.0	3 538.1	3 578.0
Primary education					
PO overall	1 638.8	1 644.0	1 652.3	1 654.1	1 653.7
BAO	1 543.3	1 546.6	1 552.4	1 550.0	1 547.6
SBAO	52.0	51.6	51.8	52.1	51.5
(V)SO	43.5	45.8	48.2	52.1	54.6
Secondary education					
VO overall	891.0	894.2	904.5	913.6	924.9
VO excl. special needs	769.6	764.9	768.6	777.6	787.0
Special needs	92.0	98.0	103.5	102.2	102.9
VBO green	19.5	20.5	20.9	21.6	21.9
LWOO green	9.9	10.8	11.5	12.2	13.0
Adult and vocational education					
MBO overall	434.1	448.1	455.5	469.5	477.7
BOL	255.0	254.8	253.9	264.5	281.7
BBL	131.9	142.6	150.1	155.9	152.0
Part-time BOL	23.4	26.9	27.8	25.5	20.5
BOL green	16.2	15.8	15.3	15.0	14.9
BBL green	7.6	8.0	8.4	8.6	8.6
Higher professional education					
HBO overall	302.5	311.9	320.8	322.1	334.5
Full-time HBO	240.7	244.4	248.0	250.0	260.3
Part-time HBO	53.3	59.4	64.3	63.7	65.5
HBO green	8.5	8.1	8.5	8.4	8.7
Universities					
WO overall	163.1	166.6	171.9	178.8	187.2
Universities	159.3	162.9	168.1	174.8	182.9
WO green	3.8	3.7	3.8	4.0	4.3

**Table 28**

**Key statistics for institutions and staff in the Dutch education system in 1999-2003**

Key statistics for institutions and staff	1999	2000	2001	2002	2003
A. Number of institutions					
Primary education	8 008	7 972	7 943	7 945	7 975
Secondary education	888	834	784	680	667
Adult and vocational education	62	62	61	61	59
Higher professional education	56	56	55	50	49
Universities	12	12	12	12	12
B. Number of staff (in FTEs x 1,000)					
Primary education	111.9	116.6	119.2	126.5	129.3
Secondary education	67.3	70.2	76.3	80.1	81.9
Adult and vocational education	33.8	35.6	35.0	36.9	37.6
Higher professional education	21.2	21.7	22.5	23.4	24.1
WO (education + research, incl. contract income)	39.4	40.0	38.6	39.5	--
C. Average age (in years)					
Primary education	41.9	41.9	41.9	41.8	42.0
Secondary education	45.3	45.4	45.4	45.2	45.2
Adult and vocational education	45.4	45.6	45.7	45.6	45.9
Higher professional education	44.7	44.8	44.8	45.0	45.0
D. Percentage aged 50 or older					
Primary education	24.7	26.2	27.3	28.1	29.7
Secondary education	38.3	39.4	39.8	39.9	40.9
Adult and vocational education	34.9	36.6	38.5	39.2	40.9
Higher professional education	35.7	36.8	37.4	37.9	38.5
Universities	27.9	27.3	27.3	28.2	--
E. Percentage of women					
Primary education	65.8	67.6	69.8	71.3	72.0
Secondary education	32.7	34.0	35.6	37.0	38.1
Adult and vocational education	43.3	44.4	45.7	46.5	47.0
Higher professional education	38.3	39.4	40.7	42.0	42.9
Universities	35.1	35.9	36.2	37.0	--

452. Vocational education (MBO) currently serves over 450,000 participants. A further increase is expected over the next few years.

**Table 29**  
**Estimated numbers of participants in MBO (x 1,000)**

	2002	2003	2004	2005	2006	2007	2008	2009
MBO	437.6	449.4	456.7	460.9	463.8	468.2	473.4	478.5
FT-BOL	258.3	271.7	285.6	292.5	296.0	299.5	303.1	306.4
BBL	152.5	154.3	151.2	149.6	149.3	150.2	151.9	153.7
PT-BOL	26.8	23.4	19.9	18.8	18.5	18.5	18.4	18.4

*Source:* OCW estimates 2004.

*Key:*

FT - full-time

PT - part-time

453. Around 138,000 people are currently participating in adult education. Here too, the number of participants is expected to increase.

**Table 30**  
**Estimated numbers of participants in adult education (x 1,000)**

	2002	2003	2004	2005	2006	2007	2008
Adult education	138.1	138.6	139.0	139.4	139.8	140.3	140.7

*Source:* OCW policy figures 2002, CBS population census.

454. Table 31 shows the success rate in the various forms of vocational education (MBO). It should be noted that participants leaving MBO without a diploma are not necessarily unqualified. Some of them have already obtained diplomas in other forms of vocational education.

**Table 31**  
**Success rate in MBO 2002/03**

	Numbers leaving with diploma	Total numbers leaving	Success rate (in per cent)
FT-BOL	53 800	94 500	57
of which 1-2	10 700	27 100	39
of which 3-4	43 100	67 400	64
BBL	46 200	85 300	54
of which 1-2	21 700	43 500	50
of which 3-4	24 500	41 800	59
PT-BOL	3 400	16 200	21
Total	103 400	196 000	53

*Source:* OCW estimates 2004.

455. Each year, a survey is conducted to find out what young people who have obtained qualifications intend to do next and how the courses they have completed interface with further education or the labour market. The figures in the table below are taken from a 2002 survey (*Schoolverlaters tussen onderwijs en arbeidsmarkt 2002*, ROA, July 2003).

**Table 32**  
**Destination of leavers in percentages**

	Study	Paid employment	Unemployment	Other
BOL level 1/2	47	45	4	4
BOL level 3/4	47	50	2	2
BBL level 1/2	25	70	2	2
BBL level 3/4	9	88	1	2

### **3.8.1 Right to education**

456. Every child of compulsory school age in the Netherlands has a statutory right to education. The Netherlands has also entered into international commitments to this effect. In addition, the Compulsory Education Act imposes a statutory obligation on every parent to send their children to school. The school attendance officer ensures that they do so.

#### **Compulsory education**

457. Under the Compulsory Education Act of 1969, children are obliged to attend school full-time from the first school day of the month following their fifth birthday; in practice, however, nearly all children attend school from the age of four. Full-time education is compulsory until the end of the school year in which the pupil reaches the age of 16 or has completed at least 12 full years of schooling. Those who leave school at the age of 16 are obliged to participate in part-time education for one school year.

458. In 1994, the 1969 Act was amended in two important ways. Children from the age of 12 who play truant may be liable to a penalty, ranging from a warning to a fine. Pupils aged 14 and over who are unable to cope with full-time education are eligible for certain types of part-time education. However, this option applies in exceptional cases only.

459. The municipal authorities bear primary responsibility for the implementation of the Compulsory Education Act and for ensuring that both public-authority and private schools comply with its provisions. To this end, the Act requires each municipality to appoint an attendance officer who is responsible for ensuring that every school-age child registered as a resident of the municipality is enrolled at an educational establishment. In smaller municipalities this officer frequently has additional duties.

### **3.8.1.1 Primary education**

460. The primary education system serves 1.6 million children (2004 figure). There have been no changes in the primary education system since the previous report.

### **3.8.1.2 Secondary education**

#### **Changes in secondary education over the 1996-2003 period**

461. In August 1999 junior general secondary education and pre-vocational education (MAVO/VBO) were restructured to improve the interface with further education and employment. The resulting form of secondary education, known as pre-vocational secondary education (VMBO), lasts four years and is a foundation course encompassing both basic general education and a pre-vocational component. VMBO is not therefore terminal education, but provides a basis for further vocational training. VMBO caters for pupils between the ages of 12 and 16. Pupils choose one of four different types of programme (learning pathways) and extra help is provided within these mainstream pathways for pupils who need it.

462. Learning support (LWOO) is provided for pupils who have sufficient intellectual capacity to obtain a VMBO certificate, but suffer from gaps in their previous education or specific learning or other difficulties. Since support is tailored to pupils' needs, its duration and form can vary from one pupil to another. Practical training is a separate kind of education unconnected with the four learning pathways. It caters for pupils who are not expected to be capable of obtaining a VMBO certificate, even with special needs support. Unlike mainstream VMBO courses, practical training does not prepare pupils for entry to vocational education, but for direct entry to the regional labour market.

463. On 1 August 1998, special secondary education for children with learning and behavioural difficulties (VSO-LO/MLK), including those due to moderate mental disability, was brought under the Secondary Education Act. Since 1 January 1999, schools providing VMBO courses and practical training have been obliged to work together in clusters. The aim of these two changes is to provide support for special needs pupils within mainstream secondary education. When a regional referral committee issues a special needs statement, the VMBO school at which the pupil is enrolled receives extra funding. In addition, schools can claim extra funding from the regional special needs budget for pupils who do not have a special needs statement but nevertheless require extra support. Schools can use all these resources to offer pupils the learning support they need to obtain their qualifications. To be admitted for practical training, a pupil must first obtain a special needs statement showing that this is the appropriate course.

464. The second stage of secondary education encompasses the 4th and 5th years of HAVO and the 4th to 6th years of VWO. It is known by the generic name of pre-higher education (VHO). Pupils choose set subject combinations ensuring a coherent curriculum. There are four set combinations (science and technology, science and health, economics and society, and culture and society). Each combination includes a component common to all of them, a

specialised component and an optional component. In addition, encouragement is being given for a new approach to teaching aimed at producing a more active and independent learning style (known as the 'studiehuis').

## **Future developments**

465. Developments launched in 2003 are intended to give schools greater scope to take account of the differences between individual pupils, especially in the first stage of secondary education. Schools are also being given greater freedom to emphasise particular areas of the curriculum and pupils greater freedom to make individual choices within it. Freedom of choice is being expanded in this way throughout secondary education.

### **3.8.1.3 Higher education and adult basic education**

466. Higher education, to which students are admitted from approximately the age of 18, comprises higher professional education, university education and the Open University (higher distance education). Higher professional education (HBO) caters for students who have completed VWO, HAVO or three-year MBO courses.

467. There are 13 universities in the Netherlands. Most higher professional courses are 4-year bachelor's degree courses, while university courses are 3-year bachelor's degree courses and master's degree courses normally taking one or (in the case of science and technology) two years. A few master's courses in the medical field may even take as long as three years. All courses culminate in an examination. Universities also provide postgraduate training, but places on courses - which vary in length from one to four years - are limited.

468. The Open University (OU) caters for people of 18 and over who are unable or unwilling to do a full-time university course. No prior qualifications are required for admission to the Open University.

469. The Higher Education and Research Act prescribes statutory tuition fees. For the 2003-2004 academic year these amount to €1,445 and must be paid by all students who:

- are enrolled on full-time courses;
- are under the age of 30;
- are resident in a Member State of the European Economic Area.

In addition, the Act permits institutions to set their own tuition fees for students enrolled on part-time or dual courses. For students enrolled on full-time courses, the statutory minimum tuition fee is the sum of €1,445 mentioned above. For those enrolled on part-time or dual courses, the statutory minimum is €587.

470. Adult basic education is designed to enable adults to obtain the basic knowledge, attitudes and skills they need in order to function adequately both in their personal lives and within society. Provision falls into three general categories, relating to language skills,

mathematics and social skills. Vocational orientation, and occupational and social activities also form part of adult basic education, and it is also possible for participants to plot individual learning paths.

471. Courses in Dutch as a second language are also provided. From 2006, the Ministry of Justice will be responsible for these courses.

472. The municipalities, acting individually or together, are responsible for planning and providing adult basic education, while the Ministry of Education, Culture and Science is responsible for allocating the necessary funds. The establishments providing the courses may generate their own funds by means of contract activities. Provision tends to be small in scale.

473. On 1 January 1996, adult general secondary education (VAVO) was brought under the Education and Vocational Education Act (WEB). The administrative arrangements for VAVO are the same as for adult basic education. VAVO fulfils two roles. Firstly, it gives adults a second chance to obtain a theoretical VMBO (VMBO-T), HAVO or VWO certificate, or to study specific subjects at these levels. Secondly, it provides adults with the qualifications they need to obtain access to further education. The Ministry of Education, Culture and Science is responsible for funding. Courses are provided on a part-time basis at Regional Training Centres, either in the evening or during the day. People seeking admission to VAVO need to have completed the compulsory number of years' schooling, in addition to fulfilling the specific requirements for each type of course.

### **3.8.1.4 Education for adults with little or no basic education**

474. Many people have hidden knowledge and skills which they are unable to demonstrate, for example because they lack the relevant formal qualifications. As a result, these competencies go unrecognised and unacknowledged. An Accreditation of Prior Learning and Experience (APLE) procedure can reveal these competencies for the benefit both of the individual and of society at large.

