



European network against racism

ENAR Shadow Report 2007

ENAR SHADOW REPORT 2007

Racism in The Netherlands

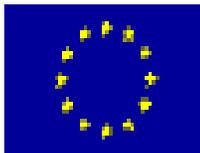
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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

In the Netherlands, the sharp turn in public opinion against Islam following the 9/11 attacks remains a cause of concern. However, whereas the previous government placed an emphasis on integration of ethnic minorities which led to an extensive public and political debate about the possibilities and impossibilities of integration and assimilation, the newly installed government appears to focus more on participation of (vulnerable) groups, including ethnic minorities. This policy shift is also apparent in plans by large municipalities promoting integration and preventing radicalisation, and in public statements by high-ranking public servants on the 'tone of the debate about Muslims'. Last but not least, one of the most prominent advisory councils of the national government, the scientific council for government policy (WRR), argued for an urgent shift in policy strategy, away from a focus on national identity, and towards a focus on the process of identification and the recognition that differences bring opportunities, especially in this globalising world.

From an NGO perspective, this policy shift is warmly welcomed, if only because the new plans in which the shift is visible show that policymakers have significantly improved their understanding of the issues that remain important in society, such as integration and radicalisation.

In 2007 a new national association against discrimination officially came in to force. This association was established by local and regional Anti-discrimination Agencies (ADAs) and the then National Bureau against Racial Discrimination (LBR), with the support of the ministry of Justice. The name of the new association is Art.1 (pronounced: article 1), referring to the equal treatment article in the Dutch constitution. The national bureau of the association derives from the former LBR. The members of the association Art.1 are the local ADA's. This unique infrastructure was created to combat and prevent all forms of discrimination (race, gender, skin-colour, age, disability, religious belief, sexual orientation, etc). The National Bureau of Art.1 supports its members in their activities, and functions as a national centre of expertise.

The Dutch government needs to provide enough funds for the National Bureau of Art.1 to fulfil its expertise function and for the ADAs to carry out their designated tasks.

Moroccans, compared to other communities, still are the most vulnerable to racism and discrimination. Discriminatory stereotyping is still common. For this reason, Art.1 recommends that the Dutch government promotes initiatives to improve media awareness among the general population, specifically to equip young people with the skills to become aware of and react to racist material.

Several NGOs in The Netherlands have emphasised the necessity of research on racial profiling in the country. Data can be used to address deficiencies in national legislation resulting in an insufficient protection against racial profiling.

Results from an in-depth study on racial discrimination of non-Western minorities in employment indicate that racial discrimination hinders the access of non-Western minorities to the labour market and is an obstacle to securing permanent employment.

Dutch education is strongly segregated. This is partly due to segregation in housing. Especially in major cities, primary schools have either very many or very few migrant children in comparison to the average population of the direct neighbourhood. This segregation is primarily caused by the so-called 'white flight'.

The National Bureau of Art.1 recommends that the national government provides local governments and educational institutions with clear guidelines on policies to combat segregation. Those guidelines could be developed by the Equal Treatment Commission (CGB).

In 2007, new 'Guidelines on Discrimination' (Aanwijzing Discriminatie) were drafted – guidelines that set out a protocol for actions for both the police and the Public Prosecutors Office. The new Guidelines state the responsibilities of the police and the Public Prosecutors Office in more detail than before, a promising development according to Art.1. Great importance is attached to the national and local cooperation between the police, the Public Prosecutors Office and the ADAs and Art.1. This cooperation leads to better overviews of discriminatory incidents and improves the data that is provided for policy development at a local level.

There are plans to discontinue the National Expertise Center on Diversity and Discrimination for the police (LECD). Art.1 notes that it is important to preserve this center, because it has an important advisory role and supports the police. It is important to improve the response of the criminal justice system to racially motivated offences.

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3. Introduction

In 2006, parliamentary elections were held in The Netherlands, leading to a government whose motto was 'to work together, to live together' (Samen werken, Samen leven). The new government was installed on 22 February 2007.

Whereas the previous government placed an emphasis on integration of ethnic minorities (there has been extensive public and political debate about the possibilities and impossibilities of integration and assimilation) the current government appears to focus more on *participation* of (vulnerable) groups, including ethnic minorities. An important goal of the government is the development of certain neighbourhoods – neighbourhoods with socio-economical problems, like high unemployment-rates and low labour participation. The government hopes to improve the integration of vulnerable groups, including ethnic minorities, through this undertaking.

This shadow report gives an overview of the state of affairs concerning racism and racial discrimination in The Netherlands in 2007. It describes manifestations of racism and religious discrimination in areas that are important for the integration and participation of ethnic minorities in Dutch society such as employment, housing and education. It looks into new developments in the field of anti-discrimination such as the creation of the new national association against discrimination Art.1. Furthermore, the report highlights political and legislative developments in the fields of migration and integration, criminal justice (including racism as a crime, counter terrorism and racial profiling) and social inclusion.

Compared to 2005 and 2006 there have not been many changes in the number and nature of discrimination complaints. Discrimination in employment still seems to be one of the major problems in the Netherlands: it hinders the access of non-Western minorities to the labour market and causes problems on the job. NGOs still worry about the effects of negative stereotyping of Muslims.

On several levels the combating of discrimination has been amplified in The Netherlands. The national government sees combating discrimination as a key issue within the context of the Lisbon Strategy for growth and Jobs. Secondly, as of 2007 the Public Prosecutors Office made discrimination one of their key priorities. This is reflected in the new and improved Guidelines on Discrimination – a protocol for the police and the Public Prosecutors Office. Finally, the anti-discrimination infrastructure has been improved by establishing the new national association against discrimination Art.1.

4. Communities vulnerable to racism

Sources

The following sources have been used to identify the communities most vulnerable to racism: (1) data on the number of complaints received by the Anti-discrimination Agencies (ADAs¹); (2) data from the Equal Treatment Commission (ETC²); (3) a survey on discrimination experiences, carried out in 2005 for the *Monitor Rassendiscriminatie 2005* report³. The body responsible for collecting statistics on ethnic minorities in The Netherlands is the Statistics Netherlands (CBS).

Ethnic minorities

The Dutch Office of Statistics (CBS) uses the Dutch term 'allochtoon' or the term 'migrants' to define ethnic minorities and makes a distinction between first generation and second generation migrants. First generation migrants are born outside The Netherlands; while second generation migrants are the descendants of first generation migrants. If only one parent is born outside The Netherlands, the child is identified as a second-generation migrant. According to the CBS, on 1 January 2007 there were 1,601,194 first generation migrants and 1,569,212 second generation migrants. The Netherlands has a total population of 16,357,992⁴.

The CBS also distinguishes between two groups of migrants: migrants originating from Western countries and migrants originating from non-Western countries. In fact, the difference is not so much between Western and non-Western countries as between industrialized and non-industrialized countries. For example, the CBS considers Japan a Western country. Migrants from Indonesia are also identified as Western migrants because they have integrated successfully in Dutch society ('Moluccans' are the exception). Under these definitions, migrants from non-Western countries are considered ethnic minorities and are target groups for integration policies by the Dutch Government. On 1 January 2007, there were 1,014,476 first generation non-Western migrants and 723,976 second generation non-Western migrants in The Netherlands. Third generation non-Western migrants numbered 50,253⁵.

¹ Overview of those complaints: Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

² Overview of ETC-data: CGB, *Commissie Gelijke Behandeling Jaarverslag 2007* (CGB, 2008).

³ Boog, I. (ed.), *Monitor Rassendiscriminatie 2005* (Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie, 2006).

⁴ Netherlands Statistics (CBS). Statistics can be found on <http://statline.cbs.nl/StatWeb>.

