

FRANET 2013
Contribution to Annual Report 2013
The Netherlands
Art.1, Dutch knowledge centre on discrimination

Date of submission: 07 February 2014

1 ASYLUM, IMMIGRATION AND INTEGRATION

1.1 Monitoring of forced returns

1. Organisation appointed	
1.1 Which is/are the national organisation(s) tasked with return monitoring?	ONLY UPDATE THIS FIELD IF THERE HAVE BEEN CHANGES IN 2013
1.2. Indicate the legal basis in domestic law and provide the link.	ONLY UPDATE THIS FIELD IF THERE HAVE BEEN CHANGES IN 2013
2. Monitoring of removals	
2.1 Has the organisation (indicated under 1.1 above) accompanied actual removals by being on the aircraft or vessel in 2013?	Yes.
2.2 If yes, how often and to which destinations?	No statistics available yet. The statistics will be made available in the Annual Report of the organisation, published on its website: www.commissieterugkeer.nl/publicatie/
2.3 Did it include Frontex-coordinated returns?	Not yet available.
2.4 If the reply to question 2.3 is yes, how many and to which destinations?	Not yet available.
2.5 Briefly describe which standards the monitor compares his/her observation with (indicate if tools, such as guidelines or checklists, exist)	ONLY UPDATE THIS FIELD IF THERE HAVE BEEN CHANGES IN 2013
3. Funding	
3.1 Was the monitoring of forced return co-funded by the European Return Fund in 2013?	No.
3.2 If yes, what portion (% and amount in EUR and local currency) was covered by EU funding?	n/a
4. Reporting	
4.1. Has the monitor issued public reports?	Yes.
4.2. If yes, briefly describe the key issues raised and provide a link to the document.	In its Annual Report 2012, the CITT states that overall the forced returns witnessed by the CITT are carried out in a human, ethical and correct fashion. The CITT points out very specific weaknesses in the cooperation of the different organisations concerned, including the cooperation between the Return and Departure Service and the Ministry of Foreign Affairs and the use of the central tracking form M118 which is not used properly and does not have the desired quality. Furthermore, the CITT advises that FRONTEX should play a more central role in return

	<p>monitoring, especially in the context of Joint Return Operations.¹</p> <p>Annual Report 2012 can be accessed at www.commissieterugkeer.nl/Images/j-18896-jaarverslag-2012-citt-definitief-26-4-2013_tcm96-499581.pdf?cp=96&cs=32815.</p>
5. Any other comments	
5.1. Include here any other comments on monitoring on forced returns that occurred in 2013 that you may have.	None.

1.2 Immigration detention and alternatives to detention

1.2.1

Statistics of the Penitentiary Service (*Dienst Justitiële Inrichtingen*, DJI) DJI over detention, including immigration detention, can be found here: www.dji.nl/Organisatie/Feiten-en-cijfers

The Ministry of Security and Justice publishes a biannual report containing all statistics regarding asylum procedures, detention and return. This report is called 'Aliens chain report' (*Rapportage Vreemdelingenketen*). The last report published was: "Rapportage vreemdelingenketen periode januari-juni 2013". The following URL refers to a search input in the online archive of the national government leading to results on the '*Rapportage vreemdelingenketen*':

<http://www.rijksoverheid.nl/documenten-en-publicaties?keyword=rapportage+vreemdelingenketen&period-from=&period-to=&department=&informationtype=>

1.3 Fees

1.3.1 Complete the table below, indicating the amount that a third-country national must pay to obtain a residence permit or a similar document.

See annex 1

1.3.2 Complete the table below, indicating the amount beneficiaries of refugee status or of subsidiary protection status must pay to the relevant authorities to obtain travel documents, pursuant to Article 25, Directive 2011/95/EU.

Status of the beneficiary	Fee collected	Can the fee be reduced? If so, specify on which grounds this is the case	Can the applicant get preferential treatment against a higher fee? If so, explain?
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¹ Netherlands, Integral Return Monitoring Commission (*Commissie Integraal Toezicht Terugkeer*, CITT) (2013), *Jaarverslag 2012*, The Hague, CITT, available at: www.commissieterugkeer.nl/Images/j-18896-jaarverslag-2012-citt-definitief-26-4-2013_tcm96-499581.pdf?cp=96&cs=32815.

Refugee	€20,80 ²	No	No
Subsidiary protection	€20,80 ³	No	No

1.4 Promising practices

1.4.1 Provide a maximum of three new promising practices relating to asylum, immigration and integration, putting each one in a separate table

Title (original language)	Tell Me
Title (EN)	Tell Me
Organisation (original language)	Werkgroep Kind in azc (Unicef, Defence for Children, Vluchtelingenwerk Nederland)
Organisation (EN)	Working Group Child in asylumseekers centre (made up of Unicef, Defence for Children, Dutch Council for Refugees)
Government / Civil society	Civil Society
Funding body	European Refugee Fund, Foundation Kinderpostzegels
Reference (incl. url, where available)	Werkgroep Kind in azc (2013), 'Tell me', Website, available at www.tell-me.nl/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	5 July 2013
Type of initiative	Information website
Main target group	Children in asylum seekers centres
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	A report published in 2009 showed that children in asylum centers are often poorly informed about their situation ('Kind in het centrum', Unicef . For example, they did not know what they were able to do in their asylum seekers centre in terms of activities, where they could go to school, whether they could go to a sports club. The organisations involved in this project found that this lack of information constitutes a risk to the participation and development of the children. As a response, they developed the website Tell Me which offers children, parents and professionals information about the different areas of children's life in an asylum seekers centre. It offers not just general information, but also answers very specific and practical questions. It also includes a glossary of terms relating to the asylum procedure and life in the Netherlands. Children can participate by using the forum of the website and asking their

² Netherlands, Passport Fee Decree (*Besluit paspoortgelden*), article 6.1.a.

³ Netherlands, Passport Fee Decree (*Besluit paspoortgelden*), article 6.1.a.

	own questions. It is the first website in the Netherlands that focuses exclusively on the situation of children in asylum seekers centres.
Highlight any element of the actions that is transferable (max. 500 chars)	The entire website is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	A lot of different organisations are working together in the development and the maintenance of the website, in addition to the main partner organisations. As a result, it is likely that the website will be well implemented and the use of it will be promoted. It fills a gap which was identified by the report that triggered the development.
Give reasons why you consider the practice as having concrete measurable impact	The website provides practical information to the target group which is otherwise not provided, as was shown in the report which triggered this initiative. The website can be easily accessed by children and use will be promoted.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Except for the specific information provided by the website, there is little in this initiative which is country-specific. Therefore, it can easily be transferred to other Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The practice is based on the information collected in the report 'Kind in het centrum' (Child in the centre) which presented the situation of children, based on interviews with children and their parents. Furthermore, the website is connected to a programme of information events carried out by the organising parties.
Explain, if applicable, how the practice provides for review and assessment.	No information available.

Title (original language)	Code Name Future Lespakket Vluchtelingenwerk
Title (EN)	Code Name Future Lesson Material for the Council for Refugees
Organisation (original language)	Code Name Future
Organisation (EN)	Code Name Future
Government / Civil society	Civil Society
Funding body	Council for Refugees
Reference (incl. url, where available)	Netherlands (Council for Refugees) (2013), <i>Code Name Future Lespakket Vluchtelingenwerk</i> , available at http://codenamefuture.nl/vluchtelingenwerk/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	7 October 2013
Type of initiative	Education Material
Main target group	Teachers and students of lower and higher secondary education (VMBO and HAVO/VWO)

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Commissioned by the Dutch Council for Refugees, Code Name Future has developed specific interactive material for teachers and students of both lower and higher secondary education. It's a small scale programme of two lessons in which students first are encouraged to look for facts regarding immigration and asylum in the Netherlands, in order to check and diffuse certain stereotypes concerning for example the extent of influx of asylum seekers. The second lesson aims to create an empathic appreciation of the situation of refugees, focusing on feelings of (in)security.
Highlight any element of the actions that is transferable (max. 500 chars)	The general content and the interactive approach of the material is transferable to other countries, as the issues (stereotypes, exaggeration of the extent of migration) are comparable across countries. The approach to integrate the topic of refugees and asylum as a general framework for teaching geographic methods (data collection and research) is a useful approach which can be applied in other countries too.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	Code Name Future cooperates with more than 300 schools who will receive the material. The material is also available free of charge on the website of Code Name Future. It fits within the context of the geography curriculum by providing a framework within which geographic methods (research and data collection) can be taught. Its small scope makes it easy to integrate in lessons. Furthermore, the interactive design (whereby students have to find information themselves) means that the material will not need to be updated in terms of content.
Give reasons why you consider the practice as having concrete measurable impact	The material is small scale, fits within the curriculum and is available free of charge. By encouraging students to collect data to contest their own stereotype, it changes attitudes in the context of practical learning processes.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The issues (stereotypes, exaggeration of the extent of migration) are comparable across countries. The approach to integrate the topic of refugees and asylum as a general framework for teaching geographic methods (data collection and research) is a useful approach which can be applied in other countries too.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The Council of Refugees has been involved in the development of the material and uses this material to present its work to students.
Explain, if applicable, how the practice provides for review and assessment.	No information available.

1.5 Any other significant developments with implications for asylum, immigration and integration

1.5.1

The measure on long-term resident children came into force on 1 February 2013.⁴ Under this measure, children without a residence permit who have been residing in the Netherlands for over five years can obtain a residence permit if they meet certain criteria. The child in question must be under the age of 19 at the time of application, must have applied for asylum before reaching the age of 13, and must have been in regular contact with the relevant authorities (e.g. immigration services, aliens police, guardianship service) during the time of residence. The applicant must also declare in writing that he or she will withdraw all other pending procedures.⁵ The measure does not apply to children who have been convicted of a crime or whose family members have been convicted of a crime, whose family members are war crimes suspects pursuant to Article 1F of the Refugee Convention, and who have not cooperated in the process of their departure from the Netherlands.⁶ A temporary transitional measure (*overgangsregeling*) was also introduced wherein the maximum age for applicants was set at 21.⁷

The State Secretary informed Parliament about the implementation of these measures in September 2013.⁸ 3,260 applications for the transitional measure had been filed by 1 September, including both applications for children and for their family members. In total, about 1,310 applications were approved; about 1,800 were rejected. According to the Minister, the leading reasons for rejection included the applicant not fulfilling the minimum residence requirement, never having filed a request for asylum, having been out of contact with the authorities for longer than permitted, not fulfilling the age requirement, or already possessing a residence permit.⁹ In response, the Dutch Refugee Council expressed its concerns about the strict implementation of the measure. According to the Council, the criteria in the measure should be applied more leniently to do justice to its intention. For example, applicants who are registered at the municipality but not at the national authorities, or children who just missed the age requirement, should fall under the measure.¹⁰ The State Secretary has not responded to these concerns.

⁴Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Regeling langdurig verblijvende kinderen', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 31 January 2013, No. 2013-0000061686.

⁵ The Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), *Besluit nummer WBV 2013/1, houdende wijziging van de Vreemdelingencirculaire 2000, 30 January 2013, article 2.1.*

⁶ The Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), *Besluit nummer WBV 2013/1, houdende wijziging van de Vreemdelingencirculaire 2000, 30 January 2013, article 2.2.*

⁷ The Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), *Besluit nummer WBV 2013/1, houdende wijziging van de Vreemdelingencirculaire 2000*, 30 January 2013, paragraph 3.

⁸ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Rapportage Vreemdelingenketen periode januari-juni 2013', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 27 September 2013, No. 4333928.

⁹ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Rapportage Vreemdelingenketen periode januari-juni 2013', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 27 September 2013, No. 4333928.

¹⁰ Netherlands, Dutch Council for Refugees (*Vluchtelingenwerk Nederland*) (2013), 'Velen vallen buiten strikt kinderpardon', Press release, 27 September 2013, available at: www.vluchtelingenwerk.nl/nieuws/velen-vallen-buiten-strikt-kinderpardon.

As reported in the Dutch contribution to the 2012 Annual Report, the government is trying to criminalise irregular immigration. At the time of writing, the legislative proposal, submitted on 7 January 2013, is still being considered by the House of Representatives.¹¹ The bill amends the Aliens Act by adding a new article which defines unlawful stay in the Netherlands as an offense that can be punished with a fine of up to €3,900. The bill does not apply to minors and specifies that enforcement should not preclude the alien's departure from the Netherlands. The political and societal discussion over this legislative change is far from over; among other issues, discussion has focused on whether irregular stay could eventually become a crime (not just an offense), with consequences for the provision of humanitarian assistance. The Dutch section of the International Commission of Jurists has warned that under the current bill, an alien who is repeatedly fined (three times) for the offense of illegal stay will be committing a crime (*misdrif*). At that point, assistance of any kind may be seen as complicity, thereby criminalising humanitarian assistance as well.¹² More recently, a Labour Party (*Partij van de Arbeid*, in the governing coalition) committee has proposed changes to the bill to ensure that international obligations concerning human rights and the consequences for the prevention and combating of human trafficking are not disregarded, and to exempt particularly vulnerable groups of migrants from the new measures.¹³

The Modern Migration Policy Act and the National Visa Act came into force on 1 June 2013. Amending the 2000 Aliens Act and related regulations, it aims to make admission and residence procedures more efficient by merging the procedures for regular provisional residence permits and residence permits.¹⁴ The act places greater emphasis on the role of migrants' sponsors, also in the context of enforcement and control. Sponsors can be natural persons (e.g. in the context of family migration) or legal entities (e.g. universities or companies). The latter have to attain formal authorisation as a sponsor (*erkende referenten*) which should, in the long run, lead to more efficient procedures. Nevertheless, experts have pointed out that the procedure can be a barrier for smaller organisations.¹⁵ While the new act leads to procedural improvements for migrants entering the Netherlands, it may also make them more dependent on their sponsors.¹⁶

¹¹ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Wijziging van de Vreemdelingenwet 2000 in verband met de strafbaarstelling van illegaal verblijf van vreemdelingen in Nederland*, Parliamentary document (*Kamerstuk*) No 33 512-A, available at: www.eerstekamer.nl/9370000/1/j9vvhwtbnzpbzcc/vj6i7ak4dxzx/f=y.pdf.

¹² Netherlands, Dutch Section of the International Commission of Jurists (*Nederlands Juristencomité voor Mensenrechten*) (2013), 'Gevolgen Wetsvoorstel illegaal verblijf bij het hulp bieden aan vreemdelingen door particulieren en particuliere organisaties', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 21 March 2013, available at: www.njcm.nl/site/uploads/download/515.

¹³ Labour Party (*Partij van de Arbeid*) (2013), *Humanitarian consequences of the criminalisation of illegality (Humanitaire consequenties van de strafbaarstelling van illegaliteit)*, available at: <http://www.pvda.nl/data/sitemanagement/media/2013/11/Advies%20Werkgroep%20Illegaliteit%20en%20Mensenhandel.pdf>.

¹⁴ Netherlands, State Secretary of Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Inwerkingtreding Wet modern migratiebeleid', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 5 March 2013, No. 2013-0000134986.

¹⁵ Netherlands, Groen, S., De Lange, T., Grootfaam, K., Kruidenberg, N., Leeuwis, G. (2013), 'Wet Modern Migratiebeleid: Overheid en referent', *Asiel&Migrantenrecht*, Vol. 2013, No. 4, pp. 184-191.

¹⁶ Netherlands, Groen, S., De Lange, T., Grootfaam, K., Kruidenberg, N., Leeuwis, G. (2013), 'Wet Modern Migratiebeleid: De gevolgen voor de vreemdeling', *Asiel&Migrantenrecht*, Vol. 2013, No. 4, pp. 192-199.

In response to critical reports, for example by the Advisory Committee on Migration Affairs (*Adviescommissie Vreemdelingenzaken, ACVZ*),¹⁷ by the National Ombudsman¹⁸ and Amnesty International¹⁹ and continued public debate on immigrant detention and removal, the State Secretary on 13 September 2013 sent a letter to Parliament detailing his plans on the use of supervision and detention for return, the closed extended asylum procedure, activities for asylum seekers in reception centres, the 'no-fault' policy (*buitenschuldbeleid*), and the so-called follow-up policy (*nareisbeleid*).²⁰ The commitments expressed in the letter included detaining families with minors only in exceptional circumstances (for example if they had previously evaded supervision); reducing capacity from 2,000 to 933 places in 2016 by ensuring that detention will only take place as an ultimatum remedium and lasts no longer than absolutely necessary; and making greater use of alternatives to detention, for example with a bail deposit system, a close reporting obligation, and the funding of NGOs to participate in return measures. The State Secretary envisioned two different detention regimes, one lighter and one more restrictive; not extending the target groups of the 'no-fault' policy for aliens who, through no fault of their own, cannot leave the Netherlands of their own accord (the measure will be amended to guarantee greater clarity and effectiveness); and providing more activities focused on return (such as courses) in family reception centres and the so-called restrictive locations. The State Secretary also acknowledged the desire to place fewer migrants in the so-called Closed Extended Asylum procedure at Schiphol Airport.²¹

Some of the measures, such as changes to the no-fault policy and extension of activities in closed reception centres, were lauded by civil society organisations. Nevertheless, the Dutch Refugee Council criticised the decision to maintain the Closed Extended Asylum procedure, stating that the new regime does not clearly enough specify that detention is a last resort.²² The Children's Ombudsman expressed his astonishment regarding the decision not to review the applications of children for family reunification since 2008, which according to research were handled in an incorrect and non-diligent way.²³

After some discussion, the Senate passed the bill on the rearrangement of asylum grounds (*Wetsvoorstel herschikking asielgronden*) on 19 November 2013. The Act will enter into force on 1 January 2014. The Act removes two asylum grounds from the Aliens Act 2000, namely

¹⁷ Netherlands, Advisory Committee on Migration Affairs (*Adviescommissie Vreemdelingenzaken, ACVZ*) (2013), *Waar een wil is, maar geen weg*, The Hague, ACVZ; Netherlands, Advisory Committee on Migration Affairs (*Adviescommissie Vreemdelingenzaken, ACVZ*) (2013), *Vreemdelingenbewaring of een lichter middel?*, The Hague, ACVZ; Netherlands, Advisory Committee on Migration Affairs (*Adviescommissie Vreemdelingenzaken, ACVZ*) (2013), *Verloren tijd*, The Hague, ACVZ.

¹⁸ Netherlands, National Ombudsman (*Nationale Ombudsman*) (2012), *Vreemdelingenbewaring: strafregime of maatregel om uit te zetten*, The Hague, National Ombudsman.

¹⁹ Netherlands, Amnesty International (2013), *Vreemdelingendetentie in Nederland: mensenrechten als maatstaf*, Amsterdam, Amnesty International.

²⁰ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Toezeggingen op Rapporten en adviezen vreemdelingenbeleid', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 13 September 2013, No. 414078.

²¹ State Secretary of Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Toezeggingen op Rapporten en adviezen vreemdelingenbeleid', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 13 September 2013, No. 414078.

²² Netherlands, Dutch Refugee Council (*Vluchtelingenwerk Nederland*) (2013), 'Brief staatssecretaris stelt teleur', Press release, 13 September, www.vluchtelingenwerk.nl/persbericht/vluchtelingenwerk-nederland-brief-staatssecretaris-stelt-teleur.

²³ Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), 'Reactie Kinderombudsman op brief Staatssecretaris Teeven over gezinsherenigingsprocedure', Press release, 13 September 2013., available at: www.kinderombudsman.nl/86/volwassen/nieuws/reactie-kinderombudsman-op-brief-staatssecretaris-teeven-over-gezinsherenigingsprocedure/?id=325.

asylum on the ground of immediate humanitarian grounds and asylum on the ground of categorical protection.²⁴ The objective of the Act is to simplify the procedures and to clean up the legislation and to bring it more in line with European legislation. According to the State Secretary of Security and Justice, asylum seekers falling under the two grounds to be removed will in the great majority of cases be able to apply for asylum under different grounds, which implies a more streamlined procedure. The Senate was concerned that there might still be groups of asylum seekers who are adversely affected by the changes, resulting in an amendment to the Act being adopted by the Senate.²⁵

The reform of the legal aid system which implies an overall increase in the contribution to be paid by claimants (see chapter 8.1) also affects the legal aid provided to asylum seekers.²⁶ The Dutch Order of Attorneys has criticised this development strongly. In a position paper, the order explains that the reforms disproportionately affect asylum seekers, since the strongest decrease in reimbursement concerns cases which are concluded without a court hearing. In 96 per cent of cases dealing with alien affairs, no court hearing is scheduled, compared to only 15 per cent in other areas of the law, according to the order. As a result, the great majority of asylum cases will be affected by the changes. Other plans, including the introduction of a 'no cure less fee' principle in appeals cases, are also rejected by the order. The order is strongly concerned that the reforms will lead to a situation where the quality of legal support for asylum seekers cannot be guaranteed.²⁷ The Dutch Council of Refugees fully supports this conclusion and calls for the cancellation of the reforms.²⁸

In the area of integration, the Minister of Social Affairs and Employment announced his plans to start up a pilot project to test the use of a participation declaration (*participatieverklaring*) for migrants from both within and outside of the EU.²⁹ The objective of the declaration is to make new arrivals aware of written and unwritten rules and norms of Dutch society. 2014 will be used as pilot year to test the use of the declaration in the following municipalities: Amsterdam, Rotterdam, Westland, 's-Hertogenbosch, Peel en Maas, Horst aan de Maas, Venray, Doetinchem, Enschede, Zundert, Amersfoort, Ermelo, Harderwijk, Zeewolde, Spijkenisse and Waalwijk. The core values freedom, equality, solidarity and participation will be expressed in the declaration. Participating migrants will be asked to sign the declaration, but in the pilot phase this will not be mandatory. The participation declaration is embedded in a set of supporting measures, including information and education modules. The evaluation of the pilot phase will become available in 2015. It will then be decided whether the voluntary nature of the declaration can be changed, according to the Minister.³⁰

²⁴ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2013), 'Wet van 25 november 2013 tot wijziging van de Vreemdelingenwet 2000 in verband met het herschikken van de gronden voor asielverlening', Vol. 2013, No. 478.

²⁵ Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), 'Debat herschikken gronden voor asielverlening', news release, 14 november 2013, available at: www.eerstekamer.nl/nieuws/20131114/debat_herschikken_gronden_voor.

²⁶ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2011), 'Besluit aanpassingen eigen bijdrage rechtzoekenden en vergoeding rechtsbijstandverleners', Vol. 2013, No. 345, available at <https://zoek.officielebekendmakingen.nl/stb-2013-345.pdf>

²⁷ Dutch Order of Attorneys (*Nederlandse Orde van Advocaten*) (2013), 'Position paper dossier gefinancierde rechtsbijstand vreemdelingen', 5 november 2013, available at: <http://rechtsbijstandjuistnu.nl/wp-content/uploads/2013/11/20131105-Position-paper-dossier-gefinancierde-rechtsbijstand-vreemdelingen.pdf>

²⁸ Dutch Council for Refugees (*Vluchtelingenwerk Nederland*) (2013), 'Bezuinigingen op rechtshulp', letter to the Security and Justice Commission of the House of Representatives, 11 november 2013, available at: www.vluchtelingenwerk.nl/sites/public/u4276/TK%20brief%20bezuinigingen-1.pdf.

²⁹ Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Participatieverklaring', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 19 December 2013, No. 179241.

³⁰ Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Participatieverklaring', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 19 December 2013, No. 179241

As reported in the Dutch contribution to the FRA Annual Report 2012, the Civic Integration Act was changed to give new migrants more responsibility for their integration. Passing a civic integration exam is still mandatory for new migrants, but the government does not reimburse the costs of civic integration courses anymore, though migrants can request a loan for these costs. It transpired in November 2013 that only a small proportion of migrants were making use of these loans, raising concerns that the changes had led to a decrease in integration related activities overall.³¹ The Minister of Social Affairs and Employment reassured members of Parliament that the government was keeping track of immigrants who are required to take civic integration exams. According to the Minister, migrants are free to find their own means to prepare for the civic integration courses, so that the number of loans requested is not a direct indicator of the efforts made by these migrants.³² According to the Dutch Council for Refugees the concerns are justified, since the responsibility placed on newly arrived migrants is too high and the information provision is lacking. Thus migrants are informed too late that they have to pass an integration exam and the entire process of finding a suitable integration course, requesting loans and preparing for the exam is too demanding and inaccessible, despite refugees wanting to integrate.³³

³¹ Menkhorst, R. (2013), 'Inburgeringscursussen stromen leeg', *De Groene Amsterdammer*, 6 November 2013, available at: www.groene.nl/artikel/inburgeringscursussen-stromen-leeg

³² Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Kamervragen van het lid Azmani', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 2 December 2013, No. 159868.

³³ Dutch Council for Refugees (*Vluchtelingenwerk Nederland*) (2013), 'Vluchtelingen willen graag inburgeren', news release, 7 November 2013, available at: www.vluchtelingenwerk.nl/nieuws/vluchtelingen-willen-graag-inburgeren.

2 VISA AND BORDER CONTROL

2.1 Appeal against decisions on refusal / revocation / annulment of a visa

2.1.1

Pursuant to the Visa Code, a visa application which was refused (Article 32 (3)) annulled or revoked (Article 34 (7)) can be appealed according to the procedures provided for in national law. Reference landmark 2013 case law relating to the refusal, revocation or annulment of visa, using the table below. Put each case in a separate table.

Case title	ECLI:NL:RBDHA:2013:BZ9579
Decision date	03-04-2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	Netherlands, Discript Court The Hague (<i>Rechtbank Den Haag</i>) (2013), Case no. AWB 12/34042, ECLI:NL:RBDHA:2013:BZ9579, 3 March 2013, available at: http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2013:BZ9579&keyword=visumcode
Key facts of the case (max. 500 chars)	The claimant filed an application for a short-term visa for the Netherlands at the Belgian consulate in Abuja, Nigeria. This application was rejected by the consulate on 3 August 2012. On 19 September 2012, the claimant lodged an appeal at the visa service of the Dutch Ministry of Foreign Affairs . The Ministry (defendant) declared that the appeal did not fall under its jurisdiction since the decision was taken by the Belgian consulate and not by a Dutch authority. The transfer of authority to the Belgian consulate is based on Art. 8.4(d) of the Visa Code and Art.32.3 of the Visa Code and is furthermore detailed in a bilateral agreement between the Netherlands and Belgium.
Main reasoning/argumentation (max. 500 chars)	The dispute focuses on the question whether the bilateral agreement between the Netherlands and Belgium constitutes an authorisation pursuant to article 8.4(d) of the Visa Code. The defendant argues that the agreement states that the consulate of the Kingdom of Belgium is authorised, regarding the North of Nigeria, to reject visa applications in to handle appeals. The Court states that the agreement does not constitute an authorisation pursuant to article 8.4(d) of the Visa Code, since in the available documentation it is not clear whether Abuja is defined as a “location with indication [1]” or a “location with indication [2]”. Defendant’s claim that a verbal agreement between the Netherlands and Belgium exists regarding this authorisation is not sufficient, since according to the Court such an agreement needs to be verifiable on paper. Nonetheless, pursuant to article 32.3 of the Visa Code, appellants can lodge an appeal to a visa decision against the Member State which has taken the final decision in the visa application, which in this case was Belgium.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Interpretation of bilateral agreement between Belgium and the Netherlands in the light of article 8.4(d) of the Visa Code. Insufficient documentation to justify authorisation in line with

	article 8.4(d) of the Visa Code.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court judges that the defendant has rightly decided to place the claimant's appeal outside of its jurisdiction, but using the wrong argumentation. Pursuant to article 32.3 of the Visa Code, appellants can lodge an appeal to a visa decision against the Member State which has taken the final decision in the visa application. In this case the final decision was taken by Belgium, so that the appeal should have been lodged against Belgium, and any further procedures should be addressed in Belgium.

2.2 Automated border controls

2.2.1 Key concerns raised by civil society organisations with regard to:

The introduction of ABC-gates;

The Netherlands launched its trial of automated border control facilities (ABC gates) in March 2012. The so-called No-Q border gates were introduced at Schiphol Airport, at a departure gate and at the border control between Schengen and non-Schengen lounges. For now, the facilities are only available for adult passengers with electronic passports containing a chip. The automatic control should eventually be available for all passengers.³⁴

Before the introduction of the gates, doubts regarding their security were raised by Ronald Leenes, professor of regulation by technology at Tilburg University. According to Leenes, ABC gates do not increase passenger security due to the tension between the exact matching of biometric identifiers and the more lenient application of matching applied in practice. Either security cannot be guaranteed or the system will lead to too many false alarms adversely affecting its social acceptance.³⁵

The civil society organisation Privacy First has expressed more general criticism of the new gates. ABC gates can lead to delays and irritation when the system does not work properly (falls negatives). More importantly, it opens up possibilities for identity fraud (false positives). Privacy First also criticised the automatic scanning of passengers' security profiles connected to the use of ABC gates, which categorises the risk posed by individual passengers without their awareness of a scan being carried out. This undermines citizen's ability to be aware of such a security scan and to make use of their right to correct the risk profile they are assigned if necessary.³⁶

³⁴ Netherlands, Schiphol Group (2013), *Jaarverslag 2012*, Schiphol, Schiphol Group, available at: www.schiphol.nl/web/file?uuiid=ce521773-25a2-4e8f-bfb4-9de4fab6c2da&owner=a557244d-830e-4971-a953-3be229d89dcb

³⁵ Netherlands, Computable (2011), 'E-gates Schiphol verlagen veiligheid', Web page, 31 August 2011, available at: www.computable.nl/artikel/nieuws/security/4123595/1276896/egates-schiphol-verlagen-veiligheid.html.

³⁶ Netherlands, Privacy First (2011), 'Ambieert Nederland en Orwelliaans panopticon?', Web page, 1 September 2011, available at: www.privacyfirst.nl/aandachtsvelden/profiling/item/441-ambieert-nederland-een-orwelliaans-panopticon.html.

With regard to potential future developments, Privacy First also points out the risks associated with the automatic recognition of facial features. If this technique is advanced still further, data collected for the purposes of ABC-gates could also be used for face recognition in airports in general, i.e. through security cameras. While governments may commit themselves to deleting all the data collected in this context, there is no sufficient way of checking whether the data has in fact be deleted, so citizens have to trust blindly that this is the case. Because of these risks associated with ABC gates, Privacy First emphasises that their should always be a manual, i.e. non-automated, alternative available, as people should never be forced to provide biometric data. People should therefore be able to choose for themselves whether to use ABC gates or traditional, personal border controls. Though with the current ABC system there should always be a personal supervision of automated border control, this cannot easily be monitored or checked by citizens.³⁷

Registered Travellers Programme;

The Dutch Data Protection Authority (*College Bescherming Persoonsgegevens*, CPB) disseminated its opinion and criticism, formulated jointly with European data protection authorities in the context of the Article 29 Data Protection Working Party (WP29).³⁸ While covering the overall Entry Exit System (EES), points were raised regarding the Registered Travellers Programme. The data protection authorities, including the CPB, are concerned that another central biometric database will be established in the context of the CPB. They advise against this and recommend using a system that operates with biometric data in passports only. They further point to the risk of discrimination in assessing travellers as 'low risk' and 'high risk'.³⁹

The Meijers Committee (*Commissie Meijers*, Standing Committee of Experts on International Immigration, Refugee and Criminal Law) published an overall negative opinion on the Smart borders package, including criticism of the Registered Traveller Programme. While the Committee acknowledged the usefulness of an initiative such as the Registered Traveller Programme, it remained concerned about the discretion given to authorities to judge applications. The criteria set out in Article 12 of the proposal should be made more concrete so that they cannot be interpreted in different ways by different authorities, thereby posing a risk to the equal assessment of applications.⁴⁰ The Privacy First Foundation supports this criticism and sees a risk of discrimination, if the criteria are not specified clearly enough.⁴¹

³⁷ Telephone interview with Privacy First, 27 November 2013.

³⁸ Netherlands, Dutch Data Protection Authority (*College Bescherming Persoonsgegevens*) (2013), 'Europese privacytoezichhouders publiceren opinie over 'slimme grenzen'', News release, 18 June 2013, available at: www.cbpweb.nl/Pages/med_20130618_wp29-slimme-grenzen.aspx.

³⁹ Article 29 Data Protection Working Party (2013), Opinion 05/2013 on Smart Borders, adopted on 6 June 2013, reference number 00952/13/EN WP206, available at: http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2013/wp206_en.pdf.

⁴⁰ Netherlands, Standing Committee of Experts on International Immigration, Refugee and Criminal Law (*Permanente Commissie van deskundigen in internationale vreemdelingen-, en vluchtelingen- en strafrecht*) (2013), *Note on the Smart Borders proposals (COM(2013) 95 final, COM(2013) 96 final and COM(2013) 97 final)*, available at: <http://commissie-meijers.nl/assets/commissiemeijers/CM1307%20Note%20Meijers%20Committee%20on%20the%20Smart%20Borders%20proposals.pdf>.

⁴¹ Interview with Privacy First representative, 27 November 2013.

The “Smart borders package”;

In the above-mentioned WP29 opinion, the Dutch Data Protection Authority along with its European counterpart expressed serious concerns about parts of the Smart borders package, especially regarding the necessity and proportionality of the Entry Exit System (EES). The EES aims to improve the efficiency of checks at Schengen borders and to tackle overstaying by third-country nationals through a centralised storage system for entry and exit data. The WP29 assessment concludes that the EES does not contribute to achieving these aims and does not meet the requirements of data privacy. Other measures, including the Employers Sanctions Directive, may prove better instruments to tackle overstay, leading the Working Group to conclude that "there are much richer alternatives available to help both in reducing overstay and deciding the EU's visa liberalisation policy than tracking travellers in an EES system".⁴²

In the letter accompanying the note on the Smart Border Proposals to the Civil Liberties, Justice and Home Affairs Committee of the European Parliament, the Meijers Committee expressed its "deep concerns" about the proposals.⁴³ The Committee advised the European Parliament to vote against the proposals as they are neither proportionate nor meet the stated aims and objectives. The Committee further criticised the lack of clarity on the problem of overstay targeted by the ESS, stating that there is no direct link between the objective of tackling irregular migration and the proposed measures. The Committee also expressed its doubts about the added value of the new centralised database and the practical feasibility and cost-effectiveness of the proposals. It further raised a number of strong data protection concerns: the proposals leave too much discretion to Member States for collecting and storing data, while the envisaged access to the EES for law enforcement purposes constitutes a disproportionate limitation of the privacy and data protection rights of a large group of innocent persons.⁴⁴

The possibility of data access for law enforcement purposes is also seen as unadvisable by the Privacy First Foundation. If used for law enforcement purposes, the ESS would treat every migrant as a potential suspect, thereby breaching the principle of proportionality. Furthermore, this practice would also violate the right against self-incrimination, as migrants would potentially be forced to cooperate with their own incrimination. Data collected in the context of an ESS should only be used for purposes which are legitimised by the objectives of the system itself.⁴⁵

⁴² Article 29 Data Protection Working Party (2013), Opinion 05/2013 on Smart Borders, adopted on 6 June 2013, reference number 00952/13/EN WP206, available at: http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2013/wp206_en.pdf.

⁴³ Netherlands, Standing Committee of Experts on International Immigration, Refugee and Criminal Law (*Permanente Commissie van deskundigen in internationale vreemdelingen-, en vluchtelingen- en strafrecht*), (2013), 'Note Meijers Committee on the Smart Borders proposals (COM(2013) 95 final, COM (2013) 96 final and COM (2013) 97 final)', Letter to the European Parliament, 3 May 2013, No. CM1307.

⁴⁴ Netherlands, Standing Committee of Experts on International Immigration, Refugee and Criminal Law (*Permanente Commissie van deskundigen in internationale vreemdelingen-, en vluchtelingen- en strafrecht*) (2013), *Note on the Smart Borders proposals (COM(2013) 95 final, COM(2013) 96 final and COM(2013) 97 final)*, available at <http://commissie-meijers.nl/assets/commissiemeijers/CM1307%20Note%20Meijers%20Committee%20on%20the%20Smart%20Borders%20proposals.pdf>

⁴⁵ Telephone interview with Privacy First representative, 27 November 2013.

The collection of biometric identifiers generally.

The collection of fingerprints for passports continues to trigger criticism and debate by societal actors in the field of privacy and fundamental rights. On 15 July 2013, at the presentation of the first report on human rights in the Netherlands by the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), the citizen's rights organisation Vrijbit handed a request to the Minister of the Interior concerning facilities for citizens who refuse fingerprinting.⁴⁶ In its request, Vrijbit asked the Minister to instruct the civil service to issue temporary identification documents, valid for one year, for which fingerprinting is not necessary. Citizens who refuse fingerprinting currently cannot obtain a passport or identity card.⁴⁷

The National Ombudsman sent a letter to the Minister of the Interior on 4 September 2013, asking the Minister to set up a temporary facility for persons who refuse to submit their fingerprints for passport purposes. The Ombudsman reported that he is regularly approached by citizens concerned with the government's collection of data, including conscientious objectors to fingerprinting who, while legally challenging this legislation, cannot obtain identity documents. This means that they experience serious obstacles in daily life, for example when opening a bank account, travelling abroad, going to the hospital or picking up parcels from the post office.⁴⁸ The Platform for the Protection of Citizen Rights (*Platform Bescherming Burgerrechten*) discussed the Ombudsman's letter and the Minister's response. It lauded the Ombudsman's letter, but was disappointed by the Minister's response that it will be at least another year before a fingerprint-free identity card will be available.⁴⁹ It now appears that the card will be introduced earlier than expected.

2.3 Any other significant developments with implications for border control and visa policy

2.3.1

The government is planning to intensify the collection and retention of traveller's data in the context of anti-terrorism measures. This was announced in November 2013, triggered by concerns about young Dutch people travelling to Syria with the intent to fight for a Jihadist cause. On returning to the Netherlands, these people may pose a threat to national security, according to the counter-terrorism authorities. EU funds will be used to pay for the measures that are still supposed to be revealed in 2013.⁵⁰ These plans which have not been specified yet,

⁴⁶ Netherlands, Vrijbit (2013), 'Vingerafdrukweigeraars' verzoeken met actie 'Hoge Hoed' ingrijpen minister', Web page, 15 July 2013, available at: www.vrijbit.nl/dossiers/dossier-paspoortwet/item/940-vingerafdrukweigeraars-verzoeken-met-actie-hoge-hoed-ingrijpen-minister.html

⁴⁷ Netherlands, Vrijbit (2013), 'Verzoek aan de minister van Binnenlandse Zaken en Koninkrijksrelaties, de heer Plasterk', Letter to the Minister of the Interior and Kingdom Relations, 8 July 2013, available at www.vrijbit.nl/dossiers/dossier-paspoortwet/item/download/295_eaf325a2b7082377979b9a6afb20e22c.html.

⁴⁸ Netherlands, National Ombudsman (*De Nationale Ombudsman*) (2013), 'Principiële weigeraars biometrische gegevens paspoort', Letter to the Minister of the Interior and Kingdom Relations, 4 September 2013, available at: www.nationaleombudsman-nieuws.nl/sites/default/files/130904_minbzk_plasterk_weigeraars_biometrische_gegevens_in_paspoort.pdf.

⁴⁹ Netherlands, Platform for the Protection of Citizen Rights (*Platform Bescherming Burgerrechten*) (2013), *Platform Overleg 27 augustus 2013*, 7 October 2013, available at: <http://platformburgerrechten.nl/2013/10/07/platform-overleg-27-augustus-2013/>

⁵⁰ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), 'Antwoorden kamervragen oer bezuinigingen op grensbewaking', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 13 November 2013.

have already led to discussions and to criticism by politicians and civil society organisations. Several politicians expressed their concerns about the privacy of travellers, saying that they were not convinced of the necessity of such a data collection exercise.⁵¹ Watchdog PrivacyFirst also claims that the necessity and proportionality of the potential measures have not yet been proven. Furthermore, the organisation is concerned about the possibility of the data being made accessible to foreign security agencies, for example through the use of a so-called 'single-entry point'.⁵²

In February 2013, the new State Secretary of Security and Justice informed the House of Representative about the ongoing measures in the field of border control which were announced in 2012, including the introduction of a centralised system of Passenger Related Data Exchange (PARDEX), the set-up of an organised cooperation agreement between the services concerned and the development of new technological instruments.⁵³ The state secretary announced that the development of the PARDEX system will not be implemented due to budget cuts agreed by the governing coalition. The other measures are being implemented as planned. Thus, the Royal Netherlands Marechaussee (*Koninklijke marechaussee*, KMAR) is increasingly working with Advance Passenger Information (API) on flights with a high risk of irregular migration. The use of this information will be taken into account in the continuing development of the use of passenger information. The advice published by the Dutch Data Protection Authority in 2012 regarding the use of this kind of data will be taken into account in this development. The Data Protection Authority had criticised a number of proposals by the previous government, as the necessity of the expansion of the duty to provide API was not sufficiently substantiated with convincing arguments.⁵⁴

The State Secretary furthermore reported that the cooperation between the services involved in border control is being intensified. For a pilot project at Schiphol airport, a so-called National Information and Analysis Centre for Border Control (*Nationaal Informatie- en Analysecentrum Grenstoezicht*) has been set up, which is based on a cooperation agreement between the Customs agency and the Royal Netherlands Marechaussee. The cooperation consists of more intensive exchange of data and shared monitoring which should lead to a more effective service provision. Finally, the actual implementation of the obligation to organise data exchange of the data of passengers and crew of ships arriving at and departing from Dutch sea ports by means of a electronic platform, defined in Directive 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC will be implemented.⁵⁵

⁵¹ Netherlands, RTL Nieuws (2013), 'Kamer nog niet overtuigd van opslaan reisgegevens', News release, 7 November 2013, available at: www.rtlnieuws.nl/nieuws/politiek/kamer-nog-niet-overtuigd-van-opslaan-reisgegevens.