#### **Accreditation of prior learning and experience**

475. In the course of their lives, people acquire large areas of knowledge and skills which remain unrecognised and unexploited in the labour market and therefore lost to the economy. In a knowledge economy, it is important that all competencies should be exploited to the full. As the Education Council concludes in its report "Making Lifelong Learning Work", learning path independent certification of competencies can be relevant in various ways to lifelong learning. In addition to its importance to the labour market, such accreditation is also important to individuals. It motivates people to learn and is cost-effective. This makes APLE an important instrument in the on-going personal development of adults.

476. The Europass framework is an important way of making competencies transparent. It is expected to be implemented in 2005 in all the EU Member States. This will increase mobility in the international labour market. The framework brings together a number of existing

documents providing accreditation for competencies and skills acquired by experience, such as the European CV and the European Language Portfolio. It also harmonises various networks, including Euroguidance and EURES. The framework has been developed explicitly in the light of European ambitions with regard to lifelong learning.

### **Young people without basic qualifications**

477. Young people leaving school without basic qualifications to enter the labour market need flexible programmes of work and study, the help of all the youth care services, and careers advice to interest them in continuing their education. The government is working to achieve this via the Youth Unemployment Action Plan and Operation Young People. All such activities are based on the principle that young people in this position must be able to obtain funding at any point to return to mainstream education in order to gain a formal basic qualification. The new skills-oriented qualification framework, including the opportunity for a broad-based training to assistant level, offers good prospects for the necessary tailoring of provision in this respect.

478. In 2007, there will be 40,000 more combined work and study placements available to young unemployed people than in 2003.

### **Immigrants and workers without basic qualifications**

479. For immigrants and workers or job-seekers lacking basic qualifications to enter the labour market, the need is to improve basic skills and hence to increase employability. Following advisory reports from the Social and Economic Council (SER)<sup>16</sup> and the Council for Work and Income (RWI),<sup>17</sup> the government position paper on combined study and work to be presented to the House of Representatives by the Minister of Social Affairs and Employment in early 2005 will consider the use of dual courses both for the indigenous population and more specifically for immigrants seeking to integrate into Dutch society and other people in need of education and training to equip them for long-term participation in the labour market.

480. The present government has adopted a more stringent policy towards new and established immigrants than its predecessors. The Minister for Integration and Immigration has described the proposed new system for the social integration of ethnic minorities in an outline policy document. This document provides the intellectual framework for a comprehensive review of the 1998 Newcomers Integration Act. Major features of the policy document are the responsibility it places on most new immigrants to attend (and pay for) courses and the introduction of an obligatory integration process for established immigrants. Within the latter group, priority is given to those who still lack an adequate command of Dutch and who are dependent on benefits payments conditional on their availability for work, and to women in a disadvantaged position. Combined integration courses for new and established immigrants of the kind proposed in the outline policy document are currently being piloted in six municipalities. This is providing an opportunity to gain experience with such courses and to identify any problems associated with them and with the Work and Social Assistance Act (Wet Werk en Bijstand, the successor of the National Assistance Act as of 1 January 2004).

### **3.8.2 Data on literacy and measures to combat illiteracy**

#### **Measures to combat illiteracy**

481. In recent years, a considerable level of illiteracy has been identified among the indigenous population of the Netherlands. Indigenous citizens were thought to be losing out, in the sense that municipalities and regional training centres were concentrating on providing literacy training for immigrants. There are now estimated to be 250,000 'truly' illiterate people in the indigenous Dutch population. They form a subset of the 1.3 million Dutch people who, according to the *International Adult Literacy Survey* (IALS), published by the OECD in 2000, are functionally illiterate. The Netherlands performs reasonably well in the world literacy stakes (fifth in the IALS ranking) but, to maintain this position, it will be necessary to reduce the number of illiterates in the indigenous population. The aim is to achieve a substantial increase in the number of people taking basic literacy and/or numeracy courses over the next few years up 10 per cent in 2003, with later targets to be set on the basis of the initial results of a campaign launched in 2002).

482. In order to achieve this, the Action Plan on Literacy for Indigenous Dutch Citizens was drawn up in 2002 in close consultation with the Union of Dutch Local Authorities (VNG) and the Dutch Council for Vocational Education and Training and Adult Education (BVE Raad). The development process had two main aims:

- to plan and conduct a publicity campaign;
- to design a multi-year action plan for 2003-2006.

The campaign was launched in September 2002 and - depending on its observed effects by autumn 2003 - may carry on into 2004. Its aims are to alert illiterate members of the indigenous Dutch population to the possibility of attending a free literacy course (funded out of the municipal adult education budget) at a regional training centre and to ensure that sufficient places are available on such courses.

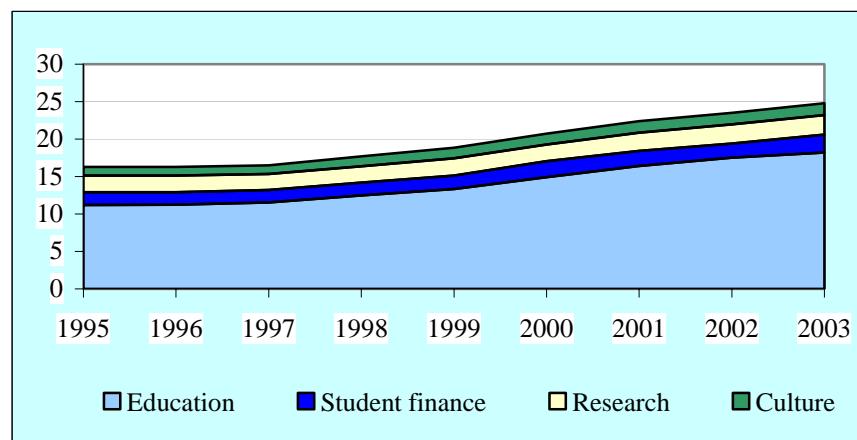
483. The campaign has concentrated initially on the national media. From summer 2003 and through into 2004, the emphasis will gradually switch to follow-on regional initiatives. The multi-year plan was sent to the House of Representatives in December 2002.

484. In addition to information from international surveys (IALS and ALL), it will be extremely important to monitor the impact of the campaign. Course provision in the 2001-2002 academic year will be surveyed and compared with the results of a repeat survey of provision in 2002-2003, so that decisions can be made in autumn 2003 on measures to be included in the multi-year plan for the period from 2004. A sum of €0.4 million will be available in 2004.

### **3.8.3 Government expenditure (key statistics and index figures)**

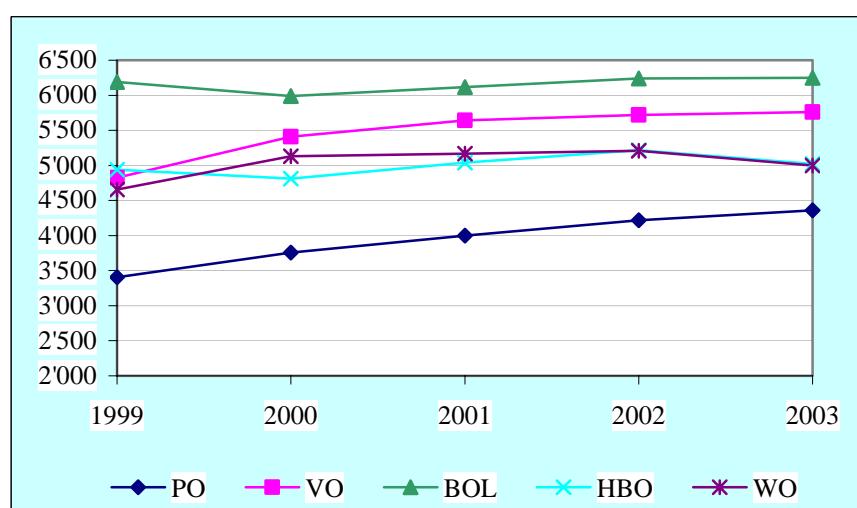
485. Figures 2 and 3 show expenditure by the Ministry of Education, Culture and Science (OCW).

**Figure 2**  
**Net OCW expenditure as a percentage of GDP**



*Source:* Key Figures for Education, Culture and Science in the Netherlands 1999-2003.

**Figure 3**  
**OCW expenditure per participant by type of education, in current prices, in euros**



*Source:* Key Figures for Education, Culture and Science in the Netherlands 1999-2003.

486. Actual annual expenditure on education (including student finance) as a percentage of total net annual OCW expenditure in 2000-2002:

1999: 79.6 per cent

2000: 81.5 per cent

2001: 81.6 per cent

2002: 81.1 per cent

2003: 81.9 per cent

N.B. Figures relate to net expenditure on education; the remainder of OCW spending related to culture, science policy, university research and university medical services.

### **Building activities**

487. In primary and secondary education, accommodation is funded in a decentralised way via the Municipalities Fund and is not, therefore, a charge on the OCW budget. In adult and vocational education (BVE), higher professional education (HBO) and university education (WO), expenditure on accommodation is included in the OCW budget as part of a non-itemised figure for block grants covering both staff and non-staff expenditure.

488. Tables 33 and 34 show the education budget and other figures.

**Table 33**

**Ministry of Education, Culture and Science (OCW), budgeted and actual expenditure and revenue, in millions of euros**

	2000	2001	2002	2003
Budgeted				
Expenditure	19.625	21.072	23.111	24.767
Revenue	1.039	1.147	1.244	1.155
Balance	18.586	20.923	21.867	23.612
Actual				
Expenditure	21.347	23.023	24.191	25.474
Revenue	1.146	1.181	1.201	1.253
Balance	20.201	21.842	22.990	24.221

*Source:* Key Figures for Education, Culture and Science in the Netherlands 1999-2003 and Ministry of Education, Culture and Science, OCW budget 2000, 2001, 2002 and 2003.

**Table 34**

**Estimated net OCW expenditure as a percentage of GDP and as a percentage of total relevant central government expenditure**

	2000	2001	2002	2003
Net OCW exp. as % of GDP	5.2	5.3	5.3	5.5
Net OCW exp. as % of total relevant central government expenditure (excluding expenditure for National Debt)	21.3	20.2	20.8	20.8

*Source:* Source material, Key Figures for Education, Culture and Science in the Netherlands 1999-2003.

**3.8.4 Equal access to education**

**Equal access to education for rich and poor**

489. In its observations on the previous report, the committee indicated that it was concerned about the impact of rising school fees on equality of access to education irrespective of parental income. This has been discussed earlier in section 1.7, paragraphs 106-107.

*The Fees and Educational Expenses (Allowances) Act*

490. Primary education in the Netherlands is 100 per cent government-funded and free to parents/children at the point of delivery. Parents with children in secondary education (from around age 12) and vocational education (from around age 16) have to buy learning materials (textbooks etc.) for their children. In addition, under the School and Course Fees Act, a contribution in the form of school or course fees is demanded in the case of participants in secondary school, vocational education or any form of special education who are no longer of compulsory school age (i.e. are aged 16 or older on 1 August of the relevant school year). In the 2004-2005 school year, these school fees are set at €936. From the age of 18, course fees have to be paid for participants in part-time courses of vocational training (part-time BOL) and courses of vocational education involving block or day release (BBL). In the 2004-2005 school year, these school fees are set €194.06 for levels 1 and 2, and €471.86 for levels 3 and 4. Course fees also have to be paid for part-time courses of adult secondary education. In this case, the fee is €0.60 for every 45 minutes of course time.

491. Children of less affluent parents are guaranteed access to education by the Fees and Educational Expenses (Allowances) Act, under which they or their parents can qualify for reimbursement of fees and an allowance to help with other educational expenses.

492. Families with a corrected household income of €27,983 or less are eligible for a full allowance (figures for the 2004-2005 school year). For those on higher incomes, the allowance is gradually reduced. The Fees and Educational Expenses (Allowances) Act replaces the Study Costs Allowances Act (WTS) and was introduced in the 2001-2002 school year. The introduction of the new Act considerably extends the scope of the scheme. The income criteria have been relaxed to make more people eligible for allowances and account is now taken of the

number of children in the family who are in education. The maximum income limit for assistance is now raised where more than one child in the family is in education. Finally, the introduction of the new Act was accompanied by an increase in the size of educational expenses allowances.