⁵ Ibid.

The four biggest groups of non-Western migrants are the Turks, the Surinamese, the Moroccans and the Antilleans. On 1 January 2007, there were 368,600 Turks, 333,504 Surinamese, 329,493 Moroccans, and 129,965 Antilleans of both first and second generation. The Netherlands also has smaller migrant groups from non-Western countries, such as the Chinese (45,000), the Somalis (19,000), the Afghans (37,000), the Iraqis (43,000), the Iranians (28,000), the Cape Verdeans (20,000) and the Ghanaians (20,000)⁶.

There are no official figures on Sinti, Roma or Travellers. Estimates of the number of Sinti and Roma range from 3,500 to 6,000. Travellers are estimated at 30,000.

Religious minorities

The largest religious minority in The Netherlands are Muslims (an estimated⁷ 944,000 or 5.8% of the total population in 2004), followed by Hindus (95,000) and Jews (40,000). In 2002, 52% of the Dutch population identified themselves as a member of one of the several Christian churches in The Netherlands and 40% identified themselves as not belonging to any religion⁸.

Refugees and asylum seekers

Refugees who have settled in The Netherlands during the last decade mainly come from former Yugoslavia, Somalia, Iran, Iraq, Afghanistan and China. In 2006, there were 14,470 and in 2007 9,730 asylum applications for The Netherlands. Around 50% of the asylum seekers received a temporary permit to stay in The Netherlands. The number of asylum applications dropped dramatically between 2000 and 2002. In 2000 there were 43,560 applications, in 2001 there were 32,580 and in 2002 there were 18,670⁹. This decline in asylum applications has been attributed to a new 'aliens law' introduced on 1 April 2001.

Vulnerability

The data on the number of complaints received by the ADAs consistently indicate that, among the four biggest groups of non-Western migrants, the Moroccans report by far the most experiences of racial discrimination¹⁰. The relatively large numbers of Moroccan complainants was also evident in an analysis of ETC-rulings (from 2004-2006) on racial discrimination in employment¹¹.

⁶ Ibid.

⁷ The estimation of the number of Muslims are based on the number of migrants per country of descent and the number of Muslims in that specific country. The number of Muslims descendant from Surinam, Morocco, and Turkey are based on research on the social position and use of community facilities of minorities (SPVA, 1998).

⁸ Ibid.

⁹ Ibid.

¹⁰ Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

¹¹ Andriessen, I., Dagevos, J., Nievers, E., Boog, I., *Discriminatiemonitor niet-westerse allochtonen op de arbeidsmarkt 2007* (SCP/Art.1, 2007).

For the Monitor Rassendiscriminatie 2005 report¹², published in spring 2006, the *Discriminatie-ervaringen 2005* survey was carried out studying people's experiences of discrimination. About 1700 respondents took part in the survey (conducted using questionnaires and in-depth interviews), consisting of Dutch natives and people from the four largest migrant groups: Turks, Moroccans, Antilleans and Surinamese.

According to the survey, more than half of Moroccans and slightly less than half of Turks encountered racial discrimination last year on one or more occasions. This means that Turks and Moroccans are confronted on a regular basis with incidents in which they or persons around them feel personally discriminated against. A striking feature is that higher-educated Moroccans claim to experience discrimination more often than lower-educated Moroccans. The percentage of Surinamese and Antilleans who said they had encountered discrimination is slightly lower: 40% and 37% respectively. Approximately 2% of the Dutch natives stated that they had been personally confronted with racial discrimination.

After 9/11, public opinion against Islam worsened. The rise of Pim Fortuyn and his ideas about the influence of Islam in Dutch society, and especially the murder of Theo van Gogh in November 2004, have contributed to a negative and often hostile atmosphere against Muslims. Opinion polls reflect the difficulties for students who wear an Islamic headscarf to find internships, the hurdles for Muslim job seekers and the relatively high levels of anti-Muslim violence¹³. In the months that immediately followed the Van Gogh murder, a total of 106 violent anti-Muslim incidents were reported, ranging from abuse to physical violence and arson in an Islamic school. The change in society towards Muslims has been adequately reflected upon by the anthropologist Dr. Frank Bovenkerk¹⁴; He states that people in the Netherlands, compared to other European countries, are inclined to ethnise the major problems in society. After 2001, this leads, unexpectedly, to pointing to religion to explain the cause of many problems. Partly due to this shift of attention from 'culture' towards 'religion', the national integration debate got a worldwide dimension. Influenced by international events, like terrorism and the Israel-Palestine conflict, Islam got a negative image in the Netherlands.

¹² Boog, I. (ed.), *Monitor Rassendiscriminatie 2005* (Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie, 2006).

¹³ For an overview, see the chapter on opinion polls and stereotyping in: Boog, I. (ed.), *Monitor Rassendiscriminatie 2005* (Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie, 2006).

¹⁴ Donselaar, J. van and Rodrigues, P. (eds.), *Monitor racisme & extremisme. Zevende rapportage* (Amsterdam: Anne Frank Stichting, 2006. See: www.monitorracisme.nl, accessed 14 July 2008).

5. Manifestations of racism and religious discrimination

5.1 Employment

In 2006 the Dutch ministry of Social Affairs and Employment commissioned the Social and Cultural Planning office (SCP – a government research agency) and the national association Art.1 to develop an in-depth study of racial discrimination in the Dutch labour market. In November 2007 a first report was published¹⁵.

Findings in this first report suggest that racial discrimination hinders the access of non-Western migrants to the labour market, and is also an obstacle in securing permanent employment. Racial discrimination is also an issue for non-Western migrants who already are employed, but does not seem to have a direct negative effect on occupational positions and salaries¹⁶.

This study also, like other indications mentioned above, suggests that Moroccans experience most discriminatory incidents in the labour market. One hypothesis derived from this study is that racial discrimination affects men more than women¹⁷.

Results from qualitative research carried out for the same study show that non-Western migrants “feel that they have to work harder than their indigenous counterparts to achieve the same labour market position” and that they “feel that they constantly have to demonstrate that they do not fit the – unfavourable – stereotypical image of their group¹⁸.”

In the period 2004-2007 an average of 400 complaints and reports per year of racial discrimination in the labour market were submitted to ADAs. Almost half of those complaints were about experiences at the workplace; a quarter of the complaints concerned the entry to the labour market. Most complaints were submitted by Moroccans; many complaints had to do with the wearing of a headscarf¹⁹.

In the period 2004-2006, the Equal Treatment Commission (ETC) issued 93 rulings on racial discrimination in the labour market and in more than half of those cases upheld the complaint²⁰.

¹⁵ Andriessen, I., Dagevos, J., Nievers, E., Boog, I., *Discriminatiemonitor niet-westerse alloctonen op de arbeidsmarkt 2007* (SCP/Art.1, 2007).

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid, and: Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

²⁰ Ibid.

EXAMPLES OF NGO GOOD PRACTICE

In November 2007, Art.1 organised a symposium on the instrument of mediation. NGOs and national authorities took part in interactive sessions where mediation in employment, housing or education was discussed. A main question was whether mediation could be a better instrument than legal means in combating discrimination, for example to prevent victimisation. The symposium was organised within the context of the 2007 Year of equal opportunities for all²¹.

5.2 Housing

Housing-related discrimination does not seem to be a structural problem in The Netherlands. In 2007 only 1,9 % of 4.307 complaints that ADAs received on the grounds of discrimination were related to housing (in 2006 this figure was also 1,9%)²².