⁵² Netherlands, Privacy First (2013), 'Waarom wil minister Opstelten ieders vluchtgegevens hebben?', Press release, 15 November 2013, available at <https://privacyfirst.nl/aandachtvelden/wetgeving/item/698-waarom-wil-minister-opstelten-ieders-vluchtgegevens-hebben?.html>.

⁵³ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Voortzetting maatregelen vernieuwing grensbeheer', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 12013-0000093450, 9 February 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/02/21/voortzetting-maatregelen-vernieuwing-grensbeheer/lp-v-j-0000002644.pdf.

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⁵⁵ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Voortzetting maatregelen vernieuwing grensbeheer', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000093450, 19 February 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/02/21/voortzetting-maatregelen-vernieuwing-grensbeheer/lp-v-j-0000002644.pdf

3 Information society, respect for private life and data protection

3.1 Key reforms that affected data protection authorities in the Netherlands.

3.1.1

The budget for the Data Protection Authority (DPA) was €7,737,000 in 2011 and €7,679,000 in 2012. According to plans made in 2012, this would be cut to € 7,610,000 in 2013, €7,515,000 in 2014, and to €7,415,000 per annum for the years 2015 to 2017.⁵⁶ But due to an amendment by a Member of Parliament, the State Secretary for the Ministry of Security and Justice decided on 15 April 2013 to add €750,000 to the DPA's annual budget, so that in the end there is a slight increase in funding for 2013.⁵⁷ However, a bill introduced in Parliament in 2012 expanded the responsibilities of the DPA, enabling the latter to criminally charge parties which do not notify leaks or fail to cooperate in investigations.⁵⁸ The DPA sent its advice on the bill to the State Secretary for the Ministry of Security and Justice on 15 March 2012, stating that its budget should be reconsidered now that the scope of its duties would increase, probably considerably.⁵⁹ The bill has yet to become an act of Parliament or be introduced in the Senate. This has not happened yet in 2013. When it enters into effect, the DPA will have increased duties with a minimally larger budget at its disposal.

The Foundation Notification Child Pornography on the Internet (*Meldpunt Kinderporno op Internet*) wrote to the House of Representatives on 4 July 2013, stating that it had handled almost 20,000 notifications in 2012 and that this number is increasing. It needs a larger budget. The Ministry of Security and Justice let the Foundation know that it would be supported. However, 75 per cent of the Foundation's support comes from the European Commission, which cut its budget in this field from nine to one billion euros. Sponsors are hard to find; the Foundation has five full-time employees, but only enough money to employ one. It therefore asked the Minister of Security and Justice for help, both through funding and promotion in Europe. The Foundation also asked the Minister to support a Member of Parliament's proposal to require downloaders of child pornography to donate funds.⁶⁰

⁵⁶ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), Parliamentary Document (*Kamerstuk*), No. 33400 VI- 2, p. 33.

⁵⁷ Netherlands, State Secretary of the Ministry of Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Bekostiging College bescherming persoonsgegevens', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 357323 , 15 April 2013.

⁵⁸ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012-2013), Parliamentary Document (*Kamerstuk*), No. 33662- 3.

⁵⁹ Netherlands, Dutch Data Protection Authority (*College Bescherming Persoonsgegevens, CBP*) (2012), Letter to the State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*), 15 March 2012, p. 4.

⁶⁰ Netherlands, Hotline combating Child Pornography on the Internet (*Meldpunt Kinderporno op Internet*) (2013) , *Aanbevelingen Meldpunt Kinderporno op Internet ten behoeve van Algemeen Overleg Tweede Kamer 4 juli 2013*, July 2013, available at: www.meldpunt-kinderporno.nl/files/Aanbevelingen%20Meldpunt%20Kinderporno%20AO%20juli%202013.pdf.

3.2 Promising practices

3.2.1 Provide a maximum of three new promising practices relating to information society, respect for private life and data protection, putting each one in a separate table

Title (original language)	Evaluatie systeem automatische nummerherkenning en de organisatie hieromheen
Title (EN)	Preliminary investigation for the evaluation of the system for automatic recognition of legally privileged conversations in the advocacy
Organisation (original language)	Dialogic
Organisation (EN)	Dialogic
Government / Civil society	Government
Funding body	Wetenschappelijk Onderzoek- en Documentatiecentrum, Research and Documentation Centre of the Ministry of Security and Justice
Reference (incl. url, where available)	Bongers, F., Bekkers, R., Vorst, T. van der, Brennenraedts, R., and D. van Kerkhof (2013), <i>Vooronderzoek evaluatie van automatische nummerherkenning geheimhoudergesprekken advocatuur</i> , Utrecht, Dialogic, available at: www.wodc.nl/images/2199-volledige-tekst_tcm44-502445.pdf .
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	This investigation on the practice of the prevention of confidential communication between a wiretapped client and their lawyer being overheard by the Police and the PPS was published on 8 May 2013. It will be followed by a more thorough investigation ("the main investigation"), but more data should be available prior to the latter. The system that was investigated started on 1 May 2011.
Type of initiative	Investigation
Main target group	Clients and their lawyers, police, PPS, Ministry of Security and Justice.
Indicate level of implementation: Local/Regional/National	National.
Brief description (max. 1000 chars)	This is a preliminary investigation on the prevention of confidential communication between a wiretapped client and their lawyer (e.g. telephone calls, text messages and faxes) being overheard by the Police and the PPS. The system is intended to automatically recognize and filter such conversations, rendering them unavailable to the police. It turns out that a large number of confidential numbers supplied by the Bar (4,000), had erroneously not been added to the filter. Also, the real-time tapping of confidential conversations appeared not to be immediately blocked by the system. Also, there is a difference of interpretation about the moment when a tape has to be destroyed after recognition. IN practice the conversations are actually being recorded, but made inaccessible immediately by means of overwriting.
Highlight any element of the actions that is transferable	Investigating the possibilities of the prevention of overhearing

(max. 500 chars)	confidention communication between client and lawyer by the police and the PPS.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This practice, now that it is evaluated on a regular basis, will be improved and implemented throughout the country.
Give reasons why you consider the practice as having concrete measurable impact	Data are provided by all stakeholders which may be assessed by researchers.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The confidentiality of the communications between clients and their lawyers applies everywhere.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The practice of assessing a promising practice such as this one is beneficial for all stakeholders (clients, lawyers, police, PPS) . A preliminary evaluation such as this one is a good starting point for a later, main investigation, because the bottlenecks will already be known. This also benefits the implementation of a fully-fledged system in the long run.
Explain, if applicable, how the practice provides for review and assessment.	The review took place on 8 May 2013 and there will be an evaluation in more detail when more data are available.

Title (original language)	Voorkom gedoe, kijk het na
Title (EN)	Prevent trouble, check it
Organisation (original language)	Ministerie van Binnenlandse Zaken en Koninkrijksrelaties
Organisation (EN)	Ministry of the Interior and Kingdom Relations
Government / Civil society	Government
Funding body	Minister of Internal Affairs and the Commonwealth
Reference (incl. url, where available)	Netherlands, Ministry of the Interior and Kingdom Relations (<i>Ministerie van Binnenlandse Zaken en Koninkrijksrelaties</i>) (2013), 'Voorkom gedoe', Website, available at www.voorkomgedoe.nl/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	14 October 2013, will continue until 16 December 2013.
Type of initiative	Campaign
Main target group	Citizens, municipality.
Indicate level of implementation: Local/Regional/National	National.
Brief description (max. 1000 chars)	This is a campaign for citizens, starting on 14 October 2013, to stimulate citizens to check their data in municipal databanks through the internet. The prevention of errors will enable them to get everything they are entitled to without any problems, such as allowances, a parking permit, a driving license, an inheritance or a poll card.
Highlight any element of the actions that is transferable (max. 500 chars)	Stimulate citizens to check their data in municipal database.
Give reasons why you consider the practice as sustainable	This practice will get more attention from the public, the

(as opposed to 'one off activities')	databases will therefore be improved and implemented throughout the country.
Give reasons why you consider the practice as having concrete measurable impact	Municipalities will be able to provide their services to citizens more effectively.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The storage of the data of citizens in municipalities applies everywhere.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/a
Explain, if applicable, how the practice provides for review and assessment.	N/a

Title (original language)	Eis privacy impact assessment en privacy by design door de leverancier bij aanbestedingsprojecten
Title (EN)	Requirement of privacy impact assessment and privacy by design when commissioning suppliers
Organisation (original language)	Rijksoverheid
Organisation (EN)	Government
Government / Civil society	Government
Funding body	Government
Reference (incl. url, where available)	Netherlands, Ministry of Economic Affairs (<i>Ministerie van Economische Zaken</i>) (2013), 'Brief Kabinetsvisie op e-privacy: op weg naar gerechtvaardigd vertrouwen', Letter sent to the House of Representatives (<i>Tweede Kamer der Staten Generaal</i>), No. DGETM-TM / 13088622, 24 May 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/05/24/kamerbrief-met-kabinetsvisie-op-e-privacy/brief-kabinetsvisie-op-e-privacy-op-weg-naar-gerechtvaardigd-vertrouwen.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Unknown date in the future, on-going
Type of initiative	Contract law
Main target group	Industry
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The government intends to require the use of privacy impact assessment and privacy by design by suppliers when it purchases products and services.
Highlight any element of the actions that is transferable (max. 500 chars)	When the government purchases products and services, it will require the use of privacy impact assessment and privacy by design.

Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This practice can be used in general, in every future case.
Give reasons why you consider the practice as having concrete measurable impact	It will be clear and traceable whether the procurement by the government meet this requirement.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	All governments of all Member States can adopt this practice.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	N/a
Explain, if applicable, how the practice provides for review and assessment.	N/a

3.3 Any other significant developments with implications for information society, respect for private life and data protection

3.3.1

The revelations of Edward Snowden about the activities of international security services in 2013 gave rise to questions in Parliament. The House of Representatives asked the Commission of Supervision of the Investigation and Security Services (*Commissie van Toezicht op de Inlichtingen- en Veiligheidsdiensten, CTIVD*) to investigate the processing of data by the Dutch investigation and security services in the field of telecommunication. This investigation has been started according to the the Minister of Internal Affairs and the Commonwealth who answered the House of Representatives in writing on 13 September 2013, also on behalf of the Minister of Defence, the Minister of Foreign Affairs and the Minister of Security and Justice.⁶¹ According to the same letter, the government is glad that American Congress and President Obama have come out in the open. Within the European Union, an expert group has been established which met the Americans for the first time on 22 and 23 July 2013. Further meetings are scheduled. During these meetings, there is an exchange of information about legislation on telecommunication, and especially the supervision thereof, in the United States and in EU Member States. The letter ends by saying that Parliament will be kept up to date.⁶²

A commission established by the Government assessed the Act on the Information and Security Agencies 2002 (*Wet op de Inlichtingen- en Veiligheidsdiensten 2002*) on 2 December 2013. It found that the powers of the Agencies should be extended, as cyber attacks and digital espionage are new threats to national security. Under the present Act, the Agencies can only investigate without specific focus when data traffic through the air is concerned. The

⁶¹ Netherlands, Minister of the Interior and Kingdom Relations, Minister of Security and Justice and Minister of Defence (*Minister van Binnenlandse Zaken en Koninkrijksrelaties, Minister van Veiligheid en Justitie, en Minister van Defensie*) (2013), 'Kabinetsbrede reactie onthullingen Snowden', Letter to the House of Representatives (*Tweede Kamer der Staten- Generaal*), No. 183025df9-or1-1.1. , 13 September 2013.

⁶² Netherlands, Minister of the Interior and Kingdom Relations, Minister of Security and Justice and Minister of Defence (*Minister van Binnenlandse Zaken en Koninkrijksrelaties, Minister van Veiligheid en Justitie, Minister van Defensie*) (2013), 'Kabinetsbrede reactie onthullingen Snowden', Letter to the House of Representatives (*Tweede Kamer der Staten- Generaal*), No. 183025df9-or1-1.1. , 13 September 2013.

Commission says that the Agencies should be able to carry out investigations of internet traffic through the cable in general and be able to analyse this information in the interest of national security. There should be more safeguards against abuse than there are now, however. For every step the Agencies take, they should be authorized by the Minister of Internal Affairs and the Commonwealth or the Minister of Defence. The Commission of Supervision of the Investigation and Security Services (*Commissie van Toezicht op de Inlichtingen- en Veiligheidsdiensten, CTIVD*) should also monitor the activities of the Agencies at every stage. When it says they should go no further, the Agencies should immediately end the investigation in question. When the revelation of data is no longer a danger to national security, the persons investigated should be notified immediately about the data that have been used.⁶³ The advice resulted in discussion in the Netherlands because of related privacy issues.

The Minister of Security and Justice, also on behalf of the Minister of Internal Affairs and the Commonwealth, sent a letter to the House of Representatives on 8 November 2013 about a request to receive Edward Snowden in Parliament. The Ministers rejected this request, because Snowden has no passport and there is an extradition treaty with the United States which would have to be put into effect when Snowden arrives in the Netherlands. Moreover, Snowden's present situation seems to enable him to make his revelations known sufficiently, and Parliament is able to take notice of these revelations in the present situation as well.⁶⁴

Since January 2013, the burden of proof that tracking cookies do not contain personal data lies with the processor.⁶⁵ Since this date, the Telecommunication Act also includes the principle of net neutrality; exceptions to the prohibition on blocking or impeding services are limited and functional.⁶⁶ The Independent Post and Telecommunications Authority (*Onafhankelijke Post en Telecommunicatie Autoriteit, OPTA*) supervises this legislation.

The Data Protection Authority (DPA) advised the Minister for Immigration, Integration and Asylum on a proposed change to the Aliens Decree 2000 to enable the collection of more Advanced Passenger Information (API) data, namely on sex, travel document validity, and travel route, and on the location of the Passenger Name Record (PNR) data set. The DPA found the motivation concerning necessity and subsidiarity unconvincing and the extension of API data collection unnecessary. It was also critical about the removal of the obligatory evaluation every two years.⁶⁷ This advice was not sustained as far as data collection was concerned. The additional data mentioned above were incorporated into the Decree, entering into force at the end of 2012. The obligatory evaluation was removed from the Decree as well, contrary to the advice of the DPA. However, the government wants to incorporate this evaluation in an Act of Parliament. A bill will be introduced in Parliament.⁶⁸

⁶³ Commission for the Evaluation of the Act on the Information and Security Agencies 2002 (*Commissie evaluatie Wiv 2002*) (2013), 'Evaluatie Wet op de inlichtingen- en veiligheidsdiensten 2002', available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/12/02/rapport-evaluatie-wiv-2002.html.

⁶⁴ Netherlands, Minister of Security and Justice and Minister of Internal Affairs and Kingdom Relations (*Minister van Veiligheid en Justitie en Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Antwoorden kamervragen over een bezoek van klokkenluider Snowden aan de Tweede Kamer', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 449768, 8 November 2013.

⁶⁵ Netherlands, Telecommunication Act (*Telecommunicatiewet*), 19 October 1998, art. 11.7a(1).

⁶⁶ Netherlands, Telecommunication Act (*Telecommunicatiewet*), 19 October 1998, art. 7.4a(1).

⁶⁷ Netherlands, Dutch Data Protection Authority (*College Bescherming Persoonsgegevens, CBP*) (2012), Letter to the Minister for Immigration, Integration and Asylum (*Minister voor Immigratie, Integratie en Aziel*), 31 July 2012.

⁶⁸ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2012), 'Besluit van 20 december 2012, houdende wijziging van het Vreemdelingenbesluit 2000 in verband met de uitbreiding van de vooraf door de luchtvervoerder te verstrekken passagiersgegevens (standaard API-set)', Vol. 2012, No. 688.

The DPA also issued advice on a bill to store the biometric data (DNA and fingerprints) of individuals acquitted of life crimes. According to the DPA, the bill lacked an explicit legal basis; the proportionality test was incomplete and it lacked case-by-case examination.⁶⁹ In the meantime, the Minister of Security and Justice introduced the bill in the Senate, in essence maintaining the proposed practice of storing data on individuals acquitted of life crimes. The bill, however, contains new safeguards: fingerprints and DNA may only be used in the event of a revision of a case to the disadvantage of the previous suspects, and are protected in the databases in question. Research may only be carried out at the instigation of the investigating magistrate, when requested by the PPS (previously the PPS had a power of its own). Data are only stored when someone is acquitted of premeditated fatal crimes. In the event of minors, data will be stored for a much shorter period of time. The previous suspect will be informed in writing in the case of research where comparisons have been made. Contrary to the previous reading of the bill, DNA and fingerprints may not be used in cases other than the original one. As for the proportionality of the new legislation, the Minister emphasizes that data may only be used when the revision of a case is to the disadvantage of the previous suspect; its restrictive nature means the new legislation will only be used in a very few cases.⁷⁰

A report was published against the bill, introduced in Parliament, for a new Passport Act which was mentioned in the Dutch contribution to the FRA Annual Report 2012. The bill made it possible to store fingerprints in a central database, accessible to the PPS when it wants to prosecute people who engage in criminal acts (Article 4b). The Senate will now vote on the bill. A recent case heard by the European Court of Justice prohibits this practice (C-291/12, Schwarz, 17 October 2013). The organization Privacy First and nineteen individual parties objected to Article 4b of the bill. The Dutch Court of Appeal in The Hague was supposed to pronounce judgement on 29 October 2013, but postponed this until 7 January 2014. Objections to the storage of fingerprints have had some effect: they are no longer used on ID cards. This meets, to some extent, the wishes of conscientious objectors who are now able to travel without having their fingerprints stored (see chapter 2.2.1.4).⁷¹

Since 1 July 2013, the Municipality of Amsterdam has been requiring drivers to register their car number plates when using the slot machines that enable paid parking. It was claimed that this data would only be stored for 24 hours, but in practice it turns out to have been seven years. Moreover, the data may be exchanged with, for example, the Inland Revenue Service. On 7 October 2013, the Municipality of Amsterdam told Privacy First, a data protection organization, that data in the future will only be stored for thirteen weeks, and only for people who park unlawfully. At the same time, the Municipality announced it would eliminate most slot machines and make drivers pay using their mobile phones. Privacy First feels that the right to park anonymously has been violated and is preparing a case against the Municipality of Amsterdam.⁷²

In 2013, a bill was introduced in Parliament to amend the Penal Code for the storage and retention of number plate data by the police. The police over the past several years have been

⁶⁹ Netherlands, Dutch Data Protection Authority (*College Bescherming Persoonsgegevens*, CBP) (2012), Letter to the Minister of Security and Justice (*Minister van Veiligheid en Justitie*) and appendix, No. z2012-00216, 10 May 2012.

⁷⁰ Netherlands, the Senate (*Eerste Kamer der Staten-Generaal*) (2012-2013), *Parliamentary Documents (Kamerstukken)*, No. 32044, pp.1-5 and 10.

⁷¹ Netherlands, Privacy First (2013), 'Proces tegen paspoortwet', Web page, available at: www.privacyfirst.nl/acties/proces-tegen-de-paspoortwet.

⁷² Netherlands, Privacy First (2013), 'Zeg nee tegen kentekenparkeren', Web page, 2 August 2013, available at: www.privacyfirst.nl/acties/bezwaarbrief-kentekenparkeren.html.

using a system called automatic number plate recognition (ANPR). Cameras record vehicle number plates which are automatically compared to those belonging to persons known to the police. The bill proposes that data on all number plates will be stored, for a limited time, to solve relatively serious crimes that take place in the (near) future. There is currently no legal basis for this. The Council of State emphasized that the measure had to be proportional, in that not all data should be stored for every offence or crime, which was the original idea. The bill was amended (see above).⁷³

The Minister of Security and Justice and the Minister of Internal Affairs and Kingdom relations introduced a bill in Parliament to make the use of cameras to maintain law and order more flexible. At the moment, the mayor of a municipality can only use fixed cameras for a certain period of time. In practice, these cameras are fixed to for example walls in such a way, that they are rarely moved. This will change now that flexible cameras in stead of fixed cameras will be used for a certain period of time, which will allow their use in different locations. This is supposed to promote the security of citizens and prevent crime.⁷⁴

The first annual E-Health monitor in the Netherlands was published in 2013 and sent to the House of Representatives by letter on 24 September 2014 by the Minister of Public Health, Welfare and Sports.⁷⁵ While E-Health is making progress, many challenges remain. Patients rarely have access to their own digital files and rarely make use of its self-management tools.⁷⁶ The digital exchange of patient data between care providers – within and between hospitals, pharmacies, etc. – can be improved; patients and care providers need to be made more aware of the opportunities provided by E-Health. At present, 93 per cent of medical practitioners but only 66 per cent of specialists have electronic files; investments are needed to facilitate the efficient transfer of information, while patients should be able to access their files on, for example, medication.⁷⁷ In the letter in which the monitor is enclosed, the Minister says she will adopt these recommendations and inform Parliament before Christmas 2013. Neither the Minister in her letter nor the monitor mention privacy issues. However, on 18 June 2013 the Minister wrote another letter to Parliament about the use of Information and Communication Technology in healthcare more generally, where she quoted a DPA report that concluded that the healthcare sector does not adequately protect private data. The DPA recommended the use of the NEN 7510 and NEN 7513 norms. The Minister has adopted this recommendation and announced an Decree which will require adherence from the healthcare industry.⁷⁸

⁷³ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), Parliamentary Document (*Kamerstuk*), No. 33542- 3, available at: <https://zoek.officielebekendmakingen.nl/kst-33542-2.pdf>.

⁷⁴ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), Parliamentary Document (*Kamerstuk*), No. 33582- 3, available at: <https://zoek.officielebekendmakingen.nl/kst-33582-3.pdf>

⁷⁵ Netherlands, Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2013), 'Informatie- en Communicatietechnologie (ICT) in de Zorg', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 24 September 2013.

⁷⁶ Netherlands, Netherlands, Nictiz and NIVEL (2013), *eHealth, verder dan je denkt : eHealth-monitor 2013*, The Hague, Nictiz / Nivel.

⁷⁷ Netherlands, Netherlands, Nictiz and NIVEL (2013), *eHealth, verder dan je denkt : eHealth-monitor 2013*, The Hague, Nictiz / Nivel.

⁷⁸ Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2013), 'Rapport College bescherming persoonsgegevens: Toegang tot digitale patiëntendossiers binnen zorginstellingen', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 24715-105357-MEVA, 18 June 2013.

Article 13 of the Constitution will be amended. This article covers, at present, the inviolability of telephone communications and communications by letter. The new Article will cover the inviolability of communications by letter and by telecommunication.⁷⁹

⁷⁹ Netherlands, Ministry of Economic Affairs (*Ministerie van Economische Zaken*) (2013), 'Brief Kabinetsvisie op e-privacy: op weg naar gerechtvaardigdvertrouwen', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. DGETM-TM / 13088622, 24 May 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/05/24/kamerbrief-met-kabinetsvisie-op-e-privacy/brief-kabinetsvisie-op-e-privacy-op-weg-naar-gerechtvaardigd-vertrouwen.pdf

4 RIGHTS OF THE CHILD

4.1 Child-friendly justice

4.1.1 Key legal or policy reforms, and measures in practice, that have been implemented with the aim of improving children's experiences of the justice system.

The criminal justice bill for adolescents was passed by the House of Representatives on 4 June 2013⁸⁰, and approved by the Senate on 26 November 2013⁸¹. The bill proposes a package of sanctions for 16 to 23 year-olds. The bill provides for a limited widening of the scope of application of juvenile criminal law to the group of young adults from 18 to 23 years of age. It enables judges to take the level of development of delinquent juveniles into account. The judges can choose between juvenile criminal law or adult criminal law in cases of serious felonies committed by juveniles from the age of 16 to 23. The new bill means a deterioration of the situation for 16-17 year-olds as they are presently judged according to juvenile criminal law only. In the Children Rights Monitor, the Ombudsman for Children has called on the government to amend the new bill so that the Convention on the Rights of the Child will not be breached.⁸²

In April 2013 the Ombudsman for Children published an investigative report on how minors who have committed a crime are forced to provide DNA samples.⁸³ Dutch DNA law does not differentiate between adults and minors. The Ombudsman for Children states in the report that this practice contravenes the Convention on the Rights of the Child. The Ombudsman for Children has repeatedly called on the Minister of Security and Justice to differentiate between minors and adults in the storing of DNA.⁸⁴ In a letter to the House of Representatives, the Minister of Security and Justice rejected the Ombudsman's recommendation.⁸⁵

On 2 October 2013 the State Secretary for Security and Justice sent a legislative proposal to the Council of State (*Raad van State*) and other advisory institutions, which will make it

⁸⁰ Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), 'Tweede Kamer neemt wetsvoorstel adolescentenstrafrecht aan', Press release, 6 June 2013, available at: www.rijksoverheid.nl/nieuws/2013/06/05/tweede-kamer-neemt-wetsvoorstel-adolescentenstrafrecht-aan.html.

⁸¹ Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), 'Eerste Kamer aanvaardt wetsvoorstel adolescentenstrafrecht', Press release 26 November 2013, available at www.rijksoverheid.nl/ministeries/venj/nieuws/2013/11/26/eerste-kamer-aanvaardt-wetsvoorstel-adolescentenstrafrecht.html

⁸² Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), *Kinderrechtenmonitor 2013*, The Hague, Kinderombudsman, available at: www.dekinderombudsman.nl/ul/cms/fck-uploaded/Kinderrechtenmonitor2013-drukproef.pdf.

⁸³ Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), *DNA onderzoek bij veroordeelde minderjarigen*, The Hague, Kinderombudsman, available at: www.dekinderombudsman.nl/ul/cms/fck-uploaded/2013032220DNA20rapport20aangepaste20versie.pdf.

⁸⁴ Netherlands, Defence for Children-ECPAT (2013), 'Geen aparte DNA-regeling minderjarigen', Web page, 19 September 2013, available at: www.defenceforchildren.nl/p/148/3260/mo481-cg325/mo480-cg325/mo430-cg%7C88=1%7C89=1%7C102=1/mo429-cg%7C88=1%7C89=2%7C102=1/geen-aparte-dna-regeling-minderjarigen-.

⁸⁵ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Uitkomst onderzoek naar de vraag of vaker DNA wordt afgenomen bij minderjarigen dan bij meerderjarigen*, Letter sent to House of Representatives (*Tweede kamer der Staten-Generaal*), 3 September 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/09/04/uitkomst-onderzoek-naar-de-vraag-of-vaker-dna-wordt-afgenomen-bij-minderjarigen-dan-bij-meerderjarigen/lp-v-j-0000003992.pdf.

possible to oblige sentenced children and youths aged between 12 and 23 to attend schools to earn a diploma.⁸⁶ The "tbo-maatregel" (tbo measure) can be imposed on its own or on top of another penalty. Its goal is to prevent youths from relapsing into criminal activity.

For development concerning the measure on long-term resident children that came into force on 1 February we refer to section 1.5 of this report.

4.2 Violence against children

4.2.1

Briefly describe key legal, policy and institutional legislative developments, including parliamentary debates, covering the following areas, taking relevant EU measures into account:⁸⁷

4.2.2 Physical, psychological and sexual violence against children.

The Act for a Mandatory Reporting Code on Domestic Violence and Child Abuse (*Wet verplichte meldcode huiselijk geweld en kindermishandeling*) entered into effect on 1 July 2013.⁸⁸ It applies to organisations and independent professionals in education, healthcare, child care, youth care, social work, and the criminal justice system (a total of around 1.5 million persons).⁸⁹ Organisations and independent professionals have to draw up their own reporting codes, tailored to their specific situation.⁹⁰ The Ministry of Health, Welfare and Sport has published a model reporting code that can be used for this purpose.⁹¹ Organisations and independent professionals will be required by the Act to adhere to a reporting code to help them deal with signs of domestic violence and child abuse including sexual violence, female genital mutilation, honour-based violence, and senior abuse. The reporting code includes an action plan guiding professionals through all the steps in the process, from identifying the signs of violence or abuse to deciding whether to file a report. The steps make it clear to professionals what is expected of them when they identify signs of domestic violence or child

⁸⁶ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), 'Onderwijs als wapen voor recidive', Press release, 2 October 2013, available at: www.rijksoverheid.nl/ministeries/venj/nieuws/2013/10/02/onderwijs-als-wapen-voor-recidive.html.

⁸⁷ Directive on combating sexual abuse, sexual exploitation of children and child pornography (2011/92/EU); Directive on preventing and combating trafficking in human beings and protecting victims (2011/36/EU); Communication on a safer internet for children (COM(2012) 196 final); Proposal for a Directive establishing minimum standards on the rights, support and protection of victims of crime (COM 2011/275).

⁸⁸ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2013), 'Verplichte meldcode huiselijk geweld en kindermishandeling', Vol. 2013, No. 247, available at: <https://zoek.officielebekendmakingen.nl/stb-2013-247.pdf>.

⁸⁹ Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2013), 'Meldcode kindermishandeling en huiselijk geweld wettelijk verplicht voor 1,5 miljoen professionals per 1 juli 2012', Press release, 1 July 2013, available at: www.rijksoverheid.nl/nieuws/2013/07/01/meldcode-kindermishandeling-en-huiselijk-geweld-wettelijk-verplicht-voor-1-5-miljoen-professionals-per-1-juli-2013.html.

⁹⁰ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2013), 'Besluit verplichte meldcode huiselijk geweld en kindermishandeling', Vol. 2013, No. 324, available at: <https://zoek.officielebekendmakingen.nl/stb-2013-324.pdf>.

⁹¹ Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2013), *Model Reporting Code. Domestic Violence and Child Abuse. Action plan for responding to signs of domestic violence and child abuse*, available at: www.government.nl/documents-and-publications/reports/2013/03/14/model-reporting-code-domestic-violence-and-child-abuse.html.

abuse and how, given their duty of confidentiality, they can reach a sound decision on whether to file a report. The Dutch Healthcare Inspectorate concludes that reporting codes for domestic violence and child abuse have not been adequately implemented in the healthcare sector, with its sub-sectors varying in the extent to which they have adopted such codes.⁹² The Dutch Inspectorate for Youth Care concludes that all institutions that provide youth care in the Netherlands have implemented reporting codes for domestic violence and child abuse at the end of 2013.⁹³

The Action Plan Against Bullying (*Plan van aanpak tegen pesten*) in schools formulated by the State Secretary for Education, Culture and Science and the Children's Ombudsman was sent to the House of Representatives on 25 March 2013.⁹⁴ It contains the core of a proposal for an act that will oblige all primary and secondary schools to: (1) employ methods which have been proven effective against bullying; (2) monitor bullying; (3) appoint a person who coordinates actions tackling bullying. The Dutch Inspectorate of Education will monitor the implementation of this act. The State Secretary for Education, Culture and Science has appointed a committee of independent experts 2013 that will review the effectiveness of anti-bullying programmes. Producers of these programmes can send their programmes to this committee from 2 December 2013 to 17 January 2014.⁹⁵ The State Secretary for Education, Culture and Science will send a legislative proposal to the House of Representatives in 2014 (as promised in the Action Plan against bullying).⁹⁶

The Rouvoet Commission presented its 'Quality Framework to Prevent Sexual Abuse' to the sectoral organisation Youth Care Netherlands (*Jeugdzorg Nederland*) on 14 May 2013.⁹⁷ The Rouvoet Commission – formed to continue the work of the Samson Commission which examined the sexual abuse of children in youth care – published its final report in October 2012. The Quality Framework contains general standards on how to prevent sexual abuse which all organisations working in the youth care sector must now use.

⁹² Netherlands, The Dutch Health Care Inspectorate (*Inspectie voor de Gezondheidszorg*) (2013), *Invoering van meldcode(s) huiselijk geweld en kindermishandeling binnen een aantal gezondheidszorgsectoren nog onvoldoende*, Utrecht, Inspectie voor de Gezondheidszorg, available at:

[www.igz.nl/zoeken/download.aspx?download=Invoering+van+meldcode\(s\)+huiselijk+geweld+en+kindermishandeling+binnen+een+aantal+gezondheidszorgsectoren+nog+onvoldoende.pdf](http://www.igz.nl/zoeken/download.aspx?download=Invoering+van+meldcode(s)+huiselijk+geweld+en+kindermishandeling+binnen+een+aantal+gezondheidszorgsectoren+nog+onvoldoende.pdf).

⁹³ Netherlands, Dutch Inspectorate for Youth Care (*Inspectie Jeugdzorg*) (2013), 'Onderzoek naar aanwezigheid Meldcode en verklaring Omtrent het Gedrag', Press Release 21 November 2013, available at www.inspectiejeugdzorg.nl/actueel/nw_detail.asp?id=0354.

⁹⁴ Netherlands, Ministry of Education, Culture and Sciences (*Ministerie van Onderwijs, Cultuur en Wetenschappen*) (2013), *Plan van aanpak tegen pesten*, available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/03/25/plan-van-aanpak-tegen-pest.html.

⁹⁵ Netherlands, Ministry of Education, Culture and Sciences (*Ministerie van Onderwijs, Cultuur en Wetenschappen*) (2013), 'Onderzoek naar effectieve anti-pestprogramma's', Press release 2 December 2013, available at: www.rijksoverheid.nl/nieuws/2013/12/02/onderzoek-naar-effectieve-antipestprogramma-s.html.

⁹⁶ Netherlands, Dutch Inspectorate for Youth Care (*Inspectie Jeugdzorg*) (2013), 'Onderzoek naar aanwezigheid Meldcode en verklaring Omtrent het Gedrag', Press Release 21 November 2013, available at www.inspectiejeugdzorg.nl/actueel/nw_detail.asp?id=0354.

⁹⁷ Netherlands, Commission Rouvoet (2013), *Kwaliteitskader voorkomen seksueel misbruik in de jeugdzorg*, Utrecht, Jeugdzorg Nederland, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2013/07/15/kwaliteitskader-voorkomen-seksueel-misbruik-in-de-jeugdzorg/kwaliteitskader-voorkomen-seksueel-misbruik-in-de-jeugdzorg.pdf.

Several organisations working in the health and youth care sectors presented on 13 June 2013 a new format to exchange personal and medical data in cases of suspected child abuse. The rules were drafted in 2012.⁹⁸

In a 4 July 2013 letter to the House of Representatives, the Minister of Security and Justice presented the first results of the Action Plan on the Loverboy Problem (*Aanpak loverboyproblematiek*) running from 2011 to 2014. The Action Plan addresses the human trafficking of girls including trafficking by so-called loverboys, traffickers who seduce and groom their victims and force them into prostitution or exploit them in other ways. The first results are encouraging, the Minister states in his letter without giving hard evidence to back up this statement.⁹⁹

In September 2013 the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children published its ninth report on human trafficking.¹⁰⁰ The report pays attention to underage victims of human trafficking (mostly girls). The Rapporteur concludes that the youth care sector lacks expertise in recognising underage victims of domestic trafficking. Failure to recognise these victims of human trafficking results in under-reporting. As a result, the Netherlands is currently not complying with the various European directives on the protection of minor victims of sexual exploitation.¹⁰¹ The Rapporteur has recommended to the Minister of Health, Welfare and Sport and the Minister of Security and Justice to bring the protection of minor victims of domestic human trafficking in line with European legislation and regulations.

On 9 October 2013 the Minister of Security and Justice sent an action plan against child sex tourism to the House of Representatives.¹⁰² It contains measures to get tough on child sex tourism, including confiscating the passports of repeat offenders and closer cooperation between Dutch officials and officials from countries where child sex tourism is common, such as Brazil, Thailand, the Philippines and India. This will include deploying police experts to help track down offenders, improving the international registration of offenders, and how information is exchanged between countries. Offenders thought to have a high risk of reoffending could also lose their passports and face longer monitoring by the probation services.

The 2013 Monitor on the Rights of the Child noted a 158 per cent increase in notifications of child pornography between 2011 and 2012. Online grooming (an adult approaching a minor

⁹⁸ Netherlands, Janssen, L. (2012), *Model samenwerkingsafspraken informatie-uitwisseling in verband met aanpak kindermishandeling tussen (geestelijke) gezondheidszorg, AMK, Bureau Jeugdzorg en Raad voor de Kinderbescherming*, S.N., available at: www.ggznederland.nl/nieuws-los/model-samenwerkingsafspraken.pdf.

⁹⁹ Netherlands, Minister of Justice and Security (*Minister van Veiligheid en Justitie*) (2013), 'Rijksbrede aanpak loverboyproblematiek', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 402849, 4 July 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/05/rijksbrede-aanpak-loverboyproblematiek/lp-v-j-0000003711.pdf.

¹⁰⁰ Netherlands, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (*De Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen*) (2013), *Mensenhandel. Negende rapportage van de Nationaal rapporteur*, The Hague, BNRM, available at: www.nationaalrapporteur.nl/Images/negende-rapportage-mensenhandel-2013-print-versie_tcm63-513424.pdf.

¹⁰¹ Netherlands, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (*De Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen*) (2013), *Human trafficking is happening here. Fact sheet accompanying the Ninth report of the Dutch Rapporteur*, The Hague, BNRM, available at: www.nationaalrapporteur.nl/Images/factsheet-ninth-report-national-rapporteur_tcm63-513422.pdf.

¹⁰² Netherlands, Ministry of Justice and Security (*Ministerie van Veiligheid en Justitie*) (2013), *Plan van Aanpak Kindersekstoerisme*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2013/10/10/bijlage-plan-van-aanpak-kindersekstoerisme/lp-v-j-0000004187.pdf.

with the aim of sexual abuse) has been punishable since 2010. There have been several cases,¹⁰³ including a 2013 case before the Supreme Court¹⁰⁴ and a case before the District Court of Assen, , where a man was accused of seducing 300 girls through the internet between 2005 and 2013. He had 26,000 films and 144,000 pictures on his hard disk; the case is pending.¹⁰⁵ In 2012, several legislative measures showed that the prosecution's focus is shifting from the downloading of child pornography to the sexual abuse of children and the production and distribution of child pornography.¹⁰⁶ Compared to 2010, the Public Prosecution Service (PPS) has agreed to handle 15 per cent more suspects in 2013 and 25 per cent more in 2014.¹⁰⁷

The legislative proposal to implement the Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims (2011/36/EU) passed the House of Representatives on 2 April 2013. This proposal improves the detection, prosecution and punishment of human traffickers and the position of victims of human traffickers. The proposal was passed by the Senate on 5 November 2013.¹⁰⁸ It contains amendments to the Criminal Code (*Wetboek van Strafrecht*), the Criminal Procedure Code (*Wetboek van Strafvordering*) and a new act, the National Rapporteur reports on Trafficking in Human Beings and Sexual Violence against Children Act (*Wet Nationaal rapporteur mensenhandel en seksueel geweld tegen kinderen*), which stipulates the independent position of the rapporteur. The act implementing Directive 2011/36/EU was published in the Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) on 12 November 2013 and will enter into force by Royal Decree in a piecemeal fashion.¹⁰⁹

The legislative proposal to implement the Directive on Combating Sexual Abuse, Sexual Exploitation of Children and Child Pornography (2011/93/EU, originally 2011/92/EU) passed the House of Representatives on 19 September 2013. The proposal is now under review in the Senate.¹¹⁰ The proposal entails a number of changes to the Criminal Code to punish a number of crimes involving the sexual abuse of children more severely. The maximum sentence for sexual abuse by a person in a position of trust, authority or influence will be increased. The

¹⁰³ Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), *Kinderrechtenmonitor 2013*, The Hague, Kinderombudsman, available at : www.dekinderombudsman.nl/ul/cms/fck-uploaded/Kinderrechtenmonitor2013-drukproef.pdf.

¹⁰⁴ Netherlands, Supreme Court (*Hoge Raad*) (2013), Case. no. S12/01819, ECLI:NL:HR:2013:BZ9941, 14 May 2013. available at: <http://deepink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2013:BZ9941>.

¹⁰⁵ Netherlands, Omroep Brabant (2013), 'Frank R. uit Cuijk verdacht van misbruik honderden meisjes, 144.000 foto's gevonden', News release, 9 October 2013, available at www.omroepbrabant.nl/?news/200527742/Frank+R.+uit+Cuijk+verdacht+van+misbruik+honderden+meisjes,+144.000+fotos+gevonden.aspx. not case file available yet.

¹⁰⁶ Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), *Kinderrechtenmonitor 2013*, The Hague, Kinderombudsman, available at: www.dekinderombudsman.nl/ul/cms/fck-uploaded/Kinderrechtenmonitor2013-drukproef.pdf.

¹⁰⁷ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013-2014), *Parliamentary Documents (Kamerstukken)*, No. 33750 VI, no. 2.

¹⁰⁸ Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), 'Implementatie richtlijn inzake voorkoming en bestrijding van mensenhandel en bescherming van de slachtoffers', Web page, available at: www.eerstekamer.nl/wetsvoorstel/33309_implementatie_richtlijn.

¹⁰⁹ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2013), 'Wet van 6 november 2013 tot implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)', Vol. 2013, No. 444, available at <https://zoek.officielebekendmakingen.nl/stb-2013-444.pdf>.