493. Under the new Act, three groups of people are potentially eligible for allowances:

1. Parents of pupils in secondary and vocational education who have not yet reached the age of 18 ('TS17-' allowance). Until the child reaches the age of 18, it is the parents who can apply for the allowance under the Fees and Educational Expenses (Allowances) Act.
2. Secondary school pupils aged 18 or over ('VO18+' allowance'). Once participants in secondary education reach the age of 18, they can themselves apply for the school fees and educational expenses allowance. The level of the allowance will still depend on parental income, but pupils receive an additional basic grant, similar to child benefit, which is not income-related.
3. People on full-time or part-time courses of adult general secondary education ('TS 18+', VAVO). Participants in adult general secondary education (VAVO) who are not entitled to a 'VO18+' allowance may be eligible for a means-tested allowance to help cover the cost of tuition fees and educational expenses.

#### *The Student Finance Act 2000*

494. Students can enrol in higher education on either a full-time or a part-time basis. There is no limit to the number of years in which they can be enrolled. Whereas participants in vocational education (BOL) pay school fees, those in higher education pay tuition fees under the Higher Education and Research Act. Government determines the level of such tuition fees for full-time students under the age of 30, but for full-time and part-time students aged 30 or over institutions are free to set the level of tuition fees themselves, provided they are over a statutory minimum. The statutory tuition fees are adjusted annually on the basis of inflation. For the 2004-2005 academic year, tuition fees for full-time students under the age of 30 are set at €1,476. The statutory minimum tuition fee for full-time students aged 30 or over is set at the same figure. The minimum fee that institutions may charge part-time students in 2004-2005 is €567.23.

495. Student finance is available for full-time students in vocational (BOL), higher professional (HBO) and university education (WO).

496. Student finance in BOL is available only for students aged 18 or over. Parents of students younger than 18 are entitled to claim child benefit and may be eligible for assistance under the Fees and Educational Expenses (Allowances) Act (see above). Student finance in higher education (HBO and WO) is not subject to a minimum age-limit. Students can apply for student finance until they reach the age of 30. If they are still receiving student finance at that point, they continue to be entitled to it until their 34th birthday, providing they do not interrupt their studies.

497. Student finance consists of three components: a basic non-repayable grant, a supplementary grant and an interest-bearing loan. Together, they add up to a standard budget on which a student should be able to survive. The basic grant is provided irrespective of parental income. Students with less affluent parents are entitled to a supplementary grant. If the parental income is less than €26,703.54 a year, the student will qualify for a full supplementary grant. If it is higher than this, a partial supplementary grant may be available. The maximum supplementary grant includes complete compensation for tuition fees (in the case of HBO and WO) or school fees (BOL).

498. Students can take out interest-bearing loans to make up the difference between the standard budget and whatever basic and/or supplementary grants they receive. Extra allowances are available for students who are single parents or have partners who are financially dependent on them.

499. All students receiving the basic student grant are entitled to a public transport pass which allows them more or less unrestricted travel on public transport throughout the Netherlands. They can choose between a weekday pass and a weekend pass. The weekday pass entitles them to unrestricted travel during the week and cut-price travel at the weekend. The weekend pass works the other way round.

500. Participants in vocational education (BOL) receive a basic grant and any supplementary grant to which they may be entitled for as long as they remain in vocational education (or reach the age-limit of 30 specified above). However, this situation will change when the current draft legislation amending the Student Finance Act 2000 completes its passage (expected on 1/8/2005). The new legislation will introduce performance-related grants in some areas of BOL and portability of student finance for BOL students wishing to study abroad. The system of financial assistance for those studying at levels 3 and 4 will then be comparable to that for students in higher education. For students in higher education, the basic grant and any supplementary grant is provided for the official duration of the course (or, once again, until they reach age limits specified above). In most cases, the official duration is four years, but some courses are longer. Students who fail to complete their courses within that period can take out loans up to a sum equal to the standard budget for a further three years. During that period, they retain their entitlement to a public transport pass.

501. Handicapped students are entitled to student finance for an extra year. Students whose progress has been delayed by circumstances beyond their control can often receive assistance out of special funds held by higher education institutions for that purpose.

502. The annual Student Monitor includes research on patterns of study behaviour among Dutch students, as well as on matters like student incomes and socio-economic background. In 2000, for the first time, similar research was conducted across Europe. In that year, comparison with eight other European countries showed that the influence of socio-economic background on participation in higher education is relatively slight in the Netherlands. In other words, children of parents on low incomes or with low levels of educational attainment are more likely to participate in higher education in the Netherlands than in other countries. It is intended to repeat this Euro Student survey at three-yearly intervals.

503. The following tables provide figures on participation in education.

**Table 35**

**Participation in education 2000-2003, in absolute terms (x 1,000) and  
in percentages by age (all figures include green education/LNV)**

	Male	Female	Total	4-11	12-17	18-27	28-64
<b>2000</b>							
Full-time education							
BAO	786.0	760.7	1 546.7	92.3	7.0	0.0	0.0
SBAO	35.1	16.5	51.6	2.7	0.8	0.0	0.0
(V)SO	31.3	14.5	45.8	1.5	1.6	0.1	0.0
BRJ_1-3	202.1	194.2	396.3	0.1	34.6	0.1	0.0
VMBO	138.2	114.9	253.1	0.0	21.9	0.2	0.0
HAVO	55.1	62.1	117.2	0.0	9.7	0.4	0.0
VWO	59.6	68.7	128.3	0.0	10.0	0.7	0.0
BOL	133.2	137.7	270.8	0.0	7.9	9.1	0.0
HBO	121.8	130.3	252.1	0.0	0.9	11.9	0.1
WO	85.6	79.6	165.2	0.0	0.0	7.4	0.2
Total full-time	1 648.0	1 579.1	3 227.1	96.6	94.4	29.8	0.4
Part-time education							
Adult education	39.9	66.9	106.8	0.0	0.3	1.7	0.8
BBL	98.8	51.9	150.7	0.0	2.2	4.6	0.4
PT-BOL	11.9	15.0	26.9	0.0	0.2	0.5	0.2
PT-HBO	27.6	32.2	59.8	0.0	0.0	0.9	0.5
Total part-time	178.3	165.9	344.2	0.0	2.7	7.6	1.9
<b>2001</b>							
Full-time education							
BAO	788.9	763.5	1 552.5	92.4	6.9	0.0	0.0
SBAO	35.0	16.8	51.8	2.7	0.8	0.0	0.0
(V)SO	33.1	15.1	48.2	1.6	1.7	0.1	0.0
BRJ_1-3	201.2	193.9	395.1	0.0	34.0	0.0	0.0
VMBO	141.2	118.6	259.8	0.0	22.2	0.1	0.0
HAVO	57.1	64.0	121.1	0.0	9.8	0.4	0.0
VWO	59.2	69.1	128.4	0.0	10.0	0.6	0.0
BOL	132.8	136.7	269.5	0.0	7.6	9.2	0.0
HBO	124.0	131.7	255.7	0.0	0.9	12.0	0.1
WO	88.4	83.5	171.9	0.0	0.0	7.7	0.3
Total full-time	1 660.9	1 592.9	3 253.8	96.7	94.0	30.1	0.4
Part-time education							
Adult education	37.9	66.3	104.2	0.0	0.4	1.7	0.7
BBL	100.8	57.7	158.6	0.0	2.2	4.7	0.5
PT-BOL	12.9	14.8	27.8	0.0	0.2	0.5	0.2
PT-HBO	29.4	35.6	65.0	0.0	0.0	1.0	0.5
Total part-time	181.1	174.5	355.5	0.0	2.8	7.8	2.0

	Male	Female	Total	4-11	12-17	18-27	28-64
<b>2002</b>							
Full-time education							
BAO	787.6	762.4	1 550.0	92.2	7.0	0.0	0.0
SBAO	35.0	17.1	52.1	2.7	0.8	0.0	0.0
(V)SO	35.7	15.9	51.7	1.7	1.9	0.1	0.0
BRJ_1-3	206.5	197.9	404.3	0.0	34.2	0.0	0.0
VMBO	136.1	117.0	253.0	0.0	21.3	0.1	0.0
HAVO	59.1	65.3	124.4	0.0	9.9	0.4	0.0
VWO	61.1	70.8	131.9	0.0	10.1	0.7	0.0
BOL	136.7	143.0	279.6	0.0	8.0	9.3	0.0
HBO	125.9	131.7	257.6	0.0	0.9	12.0	0.1
WO	90.6	88.2	178.8	0.0	0.0	7.9	0.3
Total full-time	1 674.3	1 609.1	3 283.4	96.5	94.1	30.6	0.5
Part-time education							
Adult education	35.4	64.0	99.3	0.0	0.3	1.7	0.7
BBL	100.2	64.4	164.6	0.0	2.2	4.8	0.5
PT-BOL	11.6	14.0	25.5	0.0	0.2	0.4	0.2
PT-HBO	28.1	36.5	64.6	0.0	0.0	0.9	0.6
Total part-time	175.3	178.8	354.1	0.0	2.7	7.8	2.0
<b>2003</b>							
Full-time education							
BAO	788.0	759.7	1 547.6	92.1	6.8	0.0	0.0
SBAO	34.5	17.0	51.5	2.6	0.8	0.0	0.0
(V)SO	37.6	16.4	54.1	1.7	2.0	0.1	0.0
BRJ_1-3	206.9	200.5	407.4	0.0	34.0	0.0	0.0
VMBO	135.0	117.7	252.6	0.0	21.0	0.1	0.0
HAVO	61.8	66.6	128.4	0.0	10.1	0.4	0.0
VWO	63.3	73.0	136.4	0.0	10.2	0.7	0.0
BOL	145.8	150.9	296.7	0.0	8.2	10.0	0.0
HBO	131.7	136.3	268.0	0.0	1.1	12.4	0.2
WO	93.7	92.4	186.1	0.0	0.0	8.2	0.3
Total full-time	1 698.3	1 630.5	3 328.8	96.5	94.3	31.9	0.5
Part-time education							
Adult education	33.1	58.3	91.4	0.0	0.3	1.6	0.7
BBL	97.6	63.3	161.0	0.0	2.0	4.6	0.5
PT-BOL	9.2	11.3	20.5	0.0	0.2	0.3	0.1
PT-HBO	28.5	38.0	66.5	0.0	0.0	0.9	0.6
Total part-time	168.4	170.9	339.3	0.0	2.5	7.5	1.9

*Key:*

BAO: Mainstream primary education

SBAO: Special primary education

(V)SO: Primary and secondary special education

BRJ 1-3: Transitional years 1-3

VMBO: Pre-vocational secondary education

HAVO: General secondary education

VWO: Pre-university education

MBO (BOL and BBL): Vocational education

BOL: Full-time vocational training

HBO: Higher professional education

WO: University education

BBL: Block or day release in vocational education

PT-BOL: Part-time vocational training

PT-HBO: Part-time higher professional education

VAVO: Adult general secondary education

### **3.8.4.1 Gender balance**

504. There is a steady rise in the average age of Dutch primary school teachers. The proportion of older teachers is increasing irrespective of sex, but the phenomenon is particularly striking amongst male teachers. In 1997, just over 27% of male teachers were aged 50 or over; in 2001, the figure was almost 42%. The gender balance correlates closely with age: the younger the age-group, the larger the proportion of women. Among the under-25s, 10% are male; among the over-50s, the proportion is 40%.

505. For many years there have been equal numbers of boys and girls in Dutch secondary education. The Emancipation Monitors for 2000 and 2002, published jointly by the Social and Cultural Planning Office of the Netherlands (SCP) and Statistics Netherlands (CBS), record that in Dutch education girls caught up with their male contemporaries as long ago as the 1970s. Men and women aged 25-44 now have approximately the same level of educational attainment.

506. Indeed, these days girls are generally out-performing boys in education. Accordingly, emancipation policy is now directed at preparing both sexes for what are termed 'multiple future prospects'. This means that both girls and boys are expected to take on paid employment, caring responsibilities and wider social roles when they grow up.

507. Emancipation policy extends to all types of education. There is now more interest in the role of education as such and the policy focus includes boys as well as girls. OCW's emancipation-related activities include action concerning the career choices made by young people and the image of technical subjects (especially in the eyes of girls). The Emancipation Monitor for 2002 showed that boys and girls are still tending to make traditional educational and career choices. For this reason, OCW's gender equality policies now focus on the process of subject and career choice. The aim is to ensure more balanced decision-making and to help young people make more open and individual choices in these areas.

### **3.8.4.2 Vulnerable groups within society**

#### **Aliens**

508. The Compulsory Education Act applies to all minors who are resident in the Netherlands, whether legally or otherwise. In addition, subject to certain conditions, aliens are permitted to remain in the Netherlands for purposes of study.

