



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

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Eighteenth periodic reports of States parties due in 2007

Addendum

NETHERLANDS * * * * *

[17 January 2008]

* This document contains the seventeenth and eighteenth periodic reports of the Netherlands, due on 9 January 2007, submitted in one document. For the fifteenth and sixteenth periodic reports and the summary records of the meetings at which the Committee considered the report, see document CERD/C/452/Add.3, CERD/C/SR./1634-1635 and 1641.

** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

*** Annexes can be consulted in the files of the secretariat.

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I. INTRODUCTION

1. In pursuance of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter 'the Convention'), the present report by the Netherlands is submitted in accordance with the General Guidelines adopted in 1980 by the Committee on the Elimination of Racial Discrimination, as revised at its 984th meeting, on 19 March 1993. For the principal demographic, economic and social indicators and a description of the Kingdom's constitutional system, see the core documents for the Kingdom of the Netherlands (HRI/CORE/1/Add.66, 67 and 68). This, the consolidated seventeenth and eighteenth report, covers the period July 2002 up to December 2006 and follows on from the consolidated fifteenth and sixteenth periodic report which was submitted to the Committee in June 2003 and covered the period up to June 2002.

2. This report is structured around a number of responses to the concluding observations made by the Committee (CERD/C/64/CO/7) in May 2004 after examining the fifteenth and sixteenth reports. The articles regarding major developments under the period of examination are supplemented with additional information. Issues dealt with under the previous period are not mentioned again.

3. The Kingdom of the Netherlands has three constituent parts: the European part, the Netherlands Antilles and Aruba. Each part is responsible for implementing the provisions of the Convention and reporting on implementation. This report covers the European part of the Kingdom only. The reports by the Netherlands Antilles and Aruba will be submitted at a later stage.

II. RESPONSES TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE

4. In its concluding observations dated 10 May 2004 (CERD/C/64/CO/7), the Committee expressed its concerns and gave recommendations on a number of subjects, to be dealt with under this heading.

A. Racist and xenophobic incidents (concl. obs. no. 10)

Integration policy and promotion of general awareness

5. In the aftermath of the murder of the filmmaker Theo van Gogh on 2 November 2004, social tensions arose between the indigenous Dutch population and ethnic minority groups, resulting in a rise in racist and xenophobic incidents. Many policy measures have been taken to address this situation and improve mutual understanding between the groups. The measures which have proved successful include:

- Frequent consultation of the numerous representative bodies of ethnic minority groups, brought together in the National Ethnic Minorities Consultative Committee (LOM) by the Dutch Government

- Regular meetings of the Minister for Housing, Communities and Integration with two Islamic umbrella organizations. These are grouped in the Enquiries Desk for Muslims and Government (CGO) and the Islam Contact Group (CGI)
- Policies to strengthen ethnic minorities' resilience
- The Social Cohesion Initiative. After the murder of Van Gogh, the Dutch Government held a number of meetings with a wide range of participants, from major civil society organizations to members of the general public
- The ' & Campaign '. Launched by the former Minister for Immigration and Integration, it highlights positive examples of interaction between the indigenous population and minority groups in the media, to make the two groups more favourably disposed towards each other
- Two anti-discrimination campaigns (Discrimination? Call now!) and (Discrimination? Not against me!), intended to raise awareness of the right to equal treatment and of discrimination in general. See article 5 for more on these campaigns

These measures have been successful, as the number of incidents declined significantly in 2005 and 2006.

6. The Dutch Government believes that a national network of easily accessible and professional Anti-discrimination Bureaus (ADB's) is necessary to combat discrimination properly and has therefore taken a number of measures in recent years. These include draft legislation, due to enter into force on 1 January 2009, which will make central and local government jointly responsible for anti-discrimination efforts and will oblige all local authorities to provide readily accessible anti-discrimination services for local residents. They will receive central funding for this purpose. See also below under 'Infrastructure Anti-discrimination Bureaus'.

Monitoring and combating racism

7. The Dutch Government believes that in order to combat racism and discrimination, it is necessary to have a good understanding of the issue. A proper national registration and monitoring system is essential. Rapid progress is being made in this area.

8. Various monitors are published, giving insight into the scale and nature of discrimination. The Dutch Equal Treatment Commission (CGB) produces an annual publication entitled 'Equal treatment: opinions and comments. The Racial Discrimination Monitor, which appears every few years, will be published again in 2009 by order of the Minister for Housing, Communities and Integration. The first edition was published in 2006, and incorporated the first representative Dutch survey of experiences of discrimination. A supplementary publication, dealing with discrimination in the labour market, is being prepared at the request of the Ministry of Social Affairs. The Anne Frank Foundation works with the University of Leiden to produce a national Monitor on Racism and Extremism.

9. As stated above, efforts are being made to establish a national network of anti-discrimination services whose most important task will be to register complaints. Art. 1, the national anti-discrimination organization, registers complaints submitted to local anti-discrimination bureaus and publishes an annual report. The National Bureau is currently trying to improve the registration of complaints in order to obtain a better picture of the scale of discrimination and to produce more efficient, reliable and comparable data. The police are also working to improve registration, particularly of offences with a discriminatory component. A particularly important goal in this regard is the creation of comparable records. Legislation establishing anti-discrimination services is focused on improving registration and on increasing insight into the scale of discrimination, at both local and national level, with an eye to international obligations.

B. Discrimination on the Internet (concl. obs. no. 11)

10. The Dutch Government shares the Committee's concern about the dissemination of racial and discriminatory material via the Internet. The large number of complaints submitted to the Dutch Internet Discrimination Hotline (MDI) can in part be attributed to the general rise in Internet usage and awareness of the MDI's existence, and in part to the fact that as a relatively anonymous medium the Internet provides a forum for many racists and racist groups.

11. The period shortly after Van Gogh's murder in November 2004 saw a wave of hate utterances on the Internet. These were posted both by those who felt that the rise of Islam should be halted, and those who expressed joy at the murder and were glad that the jihad in the Netherlands had begun.

12. The MDI's annual report for 2005 registered 1289 postings expressing discrimination. Much of the discriminatory material reported to the MDI was posted on interactive websites like web fora and weblogs, most of them in Dutch. The exact number of racist websites and news groups is unknown.

13. With regard to the groups targeted, there was a notable rise in utterances directed against Muslims, and for the first time in the MDI's history, Muslims became the most hated category (371 utterances). But there was also an increase in the number of expressions of hatred involving general terms like 'foreigner' and 'immigrant' and in anti-African (175) and anti-Moroccan postings (186). There was a slight rise in the number of discriminatory utterances against Turks. At the same time, 2005 saw a drop in the number of anti-Semitic utterances (302) and, to a lesser extent, in discriminatory postings about the ethnic Dutch (38).

14. In 2005, the percentage of offensive postings which were removed in response to requests for removal by the MDI is 96. This high percentage and the fact that site managers removed a great deal of offensive material before it was noticed by the MDI (14% of the total) indicate a high level of commitment to keep websites free of discriminatory material. In 2005 the MDI reported seven cases to the police.

15. Following consultations between the MDI, the Public Prosecution Service's National Discrimination Expertise Centre (OM-LECD) and the police's National Bureau for Discrimination Cases (LBD), the participating institutions concluded further agreements on monitoring and processing cases of online discrimination.

16. To promote efforts to combat discrimination on the internet, the MDI held three successful workshops in 2005, involving some 700 Amsterdam police officers and assistant public prosecutors. At the request of OM-LECD, it also provided a presentation at the national meeting of public prosecutors responsible for dealing with cases of discrimination.

17. In 2006, action using the criminal law to combat Internet discrimination was stepped up. Three of the cases reported to the police by the MDI, including the 'Housewitz' video clip posted in 2005 and a case against a purportedly satirical website that contained offensive utterances directed against Jews and homosexuals, have resulted in convictions. See also '*A summary of judgments in discrimination cases from 2002 to 2007*' under article 4, below.

18. The Government is continuing efforts to tackle online discrimination and has increased the MDI's funding for the year 2007. Plans are also afoot to set up a National Cybercrime Reporting Centre. It will primarily target extremist and terrorist utterances, by responding to reports from members of the public as well as actively monitoring the Internet. When deemed necessary, it will pass on information to the appropriate authorities, e.g. the Public Prosecution Service, the police, and the General Intelligence and Security Service.

19. In addition, the Dutch Government believes that an international approach is needed to combat racism on the Internet. On 16 November 2006, the Netherlands ratified the Convention on Cybercrime of the Council of Europe, which entered into force for the Netherlands on 1 March 2007. At the time of reporting, the Netherlands had not yet ratified the Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

C. Racial segregation (concl. obs. no. 12)

Citizenship and integration

20. Certain neighbourhoods which have a high concentration of immigrants (including second- or third-generation immigrants) are also high-problem areas, that is to say they have high unemployment rates, a high rate of school drop-out, inappropriate use of public spaces, high crime rates, etc.. There is no clear evidence whether ethnic origin per se is the cause of these problems, or whether they are connected to the low socio-economic status of immigrants. However, the Dutch Government does feel that such neighbourhoods would benefit from a more varied mix of residents. A mix, in this sense, involves both ethnic variety and differences in socio-economic status. Most of these problem neighbourhoods are in big cities. They have a high concentration of ethnic minority groups with low average incomes, living in low-rent, predominantly social rental housing.

21. The Dutch Government is endeavouring to counter the one-sided composition of such districts by providing different types of housing, some aimed at the higher-income brackets. The reasoning is that a varied housing stock makes for a more varied and, ultimately, 'better' neighbourhood. Young people benefit from the presence of positive role models, the social fabric improves when residents participate in social activities, and higher incomes boost local economic activity. This can have a trickle-down effect, improving living standards for groups with below-average incomes.

22. In February 2007, the new Government appointed a minister with a new portfolio: Housing, Communities and Integration. The new minister, Ms. Ella Vogelaar, has indicated that during her term of office she will mainly focus on 40 designated problem districts in the Netherlands. She will maintain constant dialogue with the municipalities concerned in an effort to improve living standards in these areas, as well as to promote employment, raise the standard of education, increase security and encourage integration.

23. Lastly, concrete measures have also been taken to counter spatial segregation in the field of housing and to promote quality of life in certain urban areas. The Urban Areas (Special Measures) Act - also known as the Rotterdam Act, as this was the first city to introduce this measure - allows local authorities to impose income requirements on housing in neighbourhoods where social policy is no longer considered adequate to guarantee an improvement in the quality of life. This means that accommodation seekers coming from outside the city, who are not generating any income from employment - i.e. social security claimants - can be prevented (on a temporary basis) from settling in those neighbourhoods. This gives local authorities a chance to counter the social problems in the neighbourhoods and to break the vicious circle. Most other cities adopt a different approach aimed at persuading higher-income residents to settle in problem neighbourhoods through the inducement of high-quality housing, rather than barring lower-income residents from access to the housing stock.

Citizenship and integration at schools

24. 1 February 2006 saw the entry into force of legislation requiring schools to promote 'active citizenship and social integration' among their pupils, underscoring the fact that the promotion of citizenship and integration needs to be actively targeted by schools. Many schools approach the issue in different ways, with factors such as pupils' individual situations, the wishes of parents/carers and other concerned parties, and schools' own mission playing a role. At the request of the education minister, the Education Inspectorate will monitor compliance with this statutory requirement from 1 October 2006. The expectation is that experience in the coming years will lead to identification of best practices, enabling teaching to be further developed. Monitoring authorities will tie in with this process, in close consultation with schools and civil society.

25. As far as educational provision is concerned, the Education Inspectorate determines whether a school's curriculum:

- Constitutes compliance with the requirement to help pupils acquire competences that promote active citizenship and social integration
- Ensures that pupils are familiar with and find out about the different backgrounds and cultures of their peers
- Assumes that pupils grow up in a diverse society, and gives shape to the attainment targets that are relevant in this context

The schools are responsible for providing education of a satisfactory quality, geared to promoting social integration and active citizenship, including the transfer of knowledge about and acquaintance with social diversity. Where the quality of teaching is concerned, the Education

Inspectorate establishes whether schools are complying with the requirement to account for their way of approaching and carrying out this task in the school plan and the school prospectus. Schools also need to be aware of the results of their teaching, and to tailor it to specific circumstances in and around the school that are relevant to integration and citizenship, perhaps in adverse ways.

Measures aimed at training teachers to teach in a multicultural setting and to respond adequately to racism in schools, and at promoting expertise among such teachers

26. Teachers are not specifically trained to deal with discrimination, though they are required to create a harmonious atmosphere in which everyone is treated with dignity. This is laid down in the standards of competence on which teacher training is based. One of the important competencies specified in the legislation regulating such standards is the ability to establish a safe and harmonious atmosphere in which pupils can learn and develop, and to assist children in their social, emotional and moral development.