¹¹⁰ Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), 'Implementatie richtlijn ter bestrijding van seksueel misbruik en seksuele uitbuiting van kinderen en kinderpornografie', Web page, available at: www.eerstekamer.nl/wetsvoorstel/33580_implementatie_richtlijn_ter.

proposal makes coercing, forcing or threatening a child into sexual activities with a third party a crime.

4.2.3 Children who face specific/multiple disadvantages, with a particular focus on bullying.

The Action Plan Against Bullying tabled by the State Secretary for Education, Culture and Science and the Children's Ombudsman stresses the special needs of Lesbian, Gay, Bisexual and Transgender pupils, pupils with specific religious or cultural backgrounds, and pupils with disabilities when tackling discrimination in schools.¹¹¹

4.3 Child poverty – excluding Roma children, who are covered in Section 7 of these guidelines

4.3.1 Key legal or policy developments addressing child poverty and social exclusion.

The Dutch Ombudsman for Children sent a report on poverty among children in the Netherlands to the State Secretary for Social Affairs and Employment on 25 June 2013.¹¹² It concluded that one in nine Dutch children are growing up in poverty. The report examined the policies of Dutch municipalities to combat poverty among children. Municipalities in the Netherlands play a key role in fighting poverty; the report covered 198 of the 408 municipalities in the country. While all municipalities provide (particularly leisure and sports) facilities to poor children, these vary widely and do not always reach their intended target groups. Only three municipalities have policies specifically targeting children living in poverty. The Ombudsman for Children advises municipalities to provide a Children's Package (*kinderpakket*) to households with incomes below the 120 percent threshold, granting access to a broad range of facilities (e.g. sports, libraries, cultural activities).¹¹³ Within a week, 26 municipalities announced that they will provide such a Children's Package.¹¹⁴

On 3 September 2013 the Minister of Social Affairs and Employment, the Minister of Education, Culture and Science, and the State Secretary for Finances issued a legislative proposal to reduce the number of financial schemes targeting parents and their children aged between 4 and 11. The proposal entails a 0.75 per cent reduction in the purchasing power of

¹¹¹ Netherlands, Ministry of Education, Culture and Sciences (*Ministerie van Onderwijs, Cultuur en Wetenschappen*) (2013), *Plan van aanpak tegen pesten*, available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/03/25/plan-van-aanpak-tegen-pesten.html.

¹¹² Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), *Kinderrechtenmonitor 2013*, The Hague, Kinderombudsman, available at: www.dekinderombudsman.nl/ul/cms/fck-uploaded/Kinderrechtenmonitor2013-drukproef.pdf.

¹¹³ Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), 'Kinderombudsman: aanpak gemeenten voor kinderen in armoede moet beter', Press Release, 25 June 2013, available at: www.dekinderombudsman.nl/86/volwassen/nieuws/kinderombudsman-aanpak-gemeenten-voor-kinderen-in-armoede-moet-beter/?id=305.

¹¹⁴ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), 'Intensivering armoede- en schuldenbeleid', Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No.2013-0000090830, 3 July 2013, available at: www.rijksoverheid.nl/ministeries/szw/documenten-en-publicaties/kamerstukken/2013/07/03/intensivering-armoede-en-schuldenbeleid.html.

families with children. Single parents living on a minimum benefit will face a 4.5 per cent reduction in purchasing power; that of single parents living on a minimum income from work will rise by 10 per cent.¹¹⁵

4.3.2 Key legal or policy reforms promoting children's wellbeing.

The central government is planning to introduce a new youth care system through the Youth Act.¹¹⁶ Under this new system, municipalities from 2015 will be responsible for a wide range of services for children and families, ranging from universal and preventive services to specialised (both voluntary and compulsory) care. The system will include the Child Protection Services. The proposal for the Youth Act was sent to the House of Representatives on 28 June 2013,¹¹⁷ which held public hearings with stakeholders on 5 September 2013.¹¹⁸ Stakeholder responses to the proposed youth care system were mixed. Lawyers and judges were critical of the possibility of children being evicted from their families without review of a judicial judge. Representatives of mental and somatic healthcare institutions criticized the lack of attention to child medical care. A survey of youth care professionals commissioned by the trade union ABVA KABO found that 79 per cent of respondents thought municipalities would not be ready for the new youth care system in 2015.¹¹⁹ The House of Representatives passed the proposal for the Youth Act on 17 October 2013. The Senate has yet to vote on it.

4.3.3 Briefly describe key monitoring mechanisms in place at local, regional and national level to identify children at risk of poverty. Provide examples of implemented programmes/projects and their source of funding (for example, EU funds).

The Netherlands Institute for Social Research (*Sociaal-Cultureel Planbureau*, SCP) and Statistics Netherlands (*Centraal Bureau voor de Statistiek*, CBS) publish an annual poverty survey with the up-to-date figures on poverty in the country.¹²⁰ The first poverty survey was published in 1997, its latest edition in December 2012. It describes poverty rate trends for the population as a whole as well as for important risk groups like children, and gives estimates of the number of children living in poverty.

¹¹⁵ Netherlands, Minister of Social Affairs and Employment / Minister of Education, Culture and Science / State Secretary of Finances (*Minister van Sociale Zaken en Werkgelegenheid / Minister van Onderwijs, Cultuur en Wetenschappen / Staatssecretaris van Financiën*) (2013), *Wetsvoorstel hervorming kindregelingen*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/09/03/wetsvoorstel-hervorming-kindregelingen/wetsvoorstel-hervorming-kindregelingen.pdf.

¹¹⁶ Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2013), 'Transitieplan jeugd', Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 115272-103299-J, 13 May 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/05/13/kamerbrief-over-transitieplan-jeugd/kamerbrief-over-transitieplan-jeugd.pdf.

¹¹⁷ Netherlands, House of Representatives (*Tweede kamer der Staten-Generaal*) (2013), Parliamentary Document (*Kamerstuk*), No. 33 684-1, 28 June 2013, available at: <https://zoek.officielebekendmakingen.nl/kst-33684-1.pdf>.

¹¹⁸ Netherlands, House of Representatives (*Tweede kamer der Staten-Generaal*) (2013), Verslag van een rondetafelgesprek, 5 September 2013, available at: www.vng.nl/files/vng/20130905_rondetafelgesprek_jeugdwet.pdf.

¹¹⁹ TOTTA (2013), *Abvakabo FNV – Barometer Jeugdzorg. Rapportage. September 2013*, Amsterdam, TOTTA, available at: www.abvakabofnv.nl/3944/419044/185916/barometer-jeugdzorg-september2013.

¹²⁰ Netherlands, Statistics Netherlands / Netherlands Institute for Social Research (*Centraal Bureau voor de Statistiek / Sociaal en Cultureel Planbureau*) (2012), *Armoedesignalement 2012*, The Hague, Centraal Bureau voor de Statistiek / Sociaal en Cultureel Planbureau, available at: www.scp.nl/dsresource?objectid=33273&type=org.

The Verwey-Jonker Institute, an independent national organisation for social scientific research, has been compiling a databook on the state of affairs of children's rights in all Dutch municipalities since 2006. The latest edition of 'Kinderen in Tel' was published in 2012.¹²¹ One of the themes it covers is poverty among children; the book gives estimates of the number of children living in poverty per municipality. The project is financed by several NGOs.

In September 2013 the Ombudsman for Children published the second edition of the Children's Right Monitor (*Kinderrechtenmonitor*) which covers poverty among children.¹²² Statistics Netherlands provides data for this monitor, so it partially overlaps with the Poverty Monitor published by Statistics Netherlands.

4.3.4 Children in the Netherlands as a vulnerable group in the specific context of the economic crisis.

In a letter (3 July 2013) to the House of Representatives, the State Secretary of Social Affairs and Employment announced that an extra 20 million euro will be made available to municipalities to address growing poverty in the Netherlands.¹²³ She called on municipalities to spend money on children from poor families. In a second letter (25 November 2013) to the House of Representatives, the State Secretary of Social Affairs and Employment announced that on top of the €20 million already promised on 3 July 2013 an extra €70 million will be made available to municipalities to address growing poverty in the Netherlands in 2014 and an extra €90 million in the years thereafter. Again she called on the municipalities to spend money on children from poor families.¹²⁴

The Ombudsman for Children stated in a news release based on the most recent edition of the Children's Rights Monitor that children in the Netherlands are being hit hard by the economic crisis.¹²⁵ The latest edition of the poverty survey (published in December 2013) shows that children are at greater risk of poverty than adults, and children aged under 12 have the highest poverty of all age categories.¹²⁶ In 2012, 11.4% of children lived in a household with an

¹²¹ Netherlands, Steketee, M, Mak, J. and Tierolf, B. (2012), *Kinderen in Tel Databoek 2012. Kinderrechten als basis voor lokaal jeugdbeleid*, Utrecht, Verwey-Jonker Instituut, available at: www.verwey-jonker.nl/doc/jeugd/KIT%202012light.pdf.

¹²² Netherlands, Children's Ombudsman (*Kinderombudsman*) (2013), *Kinderrechtenmonitor 2013*, The Hague, Kinderombudsman, available at: www.dekinderombudsman.nl/ul/cms/fck-uploaded/Kinderrechtenmonitor2013-drukproef.pdf.

¹²³ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), 'Intensivering armoede- en schuldenbeleid', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No.2013-0000090830, 3 July 2013, available at: www.rijksoverheid.nl/ministeries/szw/documenten-en-publicaties/kamerstukken/2013/07/03/intensivering-armoede-en-schuldenbeleid.html.

¹²⁴ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), 'Samen werken aan een effectieve armoede- en schuldenaanpak', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No.2013-0000163900, 25 November 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/11/25/kamerbrief-samen-werken-aan-een-effectieve-armoede-en-schuldenaanpak/kamerbrief-samen-werken-aan-een-effectieve-armoede-en-schuldenaanpak.pdf

¹²⁵ Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), 'Kinderen betalen de rekening van de crisis', Press release, 11 September 2013, available at: www.dekinderombudsman.nl/86/volwassen/nieuws/kinderen-betalen-de-rekening-van-de-crisis/?id=315.

¹²⁶ Netherlands, Statistics Netherlands / Netherlands Institute for Social Research (Centraal Bureau voor de Statistiek / Sociaal en Cultureel Planbureau) (2013), *Armoedesignalement 2013*, The Hague, Centraal Bureau voor de Statistiek / Sociaal en Cultureel Planbureau, available at : www.scp.nl/dsresource?objectid=35820&type=org

income below the modest but adequate criterion, which translates into 384,000 children living in poverty. This means that children under 18 account for around a third of all poor people in the Netherlands. More than 100,000 children have been added to the poverty figures since 2007.

4.3.5 Key measures put in place to address inequality and challenges faced by children at risk of poverty and their families in the following areas:

Access to education;

Preventing school drop out has been a policy priority in the Netherlands since 2007.¹²⁷ No new policies were initiated in 2013; existing policies were continued. The Minister of Education, Culture and Science sent a letter to the House of Representatives on 12 February 2013 outlining what has been achieved through the government's Approach to Early School Leaving.¹²⁸ It stated that the number of pupils who left school without a basic qualification in 2010-11 declined for the tenth consecutive time : from 71,000 in 2002 to 36,250 in 2012.

Combatting ethnic segregation is a municipal responsibility. A study published in September 2013 revealed that many municipalities have lost the (political) will to fight ethnic segregation in schools.¹²⁹ The number of municipalities with anti-segregation policies dropped from 35 in 2008 to the current 27 (out of a total of 408 municipalities).

The Act on Inclusive Education will enter into effect on 1 August 2014.¹³⁰ Schools will then be obligated to provide suitable learning places for all children, including those with disabilities or special learning problems. Mainstream and special needs schools must co-operate in regional alliances to offer children such learning places in mainstream schools, if needed with extra classroom support, or in schools for children with special needs. In a letter sent to the House of Representatives in February 2013, the State Secretary for Education, Culture and Science stated that the formation of such regional alliances is on schedule and all schools will be ready on 1 August to provide places to children with special needs.¹³¹ However, a report by the Netherlands Court of Audit indicates that the financial position of Dutch primary schools

¹²⁷ Netherlands, Ministry of Education, Culture and Science (*Ministerie van Onderwijs, Cultuur en Wetenschap*) (2013), *The approach to Early School Leaving*, available at:

www.aanvalopschooluitval.nl/userfiles/file/2012/Eng%20brochure%20sept%202012%20internet%20versie.pdf.

¹²⁸ Netherlands, Ministry of Education, Culture and Science (*Ministerie van Onderwijs, Cultuur en Wetenschap*) (2013), 'Aanpak voortijdig schoolverlaten', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 485099, 12 February 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/02/12/kamerbrief-over-aanpak-voortijdig-schoolverlaten/kamerbrief-over-aanpak-voortijdig-schoolverlaten.pdf.

¹²⁹ Netherlands, Ledoux, G., Felix, C. en Elshof, D. (2013), *Bestrijding van onderwijssegregatie in gemeenten. Verkenning van lokaal beleid anno 2013*, Utrecht, FORUM, available at: www.kohnstammstituut.uva.nl/rapporten/pdf/ki13-4.pdf.

¹³⁰ Netherlands, Bosscher, N. (2013), *Inclusive education: A suitable learning place for every Dutch child*, Utrecht, Nederlands Jeugdinstituut, available at: www.youthpolicy.nl/yp/downloadsyp/Inclusive-education.pdf.

¹³¹ Netherlands, State Secretary for Education, Culture and Science (*Staatssecretaris van Onderwijs, Cultuur en Wetenschap*) (2013), 'Voortgang passend onderwijs', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*) 25 February 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/02/25/aanbiedingsbrief-voortgang-passend-onderwijs/passendonderwijs.pdf.

has weakened over the past few years. This means that funding and staffing conditions are hardly ideal for the adoption of needs-based education.¹³²

Since 1 February 2006, primary and secondary schools have been obliged to promote active citizenship and social integration in their curricula, including teaching about diversity within society. The Dutch Inspectorate of Education monitors implementation. Its latest annual report states that the overwhelming majority of schools (98 percent of all primary schools) fulfill this obligation.¹³³

Access to health services;

The central government will spend 26 million euros on top of existing programmes and projects to promote healthy lifestyles and to combat obesity among children. These extra funds will be spent in particular on three programmes. One of these programmes is the JOGG-programme. JOGG stands for Jongeren Op Gezond Gewicht (Youths on a Healthy Weight). This programme is inspired by the French programme called Epoque (Ensemble Prévenons l'Obésité). Municipalities in the Netherlands can join the JOGG-programme. The second programme is called Gezonde School (Healthy School) and focuses on providing healthy food in schools and in the vicinity of school. The third programme focuses on stimulating the practice of sport by obese children.¹³⁴

Access to social services;

Dutch social services provide three major forms of support to families at risk. Intensive Pedagogic Support at Home (*Intensieve Pedagogische Thuishulp*) comprises interventions that aim to improve the pedagogic capacity of parents. The 'wraparound care model' appoints a professional to support and coordinate care for families at risk. There are also family coaches, professionals who support families to sort out their problems.¹³⁵

Housing.

No specific measures targeting children were found. In the period 2007-2012, the central government's *Krachtwijkenbeleid* (Empowered Neighbourhoods Policy) sought to revitalize 40 neighbourhoods in the country, selected on the basis of accumulated social problems. The aim was to bring about noticeable improvements in five areas: housing, employment, education

¹³² Netherlands, Netherlands Court of Audit (*Algemene Rekenkamer*) (2013), *Kunnen basisscholen passend onderwijs aan?*, The Hague, Algemene Rekenkamer, available at: www.rekenkamer.nl/dsresource?objectid=98980&type=org.

¹³³ Netherlands, Dutch Inspectorate of Education (*Inspectie van het Onderwijs*) (2013), *De staat van het onderwijs. Onderwijsverslag 2011/2012*, Utrecht, Inspectie van het Onderwijs available at: www.onderwijsinspectie.nl/binaries/content/assets/Onderwijsverslagen/2013/onderwijsverslag-2011-2012-drukversie.pdf.

¹³⁴ Netherlands, State Secretary for Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2013), 'In actie tegen overgewicht jongeren', Speech held on 28 January 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/toespraken/2013/01/28/in-actie-tegen-overgewicht-jongeren.html.

¹³⁵ Netherlands, Zoon, M. and Berg-le Clercq, T. (2013), *Wat werkt in multiprobleemgezinnen*, Utrecht, Nederlands jeugdinstituut, available at www.nji.nl/nl/Watwerkt_Multiprobleemgezinnen.pdf.

and growing up, integration, and safety. An evaluation concluded that this policy did not have noticeable positive impacts on livability and social safety.¹³⁶

4.4 Protection of children

4.4.1

See section 4.3.2 for the central government's plans to introduce a new youth care system which includes the Child Protection Services. The House of Representatives held public hearings with stakeholders on 5 September 2013, including the Child Care and Protection Board and Youth Care Netherlands.¹³⁷ The Child Care and Protection Board was enthusiastic about the proposed system, seeing opportunities to decrease mandatory care for children. While Youth Care Netherlands backed the proposed system, it remains wary of the pace of reform.

The Ombudsman for Children published a report on 10 December 2013 that investigates how well informed the organisations in the child protection system operate.¹³⁸ These organisations are: the Advice and Report Centres for Child Abuse (*Advies en Meldpunten Kinderbescherming*), Youth Care Offices (*Bureaus Jeugdzorg*), the Child Protection Board (*Raad voor de Kinderbescherming*) and juvenile courts. The Ombudsman for Children concludes that these organisations operate mostly in a professional and competent way. At the same time these organisations regularly make errors in reports that form the basis of such measures as the divestment of parental responsibility or out-of-home placements. The report contains recommendations to improve the situation.

	Number of complaints submitted by or on behalf of children in 2013	Briefly describe the nature of the complaints (max. 500 characters)
Equality Body		
National Human Rights Institutions (Indicate whether or not the Equality Body and the National Human Rights Institution are the same)	12 (The Netherlands Institute for Human Rights is also the equality body in the Netherlands)	These are the figures until 2 November 2013. All complaints submitted to the Netherlands Institute for Human Rights (the former Dutch Equal Treatment Commission) relate to discriminatory practices in education. 10 relate to discrimination on the ground of disability or chronic illness, 1 to race and 1 to religion. The complaints are about access to education or about the way pupils

¹³⁶ Netherlands, Permentier, M., Kullberg, J. & Van Noije, L. (2013), *Werk aan de wijk. Een quasi-experimentele evaluatie van het krachtwijkenbeleid*, The Hague, Netherlands Institute for Social Research ((*Sociaal Cultureel Planbureau*)), available at: www.scp.nl/dsresource?objectid=35625&type=org.

¹³⁷ Netherlands, House of Representatives (*Tweede kamer der Staten-Generaal*) (2013), *Verslag van een rondetafelgesprek*, 5 September 2013, available at: www.vng.nl/files/vng/20130905_rondetafelgesprek_jeugdwet.pdf.

¹³⁸ Netherlands, Ombudsman for Children (Kinderombudsman) (2013), *Is de zorg gegrond. Analyse van het feitenonderzoek aan de basis van ingrijpende jeugdzorgbeslissingen*, The Hague, Kinderombudsman.

		are assessed by schools.
Ombudspersons	No figures available.	

4.5 Promising practices

4.5.1 Examples of initiatives implemented to ensure that the children can participate in play, recreational, sport and cultural activities.

Providing facilities for children to participate in sports and recreational and cultural activities is a municipal responsibility. The Netherlands has 408 municipalities, among them the Municipality of Rotterdam, which began school sports associations to encourage the participation of children from poor neighbourhoods in 2005. This initiative has been successful.¹³⁹

Dialogue on policies between municipal authorities and youth is institutionalised through an extensive network of local peer-led youth councils. The Dutch National Youth Council (*De Nederlandse Jeugdraad*) is the national umbrella organization of these local youth councils.

A further initiative to encourage participation in sports is WhoZnext, run by the Netherlands Institute for Sport and Physical Activity (NISB).¹⁴⁰ The project aims to get children and youths between the ages of 8 and 18 active in sports as well as to assume organisational responsibilities. There are currently about 400 WhoZnext teams throughout the country. Over the past years, they have organised a wide range of activities (sports days at primary and secondary schools, climbing and dancing marathons, clinics, etc.).

4.5.2 Provide a maximum of three new promising practices relating to the rights of the child, putting each one in a separate table

Title (original language)	Ken je vrienden
Title (EN)	Know your friends
Organisation (original language)	Politie Nederland
Organisation (EN)	Police Netherlands
Government / Civil society	Government
Funding body	Police
Reference (incl. url, where available)	Netherlands, Police Netherlands (<i>Politie Nederland</i>) (2013), 'Ken je vrienden', Website, available at http://kenjevrienden.nu/
Indicate the start date of the promising practice and the finishing date if it has ceased	The practice started in 2013.

¹³⁹ Netherlands, Boonstra, N. and Hermens, N. (2011), *Veilig sporten in de buurt : Vier jaar onderzoek naar School sportverenigingen in Rotterdam*, Utrecht, Verwey-Jonker Instituut, available at: www.verwey-jonker.nl/doc/vitaliteit/Veilig-sporten-in-de-buurt_1260_web.pdf.

¹⁴⁰ Netherlands, Netherlands Institute for Sport and Physical Activity (NISB) (2013), whoZnext, Web page, available at: www.whoznext.nl/whoznext_.html.

to exist	
Type of initiative	Website
Main target group	Children from 12 to 16 years old.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	On this website users can choose to accept or not accept invitations made by several characters. At the end of the session the website informs the user whether these characters are really honest people or people who want to groom or abuse children. The website also offers extra information. The characters are fictitious but the stories behind these characters are real.
Highlight any element of the actions that is transferable (max. 500 chars)	The whole website is transferable to other Member States but the content has to be adapted to local circumstances.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The website can be maintained on a permanent basis.
Give reasons why you consider the practice as having concrete measurable impact	The website has been developed by the Dutch police and is based on the experiences of police officers dealing with digital crimes involving children.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	In all Member States digital safety for children on the internet is an issue.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The website is developed by the expert group Digikids of the Dutch police. This expert group deals with the prevention and combat of group targeting children on the internet. The website contains fictitious characters but the stories behind these characters are real.
Explain, if applicable, how the practice provides for review and assessment.	The practice was started in 2013. No information is available on how the practice will be assessed.

Title (original language)	Voorkom webcam kindermisbruik
Title (EN)	Prevent webcam child sex tourism
Organisation (original language)	Terre des Hommes Netherlands
Organisation (EN)	Terre des Hommes Netherlands
Government / Civil society	Civil society
Funding body	Terre des Hommes, donations
Reference (incl. url, where available)	Netherlands, Terre des Hommes Netherlands (2013), 'Tens of thousands of child victims in international online sex crimes case disclosed by Terre des Hommes Netherlands', Web page, available at www.terredeshommesnl.org/en/international/news/2013/11/04/tens-of-thousands-of-child-victims-in-in
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	September 2013, investigation and on-going with a petition

Type of initiative	Investigation and campaign
Main target group	Government, police, after having gotten support from civil society
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Terre des Hommes has made a simulation of a ten-year-old Philippine girl on the internet. In two months, over 1,000 men were interested in webcam sex with her in dozens of countries. Terre des Hommes has traced these persons, submitted their data to the police and now wants to put pressure on the government and the police to take action. Although webcam sex like this is prohibited, and happens on a vast scale, only six offenders have been pronounced guilty in the Netherlands since 2007. Terre des Hommes now tries to collect 1,000,000 signatures to add to the pressure on government and police
Highlight any element of the actions that is transferable (max. 500 chars)	Try to give publicity to the investigation and collect signatures, put pressure on governments and police.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This practice will get more attention from civil society, which will therefore be more alert on this issue, and the governments and the police will have to take more action.
Give reasons why you consider the practice as having concrete measurable impact	It will be clear whether there will be more prosecutions.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	Webcam child sex tourism happens everywhere.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	
Explain, if applicable, how the practice provides for review and assessment.	Not available.

4.6 Any other significant developments with implications for the rights of the child

4.6.1

An outbreak of measles hit the Netherlands in May 2013, particularly affecting Orthodox Protestant communities which opt out of childhood vaccination programmes on religious grounds. This means that when an outbreak occurs, it can spread rapidly through the community. Over the weekend of 26 and 27 October, an unvaccinated 17-year-old girl died due to complications after contracting measles. The public health authority, RIVM, reported 2,016 cases of measles up to 28 October 2013. In municipalities where vaccination coverage is low (less than 90 per cent), children between 6 and 14 months are offered an additional MMR vaccination against measles, mumps and rubella.¹⁴¹ In a press release, the Ombudsman for

¹⁴¹ Netherlands, Rijksinstituut voor Volksgezondheid en Milieu: National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2013), 'Teenage girl dies after measles infection', Press release 28 October 2013, available at:

Children considered the tension between freedom of religion and the right of children to enjoy the highest attainable standard of health (as enshrined in the Convention on the Rights of the Child). While the Ombudsman is against compulsory vaccination, he urged parents to vaccinate their children.¹⁴²

www.rivm.nl/en/Documents_and_publications/Common_and_Present/Newsmessages/2013/Teenage_girl_dies_after_measles_infection.

¹⁴² Netherlands, Ombudsman for Children (*Kinderombudsman*) (2013), 'Kinderombudsman over vaccinaties tegen mazelen', Press Release 25 June 2013, available at:

www.dekinderombudsman.nl/60/jongeren/nieuws/kinderombudsman-over-vaccinaties-tegen-mazelen/?id=309.

5 EQUALITY AND NON-DISCRIMINATION

5.1 Key legal and policy developments relating to combating discrimination

5.1.1 the implementation of the Employment Equality Directive (2000/78/EC);

As was mentioned in the Dutch contribution to the Annual Report 2012, the impact of the Employment Equality Directive (EED) is difficult to bring to light, because in the Netherlands the General Equal Treatment Act (GETA) complies with the EED. In 2013 there has not been any development in this regard. In addition to the information provided below, the State Secretary for Social Affairs and Employment stated in a letter to the House of the Representatives in December 2013 that the equal payment for men and women has got the attention of the government. At a request of the government, the Social and Economic Council of the Netherlands will give an advice about how to prevent and combat discrimination in the labour market, taking unequal pay for women into account. The advice is expected to be sent to the House of Representatives in the spring of 2014.¹⁴³

The employment protection for younger and older people in dismissal situations

Dutch employees cannot be dismissed without proper cause. If an employee does not wish to be dismissed, an employer must adhere to a strict procedure, which means that he or she can apply for a dismissal permit from the Employee Insurance Agency (*Uitvoeringsinstituut Werknemersverzekeringen, UWV*) or ask the subdistrict court to dissolve the employment contract. There is no preferential treatment for older or younger employees, other than that an older employee may have built up a longer period of notice.¹⁴⁴ In October 2013 the Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) sent the draft law Work and Security (*Wet Werk en Zekerheid*) to the Council of State (*Raad van State*), which caps maximum compensation for dismissal at 75,000 euros. This was agreed on 11 April 2013 in the Social Agreement (*Sociaal Akkoord*) between the government and social partners.¹⁴⁵ The measure, which aims to make the job market more flexible and improve prospects for unemployed persons, including younger people, may make dismissing older employees less expensive.¹⁴⁶ The draft law on Work and Security also proposes a simplification of the procedures employers must follow, thereby ensuring equal treatment within dismissal procedures.¹⁴⁷

¹⁴³ Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2013), Letter to the House of Representatives (Tweede Kamer der Staten-Generaal), No. 29 544-500, 20 December 2013.

¹⁴⁴ Netherlands, Central Government (*Rijksoverheid*) (2013), 'Ontslag', Web page, available at: www.rijksoverheid.nl/onderwerpen/ontslag

¹⁴⁵ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2012), 'Hoofdlijnen notitie aanpassing ontslagrecht en WW', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. AV/AR/2012/9069, 18 June 2012.

¹⁴⁶ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), 'Resultaten sociaal overleg', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 2013-0000045997, 11 April 2013.

¹⁴⁷ Netherlands, National government (2013) 'Sociaal akkoord basis Wet Werk en Zekerheid Minister Asscher', Press release, 1 September 2013, available at: www.rijksoverheid.nl/nieuws/2013/09/01/sociaal-akkoord-basis-wet-werk-en-zekerheid-van-minister-asscher.html.

In case of redundancy due to economic reasons affecting at least 20 employees, the order of dismissal is determined by the principle of proportionality. According to this principle, employees with comparable jobs are classified in age categories. Those employees who were last to be hired within an age category will be the first to be dismissed. An employer can deviate from this principle if an employee is indispensable for the organization. The Employee Insurance Agency may refuse permission for the dismissal of an employee whose job market position is worse than that of other employees.¹⁴⁸

Mandatory retirement age(s)

In 2012 the national government decided to gradually extend the retirement age from 2013 onwards, from 65 to 67.¹⁴⁹ Every person who has reached retirement age will receive a state pension (AOW) and their built up supplementary pension. A collective labour agreement (*collectieve arbeidsovereenkomst, cao*) can contain provisions on a mandatory retirement age before the legal retirement age. The Minister of Social Affairs and Employment stated in a letter to the House of Representatives in 2011 that since the Dutch Equal Treatment Act in Employment Age Discrimination (*Wet gelijke behandeling op grond van leeftijd bij arbeid*) came into force in 2004, employers need an objective justification for dismissing employees who have reached a certain age which is before the legal retirement age. The Dutch Equal Treatment Act does not define the dismissal of an employee due to his or her age as discrimination if the employee has reached legal retirement age.¹⁵⁰ The national government wants to encourage people to continue working after reaching retirement age and will remove barriers to do so in a draft law (*Wet arbeidsrechtelijke aanpassingen voor doorwerken na de AOW-leeftijd*), to be sent to the House of Representatives at the end of 2013.¹⁵¹

Developments in relation to 'genuine occupational requirements'

According to the Dutch General Equal Treatment Act (*Algemene wet gelijke behandeling, GETA*), direct discrimination (the GETA uses the word 'distinction') is prohibited unless the law makes an explicit exception. Direct discrimination on the grounds of age, duration of employment, and permanent or temporary contract, can be justified with an objective justification. Indirect discrimination is also prohibited by the GETA, but it can be justified with an objective justification. An objective justification implies that the discriminatory effect can only be accepted if the following four criteria are met: the measure or act must be legitimate, effective, proportionate and no non-discriminatory or less discriminatory alternative is available.¹⁵² These criteria are not merely legal terms, but means by which an actual effort to avoid unequal treatment should be made in the specific situation (in practice they are often given a formal or minimal interpretation).

¹⁴⁸ Netherlands, Dismissal Decree (*Ontslagbesluit*), 7 December 1998.

¹⁴⁹ Netherlands, Central Government (*Rijksoverheid*) (2012), *Verhoging AOW-leeftijd*, Web page, available at: www.rijksoverheid.nl/onderwerpen/algemene-ouderdomswet-aow/verhoging-aow-leeftijd.

¹⁵⁰ Netherlands, Minister of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2011), 'Langer doorwerken op basis van vrijwilligheid', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. AV/AR/2011/10331, 12 August 2011.

¹⁵¹ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), 'Rijksbegroting 2014. XV Sociale Zaken en Werkgelegenheid', Parliamentary document (*Kamerstuk*) No. 33750 XV, 17 September 2013.

¹⁵² Netherlands, General Equal Treatment Act (*Algemene wet gelijke behandeling*), 2 March 1994.

One of the exceptions in the GETA on the prohibition of direct discrimination is the so-called ‘sole fact provision’ (enkele feitconstructie). This provision continues to raise discussion as it implies that it is not unlawful for denominational organisations to discriminate when necessary to realise their religious founding principles. In the Netherlands the discussion with regard to this provision, mainly focuses on denominational schools discriminating against homosexual teachers. On 9 September 2010, several Members of Parliament introduced a private member’s bill to remove the sole fact provision from the GETA.¹⁵³ The bill was again sent to the House of Representatives in May 2013.¹⁵⁴ Following a report from the Council of State,¹⁵⁵ it was amended and signed by the current Members of Parliament. While the bill has not been placed on the agenda yet, the written question round (schriftelijke vragenronde) has taken place.¹⁵⁶ The coalition agreement states that the sole fact provision will be removed from the GETA,¹⁵⁷ bringing it more in line with the Employment Equality Directive (2000/78/EG), also due to the infringement procedure against the Netherlands by the European Commission that was started in 2006 (no. 2006/1444).¹⁵⁸

5.1.2 The implementation of the Racial Equality Directive (2000/43/EC);

¹⁵³ Netherlands, House of Representatives (*Tweede kamer der Staten-Generaal*) (2010) *Voorstel van wet van de leden Van der Ham, Van Miltenburg, Klijsma, Jasper van Dijk en Van Gent tot wijziging van de Algemene wet gelijke behandeling in verband met het annuleren van de enkele-feitconstructie in artikel 5, tweede lid, artikel 6a, tweede lid, en artikel 7, tweede lid, van de Algemene wet gelijke behandeling*, Parliamentary Documents (*Kamerstuk*) No. 32476-2.

¹⁵⁴ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Voorstel van wet van de leden Bergkamp, Venrooy-Van Ark, Yücel, Jasper van Dijk en Klaver tot wijziging van de Algemene wet gelijke behandeling in verband met het annuleren van de enkele-feitconstructie in de Algemene wet gelijke behandeling*, Parliamentary Document (*Kamerstuk*) No. 32476-6.

¹⁵⁵ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Advies van de raad van state en reactie van de indieners*, Parliamentary Document (*Kamerstuk*) No. 32476-5 tweede herdruk.

¹⁵⁶ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Verslag*, Parliamentary Document (*Kamerstuk*) No. 32476-8, 2 July 2013.

¹⁵⁷ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012), *Brief van de informateurs*, Parliamentary Document (*Kamerstuk*), No 33410/15, 29 October 2012, available at: <https://zoek.officielebekendmakingen.nl/kst-33410-15.html>.

¹⁵⁸ Netherlands, General Equal Treatment Act (*Algemene wet gelijke behandeling*), 2 March 1994.

¹⁵⁸ Netherlands, House of Representatives (*Tweede kamer der Staten-Generaal*) (2010) *Voorstel van wet van de leden Van der Ham, Van Miltenburg, Klijsma, Jasper van Dijk en Van Gent tot wijziging van de Algemene wet gelijke behandeling in verband met het annuleren van de enkele-feitconstructie in artikel 5, tweede lid, artikel 6a, tweede lid, en artikel 7, tweede lid, van de Algemene wet gelijke behandeling*, Parliamentary Documents (*Kamerstuk*) No. 32476-2.

¹⁵⁸ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Voorstel van wet van de leden Bergkamp, Venrooy-Van Ark, Yücel, Jasper van Dijk en Klaver tot wijziging van de Algemene wet gelijke behandeling in verband met het annuleren van de enkele-feitconstructie in de Algemene wet gelijke behandeling*, Parliamentary Document (*Kamerstuk*) No. 32476-6.

¹⁵⁸ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Advies van de raad van state en reactie van de indieners*, Parliamentary Document (*Kamerstuk*) No. 32476-5 tweede herdruk.

¹⁵⁸ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Verslag*, Parliamentary Document (*Kamerstuk*) No. 32476-8, 2 July 2013.

¹⁵⁸ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012), *Brief van de informateurs*, Parliamentary Document (*Kamerstuk*), No 33410/15, 29 October 2012, available at: <https://zoek.officielebekendmakingen.nl/kst-33410-15.html>.

Netherlands, Ministry of the Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Sepot inbreukprocedure richtlijn 2000/78', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 2013-0000402098, 5 July 2013.

In 2013, the Open Society European Policy Institute and the Open Society Justice Initiative published a shadow report on the implementation of the Racial Equality Directive in nine European Union Member States, including the Netherlands. It concluded that since 2007, the Netherlands does not have an up-to-date plan of action to combat discrimination, that there are no anti-discrimination or positive measures for specific minority groups, that the job market position for non-western immigrants has deteriorated, and that segregation in schools is not effectively challenged. The report further states that the Dutch authorities are officially distinguishing between ‘allochtonous’ and ‘autochtonous’ persons (the former have at least one parent born outside the Netherlands), though they do not collect information along the lines of race, colour or language.¹⁵⁹ As was mentioned in the 2012 Annual Report, a Council for Social Development (*Raad voor Maatschappelijke Ontwikkeling*, RMO) report recommended that the government refrain from distinguishing between native (‘autochtonen’) and non-native Dutch (‘allochtonen’).¹⁶⁰ In February 2013 the Minister of Social Affairs and Employment responded that the current way of collecting data is needed to monitor the participation of new immigrant groups and to define and implement integration policy.¹⁶¹ There were no new developments in 2013 in other sectors such as housing and healthcare, other than those mentioned in sections 5.3.5 and 6 of this report.

5.1.3 Awareness-raising in the area of equality and non-discrimination

The Minister of Social Affairs and Employment announced a 2014 follow-up to the 2009-2010 national campaign ‘Do You Have to Hide Yourself to be Accepted?’ (*Moet jij je eigen ik verstoppen om geaccepteerd te worden?*) to encourage citizens to report discrimination.¹⁶² This announcement was repeated in the progress report to the House of Representatives concerning discrimination and anti-discrimination policies of December 2013.¹⁶³

The European Commission against Racism and Intolerance (ECRI) published its fourth report on the Netherlands in October 2013¹⁶⁴. In response, the National Ombudsman stated that politicians should take a firm stand against racism and that the national government should launch a campaign on non-discrimination.¹⁶⁵ In the official response to the ECRI’s report, the cabinet stated that the national policies of the cabinet already provide for a strategy to address

¹⁵⁹ Netherlands, Hermanin, C. and De Kroon, E. (2013), *Racial Equality Directive: a Shadow-Report. Lessons learnt from the implementation in nine EU member states*, Brussels, Open Society European Policy Institute / Open Society Justice Initiative.

¹⁶⁰ Netherlands, Council for Social Development (*Raad voor Maatschappelijke Ontwikkeling*) (2012), *Tussen afkomst en toekomst; etnische categorisering en de overheid*, The Hague, Council for Social Development (*Raad voor Maatschappelijke Ontwikkeling*).

¹⁶¹ Netherlands, Minister of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), ‘Reactie op advies van Raad voor Maatschappelijke Ontwikkeling over etnische categorisering’, Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 2013-0000014550, 20 February 2013.

¹⁶² Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), ‘Verslag van een algemeen overleg rassendiscriminatie’, Parliamentary Document (*Kamerstuk*) No. 30950-57, 25 April 2013.

¹⁶³ Netherlands, Ministry of the Interior and Kingdom Affairs (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), ‘Voortgangsbrieff discriminatie 2012’, Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000773268, 23 December 2013.

¹⁶⁴ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013) *Fourth report on the Netherlands*. Strasbourg, Council of Europe.

¹⁶⁵ Netherlands, AVRO, VPRO and VARA (2013), ‘Interview with Alex Brenninkmeijer’, *Buitenhof*, 20 October 2013.

discrimination on all grounds. It refers to the progress report concerning discrimination of December 2013 (see paragraph 5.7.1).¹⁶⁶

The Dutch equality body, the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), launched a campaign on employment discrimination against pregnant women. The campaign is a follow-up to a study which revealed that 45 per cent of women who became mothers and worked and/or applied for a job in the period 2007-2011 experienced situations involving possible discrimination. The same study by the Netherlands Institute for Human Rights revealed that female employees are poorly informed about their rights and responsibilities.¹⁶⁷ The 2013 campaign focused on awareness-raising and women sharing experiences and information.¹⁶⁸

5.1.4 Structural funds to finance developments fostering equality and non-discrimination

The economic crisis continues to affect the availability of structural public funding for initiatives to foster equality and non-discrimination in the Netherlands. Several organizations had their budgets cut for 2013 and the years to come.

Anti-discrimination facilities are financed by the national government. Under the Municipal Antidiscrimination Facilities Act (*Wet gemeentelijke anti-discriminatievoorzieningen*), municipalities receive a budget which they can use to fund an anti-discrimination facility in their area. In 2013 it became clear that municipalities are restricting this budget. Some municipalities are working together to create their own complaints bureaus for discrimination, as this is cheaper than financing an anti-discrimination facility. Anti-discrimination facilities are concerned about this development, because they question the expertise and independence of those complaints bureaus.¹⁶⁹ Furthermore, the budget cuts are not in line with the recommendation of the European Commission against Racism and Intolerance (ECRI) to increase the funding of local anti-discrimination facilities.¹⁷⁰ In a letter to the House of Representatives the cabinet states that the national government will not intervene, because according to the law it is the municipalities' responsibility to finance anti-discrimination facilities.¹⁷¹

As was mentioned in the 2012 Annual Report, the national government decided to discontinue funding of the Dutch Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet, MDI*). On 1 January 2013, the Ministry of Social Affairs and Employment and the Ministry of Security and Justice started funding MiND Nederland, the Complaints Bureau for Discrimination on the Internet (*MiND Nederland, Meldpunt internet*

¹⁶⁶ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 62, 18 November 2013.

¹⁶⁷ Netherlands, Equal Treatment Commission (*Commissie Gelijke Behandeling*) (2012), *Hoe is het bevallen? Onderzoek naar discriminatie van zwangere vrouwen en moeders met jonge kinderen op het werk*, Utrecht, Commissie Gelijke Behandeling.

¹⁶⁸ Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), 'Dossier zwanger en werk', Web page, available at 30 October 2013 at <http://www.mensenrechten.nl/dossier/zwanger-en-werk>.

¹⁶⁹ Netherlands, NRC Next (2013), 'Zonde, dat geld voor meldpunten', 26 October 2013.

¹⁷⁰ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*. Strasbourg, Council of Europe.