#### **Integration**

509. In 1990, minorities policy began to focus on the position of adult immigrants beyond compulsory school age. The current integration policy under the Integration of Newcomers Act entered into force in 1998. The aim of this act is to enable newcomers to make full use of the services and facilities available to the general population and to prevent them from forming an underclass in Dutch society. Most importantly, it strives to help new immigrants find a place in Dutch society as fully integrated members of the community. To this end, newcomers from outside the European Union are required to participate in introduction programmes, seen as the first step in a longer process of integration. These programmes include language training, as well as vocational guidance and an introduction to life in the Netherlands.

510. The introduction programmes are intended for those who have come to the Netherlands through official channels, and who are planning to remain here permanently. More specifically, they target people aged 18 and over (no further age limit), who have been granted a residence permit or refugee status and who might otherwise find themselves at a disadvantage in society. In principle, they are open to all newcomers to the country but - since many people are able to adjust without special assistance - they specifically target people from countries whose nationals are known to have difficulty in adapting to life in the Netherlands (i.e. those outside the European Union).

511. The municipal authorities are responsible for planning local programmes and for organising them as effectively as possible. The role of central government lies primarily in the development of a model programme for use by the municipal authorities, and in the provision of support and (financial) incentives for those local authorities. Central government funds are channelled to the local level on the basis of the number of participants in each municipality's introduction programme.

512. The procedure is as follows. On registering at the aliens department and municipal registry office, each newcomer is invited to attend an intake interview to establish his/her needs. Based on the results of this intake interview, a suitable programme is decided, which the newcomer is then obliged to follow. The programme consists of a course on Dutch society and language (which approximately 92% of the participants complete) plus personal counselling on public services, education and/or care of children, vocational training and/or finding a job. In this way, the municipal authorities provide immigrants with an opportunity to integrate rapidly and effectively into society. Those who settled in the Netherlands prior to 1998, and who therefore did not follow an introduction programme, are now encouraged to participate in the introduction initiative. In their case, however, participation is not compulsory.

#### **Promoting equal access to education; anti-discrimination measures**

513. In 1986 the Dutch government introduced a comprehensive package of measures to combat educational disadvantage, replacing less structured policies pursued earlier. This comprehensive Educational Priority Policy (OVB) targeted pupils who were failing to keep up at school because of their socio-economic, cultural or ethnic backgrounds. Schools with a high proportion of children from such backgrounds were given extra resources.

514. On 1 August 1997, Educational Priority Policy was replaced by Municipal Compensatory Policy (GOA) for primary and secondary education. The aim remains the same: to improve the classroom performance and school careers of children and young people whose backgrounds place them at an educational disadvantage. Their average success in education should eventually be indistinguishable from that of other children.

515. The GOA policy is among the government responsibilities that have been devolved to the municipalities. To enable them to implement the policy effectively, GOA municipalities are obliged to draw up local compensatory plans. These are based on a National Policy Framework (LBK) laid down by central government for periods of four years at a time. The second four-year policy period (2002-2006) commenced on 1 August 2002. The National Policy Framework for this period was approved on 18 September 2001. Its emphases are different from those in the previous one. The objectives have been modified and made more demanding, there is more emphasis on results, and the scope of the Framework has been widened to include pre-school/ early years provision and the educational opportunities policy. To ensure that all children are offered equal opportunities within the education system, the National Policy Framework identifies four priorities:

1. Pre-school/ early years provision. The aim is improve the starting conditions for children in the target group, for example as regards their Dutch language proficiency. The numerical target for 2006 is to have at least 50% of the target group involved in effective early years programmes.
2. Support for school careers. The aim is to ensure that the participation of target group pupils in the various types of secondary education, vocational education (MBO) and higher education is so far as possible equal to that of other pupils of similar ability. The numerical target is a 4% increase in the proportion of ethnic minority pupils on HAVO and VWO courses by 2006.

3. Reduction in the rate of early school-leaving. The aim is to reduce the rate at which pupils leave school without achieving their academic potential. The numerical target is to reduce the number of early school-leavers by at least 30% over the four-year policy period to 2006.
4. Dutch language proficiency. The aim is to reduce language disadvantage among children and young people in the target groups. The numerical target is to reduce the language lag among 'weighted' pupils as compared with their 'unweighted' peers by 25% over the four-year policy period. At the start of the period, Turkish and Moroccan pupils were on average two years behind and indigenous Dutch pupils in the target group one year behind the majority school population in this respect.
5. Educational opportunities. These priorities are complemented by the educational opportunities policy, a policy aimed at improving the performance of educationally disadvantaged pupils by enhancing the quality and effectiveness of schools with heavy concentrations of them. To achieve this, two strategies are being pursued. Firstly, extra resources are being made available to all primary and secondary schools with large numbers of educationally disadvantaged pupils. Secondly, an 'educational opportunities approach' has been developed, aimed at improving the quality of individual schools through measures tailored to the specific circumstances of the institution and its social environment.

516. The municipalities receive central government funding for the GOA policy. Since 1 August 2002, these funds, together with resources for pre-school/ early years provision and the educational opportunities policy, have been paid to 357 municipalities in the form of a single special-purpose grant. This enables the municipalities to take integrated action and set their own priorities in this area.

517. GOA budgets make it possible for municipalities to promote arrangements for immigrant pupils at the municipal level (e.g. reception classes, after-school programmes, multi-service provision by primary schools) and to encourage individual schools to adopt policies and programmes aimed at reducing disadvantage. Some common practices are:

- Reception classes (primary schools) or international transition classes (secondary education) for immigrant children arriving in the Netherlands at a more advanced age. Municipalities organise these classes in cooperation with schools;
- Special language classes during the period of transition from primary to secondary education. In these classes, immigrant pupils with great ability and motivation who nevertheless have problems with the Dutch language receive a full year of intensive Dutch-language training. Many subsequently move on to higher forms of secondary education (HAVO or VWO).

518. The current government would like to have reformed the compensatory policy at the end of the present four-year policy period, on 1 August 2006. Part of the present GOA grant (currently paid out to the municipalities) will then be made directly available to the schools in

the form of extra funding for primary education under the weighting system and extra resources for pre-vocational secondary education (VMBO). Municipalities will retain responsibility for pre-school/ early years provision and will be given responsibility for transition classes catering for pupils whose severe language problems or lack of previous education prevent them from integrating directly into mainstream education.

519. In addition to GOA funding, schools with heavy concentrations of educationally disadvantaged pupils receive extra resources. Primary schools receive these via a pupil weighting system, while secondary schools do so under special arrangements for extra funding for ethnic minority pupils.

520. A primary school pupil is given a weighting of 1.9 if:

1. The educational qualifications of his or her father or mother (or guardian) do not go beyond the level of pre-vocational education;
2. The parent or guardian with the highest income in the family is employed to do physical or manual labour and;
3. Belongs to the Moluccan population or;
4. One of the parents or guardians comes from Greece, Italy, the former Yugoslavia, Cape Verde, Morocco, Portugal, Spain, Tunisia, or Turkey;
5. One of the parents or guardians comes from Suriname, Aruba or the Netherlands Antilles;
6. One of the parents or guardians has been recognised by the Minister of Justice as a refugee in terms of section 15 of the Aliens Act;
7. One of the parents or guardians comes from a non-English-speaking country outside Europe, with the exception of Indonesia.

521. In this context, the term 'English-speaking country outside Europe' means the United States, Canada, Australia and New Zealand. All other countries outside Europe are considered to be non-English-speaking countries. Policy measures and criteria for the allocation of funds in secondary education do not take criteria 1 and 2 into account; only criteria 3-7 are applicable.

522. The current government would like to have reformed the weighting system at the end of the present four-year policy period, on 1 August 2006. The main changes will then be that:

- Parental ethnicity will no longer be a factor determining pupil weighting;
- The level of education of both parents will now be the main factor. This will be expressed in terms of two categories of educational attainment: 'no more than primary education' and 'no more than junior secondary vocational education (LBO)/pre-vocational education (VBO)';

- A different weighting will be attached to each of these two levels of parental educational attainment. An additional weighting will then be given to pupils with particularly severe language problems. Pupils qualifying for this extra weighting will be identified by means of individual testing. The system is based on the principle that the pupils qualifying for the heaviest weightings will, as a rule, be those whose parents have the lowest levels of educational attainment;
- In allocating resources, more attention will be paid to pupils' actual under-performance;
- The aim is to bring the legislation governing the new weighting arrangements into force on 1 August 2006.

### **Debates and forthcoming reforms**

523. There is an ongoing debate in the Netherlands about the social composition of schools and growing support for the idea that a heavy concentration of immigrant children in schools has negative effects on pupils' cognitive development and on social relationships, both in school and in society at large. In the large metropolitan areas, more than half of compulsory school age children are from immigrant backgrounds. So far, no way has been found to achieve a more balanced distribution of immigrant and indigenous children. Tension over the growing variety of cultural backgrounds in schools is reflected in the ban imposed by some schools on the headscarves worn by Muslim girls. (Some court verdicts have given school managements the right to ban clothing that is considered to interfere with normal educational processes or to hinder eye-to-eye contact between teachers and students.) The tension is also reflected in the difficulty of introducing language-sensitive teaching approaches in school subjects that are not language courses.

524. Emphasis on proficiency in the Dutch language and the attainment of labour-market qualifications has grown markedly in the past few years. Some schools with a long tradition of bilingual education have not been allowed to continue this kind of teaching. The funding of teaching of mother tongues of immigrant pupils is to be abolished from 2004. The translation of information about education, schools and other sectors of the life of society into minority languages - a common practice a few years ago - is now less and less frequent.

525. Some people have felt that Catholic and Protestant private schools were using article 23 of the Constitution to limit the number of immigrant pupils in their school population - a claim that has not been substantiated by research. Although such arguments have been used to back requests for the amendment or repeal of article 23, the Education Council (*Onderwijsraad*) has advised the government to uphold this article, and the government has done so in the latest coalition agreement.

### **Special budgets for schools given a negative evaluation by the Inspectorate**

526. For primary and secondary schools with a heavy concentration of immigrant children (40-50% or more) and a negative evaluation by the Inspectorate, special budgets are available for a period of four years to improve the achievement level of immigrant children and other children at risk due to socio-economic factors. Schools must commit themselves to a

procedure involving: a diagnosis of their current situation and environment; development of a school plan specifying quantified goals for language proficiency or other problem areas (depending on the diagnosis); and monitoring of and reporting on the processes and results. The resources are channelled to the schools by the municipalities who, in turn, receive the funds from the Ministry of Education.

### **Extra funding for schools in which children of asylum seekers are enrolled**

527. Schools and municipalities are entitled to funding for the education of asylum seekers' children of compulsory school age during the first year of their stay in the Netherlands.

### **Support of own language, culture and religion**

528. See paragraph 524 of this section.

#### **3.8.4.3 Promoting equal access to education; anti-discrimination measures**

##### **Basic principles: autonomy and deregulation**

529. The main emphasis is on increasing the autonomy of individual schools. This means reducing the volume of regulation, making it less detailed, and giving schools greater freedom to decide their own affairs. The coalition agreement says, "Wherever possible, school budgets will be combined and devolved (by both central and local government) to the schools themselves. ... Schools will be able to decide for themselves how to use the extra resources allocated to them. Government will focus primarily on the quality of output (attainment targets, core curriculum) and arrangements to monitor this. Schools will be given greater freedom to organise teaching."

##### **Ambitions**

530. There are two ambitions. Firstly, schools should be places where pupils and teachers feel happy and secure. Discrimination has no place in them. The aim is for pupils and teachers to feel at home. Secondly, they should be places where pupils acquire knowledge and skills not only in traditional subject areas, but also to help them deal with diversity and life in a multicultural society. This means that schools need to equip their pupils in such a way as to combat discrimination.

##### **Measures**

###### *Regulation*

531. The law says that schools should prepare pupils for life in a multicultural society. This means that primary and secondary school pupils should be taught about a wide range of issues, including their own and other cultures, the history of the multicultural society, similarities and differences between various religious and ethical philosophies represented in Dutch society, and phenomena such as discrimination and intolerance. The official attainment targets define the knowledge and skills that pupils are expected to possess at the end of their primary schooling and basic secondary education. There are also attainment targets for primary, secondary, vocational and adult education concerning the acquisition of skills necessary to function in society generally and in a multicultural society in particular. The main aim in this respect is to promote respectful behaviour towards other groups and individuals in society.