Human rights education in primary and secondary education

27. Schools are free to organize their own teaching as long as it meets the requirements attached to the attainment targets. A number of attainment targets require schools to pay structural attention to citizenship, under which information about human rights falls (attainment targets for the lower forms of secondary school). The attainment targets for primary schools and the lower forms of secondary schools devote a great deal of attention to curbing racism and intolerance. The relevant targets for secondary schools are:

- Attainment target 47. Pupils learn to relate current world tensions and conflicts to their own background, thus discovering the impact of current events on individuals and society (national, European and global), the great extent to which countries are interdependent, the importance of human rights and the significance of international cooperation.
- Attainment target 34. Pupils learn the basic principles of the structure and function of the human body, to make the connection to the promotion of physical and mental health, and to take responsibility for their own health.
- Attainment target 35. Pupils learn about care. They learn to care for themselves, others and their surroundings, and how they can promote their own safety and that of others in various different situations (home, school, work, leisure, roads).
- Attainment target 36. Pupils learn to ask meaningful questions about social issues and phenomena, to adopt a reasoned stance on them and to defend their arguments, as well as to deal with criticism respectfully.
- Attainment target 38. Pupils learn to use a contemporary understanding of their own environment, the Netherlands, Europe and the world to interpret phenomena and developments in their surroundings.

- Attainment target 43. Pupils learn about similarities, differences and changes regarding cultures and ideologies in the Netherlands, to relate their own way of life and that of others to these concepts, and to appreciate the social significance of mutual respect for different notions and ways of life.

Measures to curb educational segregation

28. In urban neighbourhoods with a high proportion of ethnic minority residents, schools naturally tend to have a relatively high proportion of ethnic minority pupils. The Dutch Education Ministry seeks to curb educational segregation, but parents are free to choose their child's school and privately-run schools (as opposed to public-authority schools) are not obliged to accept pupils. As of the 2006-2007 school year, local authorities and school boards will be statutorily obliged to meet at least once a year to discuss ways of preventing segregation and promoting integration in primary and secondary schools. The Education Inspectorate ensures that schools play their part. Local authorities, schools and parents are helped to put policy into practice. A Mixed Schools Knowledge Centre, charged with combating educational segregation, has been set up with the aid of local authorities. Its tasks include commissioning research and exchanging best practices. Set application dates for schools will also be introduced, so that parents cannot gain an unfair advantage by registering their children for popular primary schools well in advance.

Equal opportunities in primary and secondary education

29. Children can attend primary school from the age of four. Their levels of development vary; many ethnic minority pupils lag behind in terms of language skills. To tackle this problem, special programmes have been developed at the preschool stage - for playgroups and childcare centres - to help children develop Dutch language skills. Primary schools with a high proportion of disadvantaged pupils (many of whom are ethnic minority pupils) receive extra resources to tackle such disadvantages. The indicator for allocating such resources is the level of education of a pupil's parents. Schools with high concentrations of disadvantaged pupils can obtain up to an additional 80% of their regular budget. Local authorities are also given resources to set up bridging classes providing extra language lessons in mainstream schools.

30. The aim of secondary education is to enable all pupils, irrespective of their background, to develop to the full and to receive education that is appropriate to their needs. The policy on care and disadvantage is to remove any obstacles to this goal. Central government has invested in support advisory teams (ZATs) in which a number of organizations work together to identify and combat pupils' problems at the earliest possible stage. Most schools now have their own ZAT. On 1 January 2007, a new policy to combat disadvantage in secondary schools entered into force. Its main aim is to ensure that resources go to schools that need them most. These are schools with cumulative problems, i.e. they struggle not only with educational disadvantage but also with other problems such as truancy, pupils repeating classes, youth care problems, crime and dropout. The policy applies to all secondary schools, irrespective of type. The extra resources are spent on tailor-made approaches and on individual pupils, optimizing pupil performance through intensive programmes to promote language skills, and preventing dropout.

31. Separate funding is also available for pupils who enter secondary school after having spent less than two years in the Netherlands. The aim is to equip them as soon as possible with the Dutch language skills they need to enter mainstream education.

New government's plans to tackle school dropout

32. In April 2006, the Education Ministry published a policy document announcing a package of extra measures to tackle dropout. This is primarily to be achieved by identifying and tackling language and learning deficiencies as early as possible and to ensure that transitions in pupils' school careers are as smooth as possible. Other effective measures include enforcing and prolonging school attendance, and enabling young people to gain basic qualifications through a combination of school and practical training in the workplace.

The most important measures are:

- A bill proposing compulsory school attendance for all pupils up to 18 years until they attain a basic qualification
- The development of a legal framework empowering municipalities to compel young people without a basic qualification aged 18 to 23 to follow a programme combining study and work
- Agreements between the education ministry and the 14 local authorities with the highest level of school dropout aimed at reducing dropout in these regions at the end of the 2006/2007 school year by at least 10% compared with the 2004/2005 school year
- Promoting support advisory teams (ZATs). This entails both reinforcing internal support services at schools and working together with external partners. The most important measures are aimed at strengthening services for pupils with special needs at levels 1-2 of secondary vocational education (MBO) and giving shape to ZATs within MBO. To this end, the MBO budget has been permanently increased to provide for support on a systematic basis

D. Employment of minorities (concl. obs. no. 13)

Employment of Minorities (Promotion) Act

33. Under the Employment of Minorities (Promotion) Act (*Wet SAMEN*), all companies with more than 35 employees were required to report on the number of members of ethnic minorities in their employment (relative to the regional target figures) and on the policy conducted by the company to achieve proportionality under the Act. Although the number of companies that submitted an annual report under the Act increased annually, full compliance was never achieved. The Employment of Minorities (Promotion) Act was initially introduced on a temporary basis. After being extended for two years in 2002, it was repealed in 2004. It did, however, engender various activities, which are being developed within the National Diversity Management Network (DIV). Through the DIV, the Government provides support for employers in conducting their diversity policy. The DIV is a proactive knowledge centre that stimulates diversity management and acts as a forum for pooling the knowledge, skills and experience that

exist in various places within the network on both the supply and the demand side. The knowledge acquired in recent years from implementing various projects relating to diversity policy will thus be maintained, augmented and applied in practice.

Measures/activities aimed at improving the position of ethnic minorities in the labour market

34. The Ministry of Social Affairs and Employment is undertaking various activities aimed at improving the labour market status of ethnic minorities. These include generic activities from which ethnic minorities - like other groups - benefit proportionally, as well as activities specifically tailored to ethnic minorities. An effort is being made to combat negative perceptions and discrimination in relation to ethnic minority job-seekers, with supplementary policies of a specific nature implemented on a temporary basis where necessary.

35. As part of the Social Cohesion Initiative, the Government has entered into agreements with the social partners, benefits agencies, the Association of Netherlands Municipalities (VNG), ethnic minority organizations and other civil society organizations concerning a joint approach aimed at improving the position of ethnic minorities in the labour market. Ten projects have already been launched, one of which is the Job Offensive for Refugees. The Dutch Council for Refugees, together with the Foundation for Refugee Students UAF, Emplooi and the Centre for Work and Income (CWI), launched a joint employment offensive for refugees, setting themselves the target of finding jobs for 2,600 refugees within three and a half years.

E. Aliens Act 2000 (concl. obs. no. 14)

Relevant changes in legislation since the previous report

36. With regard to section 21 of the combined 15th/16th report (CERD/C/452/Add.3), it should be noted that as of 1 September 2004, holders of temporary asylum residence permits can request that their permit be converted into a permanent asylum permit after a period of five years. Before this date, such a request could be made after three years. This new period enables the Dutch Government to reach a more considered assessment of whether the situation in the country of origin is still such that nationals of that country need to rely on permanent residence in the Netherlands. It is also more in line with the situation in neighbouring countries.

37. With regard to sections 31 and 32 of the previous report, the following should be noted: foreign minors who have remained in the country of origin qualify for a regular residence permit to join their biological or legal parent(s) in the Netherlands, providing that the latter is/are (a) legal resident(s), they have sufficient means of support, and that the existence of a family-law relationship has been satisfactorily demonstrated. A further statutory obligation is that the minor in question must factually form part of the parental household. In the past this criterion has been interpreted in different ways, but with effect from 8 September 2006 it is - with very few exceptions - considered to be fulfilled when family life exists within the meaning of article 8 of the European Convention on Human Rights. In principle, family life in this sense always exists between parents and their children, and may be considered to be terminated only in highly exceptional circumstances. This change of policy ties in with the stance of the Dutch Government that parents and children belong together and that their family ties should not be

quickly deemed to be severed. The introduction of this clear criterion makes implementation much easier and is more in line with the way in which the existence of family life is assessed in neighbouring European countries.

38. It should be noted that the Aliens Act 2000 was evaluated between 2003 and 2006. In its final report, the evaluating committee came to a number of conclusions, one being that the level of care exercised in the accelerated asylum procedure should be enhanced in order to achieve an improvement in quality, comparable to the improvement made in the standard asylum procedure as compared to the situation under the former Aliens Act. It also concluded that the standard asylum procedure needed speeding up. In its coalition agreement, the Government has undertaken - partly in the light of these conclusions - to improve the asylum procedure, particularly the accelerated procedure. The details are to be worked out later.

39. With regard to the points to which the Committee specifically drew attention, the following is noted.

Residence permits for rejected asylum seekers who through no fault of their own cannot return to their country of origin

40. The Netherlands is pleased that the Committee welcomes the option of granting a residence permit to asylum seekers who are able to demonstrate objectively that they cannot leave the Netherlands through no fault of their own (*'buiten schuld'*). The Netherlands shares the Committee's view that the criteria on the basis of which such permits are granted should be as clearly defined as possible.

41. The concept 'no fault of their own' should be regarded as an objective criterion, which entails that an alien must be able to demonstrate, with the aid of documentation that can be objectively assessed, that the authorities of his country of origin or (previous) residence will not grant permission for his return. As regards the attempts to obtain the necessary cooperation of the relevant national authorities, as well as the necessary (replacement) travel documents, responsibility rests with the alien.

42. In order for a residence permit to be issued on the above grounds all the following conditions must have been met:

1. The alien has tried independently to leave the country. He has demonstrated that he has applied to the diplomatic or consular mission of the country or countries of which he is a national, where he previously resided regularly as a stateless alien, and/or of other countries of which it, due to the special facts and circumstances of the particular case, may be assumed that these countries are likely to admit him;
2. He has applied to the International Organization for Migration (IOM) for assistance with his departure, and the IOM has indicated it is not able to facilitate the alien's departure, because the alien purports not to have a travel document at his disposal;

3. He has requested the Ministry of Justice's Repatriations and Departure Service to mediate with a view to obtaining the necessary documents from the authorities of the country or countries that are likely to admit him, and such mediation has not been effective;
4. The combined facts and circumstances of his case are such that it can be determined that it is through no fault of his own that the alien cannot leave the Netherlands. This concerns objective, verifiable facts and circumstances that relate to him personally, and are backed by documentation; and
5. He is living in the Netherlands without a residence permit and does not fulfil the conditions for being granted another kind of residence permit.

43. Furthermore it must be noted that the State Secretary for Justice retains the right to deviate from this policy rule (having powers to depart from policy rules) in individual cases, and grant a permit, when applying this policy rule would, due to special circumstances, have consequences which would be out of proportion to the purposes of the rule.

Aliens who entered the Netherlands under the old Aliens Act

44. When assessing asylum applications, the Netherlands takes account of its obligations under international law, including the principle of non-refoulement, laid down inter alia in article 3 of the European Convention and article 3 of the Convention against Torture, and the right to family life, laid down inter alia in article 8 of the European Convention.

45. The Committee refers to 'the Government's plans to return a very large number of failed asylum seekers'. Of the group of asylum seekers who have been in the Netherlands for a long time and who applied for asylum under the old Aliens Act, which was valid up to 31 March 2001, some 4,950 individuals are known to have left the country by the end of December 2006, largely through the mediation of the IOM. Some 10,750 aliens have acquired residence permits on various grounds, for instance because they were deemed to need protection, because they were unable to leave the Netherlands through no fault of their own, or because of humanitarian considerations. Around 8,290 of the original group have not demonstrably left the Netherlands.

46. The new Government has introduced an arrangement intended to resolve this issue (*pardonregeling*). This arrangement entails that residence permits will be issued to those failed asylum-seekers who meet a number of objective criteria. These criteria entail, amongst others, that the alien has submitted his first asylum application before 1 April 2001, has resided continuously in the Netherlands since 1 April 2001, and there is no indication that he is a threat to the public order. As a result of this arrangement, a large number of the group of aliens who applied for asylum under the old Aliens Act and who are still in the Netherlands will be issued a residence permit after all. Hence, returning them to their countries of origin is no longer an issue. The arrangement is currently being put into effect.

47. However, the above does not detract from the basic assumption that those who do not (or no longer) reside lawfully in the Netherlands must leave the country, whether or not after the expiry of a set period, the reason being the Government's conviction that the return of rejected asylum-seekers improves the position of aliens who reside legally in the Netherlands, in terms of acceptance, social position and integration.

Minor asylum-seekers

48. The Netherlands pursues a special policy on unaccompanied minor asylum-seekers. Minor asylum-seekers whose application has been rejected retain the right to reception until they reach the age of 18, unless reception becomes available in their country of origin before that time. If at the time their application is rejected it can not be determined whether reception in their country of origin is available, the minor is automatically issued a regular residence permit. If their circumstances remain unchanged, the permit granted may - provided that the additional conditions are fulfilled - after a three-year period be converted into a permit for continued residence.

49. Unaccompanied minors may be placed in an aliens' detention centre if this is necessary for returning them to their countries of origin. However, this measure is used only with great circumspection.

50. When families with children are to be returned, account is taken of the vulnerable position of the children. If it is considered necessary to place a family in detention in order to return them, minor children are only detained if the parents indicate that they do not wish to be separated from them. Parents are also entitled to place the children elsewhere, for instance with relatives or friends, or with a foster family. In cases where families with children are detained, a special effort is made to keep the period of detention down to a minimum and to place them in locations with facilities for children.