Housing allocation

In the Netherlands, most municipalities have a transparent system of housing allocation that is closely regulated by the government. The housing supply is publicised in local and regional newspapers and selection of tenants takes place on the basis of objective criteria. Generally speaking this system gives landlords little opportunity to refuse potential tenants on account of their origins. In addition, freedom of establishment is one of the basic principles of the Housing Allocation Act. Home seekers can be discriminated against during the process of housing allocation on account of their origins, such as during registration, in the granting of urgency and during mediations, but the equal treatment laws help combat this form of discrimination.

Although there is little room for direct discrimination on the grounds of origin, there is a possibility of indirect discrimination. The use of certain selection criteria can turn out to be disproportionately unfavourable to immigrants. For example, the length of time one has been registered at one's present address may play an important role in housing allocation. This residence criterion is problematic for immigrants who have not been living in the country for very long.

Redlining in mortgages

In the property ownership, housing market discrimination occurs in the granting of mortgages through 'redlining' or discrimination by postal code. Banks make a

²¹ See: Wat is beter bij discriminatie: juridisch oordeel of mediation? [http://www.art1.nl/artikel/7525-Wat is beter bij discriminatie juridisch oordeel of mediation](http://www.art1.nl/artikel/7525-Wat_is_beter_bij_discriminatie_juridisch_oordeel_of_mediation), accessed 14 July 2008.

²² Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

property ownership. In the past, mortgage lenders in the city of Rotterdam were accused of redlining. In 2006, banks were accused of redlining, although it was barely visible in the inventory of complaints of discrimination and case law. The Equal Treatment Commission began an investigation on the issue of redlining. The research report showed that some of the financiers discriminate on the basis of postcode. Extra conditions are also added for specific areas within large cities, which makes it difficult for many migrant groups to negotiate a mortgage. In addition, it was found that nearly every bank refuses to grant a mortgage to individuals with a temporary residence permit. The ETC concluded that this amounted to unjustified indirect discrimination. The ETC advised the banking and financial sector to make their criteria for mortgages more transparent and in some cases to adjust their criteria²³. In 2006 the Dutch Banking Association added a prohibition on mortgage discrimination to its code of conduct²⁴.

Living situation

In cities, ethnic minorities live mostly in districts that are regarded as problematic. These neighbourhoods struggle with structural problems such as criminality, poverty and pollution. A large number of ethnic minority residents depend on social housing for their housing needs, and partly as a result of this they live in homes of relatively lower quality and in districts with fewer services. Despite the improvements in the housing position of ethnic minorities in recent decades, research carried out by the Ministry of Housing shows that ethnic minorities are still lagging behind the native Dutch²⁵. It goes without saying that ethnic minorities also prefer good quality housing in safe and liveable districts, but they are less able to realise their housing wishes²⁶. It is not known to what extent, the relatively less favourable housing situation of ethnic minorities, is caused by discrimination.

EXAMPLES OF NGO GOOD PRACTICE

In November 2007, Art.1 and Bureau Discriminatiezaken Hollands Midden en Haaglanden (ADA region The Hague) organised a conference named 'Goedeburen.nl' ('good neighbours') about combating discrimination in neighbourhoods. In workshops participants discussed problems and methods to tackle intolerance and discrimination in neighbourhoods. A website, www.goedeburen.nl was launched, which was meant for local policy makers and social workers²⁷.

²³ CGB. *Risicoselectie op grond van postcode en verblijfsstatus: een onderzoek uit eigen beweging naar onderscheid door hypothecair financiers* (CGB, 2006). See: www.cgb.nl.

²⁴ NVB, *Gedragscode Hypothecaire Financieringen*, <http://www.nvb.nl/index.php?p=41696>, accessed 3 July 2008.

²⁵ Ministry of Housing, Regional Development and the Environment, *Een Gekleurd Beeld van Wonen, de woonsituatie van niet-westerse allochtonen in Nederland* (2005).

²⁶ VluchtelingenWerk, *VluchtelingenWerk IntegratieBarometer*, <http://www.vluchtelingenwerk.nl/integratie.html>, accessed 3 July 2008.

²⁷ See: http://www.art1.nl/artikel/7520-Conferentie_Goedeburen.nl, accessed 14 July 2008.

5.3 Education

Curriculum

According to the Dutch Education Inspection Department more attention has to be paid to active citizenship and social integration. Schools focus on social skills, values, and good manners, and less on the knowledge of democracy and learning from other cultures²⁸.

School advice

In the Netherlands, students at primary school are advised on the level of education they should pursue. Regularly there are complaints that the education level advised to non-Western students is too low. Researching this issue, the Dutch Education Inspection Department found that migrant children got 'lower' advice, but due to lower results in their primary education²⁹.

Ethnic segregation

Dutch education is strongly segregated. This can be partly explained by the segregation in housing. In major cities especially, primary schools have very many more or very few migrant children compared to the average population of the direct neighbourhood. This segregation is primarily caused by so-called 'white flight'. Research has shown that parents select schools on their 'quality', but that what they call 'quality' often refers to the ethnic population of the school. The expectation is, 'the more migrant children, the lower the quality', even if this contradicts the findings of the Education Inspection Department³⁰. Dutch people believe that the number of migrant children in primary education is a point of concern, because they expect it to lead to less attention for Dutch non-migrant children³¹. Besides the situation of 'white flight', some 'white' schools and schools of religious denomination are less open to migrant children and are enforcing barriers like high fees or clothing regulations.

The readiness of the Dutch people to place their own children in another school to reduce ethnic segregation in primary education is decreasing. The Dutch Government is responsible for reducing ethnic segregation, though it finds that this matter is the responsibility of local governments and schools. Local governments and schools sometimes try to 'spread' migrant children by creating separate waiting lists or by using quotas, but are restrained by the Dutch Law of

²⁸ Onderwijsinspectie, *Onderwijsverslag*, (http://www.onderwijsinspectie.nl/nl/home/naslag/Onderwijsverslag_2006_2007, accessed 12 June 2008.)

²⁹ Onderwijsinspectie, *Onder advisering in beeld* (http://www.onderwijsinspectie.nl/nl/home/naslag/Alle_publicaties/Onder advisering_in_bbeeld, accessed 12 June 2008).

³⁰ Metselaar, T. *Een zwarte of een witte school?* (UvT: 2005).

³¹ Ibid

Equal Treatment and the traditional Dutch right for parents to form or choose their own school on religious or pedagogical basis.

Separate waiting lists and quotas are still being considered in the latest (2007-2008) plans from the Ministry of Education³².

Complaints

The number of complaints relating to discrimination in education, received by the ADAs is stable: around 5,5% of the total, or around 250 complaints per year. Most of those complaints are related to enrolment, admission, clothing rules, suspension and the relationship between teacher and student, parent and/or guardian³³.

EXAMPLES OF NGO GOOD PRACTICE

In May 2007, Art.1 presented educational material to accompany the website www.dutchkids.nl, an educational website about identity, stereotyping and discrimination³⁴.

In November 2007, Art.1 launched the project [ÉÉN] ('One'), a project to introduce the concept of equal treatment to primary and secondary schools. When taking part in this project, a school states that it combats discrimination and intolerance on all grounds. The school will then be supported by Art.1 and local ADAs in developing educational material. Schools that take part organise yearly activities promoting respect for diversity³⁵.

5.4 Health

The accessibility to health care in the Netherlands for ethnic minorities is hindered by the fact that there seems to exist a gap between the needs among these minorities and the present health care system and the fact that ethnic minorities in general are less informed about the Dutch health care system and sometimes face problems caused by differences in language and culture. Furthermore, the right of proper health care for illegals and others such as

³² See: http://www.minocw.nl/documenten/5688%20_2_.pdf, accessed 12 June 2008.

³³ Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

³⁴ See: Lespakket 'Dutchkids' en 'Webwise': online leren over discriminatie, http://www.art1.nl/artikel/7492-Lespakket_Dutchkids_en_Webwise_online_leren_over_discriminatie, accessed 14 July 2008.