*Support for schools*

532. As already stated, schools are responsible for the creation of a happy and secure institutional atmosphere in which bullying, discrimination and violence are never tolerated. Understanding and respect for individual differences are the key to this. Obviously, schools cannot succeed in creating such a climate on their own; they must work together with their pupils, parents and whole social network. Via OCW, central government subsidises a number of activities aimed at supporting the efforts of schools in this respect:

- Youth, School & Security Scientific Information Centre (Transferpunt Jongeren, School en Veiligheid): This information centre provides not only policy support for schools, but also advice, information and referrals for parents and pupils. It also manages the Schools Helpline and a website providing help on bullying ([www.pestweb.nl](http://www.pestweb.nl)). The Schools Helpline is designed to provide telephone advice and support for pupils, parents and teachers facing security-related problems in the school;
- Anti-discrimination projects: Via OCW, central government subsidises various projects specifically aimed at combating discrimination, including the Action Week against Racism organised by the Stichting Nederland Bekent Kleur and the ‘School without Racism’ project run by the National Bureau against Racial Discrimination (Landelijk Bureau ter Bestrijding van Rassendiscriminatie, LBR);
- Intercultural Education (ICO): The national educational advisory centres (Landelijke Pedagogische Centra) support schools in the area of Intercultural Education. Their efforts are complemented by the Active Citizenship project launched in 2003 and managed by the KPC Group of educational consultants. Based on the belief that society needs people to show greater social solidarity, good manners, social control and personal responsibility (in short, to act as ‘good citizens’), and the accompanying belief that schools have a major role to play in this respect, this project encourages schools to contribute to this area of their pupils’ personal development;
- Slavery: OCW has commissioned Teleac/NOT to produce a multimedia educational programme about slavery, intended for use in the upper years of primary education and early years of secondary education. It will be rebroadcast by schools TV in the 2003/2004 school year. The educational materials, the series and the accompanying teaching and learning materials are designed to increase pupils’ awareness of this aspect of history and the role of the Netherlands in it. The series also shows how slavery has influenced the racial composition of societies today, not only in the Caribbean but also in the Netherlands. To complement this multimedia programme, the National Institute for Curriculum Development (Stichting Leerplanontwikkeling) has developed a unit on slavery so that the subject is given a proper place in the history curriculum. In addition, OCW is subsidising the National Institute for the Study and Legacy of the Dutch Slave Trade and Slavery (Nationaal Instituut Nederlands Slavernijverleden en -erfenis), the mission of which is to collect, record and present information on the history and heritage of slavery.

### *Supervision*

533. The Education Inspectorate ensures that schools adhere to the prescribed minimum curriculum and that they pursue adequate safety policies. The Education Inspection Act also includes provisions that matters such as sexual abuse/harassment, violence and bullying may be reported in confidence to designated inspectors and that they may then advise on measures to be taken and provide support for those involved (section 6 of the Act).

#### **3.8.4.4 Mother-tongue teaching**

534. The GOA policy includes the provision of specific help to enable children to overcome their language problems (see also paragraph 524 of this section).

#### **3.8.5 Teaching staff**

535. Between 1 January 1996 and 1 January 2003, substantial improvements were made in the conditions of employment of teachers in primary, secondary, vocational and adult education. Following the earlier major increases in teachers' starting salaries, their pay scales have now been compressed to bring them up to maximum salary levels in fewer years. In addition, the standard number of hours to be worked each year has been reduced from 1710 to 1659. Other improvements in teachers' conditions of employment are the introduction of an end-of-year bonus and paid parental leave.

536. In addition, schools have been given freedom to introduce differentiated job descriptions and pay. This allows them to improve the career prospects of individual teachers and to reward good performance and outstanding contributions to the school. These measures have made teaching a more attractive and competitive career option. The threat of staff shortages means that the position of teachers must be kept under review.

537. In the case of teachers with HBO-level qualifications, salaries are generally competitive with those earned by staff with HBO qualifications in the private sector. This is far less true of teachers with university degrees. The salaries of teachers with HBO-level qualifications are relatively high compared with those of staff with equivalent qualifications in the care and welfare sectors.

538. The latest annual survey of employment trends in the Netherlands (*Trendnota Arbeidszaken Overheid 2005*) published by the Ministry of the Interior and Kingdom Relations contains the results of pay comparisons between various parts of the public sector and the private sector. These are based on the most recent (2001) data from Statistics Netherlands (CBS). They show that people working in the five sectors of education earn less than comparable staff in the private sector. However, these comparisons take no account of the vital changes in teachers' pay since 2001. In the absence of more recent figures it is not at present possible to give a full picture of pay differences between the private and public sectors but the situation in education is at any rate better than that suggested by the 2005 survey of employment trends.

### **3.9 Article 14**

#### **3.9.1 The duty of government to provide primary education free of charge**

##### **Admission**

539. Primary schools cater for children between the ages of 4 and 12. Primary education is free of charge. Some schools may require a parental contribution, but they have no right to refuse to admit a child whose parents are unable or unwilling to pay. Parents can choose to send their children to either a public-authority or a private school. See also Table 35 in paragraph 503.

### **3.10 Article 15**

#### **3.10.1 Right to take part in cultural life**

##### **Main legislation**

540. In December 1988, various aspects of cultural policy that were then the responsibility of the Minister of Welfare, Health and Cultural Affairs were enshrined in the Cultural Policy (Special Purpose Funding) Bill. This required the government to present a Cultural Policy Document to both houses of parliament at least once every four years, giving an overview of implemented and proposed cultural policy activities. The bill showed the government's intention to extend the existing system for the arts, which had been introduced by the 1988-1992 Arts Plan and had proved effective, to cultural policy as a whole. At the administrative level, the Cultural Policy Document (formerly known as the Arts Plan) consists of a large number of coherent decisions on subsidy allocations, each supported by substantive arguments.

541. The Cultural Policy (Special Purpose Funding) Act entered into force on 16 April 1993 (Bulletin of Acts and Decrees 1993, No. 193). As well as introducing the four-year policy cycle, the Act defines the responsibilities of the competent minister. It requires him (or the responsible state secretary, if he decides to delegate the work) to create the right conditions for the conservation and development of 'expressions of culture' and for their propagation socially, geographically or otherwise. The minister is to be guided in this by considerations of quality and diversity. The Explanatory Memorandum to the Act gives an indicative list of the areas to be addressed by the minister's policies: 'the arts, museums, heritage sites, archives and public records, the media, libraries and international relations in these fields'. The Act itself does not define these areas; they are delineated and policy laid down for them in the Cultural Policy Document.

542. In fixing subsidies for four-year periods, the government sets out: (a) to introduce greater flexibility into the arts budget (by ensuring that discussions on all institutions are held simultaneously every four years rather than annually); (b) to ensure greater continuity for the institutions themselves (because they have a legal entitlement to subsidies for four years at a time).

543. Since the Cultural Policy (Special Purpose Funding) Act entered into force in 1993, this system has applied to the entire realm of arts and culture. The Cultural Policy Document has replaced the former Arts Plan and sets out the main lines of policy - also for a four-year period - for the whole field of culture, which includes the media, libraries and the preservation of the cultural heritage as well as the arts.

544. Any institution wishing to be eligible for a multi-year subsidy must submit a policy plan before a specified date. The Minister then seeks advice on the applications from the Council for Culture (a merger of the former Arts Council, Cultural Heritage Council and Media Council). The policy plans of the applicant institutions must provide full information on their artistic or substantive goals for the next four years and must include evaluations of their policies over the previous period. Each plan must be accompanied by estimates of income and expenditure over the new period. The resulting subsidy decisions must be approved by parliament as part of the Cultural Policy Document before they enter into effect.

## **Council for Culture**

545. The Council for Culture plays an important role in the procedure, as it is a basic principle in the Netherlands that the government should refrain from making judgements on artistic merit, leaving such appraisal to independent experts. One important advantage of this principle is that developments in the realm of culture are translated into policy relatively fast. The Council for Culture advises both on the principles of the policy as set forth in the policy document and on the individual institutions applying for subsidies, assessing the latter on the basis of the policy plans they have submitted. Once a four-year subsidy has been granted, the Council monitors the artistic merit of the institution's work, making regular written appraisals. These serve two purposes: (a) they indicate whether the institution is fulfilling the promises it made in its policy plan, and (b) they contribute to the sectoral analyses the Council produces in the run-up to the next policy period.

## **Policy issues**

### *Recent policy issues*

546. The Cultural Policy Document for 1993-1996, entitled 'Investing in Culture', was the first policy document to place the broad principles of cultural and media policy in a joint framework. The Cultural Policy Document for 1997-2000, 'Armour or Backbone', was, if anything, even more integrated. Unlike its predecessor, it was not a collection of separate documents on the various sectors, but dealt with cultural policy in its entirety on the basis of nine fundamental principles. A new feature was that these principles were set out in a separate memorandum and discussed with the two houses of parliament in 1995. The Cultural Policy Document for 2001-2004, 'Culture as Confrontation', placed even more emphasis on the principles, not least in the nature of the State Secretary's arguments and the way he approached the debate with parliament and the arts and culture scene in the spirit suggested by the title of the document. Finally, the Cultural Policy Document for 2005-2008, 'More than the Sum', emphasises three priorities: less bureaucracy and more individual responsibility, more connection and interaction in cultural life, and reinforcing the cultural factor in society.

*Constants in cultural policy*

547. As a rule, Dutch cultural policy gives prominence to quality and diversity as criteria for the allocation of financial resources. Social and geographical distribution and effectiveness are also important criteria. Various steps have been taken to stimulate the process of diversification and outreach in the programming of cultural institutions. One of the reasons is that the Netherlands is a multicultural society and the government and cultural sector see the need to attract new audiences for cultural performances, exhibitions and events.

*Recent policy issues*

548. Certain issues within the context of Dutch cultural policy are the subject of wide public interest and debate. For example:

- The expectation that cultural institutions such as orchestras, theatre companies and museums will raise an increasing proportion of their own income;
- The policy pursued by government since 1999 to increase the volume of Dutch feature film production and to give market processes a greater place in the film industry via fiscal arrangements etc.;
- The interest shown by the Ministry of Education, Culture and Science in cooperating with the Ministry for Economic Affairs on exploring the economic potential of culture. This is based on three principles: strengthening the creative sector, doing more to exploit the impact of culture, and increasing private-sector input into cultural life.

*International cultural policy*

549. As a trading nation, the Netherlands has always had an international outlook, even - or perhaps particularly - when it comes to culture. In recent years this tendency has been strengthened by economic, technological and political developments. Globalization, increasing migration and mobility, developments in the media and the onward march of European integration have all contributed. Government bodies, private-sector organisations and ordinary people are increasingly feeling the need to build up their contacts with other countries, and vice versa. Since 1997, therefore, international cultural policy has been the joint responsibility of the Ministry of Foreign Affairs and the Ministry of Education, Culture and Science. To boost international cultural policy, the government, encouraged by parliament, has decided to provide additional funding: the Homogeneous Budget for International Cooperation (HGIC), known abroad as the Netherlands Culture Fund. Expenditure is the joint responsibility of the two Ministers. There is agreement on the two main principles, (a) that culture and cultural cooperation are only worthwhile as a tool of foreign policy if they are also recognised as aims in themselves, and (b) that international cultural policy is only effective in combination with foreign policy and if the special aspects of the international context are taken into account.

### 3.10.1.1 Funds for cultural development and popular participation

#### Arm's-length funding bodies

550. Apart from the four-year funding structure (the Cultural Policy Document), the government has created various public and quasi-public funds for the creative arts. New government-created and financed funds began to appear in the second half of the 1980s, encouraged by the Creative Arts (Funds) Act, which entered into force in 1981. This defined a fund as a 'legal person constituted under private law with full legal capacity, the object of which is to foster the production and preparation for use of creative art works by providing funding for this purpose'. It was repealed in 1993, when the Cultural Policy (Special Purpose Funding) Act entered into force. The new Act created the power to set up funds for any area of cultural policy. In principle, the government's responsibility towards a fund now goes no further than providing money and establishing conditions for the way it operates. The power to grant subsidies from the annual budget is delegated to the fund management. Parliament has the final word when it comes to the size of the budget. Ministerial control is generally confined to approving the fund's articles of association and the regulations laying down how grant aid is to be allocated, with the minister taking advice from the Council for Culture. The minister does, however, appoint all the members of the management board and monitor its policy. Examples of such arm's-length funding bodies are the Netherlands Foundation for Visual Arts, Design and Architecture (1987), Dutch Cultural Broadcasting Promotion Fund (1988), Foundation for the Production and Translation of Dutch Literature (1991), Mondriaan Foundation (1993), Dutch Film Fund (1993), Fund for Performing Arts Programming and Marketing (2002), and the Fund for Amateur Arts and Performing Arts (2002).