51. In the international context, the most relevant convention regarding the detention of minors is the Convention on the Rights of the Child. Dutch practice accords with article 37(c) of the Convention which states, inter alia, that 'every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so'. The latter particularly applies if a parent, relative or close friend of the minor is also being detained.

52. Finally, it may be noted in this context that the State Secretary for Justice is currently reviewing the policy on minors, including minors in aliens' detention centres.

F. Ethnic composition of the police (concl. obs. no. 15)

Developing a diversity policy

Working plan on diversity in the police 2001-2005

53. The working plan on diversity in the police 2001-2005 was drawn up in 2000. At the time, diversity was primarily regarded as a social issue. The main aim was to ensure that the police reflected the make-up of society. However, diversity policy was not confined during this period to target group policy within the police, but became an integral part of personnel policy as a

whole. With a view to helping police forces to develop and implement the diversity policy, the Diversity and Police Expertise Centre (LECD) was set up in 2001. Some of the results of the working plan are given below:

- Each police force has an officer responsible for diversity policy
- Each police force has a confidential adviser. Support is provided for networks of diversity policy officers and central confidential advisers
- Support is provided for women's networks
- Police forces are developing policies to eliminate inappropriate behaviour

Multi-year Framework for Police Diversity 2006-2010

54. Diversity policy revolves around respecting and exploiting the different qualities of an organisation's staff with a view to increasing effectiveness. For many years, emphasis in the police was on recruiting women and ethnic minority police officers. However, the Multi-year Framework for Police Diversity 2006-2010 represents a shift in policy. From a social perspective - efforts to have the police reflect the make-up of the regional labour force - the focus has shifted to a more businesslike perspective, concentrating on strategic and operational targets and police force performance. In this context, diversity is regarded as a business issue.

55. In concrete terms, this means that forces will be looking more at the contribution that diversity makes to their own operational processes, e.g. investigation, intake, emergency assistance, etc. An expert group whose members include ethnic minority police officers has been set up to support forces in the event of public order problems and crime involving ethnic minorities.

Police policy plan 2005-2007

56. The police policy plan contains a diversity frame of reference developed to monitor the implementation of diversity measures in police forces. Checks carried out to see whether every force has set up a diversity policy plan containing target figures for the recruitment and promotion of women and ethnic minorities, and to monitor the impact of the plan. Checks are also carried out to establish whether superior officers are sufficiently informed about other cultures, religions, lifestyles, etc.

Results

57. The monitor shows that progress has been made in the field of diversity in recent years, and that the percentage of ethnic minority police officers has risen.

Year	Percentage of ethnic minorities	No. of ethnic minority officers
2003	5.9	3 424
2004	6.2	3 580
2005	6.2	3 629
2006	6.4	3 570

58. In 2006, the Minister of the Interior and Kingdom Relations and the police agreed on target figures for each police force. That same year saw a slight but heartening rise (0.2% compared to 2006) in the percentage of ethnic minority officers employed in the Dutch police force: 6.4%. These figures include the National Police Services Agency (KLPD), but exclude the Royal Military and Border Police (KMar). To date, however, only seven forces (Utrecht, Central Holland, South Holland, North Holland, Friesland, South Gelderland and the Gooi and Vecht region) have actually reached their target figure. Despite the fact that 19 have not reached their target figure, the diversity percentage has risen within 11 forces, so the majority of police forces are on the right track.

Future plans

59. New agreements are currently being made regarding diversity for the period 2008-2011. They entail plans to set an ambitious national target figure, as well as figures for each force and separate agreements about the recruitment and promotion of ethnic minority officers and ethnic minority representation in senior posts. Police training must also pay more attention to diversity. In 2006, the police academy incorporated diversity in a limited number of modules in primary training. A learning pathway has also been developed for officials responsible for recruitment and selection, with an emphasis on diversity. By 2008-2009, the aim is to have embedded diversity and multicultural professionalism (i.e. learning to deal with different cultures, religions, lifestyles, etc. in society) in mainstream police training and in the research and development components, so that all staff are properly prepared for a pluralist and multi-ethnic society.

G. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (concl. obs. no. 16)

60. At this point, the Government has no plans to accede to the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (A/RES/45/158). This has partly to do with the Benefit Entitlement (Residence Status) Act (*Koppelingswet*), which entered into force on 1 July 1998 and which distinguishes between foreigners with and without legal residence status, and the consequences of that distinction for entitlement to social security benefits.

61. It should be noted that only States that can be characterized as countries of origin of labour migrants have ratified this Convention, while countries of destination have stood aside if other Western countries were to ratify the Convention, the Netherlands might review its current stance.

H. Consulting civil society organisations (concl. obs. no. 17)

62. The Netherlands attaches great importance to partnership with civil society organizations working to combat racial discrimination, and Dutch ministries regularly consult and meet with NGOs on matters relating to racial discrimination. A good example is the national anti-discrimination organization, Art. 1, which resulted from a merger between the National Bureau against Racial Discrimination (LBR) and the National Federation of Anti-discrimination Bureaus and Hotlines. It receives both permanent and project-based funding from the central

Government. Although the organization works closely with Government agencies and municipalities, it also seeks to influence policy by lobbying Parliament and issuing shadow reports to international organizations. The Dutch Government also subsidizes the National Antiracism and Anti-discrimination Platform (NPRD), an umbrella organization for most agencies seeking to combat discrimination on whatever grounds. The NPRD submits its findings in an annual letter to the Minister for Housing, Communities and Integration, and has elaborated various initiatives for the National Action Plan on Racism.

I. Availability reports and observations (concl. obs. no. 18)

63. The Netherlands makes an effort to distribute its reports and the concluding observations among the public, as well as among government officials. Reports are as a rule submitted both to Parliament and to NGOs. Plans are in progress to place the reports and concluding observations on Ministry websites.

III. INFORMATION RELATING TO ARTICLES 2-7 OF THE CONVENTION

64. Relevant information by article is provided below, focussing on major developments and new issues in the period under review (in so far as these have not already been dealt with in the answers to the concluding observations).

A. Article 2

National Action Plan on Racism

65. During the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), held in Durban in 2001, the Netherlands undertook to draw up a national action plan combating these forms of discrimination. After extensive consultation with the field, the National Action Plan on Racism (NAP) was presented in December 2003 (House of Representatives 29 200 VI, no. 62). The original plan can be found in Annex I. In June 2005, Parliament received a progress report on the period 2003-2005 (House of Representatives 29 800 VI, no. 154). In the summer of 2007, the House of Representatives received another report, concerning the results achieved during the second and third Balkenende governments (2003-2006). Under the previous government, the national coordination of the NAP was the responsibility of the former Minister for Immigration and Integration. The Minister for Housing, Communities and Integration, who is now responsible for coordinating efforts to combat racism, ensured that a concluding report was drawn up. At the request of the House, a result-based format was adopted. All the measures and actions set out in the NAP have now been achieved or embedded in standard policy. The report, which is attached (see Annex II), contains descriptions of measures taken in recent years, grouped by the following themes: living environment, consciousness-raising, equal treatment in the labour market and infrastructure. Some of the NAP action points were dealt with in the first progress report. Accordingly, an overview of all NAP action points is provided in the NAP progress report. The formulation of aims and agreements in the NAP has resulted in numerous policy initiatives that will be described in this 17th/18th CERD report. The action points for the NAP have been completed, but fighting racism remains a priority. The current government believes that the right to equal treatment is one of the basic pillars of social relations between individuals, and between individuals and government.

Protecting individuals against discrimination is vital if democracy, the rule of law, social cohesion and social relations are to be maintained. The Government has therefore identified fighting discrimination as a priority for its current term of office. In the second half of 2008 an action plan will be presented to Parliament, outlining the measures the Government will take to combat racism. The plan will outline how the Minister for Housing, Communities and Integration will shape antiracism policy, together with the Minister of Justice, the Minister of the Interior and Kingdom Relations, the Minister of Education, Culture and Science, the Minister of Social Affairs and Employment and the Minister of Health, Welfare and Sport. The plan will also look at combating racism at local level.

Performance agreements with the police on tackling discrimination

66. Tackling discrimination is a highly important issue for the Minister of Justice and the Minister of the Interior and Kingdom Relations, as evinced by the inclusion of discrimination in police performance agreements for 2007. Under the terms of the agreements, police forces are obliged to keep the Public Prosecution Service, local authorities and relevant stakeholders regularly informed of the situation on discrimination and crime, and to implement the nine parameters for combating discrimination as laid down by the Board of Chief Commissioners on 14 January 2004. In concrete terms, this means that police forces must:

- Incorporate anti-discrimination policies in their annual plan
- Maintain an up-to-date list of all discriminatory incidents and reports of discrimination
- Regularly discuss the above list with the Public Prosecution Service, local authorities and other relevant stakeholders
- Draw up an annual table for the Public Prosecution Service giving the figures on reported cases of discrimination and the action taken
- Make a member of the Force Management Team/Regional Management Team responsible for the discrimination portfolio and appoint a regional liaison officer for discrimination
- Ensure that the regional police force manager takes up discrimination in tripartite talks with the mayor and Public Prosecution Service

For their part, the Ministers of Justice and of the Interior and Kingdom Relations undertake to promote systematic partnership between local governments, the Public Prosecution Service and other relevant partners. On 7 June 2007, the Ministries of Justice and of the Interior and Kingdom Relations held a conference on a joint approach to discrimination, aided by the police and the Public Prosecution Service (see for the results in compact form Annex III). In mid-2007, the Minister for Housing, Communities and Integration will draw up voluntary agreements with a number of cities and provinces with a view to improving coordination between local government and the police and the Public Prosecution Service.

Registering, reporting and dealing with cases of discrimination

67. The police register cases of discrimination and offences of a discriminatory nature, such as racism, in the force's registration system. In some forces this is being done, by way of experiment, in the form of a question about discrimination in the standard list of questions. All forces make a note of the discriminatory element of the offence in the information box.

68. The national search engine Blue View - a kind of police Google - has been operational since July 2006. Blue View facilitates the search for cases of discrimination and cases with a discriminatory element in a central system making it much easier to find offences with a discriminatory element.

69. The police are currently improving the system of registering cases of discrimination and cases with a discriminatory element (also known as hate crimes) by providing special training for Intake & Service staff responsible for registering such cases.

70. The National Discrimination Expertise Centre (LECD) is working on a project entitled 'Hate crimes'. Its aims are to:

1. Establish the true figures for racist, religious and homophobic hate crimes;
2. Provide a confidential, high quality support service for victims of hate crimes;
3. Win the confidence of ethnic minority members of the community and increase the proportion of incidents reported.

A pilot will be carried out in partnership with two regional police forces. It will also be crucial to involve civil society organizations; this will require proper coordination. The project is expected to start in late 2007, or earlier if possible. The LECD is also developing a uniform regional format for analysing discrimination-related crime patterns, in line with performance agreements with the Ministers of the Interior and Kingdom Relations and of Justice.

The above-mentioned developments will provide a thorough regional picture of cases of discrimination.

Minority organizations

71. The Dutch Government frequently consults the many bodies representing ethnic minority groups, brought together in the National Ethnic Minorities Consultative Committee (LOM). Between 2005 and 2007, it has also financed a programme encouraging minority organizations to promote mutual understanding between the indigenous Dutch population and ethnic minority groups. The programme forms part of the Social Cohesion Initiative (see under *Integration policy and promotion of general awareness*, II. A, concl. obs. no. 10) and has entailed setting up many projects to promote minority participation in all aspects of society and to eliminate barriers between ethnic groups. The overall goal is to strengthen social cohesion and interpersonal bonds, and to promote a sense of citizenship and 'belonging'. The Government helps these bodies organize conferences and summer schools, develop role models, and set up training courses and websites. The programme will be evaluated at the end of 2007.

Information about equal treatment of ethnic minorities

Complaints procedure

72. The Equal Treatment Commission (CGB) is authorized to investigate cases of alleged unequal treatment of ethnic minorities.

Information from CGB	Race	Nationality
Decisions		
2005	39	46
2006	47	52
Requests		
2004	45	12
2005	78	20
2006	105	20
Telephone helpline		
2004	45	32
2005	78	50
2006	105	68

Infrastructure Anti-discrimination Bureaus

73. Organizations and members of the public can turn to various bodies with complaints about discrimination, such as the police, confidential advisers or Anti-discrimination Bureaus and Hotlines (ADB). ADBs are the first point of access for people who feel discriminated against; they provide advice and mediation and compile a central database of the complaints submitted to them. If an ADB thinks that a particular case is serious, it refers the person or organization to the CGB (see above).

74. In 2005, the ADBs received a total of 2,116 complaints of racial discrimination. Over the last few years, such complaints have declined slightly, compared with before 2003. In 2005 a total of 80 complaints were received about discrimination on the grounds of nationality, thus remaining fairly constant compared with previous years. Discrimination on the basis of nationality remains fairly constant at around 2% of all complaints. Complaints tend to concern withholding goods and services - or providing them less advantageously - to persons who do not possess a Dutch passport or who have only a temporary residence permit. In 2005, 281 complaints were received concerning discrimination on the basis of religion, a decline since 2004, when 328 complaints were received. This represented a decline from nine per cent in 2004 to six per cent in 2005. In the first few months after the attacks of 11 September 2001 in the United States, there was a sharp growth in the number of complaints on the basis of religion. The same pattern appeared after the murder of Theo van Gogh in November 2004. Almost 30 per cent of complaints about discrimination on the basis of religion in 2004 were submitted in November. Just as in 2001, this sharp increase in complaints was short-lived.