¹⁷¹ Netherlands, Ministry of the Interior and Kingdom Affairs (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Voortgangsbrieff discriminatie 2012', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000773268, 23 December 2013.

discriminatie) as part of M., a service where people can report crimes anonymously.¹⁷² The M. Foundation (*Stichting M.*) was already financed by the Ministry of Security and Justice, the Ministry of Social Affairs and Employment, and the national police.¹⁷³

EU structural funds supplement the national budget. The Netherlands makes use of the European Social Fund (ESF) to increase employment among groups at the margins of the labour market. The ESF is administered by the Agentschap SZW, which is part of the Dutch Ministry of Social Affairs and Employment. In 2012, the Agentschap SZW offered 3,719 grants (totalling €177 million).¹⁷⁴

At the time of writing, the Dutch government is preparing a national programme for the new European Asylum and Migration Fund (AMF), which starts in 2014.¹⁷⁵ A study commissioned by the national government on the ideas of organisations active as project partners under the current European Migration Fund¹⁷⁶ found that most will likely apply for longer-term (3-5 years) projects. Projects will focus on encouraging participation (through education and employment), the reception of vulnerable people (such as families with children and people with chronic diseases), the accessibility of information services, and medical and psychiatric care for migrants. A minority of organisations were unsure about applying due to the administrative burden and strict regulations.

Dutch organisations can apply for funding from PROGRESS, the EU employment and social solidarity programme. Dutch organisations have been involved in numerous anti-discrimination projects in recent years. For example, Art.1, the knowledge centre on discrimination, developed guidelines for the collection, registration, processing and reporting of discrimination complaints, which can be used by organisations inside and outside the Netherlands.¹⁷⁷ Together with other organizations (such as Platform Artikel 19), Movisie organized a ‘Diversity Day NL’ in 2012.¹⁷⁸ Art.1, the knowledge centre on discrimination, has developed an Anti-discrimination Practices Database (see section 5.5.2), while the Netherlands Institute for Human Rights is pursuing a research project on stereotyping and discrimination in recruitment procedures (see section 6.8.2).

5.1.5 Key developments regarding the legal position of LGBT persons

¹⁷² Netherlands, Minister of Security and Justice and Minister of Social Affairs and Employment (*Minister van Veiligheid en Justitie and Minister van Sociale Zaken en Werkgelegenheid*) (2012), ‘Voortgangsbrief discriminatie’, Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. I&S/2012/18020, 18 December 2012.

¹⁷³ M. (*Stichting M.*) (2013), ‘Stichting M’, Web page, available at: www.meldmisdaadanoniem.nl/over-m/stichting-m/.

¹⁷⁴ Netherlands, Agency Social Affairs and Employment (*Agentschap SZW*) (2013), *Jaarverslag 2012*, The Hague: Agentschap SZW.

¹⁷⁵ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Programmaplan nieuwe Europese migratiefondsen*, The Hague, Ministry of Security and Justice.

¹⁷⁶ Netherlands, Central government (2013), *Consultatie onder gesubsidieerde organisaties. Programma nieuwe Europese fondsen*, 15 July 2013.

¹⁷⁷ Netherlands, Bon, S. and Dinsbach, W. (2011), *Handreiking voor de verzameling, registratie, verwerking en rapportage van discriminatieklachten: Toegepast op de Nederlandse situatie*, Rotterdam, Art.1 knowledge centre on discrimination.

¹⁷⁸ Netherlands, Movisie (2013), ‘Diversity Day NL: groot succes met verrassende talenten’, Web page, 30 January 2013, available at: <http://www.movisie.nl/artikel/diversity-day-nl-groot-succes-verrassende-talenten>.

The Dutch State Secretary for Security and Justice submitted a draft law concerning Transgender persons to the House of Representatives in August 2012.¹⁷⁹ The law would enable transgender persons to change their legal sex without requirements such as sterilization or genital surgery. The law was accepted by the House of Representatives on 9 April 2013,¹⁸⁰ when a motion was adopted to study the possibility of registering sex or gender identity as unspecified.¹⁸¹ On 17 December 2013, the Senate voted in favour of the law, which shall enter into force 1 July 2014.¹⁸²

The Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*) published a report on Transgender issues in November 2012 (not mentioned in Dutch contribution to Annual Report 2012). More than 450 Transgender persons took part in the study, which consisted of an internet questionnaire. The report found that although the situation of Transgender persons has improved, many problems remain. In the year preceding the study, 42 per cent of respondents had experienced one or more negative reactions to their transsexuality; a quarter reported being very or extremely lonely. The incidence of suicide among Transgender persons is much higher than the national average. The report lists four key areas for attention: improving care for Transgender persons, their public acceptance, labour market position, and easing requirements for changing one's gender designation in the Municipal Personal Records Database.¹⁸³ In response to the report, the Minister of Education, Culture and Science stated that the government should guarantee a society in which all citizens feel safe. The Minister also stated that the national government will consider including discrimination on the grounds of gender identity and expression in the Dutch General Equal Treatment Act.¹⁸⁴

On 11 June 2013, a parliamentary majority voted in favor of a law to stop allowing Dutch registrars to refuse to marry same-sex couples.¹⁸⁵ Municipalities would no longer be allowed to appoint registrars who refuse to marry same-sex couples. The law is now being considered in the Senate.¹⁸⁶ On 23 October 2013 the District Court in The Hague ruled that the Municipality of The Hague had the right to fire a registrar who refused to marry same-sex couples.¹⁸⁷

¹⁷⁹ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2012), *Voorstel van wet, 24 August 2012*.

¹⁸⁰ Netherlands, State Secretary of Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), *Wijziging van Boek 1 van het Burgerlijk Wetboek*, Parliamentary Document (*Kamerstuk*) No. 33351-2, available at: www.eerstekamer.nl/behandeling/20120824/voorstel_van_wet/document3/f=/vj2sijat7zg.pdf.

¹⁸¹ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Motie van het lid Dijkstra*, Parliamentary Document (*Kamerstuk*) No. 33351-10, 2 April 2013.

¹⁸² Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), 'Wijziging vermelding van geslacht in de geboorteakte', website, available at: www.eerstekamer.nl/wetsvoorstel/33351_wijziging_vermelding_van.

¹⁸³ Netherlands, Keuzekamp, S. (2012), *Worden wie je bent. Het leven van transgenders in Nederland are*, The Hague, Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*).

¹⁸⁴ Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*) (2013), Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 30420-177, 10 May 2013.

¹⁸⁵ Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), *Voorstel van wet van de leden Dijkstra en Schouw tot wijziging van het Burgerlijk Wetboek en de Algemene wet gelijke behandeling met betrekking tot ambtenaren van de burgerlijke stand die onderscheid maken als bedoeld in de Algemene wet gelijke behandeling*, 11 June 2013.

¹⁸⁶ Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), *Voorlopig verslag*, Parliamentary Document (*Kamerstuk*) No. 33344, 17 September 2013.

¹⁸⁷ Netherlands, District Court The Hague (*Rechtbank 's-Gravenhage*) (2013), Case no. SGR AWB 12/9354 AW, ECLI:NL:RBDHA:2013:14133, 23 October 2013.

On 19 November 2013, the Senate voted in favour of a law which stipulates that lesbian couples no longer need to go to court to establish the legal parenthood of two mothers.¹⁸⁸ The law shall enter into force on 1 April 2014.

Since 1 December 2012, a change in Core Goals (*Kerndoelen*) – used by the government to enforce mandatory educational objectives in schools – obliges primary and secondary schools to educate pupils on sexual diversity issues.¹⁸⁹ On 25 June 2013 the House of Representatives adopted a motion to monitor implementation for the next five years.¹⁹⁰ The Minister of Education, Culture and Science stated in a letter to the House of Representatives that teachers may require professional development. The Minister will explore possibilities for encouraging in-service teacher training and attention to LGBT issues in initial teacher training programmes.¹⁹¹

At the end of 2013 the National Expertise Centre on Diversity of the police (Landelijk Expertise Centrum Discriminatie, LECD) started a campaign to encourage victims of discrimination on grounds of sexual identity to report to the police. The campaign will run for six months and comprises, among other things, ads in several magazines and websites for gays and lesbians. The government is considering to start another national campaign in 2014 which will aim to increase awareness of discrimination among citizens and encourage them to report discrimination to the police or an antidiscrimination agency. Furthermore, through the efforts of the National Expertise Centre on Diversity of the police, there is a contact person for the Pink in Blue network (*Roze in Blauw*) in every police unit. The contact persons are there for the support of their colleagues, as well as for the support of the victims of LGBT hate crime.¹⁹²

5.2 Key legal and policy developments aiming at guaranteeing a fuller participation in society

5.2.1 Measures to facilitate the right to vote of persons with disabilities

As a result of a constitutional revision in 2008, individuals with mental health problems and persons with intellectual disabilities have the right to vote. In October 2013 the Minister of the

¹⁸⁸ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2012), *Wijziging van Boek 1 van het Burgerlijk Wetboek in verband met het juridisch ouderschap van de vrouwelijke partner van de moeder anders dan door adoptie*, Parliamentary Document (*Kamerstuk*) No.33032-6, 14 June 2012.; COC (2012), 'Wet lesbisch ouderschap stap dichterbij', Web page, 26 June 2012, available at: www.coc.nl/dopage.pl?thema=any&pagina=viewartikel&artikel_id=4756.

¹⁸⁹ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2012), 'Besluit van 21 november 2012, houdende vaststelling van het tijdstip van inwerkingtreding van het Besluit van 21 september 2012 tot wijziging van het Besluit vernieuwde kerndoelen WPO, het Besluit kerndoelen onderbouw VO, het Besluit kerndoelen WEC, het Besluit kerndoelen WPO BES en het Besluit kerndoelen onderbouw VO BES in verband met aanpassing van de kerndoelen op het gebied van seksualiteit en seksuele diversiteit', Vol. 2012, no. 594.

¹⁹⁰ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Motie van het lid Dijkstra*, Parliamentary Document (*Kamerstuk*) No. 30420-185, 20 June 2013; Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), *Stemmingsuitslagen*, 25 June 2013.

¹⁹¹ Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*) (2013), 'Hoofdlijnenbrief Emancipatiebeleid 2013-2016', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 477641, 10 May 2013,

¹⁹² Netherlands, Ministry of the Interior and Kingdom Affairs (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Voortgangsbrief discriminatie 2012', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000773268, 23 December 2013.

Interior and Kingdom Relations informed the House of Representatives about a new ballot paper¹⁹³ which will enable visually impaired, blind and illiterate persons as well as persons who have problems understanding the Dutch language to vote on their own. A new ballot paper will be used during the upcoming European elections as an experiment.¹⁹⁴ At the time of writing of this report, the Dutch cabinet considers the procedures for conducting voting and the (re)introduction of electronic voting. In 2013 a research committee investigated the possibilities of electronic voting. In the report ‘Elke stem telt’ (Every vote counts), the committee states that according to the organizations that represent persons with (physical) disabilities, large groups of persons with disabilities are not able to participate in the voting process independently right now (there are no precise figures). Persons who are physically not able to vote by the ballot paper are allowed to call for help and ask someone else to vote for them. Because calling for help means that they have to give up their voting secret, some people do not vote at all. According to the organizations, electronic voting might improve the opportunities for persons with physical impairments.¹⁹⁵

5.2.2 Key developments concerning the right to political participation of persons with mental health problems and persons with intellectual disabilities in 2013

There is currently no new relevant information to report.

Table 1. Political participation of persons with mental health problems and persons with intellectual disabilities in the Netherlands

EU Member State	Exclusion	Limited Participation	Full Participation
NL			X

5.2.3 Developments in relation to the participation of women in political decision making,

According to the ProDemos House for Democracy and the Rule of Law (*ProDemos Huis voor Democratie en Rechtsstaat*), women make up 38.7 per cent of the Dutch House of Representatives in the second Rutte government, down slightly from 40.7 per cent in the first Rutte government of 2010.¹⁹⁶ A study by the Universities of Nijmegen and Stockholm found that the representation of women in local councils since 1990 has not grown as quickly as in the cabinet and national parliament. Women make up 25 per cent of local councils, while ‘only one in five mayors are women’ and even fewer women are aldermen.¹⁹⁷

¹⁹³ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013). Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 33268-22, 18 October 2013.

¹⁹⁴ Netherlands, FirMM, 4DMS and University Utrecht (2013), *Rapportage van ontwerpen en testen van nieuwe concepten stembiljetten die elektronisch kunnen worden geteld (Report of designing and testing of new ballots that can be counted electronically)*, Utrecht, FirMM / 4DMS / Universiteit Utrecht.

¹⁹⁵ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 33829-1, 18 December 2013.

¹⁹⁶ Netherlands, ProDemos House for Democracy and the Rule of Law (*ProDemos Huis voor Democratie en Rechtsstaat*) (2012), ‘Onderzoek Diversiteit in de Tweede Kamer 2012’, Web page, available at www.prodemos.nl/Media/Files/Onderzoek-Diversiteit-Tweede-Kamer

¹⁹⁷ Netherlands, Radboud University (2013), ‘Nederlandse vrouwen zwaar ondervertegenwoordigd in de lokale politiek’, Web page, 9 July 2013, available at www.ru.nl/@894913/pagina/.

After the Dutch Supreme Court (Hoge Raad) judged in 2010 that the Dutch Reformed Party (Staatkundig Gereformeerde Partij, SGP) must allow women to stand for election and the European Court of Human Rights (ECHR) judged the SGP's complaint about the judgement inadmissible in 2012, the SGP decided on 16 March 2013 that differential treatment on the grounds of gender will no longer be part of its regulations.¹⁹⁸

The Dutch 'Female Board Index 2013' surveyed the executive and supervisory boards of 85 Dutch firms listed on Euronext Amsterdam and found that 62 per cent of boards have at least one female member. The number of companies with women on the board (48 per cent in 2012) increased. The percentage of female non-executives will probably pass the Dutch target of 30 per cent in 2016.¹⁹⁹ For female executives this will take until 2055. For non-executive directors, based on the previous year's trend, the EU target of 40 per cent will be met in 2018.²⁰⁰

In 2012, the total percentage of women in senior management positions in organisations that had signed the 'Charter to the Top' was 20.2 per cent. Despite the economic crisis, this represents a 1.2 per cent increase from 2011. 2011 had witnessed a more modest increase of 0.7 per cent.²⁰¹

5.2.4 Policies to enable younger and older workers to be better integrated in the job market

According to the Ministry of Social Affairs and Employment, the economic crisis continues to impact the Dutch job market. Recent trends in youth unemployment are a cause for concern, while the integration of older workers in the job market, which has been improving over the years, still requires special attention. A €600 million budget will help finance employer schemes to hire younger and older workers.²⁰²

The main policy measure to integrate younger workers in the job market is the 'Approach to Youth Unemployment' (*Aanpak Jeugdwerkloosheid*), which follows upon the 2009 Action Plan for Youth Unemployment (*Actieplan Jeugdwerkloosheid*).²⁰³ The national government recently made an extra €50 million available for this in 2013 and 2014. Half of the budget will go to the 'School Ex Program' (*Programma School Ex*) to keep secondary vocational students in school²⁰⁴; the other half will go to regional job markets to help young people find work. The

¹⁹⁸ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 28481-20, 26 March 2013.

¹⁹⁹ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2012), *Besluit van 4 oktober 2012 tot vaststelling van het tijdstip van inwerkingtreding van de wet van 6 juni 2011 tot wijziging van boek 2 van het Burgerlijk Wetboek in verband met de aanpassing van regels over bestuur en toezicht in naamloze en besloten vennootschappen* (*Stb.* 275), Vo. 2012, No. 455.

²⁰⁰ Netherlands, Lückerath-Rovers, M. (2013), *The Dutch Female Board Index 2012*, Tilburg, Tilburg University/TiasNimbas.

²⁰¹ Netherlands, Pouwels, B. and Henderikse, W. (2013), *'Het zingt rond'. Succes door aanbod en kwaliteit van vrouwen. Monitor Talent naar de Top 2012*, Zeist, Commissie Monitoring Talent naar de Top / VanDoorneHuiskes en partners.

²⁰² Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), 'Rijksbegroting 2014. XV Sociale Zaken en Werkgelegenheid', Parliamentary document (*Kamerstuk*) no. 33750 XV, 17 September 2013.

²⁰³ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2009), *Actieplan Jeugdwerkloosheid*, 29 March 2009.

²⁰⁴ Netherlands, Government Gazette of the Kingdom of the Netherlands (*Staatscourant van het Koninkrijk der*

government also appointed an ambassador for tackling youth unemployment.²⁰⁵ Due to the joint efforts of the government, the ambassador, employers and employees, 10,094 extra apprenticeships will be made available for young people in the business sector.²⁰⁶

The government has a 2013-2014 budget of €67 million to help older people find employment. It will be used to fund additional initiatives for re-integration, networking and the organization of ‘inspiration days’. These measures are in addition to already existing instruments such as tax credits for employers who hire unemployed older persons.²⁰⁷

The Minister of Social Affairs and Employment states that further structural measures are needed to keep the job market in line with European Commission recommendations. These include restricting tax provisions that discourage employment and reforming legislation, as agreed, on dismissal and unemployment benefits.²⁰⁸

5.2.5 Other significant developments with implications for participation

In a letter to the House of Representatives, the Minister of Education, Culture and Science identified four priorities for the government’s emancipation policy: the impact of the economic crisis on women; the safety of women, girls and LGBT persons; differences in educational careers among girls and boys; and women’s and LGBT rights internationally. To improve women’s participation on the labour market, the Minister will focus on measures that facilitate paid work while caring for children, address traditional gender roles in ‘unpaid work’, improve childcare, and opportunities for flexible work schedules. There will be additional measures to improve the job market position of less educated and illiterate women.²⁰⁹

Nederlanden) (2013), ‘Tijdelijke regeling School Ex 2013–2014’, Vol. 2013, No. 24075, available at: <https://zoek.officielebekendmakingen.nl/stcrt-2013-24075.html>; more information about the programme available at www.mбораad.nl/?page=1704.

²⁰⁵ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No.2013-20626, 5 March 2013.

²⁰⁶ Netherlands, Central government (2013), ‘Uitkomst Jeugdtop: 10.094 extra leerbanen voor jongeren’, 7 October 2013, Press release, available at www.rijksoverheid.nl/onderwerpen/jongeren-en-werk/nieuws/2013/10/07/uitkomst-jeugdtop-10-094-extra-leerbanen-voor-jongeren.html.

²⁰⁷ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), ‘Rijksbegroting 2014. XV Sociale Zaken en Werkgelegenheid’, Parliamentary document (*Kamerstuk*) no. 33750 XV, 17 September 2013.

²⁰⁸ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), ‘Rijksbegroting 2014. XV Sociale Zaken en Werkgelegenheid’, Parliamentary document (*Kamerstuk*) no. 33750 XV, 17 September 2013.

²⁰⁹ Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*) (2013). ‘Hoofdlijnenbrief Emancipatiebeleid 2013-2016’, Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 477641, 10 May 2013.

5.3 Key developments and studies relating to affirmative action, reasonable accommodation, accessibility, public sector equality and discrimination testing

5.3.1 Affirmative action policies and measures to combat multiple discrimination

The Constitution of the Netherlands states that all persons have equal rights. But there are certain situations in which an employer may express a preference for a particular group of applicants. Preferential policies may only be applied to benefit women, ethnic minorities, and people with handicaps or chronic illnesses. Policies are subject to a number of conditions concerning proportionality, accuracy and visibility.²¹⁰

Article 1 of the Dutch Constitution and the General Equal Treatment Act (*Wet gelijke behandeling*) forms the starting points for Dutch government policy in this field. Affirmative action policies remain rare and are actually becoming more exceptional. The coalition agreement for the first Rutte cabinet, also called the Rutte-Verhagen cabinet, announced an end to affirmative action policies (*diversiteitsbeleid*) and policies of positive action based on ethnicity and gender. It stated that people are judged on their future instead of on their origins, as an individual rather than as a group (“*We beoordelen mensen niet op hun afkomst maar op hun toekomst, niet op hun geloof maar op hun gedrag, niet als groep maar als individu*”).²¹¹ The second Rutte cabinet is continuing this policy. According to the Council for Social Development (*Raad voor Maatschappelijke Ontwikkeling, RMO*), this approach has been gaining prominence over the past decade, witnessed in the scrapping of the Labour Participation of Minorities Act (*Wet Stimulering Arbeidsdeelname Minderheden*) in 2004 and the removal of ethnicity as a criterion for granting additional resources to primary education in 2006.²¹²

In September 2013, a draft law on participation, the Participation Act (*Participatiewet*), was accepted by the Dutch Council of Ministers and sent to the Council of State for advice. The bill needs further development and is expected to be sent to the House of Representatives at the end of 2013.²¹³ According to the State Secretary for Social Affairs and Employment, it will be in line with the 11 April 2013 Social Agreement (*Sociaal Akkoord*). The Participation Act aims to improve the opportunities of disadvantaged persons – e.g. the long-term unemployed, people with health problems and disabilities – to find work. The government will provide incentives such as wage subsidies for employers to hire disabled persons. Employers have agreed to hire more people with disabilities. If this agreement is not honoured, the government will set a legal quota.²¹⁴ The Participation Act is a saving measure in disguise, the act means that different benefit strands are merged into one overarching strand. According to the

²¹⁰ Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), ‘Dossier Voorkeursbeleid’, Web page, available at www.mensenrechten.nl/dossier/voorkeursbeleid.

²¹¹ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2010), ‘Brief van de informateur’, Parliamentary Document (*Kamerstuk*), No. 32417-15,7 October 2010, available at <https://zoek.officielebekendmakingen.nl/kst-32417-15.html>.

²¹² Netherlands, Council for Social Development (*Raad voor Maatschappelijke Ontwikkeling*) (2012), *Tussen afkomst en toekomst. Etnische categorisering door de overheid*, The Hague, Council for Social Development.

²¹³ Netherlands, Central government (2013), ‘Participatiewet’, 10 September 2013, Web page, available at: www.rijksoverheid.nl/documenten-en-publicaties/wetsvoorstellen/2013/09/10/participatiewet

²¹⁴ Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2013), Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*). No. 2013-0000085317, 27 June 2013.

coalition agreement of the second Rutte cabinet, this means the achievement of cutback of 1,8 billion euro per year.²¹⁵

As was mentioned in section 5.2.3 and the Dutch contribution to the FRA Annual Report 2011, the Dutch Civil Code was amended in June 2011. Article 166 obliges larger public and private limited companies to strive for balanced gender representation (at least 30 percent of each gender) on their management and supervisory boards. The law entered into force on 1 January 2013, while Article 166 will expire on 1 January 2016.²¹⁶ In a meeting with the Committee for European Affairs (*Vaste commissie voor Europese Zaken*), the Minister of Education, Culture and Science stated that the Dutch government is opposed to the EU proposal for a directive on 'women on company boards'.²¹⁷

Section 5.2.4 showed that the Dutch government is taking measures to improve the job market position of younger and older workers. Most of these are financial incentives to hire a younger or older person.

There are no specific measures to combat multiple discrimination in the Netherlands. The Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) has given its opinion on cases of multiple discrimination several times, stating that it should have the specific authority to do so.²¹⁸ According to the national government, legal security and awareness-raising can be achieved within current legal frameworks.²¹⁹

5.3.2 Reasonable accommodation beyond the field of employment

The Act on Equal Treatment on the Grounds of Disability or Chronic Illness (*Wet gelijke behandeling op grond van handicap of chronische ziekte*) prohibits discrimination on these grounds in employment, professional and educational training (adult education as well as primary and secondary education), housing and public transport. The prohibition of discrimination on the grounds of disability includes an obligation to provide reasonable accommodation, unless this would lay a disproportionate burden on the addressee. Such accommodation entails both material and immaterial adjustments.²²⁰ In 2013 the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) found a school that did not provide reasonable accommodation for a student who suffered from dyslexia guilty of

²¹⁵ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012), 'Brief van de informateurs', Parliamentary Documents (*Kamerstuk*), No 33410-15, 29 October 2012, available at: <https://zoek.officielebekendmakingen.nl/kst-33410-15.html>.

²¹⁶ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2012), 'Besluit van 4 oktober 2012 tot vaststelling van het tijdstip van inwerkingtreding van de wet van 6 juni 2011 tot wijziging van boek 2 van het Burgerlijk Wetboek in verband met de aanpassing van regels over bestuur en toezicht in naamloze en besloten vennootschappen (Stb. 275)', Vol. 212, No. 275.

²¹⁷ Netherlands, Ministry of Education, Culture and Sciences (*Ministerie van Onderwijs, Cultuur en Wetenschappen*) (2013), 'Voortgang richtlijnvoorstel Gendergelijkheid bij beursgenoteerde bedrijven COM (2012)614', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 510110, 23 May 2013.

²¹⁸ Netherlands, Equal Treatment Commission (*Commissie Gelijke Behandeling*) (2012), *Gelijke behandeling: oordelen en commentaar 2011*, Utrecht, Commissie Gelijke Behandeling.

²¹⁹ Netherlands, Minister of the Interior and Kingdom relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2011), 'Kabinetsstandpunt 3e evaluatie Awgb', Letter to the House of representatives (*Tweede Kamer der Staten-Generaal*), No. 2011-2000460838, 24 October 2011.

²²⁰ Netherlands, Act on equal treatment on the grounds of disability or chronic illness (*Wet gelijke behandeling op grond van handicap of chronische ziekte*) 22 May 2003.

discrimination.²²¹ In another case involving a student with a chronic disease who did not pass to the next grade, a school that did provide reasonable accommodation was found not guilty of discrimination.²²² According to the Netherlands Institute for Human Rights, the amount of complaints regarding schools not providing reasonable accommodation for students with disabilities, is substantial. In case of problems with accessibility of schools, the institute stresses the importance and usefulness of mediation, because filing a complaint might be harmful for the relationship between parents and a school, which is not in the interest of the child²²³

As stated in the coalition agreement, the Netherlands will ratify the Convention of the Rights of Persons with Disabilities (CRPD) on the condition that implementation can occur gradually.²²⁴ For more information on the ratification process and the legal changes, see chapter 10.

5.3.3 Promoting accessibility to goods and services

Paragraph 10.3 describes that the Act on equal treatment on grounds of disability or chronic illness (*Wet gelijke behandeling op grond van handicap of chronische ziekte*, Wgbh/cz) shall be expanded to also cover the area of access to goods and services (as a result of the ratification of the Convention on the Rights of Persons with Disabilities by the Netherlands).

According to the annual report of the Netherlands Institute for Human Rights, there was a relative increase in the number of request (185) for opinions that were related to discrimination in the access to goods and services (29 per cent in 2012 compared to 27 per cent in 2011). In 2012, 58 opinions were issued on these cases. Most of them concerning discrimination on grounds of disability (16), nationality (11) and race (6).²²⁵ In 2013, the Netherlands Institute for Human Rights published an article in 2013 on consumer rights and discrimination, which points out several opinions which concern language requirements by service providers. In the first place by an organization which provides support to families facing difficulties after a divorce and prohibits communication in any other language than Dutch. In the second place by a children's playgroup which gives priority to children who do not speak Dutch at home, because of a local measure to prevent children lagging behind. In both cases there is an objective justification for the language requirements, in the opinion of the Netherlands Institute for Human Rights. Other cases concern discrimination on grounds of nationality, for example by providing a mortgage, renting a car or subscribing to a mobile telephone provider.²²⁶

5.3.4 The accommodation of religious practices

²²¹ Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), *Opinion no 2013-86*, 8 July 2013.

²²² Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), *Opinion no. 2013-136*, 30 October 2013.

²²³ Netherlands, Davidović, M. and Rodrigues, P.R. (2013), 'Gelijke behandeling en het College voor de Rechten van de Mens', *Tijdschrift voor Consumentenrecht en handelspraktijken*, Vol. 2013, No. 5, pp. 217-224.

²²⁴ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012), 'Brief van de informateurs', Parliamentary Document (*Kamerstuk*), No 33410-15, 29 October 2012, available at: <https://zoek.officielebekendmakingen.nl/kst-33410-15.html>.

²²⁵ Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), *Jaarverslag 2012*, Utrecht, Netherlands Institute for Human Rights.

²²⁶ Netherlands, Davidović, M. and Rodrigues, P.R. (2013), 'Equal treatment and the Netherlands Institute for Human Rights', *Tijdschrift voor Consumentenrecht en handelspraktijken*, Vol. 2013, No. 5, pp. 217-224.

The Dutch Constitution safeguards both the right to equal treatment in equal circumstances and the ban on discrimination ‘on the grounds of religion, belief, political opinion, race, or sex or on any other grounds whatsoever’. Article 6 of the Constitution concerns the freedom of religion and belief. It states that everyone has the right to freely profess one’s religion or belief, either individually or in community with others, when this is consistent with the other articles in the Constitution and laws. The precise range and limits of this religious freedom are not specified in the Constitution, but by legislation and court decisions.

The legislative proposal²²⁷ to ban all face-covering clothing in public spaces, including public buildings, educational institutions, hospitals and public transport, referred to in the 2011 Annual Report, has yet to be debated in the House of Representatives. At the time of writing, it is unknown when this will happen.

5.3.5 Discrimination testing

In December 2012 the Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*) published the fourth edition of its Discrimination Monitor, focusing on the position of non-Western immigrants on the Dutch job market. Among other things, it reports on the findings of a discrimination test carried out among temporary employment agencies. When applying for jobs in person, agencies offered work to native Dutch jobseekers 46 per cent of the time; for applicants from non-Western immigrant groups, this figure was 28 per cent. But no differences were found when applying online. For vacancies offered through the internet, agencies selected primarily for characteristics relevant to the job. Women were less often discriminated against than men. According to the Netherlands Institute for Social Research, these findings show that unequal treatment is often due to discrimination, which might be reduced if selection procedures become more focused on the job-relevant characteristics of applicants.²²⁸ Paragraph 6.9 describes the response to this report of the State Secretary for Social Affairs and Employment.

5.4 Equality and the media

5.4.1 Regulatory safeguards for ensuring the representation of social diversity in the media

The most recent Media Act entered into force on 1 January 2009. This Act and the government’s media policy ensure that media can operate independently, but that media must be diverse and represent all opinions present in Dutch society.²²⁹ The national government states that media are responsible for what they broadcast, but that it will take action if media commit offenses, for example in cases of discrimination.²³⁰

There are no regulations on the representation of cultural and social groups in the professional, management and board functions of media, media councils or advisory bodies, other than

²²⁷ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2012), *Voorstel van wet Instelling van een algemeen verbod op het dragen van gelaatsbedekkende kleding*, Parliamentary Document (*Kamerstuk*) No. 33165-2, 6 February 2012.

²²⁸ Netherlands, Andriessen, A., Nievers, E. and Dagevos, J. (2012), *Op achterstand. Discriminatie van niet-westerse migranten op de arbeidsmarkt*, The Hague, Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*).

²²⁹ Netherlands, Media Act 2008 (*Mediawet 2008*), 29 December 2008.

²³⁰ Netherlands, National Government (*Rijksoverheid*) (2013), 'Media and Broadcasting', Web page, available at www.government.nl/issues/media-and-broadcasting/the-government-and-media/media-act-and-media-policy.

Article 166 of the Civil Code. This article obliges larger public and private limited companies to strive for balanced gender representation (at least 30 per cent of each gender) on their management and supervisory boards. The law entered into force on 1 January 2013; Article 166 will expire on 1 January 2016. There are no sanctions for not meeting the 30 per cent norm.²³¹

5.4.2 The monitoring of discriminatory behaviour in the media

Victims or witnesses of discrimination can lodge complaints at local anti-discrimination facilities. This also applies to complaints of discriminatory behaviour in the media. The anti-discrimination facilities monitor the complaints (see paragraph 5.1.4 which describes the situation of anti-discrimination facilities).

There are two complaints bureaus for discrimination on the internet. The first is the Dutch Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet, MDI*), funded by the national government until 31 December 2012 and now by private funds and donations.²³² The second is the Dutch Complaints Bureau for Discrimination on the Internet (*MiND Nederland, Meldpunt internet discriminatie*), a part of M. (*Stichting M.*), initiated and funded by the Ministry of Social Affairs and Employment and the Ministry of Security and Justice since 1 January 2013.²³³

Another organisation that files and monitors complaints is the Netherlands Press Council (*Raad voor de Journalistiek*). Charged with examining complaints against violations of good journalistic practice, the Press Council does not specifically focus on discriminatory behaviour.²³⁴

The Dutch Advertising Code Authority (*Reclame Code Commissie*) deals with the self-regulating system of advertising. Anyone who feels that an advertisement violates the Dutch Advertising Code may submit a complaint to the Advertising Code Committee. The latter can recommend to advertisers that they discontinue the ad.²³⁵

Finally, the organisation Mira Media tries to ensure that media in the Netherlands reflect the ethnic and cultural diversity of society. It offers media training and supports new media initiatives aimed at diversity.²³⁶

²³¹ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2012), 'Besluit van 4 oktober 2012 tot vaststelling van het tijdstip van inwerkingtreding van de wet van 6 juni 2011 tot wijziging van boek 2 van het Burgerlijk Wetboek in verband met de aanpassing van regels over bestuur en toezicht in naamloze en besloten vennootschappen (Stb. 275)', Vol. 2012, No. 455.

²³² Netherlands, Dutch Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet*) (2012), 'Over het MDI', Web page, available at: www.meldpunt.nl/over-het-mdi.

²³³ Netherlands, Minister of Security and Justice and Minister of Social Affairs and Employment (*Minister van Veiligheid en Justitie and Minister van Sociale Zaken en Werkgelegenheid*) (2012), 'Voortgangsbrief discriminatie', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. I&S/2012/18020, 18 December 2012.

²³⁴ Netherlands, Press Council (*Raad voor de Journalistiek*) (2013), 'Over de Raad', Web page, available at: www.rvdj.nl/over-de-raad.

²³⁵ Netherlands, Dutch Advertising Code Authority (*Reclame Code Commissie*) (2013), 'Wie zijn wij?', Web page, available at www.reclamecode.nl/consument/default.asp?paginaID=141&hID=102.

²³⁶ Mira Media (2013), 'Over Mira Media', Web page, available at: www.miramedia.nl/over-mira-media.htm.

5.4.3 Discrimination in the media registered with higher courts or equality bodies

No complaints were registered with higher courts or equality bodies for cases lodged or decided in 2013 implicating the media in discrimination or otherwise prejudicing respect for human dignity. But one case – of adolescents with Turkish immigrant backgrounds accused of making anti-Semitic comments in the city of Arnhem – attracted extensive media attention. The District Prosecution East-Netherlands (Arrondissementsparket Oost-Nederland) began investigating, triggered by a report by the anti-discrimination facility Art.1 Gelderland-Midden, after the Dutch public service broadcaster NTR aired the documentary on 24 February 2013. The District Prosecution East-Netherlands concluded that one of the boys in the documentary was guilty of making prohibited Anti-Semitic comments. Given the age of the accused boy and the need for a quick settlement due to evolving social unrest, the prosecutor used a penal order (strafbeschikking) – an educational sanction rather than a fine or community service.²³⁷

5.5 Promising practices

5.5.1 Three new promising practices relating to non-discrimination and equality

Title (original language)	Databank Praktijkvoorbeelden Antidiscriminatie
Title (EN)	Antidiscrimination Practices Database
Organisation (original language)	Art.1, kenniscentrum discriminatie Nederland and Movisie
Organisation (EN)	Art.1, the knowledge centre on discrimination and Movisie, centre for social development
Government / Civil society	Civil society
Funding body	PROGRESS, the EU employment and social solidarity programme
Reference (incl. url, where available)	Art.1 (2013), 'Databank praktijkvoorbeelden antidiscriminatie', Web site,, available at www.databank-antidiscriminatie.nl/ .
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Start date: November 2012
Type of initiative	Database
Main target group	According to the website: the database is meant as a source of practical information and inspiration to anyone involved in or wanting to initiate a project or policy to tackle discrimination issues.
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The database offers an overview of good practices in the Netherlands aimed at combating discrimination and/or at the

²³⁷ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), '*Onderzoek antisemitsche uitslatingen Arnhem afgerond*', Press release , 12 April 2013, available at: www.om.nl/actueel/nieuws-persberichten/@160798/onderzoek/.

	promotion of equal treatment.
Highlight any element of the actions that is transferable (max. 500 chars)	The current database is already available in Dutch and English (including the description of the good practices) which means the use of the database is not limited to people who read Dutch.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The website is maintained by a professional organization.
Give reasons why you consider the practice as having concrete measurable impact	The impact of the website has not been evaluated yet. The website can be visited by anyone.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	A website is an instrument that can be used in all member states. All member states might have good practices aimed at combating discrimination, which are useful to share with others.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The Antidiscrimination Practices Database was initiated by Art.1. It was realised in cooperation with MOVISIE and was realised with financial support from the European Commission (PROGRESS).
Explain, if applicable, how the practice provides for review and assessment.	The practice does not provide for assessment but the use of the database can be monitored by the number of visitors and the number of newly included good practices.

Title (original language)	Naar een regionale rapportage over discriminatiegegevens
Title (EN)	Towards a multi agency format for the representation of data on discrimination
Organisation (original language)	RADAR, bureau voor gelijke behandeling en tegen discriminatie and Art.1, kenniscentrum discriminatie Nederland
Organisation (EN)	RADAR, anti-discrimination facility and Art.1, knowledge centre on discrimination
Government / Civil society	Government
Funding body	Dutch Ministry of Social Affairs and Employment
Reference (incl. url, where available)	Netherlands, Minister of Social Affairs and Employment (<i>Ministerie van Sociale Zaken en Werkgelegenheid</i>) and Minister of Security and Justice (<i>Ministerie van Veiligheid en Justitie</i>) (2012), Letter sent to the House of Representatives (<i>Tweede Kamer der Staten- Generaal</i>). No. 30950-47, 18 December 2012.
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	January 2013- July 2014
Type of initiative	Improving reporting on discrimination
Main target group	Antidiscrimination facilities
Indicate level of implementation: Local/Regional/National	Regional
Brief description (max. 1000 chars)	The objective of this project is designing a multi agency format for Dutch antidiscrimination agencies concerning the collection and presentation of data on discriminatory incidents at the local, and regional level. Through a comprehensive data collection (for

	example by integrating registrations of antidiscrimination facilities and the police in one report), knowledge and insight increases in the occurrence of discriminatory incidents. When agencies agree on a common standard of extended data collection and reporting, this will also improve the possibility of making comparisons at the regional level. The project implies an investigation of the needs of local administrators when it comes to knowledge on discriminatory incidents.
Highlight any element of the actions that is transferable (max. 500 chars)	The multi agency format (or the criteria for data collection and reporting) can be used by other countries, although the format needs to be adapted to the local availability of data.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The project is funded by the national government. A reason why the sustainability of the project might be questioned is that the project does only include the designing of a format, not the implementation of the use of the format.
Give reasons why you consider the practice as having concrete measurable impact	The project includes a pilot project. During the pilot the newly designed format will be tested by at least three antidiscrimination facilities. The reports will be evaluated.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The format can be translated in English. Or other Member States can have their own project to identify the needs of local administrators concerning the knowledge on discrimination and to design a multi agency format which fits to the national, regional and local availability of data.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Municipalities are seen as the recipients of the multi agency report on discrimination data. Therefore professionals of municipalities are interviewed during the project and they are involved in the evaluation. There is an advisory board, which consists of professionals of antidiscrimination facilities and the national government. Experts on the collection of data on discrimination are questioned as well.
Explain, if applicable, how the practice provides for review and assessment.	The project provides for review and assessment during a so-called 'pilot' which is part of the project.

Title (original language)	De Tafel van één
Title (EN)	The Table for One
Organisation (original language)	Women Inc.
Organisation (EN)	Women Inc.
Government / Civil society	Civil society
Funding body	National government, Ministry of Education, Culture and Science.
Reference (incl. url, where available)	Women Inc. (2013), 'De tafel van één', Website, available at http://www.detafelvaneen.nl/ . ; Netherlands, Minister of Education, Culture and Science (<i>Minister van Onderwijs, Cultuur en Wetenschap</i>) (2013). <i>Hoofddlijnenbrief Emancipatiebeleid 2013-2016</i> , Parliamentary document (<i>Kamerstuk</i>) no. 30420-177, 10 May 2013.

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2012-2014
Type of initiative	Buddy project
Main target group	Unemployed women
Indicate level of implementation: Local/Regional/National	Local (in 22 municipalities)
Brief description (max. 1000 chars)	The Table for One is a method which focuses on recruitment, guidance and participation of unemployed women. The aim is to promote the economic independence of women. Table for One are meetings with women and a buddy. The women talk about their interests and strengths. The buddy is there to give advice on, for example, how the women can find a job or follow a training. The organisation Women Inc. hopes to motivate tens of thousands of women by organizing such meetings. The Table for One is part of the project 'Eigen Kracht' ('Own Power'), a programme of the Ministry of Education, Culture and Science.
Highlight any element of the actions that is transferable (max. 500 chars)	In 2012 Women Inc. started a 'Table for One' in 9 municipalities, followed by 5 municipalities in 2013. Other municipalities are able to use the method as well.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	According to the Minister of Education, Culture and Science, she has made arrangements with 22 municipalities. The participating municipalities agreed that the newly developed approach within the context of the project 'Own Power' will become part of the structural local participation policy.
Give reasons why you consider the practice as having concrete measurable impact	Already a thousand women participated in a Table for One meeting and 5000 women attended an event within the context of the project.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The method is not specifically Dutch and might be useful for women in other countries, as long as there are 'buddy's' who are informed of the local situation and who have a local network. The method also might be transferable to other groups of people with a poor job market position, like people with disabilities, elderly and unemployed young people.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The Table for One is an initiative of Women Inc., in cooperation with the Ministry of Education, Culture and Science. Other partners are local governments and civil society organisations and the business sector.
Explain, if applicable, how the practice provides for review and assessment.	The Ministry of Education, Culture and Science asked DSP-groep, a company for research and management, to monitor the impact and implementation of the project 'Own Power' and the Table for One. A final evaluation will take place in 2014.