### 3.10.1.2 Institutional infrastructure for the promotion of popular participation

551. In 1997 the Culture and School project was launched in order to bring the education system and the cultural world closer together. Cooperation is the crux: at the regional and local levels, there are joint efforts with the provinces and large municipalities to develop a range of arts and heritage projects; at national level, a major instrument is the extension of ticket discounts for secondary school pupils wishing to take part in cultural activities. Initially the Culture and School project focused on three areas which the government believed required extra attention: the cultural heritage, multicultural issues and pre-vocational education. Subsequently these were supplemented by closer attention to literature and media education. Recently, primary education has also become a priority area for this project. All cultural organisations are expected to reach out to new and diverse audiences (Cultural Policy Documents 2001-2004 and 2005-2008). This is one of the evaluation criteria in the four-year funding cycle.

### 3.10.1.3 Cultural identity and heritage, including preservation and access

#### Cultural heritage

##### *Heritage policy*

552. For the last twenty years, heritage policy has been dominated by two subjects: (a) the conservation work needed to deal with past neglect, and (b) the need to make national cultural

institutions self-governing in order to improve their management. Thanks largely to the Delta Plan for the Preservation of the Cultural Heritage, initiated in the 1990s, these areas have now been tackled. The second half of the '90s saw particular attention being paid to using the cultural heritage for educational purposes - both inside and outside school - as urged by the Cultural Policy Document for 1997-2000 and the Culture and Schools document, both published at the end of 1996. Then in mid-1997 the Erfgoed Actueel ('Heritage Today') organisation was created to interface between schools and heritage institutions. It was decided that better use needed to be made of the cultural heritage to improve the quality of the environment, and a partnership between three ministries (Education, Culture and Science; Housing, Spatial Planning and the Environment; and Agriculture, Nature Management and Fisheries) was therefore established to coordinate cultural heritage and planning policy. Heritage policy, hitherto confined to the traditional museums, heritage sites, archaeology and archives sectors, was now extended to include planning and the term 'cultural planning' was introduced. This essentially involves working together with other interested parties and a development-oriented rather than conservation-oriented approach. Cultural heritage policy accordingly focused more on the public and the possible uses of artefacts, rather than the artefacts themselves. There was more awareness of the need to work together with other fields. Different kinds of heritage were presented to the public alongside one another or used to improve the quality of the environment. This change, which is still under way, requires an approach to heritage policy that goes further than the traditional sector-based approach, and the opportunities afforded by the new digital media are proving very useful.

### *Museums*

553. Government policy on the Dutch museum system is the responsibility of the State Secretary for Culture. The term 'museum system' is used to cover all museums and support bodies that collect, conserve and study the cultural heritage and present it to the public, at national, regional and local level. The main aims of museums policy are to preserve the cultural heritage (selecting on the basis of the 'national collection', as discussed below), improve access (e.g. by digitizing collections), encourage public participation (e.g. by prioritizing school-age children and cultural minorities), and maintain and improve the museum infrastructure. In line with these aims, responsibility for a number of museums was transferred to provinces or municipalities in 1987, along with the associated funding. Only a small number are now the exclusive responsibility of central government. As mentioned above, the Delta Plan for the Preservation of the Cultural Heritage enabled the conservation backlog to be dealt with. Along with the 'Opting for Quality' policy document, the Delta Plan laid the foundation for turning the national museums into self-governing bodies. The document introduced the concept of the 'national collection', meaning that the national cultural heritage as a whole (rather than the individual museums' collections) as the basis of museums policy. In practice this has meant that the collections and buildings have remained in state ownership and the national museums have become legal entities in their own right. This has given the museums operational independence without the government relinquishing its responsibility for their continued existence. A Cultural Heritage Inspectorate has been set up to oversee the management of the national collections. The national museums are still for the most part funded by the Ministry of Education, Culture

and Science. The funding of museums, like that of other cultural institutions, is based on four-year policy plans under the Cultural Policy Document. Concrete, verifiable performance agreements are reached.

554. The Ministry of Education, Culture and Science subsidizes a number of bodies which serve the museums sector in general, as well as funding museum projects concerned with the conservation and presentation of collections, digitization, special public activities, acquisitions, international presentations and grants for research into collections. These schemes are administered by the Mondriaan Foundation.

#### *Archives and public records*

555. Government has been involved in creating and managing archives ever since it started using written documents. This entails three things: (a) taking care of the physical records, (b) ensuring that they are kept public, and (c) ensuring that every citizen has access to them, as is his/her right. Public records legislation has been amended. The new legislation has cut the period after which public records are transferred to the state archives from 50 to 20 years. This will improve access to public records and enhance the cultural role that they fulfil.

#### *Monuments and historic buildings*

556. The protection of monuments is regulated in the 1988 Monuments and Historic Buildings Act. To date, protection has focused chiefly on buildings dating from before 1850. Heritage conservation policy has been under review in recent years with the aim of shifting the emphasis still more from restoration to planned maintenance. One of the changes is a new funding system designed to make for simplicity and transparency in the regulations, shorter procedures and fewer points of contact. The State Secretary for Cultural Affairs submitted the plans to parliament at the end of 2001.

#### *Archaeology*

557. The statutory protection afforded to archaeological sites is likewise regulated in the 1988 Monuments and Historic Buildings Act. The State Service for Archaeological Investigations is in charge of implementing policy on archaeology on behalf of the Minister.

#### *Cultural planning*

558. The area of cultural policy that aims to link up with planning policy in the Netherlands is known as 'cultural planning'. The aim is to use cultural heritage and architecture more effectively and deliberately as a factor determining the quality of the environment. Cultural planning is based on two ideas: (a) that planning changes can benefit from the local history of buildings, towns and landscapes - taking tradition not as a burden but as a source of inspiration - and (b) that a culturally aware design remit makes for a better and more attractively organised country. Cultural planning is achieved via the work of a number of agencies and institutions, including the Netherlands Architecture Institute, the Department for Conservation, the Dutch Archaeological Expertise Centre and the Architecture Promotion Fund.

### **3.10.1.4 Role of the media**

#### **Media, literature and libraries**

559. Although government policies on the media, literature and libraries each have their own traditions and tools, they share a common basis. By virtue of the duty of care enshrined in the Constitution, the government is responsible for the pluralism, accessibility and affordability of information. Its policy is rooted in a broad-based view of the information society, based on social, cultural and democratic values. There are two main objectives: firstly, to guarantee a wide variety of high-quality radio, television, books, newspapers, magazines and new media, and - following on from this - to ensure that all sections of the population should have access to these and be able to afford them.

560. The main tool is the Media Act, which regulates the organisation, funding and remit of public service broadcasting, sets a limited number of criteria for commercial channels and cable operators, and provides for support to the press. Media policy includes the allocation of the limited broadcasting capacity available on cable and the air waves. As regards literature, the paramount concerns are the diversity of books (non-literary as well as literary) and good access to them. Public libraries receive government aid to enable members of the public to access a broad range of information, education and culture at low cost.

#### **Books and reading**

561. The tools currently in use in relation to books and reading can be divided into two categories: a) Generic measures that affect the entire field of culture, or a large part of it. These measures are intended to strengthen the Dutch government's general policy of enabling the population to become acquainted in many ways with the products of culture in Dutch society and in the international arena. One important instrument in this category is the fixed price for books. In addition, the lower VAT tariff is applicable to books; (b) the provisions of the 1912 Copyright Act, which govern not only copyright but also lending and reproduction rights.

562. Another instrument with a broad general effect is the legislation on public libraries. Since 1987, financial and managerial responsibility for the operation of local public libraries has been assigned to the municipalities, while the provinces are responsible for providing libraries with the direct support they require. Central government is responsible for the coherence, diversity, coordination and quality of the public library system as a whole.

563. Alongside these general policy instruments, the government pursues certain targeted policies relating to books and reading. These include special funds to support the production, publication and translation of literary works in Dutch and Frisian. In addition, the state provides funds for several institutions and organisations which help to preserve and document the Dutch literary heritage, seek to ensure that Dutch authors and their work are more widely known - especially among young people - or undertake other activities to stimulate interest in Dutch literature. One final point that merits inclusion under this heading is the existence of financial resources to promote specific objectives in the realm of books and reading: funds to encourage reading, to ensure the preservation and accessibility of the written cultural heritage, to foster wider participation in cultural activities and to support language policy. Reading has come under increasing pressure; people now spend less time reading than in the past. Given the social and

cultural importance of reading, the government is pursuing a vigorous policy to encourage it. Alongside the efforts of booksellers, publishers and numerous other interested parties, libraries and schools are playing an important part in this, with particular attention being paid to cultural minorities within Dutch society. Libraries, schools and other educational establishments are actively encouraging members of these groups to read and to make use of libraries. Some of the material used is in the minority languages, but the aim is to foster integration into Dutch society and hence to encourage people to read Dutch.

564. Literature for the blind and partially sighted is currently provided nationwide by four libraries for the visually impaired. For social and cultural reasons, these are subsidised. For people with visual impairments, these libraries are a means of access to knowledge, information and culture, and therefore instruments of social integration and participation. Libraries for the visually impaired lend out material in various special formats: i.e. Braille, audio books and large-print editions. Borrowing is free of charge, and a special postal service is provided. The Libraries for the Visually Impaired Fund was established in 1995 to encourage close cooperation between the four libraries and to allocate state subsidies to them. However, it became clear in 2001 that the Fund was simply not capable of achieving the desired efficiency and innovation. It was therefore liquidated as of 1 January 2002 and the libraries for the visually impaired again placed under the direct responsibility of the Ministry of Education, Culture and Science, leading to a thorough-going review of their financial, organisational and technical state. As a result, an urgent modernisation programme has been set in motion, which is due for completion in 2006.

## **Broadcasting**

565. The current broadcasting system is regulated by the 1988 Media Act (which has been amended on several occasions). This Act contains regulations on the provision and transmission of radio and television programmes, financing of public service broadcasting and financial support for newspapers and magazines. Its objectives are: a) to provide a varied and high-quality range of programme services for general broadcasting purposes at national, regional and local level in the fields of information, culture, education and entertainment and to transmit them, or cause them to be transmitted, on open networks; b) to undertake all the activities relating to programme service provision and transmission for that purpose; c) to provide and transmit programme services intended for countries and regions outside the territory of the Netherlands and for Dutch people residing outside the Netherlands.

566. Under the Act, public broadcasting programme services are to provide a balanced picture of society and of people's current interests and views pertaining to society, culture, religion and belief, and: a) shall be accessible to the entire population in the area for which the programmes are intended; b) shall contribute to the development and diffusion of the plurality and cultural diversity of the Netherlands; c) shall be independent of commercial influences and, subject to the provisions laid down by or pursuant to the law, of government influence; and d) shall be aimed at a broad audience and at population and age groups of varying size and composition. The public broadcasting service as a whole must offer a full programme, i.e. a varied package composed of informative and educational programmes, cultural items and entertainment.

567. Public broadcasting associations are legal entities that perform the public service broadcasting tasks referred to in paragraph 565. The exclusive, or at least principal, objective of the broadcasting association must be to provide a programme service for general broadcasting

purposes at a national level. The programme service provided by the association must reflect a particular social, cultural, religious or spiritual movement within society and must seek to satisfy current social, cultural, religious or spiritual needs. Broadcasting associations must have at least 150,000 members, although prospective broadcasting associations can apply for broadcasting time if they have 50,000 members. Newcomers must offer a range of programmes which differs significantly enough from those of other broadcasting associations to increase the diversity of national broadcasting.

568. The Netherlands Programme Service (NPS) transmits a range of programmes designed to satisfy any social, cultural, religious or ideological needs of the public that are not adequately met by the other broadcasting associations. Some of these programmes are aimed at ethnic minorities. The Dutch Cultural Broadcasting Promotion Fund is responsible for providing funds to support the development and production of public service programmes which relate specifically to Dutch culture. The Fund derives its income from the revenue of the Radio and Television Advertising Foundation.

569. Since 1992, the broadcasting system has also been open to commercial broadcasting companies.

#### **3.10.1.5 Protection of artistic freedom**

570. A large proportion of grant aid for the various arts comes from central government. The visual arts, architecture and design, film and new media, the performing arts, amateur arts and art education are all supported by central government through the four-year funding system and/or via arm's-length funding bodies as described in paragraph 550. The various sectors of the arts act quite independently but for all of them there are *general policy lines*. Two examples are given below.

571. Film policy has a number of aims: to increase the output and improve the quality of Dutch films, including international co-productions; to improve the distribution of non-commercial films of artistic merit; to expand the market for Dutch films; to foster cooperation between the film sector and broadcasting; to create better conditions for the selection and training of young talent; to manage the cinematic heritage properly and make it available to the public; and to protect young people.