75. As stated earlier (under *Integration policy and promotion of general awareness*, II.A, concl. obs. no. 10), the Government sets great store by good local anti-discrimination services. A steering group was accordingly set up under the previous government to look into the future of

the ADBs. It was chaired by former minister Els Borst-Eilers. The steering group's advisory report, entitled 'Prospects of equal treatment', was submitted to the House of Representatives on 13 February 2006. It adopted the stance that members of the public should be able to take part in society on an equal footing. They must feel protected against discrimination. Therefore, everyone in the Netherlands must have ready access to, independent and efficient advice and assistance in the event that they feel discriminated against.

76. Action is currently being taken to give effect to the steering group's recommendations, under the leadership of the Minister for Housing, Communities and Integration. As mentioned above, the Government is endeavouring to set up a national network of professional, easily accessible anti-discrimination services (ADVs) at local level. It has therefore prepared legislation, scheduled to enter into force in January 2008, whereby central and local government will share responsibility for anti-discrimination efforts and all municipalities will be required to offer local residents low-threshold anti-discrimination services. Local authorities will receive permanent funding to provide this service.

77. Until then, a bridging measure has been taken for 2006 and 2007 to maintain and expand the current ADVs and set up new ones. Their core tasks include registering and dealing with complaints (involving mediation and victim support). Members of the public can approach these services with complaints about all kinds of discrimination, in any conceivable field, such as complaints about work placement or employment in general. The support service of the national anti-discrimination organization plays an important part here, promoting professionalism and clear registration. The annual figures of the ADVs are published each year, with a breakdown of complaints according to the nature of the discrimination and the field in which it occurred.

Positive action

78. Following judgments by the European Court of Justice, the Government has laid down guidelines regarding policy on positive action. Employers may deviate from the general principle of equal treatment, providing certain conditions are met:

- Positive action may only be taken in the case of groups that suffer systematic disadvantage, i.e. women, ethnic minorities, the chronically ill and the disabled
- Radical forms of positive action are no longer permitted (e.g. positive action in the event of *sufficient* suitability); however, in the case of *equal* suitability positive action is permitted
- Members of ethnic minorities may especially be encouraged to apply for jobs
- Job applicants from groups to which positive action does not apply may not be ruled out in advance from applying for a particular position

79. In this respect, the Government adopts a consistent approach, regarding positive action as an exception to the equal treatment norm, which is defensible only in cases of systematic disadvantage or discrimination in society, i.e. only on the basis of ethnic origin, sex and disability.

The National Ethnic Minorities Consultative Committee

80. As mentioned earlier, the National Ethnic Minorities Consultative Committee (LOM) provides a forum for consultation between the Government and ethnic minority platforms, as laid down in the Minorities Policy (Consultation) Act of 19 June 1997. The LOM meets at least three times a year. The Government is represented by the Minister for Housing, Communities and Integration (the coordinating minister) and the ministers or state secretaries whose portfolios relate to the items on the agenda. The consultations concern policy proposals regarding the integration of minorities and developments relevant to minorities. Agenda items may be put forward by representatives of both Government and minority groups. Eight minority platforms are allowed to take part in the LOM.

81. LOM talks form part of Government policy preparations, because the Government wishes to know in advance what minority groups think of proposed integration measures. Their knowledge of the circumstances, culture and special problems of the communities they represent enable them to judge whether proposed Government measures are likely to succeed.

82. The platforms that are involved in the LOM work closely with one another and with strategic partners as diverse as trade unions, senior citizens' associations and civil society organizations.

The platforms represented in the LOM

83. Seven Dutch networks work together to improve the social position of various ethnic minority groups:

- Chinese Community Advisory Association (IOC)
- Turkish Community Advisory Association (IOT)
- Southern European Communities Advisory Association
- Dutch Caribbean Community Consultative Committee (OCaN)
- Surinamese Community Advisory Association (SIO)
- Moroccan and Tunisian Alliance (SMT)
- Dutch Refugee Agencies (VON)

B. Article 4

Amendments to the Criminal Code

84. On 1 January 2004 an amendment to the anti-discrimination provisions of the Criminal Code took effect, which raised the statutory maximum sentence for structural forms of discrimination. The background to these changes was explained in the previous report in the section on the Bill that led to the amendments (fifteenth and sixteenth report, CERD/C/452/Add.3, paras. 5-7).

A summary of judgments in discrimination cases from 2002 to 2007

85. In a judgment of 31 January 2002 the Leeuwarden district court sentenced a young man who, together with several other youths, had set fire to a school attended by young asylum-seekers to 30 months' imprisonment, six months of which were suspended. The court held that, considering the racist motives for the arson attack, the offender had caused damage not only to property but also to society, something which could not be expressed in monetary terms.

86. On 22 February 2002, the Roermond district court sentenced a man to community service for eighty hours/forty days and a suspended one-month prison sentence for shouting slogans as 'Foreigners out!', 'White Power' and "Filthy foreigners, filthy Turks' at a group, consisting of members of ethnic minorities.

87. On 11 June 2002, the Dordrecht district court rendered its judgment in proceedings against the chair of the New National Party (NNP). On the NNP's website texts had appeared concerning people of Moroccan origin, among which: 'The third generation can be highly dangerous. The third generation is being brought up by parents who have themselves had no proper upbringing. Parents who were largely raised in prisons, by the probation service and social services. Parents who have never worked. Parents who are involved in drug-dealing, arms dealing, trafficking in women, fraud, burglary, murder, mugging, rape and other crimes' and 'The NNP wants to see apartheid here. We know there is no other way. Integration is and will always remain an illusion.' The court held that an offence under article 137d of the Criminal Code (incitement to discrimination) had been proven and that the texts referred to persons of Moroccan origin in an unnecessarily offensive way, intended to incite hatred and discrimination. Since the defendant, who had earlier been convicted of similar offences, was 77 years old and in poor health, the court confined itself to imposing a fine of €660. Failure to pay the fine would result in thirty days' imprisonment. Two co-defendants, the editor-in-chief of *Barricade*, the NNP newspaper which had originally published the texts placed on the website, and the NNP treasurer, were acquitted because it had not been proven that they could be held responsible for placing the article on the website. On 3 June 2003, the court of appeal in The Hague ruled that the second text merely expressed an opinion, rather than incite hatred. On this count therefore, the defendant was discharged from prosecution on a point of law.

88. In a ruling handed down on 17 September 2002, the Court of Cassation declared an appeal in cassation, lodged by the Public Prosecution Service, inadmissible. The court of appeal had acquitted a doorman of a nightclub of charges of discrimination during the exercise of a profession or business (article 429quater of the Criminal Code), finding it not proven that he had refused admittance to a man of Iranian descent on account of his race. The court of appeal had held that the action appeared to be neutral - all persons living at a specific address, the departure centre for failed asylum seekers at Ter Apel, were refused admittance - but in practice affected persons of a specific group, i.e. those of non-Dutch origin. The difference in treatment could nevertheless, in the court's view, be explained on the grounds of objectively justified factors such as the serious disturbances that had taken place, the rumour that people would try to 'seek revenge', the safety risk for people inside the club, the absence of extra police support, the lack of an immediate solution to the problem of expected further disturbances, and the fact that the measure did not affect asylum-seekers in general, since asylum-seekers from other centres were

admitted. Direct or indirect discrimination was therefore not at issue. The Court of Cassation ruled that the court of appeal had not wrongly interpreted the words 'made a distinction on account of their race'.

89. On 12 February 2003, the Arnhem court of appeal sentenced a soldier who had run over a Turkish man because of racist motives to twenty months in prison and banned him from driving for two years. The Ministry of Defence discharged the soldier following the incident.

90. On 29 April 2003, the 's-Hertogenbosch court of appeal gave judgment in proceedings against three men who had distributed pamphlets during a demonstration. The pamphlet with the headline 'Stop asylum-seekers now' contained the following sentence: 'What's good enough for our boys (a reference to the fact that Dutch soldiers are housed in tent camps) is apparently not good enough for asylum-seekers'. The pamphlets were handed out during a demonstration by a group of 50 people, mainly dressed in black and wearing military-style boots, carrying placards, banners and flags with neo-Nazi texts and runic characters, while shouting slogans such as 'Ausländer raus'. The court of appeal concluded that the intention was evidently to propagate the ideas of national socialism. In its view, the pamphlet had acquired the status of 'written material' as referred to in article 137d of the Criminal Code due to the circumstances in which it was distributed, which had been clearly established in court. In passing sentence, the court of appeal took into account the fact that two of the defendants had already been convicted repeatedly for similar offences and had been given substantial sentences, that the two men had committed the offences found proven during the operational period of a suspended sentence for similar offences and that one of the defendants had assumed the role of leader of the group of demonstrators. Two of the defendants received prison sentences of six and four weeks respectively, and the third a sentence of four weeks, two weeks of which were suspended. Over and above this they were ordered to pay a fine of €300, €150 of which was suspended.

91. In a ruling of 14 June 2003, the 's-Hertogenbosch court of appeal sentenced a man to an eight-year term of imprisonment and imposed a hospital order (TBS) on him for assault and arson at the home of a Somali national in Tilburg.

92. On 24 June 2003, the court of appeal in The Hague rendered judgment in proceedings against a man who had been found to have copies of 'Resistance', a discriminatory periodical, and various other items of a discriminatory, neo-Nazi or fascist nature, including various kinds of sound recording medium, such as CDs, in his possession. The court of appeal found it proven that the defendant was keeping stocks of the impounded copies of the CDs and the periodical for distribution purposes and held that, in view of the amount of material impounded and its nature and tenor, he had, by disseminating or having the intent to disseminate such material, seriously violated fundamental rights and freedoms, such as the right not to be subjected to discrimination, hatred and violence. The appeal court sentenced the defendant to 120 hours of community service and a term of imprisonment of one month, with a probation period of two years. The impounded material was declared forfeit.

93. In a judgment of 11 September 2003, the Amsterdam court of appeal sentenced the chair of the *Nederlandse Volksunie* (NVU), an extremist right-wing political party, to four months' imprisonment, two months of which were suspended, for making insulting remarks about, among others, Muslims, Jews, Surinamese, and Antilleans during a party meeting at which journalists

were present. The court of appeal took the view that the statements were deliberately made in public, since the documents submitted as evidence made it clear that no attempt was made to prevent members of the press from attending the meeting, reporting on it or filming it. On the contrary, some of the journalists had been invited by one of the organizers. In passing sentence, the court took into account the fact that, due to the intimidating manner in which they were communicated, the statements also incited hatred, discrimination, and possibly violence against the persons referred to. This is not only offensive to the persons concerned; it is repugnant, causes unrest and runs counter to the values and standards of Dutch society. The defendant also had previous convictions for similar offences. The court of appeal found a sentence of five months' imprisonment, two months of which were suspended, to be appropriate, but imposed a lighter sentence nonetheless, since the 'reasonable time' requirement laid down in article 6 of the European Convention had been exceeded.

94. On 16 October 2003, the 's-Hertogenbosch district court sentenced a man from Eindhoven, who, together with two others, had thrown a home-made fire bomb into a Muslim primary school, to twelve months' imprisonment, six months of which were suspended, with a probation period of two years. His co-offenders were also penalized.

95. In a judgment of 3 December 2003, the Dordrecht district court acquitted the doorman of a bar who had refused to admit a group consisting of five men of Turkish origin, because it did not find it proven that he had discriminated on grounds of race. The defendant had stated that in implementing the bar's door policy he observed criteria such as whether he recognized the person concerned from an earlier, unproblematic visit (in his words 'regular customers'), the composition of the group (in any event no football supporters or stag parties), the mood of the person concerned (tense or relaxed) and whether the person concerned was a guest of a regular customer.

96. In a ruling of 15 April 2004 the Court of Cassation dismissed the appeal lodged by a former police officer, who had had letters published in the *Kollumer Courant* newspaper, which included passages such as 'So there are displaced persons and refugees. The latter are those we have been reading more than enough about lately: torturers, thieves, murderers, ex-convicts etc., etc.' and 'Let me tell you this [...] if the murderer isn't found, then you and your friends at the asylum-seekers' centre will go down in history as the prime suspects, mark my words.' The court of appeal had earlier ruled that whatever the defendant's intentions were in expressing these views, regarded objectively both in isolation and in their context the passages found proven were insulting and offensive to the group of asylum-seekers and/or refugees in this country on grounds of their race, within the meaning of article 137c of the Criminal Code. The defendant must have been aware, the court held, of the insulting nature of his comments. The court of appeal also took into account the intention behind the letters, namely to publicly denounce the conduct of the investigation into the murder of Marianne Vaatstra.