³⁵ See: http://www.art1.nl/artikel/7523-Lancering_scholenproject_EEN_Gelijke_behandeling_voor_iedereen, accessed 14 July 2008.

undocumented immigrants, unrecognized asylum seekers and youth are not sufficiently guarded because of practical and legal restrictions and bureaucracy.

One of the consequences of the new Aliens Act 2000 is that an increasing number of rejected asylum seekers are suffering from severe psychological or psychiatric problems and end up living on the street³⁶. Some are sent to institutions such as the Amsterdam Solidarity Committee for Refugees (ASKV), where a number will be given (temporary) shelter and possibly legal support. Ideally they should be given professional psychosocial or psychiatric care, in combination with medication and rest. But this type of care is difficult to organize because, in practice, regular care institutions are not very accessible. The lack of insurance, and the fact that conditions, like proper housing, for successful treatment are not met, are two important obstacles for asylum seekers in starting therapy at Mental Health Care (GGZ) institutions. With adequate help failing to materialize they keep wandering, their mental condition deteriorates and they eventually fall off the caretakers' radar³⁷.

Individuals who fail to meet the insurance criteria for specialised care³⁸ often cannot get access to the appropriate care institution. Foreigners staying in the Netherlands illegally fall within this category, as do rejected asylum seekers, illegals that cannot be expelled from the country, and those in the process of obtaining a residence permit or refugee status. Although legally in the Netherlands, the Linkage Act³⁹ has excluded them from health care insurance or any other form of insurance⁴⁰. Because they fall outside of the Exceptional Medical Expenses Act (AWBZ) they will be refused by institutions that have no funds available to cover the expenses. General care can fall back on the Linkage Fund, but in specialised care such a regulation is not yet in place, with a number of examples of refusal of care being reported as a result. An inventory in Amsterdam showed that mainly GGZ-institutions and hospitals are dealing with uninsured patients⁴¹.

Group differences and discrimination

Little is known about whether group differences in health or use of care are in any way related to discrimination. Probably several factors cause differences

³⁶ ASKV/Regional Office Refugees, see <http://www.askv.dds.nl>, accessed 9 July 2008.

³⁷ ASKV/Jonge Sla, *Confused State* (2007).

³⁸ There are various reasons for not being insured against medical expenses. A division is made between individuals who can but are not insured (Dutch residents – who have a right to AWBZ-care) and those who cannot be insured, the 'uninsurables'.

³⁹ Law of 26 March 1998, Stb. 1998, 203, on amendment of Aliens Act and several other acts with the aim to link the claim of foreigners with the Dutch government on grants, provisions, benefits, exemptions and permits to a legal residence in the Netherlands. Date of commencement: 1 July 1998 (Stb. 1998, 204).

⁴⁰ Act's aim is to clarify the position of aliens without residence or work permit. In addition the act should discourage illegal stay in the Netherlands. The Linkage Act states that aliens without residence permit have no right to social security payments, housing benefits, student grants or basic insurance on the basis of the Medical Insurance Act. See: <http://www.stichtingkoppeling.nl/default.asp?CategoryID=3>, accessed 9 July 2008.

⁴¹ SIGRA / AGIS, *Zeker van zorg? Zorg voor onverzekerden: Report on the problematic of the 'uninsurables' in Amsterdam* (Amsterdam: SIGRA / AGIS, 2007). See: <http://www.sigra.nl/nieuws/onverzekerden.pdf>, accessed 9 July 2008).

between the native Dutch and migrants. Poor health or higher risks among migrants does not automatically indicate discrimination and thus cannot be attributed as such. Research will have to determine to what extent group differences in healthcare are the result of hampered access or of poor quality of care.

EXAMPLES OF NGO GOOD PRACTICE

In 2007 a new professional code has been drawn up for psychologists, in which a specific article on discrimination has been included⁴². The article states that unjustified discrimination is prohibited and that psychologists should take into account individual characteristics and circumstances of each client, as well as cultural differences that exist between clients. Despite these differences, psychologists should make an effort to ensure that people in the same situation are treated the same. A number of expertise centres argue that the anti-discrimination article is not complete as no attention has been paid to the consequences of how cultural diversity influences professional standards⁴³.

5.5 Policing and racial profiling

In the period 2005-2007 around 5% (around 200) complaints per year on police conduct were filed at ADAs. The complaints entail both acts and refusals to act by the police, military police, the Public Prosecutors Office and the Immigration Service. Almost half of the complaints are about the refusal to register a complaint, not responding to a call for help, or the stop and search procedures, and apprehension of persons⁴⁴.

In their work, the police use a variety of profiles that serve as the basis for alerts or action. Officers may develop prejudice on past interaction with members of a particular group and there is a risk that this prejudice will serve as the basis on which they act in certain situations with respect to other members of that group. The attitudes and conduct of police officers has received some attention in police colleges and training courses. Yet, in practice, more focus could be given to these subjects in order to prevent conduct based on discriminatory presuppositions.

At present, no data is available regarding discrimination complaints submitted in connection with racial profiling as such or more particularly on preventive searches or mandatory identification.

⁴² See: <http://www.psynip.nl/upload3/eth/beroepscode07.pdf>, accessed 9 July 2008.

⁴³ See: http://www.mikado-ggz.nl/artikel.php?artikel_id=712 and <http://www.art1.nl/?node=6968>, accessed 9 July 2008.

⁴⁴ Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

If citizens feel they have suffered discriminatory treatment by the police, they can make use of the police complaints procedure. Yet, due to shortfalls in the registration system, the figures fail to show whether or how many complaints involved discrimination. Complaints about police conduct can also be submitted to the National Ombudsman. In 2007 the Public Order and Safety Inspectorate issued an advice to standardise the complaints procedure to the police⁴⁵.

5.6 Racist violence and crime

In 2007, the ADAs received 2229 complaints on discrimination on the grounds of race, religion or nationality. Around 40% of those complaints entail defamation, mostly verbal defamation. Almost 3% of the complaints are about racist violence, 1% is about racist threats⁴⁶.

Some 95% of the cases relating to discrimination and received by the Public Prosecutors office concern racial discrimination. About 80% of those cases concerns verbal defamation, 15% is about incitement to hatred or violence⁴⁷. Exact statistics for 2007 are not yet available.

In Amsterdam, the police, the Public Prosecutor and the local ADA cooperate in registering discrimination incidents. A similar system of cooperation will be implemented in other regions of The Netherlands in 2008.

5.7 Access to goods and services in the public and private sector

Discrimination in the access to the supply of goods and services in private and public bodies is forbidden and covered by both the civil and criminal legislation. However, not all services delivered by public bodies fall under the protection of the non-discrimination legislation: one-sided acts, such as issuing a driver's license or a building license are not covered under the equal treatment laws⁴⁸. Discriminatory acts of the government can be challenged under general administrative law. Data on the number and type of complaints in this area are not available.

In the period 2004-2007, the ADAs have received an average of 325 complaints per year about discrimination in the provision of goods and services⁴⁹.

⁴⁵ Inspectie Openbare orde en veiligheid, *Klagen staat vrij* (2007, see: http://www.ioov.nl/algemene_onderdelen/stukken/vulling-voor/rapporten/klagen-staat-vrij, accessed 19 June 2008).

⁴⁶ Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

⁴⁷ LECD, *Cijfers in Beeld 2006* (2007).

⁴⁸ Equal Treatment Commission, opinion no. 2007-2.

⁴⁹ Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

In 2007, the ETC delivered 17 opinions in the area of goods and services on the grounds of race or ethnic origin, nationality and religion. Seven opinions were delivered in the area of social protection. The cases submitted to the ETC varied from the refusal to deliver goods at a caravan location of a traveller community, access to discotheques and fitness facilities and refusal of financial services.