5.6 Case law

Case title	Opinion number 2013-119 Al Israel Airlines safety investigations
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Decision date	30 September 2013
Reference details (type and title of court/body; in original language and English)	Netherlands, Netherlands Institute for Human Rights (<i>College voor de Rechten van de Mens</i>) (2013), Opinion 2013-119, available at: www.mensenrechten.nl/publicaties/oordelen/2013-119/detail .
Key facts of the case	A Dutch student of Pakistani descent, who travelled with 14 other students from Schiphol Amsterdam Airport to Israel with the airline company 'El Al' on 28 January 2011, filed a complaint to the Netherlands Institute of Human Rights, because the tickets of the five dark-skinned students were labelled with the letter T and they were questioned about their ethnicity and origins by El Al agents. The other students of the group (non dark-skinned) were allowed boarding without questioning. The Netherlands Institute of Human Rights states that El Al representatives performed racial profiling on five Dutch passengers because of their appearance and race. The Netherlands Institute of Human Rights furthermore considered that the way in which El Al treated the students, selected by their skin colour, suggests that the dignity of the claimant was hurt and that a intimidating, hostile, humiliating and hurtful environment, as defined in article 1a, 2nd paragraph of the GETA, was created (the students had to undress).
Main reasoning/argumentation	The airline representatives only questioned dark-skinned passengers and did not counter the suspicion of discrimination. Furthermore the airline did not counter the suspicion of harassment or intimidation.
Key issues (concepts, interpretations) clarified by the case	The selection of passengers based on the colour of their skin for further questioning is discrimination unless the accused is able to prove that this is a case of legal exception to the prohibition of discrimination on the ground of race.
Results (sanctions) and key consequences or implications of the case	Opinions of Netherlands Institute for Human Rights carry no sanction. As a result of the complaint and judgement, El Al changed their procedures and methods regarding security and body search.

Case title	ECLI:NL:GHDHA:2013:BZ2283 Case of the Court of Appeal of The Hague: obligation to show ID and religious rights
Decision date	26 February 2013
Reference details (type and title of court/body; in original language and English)	Netherlands, Court of Appeal (<i>Gerechtshof Den Haag</i>) (2013), Case No. 22-001139-12, ECLI:NL; GHDHA: BZ2283, , 26 February 2013.
Key facts of the case	In 2011 a 42-year-old Jewish man who was stopped by police said he did not have his ID with him on the street as required by Dutch law because he was forbidden to carry anything on the Jewish Sabbath. The man, who had to pay a fine, won his appeal in a regional court — the judge wrote in his ruling that the religious duties to which the man was bound took precedence over some legal requirements. On 26 February 2013, the The Hague Court struck down the lower Court ruling and decided that the man has to pay a fine of 60 euros because he could not fulfill the obligation to show his ID when he was asked to do so.
Main reasoning/argumentation	According to the Court, the religious duties to which the man was bound, did not take precedence over the legal requirements concerning the Act

	on Compulsory Identification (<i>Wet op de identificatieplicht</i>).
Key issues (concepts, interpretations) clarified by the case	Religious duties and legal requirements.
Results (sanctions) and key consequences or implications of the case	The Court sentenced the accused man to pay a fine of 60 euros.

Case title	Acquittal of politician of group defamation and inciting discrimination (<i>Vrijspraak politicus van groepsbelediging en aanzetten tot discriminatie</i>)
Decision date	11 March 2013
Reference details (type and title of court/body; in original language and English)	Netherlands, Court of Appeal (<i>Gerechtshof Amsterdam</i>) (2013), Case No. 23-004266-12, ECLI:NL; GHAMS: BZ3787,, 11 March 2013.
Key facts of the case	A leader of a local political party was interviewed by a the local news station AT5, after a political debate in 2010. AT5 broadcasted the interview. The LGBT interest group COC filed a complaint with the police, because of the statements of the politicians during the interview concerning homosexual persons. The political leader intentionally and repeatedly made insulting comments on homosexual persons. Because the statements were made by a politician and because of the more spacious freedom of speech for politicians, the Court did not find the man guilty.
Main reasoning/argumentation	The Amsterdam Court acquitted the political leader, because the statements were made by a politician and in the context of the right guaranteed by Article 10 ECHR, the freedom of speech for a politician is very extensive compared to statements made by a non-politician.
Key issues (concepts, interpretations) clarified by the case	Discrimination of homosexuals and freedom of speech.
Results (sanctions) and key consequences or implications of the case	Acquittal.

Case title	ECLI:NL:RBAMS:2013:BZ0575 Case of the District Court Amsterdam: anti-homosexual insult on the internet
Decision date	30 January 2013
Reference details (type and title of court/body; in original language and English)	Netherlands, District Court Amsterdam (<i>Rechtbank Amsterdam</i>) (2013), Case No. 13-676586-12, ECLI: NL; RBAMS: BV6181, 30 January 2013.
Key facts of the case	A man was accused of criminal threat of life against the claimant, insulting a group of homosexual people, incitement of discrimination and violence against homosexual people, by placing six tweets on the internet. The District Court found the man guilty.
Main reasoning/argumentation	The District Court judged the six tweets separately and in interrelation to each other to be threatening, insulting and inciting of discrimination and violence against homosexual people. The judge thereby states that he blames the accused man of contributing to a social climate in which discrimination and violence against homosexual persons is increasing by making that kind of statements on the internet. The punishment should

	also prevent other people from making such statements.
Key issues (concepts, interpretations) clarified by the case	Discrimination of homosexuals (on the internet)
Results (sanctions) and key consequences or implications of the case	The District Court sentenced the accused man to imprisonment for 30 days, taking into account his particular personal circumstances, of which 18 days on probation, with a probation period of 2 years.

5.7 Any other significant developments

5.7.1

In 2013 the Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*) published a report on discrimination against LGB people in the workplace. According to the authors, it was the first quantitative, large-scale, nationally representative survey carried out in the Netherlands among LGB employees. Over 9,000 employees completed the (online or written) survey, in which 3 per cent of male employees and 2.1 per cent of female employees reported being exclusively attracted to members of their own sex (the LG employees), and 2.3 per cent of male and 4 per cent of female employees attracted to both sexes. The report concludes that there are more similarities than differences between lesbian, gay and heterosexual employees in job perception, social treatment and well-being. In contrast, bisexual employees reported more problems. The report recommends devoting more attention to this group, though this may be complicated by limited available information. A good diversity policy and climate is important for all employees. Although the climate seems to be quite tolerant towards LGB employees at work, roughly half of the respondents reported that jokes are sometimes made about LGB people.²³⁸

People of Polish origin are by far the largest group currently migrating into the Netherlands. Migrants from Bulgaria are the second largest group. A 2013 report published by the Netherlands Institute for Social Research, based on a survey of 800 Polish and 400 Bulgarian migrants, found that around 45 per cent of Poles and 26 per cent of Bulgarians expect to stay in the Netherlands.²³⁹ The Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) concluded that Polish employees in the agricultural sector encounter numerous hardships: unequal pay, excessive working hours, unsafe working conditions and high rents. According to the institute, the Dutch government should take measures to safeguard the human rights of Polish employees.²⁴⁰

In December 2013, the Minister of the Interior and Kingdom Relations and the Minister of Security and Justice sent the progress report concerning discrimination and anti-discrimination policies to the House of Representatives. As in previous years, the cabinet reports that it assigns great importance to combating discrimination and promoting equal opportunities. In the letter specific attention is drawn to Anti-Semitism and the discrimination of LGBT persons. The Ministers refer to the importance of promoting the willingness of victims of

²³⁸ Netherlands, Kuyper, L. (2013), *Seksuele oriëntatie en werk. Ervaringen van lesbische, homoseksuele, biseksuele en heteroseksuele werknemers*, The Hague, Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*).

²³⁹ Netherlands, Gijsberts, M. and Lubbers, M. (2013), *Nieuw in Nederland. Het leven van recent gemigreerde Bulgaren en Polen*, The Hague, Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*).

²⁴⁰ Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), *Poolse arbeidsmigranten in mensenrechtenperspectief*, Utrecht, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*).

discrimination to file a complaint, as well as the expertise of police officers and prosecutors concerning discrimination. Referring to the discrimination of Muslims, the Ministers announce the organization of a round table on this topic.²⁴¹

²⁴¹ Netherlands, Ministry of the Interior and Kingdom Affairs (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Voortgangsbrief discriminatie 2012', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000773268, 23 December 2013.

6 RACISM XENOPHOBIA AND RELATED INTOLERANCE

6.1 Key developments in relation to anti-racism legislation and policies.

6.1.1

There have been no developments in national anti-racism policies since the Action Programme 'Combat Discrimination' (*Actieprogramma 'Bestrijding van discriminatie'*) was adjusted in 2011.²⁴² With the introduction of the Law on Municipal Antidiscrimination Provisions (*Wet gemeentelijke antidiscriminatievoorzieningen*) in 2009, antidiscrimination policy was largely decentralised. Although 98 per cent of municipalities have made a municipal antidiscrimination provision available to their citizens, only 24 per cent have implemented a local or regional antidiscrimination policy.²⁴³ The coalition agreement Building Bridges (*Bruggen bouwen*) of 29 October 2012 did not contain any specific measures to combat discrimination on the grounds of race or ethnic origin.²⁴⁴

In the 2013 Report of the Kingdom of the Netherlands, Aruba, Curaçao and St Maarten to the United Nations Committee on the Elimination of Racial Discrimination (CERD), the Dutch government emphasized general measures to combat discrimination and the need for individuals to report discrimination for legislation to be enforced.²⁴⁵

In its fourth report on the Netherlands, the European Commission against Racism and Intolerance (ECRI) reiterated its recommendation to the Dutch authorities to develop a national strategy against racism and racial discrimination. A national strategy is needed alongside the existing decentralised antidiscrimination infrastructure because certain issues (such as hate speech by political parties or discrimination on the labour market) cannot be effectively tackled by local organisations.²⁴⁶

The National Ombudsman responded to the ECRI report in a television programme, stating that the Dutch political climate is discriminatory and racist. He said that Dutch politicians feel immune to criticism on human rights, that there is no reflection on human rights issues, and

²⁴² Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2011), 'Aanscherping bestrijding discriminatie'. Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 5699933/11, 7 July 2011.

²⁴³ Netherlands, Struik, P., Litjens, B., Jong de, J., Rouw, M. (2012), *Evaluatie van de Wet gemeentelijke antidiscriminatievoorzieningen*, Vught, Partners+Pröpper.

²⁴⁴ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012), 'Brief van de informateurs', Parliamentary Document (*Kamerstuk*) no. 33410-15, 29 October 2012, available at: <https://zoek.officielebekendmakingen.nl/kst-33410-15.html>.

²⁴⁵ Netherlands, Central Government (*Rijksoverheid*) (2013), *2013 Report of the Kingdom of the Netherlands, Aruba, Curaçao and St Maarten to the United Nations Committee on the Elimination of Racial Discrimination (CERD)*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2013/07/01/2013-report-of-the-kingdom-of-the-netherlands-aruba-curaçao-and-st-maarten-to-the-united-nations-committee-on-the-elimination-of-racial-discrimination-cerd/2013-report-of-the-kingdom-of-the-netherlands-aruba-curaçao-and-st-maarten-to-the-united-nations-committee-on-the-elimination-of-racial-discrimination-cerd.pdf.

²⁴⁶ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*, Strasbourg, Council of Europe.

that the atmosphere in Dutch politics is one of 'anything goes'. He also stated that the government should initiate a national campaign against discrimination.²⁴⁷

In its first report on human rights in the Netherlands, the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) stated that the 2012 Progress Letter on Discrimination (*Voortgangsbrief discriminatie*)²⁴⁸ – through which the Minister of Social Affairs and Employment and the Minister of Security and Justice inform Parliament on the implementation of the Action Programme 'Combat Discrimination' (*Actieprogramma 'Bestrijding van discriminatie'*) – did not address the recommendations made by international supervising bodies on combating discrimination on the grounds of race. This creates the impression that the recommendations of international bodies do not influence the drafting of regulation. The Netherlands Institute for Human Rights noted that if the government indicated how international recommendations and national policy relate to one another, it could refute the apparent irrelevance of such recommendations to national policy and regulations.²⁴⁹ The 2013 Progress Letter on Discrimination again did not include any reaction to recommendations of supervising bodies regarding discrimination on grounds of race.²⁵⁰

6.2 Key developments in relation to Article 9.2.b of Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

Article 2 of the Penal Code is interpreted to mean that a criminal act is committed in the Netherlands if the consequences appear in the Netherlands. If racist or xenophobic material can be viewed in the Netherlands, the criminal act is considered to have been committed in the Netherlands and is punishable under Dutch law, regardless whether the material is hosted on an information system in or outside Dutch territory, and regardless whether the offender committed the conduct when physically present in Dutch territory.²⁵¹

6.3 Key developments in legislation and policies relating to crimes motivated by hatred and prejudice.

In a letter to Parliament on the subject of anti-Semitism, the Minister of Social Affairs and Employment stated that discrimination is included in the policy on so-called 'high impact crimes', which are a national police priority.²⁵²

²⁴⁷ Netherlands, AVRO, VPRO and VARA (2013), 'Interview with Alex Brenninkmeijer', Buitenhof, 20 October 2013.

²⁴⁸ Netherlands, Ministry of Social Affairs and Employment and Ministry of Security and Justice (2012), *Letter to the House of Representatives (Tweede Kamer der Staten-Generaal)*, No. 47, 18 December 2013.

²⁴⁹ Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*). (2013), *Mensenrechten in Nederland 2012 - Jaarlijkse Rapportage*, Utrecht, College voor de Rechten van de Mens.

²⁵⁰ Netherlands, Ministry of the Interior and Kingdom Relations (2013), *Letter to the House of Representatives (Tweede Kamer der Staten-Generaal)*, No. 63, 23 December 2013.

²⁵¹ Netherlands, Van der Linden-Smith, T. (2008), 'Discriminatie op internet: wat doen we eraan?' in: Gerards, J.H. (Ed.), *Gelijke behandeling: oordelen en commentaar 2007*, Nijmegen, Wolf Legal Publishers.

²⁵² Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Antisemitisme', Letter to the House of the Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-000029301, 13 March 2013.

There have been no further developments in legislation or policy since the adjustments to the Action Programme 'Combat Discrimination' (*Actieprogramma 'Bestrijding van discriminatie'*) in 2011.²⁵³

The police will discontinue the website www.hatecrimes.nl, where citizens can directly notify the police of a hate crime. This website was part of the project Hatecrimes (2008-2011), which was developed along the same lines as a hate crimes project in the United Kingdom (True Vision). The website did not result in many reports of hate crimes, mostly due to the fact that the term 'hate crime' is uncommon and easily misunderstood in the Netherlands.²⁵⁴ The possibility to notify the police online of a hate crime will continue to exist through the general police website. At www.politie.nl/melden information about discrimination has been included and visitors can report incidents of discrimination through this website. They should be contacted within two weeks by a police officer specifically tasked with discrimination matters to follow up on the report.²⁵⁵ The term hate crime will no longer be used.²⁵⁶

In its fourth report on the Netherlands, the European Commission against Racism and Intolerance (ECRI) repeated its recommendation that the Dutch authorities introduce a provision to the effect that racist motivation constitutes a specific aggravating circumstance in sentencing. The Commission also recommended that existing Criminal law provisions (Articles 137c-137g and 429quater of the Penal Code) be extended to include the discrimination grounds of citizenship and language. In addition, ECRI recommends that 'the following offences [should be included] in the Dutch Penal Code: the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes; and the public expression with a racist aim of an ideology which claims the superiority or which denigrates a group of persons on the grounds of "race", colour, language, religion, nationality or ethnic origin.'²⁵⁷ Another ECRI recommendation concerned the exploitation of temporary agency workers which the Dutch authorities are advised to address by 'setting up, if need be, a system of licences for temporary employment agencies; regularly inspecting the same; and ensuring that the above-mentioned category of workers benefit from the safeguards and work conditions provided for under the law'.²⁵⁸ In its official response to the ECRI report, the Dutch Cabinet stated that in existing legislation the discriminatory aspect in a crime already constitutes an aggravating circumstance. ECRI's recommendation regarding the development of a national strategy against racism was put aside by the cabinet as the Action Programme 'Combat Discrimination' already provides for a strategy to address discrimination on all ground. The official response stated that the Cabinet has addressed the position of labour migrants by the introduction of a national and local project 'EU labour migration' in 2010, which recently focussed on tackling problems with deviant employment agencies and preventing improper competition by means of terms of employment

²⁵³ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2011), 'Aanscherping bestrijding discriminatie', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 5699933/11, 7 July 2011.

²⁵⁴ Netherlands, Knecht, L.E.D. (2011), *Een kwalitatief onderzoek naar de ervaringen van hate crime slachtoffers en een beknopte evaluatie van het project Hatecrimes*, Not published.

²⁵⁵ Netherlands, Ministry of the Interior and Kingdom Relations (2013), Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 63, 23 December 2013.

²⁵⁶ Information provided by a representative of the National Expertise Centre on Diversity of the police (Landelijk Expertise Centrum Discriminatie, LECD).

²⁵⁷ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013) *Fourth report on the Netherlands*, Strasbourg, Council of Europe.

²⁵⁸ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013) *Fourth report on the Netherlands*, Strasbourg, Council of Europe.

following the influx of labour migrants from new Member States. The government intends to continue to encourage self-regulation in the employment agency sector.²⁵⁹

The Dutch Reformed Party (*Staatkundig Gereformeerde Partij*, SGP) tried repeatedly to pass a bill to prohibit negationism, to no avail,²⁶⁰ the government's response primarily being that existing legislation already provides sufficient tools for tackling cases of negationism.²⁶¹

6.4 Trends in officially recorded crimes motivated by hatred and prejudice.

The 2012 POLDIS report on incidents with a discriminatory motive or aspect that were registered by the police showed an increase of the number of registered incidents involving discrimination on the ground of race from 931 incidents in 2011 to 1,161 in 2012. The number of anti-Semitic incidents increased from 294 in 2011 to 859 in 2012, which the authors attribute largely to the introduction of a new categorisation system in 2012. The new categorisation also entailed the introduction of subcategories for race in the 2012 report. These show that 75 per cent of registered incidents involving the discrimination ground of race are targeted at people with a non-Western 'allochtonous' background,²⁶² i.e. someone of whom at least one parent was born in a country in Africa, Latin America, Asia (Indonesia and Japan are excluded) or Turkey.²⁶³ (see table 6.1).

The National Expertise Centre on Discrimination of the Public Prosecution Service annually reports on the number of registered discrimination offences within the regional offices. These offences are based on the discrimination articles in the Penal Code (article 137c-g and 429quater). General offences with a discriminatory motivation or aspect are not yet included in the registration. The 2012 Figures in Focus (*Cijfers in beeld*) report shows that the number of discrimination offences involving the discrimination ground of race, registered by the Public Prosecution Service, decreased from 104 in 2011 to 62 in 2012. By and large, this continues a downward trend since a peak of 202 discrimination offences in 2008. Registered discrimination offences with an anti-Semitic character showed a sharp increase in 2009 (to 67 offences), which could be linked to Israel's invasion of Gaza. In 2010, the number of registered anti-Semitic offences was even higher (78). In 2011 it decreased from 64 in 2011 to 42 in 2012.²⁶⁴

In 2012 the Anne Frank Foundation commissioned a report on racism, anti-Semitism, rightwing extremist violence and discrimination in the Netherlands. It stated that there were 19 incidents of intentional anti-Semitism reported to the police (or witnessed and registered by

²⁵⁹ Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2013), Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 62, 18 November 2013.

²⁶⁰ Netherlands, Dutch Reformed Party (*Staatkundig Gereformeerde Partij*, SGP) (2006), 'Voorstel van wet', Parliamentary Document (*Kamerstuk*) No. 30578/2, 7 June 2006,

²⁶¹ Netherlands, House of Representatives (*Tweede kamer der Staten-Generaal*) (2012) *Strafbaarstelling negationisme*, 24 February 2012, Parliamentary Acts (*Handelingen*) 2010-2011, No. 105.

²⁶² Netherlands, Tierolf, B., Hermens, N., Drost, L. and Van der Vos, L. (2013), *POLDIS rapportage 2012, met themarapportage antisemitisme*, Utrecht, Verwey-Jonker Instituut.

²⁶³ Netherlands Statistics (*Centraal Bureau van de Statistiek*), 'Begrippen: Niet-westerse allochtoon', Web page available at: www.cbs.nl/nl-NL/menu/methoden/begrippen/default.htm?ConceptID=1013.

²⁶⁴ Netherlands, Public Prosecution Service - National Expertise Centre on Discrimination (*Openbaar Ministerie – Landelijk Expertisecentrum Discriminatie -LECD-OM*), Amsterdam (2013), *Cijfers in beeld: Discriminatiecijfers 2012*, Amsterdam, Landelijk Expertisecentrum Discriminatie.

police officers) in 2010 and 30 reported incidents in 2011. Intentional anti-Semitism refers to incidents of violence against or insulting of people or objects with a presumed Jewish background, whereby the perpetrator can reasonably be expected to be aware of the Jewish background. Registered incidents with a racist character decreased from 1,302 incidents in 2010 to 1,262 incidents in 2011 according to the report. Incidents involving the use of pejorative terms with an anti-Semitic or racist connotation (*antisemitisch schelden, racistisch schelden*) were reported separately. In 2010, 1,173 incidents were registered that involved the use of pejorative terms with an anti-Semitic character; in 2011 1,098 such incidents were registered. The authors noted that, in the context of these incidents, the expressed anti-Semitic sentiments are not necessarily connected to the incident but may be a 'byproduct'. Incidents involving the use of pejorative terms with a racist character mostly involve people with a different ethnic background or skin colour. In 2010, 1,440 such incidents were registered and 1,433 in 2011.²⁶⁵

The Anne Frank Foundation published its second reports on racism, anti-Semitism, rightwing extremist violence and discrimination in the Netherlands in December 2013. This showed that the police registered 1,671 incidents with a racist character in 2012. There is no clear explanation for this increase. The number of registered incidents of intentional anti-Semitism increased to 58 in 2012, which the authors explained by the use of an improved query in the police database. In 2012, 931 incidents were registered which involved pejorative terms with an anti-Semitic character, continuing the decrease of the previous year. There was a slight decrease in the number of registered incidents concerning the use of pejorative terms with a racist character, which was 1,352 in 2012.²⁶⁶

In 2010, 11.3 per cent of the recorded suspects of anti-Semitism were women (12 per cent in 2011); the average age of these suspects was 26 in 2010 and 31.4 in 2011. For incidents with a racist character, 15.4 per cent of registered suspects were women in 2010 (15 per cent in 2011). The average age of recorded suspects was 30.6 in 2010 and 30.4 in 2011. In 2010, 8.6 per cent of registered suspects concerning incidents that involved the use of pejorative terms with an anti-Semitic character were women (8.4 per cent in 2011). The average age of registered suspects in these types of incidents was 23.1 in 2010 and 24.7 in 2011. Of the registered suspects concerning incidents involving the use of pejorative terms with a racist character 12 per cent were women in 2010 and 14.1 per cent were women in 2011. The average age of registered suspects was 27.1 in 2010 and 27.3 in 2011.²⁶⁷

6.5 Key developments and trends in legislation and policies relating to extremism.

In the period between June 2012 and May 2013, a local administrative approach to jihadist travellers (people travelling to jihadist war zones to join combat) was established, whereby a mayor can initiate targeted action to disengage individuals from extremism, in cooperation with local police and public prosecution service, the National Coordinator for Security and

²⁶⁵ Netherlands, Tierolf, B., Hermens, N., Drost, L. and Mein, A.G. (2013) *Racisme, antisemitisme, extreemrechts geweld en discriminatie in Nederland: Rapportage incidenten, aangiftes, verdachten en afhandeling 2010 en 2011*, Utrecht, Verwey-Jonker Instituut..

²⁶⁶ Netherlands, Tierolf, B., Hermens, N., (2013) *Tweede rapportage racisme, antisemitisme en extreemrechts geweld in Nederland: incidenten, aangiftes, verdachten en afhandeling 2012*, Utrecht, Verwey-Jonker Instituut.

²⁶⁷ Netherlands, Tierolf, B., Hermens, N., Drost, L. and Mein, A.G. (2013), *Racisme, antisemitisme, extreem-rechts geweld en discriminatie in Nederland: Rapportage incidenten, aangiftes, verdachten en afhandeling 2010 en 2011*, Utrecht, Verwey-Jonker Instituut.

Counterterrorism (*Nationaal Coördinator Terrorismebestrijding en Veiligheid*, NCTV) and the General Intelligence and Security Service (*Algemene Inlichtingen- en Veiligheidsdienst*, AIVD). The local administrative approach is part of the National Contra terrorism (CT) strategy for 2011-2015, which outlines a joint approach to terrorism and extremism, of combatting terrorism by recognising and tackling extremism at an early stage. International jihadism is considered the main source of terrorist threat to the Netherlands.²⁶⁸

The results of 78 local projects that were implemented between 2007-2011 within the Polarisation and Radicalisation Action Plan²⁶⁹ were inventoried in 2012. Researchers found that projects initially focused primarily on radicalisation and polarisation but shifted to identifying and preventing (breeding grounds for) polarisation. From a focus on creating favourable conditions and gaining a better understanding of polarisation and radicalisation, they switched to working with target groups and directly addressing the breeding grounds of polarisation and radicalisation. The projects over the years also grew in scale.²⁷⁰

In order to consolidate knowledge gained within previous policy and projects, the NCTV commissioned the development of several products making knowledge on polarisation, radicalisation, extremism and potentially violent individuals accessible to professionals, municipalities and trainers by means of an online 'toolbox'. This toolbox contains e-learning modules for social professionals, for example on how to recognise and deal with radicalisation ((Islamic or right wing extremist) of individuals as well as an overview of available training for professionals. The documentation section of the toolbox presents all information products on polarisation, radicalisation and extremism developed by the Ministry of Security and Justice in recent years.²⁷¹

The NCTV is available to municipalities, professionals and social organisations for support in their preventive and proactive activities, thereby continuing the tasks of the knowledge and advice centre Nuansa that existed from 2008-2011.²⁷²

²⁶⁸ Netherlands Ministry of Security and Justice (*Minister van Veiligheid en Justitie*), 'Tweede Voortgangsrapportage Contraterorisme en -Extremisme', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 403966, 2 July 2013; Netherlands Minister of Security and Justice (*Minister van Veiligheid en justitie*), 'Samenvatting dreigingsbeeld terrorisme Nederland 32', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), no. 362553, 13 March 2013.

²⁶⁹ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Eindverslag Actieplan Polarisation en Radicalisering 2007-2011*, available at <https://zoek.officielebekendmakingen.nl/blg-174317.pdf>; Netherlands (2011), Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Beleidsdoorlichting 25.1 (2011) naar het Actieplan Polarisation en Radicalisering 2007-2011*, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2013/07/03/beleidsdoorlichting-25-1-2011-naar-het-actieplan-polarisation-en-radicalisering-2007-2011/lp-v-j-0000003666.pdf.

²⁷⁰ Netherlands, KplusV (2012), *Vijf jaar lokale projecten Polarisation en Radicalisering, Resultaatinventarisatie 2007-2011*, Arnhem, KplusV.

²⁷¹ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*), 'Tweede Voortgangsrapportage Contraterorisme en -Extremisme', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 403966, 2 July 2013; See Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*). 'Toolbox extremisme', Website, available at: <https://toolbox-extremisme.nctv.nl/>.

²⁷² Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Beleidsdoorlichting 25.1 (2011) naar het Actieplan Polarisation en Radicalisering 2007-2011*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2013/07/03/beleidsdoorlichting-25-1-2011-naar-het-actieplan-polarisation-en-radicalisering-2007-2011/lp-v-j-0000003666.pdf.

6.6 Key developments regarding organisations, associations and groups (incl. political parties) with anti-immigrant, anti-Muslim, extremist, xenophobic, neo-Nazi, anti-Roma, anti-LGBT or nationalist agendas that occurred in the Netherlands.

Monitoring of rightwing extremist groups and violence commissioned by the Anne Frank Foundation showed that the number of supporters of so-called 'classic rightwing extremist formations' decreased in the period 2010-2011. So did the number of rightwing extremist public demonstrations and incidents of violence with a rightwing extremist character. According to the researchers, who analysed police data and information from other sources, there were 31 registered incidents of violence with a rightwing extremist character in 2010 and 18 in 2011. The decrease in supporters, demonstrations and incidents continues a trend that began a few years earlier.²⁷³

The Freedom Party (*Partij voor de Vrijheid, PVV*), which has an anti-immigrant and anti-Muslim agenda, won 15 (out of 150) seats in parliamentary elections on 12 September 2012. Since then, the party has been rising in the polls (and would have won 25 seats on 31 October 2013 according to Ipsos Political Barometer, and 30 seats on 3 November 2013 according to peil.nl).²⁷⁴

Geert Wilders, leader of the PVV, is looking to collaborate with political parties in other EU Member States for the 2014 European Parliament elections. He said he intends to create an alliance 'against' the European Union with nationalist parties in other Member States.²⁷⁵ On 13 November 2013, Wilders and Le Pen, leader of the French Front National, held a press conference to announce their collaboration in Europe.²⁷⁶ Wilders stated earlier that he no longer feels hindered by the possibly negative reactions of the press and voters to the anti-Semitic and/or racist profile of the parties he is engaging with.²⁷⁷

²⁷³ Netherlands, Tierolf, B., Hermens, N., Drost, L. and Mein, A.G. (2013), *Racisme, antisemitisme, extreem-rechts geweld en discriminatie in Nederland: Rapportage incidenten, aangiftes, verdachten en afhandeling 2010 en 2011*, Utrecht, Verwey-Jonker Instituut.

²⁷⁴ Netherlands, Ipsos (2013), 'De politieke barometer', Web page, available at www.ipsos-nederland.nl/content.asp?targetid=621 ; and Netherlands, No ties (2013), 'Peil.nl', Website, available at www.peil.nl, accessed on 4 November 2013.

²⁷⁵ See for example: Netherlands, NOS (2013), 'Wilders wil anti-Europa alliantie', News release, 7 October 2013, available at nieuwsuur.nl/onderwerp/559704-wilders-wil-antieuropa-alliantie.html ; Netherlands, Cuperus, R. (2013), 'Waar is Geert Wilders in hemelsnaam mee bezig?', 8 July 2013, available at www.volkskrant.nl/vk/nl/6484/Rene-Cuperus/article/detail/3472154/2013/07/08/Waar-is-Geert-Wilders-in-hemelsnaam-mee-bezig.dhtml.

²⁷⁶ Netherlands, NOS (2013), 'Wilders: historisch verbond met Front National', News release, 13 November 2013, accessible at [http://nos.nl/video/574613-wilders-historisch-verbond-met-front-national.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+nosjournaalvideo+\(NOS+Journaal+video's\)](http://nos.nl/video/574613-wilders-historisch-verbond-met-front-national.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+nosjournaalvideo+(NOS+Journaal+video's)).

²⁷⁷ Netherlands, NOS (2013), 'Wilders: samenwerken met anderen', News release, 2 July 2013, accessible at nos.nl/artikel/525087-wilders-samenwerken-met-anderen.html.

6.7 Promising practices

6.7.1 Provide a maximum of three new promising practices relating to racism, xenophobia and related intolerance, putting each one in a separate table

Title (original language)	Discrimineer jij onbewust? Test het zelf! Introductie in gelijke behandeling voor de uitzendbranche
Title (EN)	Do you discriminate without being aware of it? Test it yourself! Introduction to equal treatment for the temporary employment sector
Organisation (original language)	Algemene Bond Uitzendondernemingen (ABU)
Organisation (EN)	Federation of Private Employment Agencies
Government / Civil society	Civil society
Funding body	ABU
Reference (incl. url, where available)	Hoogeweg, E. (2012), <i>Discrimineer jij onbewust? Test het zelf! Introductie in gelijke behandeling voor de uitzendbranche</i> , Badhoevedorp, ABU, available at: www.tekstwerkplaats.nl/wordpress/wp-content/uploads/ABU-Boekje-Discrimineer-jij-onbewust.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Published in 2012.
Type of initiative	Brochure with a self test and a website with additional information where users need to register first
Main target group	Staff of temporary employment agencies
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>In 2011 an investigation among temporary employment agencies was carried out, which consisted of mystery calls by researchers posing as clients who said to search temporary workers but wished to exclude Turkish/Moroccan/Antillean/Surinamese people from the selection. 73 per cent of staff of temporary employment agencies who were confronted with such a request were willing to comply with it. The ABU subsequently developed an improvement programme for its members to educate staff of temporary employment agencies about discrimination. Among the instruments offered to temporary employment agencies was this brochure. Readers are requested to answer ten questions they may be confronted with in their work, for example: 'Should I comply with a call center's request for a temporary worker who speaks Dutch without an accent?' and can read on to find the correct and incorrect ways to handle each type of request or situation.</p> <p>The brochure points to the ABU website for additional information (registration necessary): www.abu.nl/discriminatie.</p>

Highlight any element of the actions that is transferable (max. 500 chars)	The concept of the brochure and part of the text itself could be used for staff of temporary employment agencies in other countries.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The brochure can be used and reused for (new) staff of temporary employment agencies as long as there are no changes in relevant legislation.
Give reasons why you consider the practice as having concrete measurable impact	<p>The brochure has been disseminated among the ABU's member organisations. Information on the subject of discrimination is included in all ABU publications as well as information on the instruments they have made available (such as the brochure). At every meeting with its members, the ABU addresses the issue of discrimination, discriminatory requests of clients and available instruments for temporary employment agencies.</p> <p>A year after research (see above) had shown that 73 per cent of staff of temporary employment agencies were willing to accommodate discriminatory requests from clients, the ABU commissioned a similar investigation. This showed that 43 per cent of staff of ABU members were willing to comply with a discriminatory request from clients. The ABU acknowledged that this is not a desirable situation but is convinced that the antidiscrimination measures (such as the ABU brochure), implemented by temporary employment agencies in the past year have had and will continue to have a positive effect.²⁷⁸</p>
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	The brochure could be translated and adjusted to fit the national situation in any other European MS and be offered to staff of temporary employment agencies there.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	At the request of the ABU an expert group gave advice to the ABU regarding their improvement programme, which included the brochure. The expert group consisted of representatives of the National Consultation Platform on Minorities (<i>Landelijk Overleg Minderheden, LOM</i>), the regional antidiscrimination agencies (<i>regionale meldpunten discriminatie</i>), Mexit, the Netherlands Institute for Social Research (<i>Sociaal-Cultureel Planbureau, SCP</i>) and the Netherlands Institute for Human Rights (<i>College voor de Rechten van de Mens</i>).
Explain, if applicable, how the practice provides for review and assessment.	There is no instrument for evaluating the brochure, but the ABU is in close contact with its members and continually requests their feedback on whether the brochure (and other instruments for addressing discrimination) is helpful and whether adjustments or new instruments are needed to tackle this issue.

Title (original language)	Selecteren zonder vooroordelen: voor de beste match!
Title (EN)	Selecting without prejudice: for the best match!
Organisation (original language)	College voor de Rechten van de Mens

²⁷⁸ Netherlands, Salomons, A. (2013), *Mystery Calling*, Lijnden, Algemene Bond Uitzendondernemingen (ABU).

Organisation (EN)	Netherlands Institute for Human Rights
Government / Civil society	Government, independent administration
Funding body	PROGRESS Programme for Employment and Social Solidarity of the European Union
Reference (incl. url, where available)	Netherlands Institute for Human Rights (2013), <i>De juiste persoon op de juiste plaats. De rol van stereotypering bij de toegang tot de arbeidsmarkt</i> , Utrecht, Netherlands Institute for Human Rights, available at: http://zoekservice.mensenrechten.nl/StippWebDLL/Resources/Handlers/DownloadBestand.ashx?id=2030 Information about the training is available at: https://mensenrechten.nl/selecteren/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	The research and subsequent development of a training took place in 2013. The training is expected to become available as of 2014.
Type of initiative	Research and training
Main target group	<ul style="list-style-type: none"> • Teachers and educational managers in human research education • students in human research education
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The project consisted of research, by the Netherlands Institute for Human Rights, into stereotyping and discrimination in recruitment procedures, which was used to develop a practical training for students (specifically at universities and colleges) who are studying to become human resource professionals. The research focused on stereotyping and discrimination regarding persons with a dark skin colour, persons with a disability, elderly people, young people and women. The practical training, which consists of four modules, will become available to teachers and educational managers (for free) as well as to others who may be interested in 2014. The Netherlands Institute for Human Rights may also be invited to provide a workshop.
Highlight any element of the actions that is transferable (max. 500 chars)	The training modules and available information can be used by all HR professionals in the Netherlands.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The training is actively promoted among different target groups, by means of the website www.mensenrechten.nl/selecteren as well as social media. Relevant universities and colleges have been (and will continue to be) informed about the training by the Institute. The Institute regularly organises workshops and guest lectures to promote the training among universities and colleges. The training will be updated to include relevant developments in policy and legislation as well as up to date examples. The training is also promoted among human resource management professionals.

<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>A number of universities and colleges already use the educational material that has already been released by the Institute.</p> <p>The effects of the training will be measured sometime after the training has been made available in 2014 (see below).</p>
<p>Give reasons why you consider the practice as transferrable to other settings and/or Member States?</p>	<p>The training modules could serve as a basis for a similar training for students of human resource management in other Member States, if the legal and policy information as well as the examples are adapted to the situation in the MS.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>A feedback group, consisting of representatives of universities, colleges, the Netherlands knowledge centre on discrimination Art.1 and an employers organisation, was involved in the project.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The training material is being tested, in a number of pilot sessions, provided by the Institute, in the Autumn of 2013. The material will subsequently be fine tuned and made available in April 2013.</p> <p>The Institute has developed an evaluation model for the training in cooperation with Utrecht University, which consists of a satisfaction survey and a performance measurement.</p>

6.8 Case Law

6.8.1

List all judgements made in criminal courts in 2013 that highlight racist and xenophobic bias motivations (Article 4 of Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law), using the table below.

Article 4

Racist and xenophobic motivation

For offences other than those referred to in Articles 1 and 2, Member States shall take the necessary measures to ensure that racist and xenophobic motivation is considered an aggravating circumstance, or, alternatively that such motivation may be taken into consideration by the courts in the determination of the penalties.

Judgments made in criminal courts can be retrieved from the case law database of the judiciary (see www.rechtspraak.nl) and from the antidiscrimination case law database of Art.1 (via www.art1.nl). However, these databases are incomplete as not all criminal judgments are published. The Discrimination Instruction of the Public Prosecution Service prescribes that when regular crimes with a discriminatory motive or aspect (*commune discriminatie*) are brought before a judge, the discriminatory aspect should be considered an aggravated circumstance and the requested sentence increased by 50 or even 100 per cent.²⁷⁹ However, the

²⁷⁹ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2007, 2011), *Aanwijzing Discriminatie*, available at: www.om.nl/algemene_onderdelen/uitgebreid_zoeken/@155214/aanwijzing/.

Penal Code contains no article which defines racist or xenophobic motivation (or any discriminatory aspect) as an aggravating circumstance; nor are criminal cases for regular offences with a discriminatory character registered separately. The judiciary's case law database was therefore searched using several search terms to retrieve case law on offences where a judge considered racist and xenophobic motivation an aggravating circumstance. This produced no results for 2013.²⁸⁰

6.9 Any other significant developments in relation to racism, xenophobia and related intolerances

6.9.1

In October 2013, the annual activism around the possibly racist nature of the tradition of Sinterklaas, which presents black-faced Black Petes (*Zwarte Pieten*) as assistants of a white Sinterklaas, triggered unprecedented and fierce public debate when 21 people lodged a formal complaint with the Municipality of Amsterdam, demanding cancellation of the festivities surrounding the entrance of Sinterklaas and the Black Petes in Amsterdam. The debate was also fuelled by a letter from UN rapporteurs requesting the Dutch government for information in view of the possibly racist nature of Black Pete,²⁸¹ publication of the fourth ECRI report on the Netherlands,²⁸² a public statement by the National Ombudsman that the political climate in the Netherlands is discriminatory²⁸³ and several incidents of prominent TV personalities making remarks that were considered racist.²⁸⁴ In response, the Mayor of Amsterdam sent a letter to the City Council, stating that the Complaints Commission saw no legal grounds for the complaints. The mayor also called on all parties to strive to change the figure of Black Pete (for example with multi-coloured Petes) to realise a Sinterklaas tradition enjoyable for all within 5-10 years time.²⁸⁵ The debate on Black Pete developed into a debate about racism in the Netherlands, which continued until the Sinterklaas celebration on 5 December. On 21 November 2013, the UN rapporteurs who previously addressed the Dutch government on the issue of Black Pete, called on the government to 'take the lead in facilitating the growing national debate, in order to promote understanding, mutual respect and intercultural dialogue'.²⁸⁶

²⁸⁰ <http://uitspraken.rechtspraak.nl>, consulted on 10 September 2013 using search terms "racis*", "discrimin*", "xeno*", "strafverzwar*".