97. In a judgment of 15 March 2005, The Hague district court dismissed an application for an interlocutory injunction against Ayaan Hirsi Ali in summary proceedings. On the basis of a number of statements made in interviews and in two books (*De zootjesfabriek* and *De*

Maagdenkooi) concerning the sources of Islam - the Koran, the manner of living of the prophet Mohammed and a collection of sayings attributed to him (the Hadith) - and the film *Submission Part I* about the oppression of Muslim women, which she made with Theo van Gogh in 2004, the applicants requested the court to prohibit Hirsi Ali from:

- Making insulting or offensive utterances in public concerning the Muslim section of the population or parts thereof, whether in writing, film, orally or in any other manner
- Making blasphemous utterances about the Islamic faith and/or culture and/or the prophet Mohammed
- Expressing views causing offence to Muslim believers
- Releasing the second part of *Submission* or a film of similar content to *Submission Part I*, or releasing such a film before it has been determined by an expert or group of experts appointed by the court that such a film does not contain any elements which might be blasphemous and/or offensive and/or insulting to Muslims

98. The applicants also sought an order compelling Hirsi Ali to place a rectification on the front page of two national daily newspapers retracting her earlier negative pronouncements on the Muslim faith and Muslim believers. The court ruled that Hirsi Ali's utterances had been taken out of their context by the applicants, and had as a result begun to lead a life of their own. The court found that this could not be attributed to Hirsi Ali. The applicants had not satisfactorily established that it had been her deliberate purpose to offend or insult them or to make blasphemous statements about the Muslim faith. If the applicants had perceived it in that light, Hirsi Ali could not automatically be held accountable for that. With regard to the words 'paedophile' and 'perverse' as used by Hirsi Ali in connection with the prophet Mohammed, the court held that the use of those words was unfortunate but had only occurred once or twice, so that Hirsi Ali had remained within the bounds of what was permissible. Furthermore, the applicants did not put forward any arguments claiming that the Koran texts used, for example, in *Submission Part I* were incorrect citations. Nor did they establish a plausible case that there could be no connection between a literal interpretation of certain Koran texts and the oppression of Muslim women. The court ruled that there were insufficient grounds for prohibiting Hirsi Ali from releasing another film like *Submission Part I*. It furthermore deemed it unnecessary to appoint a group of experts or to impose restrictions or conditions on the release of such a film as sought by the applicants.

99. In a judgment handed down on 30 August 2005, the 's-Hertogenbosch district court sentenced a number of persons to terms of imprisonment varying from 150 days to 9 months and imposed community service orders varying from 100 to 228 hours for setting fire to the Bedir primary school in Uden. In passing sentence, the court took into account the fact that, partly because there had been an earlier arson attack on the school, the defendants' action had caused serious unrest and feelings of insecurity in the community.

100. In a judgment of 19 December 2005, the The Hague district court sentenced a twenty-year-old man to 36 months in prison, six months of which were suspended, for arson and destruction of property belonging to an Iraqi family. For over two years, the family had been the

target of a series of offences committed by a group of young men from the neighbourhood with racist attitudes. The group had terrorized the family in a number of ways, including by throwing bricks through windows of their home. A few months later, the defendant had conceived the bizarre idea of committing 'a final act' and, while the family was asleep upstairs, had doused the front door of the house with petrol and set it alight. The door and the letterbox were partly destroyed.

101. On 29 December 2005, the Amsterdam court of appeal dismissed a complaint concerning the decision of the Public Prosecution Service not to prosecute the chair of the Dutch Zionist Federation (FNZ) for insulting behaviour, defamation and discrimination. He had, among others, placed the following statements on the FNZ website: 'Moroccans and Turks are anti-Semitic' and 'They are as rabidly anti-Semitic as the rest of the Arab-Islamic world'. The court of appeal's ruling was based on the fact that while the statements were in themselves insulting and discriminatory, they were made in the context of public debate on the problems in the Middle East and should therefore be regarded in the light of the associated polemic, as was clear from the rest of the text. This meant that the limits of journalistic freedom and/or the limits of freedom of expression had not been exceeded.

102. On 20 January 2006, the Haarlem district court handed down a judgment in a case against members of a group of 'Lonsdalers' (young people holding extreme right-wing views, so-called because of the brand of clothing they wear). In 2004, members of the group had vandalized property at various locations in the seaside town of Zandvoort, leaving behind swastikas and White Power symbols as their 'trademark'. The court imposed a community service order of 150 hours on the leader and sentenced his three co-defendants to 200, 180 and 100 hours respectively. The group was also ordered to pay €2000 in compensation.

103. On 23 February 2003, the Amsterdam district court handed down a judgment in a case against a public prosecutor of the Arnhem region. According to the National "Roma Emancipation" Foundation, the defendant had made unnecessarily offensive and insulting remarks during his closing speech in court in May 2003. These included comments such as 'nearly all Roma are criminals' and 'they see breaking and entering as a perfectly normal activity'. The district court deplored the remarks but took the view that the defendant's actions were at the limit of what the court considered permissible in the context of exemplary sentencing. It took into account the fact that the defendant emphasized that his remarks were directed to the court and the other persons present. The dynamics which were attributed to his words in the media were never his intention. The district court declared the charges not proven and acquitted the defendant.

104. In a judgment of 24 May 2006, the Rotterdam district court sentenced the maker of a video clip promoting a fictitious house party ('Housewitz') to be held at the grounds of Auschwitz to 40 hours of community service. The clip contained images of concentration camp inmates, gas chambers and bodies. The images alternated with texts such as 'Tanzen macht frei' and 'Hot showers'. The fact that the maker had not intended the clip to be widely distributed was of no avail to him. By placing the clip on the internet, he had brought it into the public domain, making it likely that others would come across it. This is exactly what happened, since after the maker had removed Housewitz from the internet and offered his apologies, it was placed on a popular weblog and circulated widely from there.

105. On 3 June 2006, the Breda district court acquitted a man suspected of scratching swastikas etc. into the paintwork of over 25 passenger vehicles. There were doubts as to whether the man, who has an intellectual disability, had actually committed the offences in question.

106. On 20 June 2006, the Amsterdam district court fined a man to €500 for insulting and threatening two traffic wardens on account of their race. The man had called the traffic wardens ‘f***ing foreigners’ and ‘dirty niggers’.

107. In a judgment delivered on 5 October 2006, the Dordrecht district court sentenced three right-wing extremists to terms of imprisonment of three years (eight months suspended), two years (eight months suspended) and twenty-one months (seven months suspended) respectively for the attempted manslaughter or assault of a man of Antillean origin. Three co-defendants were acquitted on the charge of assault, although two of them were fined and received two-month prison sentences for the illegal possession of weapons and a consignment of T-shirts bearing racist slogans.

108. On 19 October 2006, the Amsterdam court of appeal acquitted a man to whom a number of packages containing a large quantity of badges and emblems bearing Nazi symbols that arrived at Schiphol airport were addressed. The court of appeal held that his defence, that he kept large numbers of these articles in stock for sale to the film industry, was credible. It further held that the use he had made of these articles did not render them ‘objects’ within the meaning of article 137e of the Criminal Code.

109. In a judgment given on 6 November 2006, the Breda district court fined a young woman to €500 (€250 of which suspended) for shouting ‘White Power for ever, White Power today’ at a dark-skinned woman.

110. On 17 November 2006, the Amsterdam court of appeal sentenced a man to a week-long suspended prison sentence and a fine of €500 for maintaining what he called a ‘satirical website’ on which he had made insulting remarks about Jews and homosexuals. The website featured a fictitious Christian internet community which, in talking about the Christian faith, made statements about Jews and homosexuals. The defence that the site was an example of artistic expression and that it contributed to public debate was dismissed by the court of appeal because the texts had exceeded the bounds of what was acceptable and were unnecessarily offensive.

C. Article 5

Access to public service

111. Some 9.3 per cent of civil servants in central government come from an ethnic minority background, but the proportion in middle or senior management posts is only 5.7 per cent. As part of the action plan on ethnic diversity within the public service, senior Dutch civil servants identified three priority measures in the autumn of 2005: improve the opportunities for learning on the job for members of ethnic minority groups; screen instruments used in the selection process; and increase the commitment of managers to diversity policies. In addition, the recruitment of ethnic minority civil servants is emphasized in job vacancies. Members of ethnic minorities are leaving the civil service in relatively high numbers. The reasons for this are currently being examined.

112. An integrated approach to diversity management in the civil service was recently developed. This involved formulating objectives and measures aimed at achieving a more balanced organization in general (in terms of gender, ethnicity, age). These measures will be incorporated into standard civil service human resource management (HRM) policies wherever possible. In addition, a successful diversity policy will be pursued by stimulating commitment and expertise within the service, especially at middle-management level. The central HRM body will support the ministries by launching an information system on the intranet, developing diversity management instruments and conducting relevant research. Implementation began in 2007.

Labour market policies for ethnic minorities

1. Past policies

113. Since 1998/1999, various measures have been taken to improve the rate of employment among ethnic minorities in the Netherlands. In 2000 the Ministry of Social Affairs and Employment published its Labour Market Policy for Ethnic Minorities, Plan of Action, detailing all the different aspects. The policy included a wide variety of instruments such as:

- (a) The Employment of Minorities (Promotion) Act;
- (b) The voluntary agreement on ethnic minorities with the small and medium-sized business sector;
- (c) The Framework Voluntary Agreement with Large Companies;
- (d) The Ethnic Minority Grants Programme.

Re. a

- Under the Employment of Minorities (Promotion) Act, all companies with more than 35 employees were required to report on the number of ethnic minority people in their employment (relative to regional target figures) and on the policy conducted by the company to achieve proportionality under the Act.
- Although the number of companies that submitted an annual report under the Act increased annually, full compliance was never achieved.
- An evaluation of the Act revealed that the objective of making employers aware of their responsibility in this area and stimulating them to take measures to increase the participation of ethnic minorities was achieved. The objective of increasing employment among ethnic minorities was not achieved, however.
- The Employment of Minorities (Promotion) Act was initially introduced on a temporary basis. After being extended for two years in 2002, it was repealed in 2004. Various activities arising from the Act are now being developed within the National Diversity Management Network.

- The repeal of the Act was in line with the Government's objective of reducing the administrative burden for employers.

Re. b

- The voluntary agreement on ethnic minorities with the small and medium-sized business sector was an agreement between the Dutch Federation of Small and Medium-sized Enterprises (MKB-Nederland), the Dutch Employment Service (now the Centre for Work and Income, CWI) and central government.
- The goal was to find work for 20,000 ethnic minority job-seekers.
- MKB-Nederland would aim to register 30,000 new vacancies with the Employment Service, with employers expressing a preference for ethnic minority applicants.
- The Employment Service was responsible for developing an intensive, tailor-made approach (one-to-one approach, with priority for ethnic minorities) in order to fill 20,000 job vacancies specifically targeted at ethnic minorities.
- The parties to the voluntary agreement also benefited from a very intensive, joint communication strategy (MKB-Nederland representatives called on companies in person, while the Employment Service and the Ministry of Social Affairs and Employment visited mosques).
- Following a fairly slow start, the targets set in the agreement were amply achieved after the period of the agreement was extended. A total of more than 78,000 new vacancies were registered. Of the over 70,000 job-seekers who found work under the programme, almost 62,000 came from ethnic minority groups.

Re. c

- The Framework Voluntary Agreement with Large Companies was implemented in the form of individual voluntary agreements between large companies and central government.
- These included target figures for recruiting people from ethnic minority groups and set out the measures to be taken by employers to promote intercultural personnel policy.
- Every six months, the companies presented and evaluated the results during a meeting with two Government ministers.
- The Framework Voluntary Agreement with Large Companies came to an end in June 2004.
- The upshot of this initiative was that more than 90 per cent of the 700 voluntary agreements reached within this framework were implemented and most companies have expressed their intention to pursue diversity management. The DIV disseminated the results to employers.

Re. d

- The Ethnic Minority Grants Programme was implemented by municipalities, with the specific aims of helping unemployed people from ethnic minority groups find employment or training and increasing the scope of municipal reintegration instruments for this target group.
- The programme comprised some 40 projects, which attracted a varying number of participants and were developed and implemented by the municipalities themselves.
- Thanks to these projects, more than 2,200 participants went on to take up training or employment, albeit fewer than the target figure.
- The programme came to an end in 2004.

2. *The new approach to labour market policies after 2005*

114. Target group policies used to be aimed at specific groups that were underrepresented in the workplace. They served to attract attention and had a mobilizing effect, but they also had two significant drawbacks:

1. Target group policies tended to stigmatize individuals. Although not everyone in a particular target group has the same characteristics, all are marked by association;
2. Where several possible solutions existed, the tendency was for the same organizations to be approached for different target groups. At the same time a more systematic approach to the problem was often overlooked as a result of targeting policies at just one group.

115. In the new approach to labour market policies (generic policies), the factors hindering someone's participation in the labour market serve as the criteria for action, not the group to which that person belongs. Labour market policies now fall into two categories: general and supplementary.

116. Implementation is centralized to some extent, but is largely the responsibility of the organizations involved in the work and income chain. If a job-seeker is faced with obstacles to employment that are mainly of a personal nature, a placement counsellor identifies those obstacles and seeks an individually tailored solution. Agreements have been made with the CWI and the Employee Insurance Agency (UWV) to offer job-seekers a service that meets their individual needs. Furthermore, once the voluntary agreement on ethnic minorities with the small- and medium-sized business sector came to an end, it was agreed with the CWI that the knowledge gained under this agreement and the working practices of the CWI staff employed to advise companies on ethnic minorities would be incorporated into the mainstream services of the CWI.