Opinions about social protection deserve specific mention, because the scope of the Dutch equal treatment law has been broadened with the implementation of the Racial Equality Directive (2000/43/EC) in 2004. The inclusion of 'social protection' meant that one of the principles of the Dutch legislation had to be changed: until 2004, one-sided governmental acts remained out of the ambit of the equal treatment laws and therefore outside the scrutiny by the ETC. The implementation of the Directive brought Article 7a in the Equal Treatment Act, allowing the to test decisions of the relevant authorities. In 2007, four opinions were delivered on social welfare regulations. In the opinions, the Commission discussed its jurisdiction as far as the scope was concerned as well as the intensity with which it could test the decisions and measures. Two cases will be discussed below.

In the first case, six petitioners of Surinamese and Antillean/Aruban origin claimed that the system of old age pensions (AOW pension) put them in a disadvantaged position compared to persons with a native Dutch background. A person who has not lived continuously in the Netherlands between the ages of 15 and 65 and therefore not insured continuously, will not receive a full AOW pension. The law states that a 2% reduction is made on the full pension for each year of non-insurance. According to the Commission, this constitutes indirect discrimination. However, the aims of the measure (respecting the autonomy of the (former) colonies and maintaining a workable system) are legitimate and the practice is proportional in relation to that aim⁵⁰. The opinion was confirmed in a case of the District Court of Amsterdam⁵¹.

In the second case, the ETC came to a different decision. It concerned the amount of the monthly benefit based on the Benefit Act for Victims of Persecution 1940-1945 (WUV pension). Persons who applied for this benefit, and who were living in Indonesia at the time of application, received a lower amount than persons who applied from the Netherlands regardless of their present place of residence. The considered that persons of Indonesian or ethnically mixed origin are being disadvantaged because of their origin, which leads to indirect discrimination. The objective justification test fails here. Although the aim of the exception in the WUV is legitimate, it is not proportionate and necessary. The fact that the living standard in Indonesia is lower than in the Netherlands is irrelevant. People who moved from Indonesia to other residences, after their application, do not receive the same amount as persons who applied in the

⁵⁰ Equal Treatment Commission, opinion no. 2007-4.

⁵¹ District Court Amsterdam, 10 May 2007, LJN: BA9202 / AWB 07/1279 AOW.

Netherlands⁵². In the latter case, the ETC seems to apply a more intensive test than in the previous opinion about the old age pensions, which may have led to the different outcome.

5.8 Media, including the internet

In the period 2004-2007 the ADAs received an average of 100 complaints per year (2.5% of the total number of complaints) concerning discrimination on the grounds of race, religion or nationality in the media or advertising. Complaints concerning racist manifestations on the internet are not included in this figure – they are registered by the Dutch Complaints Bureau for Discrimination on the Internet (MDI)⁵³.

The MDI in 2007 received 1049 reports concerning 1581 manifestations of discrimination. Discrimination on the Internet does not appear only on the websites of radical organisations and extremist movements; a large proportion of the reports received by the MDI were specifically about discriminatory views expressed on sites that have nothing to do with organised racism or extremism, such as popular discussion forums and weblogs. The number of reports received by the MDI expressing views that, according to the MDI, are probably sanctionable, rose from 466 in 2005 (to 984 in 2006) to 1078 in 2007. Most reports concerned anti-semitism and anti-islamism⁵⁴.

The Dutch authorities still did not ratify the Additional protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. Art.1 is of the opinion that the Dutch government should ratify the protocol as soon as possible.

EXAMPLES OF NGO GOOD PRACTICE

In May 2007, Art.1 presented 'Webwise', a collection of guidelines for students who want to research discrimination (i.e. for school presentations). The guidelines inform students about discrimination in general, about discrimination on the internet and about finding, selecting and searching for information on the internet⁵⁵.

⁵² Equal Treatment Commission, opinion no. 2007-152. See commentary M. Davidović in: Gerards, J. (ed.), *Gelijke Behandeling: oordelen en commentaar 2007*, Nijmegen: Wolf Legal Publishers, pp. 346.

⁵³ Boog, I., Coenders, M., *Kerncijfers 2007. Jaaroverzicht discriminatieklachten bij antidiscriminatiebureaus en meldpunten* (Landelijk Bureau Art.1, 2008.)

⁵⁴ MDI, *MDI Jaarverslag 2007* (<http://www.meldpunt.nl/nieuws/mdi-publiceert-jaarverslag-2007>, accessed 10 July 2008).

⁵⁵ See: Lespakket 'Dutchkids' en 'Webwise': online leren over discriminatie, <http://www.art1.nl/artikel/7492-Lespakket-Dutchkids-en-Webwise-online-leren-over-discriminatie>, accessed 14 July 2008.

6. Political and legal context

A new national government was installed on 22 February 2007. Whereas the previous government placed an emphasis on integration of ethnic minorities, and there was an extensive public and political debate about the possibilities and impossibilities of integration and assimilation, the current government appears to focus more on *participation* of (vulnerable) groups, including ethnic minorities. An important goal of the government is the development of certain neighbourhoods – neighbourhoods with socio-economical problems, like high unemployment-rates and low labour participation. The government hopes to improve the integration of vulnerable groups, including ethnic minorities, through this undertaking.

This policy shift is apparent not only in the policies of the new national government, but also in plans by large municipalities promoting integration and preventing radicalisation, and even in public statements by high-ranking public servants on the 'tone of the debate about Muslims'. Last but not least, one of the most prominent advisory councils of the national government, the scientific council for government policy (WRR), argued for an urgent shift in policy strategy, away from a focus on national identity, and towards a focus on the process of identification and the recognition that differences bring opportunities, especially in this globalising world.

From the perspective of NGOs dealing with the combat of racism and racial discrimination, this policy shift is a welcome one, if only because the new plans in which the shift is visible, show that policymakers have significantly improved their understanding of issues that remain important in society, such as integration and radicalisation.

6.1 Anti discrimination

In 2006 the Dutch Government announced that it would make six million euros available every year for the realisation and structural funding of a nation-wide network of municipal antidiscrimination facilities. The existing network of Anti-discrimination Agencies (ADA's) covered only 50% of the country. In 2007 the preparation started of a bill on those municipal anti discrimination facilities. The bill's objective is to create a low-threshold facility for citizens in the whole of the country to submit a discrimination complaint. Access to such facilities is under the local governments' responsibility, who will be encouraged to liaise with the existing local and regional anti-discrimination agencies. The final proposal has been presented to Parliament in May 2008.

In 2007 a new national association against discrimination officially came in to being. This association is established by local and regional Anti-discrimination Agencies and the then National Bureau against Racial Discrimination (LBR), with the support of the ministry of Justice. The name of the new association is Art.1 (pronounced: article 1), referring to the equal treatment article in the Dutch constitution. The national bureau of the association derives from the former LBR. The members of the association Art.1 are the local ADA's. This unique infrastructure was created for the prevention of and to combat all forms of discrimination (race, gender, skin-colour, age, disability, religious belief, sexual orientation, etc).

The National Bureau of Art.1 supports its members in their activities, and functions as a national centre of expertise. Among the services that are offered by its members at a local and regional level are support and advice on making complaints, the organisation of projects, the provision of information, and the registration of complaints and accounts of discrimination.