²⁸¹ United Nations, Office of the High Commissioner for Human Rights (2013), *Letter of the Chair-Rapporteur of the Working Group on people of African descent; the Special Rapporteur in the field of cultural rights; the Independent Expert on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance*, 17 January 2013, available at: [https://spdb.ohchr.org/hrdb/23rd/public_-_AL_Netherlands_17.01.13_\(1.2013\).pdf](https://spdb.ohchr.org/hrdb/23rd/public_-_AL_Netherlands_17.01.13_(1.2013).pdf) and Netherlands (2013) letter of the Dutch government, accessible at <http://www.scribd.com/doc/177304035/Het-Nederlandse-antwoord-op-de-VN-brief>.

²⁸² Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*, Strasbourg, Council of Europe.

²⁸³ Netherlands, AVRO, VPRO and VARA (2013), 'Interview with Alex Brenninkmeijer', *Buitenhof*, 20 October 2013.

²⁸⁴ Joop.nl (2013), 'Weer racisme-rel bij RTL', Web page, available at: www.joop.nl/leven/detail/artikel/24036_weer_racisme_rel_bij_rtl/.

²⁸⁵ Netherlands, Mayor of Amsterdam (*Burgemeester van Amsterdam*) (2013). 'Uitspraak bezwaarschriftencommissie intocht Sinterklaas', Letter of the Mayor of Amsterdam to the city council, 30 October 2013.

²⁸⁶ United Nations, Office of the High Commissioner for Human Rights (2013), 'Black Pete & Sinterklaas: UN experts encourage respectful national debate on Dutch tradition', Web page, 21 November 2013, available at: www.ohchr.org/EN/NewsEvents/Pages/Media.aspx?IsMediaPage=true&LangID=E.

The fourth edition of the Discrimination Monitor reported on a test of discrimination among temporary employment agencies, which revealed that native Dutch jobseekers calling on these agencies have a higher chance of being offered work than applicants from non-Western immigrant groups (see chapter 5.3.5).²⁸⁷ In response to this report, the House of Representatives asked the State Secretary for Social Affairs and Employment to bring its findings to the attention of the temporary work agency sector, which she did. According to the State Secretary, the Federation of Private Employment Agencies (*Algemene Bond Uitzendondernemingen*, ABU) and the Dutch Association of Mediation and Employment Agencies (*Nederlandse Bond van Bemiddelings- en Uitzendondernemingen*, NBBU) are already taking action to prevent and combat discrimination, although research has shown that continued attention is needed. The State Secretary will continue to talk to both organisations.²⁸⁸ One of the measures of the ABU is included as a promising practice (see 6.7.1).

The new Law on Work and Social Benefits (*Wet Werk en Bijstand*) will define command of the Dutch language as a prerequisite for receiving social benefits.²⁸⁹ The Netherlands Institute for Human Rights states in its publication *Equal Treatment 2012* that this will mostly affect persons of foreign descent.²⁹⁰ Newcomers and migrants already living in the Netherlands are obliged to integrate into Dutch society by taking a civic integration exam. The rules for taking a civic integration exam abroad became more stringent in 2013. The Netherlands Institute for Human Rights reports that these exams mostly target 'non-Western migrants'. In practice, mostly people of Moroccan descent are affected.²⁹¹

Amnesty International published a study of existing research on the subject of ethnic profiling by Dutch police on 28 October 2013. The report stated that people with an ethnic minority background are more likely to be stopped for Dutch police checks than white natives and that the prevalence of ethnic profiling transcends the level of isolated incidents. Amnesty calls on the Dutch government and the police to acknowledge the existence of ethnic profiling and to publicly denounce it. Moreover, according to Amnesty, the police should make more of an effort to prevent ethnic profiling by means of training for police officers and they should conduct their own investigation, for example by monitoring proactive checks by means of specific stop forms to be filled in by police officers.²⁹²

In a reaction to Amnesty's report, the chief of the national police said that the police reject ethnic profiling and that it only occurs sporadically. He pointed to the fact that there are few complaints of ethnic profiling and noted that the police already address issues of prejudice and

²⁸⁷ Netherlands, Andriessen, A., Nievers, E. and Dagevos, J. (2012), *Op achterstand. Discriminatie van niet-westerse migranten op de arbeidsmarkt*, The Hague, Netherlands Institute for Social Research (*Sociaal Cultureel Planbureau*).

²⁸⁸ Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2013), 'Overleg uitzendbranche over het SCP onderzoek "Op achterstand"', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000019265, 12 March 2013.

²⁸⁹ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2012), 'Brief van de informateurs', Parliamentary Document (*Kamerstuk*), No 33410-15, 29 October 2012, available at: <https://zoek.officielebekendmakingen.nl/kst-33410-15.html>.

²⁹⁰ Netherlands, Holtmaat, R. (ed) (2013), *Gelijke behandeling 2012 : Kronieken en annotaties*, Nijmegen, Wolf Legal Publishers.

²⁹¹ Netherlands, Holtmaat, R. (ed) (2013), *Gelijke behandeling 2012 : Kronieken en annotaties*, Nijmegen, Wolf Legal Publishers.

²⁹² Netherlands, Amnesty International (2013), *Proactief politieoptreden vormt risico voor mensenrechten: etnisch profileren onderkennen en aanpakken*, Amsterdam, Amnesty International, available at : www.amnesty.nl/sites/default/files/public/rapport_etnisch_profileren_ainl_28_okt_2013.pdf

discrimination in police education. He called on citizens to file complaints of ethnic profiling.²⁹³ The Minister of Security and Justice acknowledged that the Amnesty report was important but that it did not reveal a structural practice of ethnic profiling by the Dutch police. He noted that the police pays continuous attention to selecting by objective criteria. Research into ethnic profiling has been conducted in the Amsterdam police unit and is currently being executed in The Hague. The Minister will meet with the mayors, police chiefs and public prosecutors in both municipalities as well as with Amnesty to discuss ways to address ethnic profiling better.²⁹⁴ The National Action Plan on Human rights, presented by the Ministry of the Interior and Kingdom Relations in December 2013, stated that an investigation into racial profiling by the police had been instigated in response to the Amnesty Report and recommendations by ECRI on this subject. It is unclear whether this is the current research in The Hague referred to by the chief of the national police.²⁹⁵

²⁹³ Netherlands, Poltie Netherlands (*Politie Nederland*) (2013), 'Politie wijst etnisch profileren af' , Press release, 28 October 2013, available at: www.politie.nl/nieuws/2013/oktober/28/00-politie-wijst-etnisch-profileren-af.html.

²⁹⁴ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), 'Reactie op het onderzoek van Amnesty International over etnisch profileren door de politie', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 451784, 14 November 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/11/15/reactie-op-het-onderzoek-van-amnesty-international-over-etnisch-profileren-door-de-politie.html .

²⁹⁵ Netherlands, Ministry of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), *Nationaal Actieplan Mensenrechten: Bescherming en bevordering van mensenrechten op nationaal niveau*.

7 ROMA INTEGRATION

7.1 Implementation of action plans, policies, and measures aimed at Roma integration

Roma issues have been on the Dutch political agenda since 2009 and remained so in 2013.²⁹⁶ Activities and publications in 2013 reflected the Netherlands' priorities as formulated in its 2011 contribution to the European Commission for the EU Framework on National Roma Integration Strategies.²⁹⁷

In addition to the general measures related to the four EU-NRIS key areas (i.e. not explicitly aimed at Roma), the Netherlands launched a programme in November 2011 to 'combat crime in general and exploitation of Roma children by members of the Roma community'.²⁹⁸ The national conference 'Multi-Problem Families with a Roma Background, Towards Switching between Care, Law Enforcement and Investigation', organised by the Ministry of Security and Justice in cooperation with the Association of Dutch Municipalities (VNG), the Police Academy, and the Platform of Roma Municipalities, was held on 14 March and gathered 150 professionals from across the country.²⁹⁹ The book 'Multi-Problem Approach to Families with a Roma Background' was presented based on research by the Police Academy. It had been commissioned by the Ministry of Justice.³⁰⁰

The study aimed to consolidate the expertise of professionals working in the field in order to improve cooperation between local and national actors. The Police Academy began its study in January 2011 after consultations between the Ministry of Home Affairs and national chiefs of police.³⁰¹ The study was based on desk research, interviews with participants in four municipal experiments (in Nieuwegein, Veldhoven, Ede and Lelystad), and interviews with 21 key persons from the police, educational and social institutions, ministries, the Public Prosecution Service, the Child Protection Service, and the Platform of Roma Municipalities.³⁰²

The research was part of the Ministry of Security and Justice's programme 'Combat Crime in General and Exploitation of Roma Children by Members of the Roma Community', which in

²⁹⁶ Netherlands, Art.1 (2013), *FRANET National Focal Point, Social Thematic Study, The situation of Roma, 2012*, Rotterdam, Art. 1, Dutch knowledge center on discrimination, available at:

<http://fra.europa.eu/sites/default/files/situation-of-roma-2012-nl.pdf>.

²⁹⁷ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), *Policy Measures in the Netherlands for the social inclusion of Roma*, 16 December 16 2011, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf.

²⁹⁸ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), *Policy Measures in the Netherlands for the social inclusion of Roma*, 16 December 16 2011, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf.

²⁹⁹ Netherlands, Association of Dutch Municipalities (*Vereniging van Nederlandse gemeenten*) (2013), *Landelijke kennisbijeenkomst Multiprobleemgezinnen met een Roma achtergrond. Schakelen tussen zorg, handhaving en opsporing, Lelystad, 14 Maart 2013*, available at http://www.vng.nl/files/vng/nieuws_attachments/2013/20130405-congres-roma.pdf.

³⁰⁰ Sollie, H., Wijkhuijs, V., Hilhorst, W., Van der Wal, R. and Kop, N. (2013), *Aanpak multi-problematiek bij gezinnen met een Roma-achtergrond. Een kennisfundament voor professionals*, The Hague, Boom / Lemma.

³⁰¹ Sollie, H., Wijkhuijs, V., Hilhorst, W., Van der Wal, R. and Kop, N. (2013), *Aanpak multi-problematiek bij gezinnen met een Roma-achtergrond. Een kennisfundament voor professionals*, The Hague, Boom / Lemma.

³⁰² Sollie, Wal, R. and Kop, Sollie, H., Wijkhuijs, V., Hilhorst, W., Van der Wal, R. and Kop, N. (2013), *Aanpak multi-problematiek bij gezinnen met een Roma-achtergrond. Een kennisfundament voor professionals*, The Hague, Boom / Lemma, p. 73.

turn is part of national policy on Roma inclusion.³⁰³ The programme has three tracks: 1) strengthen and safeguard knowledge by collecting data and carrying out research to facilitate an individualised and comprehensive approach; 2) implement four municipal experiments based on ‘carrots and sticks’; 3) combat cross-border child exploitation and criminality through European cooperation.³⁰⁴

Attention was also raised in parliament when the Minister of Security and Justice was questioned following media exposure of Roma children involvement in criminal activities.³⁰⁵ The Minister of Security and Justice and the Minister of Social Affairs and Employment responded in a joint letter referring to the findings of the study.³⁰⁶ They referred to the evaluation of the programme foreseen at the end of the year and decided to extend financial support to the Platform of Roma Municipalities for another year (2013). The Roma Strategy was conceived as a means to handle international exchanges with other European countries as well as to tackle human trafficking including child abuse. According to the government, the National Roma Contact Points of the European Commission and the monitoring study on the four main NSRI domains (education, employment, housing and public healthcare) added by the Dutch priority programme are instrumental.

A corresponding initiative was taken by the Netherlands through the creation of a European Working Group on Child Abuse, announced on the occasion of the 8th EU Roma-Platform – dedicated to Children and Youth – by the Dutch National Roma Focus Point, joined thus far by Poland, the Czech Republic, Romania, Bulgaria and Croatia.³⁰⁷ This initiative was mentioned in a letter from the Minister of Foreign Affairs to Parliament discussing the EC (draft) proposal of 26 June regarding a Council Recommendation on effective Roma integration measures in Member States.³⁰⁸ In this letter, the government lauded the European Commission’s explicit mention of combating child abuse and the protection of women (‘contrary to the earlier

³⁰³ Netherlands, Minister of the Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), *Policy Measures in the Netherlands for the social inclusion of Roma*, 16 December 16 2011, available at: http://ec.europa.eu/justice/discrimination/files/roma_nl_strategy_en.pdf

³⁰⁴ National knowledge meeting Multi problem families with a Roma background: linking care with law enforcement and investigation (*Landelijke kennisbijeenkomst Multiprobleemgezinnen met een Roma achtergrond. Schakelen tussen zorg, handhaving en opsporing*), Lelystad, 14 maart 2013, p. 14, available at www.vng.nl/files/vng/nieuws_attachments/2013/20130405-congres-roma.pdf ;

See as well: *Roma stories around the EU, Country the Netherlands: Carrot and Stick*, available at http://ec.europa.eu/justice/discrimination/files/roma_stories_2013/netherlands_en.pdf

³⁰⁵ Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), ‘Vragen van de leden Marcouch en Oosenbrug (beiden PvdA)aan de minister van Veiligheid en Justitie over de inzet van hun ouders van minderjarige kinderen voor het plegen van misdrijven’, No. 2013Z05240, 15 March 2013. ; Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2013), ‘Vragen van de leden Azmani en Dijkhoff (beiden VVD) aan de staatssecretaris van Veiligheid en Justitie over het bericht «Criminele Roma-families zetten eigen kinderen in’ , No. 2013Z05445, 19 March 2013.

³⁰⁶ Netherlands, Minister for Security and Justice and Minister for social Affairs and Employmen (*Minister van Veiligheid en Justitie and minister voor Sociale Zaken en Werkgelegenheid*), (2013) ‘Reactie op het rapport 'De aanpak van multi-probleemgezinnen met een Roma achtergrond', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 398526, 4 July 2013, available www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/11/reactie-op-het-rapport-de-aanpak-van-multi-probleemgezinnen-met-een-roma-achtergrond/lp-v-j-0000003756.pdf.

³⁰⁷ July 27, Brussels. Personal notitions by Peter Jorna.

³⁰⁸ Netherlands, Minister of Foreign Affairs (*Minister van Buitenlandse Zaken*) (2013), ‘Nieuwe Commissievoorstellen en initiatieven van de lidstaten van de Europese Unie’, Letter to The House of Representatives (*Tweede Kamer der Staten-Generaal*), 30 August 2013, Parliamentary document (*Kamerstuk*) 22 112-1675, p. 5, available at <https://zoek.officielebekendmakingen.nl/kst-22112-1674.html>.

communication of 2011').³⁰⁹ The minister reiterated the Netherlands' approach and its justifications, which is also reflected in budgetary terms. The government sees no reason to assign additional funds for this set of policy measures as it does not support direct budget allocations to specific societal target groups in Dutch society.³¹⁰

The Minister of Foreign Affairs also stated that on the advice of the European Commission, the Netherlands has decided to conduct a monitoring study on Roma inclusion every two years, taking into account the four EC domains plus the Dutch priority on child abuse and early marriage. The government underlined that this will be a qualitative study since Roma are not registered as such in the municipal personal records database (*Gemeentelijke Basisadministratie*, GBA), making quantitative monitoring difficult.³¹¹ The Monitor was commissioned by the Ministry of Social Affairs and Employment and carried out in 2013 by Movisie, the Netherlands Centre for Social Development.³¹² The base line research began in January. The report was delivered in July 2013 and published in December 2013.³¹³

The researchers qualify the results as 'indicative' and not 'representative', as the Monitor follows a qualitative methodology in which professionals and Sinti and Roma are asked to express their opinions about the social inclusion of Roma and Sinti in the areas of education, work, housing, health and security.³¹⁴ All in all, the research reached 99 respondents, of whom 68 (60 professionals and 8 persons from the 'Roma/Sinti' category) took part in organised working sessions. In-depth interviews were also held with 36 respondents, 14 of them professionals and 22 'Roma/Sinti'. A questionnaire, including 'expectations for the next five years', was filled in by 68 of the 99 respondents.³¹⁵ The research was accompanied by an Advisory Committee in which central and local authorities were represented. Initially, one Roma representative was part of the Advisory Committee, but left after two meetings due to 'mixed feelings'.³¹⁶

From the defined target groups and the indicated research fields, one might infer a wider scope than suggested by the Dutch contribution submitted to the European Commission in 2011. The key domain added by the Netherlands is 'Security', broadly conceived as both criminality (including child abuse and early marriage) and discrimination (vis-à-vis Dutch society as well

³⁰⁹ Minister (Netherlands, Minister of Foreign Affairs (*Minister van Buitenlandse Zaken*) (2013), 'Nieuwe Commissievoorstellen en initiatieven van de lidstaten van de Europese Unie', Letter to The House of Representatives (*Tweede Kamer der Staten-Generaal*), 30 August 2013, Parliamentary document (*Kamerstuk*) 22 112-1675, page 45, available at <https://zoek.officielebekendmakingen.nl/kst-22112-1674.html>.

³¹⁰ Netherlands, Minister of Foreign Affairs (*Minister van Buitenlandse Zaken*) (2013), 'Nieuwe Commissievoorstellen en initiatieven van de lidstaten van de Europese Unie', Letter to The House of Representatives (*Tweede Kamer der Staten-Generaal*), 30 August 2013, Parliamentary document (*Kamerstuk*) 22 112-1675, page 5, available at <https://zoek.officielebekendmakingen.nl/kst-22112-1674.html>.

³¹¹ Netherlands, Minister of Foreign Affairs (*Minister van Buitenlandse Zaken*) (2013), 'Nieuwe Commissievoorstellen en initiatieven van de lidstaten van de Europese Unie', Letter to The House of Representatives (*Tweede Kamer der Staten-Generaal*), 30 August 2013, Parliamentary document (*Kamerstuk*) 22 112-1675, page 65, available at <https://zoek.officielebekendmakingen.nl/kst-22112-1674.html>

³¹² Movisie (2013), Memo to all persons involved, Movisie Projectgroep Monitor Inclusie, 1 February 2013.

³¹³ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie.

³¹⁴ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie, page 4.

³¹⁵ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie.

³¹⁶ Personal information, January 2013.

as intra-group discrimination against Romani women and children). A chapter on contact with public authorities was added. The theme of statelessness reappears throughout the findings.³¹⁷

Main findings of the Dutch Roma and Sinti Inclusion baseline Monitor (not translated in English yet) are described in its Summary.³¹⁸ Only Monitor observations taken over and provided with measures in the ministerial letter will be treated briefly here.

The monitor classifies education as the area with most extensive research done and it identifies problems for Roma and Sinti especially in secondary education (high dropout rates among 15/16 year olds). Though more and more Sinti and Roma succeed in finding work, the low levels of education and discrimination are seen to have an impact on labour market perspectives. Respondents say that Roma and Sinti prefer to hide their identity in employment to avoid discrimination. Poverty and debt are affecting access to housing. Some municipalities participation in the monitoring study continue maintaining one or more campsites, others are discouraging this way of life. Poverty also has an impact on both mental and physical health of Roma and Sinti. Depression and obesity are identified as specific challenges. Concerning safety and security, important changes to traditional patterns are mentioned, in the context of generational conflicts within Roma and Sinti communities. Petty crime, shoplifting, swindle and black market activities are mentioned. Respondents consider human trafficking and forced prostitution (reported in literature) more of an 'eastern European matter' rather than issues present among Dutch Roma and Sinti.³¹⁹

Finally, the Monitor introduced a separate chapter on contacts and relations with public authorities. Despite the progress made, contact is considered as 'sometimes stiff'. The attitude of Sinti to the national government appears to be coloured by the process of World War Two compensation, specifically concerning the allocation of the remaining funds. On the local level, the situation in municipalities is very varied. Often Sinti and Roma do not feel taken seriously or involved in policies concerning them, while public authorities and professionals consider Sinti and Roma as closed communities. This necessitates investment in the contact between public authorities and Roma and Sinti.³²⁰

In a joint response, dated 11 October 2013 and sent to parliament in December 2013, the Minister of Social Affairs and Employment (National Roma Contact Point and coordinating the Dutch Integration Agenda in general), the Minister of Safety and Justice, and the State Secretary of Education, Culture and Science underline that the study's results are indicative, not representative, since quantitative monitoring is not considered possible. According to the letter the monitoring study, commissioned in response to the European Commission's advice to measure the impact of Dutch policies on the situation of Roma and Sinti, takes into account the diversity of Roma and Sinti in the Netherlands as much as possible.³²¹ According to the government, the study shows a large gap between some Roma and Sinti groups and other population groups in the Netherlands, which is partly due to the cultural-historical background of the Roma and Sinti. The presumed closed nature of Roma and Sinti communities and

³¹⁷ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie.

³¹⁸ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie, pp. 7-13.

³¹⁹ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie.

³²⁰ Movisie (2013), *Nulmeting. Ervaringen en meningen van Roma, Sinti en professionals over de sociale inclusie van Roma en Sinti in de domeinen van onderwijs, werk, wonen, gezondheid en veiligheid*, Utrecht, Movisie

³²¹ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Kabinetsreactie Monitor Inclusie (Roma)', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 2 December 2013, reference number 2013-0000143231..

mistrust towards public institutions are mentioned in this context. While the Ministers refer to a number of positive developments, they conclude that the identified problems dominate the results of the study.³²² The Ministers mention the Platform Roma Municipalities as a keypartner in tackling the issues identified. This governmental body of mayors and aldermen is linked to the overall Association of Dutch Municipalities (*Vereniging van Nederlandse Gemeenten*). Members of this Platform are the local authorities of Amsterdam Zuid-Oost, Capelle aan den IJssel, Ede, Enschede, Lelystad, Nieuwegein, Oldenzaal, 's-Hertogenbosch, Utrecht, Nuenen and Veldhoven.³²³

The Ministers formulate the following five conclusions and policy responses in relation to the monitoring study:

- With regard to early childhood education, the letter refers to a covenant between Dutch municipalities and partner organisations (e.g. health centres and healthcare inspectorate) to trace vulnerable children and refer them to early childhood education institutions.
- Concerning school drop outs, the letter refers to the 2006 Programme 'Offensive against School Dropout' (*Aanval op schooluitval*) which aims to reduce the number of early school leavers to 25,000 by 2016, and to the Action plan on youth unemployment (*Actieplan jeugdwerkloosheid*). The letter also refers to a still to be released action plan on fraud, including fraud related to compulsory education.
- Regarding discrimination, the Ministers state that local anti-discrimination facilities are in place for reporting discrimination and getting support.
- Concerning security and criminality, the Programme Tackling exploitation of Roma children by the Ministry of Justice is mentioned. Cases have been brought to court on topics such as theft in association, forced marriage of minors, and serious cases of truancy. The policy programme on Multi-problem families with a Roma background has resulted in a publication which is supposed to be a tool for professionals working at local level.
- Roma and Sinti communities themselves are considered to be key actors in bringing the subjects on forced marriages, cast-off relatives and rights of self-determination to the agenda. Capacity building is aimed at professionals in healthcare and education. Recently, the penal approach of forced marriage has been expanded.

International cooperation is considered an important factor relating to these five Monitor conclusions, including membership of multilateral networks, e.g. the European Multi-disciplinary Platform against Criminal Threats (EMPACT) in which the Netherlands is leading the National Roma Contact Points Network and the Workinggroup on Roma Child Abuse. The letter ends by stating that the situation of the Roma in Romania and Bulgaria to be 'reason for concern' and 'an important pushfactor'.³²⁴

³²² Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Kabinetsreactie Monitor Inclusie (Roma)', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 2 December 2013, reference number 2013-0000143231.

³²³ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Kabinetsreactie Monitor Inclusie (Roma)', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 2 December 2013, reference number 2013-0000143231, page 3.

³²⁴ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), 'Kabinetsreactie Monitor Inclusie (Roma)', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 2 December 2013, reference number 2013-0000143231,

7.2 National Roma integration Strategies

7.2.1

<p>The Netherlands</p> <p>Neither projects nor any earmarked funds are directly related to the NRIS; however, some activities explicitly related to Roma and Sinti do exist in some of the domains mentioned below (especially education). Justice will be briefly dealt with in the funding paragraph (7.4). Directly related to the NRIS (or: Dutch set of general policy measures) is the development and implementation in 2013 of the qualitative baseline Monitor Inclusion Roma and Sinti, budgeted by the national government at 120,000 euro.³²⁵</p>	
<p>EDUCATION</p> <p>Briefly describe and reference key specific measures implementing the National Roma Integration Strategy (NRIS) with respect to education.</p>	
<p>What measures have been implemented to improve access to early childhood education and care?</p>	
<p>What measures have been implemented to ensure Roma children complete at least primary school education?</p>	<p>Primary education: Still in existence in 2013 are the 'Class assistants' in primary schools, recruited from the communities, usually called 'mediators' because of the outreach work (helping hands in classrooms and extracurricular activities, homework, preschool class, and mediating between schools-pupils-parents). Of the several educative parttime mediators starting in 2002 (all Sinti cultural background and female) three are still employed and budgeted by both primary schools and municipalities (2013). Two positive examples in this respect can be reported, in the 'Sinti municipalities' of Nuenen-Gerwen and Gemert. Whereas in Nuenen this parttime mediator function - implemented by the same Sinti woman since 2002 - is budgeted by the school since 2010, in Gemert the funding (12,000 euro a year) is a threeway construction maintained by the school, the municipality and the then existing Netherlands Institute Sinti and Roma (NISR, out of business in 2012). In 2013 the latter part is paid for by the mediator herself with her NISR redundancy compensation (on her own decision), in order to continue the work she considers important. In 2014, a more structural solution is being sought expanding towards preschool and secondary education.³²⁶</p> <p>Pre-school, Primary and secondary education: A network exists of 10 education counselors for Sinti, Roma and Travelers, mediating between schools, pupils, parents and employed by education supporting services (facilities provided / maintained by municipalities). Besides, the Ministry of Education offers primary and secondary school boards the possibility (on an annual base) to apply for extra state budgets relating to pupils in need, to be allocated for purposes of personnel, pupils and material. Among the seven groups distinguished for targeted funding are 'Zigeunerkinderen' ('Gypsy children') (Art. 28), conditioned by: 'a minimum of 4</p>

³²⁵ Email correspondence with the department responsible, the Ministry of Social Affairs and Employment (National Roma Contact Point), 6 January 2014.

³²⁶ Telephone conversation with the municipality of Gemert, 6 January 2014.

	<p>pupils with a cultural background of Roma and Sinti, registered at that particular school' at the beginning and the end of the year'.³²⁷ According to the Ministry of Education, Culture and Science, 32 primary schools are benefitting from the measure in 2013, with a total of 612.450 euro of funding.³²⁸</p> <p>In addition: the National Information and Support Point Specific Target groups (<i>Landelijk Informatie- en Steunpunt Specifieke Doelgroepen / LISD</i>), is a safeguarding centre of expertise, network and monitoring, concerning the following specified vulnerable groups: children of asylum seekers, skippers, Travellers, Roma and Sinti.³²⁹ This function is jointly carried out by KPCgroep (former Catholic pedagogical center) and the expertise center on Curricula Development (<i>Stichting Leermiddelen Ontwikkeling / SLO</i>).</p> <p>- On monitoring: Monitor 2010 – 2011, KPCgroep (ten primary schools with education-counselors). Next monitor foreseen in 2015. The facility (in operation since 1985) was planned to disappear in 2013 (due to budgetary cuts but has been extended to 2013-2018. For this education monitoring study no governmental funds are involved.</p> <p>- The website: SLO will take over the website from KPCgroep, acquiring to this end 21,000 euro per year from the national government.³³⁰</p>
What measures have been implemented to reduce secondary school leaving?	
What measures have been implemented to increase tertiary education and/or to promote vocational training?	--
What measures have been implemented aimed at preventing segregation in education?	--
What examples are there of additional support measures for Roma in education (for example, teaching, and learning programmes in the Romani, language, mediation, after-school learning, parental education, second-chance classes, awareness raising, etc.)?	--
EMPLOYMENT	
Briefly describe and reference key specific measures implementing the NRIS with respect to employment.	
What measures have been implemented under the principle of equal treatment to reduce the employment gap between Roma and non-Roma?	--
What measures have been implemented to encourage Roma integration into the workplace (for example, mediation, tailored activation measures, access to open labor markets,	Due to cuts in local and national budgets (2012), promising practices were reduced in 2013, e.g. the one good practice proven effective for a decade among Sinti and Roma,

³²⁷ The Netherlands (2013), Government Gazette of the Kingdom of the Netherlands (*Staatscourant*) (2013), 9 April 2013, No. 9088 and 9 October 2013, No. 27624.

³²⁸ E-mail correspondence with the ministry, 9 December 2013, source: Education Implementation Service (*Dienst Uitvoering Onderwijs / DUO*).

³²⁹ Website including four portals related to the specified groups, available at <http://www.kpcgroep.nl/kpc-groep/overheidsopdrachten/overige-opdrachten/lisd.aspx>, ; OWRS portal available at <http://www.owrs.nl/>

³³⁰ Email correspondence with the ministry of Education, Culture and Science, 8 November 2013.

social enterprises, etc.)	developed by integration consultancy company WSD Group in Brabant region and based on coaching towards (self) employment. ³³¹
What measures have been implemented to provide/promote financial inclusion of Roma through for example, micro-credit loans, and particularly for Roma entrepreneurs?	--
What measures have been implemented to encourage employment of more qualified Roma civil servants in the public sector (public work)?	--
What measures have been implemented to provide personalized employment services for Roma (for example, job search assistance, on-the-job training and life-long learning of Roma)?	--
What measures have been implemented to eliminate the barriers, including discrimination, to re-enter the labor market, especially for Roma women?	--
HEALTH	
Briefly describe and reference key specific measures implementing the NRIS with respect to health and healthcare.	
What measures have been implemented to increase access to quality healthcare, especially for Roma women and children (for example, training health professionals to work with people from different socio-cultural backgrounds)?	--
What measures have been implemented to extend health and basic social security coverage and services (for example, via registration with LAs)?	--
What measures have been implemented to improve the access of Roma to basic emergency and specialized services?	--
What measures have been implemented to increase awareness among Roma of the importance of regular medical check-ups, pre- and post-natal care, family planning, and immunization?	--
What measures have been implemented to ensure that preventive healthcare measures reach out to Roma?	--
What measures have been implemented to prevent prejudiced behavior of health professionals towards Roma?	--
HOUSING	
Briefly describe and reference key specific measures implementing the NRIS with respect to housing.	
What measures have been implemented to promote non-discriminatory access to housing for Roma, including social housing?	--

³³¹ Council of Europe (2011), 'Implementation Report on CM Recommendation (REC 2001) 17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe', CAHROM 20117, Strasbourg, Council of Europe, pp. 16-17.

What measures have been implemented to promote non-discriminatory access to housing for Roma, including social housing?	--
What measures have been implemented that promote desegregation of the housing situation of Roma communities?	--
What measures have been implemented to facilitate local integrated housing approaches with special attention to public utility and social service?	--
What measures have been implemented to improve the availability, affordability, and quality of social housing and halting sites (where applicable)?	Local funding by a number of x-municipalities providing and maintaining campsites / locations for mobile homes. Generally, little progress in this field is reported in 2013 due to budgetary cuts and 'tug-off' frictions between municipalities and housingcorporations.
FUNDAMENTAL RIGHTS & NON-DISCRIMINATION	
Briefly describe and reference key specific measures implementing the NRIS to promote fundamental rights and non-discrimination, combating anti-Roma crime.	
What measures have been implemented to step up the fight against discrimination and racism affecting Roma people?	1. In the framework of the EC Progress Call for Proposals in the year 2013-2014 (JUST/2013/PROG/AG/AD, likewise for 2012-2013): by the Dutch government the Roma issue is classified among the priorities for a number of arguments: 1) the Dutch NSRI 2011, 2) EC-Assessment 2012, 3) Platform Roma Municipalities, 4) Roma themselves and 5) (expected) political interest for this issue. Available budget: 250.000 Euro for one or two projects. ³³² 2. Racism Monitor (Verwey Jonker Instituut, March 2013). Financed by the Anne Frank Foundation (not by government). Methodology differs from the first nine reports (University Leiden/Anne Frank Foundation): mainstreamed into reporting racial, religious, anti-semitism and based on police data, for reasons of comparability. Roma used to be part in the earlier reports or reported specifically (See Roma and Sinti Cahier, Anne Frank Foundation, Amsterdam, 2005). See also chapter, 7.5.
What measures have been implemented to step up the fight concerning anti-Gypsyism and/or hate crime against Roma?	--
What measures have been implemented to raise awareness of the societal interest of Roma integration, for example opportunities for intercultural encounters that may support such awareness and facilitate de-stigmatization?	--

7.3 Involvement of local authorities and civil society in the development, implementation, and monitoring of NRIS

7.3.1

Since 2009, several of the Dutch municipalities dealing with Roma related policies operate together in what is called the 'Platform Roma Municipalities'. This governmental body of

³³² The Netherlands, Ministry of Home Affairs, National Anti-discrimination Contact point (2013), 'Ad hoc Interdepartmental Working Group', 1 juni 2012 and 2 juli 2013.

mayors and aldermen, assisted by their officials, is linked to the overall Association of Dutch Municipalities (*Vereniging van Nederlandse Gemeenten/VNG*). Members of this Platform are the ‘Roma municipalities’: Amsterdam Zuid-Oost, Capelle aan den IJssel, Ede, Enschede, Lelystad, Nieuwegein, Oldenzaal, ’s-Hertogenbosch, Utrecht and Veldhoven. In 2013 one of the ‘Sinti municipalities’ joined the Platform. The national government considers the Platform Roma Municipalities as keypartner for cooperation, allocating 60,000 euro a year since 2010, for developing perspectives and sharing best practices concerning law enforcement and integration. In 2013, the Platform of Roma Municipalities was involved in the organisation of the national conference on Multi-Problem Families with a Roma Background. On that occasion the Police Academy report mentioned under 7.1 was presented and discussed in four workshops with 150 professionals from different institutions across the country.³³³

The platform is involved in the implementation of the programme on child abuse and multi-problem families; four members (Nieuwegein, Lelystad, Veldhoven and Ede) are designated as ‘experimental areas’ (see also section 7.4). The platform can liaise directly and indirectly with the Council of Europe and the European Commission, for example through the Dutch representative in the Ad hoc Committee of Experts on Roma (Cahrom, Council of Europe).

Municipalities and institutions are in the position to contact the Ministry of Home Affairs and Kingdom relations for support in terms of general knowledge and expertise in cases relating to upbringing, safety, going to school, violence, debts, health problems.³³⁴ For this mainstream project titled Comprehensive Approach (*Integrale Aanpak*), aimed at transformations and innovations in the social domain, the Ministry of Home Affairs and Kingdom relations has an expert on Travellers issues at its disposal on an ad hoc consultancy base. Moreover, expertmeetings are organized at local request, in which different ministries are participating (Security and Justice, Social Affairs and Employment, Home Affairs), together with the Association of Dutch Municipalities, the Platform Roma Municipalities and the Police Academy.³³⁵

The involvement and consultation of Sinti, Roma and Travellers in the development, implementation and monitoring of NRIS is far from structural or regular, as has been observed by European monitoring and assessments.³³⁶ For the Police Academy research and its presentation, one Rom professional – not a member of the Roma group under study – was consulted on the draft report and participated in the national conference.

More frequent and formalised consultations took place gradually in the course of 2013. In addition to the monitoring study which asked Roma and Sinti to provide information, the Ministry of Healthcare, Welfare and Sport intensified the dialogue with Sinti and Roma keypersons and professionals in the (politically) sensitive framework of the World War Two II Reparation Funds (*Afwikkeling van het Naoorlogs Rechtsherstel voor Sinti en Roma*).³³⁷ On 29

³³³ Personal information at the National knowledge meeting Multi problem families with a Roma background: linking care with law enforcement and investigation (*Landelijke kennisbijeenkomst Multiprobleemgezinnen met een Roma achtergrond. Schakelen tussen zorg, handhaving en opsporing*), Lelystad, 14 maart 2013.

³³⁴ Email correspondence with the Ministry of Home Affairs and Kingdom relations, 18 November 2013.

³³⁵ Email correspondence with the ministry of Home Affairs and Kingdom relations, 18 November 2013 and 6 January 2014.

³³⁶ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands, Strasbourg*, Council of Europe ; European Union, European Commission (2013), *The European Union and Roma – Country Factsheet, The Netherlands*, available at at : http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2013/netherlands_en.pdf

³³⁷ Personal communications with the Ministry and with Sinti and Roma (July 2013); also: Netherlands, State Secretary for Health, Welfare and Sports (*Staatssecretaris voor Volksgezondheid, Welzijn en Sports*) (2012), Letter

November this department officially invited 25 Roma and Sinti in person for a Round Table meeting at 12 December 2013, based on an agenda (goals and activities for remaining funds, next steps in 2014) and in attendance of the responsible State Secretary.³³⁸

7.4 Funding for Roma integration

As mentioned before, the monitoring study on the Dutch general set of policy measures concerning Roma and Sinti ('baseline Monitor'), has been budgeted in 2013 to an amount of 120,000 euro (see section 7.1). Another 60,000 euro was allocated by the same Ministry (Social Affairs and Employment) to the Platform Roma Municipalities on an annual basis since 2010.³³⁹ The Ministry of Security and Justice funded the study carried out by the Police Academy (2011-2013) resulting among others in a handbook for professionals, which was presented at a conference in March 2013.³⁴⁰ Information on the funds allocated to the Police Academy project (2011-2013) also included the conference organisation (18,000 euro) and 3,900 euro for the editing of the book.³⁴¹

Funding of the four local experiments (*Proeftuingemeenten*) can be estimated to be 300,000 euro.³⁴² The municipalities of Lelystad (250 Roma), Ede (170), Nieuwegein (400) and Veldhoven (335) are funded in the framework of Multi-problem families with a Roma background and the Action plan Tackling exploitation of Roma children by Roma. Both programmes are currently evaluated on their effectiveness and possible continuation. Roughly, these four pilots were funded annually with similar amounts which could be allocated locally to specific coordination tasks. To this end, the municipality of Lelystad - known for its long term and locally funded approach on education, healthcare and law enforcement (since 2006) - attributed the acquired 75,000 euro in 2013.³⁴³ The municipality of Veldhoven was also funded by this pilot project (80,000 euro in 2013)³⁴⁴, managing to maintain its long term policy mixture of law enforcement and socio-educational projects.³⁴⁵ The social domain ('*Samenlevingsopbouw*') of Roma-policies in Veldhoven is funded locally and usually budgeted to an amount of 180,000 euro per year.³⁴⁶

Meanwhile, in 2012, the municipality of Nieuwegein redefined its Roma-focused project called *Wisselgeld* ('loose money') into a Multi-problem project including families with a Roma background. Additionally, the municipality of Nieuwegein is leading in a transnational EU

to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 18 December 2012, Parliamentary Document (*kamerstuk*) No. 33400 XVI- 123, available at <https://zoek.officielebekendmakingen.nl/kst-33400-XVI-123.html>.

³³⁸ Personal communications with Sinti and Roma (December 2013).

³³⁹ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2013), Letter to the House of Representatives (*Tweede Kamer van de Staten-Generaal*), Parliamentary document (*Kamerstuk*) 32 824, nr. 46.

³⁴⁰ Telephone conversation with the Ministry of Security and Justice, 8 January 2014.

³⁴¹ Telephone conversation with the Ministry of Security and Justice, 8 January 2014.

³⁴² Estimation based on deskresearch, emails and telephone conversations with municipalities and partner organisations, January 2014..

³⁴³ Email correspondence 8 November 2013 and 6 January 2014, Telephone conversation 7 January 2014; Municipality of Lelystad (2013), 'The Approach of multiproblems among families with a Roma background in the municipality of Lelystad: looking back and forward', Lelystad, municipality of Lelystad, May 2013, page 14.

³⁴⁴ Source: '*Response to Technical Questions by the Municipality Council concerning the Budget for 2014-2017*', 17 October 2013, page 17.

³⁴⁵ Implemented by Stimulans, Veldhoven, Roma section, available at http://www.stimulansveldhoven.nl/intermediar_roma.

³⁴⁶ Municipality of Veldhoven (2011), 'Programme Budget 2012', Veldhoven, Municipality of Veldhoven, pp. 89-91.