117. In parallel with generic policies, from which ethnic minorities benefit just like other groups, the Government has often worked closely with the social partners and other stakeholders to develop a number of initiatives that tackle potential obstacles facing ethnic minority

job-seekers in their attempts to take up gainful employment (e.g. in the areas of language proficiency, qualifications, job-hunting strategies and relevant social networks). An effort is also being made to combat negative perceptions and discrimination in relation to ethnic minority job-seekers and specific, supplementary policies are implemented on a temporary basis where necessary. The activities targeted at ethnic minorities undertaken in 2005 and 2006 are summarized below.

Review of 2005

118. Having shown some improvement, the position of ethnic minorities in the labour market has once again deteriorated in the past few years. Unemployment among this group rose from 10 per cent in 2000 to 16 per cent in 2005. During the same period, unemployment among ethnic Dutch people increased from 3.8 per cent to 5.2 per cent. This prompted the decision in 2005 to develop supplementary activities for ethnic minorities. As part of the Social Cohesion Initiative, the Government entered into agreements with the social partners, benefits agencies, the VNG, ethnic minority organizations and other civil society organizations concerning a joint approach aimed at improving the position of ethnic minorities in the labour market and combating discrimination. This led to a large number of projects, focusing on coaching and empowerment of the target group, encouraging positive perceptions and mediation to help people find practical training positions and jobs.

119. Special attention was also devoted to the following target groups:

Refugees

Measures were taken to identify and acknowledge the talents of highly qualified refugees at an early stage. With financial assistance from the Ministry of Social Affairs and Employment, a number of projects were also developed or launched in 2005 to promote the employment of refugees:

- One important initiative is the Job Offensive for Refugees: the Dutch Council for Refugees, together with the Foundation for Refugee Students UAF, Emplooi (an organization in which volunteers help refugees find suitable employment) and the CWI, launched a joint employment offensive for refugees, setting themselves the target of finding jobs for 2,600 refugees within three and a half years.
- A Government-subsidized project of the UAF and the Verwey-Jonker Institute to encourage the participation of highly qualified female refugees in society (150 more highly qualified refugee women).
- Research (conducted by Regioplan) into the labour market status of refugees in the Netherlands (who they are exactly, their occupation, level of education, etc.).
- A public information campaign concerning the opportunities and obstacles for refugees in the labour market.

Ethnic minority women

- From July 2003 to July 2005, the Committee for Ethnic Minority Women's Participation (PaVEM) worked to have the ethnic minority women target group placed on the agenda of important stakeholders. The Committee entered into agreements with 30 cities, businesses, civil society organizations and ethnic minority women. It also developed instruments to ensure that participation by this target group would be given priority in their policies.

Review of 2006

Ethnic minority young people

120. In 2006 there was a follow-up to the series of projects that the Ministry of Social Affairs and Employment had launched in 2005 as part of the Social Cohesion Initiative, with the aim of improving the position of ethnic minorities in the labour market. Twelve projects specifically focused on the problems of ethnic minority young people and refugees, with the main themes being coaching and empowerment, job placement and employers' perceptions. In this context, ethnic minority role models frequently visited schools, company employees coached ethnic minority students and meetings and job markets were organized to bring together ethnic minority young people and employers to enable suitable matches to be found. More than 1,000 young people have been coached and/or have completed an empowerment programme.

121. The principle underlying many projects is to encourage the ethnic minority community itself to strive for equal opportunities. One example is the campaign *Trendy Maroc star in NL*, in which young Moroccans are trained by successful people from their own community. The training aims to boost their self-confidence and help them understand the labour market better.

Refugees

As part of the Job Offensive for Refugees, the Dutch Council for Refugees - together with the UAF, Emptooi and the CWI - helped 700 refugees, including 150 highly qualified people, find work in 2006.

Ethnic minority women

The Minister of Social Affairs and Employment approved PaVEM's results in the area of work in 2006. To ensure continuity in implementing the agreements that have been made on the subject of work, a body that will play a leading role in maintaining the momentum generated so far was set up on 1 February 2006: the Ethnic Minority Women and Employment Coordination Group (RAVA). This group will operate for a period of two years, until the end of 2007, and is made up of representatives from the CWI, the UWV, the VNG, the Ministry of Social Affairs and Employment, employers, trade unions and the target group itself.

Statistics**Labour force, by gender (x 1,000)**

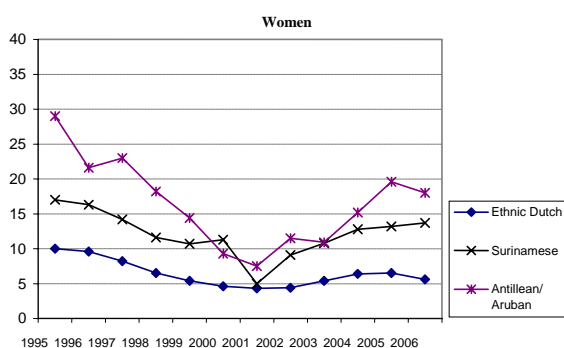
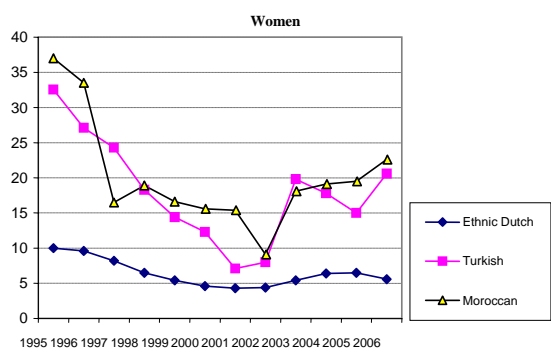
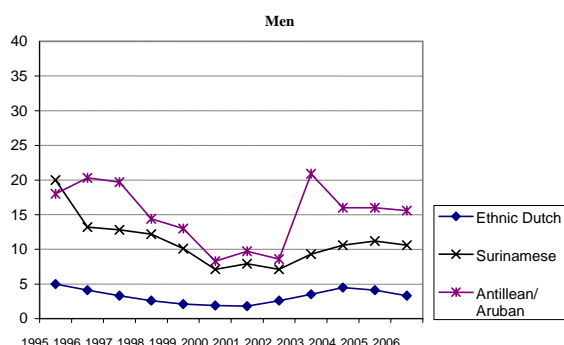
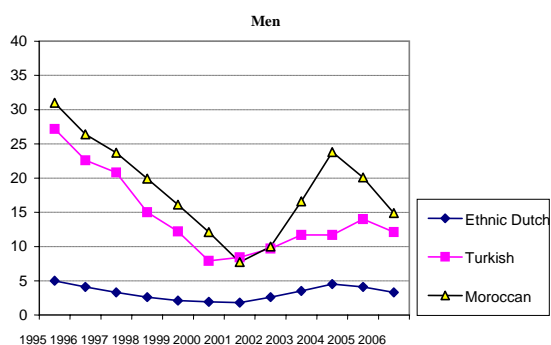
Personal characteristics	Year	Total population 15-64 years	Total labour force	Gross labour force participation (%)	Net labour force participation (%)	Unemployment rate (%)
Non-western immigrant origin	1996	793	406	51.2	40.0	21.9
Non-western immigrant origin	1997	826	429	51.9	41.1	20.7
Non-western immigrant origin	1998	866	455	52.6	44.3	15.8
Non-western immigrant origin	1999	918	484	52.7	45.5	13.7
Non-western immigrant origin	2000	940	504	53.6	47.7	11.0
Non-western immigrant origin	2001	994	542	54.6	49.7	8.9
Non-western immigrant origin	2002	1 049	576	54.9	49.1	10.5
Non-western immigrant origin	2003	1 096	609	55.5	47.4	14.6
Non-western immigrant origin	2004	1 131	627	55.5	46.5	16.1
Non-western immigrant origin	2005	1 157	650	56.2	46.9	16.4
Non-western immigrant origin	2006	1 153	637	55.3	46.7	15.5

Labour market status of people of non-Western immigrant origin

122. Unemployment among people of non-Western immigrant origin is well above average. The four largest groups are Turkish, Moroccan, Surinamese and Antillean/Aruban. Trends in unemployment among these four groups, compared with ethnically Dutch people, are shown below. Unemployment among immigrants falls sharply when employment picks up, and total unemployment drops. When total unemployment increased after 2001, unemployment among immigrants soared again. Unemployment has fallen in the past two years. This is particularly evident among Moroccan men. The variability of the trend is no doubt partly due to the fact that the numbers involved are small.

Unemployment among people of ethnic Dutch and non-Western immigrant origin, 1995-2006

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
	Men and women											
Ethnic Dutch	7.0	6.2	5.2	4.1	3.4	3.0	2.9	3.4	4.3	5.3	5.2	4.3
Turkish	28.8	24.0	21.8	16.0	12.9	9.1	8.0	9.2	14.3	13.9	14.4	15.1
Moroccan	32.0	28.0	21.7	19.6	16.3	13.0	10.0	9.7	17.1	22.1	19.9	17.2
Surinamese	19.0	14.6	13.5	11.9	10.4	9.1	6.5	8.1	10.0	11.7	12.2	12.1
Antillean/Aruban	23.0	20.8	21.2	16.0	13.6	8.7	8.7	9.9	16.4	15.7	17.6	16.8
	Men											
Ethnic Dutch	5.0	4.1	3.3	2.6	2.1	1.9	1.8	2.6	3.5	4.5	4.1	3.3
Turkish	27.2	22.6	20.8	15.0	12.2	7.9	8.4	9.7	11.7	11.7	14.0	12.1
Moroccan	31.0	26.4	23.7	19.9	16.1	12.1	7.7	10.0	16.6	23.8	20.1	14.9
Surinamese	20.0	13.2	12.8	12.2	10.1	7.1	7.9	7.1	9.3	10.6	11.2	10.6
Antillean/Aruban	18.0	20.3	19.7	14.4	13.0	8.3	9.7	8.6	20.9	16.0	16.0	15.6
	Women											
Ethnic Dutch	10.0	9.6	8.2	6.5	5.4	4.6	4.3	4.4	5.4	6.4	6.5	5.6
Turkish	32.5	27.1	24.3	18.3	14.4	12.3	7.1	8.0	19.8	17.8	15.0	20.6
Moroccan	37.0	33.5	16.5	18.9	16.6	15.6	15.4	9.1	18.1	19.1	19.5	22.6
Surinamese	17.0	16.3	14.2	11.6	10.7	11.3	5.0	9.1	10.8	12.8	13.2	13.7
Antillean/Aruban	29.0	21.6	23.0	18.2	14.4	9.3	7.5	11.5	10.9	15.2	19.6	18.0



Discrimination in the labour market: equal pay

123. Every two years the Labour Inspectorate surveys pay differentials between men and women, between full-time and part-time workers, and between people of ethnic Dutch and ethnic minority origin. The latest figures, based on 2004, were presented to the House of Representatives in October 2006. Over the years there has been little change in these figures:

Private sector	Uncorrected		Corrected	
	2002	2004	2002	2004
Men/women	22%	21%	7%	7%
Ethnic Dutch/ethnic minority	19%	21%	4%	5%
Full-/part-time < 12 hours a week	42%	43%	5%	2%
Full-/part-time > 12 hours a week	22%	21%	5%	4%

Public sector	Uncorrected		Corrected	
	2002	2004	2002	2004
Men/women	15%	14%	3%	4%
Full-/part-time < 12 hours a week	10%	14%	1%	6%
Full-/part-time > 12 hours a week	6%	8%	0%	1%

124. The Labour Inspectorate's findings show that the pay differential between people of ethnic Dutch and ethnic minority origin employed in the private sector in 2004 was 21 per cent (uncorrected). The corrected figure reveals a 5 per cent differential. The increase in the corrected pay differentials for full-/part-time workers < 12 hours a week is mainly due to the fact that the public-sector survey population had a very different make-up (more low-paid jobs, more women and fewer highly qualified jobs). In May 2006, Statistics Netherlands (CBS) published an analysis of the pay differentials for ethnic minority government employees. This showed that the uncorrected pay differential was 20 per cent, and the corrected one 4 per cent.

125. Since the Labour Inspectorate's report was published in 2004, the Ministry of Social Affairs and Employment has taken action in several areas. A special equal pay working group *Gelijke beloning, dat werkt!* (Equal pay works!) was set up in December 2005, made up of representatives from all employees' and employers' associations, interest groups fighting for better working conditions and co-determination, and the Equal Treatment Commission. The working group adopted a bottom-up approach focusing on good practices. The dedicated website (www.gelijkloon.nl) provides employees and employers with information and tips about equal pay. The working group made recommendations to the Minister of Social Affairs and Employment on equal pay policy for Government, business, employers and employees and was disbanded in January 2007. The Minister will send his reaction to the House of Representatives.

126. The Dutch trade union confederation FNV has received a special grant for the CLOSE project, which aims to reduce the gender wage gap. In seven sectors with very different wage gaps (e.g. financial institutions, health care, industry, small businesses), pay will be examined for differences between men/women, full-/part-time workers, ethnic minority groups and various types of contracts. The final report will be published in May 2007.

127. The Labour Inspectorate has carried out an evaluation of the Equal Pay Quick Scan, which reviews pay for an entire organization. Its verdict was that this can be a useful tool for detecting pay differentials. However, the Labour Inspectorate does not have the knowledge or the resources to actually use the Quick Scan and recommends simplifying it. This tool was developed by the Ministry of Social Affairs and Employment and the Equal Treatment Commission, but is now only used by the latter. The equal pay working group will develop a new, simplified version that can be used by employers without assistance from the Commission or the Ministry.