Since 2006, there have been no changes concerning the funding of Art.1. Art.1 still recommends that the Dutch Government provides enough structural funding to provide for the success of the new association Art.1. The Government has stated that it will fund the local and regional Anti Discrimination Agencies with six million Euros yearly, whereas a Government appointed advisory group calculated that twelve million Euros is needed. The National Bureau of Art.1 has to function as the national expertise centre covering all forms of discrimination. The current funding of the National Bureau is not sufficient to achieve this goal. This analysis is supported by the third ECRI-report on The Netherlands⁵⁶.

In 2007, the Minister of Housing, Communities and Integration awarded a tender for a new Monitor on racial discrimination. This Monitor will be the second edition of a comprehensive monitor report on racial discrimination and is scheduled to be published in 2009. The first edition was published in 2006 and highlighted racial discrimination in a number of spheres of society. The study will be carried out by the national bureau of Art.1 in cooperation with the Anne Frank House.

In the Netherlands, 22 sponsored projects were carried out in the framework of the 2007 Year of equal opportunities for all. The Dutch government had allocated 1 million Euros for activities aimed at awareness raising, education and young people. Projects included a manifestation 'Live the difference', carried out by the Association of Municipalities (VNG)⁵⁷. The meeting centred around the role of local governments in promoting social cohesion and diversity policies.

⁵⁶ ECRI, *Third report on the Netherlands, adopted on 29 June 2007 and made public on 12 February 2008* (http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/Netherlands/Netherlands_CBC_3.asp#TopOfPage, accessed 14 July 2008).

⁵⁷ VNG, *VNG equal opportunities* (See: <http://www.vngequal.eu/folder/program.htm>, accessed 10 July 2008).

6.2 Migration and integration

In line with election promises, the new government developed a scheme for certain categories of persons who had applied for residence in the past, but whose application was never processed properly. The categories included those people whose first application for asylum was filed before 1 April 2001, or who reported before 1 April 2001 to the Immigration and Naturalisation Service (IND) or Aliens Police with a view to filing an application for asylum. Also people will be granted a residence permit who have uninterruptedly lived in the Netherlands since 1 April 2001, and who, insofar as applicable, have confirmed in writing in advance that they will unconditionally withdraw the pending proceedings when being granted a permit under the scheme. Family members were included in the regularization scheme⁵⁸.

The total number of persons qualifying for the scheme amounted to around 27.500 people. 5000 applicants whose files were checked did not fulfil the criteria and need to leave the country.

After the new government came into power in February 2007, the minister for Integration, Mrs. Ella Vogelaar, drafted a policy paper for the medium term. The paper, 'Make sure you belong' was presented in September 2007. The focus of the policy of the government lies on participation on the labour market, improved integration courses for new immigrants, improvement of poorer neighbourhoods and an intensified attention for non-discrimination⁵⁹.

The paper contains a plan to eliminate the waiting lists for integration- and language courses, the so-called Integration Delta Plan. Part of this plan is that integration will be 'intensified': this concerns 'participation' in the broadest sense of the word. Those who participate also truly belong as a result. The central government is working on this Delta plan together with the municipalities, social organisations and educational institutions. In the vision of the Government, every community is different. This diversity must be acknowledged and the cabinet encourages people from all ethnic groups to integrate into their community and into society. Part of the plan is a large-scale offensive to give 40 of the poorest neighbourhoods a new outlook, which will encourage integration⁶⁰.

Two of the largest municipalities, Amsterdam and Rotterdam, presented new plans to improve integration. In Amsterdam, the new project (already successfully implemented in one neighbourhood), focuses on labour participation of women from minority ethnic groups who depend on social security. In group-interviews the women set their own goals. Then they take part in an intensive programme, with a focus on education, language, social participation and parenting support⁶¹.

⁵⁸ See: <http://www.pardonnu.nl/>, accessed 10 July 2008.

⁵⁹ See: VROM Integration, <http://international.vrom.nl/pagina.html?id=10696>, accessed 10 July 2008.

⁶⁰ Ibid.

⁶¹ See: Bouwen aan Burgerschap activeert allochtone vrouwen, http://www.integratie.net/kiem/dossiers/Werk/Toeleiding/Bouwen-aan-burgerschap_1016.html, accessed 7 August 2008.

Rotterdam announced that the integration-courses will be free of charge in 2008 and that the waiting period for those courses would be reduced to two weeks. Both the cost and the waiting period proved to be an obstacle, especially for people with lower incomes. The municipality is now devising ways to reach the target group to spread the message that the courses are now free of charge. One problem is that quite a few potential candidates do not read⁶².

In September 2007, the Dutch national coordinator for counterterrorism (NCTb)⁶³, Tjibbe Joustra, said in an interview for the national daily *Algemeen Dagblad*, that the tone used by parliamentarian Geert Wilders and others in the debate about Muslims can push radicalising Muslims even further towards violence. Gijs de Vries, the former coordinator for counterterrorism for the EU, agrees. According to Gijs de Vries, certain negative statements about Muslims made by Wilders are ill-advised, because with those statements Wilders alienates from the Dutch society the great majority of Muslims that rejects the use of violence⁶⁴.

6.3 Criminal justice

6.3.1 Racism as a crime

In 1971 the Dutch legislature adopted the prohibition of discrimination in the Penal Code⁶⁵. The relevant provisions (articles 137c -g and article 429quater) were further tightened in later years and extended to include discrimination on other grounds. The law now makes the following conduct a crime or misdemeanour against public order:

- The defamation of groups of people on the grounds of their race;
- Incitement to hatred, discrimination or violence against persons on racial grounds;
- The dissemination of discriminatory views;
- Participating in or lending support to activities aimed at discrimination;
- Discrimination by persons in their official capacity, profession or business.

For an explanation of the term 'race', the courts apply the definition as specified in Article 1 of the International Convention on the Elimination of all forms of Racial Discrimination.

The so-called 'Guidelines on Discrimination' (*Aanwijzing Discriminatie*) sets out a protocol for actions for both the police and the Public Prosecutors Office. The

⁶² See: Rotterdam komt met vernieuwde aanpak inburgering, www.ad.nl (archive), accessed 7 August 2008.

⁶³ The NCTb website: <http://english.nctb.nl/>, accessed 7 August 2008.

⁶⁴ See: *Joustra: toon islamdebat voedt onrust*, NRC Handelsblad 24 September 2007. www.nrc.nl (archive), accessed 7 August 2008.

⁶⁵ Law of 18 February 1971, Stb. 1971,96

effectiveness of the Guidelines are evaluated every four years; afterwards, the Guidelines are amended where necessary and implementation is improved. On the basis of the evaluation in 2006, new Guidelines were drafted in 2007⁶⁶.

The new Guidelines state the responsibilities of the police and the Public Prosecutors Office in more detail than before, a promising development according to Art.1. Notable is the importance that is attached to national and local cooperation between the police, the Public Prosecutors Office and the ADAs and Art.1. This cooperation leads to better overviews of discriminatory incidents and improves the data that is provided for policy development at a local level⁶⁷.

However, there are plans to discontinue the National Expertise Center on Diversity and Discrimination for the police (LECD). Art.1 notes that it is important to preserve this center, because it has an important advisory role and supports the police.

6.3.2 Counter terrorism

In May 2007, the General Intelligence and Information Service (AIVD) presented its annual report. The report states that the threat of “home grown jihadist terrorism” is still there but has diminished. The report points at the Muslim salafist movement in The Netherlands, is a movement that spreads an ‘anti-integration’ message. The report stresses that in the combat against radicalisation; a broad approach is essential, containing not only repressive but also preventative measures⁶⁸.

In August 2007, the national government announced an increase of funds to combat radicalisation: both radicalisation of Muslims and of right extremists. Most of the funds is meant for municipal projects to prevent radicalisation among the youth. The projects include programs for teachers, youth workers, parenting support, intercultural dialogue and to establish a system to recognise processes of radicalisation⁶⁹.