572. Government policy on the performing arts is to guarantee high-quality performances while ensuring a degree of variety and geographical distribution; innovation and outreach are also important aims. The main tool is grant aid. Applicants must make efforts to achieve adequate audience take-up and geographical distribution, and to deepen and broaden public interest. Many government grants are awarded on condition that a certain percentage of performances will be staged at venues other than the home base. The stipulation that at least 15% of the company's operating costs must be covered by its own earnings encourages a commercial approach. Central government is responsible for variety and continuity in the performing arts nationwide. Municipalities are responsible for venues - theatres, concert halls, etc. - and provinces for the range of events available at provincial level and their distribution within the province.

### **3.10.1.6 Professional training**

573. The right of everyone to take part in the cultural life which he or she considers pertinent, and to manifest his or her own culture is guaranteed by principles enshrined in the Constitution.

### **3.10.1.7 Further reading on Dutch cultural policy**

574. Further information on Dutch cultural policy can be found in the following documents:

- Cultural Policy (Special Purpose Funding) Act (sometimes translated as ‘Act on Specific Cultural Policy’) of 11 March 1993;
- Ministry of Education, Culture and Science, Cultural Policy in the Netherlands, Report of a European group of experts, 1994;
- Ministry of Education, Culture and Science, Autonomy for the National Museums in the Netherlands, 1994;
- Ministry of Education, Culture and Science, Armour or Backbone: Document on the Principles of Cultural Policy, 1995;
- Ministry of Health, Welfare and Sport, Investing in Culture, 1993;
- Ministry of Health, Welfare and Sport, Cultural Policy in the Netherlands, 1994;
- Peter van IJsselmuiden, Truths gained; the events leading up to the Act on Specific Cultural Policy, 19;
- Ministry for Education, Culture and Science, Cultural Policy in the Netherlands, 2003. [www.minocw.nl](http://www.minocw.nl) -> English -> Culture -> pdf;
- Ministry for Education, Culture and Science, More than the Sum, 2003. [www.minocw.nl](http://www.minocw.nl) -> English -> Culture;
- Ministry for Education, Culture and Science, Cultuurnota 2005-2008 (Policy Document on Culture 2005-2008, at the time of writing not yet available in English) [www.minocw.nl](http://www.minocw.nl) -> English -> Culture.

### **3.10.2 Enjoyment of the benefits of scientific progress and its applications**

#### **Application, conservation, development and diffusion of science, with due regard for human rights**

575. The Netherlands has created a science and technology system with coordination mechanisms at two levels: (a) the Cabinet and (b) the ministries. Specific committees are responsible for science, technology and innovation at both levels: at Cabinet level, the Cabinet Committee on Science, Technology and Information Policy (RWI); at interministerial level, the Committee on Science, Technology and Information Policy (CWTI). The RWI prepares decisions to be taken by the plenary Cabinet. It consists of the two ministers coordinating

science, technology and innovation policy and is chaired by the Prime Minister; all other ministers can attend the RWTI and do so when topics relevant to their portfolios are on the agenda. The CWTI consists of high-level civil servants at all ministries. The CWTI meets in advance of the RWTI and decides which proposals to present for its consideration.

576. Science, technology and innovation policy are matters for several different ministries. Science policy is coordinated by the Minister of Education, Culture and Science. There is a four-year policy cycle, consisting of a Science Budget, which is published every four years, and status reports published in the intervening years. The Science Budget presents the views of the Minister of Education, Culture and Science on the state of the science system generally and puts forward his/her plans for the next four years. The annual status reports describe the progress that has been made on implementing these plans.

577. The Minister of Education, Culture and Science has a responsibility for the governance of the public universities and various organisations that play an important role in the research system and other areas of science policy.<sup>18</sup> The main statutory organisations are NWO (Netherlands Organisation for Scientific Research), TNO (Netherlands Organisation for Applied Research), KNAW (Royal Netherlands Academy of Arts and Sciences) and the KB (Royal Library). The Ministry of Economic Affairs is directly involved in some parts of TNO (TNO Co-funding Programme) and NWO (Technology Foundation, STW), both of which are partly financed by the Ministry of Economic Affairs.

578. Coordination of technology and innovation policy is the responsibility of the Minister of Economic Affairs. Together with the Minister of Education, Culture and Science, the Minister of Economic Affairs is also responsible for the international part of Dutch science and technology policy (including EU matters). Other ministers have their own science and research policies in relation to specific areas of their portfolios, such as health, environment, defence, transport and public works.

579. A number of advisory bodies counsel the government on science and technology policy:

- The Advisory Council for Science and Technology Policy (AWT) has a general advisory role. The Council was originally set up by an Act dated 2 November 1990 and was reinstated by an Act dated 30 January 1997. It is the Council's task to advise government and parliament on the science and technology policy to be pursued both nationally and internationally, and on information policy in the fields of science and technology. The core of its advisory task concerns the knowledge and innovation process and its development. The recommendations made by the Council may also relate to matters that affect or result from research and science practice and technology development. The members have various backgrounds (university, industry etc.). Members are appointed on the basis of their personal merits;
- Sector councils advise the ministers concerned on specific areas of policy. Their foresight activities and studies are used as input for the work of the ministries regarding the programming and coordination of research and the organisation of the knowledge infrastructure in the relevant sector. They can also contribute to policymaking and winning support for a specific policy. Sector councils focus primarily on the field addressed by 'their' ministries, but the products of sector

councils' work are also intended to be used in research programming by NWO, TNO, the universities and other bodies. At present there are four sector councils, addressing the following fields: development assistance research, health research, research on nature and the environment, and agricultural research. Two sector councils are currently being set up (for public administration, justice and safety, and for education). To stimulate cooperation between the various sector councils there is a small umbrella organisation called the Consultative Committee of Sector Councils (COS) which deals with topics of common interest. The relevant ministries fund the various sector councils and have final responsibility for them;

- One of the tasks of the Royal Netherlands Academy of Arts and Sciences (KNAW) is to advise government on matters of science and technology, especially in the field of basic research (code of conduct, quality assurance and research schools).

The science and research community comprises 14 public universities, 1 private university (Nyenrode business school), KNAW and its 18 institutes, NWO and its 9 institutes, 5 Large Technological Institutes (GTIs), 4 Leading Technological Institutes (LTIs), TNO and its 14 institutes, the DLO agricultural research institutes, a number of state-owned research and advisory centres and several other institutes in the fields of health and the social sciences.

## **Universities**

580. Universities have a threefold mission: to perform research, to teach and to transfer knowledge to society. As far as research activities are concerned, universities conduct most of the basic research (fundamental and strategic) that is carried out in the Netherlands, but they also perform mission-oriented and applied research. University research covers all academic disciplines, though not every discipline is represented at all universities. Of the 14 public universities, three are geared to technology and one to agriculture (nine universities are general universities and one is the Open University). Universities have a high level of autonomy. The government is not directly involved in their management. Members of the University Councils are appointed by the Minister of Education, Culture and Science.

581. In the Netherlands, as in many other countries, there is a dual system of financial support for universities: direct funding from government and grants dispensed by a research council (NWO). In addition, universities have earned income from contract research/teaching. This means that there are three types of university funding:

- Direct government funding (approximately 60% of the total), consisting of basic or core resources provided by the Ministry of Education, Culture and Science<sup>19</sup> as a block grant or lump sum for teaching and research combined;
- Indirect government funding (approximately 10% of the total), consisting of resources made available to universities by NWO in the form of grants and by KNAW in the form of human resources (researchers and professors employed by KNAW). NWO selects individual researchers, research projects and programmes for funding via a competitive process based on peer review;

- Funding in the form of payments for contract research/teaching (approximately 30% of the total), consisting of additional funds from public and private national and international sources, made available under contracts. Contract partners range from government departments, industry and charities to international funding organisations such as the EU (Framework Programmes).

### **Netherlands Organisation for Scientific Research (NWO)**

582. NWO's mission is to promote and enhance the quality and innovative content of fundamental scientific research at Dutch universities and research institutes and to facilitate the diffusion and use of research results. NWO encompasses all fields of academic endeavour. Its most important tasks are to provide grants for top level research and research equipment and to coordinate research programmes. Besides these tasks, NWO administers nine institutes in the fields of astronomy, mathematics, computer science, physics, history, marine research, law, crime and law enforcement, and space research.

583. One of the pillars of NWO's activities is the award of research grants or subsidies via a process of open competition between researchers. This part of NWO's budget is allocated to programmes, projects and individuals. In general, all researchers with tenure at Dutch universities and research institutes recognised by NWO may apply, although eligibility criteria for certain programmes are broader or more restrictive. NWO offers various types of grants and subsidies:

- Programme subsidies;
- Grants for individual researchers. The most important of these programmes is the Innovative Research Incentives Scheme, which targets new PhDs, post-docs and senior researchers. This scheme was launched in 2000 in cooperation with the universities, KNAW and the Ministry of Education, Culture and Science. Other programmes targeting individual researchers are SPINOZA (a Dutch version of the Nobel Prize) and programmes specifically designed for women (MEERVOUD and Aspasia);
- Publication grants;
- Investments in equipment and facilities;
- Travel grants and international cooperation.

NWO is also committed to building bridges between science and society through cooperation with ministries, other intermediate organisations and business enterprises, and to communication and knowledge transfer.

584. NWO has seen a rapid growth in its budget, from about €30 million in 1970 to more than €400 million in 2002. The Ministry of Education, Culture and Science contributes around 80% of the total (including sums earmarked for specific purposes). The Ministry of Economic Affairs contributes around 4% of the total by allocating funds to NWO's Technology Foundation (STW).

### **Royal Netherlands Academy of Arts and Sciences (KNAW)**

585. The mission of the Royal Netherlands Academy of Arts and Sciences is to stimulate academic research. To be more specific, the Academy's functions and activities can be summarised as follows:

- “Advising” the government on matters related to scientific research; for this purpose, the Academy has several councils and committees composed of members and non-members of the Academy. Solicited and unsolicited advice is given to government, parliament, universities and research institutes, funding agencies and international organisations;
- “Judging the quality” of scientific research by peer review, by awarding Academy fellowships, and through the accreditation committee for research schools in the Netherlands;
- “Providing a forum” for the scientific community and promoting international scientific cooperation through international contacts, congresses, funds and endowments;
- “Acting as an umbrella organisation” for 18 institutes engaged in basic and strategic research, the provision of scientific information services and the management of biological and documentary collections.

586. The Academy is responsible for a number of leading institutes that perform basic research in the life sciences and humanities or provide scientific information services. Some of the institutes also serve the scientific community by developing and managing biological and documentary collections, providing information and/or facilitating research in other ways. In 2002 KNAW had a budget of approximately €100 million. The Ministry of Education, Culture and Science contributed 77% of this.

### **Netherlands Organisation for Applied Research (TNO)**

587. TNO is an independent contract research organisation whose expertise and research is geared towards making a substantial contribution to the competitive strength of private and public-sector organisations, to the economy, and to the quality of society as a whole. As a large contract research organisation, TNO provides a link within the innovation chain between basic research as a source of knowledge, and practical application as the commercially exploitable utilisation of knowledge.

588. TNO conducts a wide range of R&D and other activities in 14 specialised TNO institutes. These activities comprise:

- The development of knowledge;
- The utilisation of knowledge for clients in industry and government;
- Technology transfer, especially to small and medium-sized enterprises (SMEs);

- Acting as the principal laboratory for the Ministry of Defence and other ministries;
- The commercialisation of knowledge in cooperation with companies.

For the purpose of structuring extensive, long-term research programmes for innovative knowledge development, TNO makes various agreements with the Dutch government, which are then financed on the basis of targeted funding. TNO cooperates with nine Dutch universities in some thirty centres.

589. TNO's activities focus on six core business areas: quality of life; defence, security and safety; advanced products, processes and systems; the natural and the man-made environment; ICT, and Services. TNO also undertakes various commercial and market-oriented activities via TNO Management B.V., a subsidiary whose consolidated turnover amounted to almost €55 million in 2001. In the same year, TNO applied for 56 patents, and revenues from patents and licences amounted to €3.6 million.

590. In 2002, TNO's turnover for R&D and other activities amounted to €470 million. TNO receives a basic grant from the Ministry of Education, Culture and Science as well as targeted grants from several other ministries. These grants are used for long-term research programmes. Contract payments form a considerable part of TNO's budget: 66% in 2001.