Discrimination on the basis of colour, race, national extraction and religion

128. In recent years, the Dutch Government has introduced a range of measures to combat discrimination in the labour market on the basis of race or ethnic origin, particularly in the area of recruitment and selection.

Psychological tests

129. The Ministry of Social Affairs and Employment gave the National Bureau against Racial Discrimination (LBR) a grant for developing a procedure for psychological testing of members of ethnic minorities, together with the Netherlands Institute of Psychologists. The procedure is intended to encourage the equal treatment of ethnic minorities, so that they have equal opportunities in job applications and in a future career within a company when psychological tests and/or structured questionnaires are used. The aim was also to compile a list of usable psychological tests for ethnic minorities, with recommendations for continued improvements. Two publications have been produced, one containing guidelines on the use of psychological tests for ethnic minorities, the other a list of usable psychological tests for ethnic minorities with recommendations. On 23 August 2005, the guidelines on the use of psychological tests for ethnic minorities were presented to the House of Representatives.

Working towards integration in the workplace

130. In the first half of 2005, the Ministry of Social Affairs and Employment commissioned a survey on the removal of obstacles experienced by ethnic minorities in the labour market, such as discrimination. The survey was conducted in close collaboration with relevant civil society organizations, including ethnic minority organizations, employers' and employees' associations, the Equal Treatment Commission and anti-discrimination bureaus. Also in 2005, two conferences were organized on the theme of working towards integration in the workplace, in which the above-mentioned organizations were very actively involved. Good practices were shared and reciprocal agreements were made aimed at removing obstacles in the labour market and combating discrimination.

Discriminatie? Bel gelijk! awareness-raising campaign

131. The awareness-raising campaign *Discriminatie? Bel gelijk!* (Discrimination? Call now!) was launched on 29 June 2004. It encouraged victims of discrimination and anyone with concerns about suspected discrimination to call a national helpline (0900 2 354 354) or visit a dedicated website (www.belgelijk.nl) for advice and information. The helpline puts callers in touch with a network of organizations specialising in equal treatment and non-discrimination issues. These anti-discrimination agencies work together to provide an appropriate problem-solving service and to exchange relevant expertise. They make sure telephone lines are manned and provide information and help where necessary. They can also refer callers to national, specialist agencies or to the Equal Treatment Commission. The project was implemented by RADAR (the Rotterdam Anti-Discrimination Action Council) via the National Federation of Anti-Discrimination Bureaus and Hotlines.

132. The initial campaign targeted discrimination on all the grounds listed in article 13 of the European Community Treaty (sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation), as well as other areas, such as employment. It received 80% of its funding from the Community Action Programme to Combat Discrimination (article 13 of the EC Treaty) and the remaining 20% jointly from four ministries: Interior and Kingdom Relations; Health, Welfare and Sport; Justice (Immigration and Integration); and Social Affairs and Employment.

Discriminatie? Niet met mij! awareness-raising campaign

133. On 1 December 2004, *Discriminatie? Niet met mij* (Discrimination? Not against me!) succeeded the “Call now” campaign and is funded in exactly the same way as its predecessor. The new campaign is being implemented by a number of organizations, among them the National Bureau against Racial Discrimination, and is targeted mainly at people who are at risk of discrimination and unfair treatment. They are offered information on how to minimize the impact of discrimination in their daily lives and how to cope with both deliberate and unintentional discrimination. The campaign also targets the institutional setting in which discriminatory behaviour can occur. A brochure containing practical advice on how to deal with discrimination has been published. The first copy was presented to the State Secretary for Social Affairs and Employment on 31 January 2006. A reader advising organizations on how to tackle discrimination has also been published. At the request of Parliament, a publicity campaign will be launched in 2008 to coincide with the introduction of discrimination legislation in order to inform the public about how to report cases of discrimination and the support available for the victims.

Equal treatment at work

134. In 2005, the Ministry of Social Affairs and Employment published the results of a study on equal treatment at work (*Gelijke behandeling in bedrijf*), commissioned from IVA Beleidsonderzoek en Advies. The study focused on six different but related topics: recruitment and selection, pre-employment medical examinations, affirmative action policy and equal treatment on the basis of age, disability or chronic illness, and sexual orientation. The reasons for commissioning the study included the entry into force of new equal treatment legislation (concerning discrimination on the basis of disability, chronic illness and age), warning signs about the worsening position of gays and lesbians in the workplace, the new regulations on pre-employment medical examinations, the demand for implementation of the Labour Foundation’s recommendations for scrupulous recruitment and selection procedures, and to raise the profile of the complaints office of the Dutch Association for Personnel Management and Organization Development (NVP). The results of the study and a summary in English are to be found in Annex IV.

Measures designed to improve perceptions, combat discrimination and encourage employment

135. As part of the Social Cohesion Initiative, the Ministry of Social Affairs and Employment has agreed on a number of activities with the social partners, civil society organizations and ethnic minority organizations. These activities are now all under way and are periodically monitored. If the methods developed prove to be effective, the Ministry will in due course try to determine how they can be incorporated into formal policy.

136. During the Work Summit on 1 December 2005, the Government and the social partners entered into agreements on the subject of the employment of ethnic minorities. One of the points agreed upon was that the Labour Foundation would draw up recommendations for companies and the parties that negotiate collective agreements on corporate minority policies and how to combat discrimination (recruitment and selection, unequal treatment, diversity policy, role of employee participation bodies).

137. Partly as a result of the Work Summit, the social partners that consult within the Labour Foundation formulated recommendations aimed at increasing employment among ethnic minorities and enhancing mutual understanding and respect in the workplace. The recommendations covered the following topics:

- Increasing social cohesion in the workplace
- Multicultural personnel policy
- Recruitment and selection and unequal treatment and
- Courses combining work and learning

138. The Labour Foundation also updated the declaration on equal treatment in the labour market. Both the recommendations and the declaration are included in a document on cooperation in the workplace entitled *Samen werken op de vloer* (20 January 2006, publication number 2/06). It was also agreed with employers' and employees' associations that they would campaign for a national discrimination monitor for the labour market to be set up by the Government. This has now been launched.

National discrimination monitor for the labour market

139. The first national discrimination monitor for the labour market was introduced on 15 December 2006 and the results will be presented in October 2007. Towards the end of 2008, a second monitor will be set up, and the results are expected in October 2009.

140. The purpose of this monitor is to identify the nature and extent of discrimination in the labour market on the basis of race, religion and nationality and to pinpoint trends that emerge over time. The underlying objectives are to effectively prevent and combat discrimination and to promote equal opportunities in the labour market for all. The monitor will help improve insight into the actual extent of discrimination in the Dutch labour market. The intention is to set up this kind of discrimination monitor every two years covering all aspects of the labour market (recruitment/selection, transfers, departures, etc.). The first part of the monitoring exercise is the registration/monitoring of discrimination complaints, reports and decisions that are known to the anti-discrimination bureaus, the Equal Treatment Commission, the social partners, the National Ombudsman, the police and the courts. The whole history of a complaint is documented, where possible. The second part of the exercise focuses on direct discrimination, statistical discrimination and indirect discrimination. The extent to which discrimination occurs in each of the various areas of the labour market is examined, with a breakdown by type of discrimination.

Table

	2001	2002	2003	2004	2005
Employment rate:					
<i>Total (15-64 years)</i>	65.0	64.8	64.2	63.3	63.2
<i>Ethnic minorities</i>	49.7	49.1	47.4	46.5	46.9

Source: CBS.

Table

	2001	2002	2003	2004	2005
Unemployment rate:					
<i>Total (15-64 years)</i>	3.5	4.1	5.4	6.5	6.5
<i>Ethnic minorities</i>	8.9	10.4	14.6	16.1	16.4

Source: CBS.

N.B. The figures are based on the definition of labour force used in the Netherlands, i.e. people who work, or are actively seeking to work, at least 12 hours a week. The "ethnic minorities" target group refers to "people of non-Western immigrant origin", i.e. people of whom at least one parent was born in Turkey, Africa, Latin America or Asia, excluding Indonesia and Japan.

Public health insurance

141. Until 1 January 2006, the Netherlands had a compulsory public health insurance system for employees earning less than €33,000 p.a. Certain categories of benefit claimants were also covered under this scheme. The partner and children of someone insured under the public health system were also entitled to coverage, subject to certain conditions. Anyone not eligible for public health insurance had to have private health insurance.

142. The Health Insurance Act came into effect on 1 January 2006 and introduced a universal statutory insurance scheme. Under the Act, everyone living or working in the Netherlands is obliged to take out health insurance. Everyone insured under the Exceptional Medical Expenses Act is obliged to take out health insurance, i.e. people who are legally resident in the Netherlands or who live abroad and work in the Netherlands and pay Dutch income tax. There are a few exceptions to this basic rule.

143. Health insurance is an agreement governed by private law between a health insurance company and an individual. Nevertheless, the Dutch Government has imposed a number of regulations to guarantee the social nature of the insurance. Health insurance companies cannot refuse to insure anyone under the new scheme and may not discriminate against anyone on the basis of personal characteristics when determining premiums. Furthermore, they must offer the standard health insurance package, which contains curative medically necessary care. The Exceptional Medical Expenses Act covers the costs of serious, long-term illness and infirmity.

144. Whether someone is insured under the Exceptional Medical Expenses Act or the Health-care Insurance Act, no distinction is made on the basis of race, skin colour, origin, nationality or ethnicity.

145. The introduction of the Health-care Insurance Act has not altered the position of illegal immigrants with regard to medical care.

146. During the reporting period, the main role of the Ministry of Health, Welfare and Sport in the area of “interculturalization of health care” was to establish the required framework within which the parties involved can exercise their responsibility. These parties have now embarked on many initiatives and projects, proving that the problems of ethnic minorities are being taken seriously. In 2003, the Netherlands Organization for Health Research and Development (ZonMw) published a report entitled “Care for differences” (Zorg voor verschil), which describes 163 different projects in this field.

147. In support of the many activities undertaken, the Ministry of Health, Welfare and Sport is:

- (a) Awarding incentive grants; and
- (b) Seeking advice on the structure and content of a monitor.

Re. a

The Minister of Health, Welfare and Sport has commissioned ZonMw to develop a practical programme with the aim of implementing available knowledge and expertise in the field of interculturalization of health care in the Netherlands, focusing on both care providers and patients, and has set aside a budget for the period 2005-2007. The grant-subsidized projects will be completed by the end of 2007, following which the Minister will deliberate on the conclusions of the final report.

Re. b

The Minister of Health, Welfare and Sport also requested the advice of the National Institute for Public Health and the Environment (RIVM) regarding the structure and content of a monitor. The RIVM has advised the Minister to link an “ethnic minorities and health” monitor with the existing “health disparities” monitor, so as to be able to include specific aspects relating to the health of people of immigrant origin. This monitor is also linked with the “youth health” and “public health” monitors, for which all Dutch municipalities provide data. This procedure will ensure that the health status of ethnic minorities in the Netherlands is fully monitored.

148. At the Minister’s request, the RIVM has also compiled two fact sheets containing details of the available literature and current information about (1) the use of health-care services by ethnic minorities and (2) their health status. These show that new information about the use of health-care services by ethnic minorities in the Netherlands reinforces the impression that they

tend to make less use of these services than ethnic Dutch people, although the picture does vary. Another point worth highlighting is the fact that ethnic minorities use fewer medicines than people of ethnic Dutch origin, whereas previous studies had often suggested they use more. Fortunately, the studies also indicate that ethnic minorities have ready access to GPs and medical specialists in the Netherlands.

Early childhood education

149. Early childhood is a vital stage in a child's development. It is important for children to get off to a good start if they are to develop their full potential, complete their schooling successfully and play a useful role in society as adults. Policies designed to identify and tackle real or potential disadvantages suffered by children at a young age have high priority and in recent years the Government has allocated a substantial budget in this area, amounting to €170 million in 2006. The aim is that, by 2010, some 70 per cent of disadvantaged children will be able to benefit from early childhood education. The ultimate goal is to reach the target group as a whole and offer them the best possible chance of development with a view to substantially reducing their language and development deficiencies when they start school. The target group comprises some 200,000 at-risk children aged between two and five and includes children from ethnic minority groups as well as ethnic Dutch children with poorly educated parents. An analysis will be made of what measures can be taken to ensure that all children in the target group are reached, how real or potential development deficiencies can be identified at a very young age and how parents can then be motivated to allow their child to benefit from some sort of pre-school provision, such as playgroups or childcare facilities. The aim is to offer a comprehensive range of options by liaising with - at the very least - health clinics, playgroups and primary schools.

Access to public places and/or public services

150. During the reporting period, the former Minister for Immigration and Integration formulated a policy to combat discrimination in the nightlife industry, e.g. in clubs and bars. This policy - focusing on combating discrimination against young people - was welcomed by Parliament, local authorities, young people and owners of nightlife businesses. A number of projects have since received grants to counter discriminatory admission policies of clubs and bars. One of these is the Rotterdam Door Policy Panel, established in 2003/2004. The panel, consisting of representatives from the local anti-discrimination bureau, the City of Rotterdam, the police and local club owners, provides a forum for young people to air their complaints about clubs' door policies. Several other cities have followed Rotterdam's example by setting up their own Door Policy Panel. In 2005, a conference was organized for owners of places of entertainment with the aim of sharing information and best practices. The policy has increased bar and club owners' awareness of the part they play in combating racism. The industry has introduced a code of conduct and is actively involved in the panels.