Labour Plus project funded by the European Commission (DG Regio, INTERREG IVC), in cooperation with the European Towns and Pilot cities Platform (ENTP, Brussels), and in partnership with nine other members from EU states. The project is dedicated towards exchange of knowledge and expertise on Roma and Participation (best practices, case studies).³⁴⁷ This project was submitted and approved in 2011 and is due to be finished in 2014. The total budget for Nieuwegein is 335.000 Euro, out of which 250.950 Euro from European funding (75%) and 84.000 local funding (25%).³⁴⁸ This year, the preparations for a local action plan are prepared for a next Labour Plus proposal on vocational training and employment for vulnerable youth, including Roma.³⁴⁹

Several cities with Roma and/or Sinti populations are listed as members of EU networks (Eurocities) or Council of Europe Alliances (European Alliance of Cities and Regions for Roma Inclusion): Amsterdam, Brabant Stad, Eindhoven, Rotterdam and Utrecht; and Capelle aan den IJssel, Nuenen, Lelystad, Nieuwegein and Veldhoven, respectively. The extent and stage of their activities and European funding remain unclear.³⁵⁰

7.5 Discrimination, anti-Gypsyism, hate crime and the protection of fundamental rights

Due to new research methods, the monitor on racism, anti-Semitism, extreme right-wing violence and discrimination in the Netherlands mentions discrimination on racial grounds but does not refer to specific ethnic groups.³⁵¹ Anti-discrimination agency Art.1 Midden-Nederland is one of the few agencies recording Roma-related complaints separately since 2009.³⁵² In 2013, four ‘Roma related’ complaints were filed, related to insurances and housing issues, and reported by Roma themselves.³⁵³

The Dutch Complaints Bureau for Discrimination on the Internet (*Magenta/Meldpunt Discriminatie Internet*) reported that Roma, Sinti and Travellers hardly make use of its services themselves.³⁵⁴ In 2013, up to October, 15 complaints had been filed.³⁵⁵ Of these 15 reportings, Magenta/MDI considered 11 liable to punishment according to article 137c-g,

³⁴⁷ Netherlands, Municipality Nieuwegein (*Gemeente Nieuwegein*) (2013), *Removing Barriers*, available at <http://ris.nieuwegein.nl/Archief/2013/2013-333%20Brochure%20Labour%20Plus.pdf>

³⁴⁸ Netherlands, Municipality of Nieuwegein (*Gemeente Nieuwegein*), 2013, *Voortgangsbrief naar de Gemeenteraad over het Labor Plus project*, Progress Letter of the Mayor and Aldermen (*Burgemeester en Wethouders*) to the City Council, 18 September 2013.

³⁴⁹ Netherlands, Municipality Nieuwegein (*Gemeente Nieuwegein*) (2013), *Voortgangsbrief naar de Gemeenteraad over het Labor Plus project*, Progress Letter of the Mayor and Aldermen (*Burgemeester en Wethouders*) to the City Council, 18 September 2013.

³⁵⁰ European Union, European Commission (2013), *The European Union and Roma – Country Factsheet, The Netherlands*, available at at : http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2013/netherlands_en.pdf

³⁵¹ Netherlands, Tierolf, B., Hermens, L., Drost, L., and Mein, A. (2013), *Monitor racism, anti-Semitism, extreme rechts geweld and discriminatie in Nederland*, Verwey Jonker Instituut, Utrecht.

³⁵² See also Netherlands, Art.1 (2013), FRANET National Focal Point, Social Thematic Study, The situation of Roma, 2012, Chapter 7, Active Citizenship / Rights Awareness, pp. 38-39, Rotterdam, Art. 1, Dutch knowledge center on discrimination, available at: <http://fra.europa.eu/sites/default/files/situation-of-roma-2012-nl.pdf>.

³⁵³ Telephone interview with Art. 1 Midden Nederland, Utrecht, 7 January 2014.

³⁵⁴ Personal information by telephone (Magenta, 6 November 2013).

³⁵⁵ In 2012 30 complaints were filed, according to : Netherlands, Dutch Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet*) (2013), *Jaarverslag 2012*, Amsterdam, Meldpunt Discriminatie Internet.

Dutch penal code.³⁵⁶ The 11 punishable statements on internet contains hatespeech such as ‘All Roma are scum, to be thrown out of the country’, ‘Roma are lyers, thieves and cheats, not having any good properties as these have been bred out’ (2 times), ‘dirty folk those gypsies, creating problems in all countries where they settle; workshy criminal scum of the earth’, ‘Gypsies should be sterilized so they can’t have 20 ones’ (2); ‘Roma are gangsters, thieves and rapists’, ‘Roma destroy our culture, they’re all criminals’, ‘It’s an illusion to thibnk of solutions for the structural problems of any European country with gypsies. They don’t give a shit about society, want to roam, like a plague of grasshoppers, and our ancestors already always chased and routed them away when they settled in their environment. That’s the only way to deal with gypsies’, ‘Roma and Sinti are disgusting, unadapted, criminal scum’, ‘Roma are disgusting scum, when will they finally be exterminated’ and a radio broadcasted song about Gypsies and Travellers campsites (‘all unemployed, growing cannabis, criminal and dangerous’).³⁵⁷

7.6 Any other significant developments in relation to Roma integration.

The Minister for Security and Justice was requested by Parliament to respond to research on mobile banditry.³⁵⁸ The minister responded with a letter and the draft research report in an annex.³⁵⁹ The report was based on research carried out by the Centre for Information and Research on Organized Crime (CIROC, Utrecht University). The programme, financed by the ministry of Safety and Justice, was launched in 2011 with an open-to-the-media seminar, ended with a presentation of its findings on 18 September 2013. The seminar was introduced by the head of the criminology programme referring to three categories of perpetrators, one of them ‘Romanian and Bulgarian criminal networks, many of whom are Roma’.³⁶⁰

The minister stated in his letter that insights into ‘how family clans operate internationally lead to an efficient approach to dismantle such infrastructure’.³⁶¹ He stressed that crimes committed by Roma get no more or less attention than other crimes. Child abuse was also mentioned as an issue to be addressed by a programme implemented with the Minister of Social Affairs and Employment in cooperation with the municipalities.³⁶² Petty crime is expected to be combatted

³⁵⁶ Email correspondence with the Dutch Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet*), 6 January 2014

³⁵⁷ Email correspondence with the Dutch Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet*), 6 January 2014.

³⁵⁸ Netherlands, House of Representatives (*Tweede der Staten-Generaal*) (2013), *Verslag van een algemeen overleg*, Parliamentary document (*Kamerstuk*) No. 28 684-396, p. 12, available at: <https://zoek.officielebekendmakingen.nl/kst-28684-396>.

³⁵⁹ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), ‘Mobiël banditisme, aanpak sinds 2012’, Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 436485 , 9 October 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/10/10/mobi-el-banditisme-aanpak-sinds-2012/lp-v-j-0000004190.pdf.

³⁶⁰ Siegel, D, (2013), ‘Mobile banditry: East and Central -European itinerant criminal bands in the Netherlands’, PPT presentation, slide 11, 18 September 2013, Utrecht, available at http://www.ciroc.nl/presentaties/presentatie_siegel130918.pdf.

³⁶¹ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), ‘Mobiël banditisme, aanpak sinds 2012’, Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 436485 , 9 October 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/10/10/mobi-el-banditisme-aanpak-sinds-2012/lp-v-j-0000004190.pdf.

³⁶² . Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), ‘Mobiël banditisme, aanpak sinds 2012’, Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 436485 , 9

in a comprehensive multi-problem approach to families with a Roma background. The issue of begging was linked to the possibility of penalties through its incorporation in local by-laws (*Algemeen Plaatselijke Verordening*, APV). Shortly thereafter it was integrated in the Penal Code related to human trafficking.³⁶³

The Minister of Social Affairs and Employment presented the Dutch response to the 4th monitoring report of the European Commission against Racism and Intolerance (ECRI) on the Netherlands.³⁶⁴ The monitoring cycle identified Roma, Sinti and Traveller communities as one of the vulnerable groups in the Netherlands,³⁶⁵ and lauded activities carried out at the local level and by the Platform for Roma Municipalities.³⁶⁶ ECRI gave five recommendations to improve the Dutch approach towards Roma integration.³⁶⁷ These included taking responsibility for Roma issues at the level of the national government, the promotion of Roma role models, conducting a needs assessment for living in caravans, and the unequivocal prohibition of Roma-related ethnic registers.

In its response, the Dutch government referred to the ECRI lauding the ‘Roma Platform’ in which municipalities gather their knowledge and expertise.³⁶⁸ The ECRI recommendations were treated in an annex to the letter.³⁶⁹ Regarding the recommendation on central government responsibility, the minister referred to the Platform of Roma Municipalities and the Ministry of Safety and Justice programme on the exploitation of Roma children.³⁷⁰ The recommendation on role models and affirmative action was thought not to comply with the Dutch (mainstreamed) approach to integration; the recommendation related to halting sites for mobile homes was stated not to be in accordance with Dutch law following the repeal of the Caravan Act in 1999, which has since been a municipal responsibility.³⁷¹ The recommendation on separate ethnic registers was endorsed (these are prohibited by law). For the recommendation

October 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/10/10/mobiel-banditisme-aanpak-sinds-2012/lp-v-j-0000004190.pdf

³⁶³ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), ‘Mobiel banditisme, aanpak sinds 2012’, Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 436485, 9 October 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/10/10/mobiel-banditisme-aanpak-sinds-2012/lp-v-j-0000004190.pdf.

³⁶⁴ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*, Strasbourg, Council of Europe, p. 49.

³⁶⁵ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*, Strasbourg, Council of Europe, p. 7.

³⁶⁶ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*, Strasbourg, Council of Europe, p. 7.

³⁶⁷ Council of Europe, European Commission against Racism and Intolerance (ECRI) (2013), *Fourth report on the Netherlands*, Strasbourg, Council of Europe, p. 48-50.

³⁶⁸ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*), ‘Kabinetsreactie ECRI rapport Nederland’. Letter tot the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000152757, 18 November 2013.

³⁶⁹ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*), ‘Kabinetsreactie ECRI rapport Nederland’. Letter tot the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000152757 Annex, 18 November 2013.

³⁷⁰ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*), ‘Kabinetsreactie ECRI rapport Nederland’. Letter tot the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000152757 Annex, 18 November 2013.

³⁷¹ Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*), ‘Kabinetsreactie ECRI rapport Nederland’. Letter tot the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000152757 Annex, 18 November 2013.

on statelessness, especially statelessness transferred to children, reference was made to current legal practice.³⁷²

Several other, mostly one-off, activities related to Roma, Sinti and Travellers – although not linked to the NSRI – took place in 2013, many of them organized by representatives of these communities. These include:

- Within the framework of the ROMED programme (Council of Europe and the European Union), the Netherlands was among five countries selected for the second round of the training-of-trainers, resulting in the certification of two trainers at the closing ROMED Congress.³⁷³ Training (candidate) mediators from Sinti, Roma and Traveller communities is not yet feasible as the required Dutch letter of commitment to the Council of Europe and the EU ‘will take a long time’.³⁷⁴
- Nevertheless, interest in participating in such a training programme in the Netherlands was shown by candidates and civil society.³⁷⁵
- Involvement and commitment to Roma issues was seen in letters to departments and Members of Parliament, for example those asking the Dutch human rights approach abroad to be applied to Roma at home.³⁷⁶
- The CIROC research on mobile banditry received much media attention, particular that referring to Roma involvement.³⁷⁷ Letters were written to the media and the Minister of Security and Justice criticizing the research, its methods, and its impact on Roma in particular and on society in general.³⁷⁸ Other articles followed, presenting a supposed causality between (Roma) culture and criminality (and prostitution).³⁷⁹ A counter-response was again published in the newspaper.³⁸⁰
- The evening radio programme ‘Close to the Netherlands’ (*Dichtbij Nederland*) broadcast a discussion between the chair of the Association of Sinti, Roma and Travellers, VSRWN) and a cultural criminologist.³⁸¹
- Sinti, Roma and Traveller representatives participated in European events. The chair of Platform Roma Netherlands, Kostana Jovanovic, participated in the 4th International

³⁷² Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*), ‘Kabinetsreactie ECRI rapport Nederland’. Letter tot the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2013-0000152757 Annex, 18 November 2013.

³⁷³ ROMED Congress, Brussels, January 17-18, 2013, available at <http://coe-romed.org/node?page=1>

³⁷⁴ Quote from the Dutch official present at the Congress (National Roma Contact Point, 17 January).

³⁷⁵ E-mails to the National Roma Contact Point (20 December 2012; 29 May 2013), informal talks with the ministry of Public Health, Welfare and Sports (15 July 2013) and e-mail to the Roma-Team of Council of Europe (11 June 2013).

³⁷⁶ Letter ERGO network (22 September 2013, not available on website <http://www.ergonetwerk.org>) reacting on Netherlands, Ministry of Foreign Affairs (Ministerie van Buitenlandse Zaken) (2013), *Respect en recht voor ieder mens*, Notition, 4 July 2013.

³⁷⁷ Netherlands, Lensink, H. (2013), ‘Het Zigeunertaboe’, *Vrij Nederland*, 18 September 2013 ; Graanoogst, A. (2013), ‘Dutch underestimate dangers Roma gangs’, *NL Times*, 19 September 2013.

³⁷⁸ Netherlands, Müller, H. (2013), ‘Roma zijn de gehate buitenstaanders zoals de joden ooit’, *De Volkskrant*, 10 October 2013.

³⁷⁹ Netherlands, Ramesar, P. and Roessingh, M. (2013), ‘Roma cultuur maakt slachtoffers’, *Trouw*, 18 October 2013. ; Netherlands, Van der Laan, S. (2013), ‘Prostitutie en mensenhandel onderdeel van Roma cultuur’, *Elsevier*, 18 October 2013.

³⁸⁰ Netherlands, Van Baar, H. (2013), ‘Onderzoeken deugen niet’, *Trouw*, 26 October 2013. ; Netherlands, NTR (2013), ‘Oorzaken mensenhandel in Roma-gemeenschap’, *Dichtbij Nederland*, 18 October 2013.

³⁸¹ Netherlands, NTR (2013), ‘Oorzaken mensenhandel in Roma-gemeenschap’, *Dichtbij Nederland*, 18 October 2013.

Romani Women's Conference in Helsinki on 16-17 September.³⁸² The chair and two other representatives of the Association of Sinti, Roma and Travellers Netherlands participated in the joint European Parliament meeting of the Committees on Fundamental Rights and Gender for Roma in Brussels on 18 September, presenting their organisation and intervening to advocate the lifestyle and need for sufficient campsites for mobile homes. Letters were subsequently sent to the European Commission of Justice, European Parliament, and Fundamental Rights Agency on 24 October 2013.³⁸³

- The Dutch Association of Sinti, Roma and Travellers (*Vereniging Sinti, Roma en Woonwagenbewoners Nederland*, VSRWN), created in 2012, advocates a continued way of life in mobile homes and tries to be a partner for dialogue with public authorities in the domain of housing, education and employment. This national initiative is connected to other grassroots initiatives by Sinti, Roma and Travellers.³⁸⁴

- Finally, Sinti and Roma participated in activities commemorating the Second World War. Among others, the Sinti and Roma roundtable on International Holocaust Memorial Day on 27 January was followed by more informal roundtables related to Holocaust education.³⁸⁵ Other related initiatives took place in the field of (Holocaust) education.³⁸⁶ Royal appreciation (by Princess Beatrix) was shown at the final performance of the Requiem for Auschwitz in the presence of school teenagers (Tilburg, Concertgebouw, 29 October).³⁸⁷

7.7 Promising practices

No promising practices were identified. Internet search and monitoring of developments throughout the year did not reveal a promising practice.

7.8 Case law

No case law was identified. A search of the case law database on www.rechtspraak.nl did not reveal any relevant cases.

³⁸² A contribution titled Roma in the Netherlands was written by another Roma Platform member to inform the conference on the Roma in the Netherlands and send to the Council of Europe (Michelle van Burik 12 September 2013, not published).

³⁸³ These actions are reported by the Association Sinti, Roma and Travellers Netherlands (*Vereniging Sinti, Roma en Woonwagenbewoners Nederland*), available at its website <http://www.vsrwn.tk/>

³⁸⁴ The Association Sinti, Roma and Travellers Netherlands (*Vereniging Sinti, Roma en Woonwagenbewoners Nederland*) presented itself as well to ministries, Parliament and municipalities (Letter 7th of June, not available on internet)

³⁸⁵ Netherlands, National Committee for 4 and 5 May (Nationaal Com 4 en 5 mei) (2013), 'Holocaust Memorial Day op de BU op 23 Januari', Press release, 17 January 2013, available at: www.4en5mei.nl/nieuws/nieuwsbericht/54

³⁸⁶ Netherlands, Sinti Music (2013), 'Een eerbetoon aan Mariet Verberkt en onze Venlose Sinti/Roma kinderen, slachtoffers in de 2de Wereld Oorlog', Web page, available at : www.sintimusic.nl/projects/Margaretha_105 ;, Netherlands, Alfa Foundation / International Gypsy Festival in the Netherlands Stichting Alfa (2013), 'Mijn Eigen Gipsyfestival op School', Webpage, available at: <http://www.gipsyfestival.nl/educatie2.html>

³⁸⁷ Netherlands, Alfa Foundation / International Gypsy Festival in the Netherlands Stichting Alfa (2013), 'Requiem for Auschwitz', Website available at : www.requiemforauschwitz.eu/index.html

8 ACCESS TO JUSTICE AND JUDICIAL COOPERATION

8.1 General Developments

The Minister of Security and Justice sent a legislative proposal to the House of Representatives to change the Advocate Law (*Advocatenwet*). The proposal stipulates that the Dutch Bar Association (*Nederlandse Orde van Advocaten*) will have an independent supervisory board whose members are not advocates, except one. These members are to be appointed by the Minister of Security and Justice.³⁸⁸ The Dutch Bar Association criticised the proposed supervisory structure as it lacks independence vis-a-vis the authorities.³⁸⁹ The Council for the Judiciary also pronounced misgivings for the same reason.³⁹⁰

The Minister of Security and Justice sent a legislative proposal to adjust court fees (*Wetsvoorstel aanpassing griffierechten*) to the House of Representatives in September 2013. Under this proposal court fees will rise by two per cent on 1 January 2014. But in some cases they will double, for example civil cases on appeal.³⁹¹

On 1 October 2013 a new rule took effect raising the personal contributions of people claiming legal aid.³⁹² In some cases, the personal contribution increases by 100 per cent. The Council of State (*Raad van State*) has criticised these changes, stating that they risk undermining the right to access justice as laid down in the Dutch Constitution, the European Convention of Human Rights, and the Charter of Fundamental Rights of the European Union.³⁹³

On 12 July 2013 the State Secretary for Security and Justice sent a letter to the House of Representatives outlining a plan to reform the legal aid system in the Netherlands, one which would entail cutting 85 million euro from the legal aid budget by 2018. The reform would mean that some areas of law like consumer law (including cases involving the Rental Housing Act) and family law involving divorce without children will be excluded from the legal aid system. Gate keepers will play an important role in the new system, deciding on the granting of legal aid. In making their decisions, gatekeepers will consider the claimant's income, the nature of the judicial problem and alternatives to a court procedure. It remains unclear who

³⁸⁸ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), 'Wijziging Advocatenwet ter implementatie van aanbevelingen van de Commissie advocatuur en enkele andere wijzigingen', Web page, available at www.rijksoverheid.nl/documenten-en-publicaties/wetsvoorstellen/2012/11/01/wijziging-advocatenwet-ter-implementatie-van-aanbevelingen-van-de-commissie-advocatuur-en-enkele-andere-wijzigingen.

³⁸⁹ Netherlands, Dutch Bar Association (*Nederlandse Orde van Advocaten*) (2013), 'Orde wil echt onafhankelijk toezicht op de advocatuur', Press release, 11 June 2013, available at www.advocatenorde.nl/9666/studenten/nieuws/orde-wil-echt-onafhankelijk-toezicht-op-de-advocatuur.html.

³⁹⁰ Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2013), Letter to the President of the House of Representatives (*Tweede kamer der Staten-Generaal*), 3 October 2013, available at www.rechtspraak.nl/Organisatie/Publicaties-En-rochures/Researchmemoranda/Documents/2013-6%20Advies%20derde%20nota%20van%20wijziging%20Wet%20positie%20en%20toezicht%20advocatuur.pdf.

³⁹¹ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Wetsvoorstel aanpassing tarieven griffierechten*, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/rapporten/2013/10/02/wetsvoorstel-nader-rapport-aanpassing-van-de-griffierechten/lp-v-j-0000004124.pdf.

³⁹² Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2011), 'Besluit aanpassingen eigen bijdrage rechtzoekenden en vergoeding rechtsbijstandverleners', Vol. 2013, No. 345, available at <https://zoek.officielebekendmakingen.nl/stb-2013-345.pdf>.

³⁹³ Netherlands, Council of State (*Raad van State*) (2013), *Advice W03.13.0127/II*, available at www.raadvanstate.nl/adviezen/zoeken-in-adviezen/tekst-advies.html?id=10901.

will serve as the system's gate keepers.³⁹⁴ The Dutch Bar Association criticized the reform sent to the House of Representatives on 23 September 2013, stating that it is the fourth austerity measure within five years and further undermines the legal position of citizens in the Netherlands.³⁹⁵ After a general meeting of the House of Representatives on 14 November 2013, the State Secretary for Security and Justice announced a major adjustment to the proposal: a general reduction of the allowances of legal aid lawyers.³⁹⁶

The House of Representatives held a public hearing on 19 September 2013 during which representatives of the Dutch judicial system spoke about the growing work load of staff. They vented their concerns about how the judiciary is organised. The increasing work load endangers the quality of work and also threatens to increase the length of procedures. The public hearing was occasioned by a manifesto published by judges from the Leeuwarden Court of Appeal on 14 October 2012.³⁹⁷ For this hearing, the Dutch Association for the Judiciary (*Nederlandse Vereniging voor Rechtspraak*) produced a position paper expressing its concerns about the growing pressure on judges and public prosecutors, which threatens the quality of the administration of justice in the Netherlands. A survey of judges and public prosecutors found that 74.8 per cent of respondents feared a deterioration in the quality of the administration of justice. While government plans (see section 8.3.1) to innovate and digitalise the judiciary may reduce these pressures, the association fears that the time schedule is too ambitious. Budget cuts for the Public Prosecution Service will also undermine the implementation of these plans. A survey among 530 judges and 132 employees of the public prosecution service conducted by Dutch weekly magazine 'Vrij Nederland' and the Dutch Association for the Judiciary (*Nederlandse Vereniging voor Rechtspraak*) shows that 20.6 percent of the judges and 48.5 percent of the employees of the public prosecution service considers the work load too high.³⁹⁸

In September 2013 the Minister of Security and Justice announced budget cuts to the Public Prosecution Service amounting to 134 million euros, or 20 per cent of its current budget. The Minister defended the cuts in a debate with the House of Representatives, claiming they will make the Public Prosecution Service more efficient. The opposition parties remain critical and fear for the quality of the criminal justice system.³⁹⁹

³⁹⁴ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), 'Stelselvernieuwing rechtsbijstand', Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 393870, 12 July 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/stelselvernieuwing-rechtsbijstand/lp-v-j-0000003790.pdf.

³⁹⁵ Netherlands, Dutch Bar Association (*Nederlandse Orde van Advocaten*) (2013), Letter sent to the House of Representatives (*Tweede kamer der Staten-Generaal*), 23 September 2013, available at <http://rechtsbijstandjuistnu.nl/brief-van-nova-aan-de-2e-kamer-nav-miljoenennota-2013/>.

³⁹⁶ Netherlands, State Secretary for Security and Justice (*Staatssecretaris van Veiligheid en Justitie*) (2013), Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 454390, 19 November 2013, available www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/11/20/toegezegde-brief-n-a-v-algemeen-overleg-d-d-14-november-2013/lp-v-j-0000004524.pdf.

³⁹⁷ Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2013), 'Werkdruk bedreigt kwaliteit rechtspraak', Press release, 20 September 2012, available at www.rechtspraak.nl/Actualiteiten/Nieuws/Pages/Werkdruk-bedreigt-kwaliteit-rechtspraak.aspx#.

³⁹⁸ Lensink, H. and Husken, M. (2013), 'De rechter is het zat', *Vrij Nederland*, 10 December 2013.

³⁹⁹ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten-Generaal*) (2013), *Verslag algemene vergadering 11 September 2013*, available at www.tweedekamer.nl/kamerstukken/plenaire_verslagen/detail.jsp?vj=2012-2013&nr=109&version=2.

8.2 Length of proceedings

8.2.1 Key developments relating to length of proceedings that affect courts and tribunals of any type.

The Act Adjusting Procedural Administrative Law (*Wet aanpassing bestuursprocesrecht*) entered into effect on 1 January 2013. It enables judges in administrative law cases to speed up procedures by focusing on dispute resolution.⁴⁰⁰

Paragraph 8.3 of this chapter (E-Justice) describes government plans to provide digital tools to facilitate access to justice. One of the aims is to speed up procedures.

8.2.2 Possible trends relating to the length of proceedings in the Netherlands.

Since 2008, the Council for the Judiciary has set standards for the lengths of proceedings (*doorlooptijdnormen*). These standards consist of two elements: a period of time (the number of weeks or months) in which a case must be closed, and the percentage of cases which must be closed within this time period. With a given standard of for example 85 per cent, 15 per cent of procedures can take longer than the specified time. In 2008 35 standards were set for 35 different procedures. This was changed to 45 standards for 45 different procedures in 2012. In 2012 only 24 of the 45 standards were met. Proceedings became shorter in the period 2009-2012, though improvements in 2012 (compared to 2011) were limited. Some types of procedures even grew lengthier in 2012.⁴⁰¹

As of 1 July 2012 lower courts in the Netherlands can send certain questions on civil law to the Supreme Court to resolve the issue. The Supreme Court has resolved 5 cases in this way since 1 July 2012, 4 cases are pending.⁴⁰² In 2011 a new court procedure was introduced for administrative law cases that aims at the judge finding solutions for the parties rather than legal elements for a verdict. This system is believed to improve the efficiency of justice through less legal rigidity. The system has been implemented in all courts. No evaluation has taken place yet.⁴⁰³

8.3 E-Justice

8.3.1 Key developments relating to technical (IT/ICT) tools aimed at facilitating access to justice through innovative solutions.

⁴⁰⁰ Netherlands Judiciary (*de Rechtspraak*) (2013), 'Wetswijziging geeft bestuursrechter meer armslag', Press release, 7 January 2013, available at www.rechtspraak.nl/Actualiteiten/Nieuws/Pages/Wetswijziging-geeft-bestuursrechter-meer-armslag.aspx.

⁴⁰¹ Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2013), *Jaarverslag Rechtspraak 2012*, The Hague, Raad voor de Rechtspraak, available at www.rechtspraak.nl/Organisatie/Publicaties-En-Brochures/Documents/Jaarverslagen/Jaarverslag-2012.pdf.

⁴⁰² Netherlands Judiciary (*de Rechtspraak*) (2013), 'Prejudiciële vragen aan de civiele kamer van de Hoge Raad', Web page, available at www.rechtspraak.nl/Organisatie/Hoge-Raad/OverDeHogeRaad/Bijzondere-taken-HR-en-PG/Pages/Prejudici%C3%ABLevragenaandecivielekamervandeHogeRaad.aspx.

⁴⁰³ Netherlands Judiciary (*de Rechtspraak*) (2013), 'Zitting nieuwe stijl in het bestuursrecht', Web page, available at www.rechtspraak.nl/Procedures/Landelijke-regelingen/Bestuursrecht/Pages/Zitting-nieuwe-stijl-in-het-bestuursrecht.aspx.

On 5 July 2013 the Minister of Justice and Security sent a letter to the House of Representatives outlining improvements to the criminal justice system.⁴⁰⁴ This letter states that from 2016, the exchange of case files between police, prosecution service, judiciary and other partners like the probation services will be digitalised. From 2016 citizens and attorneys will be able to communicate digitally with the public prosecution service and the judiciary. These are the first steps towards the complete digitalisation of the criminal justice system.

On 11 July 2013 the Minister of Justice and Security sent a letter to the House of Representatives outlining a programme to innovate civil and administrative law in the Netherlands.⁴⁰⁵ The letter expressed the ambition to completely digitalise the Dutch judicial system. This digitalisation will take place in a piecemeal fashion from 2015. In civil procedures one basic procedure will be introduced. A pilot programme with e-courts at the district level (*e-kantonrechters*) will start at the end of 2013 in Den Bosch and Rotterdam.

The Minister of Security and Justice sent a legislative proposal to the House of Representatives on 15 June 2013 concerning widely prevailing offences (like traffic offences).⁴⁰⁶ The proposal would allow police officers to impose penalties on the spot by digital means. The Council of State was critical of the proposal, fearing that administrative expediency will prevail over the rights of citizens to contest their penalties.⁴⁰⁷

The Minister of Security and Justice sent a legislative proposal to the Council of State in October 2013 concerning the use of digital case files. The proposal's ultimate aim is to digitalize the Dutch criminal justice system. It would enable citizens to report all crimes by digital means, though they will still be able to send paper documents to the courts and public prosecution service.⁴⁰⁸

⁴⁰⁴ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), 'Progress on the improvement of the criminal justice, Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 371547, 5 July 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/06/voortgang-versterking-prestaties-strafrechtketen/lp-v-j-0000003728.pdf.

⁴⁰⁵ Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), 'Programma Kwaliteit en Innovatie *rechtspraak*', Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 394323, 11 June 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/06/11/programma-kwaliteit-en-innovatie-rechtspraak/programma-kwaliteit-en-innovatie-rechtspraak.pdf.

⁴⁰⁶ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Memo Tweede Kamer Wet digitale handhaving veelvoorkomende overtredingen*, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/29/memo-tweede-kamer-wet-digitale-handhaving-veelvoorkomende-overtredingen/lp-v-j-0000003839.pdf.

⁴⁰⁷ Netherlands, Council of State (*Raad van State*) (2013), *Advice No. W03.13.0105/II*, 15 May 2013, available at www.raadvanstate.nl/adviezen/zoeken-in-adviezen/tekst-advies.html?id=10857.

⁴⁰⁸ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), 'Opstellen makes possible the digital case file', Press Release, 30 October 2013, available at www.rijksoverheid.nl/ministeries/venj/nieuws/2013/10/31/opstellen-maakt-weg-vrij-voor-elektronisch-strafdossier.html.

8.3.2 Provide an answer to the following questions:

Initiation of court proceedings via online tools:

Is it possible for an individual to initiate court proceedings remotely via online tools?

In administrative law, individuals can initiate court proceedings using online tools. The following administrative courts are open to proceedings using online tools: the Administrative High Court (*Centrale Raad van Beroep*); the Trade and Industry Appeals Tribunal (*College van Beroep voor het bedrijfsleven*); Court of Appeals – fiscal sector; and District courts – administrative sector.⁴⁰⁹

Citizens can report a limited number of criminal facts to the police through digital means, including theft from a vehicle, shop lifting, bicycle theft for example.⁴¹⁰

In case it is possible for an individual to initiate court proceedings remotely via online tools, are there any limitations in term of types of proceedings that can be initiated in this way, etc.

No limitations were found despite those reported above.

In case it is possible for an individual to initiate court proceedings remotely via online tools, is this system a genuine e-alternative (including possibly e-Signature, etc.) to the situation when an individual has to send his/her complaint via (registered) mail or submit it physically to a court?

The online tools are a genuine e-alternative. Citizens need a DigiD (Digital Identity) to initiate proceedings. With a DigiD, users can access numerous online services offered by Dutch government agencies.⁴¹¹ The DigiD is only available to people who are registered in a Dutch municipality and who have a citizen service number (*burgerservicenummer*). Lawyers need a special lawyer's pass (*advocatenpas*) to initiate court proceedings,⁴¹² issued by the Netherlands Bar Association (*Nederlandse Orde van Advocaten*).

⁴⁰⁹ Netherlands Judiciary (*de Rechtspraak*) (2013), 'Het digitale loket Rechtspraak', Web page, available at : <https://loket.rechtspraak.nl/Burgers>.

⁴¹⁰ Netherlands, Central Government (*Rijksoverheid*) (2013), 'Hoe kan ik aangifte doen bij de politie?', Web page, www.rijksoverheid.nl/onderwerpen/politie/vraag-en-antwoord/hoe-kan-ik-aangifte-doen-bij-de-politie.html.

⁴¹¹ Netherlands Judiciary (*de Rechtspraak*) (2010), 'Digitaal procederen burgers', News release, 11 November 2010, available at www.rechtspraak.nl/Organisatie/Raad-Voor-De-Rechtspraak/Nieuws/Pages/Digitaal-procederen-burgers.aspx.

⁴¹² Netherlands Judiciary (2013) (*de Rechtspraak*), 'Hoe werkt het digitale loket', Web page, available at: <https://loket.rechtspraak.nl/Pages/Hoe-werkt-het-digitale-loketaak/Nieuws/Pages/Digitaal-procederen-burgers.aspx>.

Lodging a complaint or providing testimony about fundamental rights or human rights violations remotely via video-link or other technologies: Is it possible for an individual to lodge his or her complaint about human rights violations (for example, incidences of discrimination, etc.) or provide his or her testimony in this respect, with police, court or other complaint body, remotely via video or similar technology? If yes, briefly describe the system(s).

It is not possible, including in cases of vulnerable groups such as children.

8.4 Judicial independence

8.4.1 Are there criteria and conditions for the appointment of judges? If so, list them.

Individuals can only be nominated for appointment to the judiciary after a recommendation from a national selection committee (*Selectiecommissie rechterlijke macht*), made up of members from the various courts, the Public Prosecution Service and individuals active in society. Anyone who wants to become a judge needs at least six years of professional experience. This experience can consist of two years of legal experience obtained elsewhere plus four years of internal training with the judiciary, or six years of legal experience elsewhere. The candidates must have a law degree from a Dutch university and must have Dutch nationality. Candidates must apply to the national selection committee which tests and assesses each candidate. The committee also makes a background check of each candidate.⁴¹³

8.4.2 Is there a general rule allocating the responsibility concerning incoming cases to specific judges (or, for example, does the president of the given court have discretion on the allocation of cases)? If so, provide a brief description of this rule.

There is no general rule. Each court or section of the court has its own regulations.⁴¹⁴ The regulations are ultimately decided by the management board of the court. Each court has a management board consisting of the president, the sector chairpersons and a non-judicial member.

⁴¹³ Netherlands Judiciary (*de Rechtspraak*) (2013), 'Rechter in Opleiding (RIO)', Web page available at : www.rechtspraak.nl/Werken-bij/rechter-worden/Pages/default.aspx.

⁴¹⁴ Langbroek, P.M. and Fabri, M. (2006), *Toedeling van zaken binnen het gerecht: regels en praktijk in vijf Europese landen en in Nederland*, The Hague, Raad voor rechtspraak, available at: www.rechtspraak.nl/Organisatie/Publicaties-En-Brochures/rechtstreeks/Documents/Rechtstreeks%202006-2.pdf.

8.4.3 Specify whether judges can be removed from office through any of these procedures:

Only by judicial procedure;

The Supreme Court of the Netherlands (*Hoge Raad der Nederlanden*) can suspend or dismiss a judge in very special cases : if the judge has been convicted of a serious offence, if he is being held in custody for a serious offence, if he is prosecuted for a serious offence, if he is in receivership or under a legal restraint, if he is no longer physically or mentally capable of performing his duties, if he by his conduct damages the judicial process, if he shows his incompetence due to a lack of judicial expertise. In these cases, the Procurator General of the Supreme Court (*Procureur-generaal bij de Hoge Raad*) is empowered by law to submit an application for suspension or dismissal to the Supreme Court.⁴¹⁵ These rules are laid down in chapter 6A of the Judicial Officers (Legal Status) Act (*Wet rechtspositie rechterlijke ambtenaren*).⁴¹⁶

By decision of one or more members of the executive;

no

By decision of parliament;

no

By joint decision of one or more members of the executive and of parliament ;

no.

Other:

no.

8.5 Non-judicial institutions

⁴¹⁵ Netherlands Judiciary (*de Rechtspraak*) (2013), 'Schorsing en ontslag rechters', Web page available at : www.rechtspraak.nl/ORGANISATIE/HOGE-RAAD/OVERDEHOGERAAD/BIJZONDERE-TAKEN-HR-EN-PG/Pages/Schorsing-en-ontslag-rechters.aspx.

⁴¹⁶ Netherlands, Judicial Officers (Legal Status) Act (*Wet rechtspositie rechterlijke ambtenaren*), 29 november 1996. available at: http://wetten.overheid.nl/BWBR0008365/geldigheidsdatum_25-11-2013.

8.5.1 Changes in the budget (decrease or increase) of any of the non-judicial bodies listed in the table included in Annex 8.1 relevant to the Netherlands.

The 2013 budget for the Netherlands Institute for Human Rights was 6,758,000 euro. The Netherlands Institute for Human Rights started on 2 October 2012. The predecessor of the Institute was the Equal Treatment Commission. The 2012 budget of the Equal Treatment Commission was 5,045,000 euro⁴¹⁷, an increase of 34 percent. The 2012 budget of the National Ombudsman was 15,657,000 euro⁴¹⁸ and the 2013 budget for the National Ombudsman was 15,250,000 euro⁴¹⁹, a decrease of 5 percent. The 2012 budget of the Dutch Data Protection Authority was 7,679,000 euro and the 2013 budget was 7,620,000. This is a small decrease by 59,000 euro or 0.7 percent.⁴²⁰ No figures are available for the budget of National Preventive Mechanism (NPM). The Inspectorate of Security and Justice (*Inspectie Veiligheid en Justitie*) coordinates the NPM in the Netherlands and uses funds from its general budget.⁴²¹

8.5.2 Key developments concerning changes in, reforms of or the establishment of complaint or support structures, such as National Human Rights Institutions (NHRIs), National Equality Bodies (NEBs) and Ombudsperson institutions in the Netherlands

No major changes took place. The 2013 budget of Netherlands Institute for Human Rights mentioned in section 7.5.3 was the first annual budget of the Institute, 2013 being its first calendar year of existence.

8.5.3 Major developments that are relevant to access to justice when it comes to bodies ‘under international agreements’, that is OP-CAT (as National Preventive Mechanism, NPM) or the Convention on the Rights of Persons with Disabilities (as Article 33 (2) monitoring framework).

In its concluding observations on the combined fifth and sixth periodic reports on the Netherlands, the United Nations Committee against Torture expressed its concerns about the

⁴¹⁷ Netherlands, Central Government (*Rijksoverheid*) (2013), 'Rijksbegroting', Web page, available at: www.rijksbegroting.nl.

⁴¹⁸ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2012), 'Wet van 26 januari 2012 inzake vaststelling van de begrotingsstaat van de overige Hoge Colleges van Staat en de Kabinetten van de Gouverneurs (IIB) voor het jaar 2012', Vol. 2012, No. 186, available at <https://zoek.officielebekendmakingen.nl/stb-2012-186.pdf>.

⁴¹⁹ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2013), 'Wet van 31 januari 2013 inzake vaststelling van de begrotingsstaat van de overige Hoge Colleges van Staat en de Kabinetten van de Gouverneurs (IIB) voor het jaar 2013'. Vol. 2013, No. 193, available at <https://zoek.officielebekendmakingen.nl/stb-2013-193.pdf>.

⁴²⁰ Netherlands, Central Government (*Rijksoverheid*) (2013), 'Rijksbegroting', Web page, available at: www.rijksbegroting.nl.

⁴²¹ Information made available by e-mail from the Inspectorate of Security and Justice

alleged lack of perceived independence of the National Preventive Mechanism (NPM). The inspectorates that form the NPM are organisational divisions of the various ministries.⁴²² The Netherlands has not ratified the Convention on the Rights of Persons with Disabilities so there is no body in place under this convention. The State Secretary for Health, Welfare and Sport sent a letter to the House of Representatives on 27 June 2013 promising to speed up the ratification process.⁴²³ The online consultation for the legislative proposal to ratify the Convention was closed on 16 August 2013. This is the first step in the legislative process (see chapter 10).

8.5.4 Provide the following information in relation to each one of the non-judicial institutions in the Netherlands listed in the Table in Annex 8.1:

Who decides on the budget of the given non-judicial institution (that is, who is the budgetary authority): parliament and/or government or any other body?

The budget for the Netherlands Institute for Human Rights is decided by the annual Budget Acts of the Ministry of Security and Justice. Acts are made by the national parliament and government.⁴²⁴

The National Ombudsman's budget is allocated under Chapter II of the National Budget (*Rijksbegroting*).⁴²⁵ The budget is drafted by the government and approved by parliament.

The budget for the Dutch Data Protection Authority is decided by the annual Budget Act of the Ministry of Security and Justice.⁴²⁶ Acts are made by the national parliament and government.

The Netherlands has designated six existing institutions as NPM in December 2011: the Inspectorate of Security and Justice (*Inspectie Veiligheid en Justitie*), the Public Order and Safety Inspectorate (*Inspectie Openbare Orde en Veiligheid*), the Health Care Inspectorate (*Inspectie voor de Gezondheidszorg*), the Inspectorate for Youth Care (*Inspectie Jeugdzorg*), the Supervisory Commission on Repatriation (*Commissie Integraal Toezicht Terugkeer*), and

⁴²² United Nations, Committee against Torture (2013), *Concluding observations on the combined fifth and sixth periodic reports of the Netherlands, adopted by the Committee at its fiftieth session (6-31 May 2013)*, available at: www.apt.ch/content/files/npm/eca/Netherlands_CAT_CO_June2013.pdf.

⁴²³ Netherlands, State Secretary for Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2013), 'Stand van zaken ratificatieproces VN Verdrag Handicap', Letter sent to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 126743-105769-DMO, 27 June 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/06/27/kamerbrief-over-stand-van-zaken-ratificatieproces-vn-verdrag-handicap/kamerbrief-over-stand-van-zaken-ratificatieproces-vn-verdrag-handicap.pdf.

⁴²⁴ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten-Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document [*Kamerstuk*] No. 32 467 No. 3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf>.

⁴²⁵ Netherlands, National Ombudsman (*De Nationale Ombudsman*) (2008), *De Nationale ombudsman. Institution, task and procedures of the National Ombudsman of the Netherlands*, The Hague, Nationale Ombudsman, available at: www.nationaleombudsman.nl/sites/default/files/2008_institution_task_and_procedures_of_the_national_ombudsman_of_the_netherlands.pdf.