### **The Large Technological Institutes (GTIs)**

591. The five Large Technological Institutes conduct applied research and related activities, such as advising industry and government in specific fields. They are:

- The Energy Research Centre of the Netherlands (ECN), which performs research in the fields of nuclear and other forms of energy, energy and the environment, and materials. ECN is the Netherlands' largest research centre in the field of energy;
- GeoDelft (GD), which conducts research into highway and hydraulic engineering and soil (including pollution);
- The Maritime Research Institute Netherlands (MARIN), which conducts research into shipbuilding, offshore technology and ocean engineering;
- The National Aerospace Laboratory (NLR), which conducts research into aerospace engineering for both civil and military purposes;
- WL Delft Hydraulics, which focuses on ports, the coast, rivers, shipping, water management and the environment.

The GTIs have two main functions: (1) they act as centres of technological expertise to meet the knowledge needs of government and business enterprises, and (2) they act as centres of technological development, developing technology and making it available to government and business enterprises.

## **Leading Technological Institutes (LTIs)**

The Leading Technological Institutes (LTIs) were conceived in 1997 as - virtual - organisations in which companies and knowledge institutes participate (public-private partnerships). There are four institutes and they operate in the separate fields of nutrition, metals, polymers and telematics. The aim is to stimulate R&D cooperation between public and private partners in areas of importance to the economy and society. TNO is involved in all of them. The mid-term evaluation of the LTIs in 2002 concluded that they provided a successful model for public-private cooperation and should continue for another four years.

### *Agricultural research institutes (DLO)*

592. The DLO agricultural research institutes used to be part of the Ministry of Agriculture, Nature Management and Food Quality. In the second half of the 1990s the institutes became independent from the ministry (as the DLO Foundation) and merged with Wageningen University to form the Wageningen University and Research Centre (WURC). The DLO Foundation and the university are separate entities, but work together in expertise groups in (five) different areas. There are ten institutes within the DLO Foundation, with a total budget of €350 million in 2002.

### *State-owned research centres*

593. A number of institutes operate under the umbrella of one or other of the ministries, although the number of these centres is decreasing. Some of them are directly connected to the relevant ministry, like the Research and Documentation Centre of the Ministry of Justice (WODC); others are ministerial agencies, like the Royal Netherlands Meteorological Institute (KNMI) of the Ministry of Transport, Public Works and Water Management.

594. The total research institute sector is responsible for 15% of total R&D expenditure in the Netherlands. Figure 2.4 shows the distribution between the different kinds of institutes in terms of percentages of the sector's total R&D expenditure.

### *Business enterprises*

595. The business enterprise sector was responsible for 58% of total R&D expenditure in the Netherlands in 2001. The manufacturing sector is by far the largest investor in R&D, with a 76% share in total business R&D expenditure in the Netherlands. The service sector had a share of almost 20% in total business R&D expenditure in 2001, while the remaining sectors (agriculture, hunting, forestry and fishing; mining and quarrying; electricity, gas and water supply; construction) managed a share of only around 5% between them. In manufacturing, 42% of R&D expenditure was made by the electrical and optical equipment industry. Other industries in the manufacturing sector with a relatively large share in total R&D expenditure are machinery and equipment (15%), pharmaceuticals (11%), (basic) chemicals (9%) and food products, beverages and tobacco (7%). In the services sector, the industries in which the most R&D takes place are computer and related activities (30%), research and development (20%) and the wholesale trade (17%).

### **3.10.3 Protection of the moral and practical interests resulting from scientific or other work**

#### **Copyright**

596. Due to EU Directive 92/100 of the Council of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ EC L 346/61 of 27 November 1992) as amended by Directive 93/83/EEC of the Council of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable transmission (OJ EC L 248/15 of 6 October 1993), lending right has been incorporated into the 1912 Copyright Act. This Act states that authors are not permitted to forbid the lending of works and other protected material, provided the lender pays equitable remuneration for it.

597. Directive 93/98/EEC of the Council of 19 October 1993 harmonising the term of protection of copyright and certain related rights (OJ EC 290/9 of 24 November 1993) extended the term of protection of works, as far as the economic exploitation rights are concerned, from 50 to 70 years after the death of the author.

598. The implementation of Directive 96/9/EC of the European Parliament and the Council of 11 March 1996 on the legal protection of databases (OJ EC L 77/20 of 27 March 1996) resulted in the protection of non-original databases, laid down in the Databases (Legal Protection) Act of 1999.

599. Finally, mention should be made of Directive 2001/29/EC of the European Parliament and the Council, adopted on 22 May 2001, on the harmonisation of certain aspects of copyright and related rights in the information society. The Directive is currently being incorporated into Dutch legislation. The proposed legislation will permit the use of protected material, subject to certain conditions, within the closed network of the library.

#### **Right to enjoy the benefits of scientific progress and its application**

600. This paragraph deals with the protection of authors' moral and practical interests. The following developments have taken place since the previous report. At European Community level, several directives have been adopted over the last few years:

- Directive 92/100 of the Council of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ EC L 346/61 of 27 November 1992) as amended by Directive 93/83/EEC;
- Directive 93/83/EEC of the Council of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable transmission (OJ EC L 248/15 of 6 October 1993);
- Directive 93/98/EEC of the Council of 19 October 1993 harmonising the term of protection of copyright and certain related rights (OJ EC 290/9 of 24 November 1993);

- Directive 96/9/EC of the European Parliament and the Council of 11 March 1996 on the legal protection of databases (OJ EC L 77/20 of 27 March 1996); and
- Directive 2001/84/EC of the European Parliament and the Council adopted on 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ EC L 272).

601. All but the last of these directives have since been incorporated into Dutch legislation (1912 Copyright Act, 1993 Neighbouring Rights Act and 1999 Databases (Legal Protection) Act). The first directive provided for the right of equitable remuneration for lending of protected material. The second stated that copyright and related rights must be acquired through an agreement in the country in which the item is beamed to the public by satellite. This prevents a broadcast from being subject to a battery of copyright and related rights regulations passed in different countries. The third harmonised the term of protection of works and other protected material. The fourth introduced the protection of non-original databases in which substantive investments have been made. The producer of such a database has the exclusive right of extraction and re-utilisation.

602. Finally, with the implementation of Directive 2001/84/EC a resale right for the benefit of the author of an original work of art will be introduced into the 1912 Copyright Act.

#### **3.10.4 Conservation, development and diffusion of science and culture**

603. The science & technology (S&T) system of the Netherlands focuses on the funding and production of knowledge by business enterprises, universities and research institutes. Although the production of new knowledge is inherently valuable, new knowledge generated by these organisations is also basic input for innovation in enterprises.

604. The general idea behind the dynamic innovation system is that innovation is an interactive process in which various actors play a role: knowledge institutes, business enterprises, customers, intermediary organisations and the government. The strength of the innovation system depends on exchange, interaction and collaboration between the various elements of the system. While science and technology are key factors in the dynamic innovation system, innovation involves more than simply the development of knowledge. Therefore the contribution of S&T to innovation depends on the extent to which it is embedded in a well-functioning innovation system. The innovation system is used in the Netherlands as a basic framework for the formulation of various aspects of science, technology and innovation policy.

605. For cultural conservation, development and diffusion see section 3.10.1, paragraphs 540-575.

#### **3.10.5 Freedom indispensable for scientific research and creative activity**

606. Academic freedom, both of teaching and of research, is enshrined in the Higher Education and Research Act. For further information see section 3.10.2.1, paragraphs 575-595.

### **3.10.5.1 Freedom to exchange scientific, technical and cultural information, views and experience**

607. Freedom of exchange of scientific, technical and cultural information, views and experience between scientists, writers, creative workers, artists and other individuals and their respective institutions is guaranteed by the general principles of the Constitution. For further information see section 3.10.2.1, paragraphs 575-595.

### **3.10.5.2 Support for scientific and cultural institutions**

608. For information on this topic see section 3.10.2.1, paragraphs 575-595.

### **3.10.6 International contacts and cooperation in scientific and cultural fields**

609. With regard to international cooperation in scientific and cultural fields, the Netherlands is involved in a variety of conventions and agreements in the context of the European Union, the OECD and bilateral relationships.

### **3.10.7 Developments relating to science and culture**

610. New legislation on higher education and research is currently in preparation. For cultural developments, see section 3.10.1, paragraphs 540-574.

### **Notes**

<sup>1</sup> Research Centre for Education and the Labour Market, *Werkgelegenheid en scholing 2001* (Employment and training 2001), Maastricht 2002.

<sup>2</sup> See 'Wife battering and violence outside the family', E. Kandel-Englander. In: *Journal of interpersonal violence* (1992); 'Partner abuse and general crime: how are they the same? How are they different?', T.E. Moffitt et al. In: *Criminology* (2000).

<sup>3</sup> See the research report '*Als het naar buiten komt is het vaak te laat*', by Equivalent, F. Attema, commissioned by the Province of Overijssel, Almelo 2002.

<sup>4</sup> Private Violence - Public Issue. A policy document on the joint approach to domestic violence, Ministry of Justice, The Hague, 2002.

<sup>5</sup> In 1997, 1998, 1999, 2001. On each occasion the resolution was adopted without a vote; the last time 126 countries jointly introduced the resolution.

<sup>6</sup> During the 55<sup>th</sup> Session in 2000.

<sup>7</sup> The resolution was unanimously adopted on 24 October 2002 in the Third Committee of the UNGA.

<sup>8</sup> In this report domestic violence is defined as violence committed by someone in the victim's family circle. Unlike with other forms of violence, the victim and the perpetrator are part of the same living environment.

<sup>9</sup> *Huiselijk geweld onder Surinamers, Antillianen en Arubanen, Marokkanen en Turken in Nederland*, Intomart, 2002.

<sup>10</sup> *Kinderen die getuige zijn van geweld tussen hun ouders, een basisverkenning van korte en lange termijn effecten* by Sietske Dijkstra, Bilthoven, 2001.

<sup>11</sup> Letters from the Minister of Justice and the House of Representatives, 2000-2001, Appendix no. 1377 and House of Representatives, 2000-2001, 27 400 VI, no. 83.

<sup>12</sup> Labour Inspectorate (P.M. Venema), *Werknemers met een bruto-loon op en onder het wettelijk minimumloon in 2001*, The Hague, March 2003.

<sup>13</sup> Contribution-free allowance refers to the portion of salary disregarded in calculating pension contributions.

<sup>14</sup> *Weekly working hours*: the weekly working hours agreed with the employee. Short-time working in the form of days off has not been taken into account, but "short-time working" hours off have.

<sup>15</sup> For more information: see 'Sector Report CARE', Ministry of Health, Welfare and Sport.

<sup>16</sup> Sociaal-Economische Raad, *Inburgeren met beleid. Advies over duale trajecten taalverwerving en arbeid*. Uitgebracht aan de ministers van Sociale Zaken en Werkgelegenheid, en Vreemdelingenzaken en Integratie, The Hague, 21 November 2003, publication number 10. (Available in translation on SER website as 'A policy on integration for immigrants. Advisory report on integration programmes combining second-language acquisition and (training for) work'.)

<sup>17</sup> Raad voor Werk en Inkomen, *Inburgering en arbeidstoeleiding anderstaligen*, Advisory report, 25 November 2003, ref. no. 1602-03/200302482.

<sup>18</sup> However, responsibility for Wageningen University and the DLO agricultural research institutes (Wageningen University and Research Centre) lies with the Minister of Agriculture, Nature Management and Food Quality.

<sup>19</sup> In the case of Wageningen University, the Ministry of Agriculture, Nature Management and Food Quality.

#### **4. LIST OF APPENDICES**

- Appendix 1. Report on the application of the Minimum Wage Fixing Convention, 1970 (ILO Convention No. 131)
- Appendix 2. “National Strategy Report on Pensions The Netherlands 2002”
- Appendix 3. “De positie van mannen en vrouwen in het bedrijfsleven en bij de overheid 1998” (The position of men and women in the private and public sectors, 1998)
- Appendix 4. Report on the application of the Occupational Safety and Health Convention, 1981 (ILO Convention No. 155)
- Appendix 5. Report on the application of the Labour Inspection Convention, 1947 (ILO Convention No. 81)
- Appendix 6. “A short survey of social security in the Netherlands”
- Appendix 7. “The old age pension system in the Netherlands”
- Appendix 8. “Regelingen rond reïntegratie” (Reintegration schemes)
- Appendix 9. “Aliens and Verification of Residence Entitlement in the Allocation of Provisions”
- Appendix 10. “Young people in the labour market”
- Appendix 11. Council Directive 98/24/EC, on the protection of the health and safety of workers from the risks related to chemical agents at work
- Appendix 12. Euratom Directive 96/29/EC on measures to protect workers against ionising radiation

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