D. Article 6

Statistical data on complaints, charges and judicial decisions relating to acts of racism

151. In March 2007, the National Discrimination Expertise Centre reached the following conclusions on the basis of data gathered from the discrimination registration system.

The Public Prosecution Service

152. In 2002, a total of 242 offences of discrimination (offences under articles 137(c) to 137(g) and 429quater of the Criminal Code) were reported to the Public Prosecution Service (OM). The equivalent figures in 2003, 2004, 2005 and 2006 were 204, 214, 214 and 246 respectively. In 2002, 2003, 2004, 2005 and 2006, the Service took decisions on whether or not to prosecute in 281, 236, 223, 250 and 308 of these cases, respectively. A great majority of the cases (79 per cent in 2002, 75 per cent in 2003, 77 per cent in 2004, 69 per cent in 2005 and 76 per cent in 2006) involved deliberately insulting a group of people (article 137(c)). Of the cases that were dealt with, 55 per cent, 57 per cent, 65 per cent, 63 per cent and 66 per cent, respectively resulted in a notice of summons and accusation, while 17 per cent, 24 per cent, 17 per cent, 15 per cent and 21 per cent, respectively, resulted in an out-of-court settlement.

153. In 2002, four infringements of article 429quater of the Criminal Code (discrimination in the exercise of an office, profession or business on the grounds of race, religion or belief, sex or sexual orientation) were reported to the Public Prosecution Service. The equivalent figures in 2003, 2004, 2005 and 2006 were 1, 0, 8 and 5 respectively. Twenty infringements of article 137 (g) (deliberate discrimination in the exercise of an office, profession or business on the grounds of race) were reported to the Service in 2002. The equivalent figures in 2003, 2004, 2005 and 2006 were 17, 5, 9 and 10, respectively. Two cases of assisting discriminatory activities were reported in the years 2002 and 2005, while one such case was reported in the years 2003 and 2006. In 2004, no infringements of article 137 (f) were reported. Between 2002 and 2006, the number of cases of dissemination of discriminatory utterances (art. 137 (e)) reported each year was 3, 13, 15, 10 and 25, respectively. Finally, 22 cases of infringement of article 137 (d) (incitement to discrimination) were reported in 2002, while the equivalent numbers in the following years up to 2006 were 18, 29, 46 and 18, respectively.

Table 1

Reports per article	Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006
137c	191	154	165	166	187
137d	22	18	29	46	18
137e	3	13	15	10	25
137f	2	1	0	2	1
137g	20	17	5	9	10
429quater	4	1	0	8	5
Total	242	204	214	241	246

Year	Year	Year	Year	Year
2002	2003	2004	2005	2006
79%	75%	77%	69%	76%
9%	9%	14%	19%	7%
1%	6%	7%	4%	10%
1%	1%	0%	1%	0%
8%	8%	2%	4%	4%
2%	1%	0%	3%	2%
100%	100%	100%	100%	100%

Specified according to grounds of discrimination:

Table 2

Grounds	Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006
Race	94	95	92	128	179
Anti-Semitism	60	50	58	65	108
Religion/belief	3	8	9	18	18
Sexual orientation	6	3	5	7	7
Sex	0	0	1	1	0
Disability*					1
More than one ground**	54	24	35		
Other grounds	10	5	10	58	0
Grounds unknown	15	19	4	3	10
Total	242	204	214	280	323

Year	Year	Year	Year	Year
2002	2003	2004	2005	2006
39%	47%	43%	46%	55%
25%	25%	27%	23%	33%
1%	4%	4%	6%	6%
2%	1%	2%	3%	2%
0%	0%	0%	0%	0%
				0%
22%	12%	16%		
4%	2%	5%	21%	0%
6%	9%	2%	1%	3%
100%	100%	100%	100%	100%

* Incorporated as a ground in the legislation in 2006.

** Reports up to 2004 showed that there were often several grounds on which discrimination had taken place. For example, a person may insult a group of people on account of their race and sexual orientation. From 2005 onwards, each separate ground has been counted in cases involving several grounds (up to a maximum of three grounds per offence), which produces a more accurate distribution over the various grounds. As a result, since 2005 the total number of grounds has been higher than the total number of offences. A comparison with previous years can thus only be made on the basis of percentages. In 2006, for example, 323 grounds were found in 246 cases.

Table 3

Disposal by the Public Prosecution Service per article	Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006
137c	223	188	182	177	227
137d	28	13	23	49	32
137e	3	15	12	12	23
137f	10	0	0	2	1
137g	13	20	5	3	19
429quater	4	0	1	7	6
Total	281	236	223	250	308

Year	Year	Year	Year	Year
2002	2003	2004	2005	2006
79%	80%	82%	71%	74%
10%	6%	10%	20%	10%
1%	6%	5%	5%	7%
4%	0%	0%	1%	0%
5%	8%	2%	1%	6%
1%	0%	0%	3%	2%
100%	100%	100%	100%	100%

Cases disposed of by the courts

154. The courts disposed of 118 cases involving charges of discrimination in 2002, 128 in 2003, 125 in 2004, 148 in 2005 and 186 in 2006. In this connection, it should be remembered that the accused may have been charged with other offences besides discrimination, as can be seen from the following examples.

(a) In the 118 cases disposed of in 2002, the accused was found guilty in 96 cases and acquitted in 15; in 1 case the Public Prosecution Service's case was declared inadmissible, and in another the notice of summons and accusation was declared invalid;

(b) In 2003, the accused was found guilty in 111 cases and acquitted in 12; in 1 case the Public Prosecution Service's case was declared inadmissible;

(c) In 2004, the accused was found guilty in 112 cases and acquitted in 8;

(d) In 2005, the accused was found guilty in 132 cases and acquitted in 10;

(e) In 2006, the accused was found guilty in 157 cases and acquitted in 17; in 3 cases the notice of summons and accusation was declared invalid.

Table 4

Disposal by the courts	Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006
Conviction	94	110	111	131	153
Acquittal	15	12	8	10	17
Summons invalid	1	0	0	0	3
OM inadmissible	1	1	0	0	0
Acquittal on a point of law	0	0	0	0	0
Conviction without imposition of a penalty	2	1	1	1	4
Unknown	5	4	5	6	9
Total	118	128	125	148	186

Year	Year	Year	Year	Year
2002	2003	2004	2005	2006
79%	86%	89%	89%	82%
13%	9%	6%	7%	9%
2%	0%	0%	0%	2%
1%	1%	0%	0%	0%
0%	0%	0%	0%	0%
1%	1%	1%	1%	2%
4%	3%	4%	4%	5%
100%	100%	100%	100%	100%

155. The Netherlands pursues an active policy with regard to investigating cases of discrimination (see the 2003 Discrimination Instructions of the Board of Procurators General). This entails that a criminal investigation when incidents are reported but also when a public prosecutor learns of an infringement of articles 137c to 137g or article 429quater of the Criminal Code in some other way, for example from local crime statistics supplied by the police, the Public Prosecution Service and the local anti-discrimination bureau. The public prosecutor then decides on the basis of the public interest and the circumstances of the case whether a criminal investigation would be appropriate.

156. The Ministry of Justice, the Public Prosecution Service and the police have in recent years intensified the use of the criminal justice system to tackle discrimination. This has resulted in the following policy measures:

1. A policy letter on anti-discrimination and law enforcement of November 2005, including the results of the Public Prosecution Service's study of dropped charges and of the introduction of a statutory prohibition of structural forms of discrimination. Penalties for structural forms of discrimination have been increased. The penalties for systematically and deliberately insulting people on grounds of race, religion, belief or sexual orientation and for systematic incitement to discrimination have been doubled to two years' imprisonment.

2. Public Prosecution Service: Outlook 2010

The OM has included the issue of discrimination in its multi-year plan Outlook 2010, as one of the six new priorities that it intends to tackle on a systematic basis. The focus in tackling discrimination will be on establishing anti-discrimination support centres at each of the OM's eleven regional public prosecutor's offices. The public prosecutor with responsibility for discrimination cases at the regional public prosecutor's office will carry out activities for that regional office and any local prosecutors' offices in the region. Concentrating anti-discrimination efforts in the regional public prosecutor's offices should increase quality and efficiency and improve and ensure continuity. A substantial investment will be made in training public prosecutors specializing in discrimination, largely by means of specifically tailored courses and publication of a handbook on discrimination. The handbook, drafted by the OM to increase public prosecutors' and prosecutor's clerks' expertise in the field of discrimination, was published on 1 November 2006.

3. National Framework for the Dutch Police

On 9 October 2006, the Minister of Justice, the Minister of the Interior and Kingdom Relations and the chair of the Board of Regional Police Force Managers signed the National Framework for the Dutch Police in 2007. The National Framework includes commitments on how the police will combat discrimination. More specifically, the regional forces agreed to regularly share information on patterns of discrimination-related crime with the Public Prosecution Service, local authorities and other relevant partners. They will also implement the nine preconditions for combating discrimination that the Board of Chief Commissioners laid down in January 2004. This is not the exclusive responsibility of the police; the Ministers will also encourage local authorities, the Public Prosecution Service and other relevant partners to work closely together.

4. WODC investigates sentencing in discrimination cases

The Minister of Justice has commissioned a study by the Research and Documentation Centre (WODC) to ascertain the effectiveness of using criminal law to tackle occasional discrimination. The question being considered is: in view of the necessity of effectively combating and preventing occasional discrimination, how adequate are the existing sentencing provisions and their application by the courts in cases of occasional, specific and criminal discrimination? The report is expected in the summer of 2007.

157. Additionally, the following measures have been taken either by the Public Prosecution Service or with its involvement.

Study of prosecution decisions

158. In August 2005, the Public Prosecution Service carried out a study of the reasons for deciding not to prosecute in cases of discrimination and racism, whether on grounds of lack of evidence or policy considerations. A study of the files revealed that in the majority of cases, the OM acts with due care and applies the correct criteria in deciding whether or not to prosecute.

159. The study contains the following conclusions and recommendations:

- It is necessary to apply the Instructions on prosecution decisions correctly and critically
- A review of the Instructions on prosecution decisions would be welcome
- The OM should step up victim support measures in the context of discrimination cases
- The OM should ensure that the period required to process discrimination cases within the Service is more closely monitored

160. The Board of Procurators General has brought the study to the notice of the chief public prosecutors and public prosecutors responsible for discrimination cases with the request to take on board the conclusions and recommendations.

Results of the evaluation of the Discrimination Instructions

161. At the end of 2006, the Public Prosecution Service evaluated, in connection with the adoption of new Discrimination Instructions, the Instructions that would be in force up to 31 March 2007. This evaluation was carried out in consultation with the police, the National Bureau against Racial Discrimination and the anti-discrimination bureaus. The Discrimination Instructions relate to:

- Coordination between the OM, the authorities, the police and the anti-discrimination bureaus;
- The procedure for reporting incidents and making complaints concerning discrimination;
- The prosecution of violations of the discrimination provisions;
- The approach adopted towards people reporting discrimination or victims (i.e. the injured party, as defined in article 51 of the Code of Criminal Procedure);
- Feedback on the disposal of cases to the police and the anti-discrimination bureaus.

The Conference on a Joint Approach to Discrimination

162. The Government considers effective cooperation between the partners in the system of vital importance to the joint approach to tackling discrimination. The agreement on cooperation is also laid down in the 2007 National Framework for the Dutch Police. Additionally, in collaboration with the OM and the police, the Ministries of Justice and of the Interior organized a Conference on the joint discrimination approach in June 2007.

E. Article 7

Sport and minorities

163. The policy document entitled “Time for Sport” was published in September 2005, followed by the implementation programme “Together for Sport” in June 2006. The national sports policy until 2010 is structured around three themes: “Exercise”, “Participate” and “Perform”.

164. The “Exercise” theme mainly concentrates on sport and exercise from a health point of view, to prevent obesity and chronic disorders such as diabetes and cardiovascular disease, with the focus on inactive people. This group is extremely varied and includes the elderly, people with physical or mental disabilities or a chronic disorder, but also people with different cultural traditions and customs. One way of devoting special attention to these target groups is through a small-scale community approach.

About RakRak in Delfshaven

Eight Moroccan women - first-generation immigrants, most of whom did not speak any Dutch - were taking language classes at a community centre. At a certain point, they took up sport for one hour once a week. The women initially kept their normal attire on (long dresses and headscarves), but eventually brought along sports clothes. They have a lot of fun exercising. The group is now forty-strong and five new members join every week. The initiative is part of a self-help organization called the Abou RakRak Foundation. According to the project leader, Ineke Geerdink: “It’s a good idea to join in with activities that are already up and running, as it allows you to connect with women you wouldn’t normally come into contact with.”

Source: Communities in Beweging. Arnhem: NISB, 2004.

165. The “Participate” theme emphasizes the value of sport as the ideal “meeting place” for everyone and uses it to achieve objectives in the area of education, parenting, social cohesion and integration. A disparity has been observed between Dutch people of immigrant origin and ethnic Dutch people in terms of their participation in sport. The Ministry of Health, Welfare and Sport and the Ministry of Justice have therefore jointly set up a large-scale programme to increase participation in sports among immigrant youths and parental involvement (from 70 per cent to 85 per cent). Sport is an excellent instrument for achieving integration and parenting objectives. Eleven municipalities and nine sports federations will select 500 sports clubs to implement the programme, while 50 will focus on youth care and reintegration processes.