The municipality of Amsterdam in November of 2007 announced a more broad approach to combat radicalisation. Part of the programme is a focus on increasing tolerance and social cohesion to weaken the breeding ground for radicalisation. Another focus is on empowerment of vulnerable groups. Finally,

⁶⁶ Art.1, *Tekst Aanwijzing Discriminatie* (http://www.art1.nl/artikel/6548-Tekst_Aanwijzing_Discriminatie, accessed 14 July 2008).

⁶⁷ Ibid.

⁶⁸ See: AIVD Jaarverslag 2006, www.aivd.nl, accessed 7 August 2008.

⁶⁹ See: Actieplan polarisatie en radicalisering 2007-2011, http://www.justitie.nl/images/actieplanpolarisatieenradicalisering_tcm34-82141.pdf, accessed 7 August 2008.

persons who are found to be in a process of radicalisation, will get counselling and support⁷⁰.

To enable action to be taken against (possible) terrorist attacks as early as possible, a legislative proposal was made in 2005 to increase the powers of the police and judicial authorities to gather information about groups of persons who might be plotting an attack (*Act for widening the powers for criminal investigation and persecution of terrorist acts*). In 2006, this Act was approved by the Parliament, allowing for investigations to start on the basis of just an indication rather than the reasonable suspicion that was previously necessary. When facts and circumstances or the analysis of the General Intelligence and Information Service (AIVD) indicate preparation of a terrorist attack, special powers can be used. The Public Prosecutor can also order a preventive search in a certain areas and have vehicles and objects searched. The police can search people, vehicles and objects without the prior consent of the Public Prosecutor in so called safety-hazard-areas in order to prevent an act of terror.

In 2005, in addition to criminal measures, a proposal for legislation on national security measures by the State (*the Administrative Measures on national security proposal*) was made. This proposal would apply to persons suspected of supporting or having links with terrorist activities and entails an obligation to report periodically, as well as a ban on entering certain areas or on consorting with certain persons. This Act has been approved by the Parliament in March 2007⁷¹.

Finally, there has been a proposal to make the '*glorification of terrorist acts*' a punishable offence. According to the Explanatory Memo, this proposal was inspired by the 'significant coarsening of the public debate and the necessity of offering society legal protection against views that far exceed the boundaries of what is acceptable'. The legislative proposal entails criminalising any glorification, extenuation, trivialisation or denial of heinous crimes, if this might constitute a threat to public order. The proposal is not limited to terrorism; it encompasses a broader range of serious crimes⁷².

This bill is still (July 2008) in consultative status, yet could have far-reaching effects on citizens' rights. Indeed, this kind of legislation would mean a limitation of the right to freedom of speech and would entail the risk of discriminatory application. Although the legislative proposals are not discriminatory in intent, there is some danger in their application because the powers are less bound by hard criteria.

⁷⁰ See: Amsterdam verscherpt aanpak radicalisering, www.amsterdam.nl (archive), accessed 7 August 2008.

⁷¹ See: Kamerstukken II 2005/06, 30655 nr. 2.

⁷² See: http://english.nctb.nl/Counterterrorism/Legislation/national/Bill_concerning_criminalisation_of_glorification/, accessed 14 July 2008.

6.3.3 Racial profiling

The Dutch authorities have introduced a temporary registration system for Antilleans (the VIA, Verwijsindex Antillianen, or Reference Index Antilleans). The goal of this system is to enable various institutes (like the police, educational and care institutes) to reach Antillean youth who are at risk more effectively. According to the Dutch government, this is an important measure, because many young Antilleans do not register their residence in the Netherlands and are difficult to reach.

A number of NGOs have claimed that this system discriminates directly as the registration is based on ethnic origin. In December 2006, the Dutch Data Protection Authority approved the system, but in July 2007 the Regional Court of The Hague ruled the system inadmissible⁷³. The court is of opinion that the registration of ethnic descent in VIA is not an appropriate mean to reach the goals mentioned. The necessity to register personal data on Antillean descent in view of common public interest has not been justified, according to the court.

Art.1 is still worried about possible discriminatory pre-flight checks for drugs at Schiphol airport on Antilleans travelling to Curaçao⁷⁴.

A danger of discriminatory selection also arises in identification checks by the police. Since January 2005, police officers have been empowered to ask persons for proof of identity in the course of their duties and persons must therefore be able to produce proof of identity upon request. This policy will be evaluated in 2008.

Several NGOs in The Netherlands have emphasised the necessity of research on racial profiling in The Netherlands. Data can be used to address deficiencies in national legislation resulting in an insufficient protection against racial profiling.

6.4 Social inclusion

Two events in 2007 concerning social inclusion sparked heated debates among Dutch parliamentarians and opinion makers.

The first was the publication of a report in September 2004 on national identity by the Dutch scientific council for government policy (WRR)⁷⁵. In this report, the WRR argued for a new policy strategy, in which the focus is not on 'national identity', but rather on the process of identification (with groups and society). This new focus will, according to the WRR, increase the likelihood that people with diverse backgrounds will 'feel at home' in The Netherlands. Differences should

⁷³ LJN: BB0711, Rechtbank 's-Gravenhage, AWB 07/3070 BESLU

⁷⁴ See: http://www.art1.nl/artikel/6886-Hoge_Raad_acht_onderzoek_in_het_lichaam_onwettig, accessed 14 July 2008.

⁷⁵ About the WRR, see: <http://www.wrr.nl/english/over.jsp?objectid=523>, accessed 7 August 2008.

not only be seen als problems, but also as opportunities. Moreover, the WRR stated that identity is not singular. People with diverse backgrounds, from within The Netherlands or from outside The Netherlands, have a lot to offer in a globalising world, according to the WRR⁷⁶.

This new policy strategy is urgent, says the WRR, because migrants, their children, but also Dutch natives don't always feel at ease in Dutch society and sometimes feel excluded. Some isolate themselves in their own groups, a few enter a process of radicalisation⁷⁷.

The second event that sparked heated debates, was the announcement by the national government of a large-scale offensive to give 40 of the poorest neighbourhoods a new outlook, which will encourage integration. The intention is a broad approach, including projects to tackle social-economic problems and projects to improve the quality of housing and the housing environment.

In 2005 the Dutch government formulated the 'National Reform programme' (Nationaal Hervormingsprogramma – NHP) containing measures to comply with the Lisbon Strategy. One of the main goals of the programme is to improve the labour participation of specific groups, like women, ethnic minorities and the elderly⁷⁸.

Concerning ethnic minorities, the government focuses on three issues. First, the relatively low labour participation of ethnic minorities is related to their lower level of education. The government is strengthening programmes to improve language skills and to prevent students from dropping out of schools. Central to this undertaking is more effective cooperation between the national government, municipalities, parents, schools, employers, social services and the police. Secondly, the government is focusing on combating discrimination. The first publication of the monitor study on discrimination of non-Western ethnic minorities in employment⁷⁹ (mentioned earlier in this report) in November 2007 will be used to develop a strategy, in cooperation with employers, labour unions and minority groups. Third, measures to integrate newcomers (to improve economical, social and cultural participation) will be improved⁸⁰.

Most of the planned activities within the programme have just begun, and it is not possible yet to evaluate the effects.

An example of a project is 'Colourful Brabant Works'(Kleurrijk Brabant Werkt). This project aims to improve the position of migrant youth in education and in

⁷⁶ See: Identificatie met Nederland, <http://www.wrr.nl/content.jsp?objectid=4094>, accessed 7 August 2007.

⁷⁷ Ibid.

⁷⁸ See: Ministerie van Economische Zaken, *Lissabon-strategiel* (http://www.ez.nl/Onderwerpen/Europa/Lissabon_strategie/Introdunctie?rid=149088, accessed 14 July 2008).

⁷⁹ Andriessen, I., Dagevos, J., Nievers, E., Boog, I., *Discriminatiemonitor niet-westerse allochtonen op de arbeidsmarkt 2007* (SCP/Art.1, 2007).

⁸⁰ Ministerie van Economische Zaken, *Voortgangsrapport 2007 van het Nationaal Hervormingsprogramma Nederland 2005 – 2008 In het kader van de Lissabonstrategie* (<http://www.rwi.nl/CmsData/Voortgangsrapportage%20EZ%20Lissabonstrategie.pdf>, accessed 14 July 2008).

employment and to prevent migrant students from dropping out of school. The project is developed and tested by the Province of Noord-Brabant, and the national government is implementing it now nationwide⁸¹.

Another project is a covenant, signed on International Women's Day, 8 March 2007, by three ministers, five cities and several civil society organisations to stimulate the social participation of women from black and minority ethnic groups. The covenant has a special focus on voluntary work, which is expected to improve their networks and their chances for paid jobs. Her royal highness Princess Maxima, attended the signing ceremony⁸².

The annual initiative Pearls of integration presents in the form of a competition the most innovative projects to promote integration. In 2007, the project 'From inside to outside' ('Van binnen naar buiten') in the town of Utrecht received the award. The activities in the project were centred around home visits and encouraging people to ask for support and to participate in various activities⁸³.

⁸¹ Kleurrijk Brabant Werkt, see: <http://www.kleurrijkbrabantwerkt.nl/Default.aspx>, accessed 14 July 2008.

⁸² See: http://www.emancipatieweb.nl/maatschappelijke_participatie, accessed 14 July 2008.

⁸³ Nicis Institute, *Parel-les: samenwerken essentieel voor succes* (http://www.nicis.nl/nicis/dossiers/socialecohesie/Socialecohesiealgemeen/Parel-2007-Interview_1361.html, accessed 14 July 2008).

7. National recommendations

7.1 General

- Art.1 recommends that the Dutch government promotes initiatives to improve media awareness among the general population, specifically to equip young people with the skills to become aware of and react to racist material.
- Since 2006, there have been no changes concerning the funding of Art.1. Art.1 still recommends that the Dutch Government provides enough structural funding to provide for the success of the new association Art.1. The Government has stated that it will fund the local and regional Anti Discrimination Agencies with six million Euros yearly, whereas a Government appointed advisory group calculated that twelve million Euros is needed. The National Bureau of Art.1 has to function as the national expertise centre covering all forms of discrimination. The current funding of the National Bureau is not sufficient to achieve this goal. This analysis is supported by the third ECRI-report on The Netherlands⁸⁴.

7.2 Criminal Justice

7.2.1 Racism as a crime

- There are plans to discontinue the National Expertise Centre on Diversity and Discrimination for the police (LECD). Art.1 notes that it is important to preserve this centre, because it has an important role advising and supporting the police. It is important to improve the response of the criminal justice system to racially motivated offences.
- The National Bureau of Art.1 recommends that the Dutch authorities ratify the Additional protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

7.2.2 Racial profiling

- Several NGOs in The Netherlands have emphasised the necessity of research on racial profiling in The Netherlands. Data can be used to

⁸⁴ ECRI, *Third report on the Netherlands, adopted on 29 June 2007 and made public on 12 February 2008* (http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/Netherlands/Netherlands_CBC_3.asp#TopOfPage, accessed 14 July 2008).

address deficiencies in national legislation resulting in an insufficient protection against racial profiling.

7.3 Social Inclusion

- The National Bureau of Art.1 recommends that the national government provide local governments and educational institutions with clear guidelines on policies to combat segregation. Those guidelines could be developed by the Equal Treatment Commission (ETC).

8. Conclusion

Whereas the previous Dutch national government placed an emphasis on integration of ethnic minorities which led to an extensive public and political debate about the possibilities and impossibilities of integration and assimilation, the new government that was installed in 2007 appears to focus more on participation of (vulnerable) groups, including ethnic minorities. This policy shift is also apparent in plans by large municipalities promoting integration and preventing radicalisation, and in public statements by high-ranking public servants on the 'tone of the debate about Muslims'. Last but not least, one of the most prominent advisory councils of the national government, the scientific council for government policy (WRR), argued for an urgent shift in policy strategy, away from a focus on national identity, and towards a focus on the process of identification and the recognition that differences bring opportunities, especially in this globalising world.

From the perspective of NGOs dealing with the combat of racism and racial discrimination, this policy shift is a welcome one, if only because the new plans in which the shift is visible, show that policymakers have significantly improved their understanding of issues that remain important in society, such as integration and radicalisation.

In 2007 a new national association against discrimination officially came into being. This association was established by local and regional Anti-discrimination Agencies and the then National Bureau against Racial Discrimination (LBR), with the support of the ministry of Justice. The name of the new association is Art.1 (pronounced: article 1), referring to the equal treatment article in the Dutch constitution. The national bureau of the association derives from the former LBR. The members of the association Art.1 are the local ADA's. This unique infrastructure was created to combat and prevent all forms of discrimination (race, gender, skin-colour, age, disability, religious belief, sexual orientation, etc). The National Bureau of Art.1 supports its members in their activities, and functions as a national centre of expertise.

The so-called 'Guidelines on Discrimination' (Aanwijzing Discriminatie) sets out a protocol for actions for both the police and the Public Prosecutors Office. On the basis of an evaluation of the Guidelines in 2006, new Guidelines were drafted in 2007. The new Guidelines state the responsibilities of the police and the Public Prosecutors Office in more detail than before, a promising development according to Art.1. Great importance is attached to national and local cooperation between the police, the Public Prosecutors Office and the ADAs and Art.1. This cooperation leads to better overviews of discriminatory incidents and improves the data that is provided for policy development at a local level.

In November 2007 a first report was published as a result of an in-depth study of racial discrimination in the Dutch labour market, commissioned by Dutch ministry of Social Affairs and Employment. Findings in this first report suggest that racial discrimination hinders the access of non-Western migrants to the labour market, and is also an obstacle in securing permanent employment. Racial discrimination is also an issue for non-Western migrants who already are employed, but does not seem to have a direct negative effect on occupational positions and salaries. This study also, like other indications mentioned above, suggests that Moroccans experience (relatively) most discriminatory incidents in the labour market. One hypothesis derived from this study is that racial discrimination affects men more than women. Results from qualitative research carried out for the same study show that non-Western migrants “feel that they have to work harder than their indigenous counterparts to achieve the same labour market position” and that they “feel that they constantly have to demonstrate that they do not fit the – unfavourable – stereotypical image of their group⁸⁵”.

⁸⁵ Andriessen, I., Dagevos, J., Nievers, E., Boog, I., *Discriminatiemonitor niet-westerse allochtonen op de arbeidsmarkt 2007* (SCP/Art.1, 2007).

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(<http://www.rwi.nl/CmsData/Voortgangsrapportage%20EZ%20Lissabonstrategie.pdf>, accessed 14 July 2008).

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10. Annex 1: List of abbreviations and terminology

ADAs

Anti-discrimination Agencies. There are around 25 local or regional ADAs in The Netherlands. These are agencies specialised in handling complaints about discrimination. Since 2007 almost all ADAs are members of Art.1. Art.1 website: www.art1.nl

CBS

Dutch Office of Statistics

ETC or CGB

Equal Treatment Commission. The ETC is the enforcement body for the Equal Treatment Act. The Commission acts as a semi-judicial body. It receives complaints, carries out formal investigations, and delivers non-binding opinions. ETC website: www.cgb.nl



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