⁴²⁶ Netherlands, Central Government (*Rijksoverheid*) (2013), *Rijksbegroting 2014, VI Veiligheid en Justitie*, available at: www.rijksbegroting.nl/2012/voorbereiding/begroting?hoofdstuk=40.13.

the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*). The coordination of the NPM lies with the Inspectorate of Security and Justice (*Inspectie Veiligheid en Justitie*), an operational division of the Ministry of Security and Justice. The budget for the Inspectorate is part of the annual budget of the Ministry of Security and Justice, decided in its annual Budget Acts. Acts are made by the national parliament and the government in the Netherlands.⁴²⁷

Different stages of the budget approval procedure.

The Netherlands Institute for Human Rights must submit an annual draft budget that requires the approval of the Minister of Security and Justice. The Institute makes its own budget but needs the approval of the Minister. The Minister can make amendments to the budget. The funding is regulated by the annual Budget Acts of the Ministry. The Institute's budget is shown in chapter 10 of the budget of the Ministry of Security and Justice. If the Institute's budget differs from its draft budget as shown in the budget of the Ministry of Security and Justice, this will be stated in the explanatory memorandum to the Ministry's budget. Parliament will thus be able to make an informed decision when voting on the budget.⁴²⁸

The budget of the National Ombudsman is part of the National Budget. The realisation of the budget for the National Ombudsman is therefore part of the annual Government Budget Cycle. The National Ombudsman's budget is allocated under Chapter II of the National Budget. The Minister responsible for Chapter II of the National Budget is the Minister of the Interior and Kingdom Relations. The National Ombudsman and the Minister have agreements on how the budget is regulated. The National Ombudsman drafts the budget. The Minister takes care of the legislative process including the chapter of the National Budget that incorporates the budget of the National Ombudsman. The National Budget has to be approved by the House of Representatives and the Senate.⁴²⁹

The Dutch Data Protection Authority must submit each year an annual draft budget that requires the approval of the Minister of Security and Justice.⁴³⁰ The Dutch Data Protection Authority draws up its own budget but requires the approval of the Minister. The Minister can make amendments to the budget. The funding is regulated by the annual Budget Acts of this Ministry. The Institute's budget is shown in chapter 10 of the budget of the Ministry of Security and Justice. The budget has to be approved by parliament.

The budget of the Inspectorate of Security and Justice is regulated by the annual Budget Act of the Ministry of Security and Justice. The Minister drafts the budget. Parliament has to approve

⁴²⁷ Netherlands, Inspectorate of Security and Justice (*Inspectie Veiligheid en Justitie*)(2012), *Monitoring places of detention. First Annual Report. National Preventive Mechanisms. The Netherlands. 2011*, The Hague, Inspectie Veiligheid en Justitie, available at: 2011 https://www.ivenj.nl/Images/annual-report-2011-npm-the-netherlands_tcm131-474599.pdf.

⁴²⁸ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten- Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document (*Kamerstuk*) No. 32 467-3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf>.

⁴²⁹ Netherlands, National Ombudsman (*De Nationale Ombudsman*) (2008), *De Nationale ombudsman. Institution, task and procedures of the National Ombudsman of the Netherlands*, The Hague, Nationale Ombudsman, available at: www.nationaleombudsman.nl/sites/default/files/2008_institution_task_and_procedures_of_the_national_ombudsman_of_the_netherlands.pdf.

⁴³⁰ Netherlands, Dutch Data Protection Authority (*College Bescherming Bescherming*) (2002), *Bestuursreglement*, available at: www.cbpreweb.nl/downloads_organisatie/cbp_bestuursreglement.pdf.

it. The Inspectorate of Security and Justice is an operational division of the Ministry of Security and Justice and has no budgetary autonomy.

Criteria for appointment of the head of the given non-judicial institution

The chair of the Netherlands Institute for Human Rights must have a Dutch university law degree (or equivalent legal training) and have acquired during his or her education a thorough knowledge and command of certain fields of law or have ample practical experience of the law.⁴³¹

According to the National Ombudsman Act, the National Ombudsman may not hold any position incompatible with the proper performance of his official duties or with his impartiality and independence or with public confidence therein. The National Ombudsman may not be a member of a public body for which elections take place in a manner prescribed by law; hold a public office for which he receives a fixed salary or remuneration; be a member of a permanent government advisory body; act as an advocate, solicitor, or notary.⁴³² The National Ombudsman Act stipulates no positive criteria for the appointment of the Ombudsman.⁴³³

The chair of the Dutch Data Protection Authority must have a Dutch university law degree.⁴³⁴

No criteria were found for the appointment of the director of the Inspectorate of Security and Justice.

Process through which the head of the given non-judicial institution is appointed

The chair of the Netherlands Institute for Human Rights is appointed by Royal Decree on the recommendation of the Minister of Security and Justice. An advisory committee advises the Minister of Justice on the appointment of the chair. This advice is given in agreement with the Institute. The Minister of Security and Justice is not obliged to heed the advice.⁴³⁵

The National Ombudsman is appointed by the House of Representatives. In making this appointment, the House of Representative considers a recommendation made, after joint consultations, by the vice-president of the Council of State, the president of the Supreme Court and the president of the Netherlands Court of Audit containing the names of at least three persons.⁴³⁶

⁴³¹ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten- Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document (*Kamerstuk*) No. 32 467-3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf>.

⁴³² Netherlands, The National Ombudsman Act (*Wet Nationale Ombudsman*), available at: http://wetten.overheid.nl/BWBR0003372/geldigheidsdatum_15-08-2011.

⁴³³ Netherlands, National Ombudsman (*Nationale Ombudsman*) (2013), 'Benoeming Nationale Ombudsman', Web page, available at: www.nationaleombudsman-nieuws.nl/benoeming-nationale-ombudsman.

⁴³⁴ Netherlands, Dutch Data Protection Act (*Wet bescherming persoonsgegevens*) (2013), available at: http://wetten.overheid.nl/BWBR0011468/geldigheidsdatum_09-10-2013#Hoofdstuk9.

⁴³⁵ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document (*Kamerstuk*), No. 32 467- 3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf>.

⁴³⁶ Netherlands, The National Ombudsman Act (*Wet Nationale Ombudsman*), available at: http://wetten.overheid.nl/BWBR0003372/geldigheidsdatum_15-08-2011.

The chair of the Dutch Data Protection Authority is appointed by Royal Decree on the recommendation of the Minister of Security and Justice.⁴³⁷

Personnel of the Inspectorate of Security and Justice including the director are appointed by the Secretary General (highest civil servant) of the Ministry of Security and Justice.⁴³⁸

Is the head of the given non-judicial institution supported by another governing body, such as a management board, committee, commission, etc.?

The chair is head of the Netherlands Institute for Human Rights which has 9 to 12 members and several alternate members. The Institute has an advisory council. The advisory council advises the Institute each year on the Institute's proposed policy plan and advises the Minister of Security and Justice on the appointment of the members and alternate members of the Institute.⁴³⁹

The National Ombudsman is not supported by another governing body.

The Dutch Data Protection Authority has an advisory council that supports the chair and the two other members.⁴⁴⁰

The Inspectorate of Security and Justice is not supported by another governing body.

Where such a governing body exists, provide information on existing criteria, if any, for appointment of member(s) of this body (for example, minimum experience, qualifications, citizenship, age limitation, conflict of interest limitation, etc.).

Members of the advisory council of the Netherlands Institute for Human Rights are the National Ombudsman, the chair of the Data Protection Agency, the chair of the Council for the Judiciary, and between four and eight members drawn from civil society organisations concerned with the protection of one or more human rights, from organisations of employers and employees, and from academia. There are no criteria for the appointment of individual members. The composition of the council should reflect the pluriformity and diversity of Dutch society.⁴⁴¹

⁴³⁷ Netherlands, Dutch Data Protection Act (*Wet bescherming persoonsgegevens*) (2013), available at: http://wetten.overheid.nl/BWBR0011468/geldigheidsdatum_09-10-2013#Hoofdstuk9.

⁴³⁸ Netherlands, The Netherlands Institute for Human Rights (College voor de Rechten van de Mens) (2013), *Submission to the UN Committee against Torture on the Examination of the 6th Periodic Report of the Netherlands in May 2013*, Utrecht, College voor de Rechten van de Mens, available at <http://zoekservice.mensenrechten.nl/StippWebDLL/Resources/Handlers/DownloadBestand.ashx?id=1955>.

⁴³⁹ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten-Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document (*Kamerstuk*), No. 32 467- 3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf>.

⁴⁴⁰ Netherlands, Dutch Data Protection Act (*Wet bescherming persoonsgegevens*) (2013), available at: http://wetten.overheid.nl/BWBR0011468/geldigheidsdatum_09-10-2013#Hoofdstuk9.

⁴⁴¹ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten-Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document (*Kamerstuk*), No. 32 467- 3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf>.

The advisory council of the Dutch Data Protection Authority must come from all walks of life. There are no criteria for the appointment of individual members.⁴⁴²

Where such a governing body exists, briefly describe the process through which member(s) of this body is/are appointed, for example, who is the appointing/nominating authority, etc.

The members of the advisory council of the Netherlands Institute for Human Rights – with the exceptions of the National Ombudsman, the chair of the Data Protection Agency and the chair of the Council for the Judiciary – are appointed by the Minister of Security after hearing from the Institute, the National Ombudsman, the chair of the Data Protection Agency and the chair of the Council for the Judiciary.⁴⁴³

The members of the advisory council of the Dutch Data Protection Authority are appointed by the Ministry of Security and Justice. Candidates are nominated by the Dutch Data Protection Authority itself.⁴⁴⁴

Is the relevant non-judicial institution in any way attached to the executive branch (for example, is part of a Ministry), including as regards its premises?

The Netherlands Institute for Human Rights, the National Ombudsman, and the Dutch Data Protection Authority are not attached to the executive branch.

The Inspectorate of Security and Justice is an operational division of the Ministry of Security and Justice and is housed in the building of the Ministry of Security and Justice.

8.6 Promising practices

8.6.1 Follow-up on the promising practices reported in Chapter 8 of Annual Report 2012

The mobile phone application to report discrimination is still available in an android version and a i-phone version. No evaluation has taken place.

8.6.2 Provide a maximum of three new promising practices relating to access to justice and judicial cooperation, putting each one in a separate table.

Title (original language)	Aanwijzing rechtsbijstand politieverhoor
Title (EN)	Directive on legal counsel

⁴⁴² Netherlands, Dutch Data Protection Act (*Wet bescherming persoonsgegevens*) (2013), available at http://wetten.overheid.nl/BWBR0011468/geldigheidsdatum_09-10-2013#Hoofdstuk9.

⁴⁴³ Netherlands, House of Representatives of the States General (*Tweede Kamer der Staten- Generaal*) (2010), *Memorie van toelichting. Wet College voor de rechten van de mens*, Parliamentary Document (*Kamerstuk*) No. 32 467- 3, available at: <https://zoek.officielebekendmakingen.nl/kst-32467-3.pdf> .

⁴⁴⁴ Netherlands, Dutch Data Protection Act (*Wet bescherming persoonsgegevens*) (2013), available at: http://wetten.overheid.nl/BWBR0011468/geldigheidsdatum_09-10-2013#Hoofdstuk9 .

Organisation (original language)	Openbaar Ministerie
Organisation (EN)	Public Prosecution Service
Government / Civil society	Government
Funding body	Government
Reference (incl. url, where available)	Verhoeven, W.-J. and Stevens, L. (2013), <i>Rechtsbijstand bij politieverhoor : Evaluatie van de Aanwijzing rechtsbijstand politieverhoor in Amsterdam-Amstelland, Groningen, Haaglanden, Limburg-Zuid, Midden- en West-Brabant en Utrecht</i> , The Hague, Boom Lemma, available at www.wodc.nl/images/1949-volledige-tekst-ii_tcm44-493939.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	1 April 2010
Type of initiative	Directive
Main target group	Detained juvenile and adult suspects
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	This Directive of the Dutch Prosecution Service provides for the implementation of the right of detained juvenile and adult suspects to consult a lawyer prior to questioning by the police (consultation assistance). Consultation assistance consists of a confidential talk between the suspect and their lawyer prior to the first substantive police questioning of the suspect. In addition, the Directive lays down rules for implementing the right of juvenile suspects to assistance from a lawyer or appropriate adult during questioning (assistance during questioning). The Directive is a temporary regulation that will apply until the right to legal assistance during police questioning can be established in the Code of Criminal Procedure. The directive has to ensure that investigation procedures in the Netherlands comply with the conditions set by the European Court for Human Rights and the Dutch Supreme Court with regard to legal assistance for detained suspects prior to and during their first police questioning.
Highlight any element of the actions that is transferable (max. 500 chars)	Depending on the legal practice of other Member States we consider all elements transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The Directive came into effect on 1 April 2010 and will remain into effect until 31 March 2014. . The Directive is a temporary regulation that will apply until the right to legal assistance during police questioning can be established in the Code of Criminal Procedure. The directive is temporary but the processes involving will be standing procedure regulated by an act instead of a directive.
Give reasons why you consider the practice as having concrete measurable impact	The evaluation study has made out that the Directive has ensured the practical implementation of the right to legal counsel prior to and during police questioning. Differences between the severity of the crime, the complexity of the case and age of the suspect are being taken into account and this seems to contribute to achieving the objective of cost containment. Criminal investigations are sometimes hindered, but this does not apply to all cases and besides, the Directive is

	not the only factor influencing the course of a criminal investigation. Whether or not these changes will, in the end, improve the legal position of suspects and thereby offer more safeguards to a fair trial is a more normative question. When it comes to complex cases regarding serious offences which involve large-scale criminal investigations, there is a case to be made for the importance of a suspect receiving legal assistance as soon as possible, i.e. prior to the initial interrogation. On the other hand, in the case of a juvenile offender suspected of a minor offence, the question is whether or not it is better for the juvenile suspect to remain in police custody for a prolonged period of time if the case is relatively clear-cut.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	This Directive was implemented by the Netherlands because of the decision made by the European Court for Human Rights (<i>Salduz vs Turkey</i> ; application no. 36391/02). All Member States who fall short of the standards set by the European Court of Human Rights can learn from this practice how to guarantee the right to legal counsel prior to and during police questioning.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The development and implementation of the Directive are derived from European and national legal precedents.
Explain, if applicable, how the practice provides for review and assessment.	Evaluation has been published. See reference.

Title (original language)	A-12 project
Title (EN)	A-12 project (A-12 is a motorway in the Netherlands)
Organisation (original language)	Gerechtshof Arnhem-Leeuwarden , Rechtbank Midden-Nederland
Organisation (EN)	Court of Appeal Arnhem-Leeuwarden , District Court Midden-Nederland
Government / Civil society	Government
Funding body	Government
Reference (incl. url, where available)	Netherlands Judiciary (<i>de Rechtspraak</i>) (2013), 'A12-project: sneller en beter hoger beroep'. Press release, 19 September 2013, available at www.rechtspraak.nl/Actualiteiten/Nieuws/Pages/A12-project-sneller-en-beter-hoger-beroep.aspx
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	September 2012
Type of initiative	Bureaucratic
Main target group	No specific target group, goal of this project is to speed up proceedings.
Indicate level of implementation: Local/Regional/National	Regional

Brief description (max. 1000 chars)	This project started in September 2012 and its main goal is to speed up the criminal judicial process. It specifically targets the appeal procedure. When a case goes into appeal the district court Midden-Nederland sends within a week a copy of the file to the Court of Appeal. Within six week the District Court sends the full verdict to the Court of Appeal. Before the project these procedures took months.
Highlight any element of the actions that is transferable (max. 500 chars)	
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The working mechanisms developed in this project can be implemented quite easily in the standard procedures.
Give reasons why you consider the practice as having concrete measurable impact	People involved in the project stated that due to this project the length of the appeal procedure decreased by 50 percent (see reference). The project also improved the quality of the witness statements improved and discouraged the improper use of the appeal procedure. The project also improved the communication between district court and court of appeal.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	It shows how by simple means the length of judicial proceeding can be decreased.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The project is designed and planned by the organisations that also are the target of this project.
Explain, if applicable, how the practice provides for review and assessment.	No evaluation has been published yet. The project allows for assessment because its main focus is to speed up procedures. How shorter the procedures, how more effective the project.

8.7 Case law

Reference landmark 2013 case law relating to the bodies listed the table included in Annex 8.1. Put each case in a separate table.

Case title	Opinion number 2013-84
Decision date	3 July 2013
Reference details (type and title of court/body; in original language and English [official translation, if available])	Netherlands, Netherlands Institute for Human Rights (<i>College voor de Rechten van de Mens</i>) (2013), Opinion 2013-84, available at www.mensenrechten.nl/publicaties/oordelen/2013-84/detail
Key facts of the case (max. 500 chars)	A transgender woman had a conflict with her employer. When she started to work with her employee she was a man and considered herself a man. A few years later she told her employer that she was a transgender and she considered herself to be a woman. She asked her employee to address her in letters as a woman and call her by her female first name. The employer refused to do that. The Netherlands Institute for Human

	Rights considers this a form by discrimination on the ground of gender.
Main reasoning/argumentation (max. 500 chars)	Transgender have a right to choose their own gender identity.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	That non-recognition by employers of the chosen gender of their transgender-employees is a form of discrimination.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	Opinions of Netherlands Institute for Human Rights carry no sanction. The complainant is not employed by the defendant anymore: so the opinion has also no practical consequences for the defendant.

8.8 Any other significant developments in relation to access to justice and judicial cooperation

No other developments to report. For general developments, please refer to section 8.1.

9 Victims of crime, including compensation of victims

9.1 Legal developments relating to the rights of victims of crime

9.1.1 reforms of the criminal procedure code;

A legislative proposal to amend the Code of Criminal Procedures, the Penal Code and the implementing law on the International Criminal Court was agreed in the Senate on 26 June 2013.⁴⁴⁵ The proposal, which makes it possible to seize the property of a suspect on behalf of the victim, will enter into force on 1 January 2014.⁴⁴⁶

On 5 October the State Secretary for Security and Justice sent a draft legislative proposal to several advisory organisations for consultation to introduce the right of advice for victims in addition to their oral victim impact statement during criminal procedures. The proposed expansion concerns the victim's right to advise the judge on the defendant's guilt, evidence and sentencing – or their surviving relatives' or representatives' right to do so, if given a right to speak.⁴⁴⁷

9.1.2 compensation of victims of crime;

Two new opportunities for financial compensation for victims of crime were introduced: the Civil Claims Regulation for Compensation regarding the Sexual Abuse of Minors in Youth Care and Foster Families (*Statuut voor de buitengerechtelijke afhandeling van civiele vorderingen tot schadevergoeding in verband met seksueel misbruik van minderjarigen in instellingen en pleeggezinnen*) and the Temporary Compensation Regulation for the Sexual Abuse of Minors in Youth Care and Foster Families (*Tijdelijke regeling uitkeringen seksueel misbruik van minderjarigen in instellingen en pleeggezinnen*). These were introduced after a number of cases of sexual abuse in youth care came to light. The first payments are expected in September 2013. The regulations will be in place until 31 December 2015.⁴⁴⁸ 38 claims for

⁴⁴⁵ Netherlands, Senate (Eerste Kamer der Staten-Generaal) (2013), 'Introductie conservatoir beslag op het vermogen van de verdachte ten behoeve van het slachtoffer', Web page, available at: www.eerstekamer.nl/wetsvoorstel/33295_introductie_conservatoir?zoekrol=vgh5mt4dsdk1

⁴⁴⁶ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2010), 'Wet houdende aanpassing van het Wetboek van Strafvordering, het Wetboek van Strafrecht en de uitvoeringswet Internationaal Strafhof in verband met de introductie van de mogelijkheid conservatoir beslag te leggen op het vermogen van de verdachte ten behoeve van het slachtoffer', Vol. 2013, No. 278, available at: <https://zoek.officielebekendmakingen.nl/stb-2013-278.html>.

⁴⁴⁷ Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), 'Teeven breidt spreekrecht slachtoffer verder uit', Press release, 5 October 2013, available at: <http://www.rijksoverheid.nl/ministeries/venj/nieuws/2013/10/05/teeven-breidt-spreekrecht-slachtoffers-verder-uit.html>.

⁴⁴⁸ Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2013), *Statuut voor de buitengerechtelijke afhandeling van civiele vorderingen tot schadevergoeding in verband met seksueel misbruik van minderjarigen in instellingen en pleeggezinnen*, available at: www.rijksoverheid.nl/ministeries/vws/documenten-en-publicaties/regelingen/2013/08/01/statuut-voor-de-buitengerechtelijke-afhandeling-van-civiele-vorderingen-tot-schadevergoeding-in-verband-met-seksueel-misbruik-van-minderjarigen-in-instellingen-en-pleeggezinnen.html; Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Tijdelijke regeling uitkeringen seksueel misbruik van minderjarigen in instellingen en pleeggezinnen*, available at: www.rijksoverheid.nl/ministeries/vws/documenten-en-

the Civil claims regulation were received by 12 November 2013, and 148 claims for the Temporary compensation regulation. Of the latter, 15 claims had been awarded and none had been denied yet.⁴⁴⁹

The Catholic Church has introduced a compensation fund for victims of sexual abuse in the Church. In some cases, where the sexual abuse happened in a Church youth care institution, victims can claim compensation from either the government or the Church compensation fund.⁴⁵⁰

The State Secretary for Security and Justice announced in a 22 July 2013 letter that the current advance payment provision for compensating victims will be expanded in 2016 to all crimes, with a maximum amount of €5,000. The letter also expressed the intention to lengthen the current period of three years to submit a request for compensation. It further announced draft legislation to amend the Violent Offenses Compensation Fund Act to expand its mandate to involuntary manslaughter, and for compensation in cases of injuries or death for next of kin and parents of minors.⁴⁵¹

The State Secretary sent a draft legislative proposal to several advisory organisations on 5 October which will expand compensation to surviving relatives of serious and fatal traffic violations. The application period will be lengthened from three to ten years.⁴⁵²

9.1.3 regulations on victim support;

A Public Prosecution Service directive on out-of-court settlements came into force on 1 May 2013. According to this directive the Public Prosecutor can impose a sanction for all misdemeanours and for felonies with a maximum sentencing of six years imprisonment. The prosecutor can impose 1) a community service sanction with a maximum of 180 hours, 2) a fine, 3) restraintment from traffic, 4) compensation for the victim, or 5) disqualification from driving for a maximum of six months.⁴⁵³

publicaties/regelingen/2013/07/11/tijdelijke-regeling-uitkeringen-seksueel-misbruik-van-minderjarigen-in-instellingen-en-pleeggezinnen.html.

⁴⁴⁹ Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2013) 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 178281-114477-DMO, 16 December 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/12/16/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.html

⁴⁵⁰ Netherlands, RKK Sexual Abuse Hotline (*Meldpunt Seksueel Misbruik RKK*) (2013), *Compensatieregeling R.-K. Kerk Nederland*, available at: www.meldpuntmisbruikrkk.nl/S/Schade/Paginas/Documenten.aspx.

⁴⁵¹ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veiligheid en Justitie*) (2013), 'Beleidsreactie pamflet VVD-fractie inzake slachtofferbeleid', Letter to House of Representatives (*Tweede Kamer der Staten Generaal*), No. 381794 , 22 July 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/07/23/beleidsreactie-pamflet-vvd-fractie-inzake-slachtofferbeleid.html.

⁴⁵² Netherlands, Ministry of Security and Justice (*Ministerie van Veiligheid en Justitie*) (2013), *Voorstel van wet Wijziging van het Wetboek van Strafvordering ter aanvulling op het spreekrecht van slachtoffers en nabestaanden in het strafproces en wijziging van de Wet schadefonds geweldsmisdrijven ter uitbreiding van de mogelijkheid van uitkering van nabestaande*, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/10/05/wetsvoorstel-wetboek-van-strafvordering-ter-aanvulling-van-het-spreekrecht.html.

⁴⁵³ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing OM- strafbeschikking (2013A008)*, available at: http://www.om.nl/organisatie/beleidsregels/overzicht/executie_afdoening/@161858/aanwijzing-4..

9.1.4 the adoption of new criminal definitions within the scope of EU law.

The definition of victim will be adjusted to include surviving relatives. Current legislation mentions surviving relatives separately although they often have the same rights as actual victims.⁴⁵⁴

The definition of restorative justice contained in the EU Directive will be adopted in Dutch legislation.⁴⁵⁵ Adjustment of the legislation will be finished by November 2015.⁴⁵⁶

9.2 Institutional developments concerning victims

9.2.1 the role of Government in setting-up or coordinating victim-related activities (for example, victim support);

The State Secretary for Security and Justice sent the policy document 'To Do Justice to Victims' (*Recht doen aan slachtoffers*) to Parliament on 22 February 2013, describing plans for policies on victim support. They include greater attention to victims in the training of various actors; improving the supply of information and adapting it to the needs of victims; registering data on victims; establishing the position of victims in the ASAP (ZSM) procedure (see section 9.2.3); broadening the oral victim impact statement to parents of underage victims; implementing the EU Directive on minimum requirements and the European Protection Order; integrating victim support services in one office; securing the rights of victims in cross-border cases; simplifying claims to compensation; protecting victims; further professionalising victim support; developing restorative justice; expanding the mandate of the Violent Offenses Compensation Fund with traffic offenses; and seizing property and enforcing mandatory contributions from perpetrators.⁴⁵⁷ Parliament accepted the policy plans without any substantive comments. The policy document does not contain any specific measures for implementation of the EU Directive on minimum requirements; a legislative proposal is currently being prepared and is expected to be sent to Parliament in 2014 and an implementation framework will be published in May 2014.⁴⁵⁸

In February 2013 the Ministry of Security and Justice started a pilot project to promote the referral of victims from Victim Support Netherlands to a specialised solicitor. Besides Victim Support, several associations of solicitors and the Council for Legal Aid (*Raad voor Rechtsbijstand*) are involved.⁴⁵⁹ Nearly all victims of sex crimes and severe violence are referred to a specialised solicitor. Another criterion for referral is the complexity of consequences, e.g. complicated damages.⁴⁶⁰ The legal aid is free of charge for victims of

⁴⁵⁴ Interview with Helga Ezendam, senior policy advisor, department of Security and Justice, d.d. 20-11-2013.

⁴⁵⁵ Interview with Helga Ezendam, senior policy advisor, department of Security and Justice, d.d. 20-11-2013.

⁴⁵⁶ E-mail correspondence with Ministry of Security and Justice, 2 January 2014.

⁴⁵⁷ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veligheid en Justitie*) (2013), 'Visie op slachtoffers', Letter to House of Representatives (*Tweede Kamer- der Staten Generaal*), No. 348461, 22 February 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/02/23/visie-op-slachtoffers.html.

⁴⁵⁸ E-mail correspondence with Ministry of Security and Justice, 2 January 2014.

⁴⁵⁹ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veligheid en Justitie*) (2013), 'Beleidsreactie pamflet VVD-fractie inzake slachtofferbeleid', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 381794, 22 July 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/07/23/beleidsreactie-pamflet-vvd-fractie-inzake-slachtofferbeleid.html.

⁴⁶⁰ E-mail correspondence with Victim Support Netherlands (*Slachtofferhulp Nederland*), 2.1.2014.

violent and sexual offenses, if the defendant is prosecuted and the victim is entitled to compensation according to the Violent Offenses Compensation Fund Act.⁴⁶¹ In case of sexual abuse in youth care, prosecution of a defendant is not required.⁴⁶² For victims of other crimes a personal contribution is required, depending on income and assets. The legal aid system is currently undergoing reform (see chapter 8.1).

Five pilot projects started in November 2013, commissioned by the Department of Security and Justice, to test and evaluate several forms of restorative justice and the degree to which the needs of victims are met.⁴⁶³

The government continued implementation and development of its integrated approach to child abuse, domestic violence, elderly abuse, forced marriages and abandonment, and honour-based violence under the banner of 'Violence in Dependent Relationships'.⁴⁶⁴ Examples of the approach include the merging of the Support Centres for Domestic Violence and the Information and Advice Centres on Child Abuse, the broadening of their mandates with marital coercion, and the Mandatory Reporting Code for child abuse, domestic violence, honour-based violence, marital coercion and female genital mutilation.⁴⁶⁵

9.2.2 the organisation and provision of compensation of victims, including as regards the amount of compensation paid;

The Violent Offenses Compensation Fund is responsible for the payment of compensation to victims of crime. Amounts are currently capped at €10,000 for cases of immaterial harm and €25,000 for cases of material harm. Its mandate has recently been expanded with two regulations for compensation to victims of sexual abuse in youth care.⁴⁶⁶

The Central Judicial Collection Agency (*Centraal Justitiële Incassobureau*, CJIB) is responsible for the seizure of property from perpetrators and the advance payment of compensation to victims of crime, capped at €5,000.⁴⁶⁷ Victims can apply for compensation

⁴⁶¹ Netherlands, Act on Legal Assistance (*Wet op de Rechtsbijstand*) (1993), available at: http://wetten.overheid.nl/BWBR0006368/geldigheidsdatum_07-01-2014#HoofdstukVI

⁴⁶² Netherlands, Legal Aid Council (*Raad voor rechtsbijstand*) (2014), 'Gewelds- en zedenmisdriven met ernstig letsel', Web page, available at: <http://kenniswijzer.rvr.org/werkinstructies-toevoegen/verbintnissenrecht/o013-gewelds--en-zedenmisdriven-met-ernstig-letsel.html>.

⁴⁶³ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veiligheid en Justitie*) (2013), 'Herstelmiddeling en NMI mediators', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 2 423462, October 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/10/04/herstelmiddeling-en-nmi-mediators.html.

⁴⁶⁴ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veiligheid en Justitie*) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁴⁶⁵ Netherlands, Central Government (*Rijksoverheid*) (2013), 'Meldcode huiselijk geweld en kindermishandeling', Web Page, available at: www.rijksoverheid.nl/onderwerpen/huiselijk-geweld/hulp-bieden/meldcode.

⁴⁶⁶ Netherlands, Violent Offences Compensation Fund (*Schadefonds Geweldsmisdrijven*) (2013), 'Over het fonds', Web page, available at: <https://schadefonds.nl/over-schadefonds>.

⁴⁶⁷ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2010), 'Besluit van 24 juli 2010, houdende vaststelling van het Uitvoeringsbesluit voorschot schadevergoedingsmaatregel', Vol. 2010, No. 311, available at: <https://zoek.officielebekendmakingen.nl/stb-2010-311.pdf>.

Type of follow up support⁴⁷⁵

	Number of persons	
	2011	2012
Practical and emotional support	59,857	58,037
Claiming damages	15,406	17,971
Support during criminal proceedings	7,183	7,183
Referral to e.g. psychologist or solicitor	5,677	5,248
Support with written victim statement and oral victim impact statement	4,040	4,398

The government partially finances Victim Support Netherlands (€22,022,156 out of its €27,513,515 budget in 2012) and expanded this financing in 2013 with a structural subsidy for the specialised care of victims of severe violent crimes and sexual offences (case management by Victim Support Netherlands).⁴⁷⁶

Government financing for victim support organisations (2013)⁴⁷⁷

	2013
Violent Offenses Compensation Fund (Schadefonds Geweldsmisdrijven, SGM)	In 2012: € 13.615.138 (payment of compensation) and € 5.514.670 (office costs) Payments are financed through open-ended funding, therefore not yet published for 2013. ⁴⁷⁸
Victim Support Netherlands (Slachtofferhulp Nederland) Including:	€ 23,254,533

⁴⁷⁴ Netherlands, Victim Support Netherlands (*Slachtofferhulp Nederland*) (2013), *Jaarverslag 2012*, available at: www.slachtofferhulp.nl/Over-Ons/Jaarverslag-2012/.

⁴⁷⁵ Netherlands, Victim Support Netherlands (*Slachtofferhulp Nederland*) (2013), *Jaarverslag 2012*, available at: www.slachtofferhulp.nl/Over-Ons/Jaarverslag-2012/.

⁴⁷⁶ Netherlands, Victim Support Netherlands (*Slachtofferhulp Nederland*) (2013), 'Meer geld voor slachtoffers van ernstige geweldsmisdrijven', Press Release, 20 February 2013, available at: http://inxmail.e1.ttem.nl/inxmail18/html_mail.jsp?id=1&email=noreply@slachtofferhulp.nl&mailref=0000d3i00000600000000000edu4uyc7b.

⁴⁷⁷ Netherlands, Central Government (*Rijksoverheid*) (2013), *Rijksbegroting 2013*, available at: www.rijksbegroting.nl/2013/voorbereiding/begroting,kst173857_9.html.

⁴⁷⁸ Violent Offenses Compensation Fund (*Schadefonds Geweldsmisdrijven*) (2013), *2012 in cijfers*, available at: <https://schadefonds.nl/over-schadefonds/informatie/jaarverslag>.

- Case management Severe Violent and Sexual Offenses	€2,100,000
- ASAP (ZSM)	€2,222,918
Victim in the Picture (<i>Slachtoffer in beeld</i>) and research	€ 600,000

9.2.5 the main actors in the field of generic victim support provision (tasks, size, etc.).

Victim Support Netherlands (*Slachtofferhulp Nederland*) is the first contact point for victims of violence, sexual offences, property crimes and traffic violations. It provides information and practical and emotional support – for producing victims’ written statements and oral impact statements, for claiming damages, in criminal proceedings, and referrals to e.g. psychologists or specialised solicitors. It maintains a telephone helpline on sexual abuse and manages cases of violent and sexual crimes and homicide. Victim Support Netherlands is financed by national and local governments and the Victim Support Fund (*Fonds Slachtofferhulp*). It employed 278 full-time equivalent staff in December 2012 (including *Slachtoffer in beeld*) and was supported by 1,279 volunteers.⁴⁷⁹

The Violent Offenses Compensation Fund (*Schadefonds Geweldsmisdrijven*) is responsible for paying compensation to victims of violent and sexual offenses and surviving relatives. It retained approximately 70 employees in 2013 and took on 7,109 new cases in 2012. Total payments in 2012 amounted to €13,615,138. Data on 2013 will be available by 15 March 2014, via the web page www.schadefonds.nl.

The Central Judicial Collection Agency (*Centraal Justitiëel Incassobureau*, CJIB) is responsible for the advance payment of compensation to victims of violent and sexual offenses. In 2012 a total of 450,222 euro was retrieved from perpetrators, as compensation for victims.

Victim in the Picture (*Slachtoffer in beeld*) mediates between victims and defendants with letters and meetings. In 2012 there were 1,508 new cases; 1,286 cases were closed. Victim in the Picture has nine (6.2 full-time equivalent) employees and 30 mediators (some of whom work freelance).

The Advice and Support Centres on Domestic Violence (*Advies- en steunpunten Huiselijk Geweld*) support and advise the victims and perpetrators of domestic violence, bystanders and professionals. The centres register reports of domestic violence and provide referrals. There are 35 centres in the Netherlands, which handled 35,987 cases in 2011 and 47,251 cases in 2012.⁴⁸⁰

⁴⁷⁹ Netherlands, Victim Support Netherlands (*Slachtofferhulp Nederland*) (2013), *Jaarverslag 2012*, available at: www.slachtofferhulp.nl/Over-Ons/Jaarverslag-2012/.

⁴⁸⁰ Netherlands, Movisie (2013), *Factsheet Huiselijk geweld (November 2013)*, available at from: www.huiselijkgeweld.nl/feiten/landelijk/factsheet-huiselijk-geweld-november2013.

9.3 Developments with regard to the rights of victims of trafficking or other severe forms of labour exploitation

9.3.1 changes in relevant criminal law definitions in this context;

Within the scope of implementing Directive 2011/36/EU, two elements were added to clarify what is meant by exploitation in the Penal Code: 1) ‘including begging’ was added to ‘forced or obligatory labour or services’, and 2) ‘exploitation of criminal activities’.⁴⁸¹

9.3.2 the role of specialised government actors, the police and the courts in this area;

Specialised detectives for trafficking are assigned within the police force. The Multidisciplinary Expertise Centre on Trafficking (*Multidisciplinair expertisecentrum mensenhandel en mensensmokkel*) provides advice and support to police officers. To become a certified detective for trafficking, training at the police academy is required, consisting of the courses ‘Tackling Trafficking (Other Exploitation)’ and ‘Tackling Trafficking (Sexual Exploitation)’. The training contains a theoretical and a practical part, and regards the legal framework on trafficking and the detection and treatment of victims. Selection criteria for attending the course concern the position and the capacities of the detectives.⁴⁸²

Cases of trafficking have been handled by specialised public prosecutors for several years. Since early 2013 each court has a specialised judge and staff.⁴⁸³ For each court the number of specialised judges is established and the selection is carried out, based on the experience and interest of the judges. The training consists of individual study and training at the Justice Study Centre Justice (SSR). There is a national network and some courts have an expertise circle for the exchange of knowledge concerning trafficking.⁴⁸⁴

The tasks of the Public Prosecution Service and cooperating organisations are described in more detail in the adjusted Directive on Trafficking in Human Beings.⁴⁸⁵ It aims to improve coherence with the European Directive, particularly concerning the protection of victims.

The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children reports to the government about the nature and prevalence of trafficking in human beings and sexual violence against children in the Netherlands. The National Rapporteur

⁴⁸¹ Netherlands, Minister of Security and Justice (Minister van veiligheid en Justitie) (2013), *Memorie van antwoord Implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake de voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)*, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brieven/2013/07/03/memorie-van-antwoord-implementatie-richtlijn-bestrijding-mensenhandel/lp-v-j-0000003646.pdf.

⁴⁸² E-mail correspondence with National Police (*Landelijke Eenheid*), 6 January 2014.

⁴⁸³ Netherlands, Minister of Security and Justice (Minister van veiligheid en Justitie) (2013), *Memorie van antwoord Implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake de voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)*, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brieven/2013/07/03/memorie-van-antwoord-implementatie-richtlijn-bestrijding-mensenhandel/lp-v-j-0000003646.pdf.

⁴⁸⁴ E-mail correspondence with the Council for the Judiciary (*Raad voor de Rechtspraak*), 7 January 2014.

⁴⁸⁵ Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2013), *Aanwijzing mensenhandel (2013A012)*, available at <https://zoek.officielebekendmakingen.nl/stcrt-2013-16816.html>.

monitors the impact of policies in these fields and formulates recommendations for improvement.⁴⁸⁶

9.3.3 measures aiming at the effective identification and protection of victims by the police, courts or other relevant bodies, at the national or cross-border levels;

Together with the Public Prosecution Service, the Military Police, Comensha and local governments, the police carried out a second national search for prostitution and trafficking focusing on online sex ads in April and September 2013.⁴⁸⁷ 30 locations, with a total of 47 prostitutes (44 female, 3 male), were controlled in April. In 8 cases trafficking was detected, in 4 cases there was a connection with an ongoing investigation on trafficking. 430 sex ads were selected and researched via telephone calls in September. In 88 cases of suspicion of trafficking an appointment was made with the prostitute (84 females and 4 males). This resulted in three investigations on trafficking, one on migrant smuggling and five leads to potential investigations.⁴⁸⁸

The Netherlands is actively involved in the European Multidisciplinary Platform Against Crime Threats (EMPACT) project on trafficking in human beings. It aims to enhance operational cooperation between institutions, for instance by improving the exchange of information through Europol and if necessary through Joint Investigative Teams.⁴⁸⁹

A bilateral action plan has been developed by the Dutch and the Hungarian governments in order to improve the cooperation in prosecution, detection and prevention of trafficking in human beings.⁴⁹⁰

A legislative proposal on the regulation of prostitution and tackling problems in the sex industry was discussed in the Senate in 2013. The proposed mandatory registration for prostitutes was not agreed upon. The Senate agreed with the proposals to increase the minimum age for legal prostitution to 21, to introduce a licensing system for all types of sex companies and a mandatory business plan considering the protection of the self-determination

⁴⁸⁶ Netherlands, Act of 6 November 2013 on implementation of Directive 2011/36/EU of the European Parliament and the Council on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. (*Wet van 6 november 2013 tot implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)*), available at: www.eerstekamer.nl/behandeling/20131112/publicatie_wet/document3/f=/vjenfmvuebtw.pdf.

⁴⁸⁷ Police Netherlands (*Politie Nederland*) (2013), 'Grootschalige landelijke politieactie niet-vergunde prostitutie', Press release, 13 September 2013, available at: www.politie.nl/nieuws/2013/september/13/00-grootschalige-landelijke-politieactie-niet-vergunde-prostitutie.html.

⁴⁸⁸ E-mail correspondence with National Police (*Landelijke Eenheid*), 6 January 2014; National Police (*Landelijke Eenheid*) (2013), 'Grootschalige landelijke politieactie niet-vergunde prostitutie', available at: www.politie.nl/nieuws/2013/april/27/grootschalige-landelijke-politieactie-niet-vergunde-prostitutie.html.

⁴⁸⁹ Netherlands, Minister of Security and Justice (*Minister van veiligheid en Justitie*) (2013), *Memorie van antwoord Implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake de voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)*), available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brieven/2013/07/03/memorie-van-antwoord-implementatie-richtlijn-bestrijding-mensenhandel/lp-v-j-0000003646.pdf.

⁴⁹⁰ Netherlands, Minister of Internal Affairs and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Nationaal Actieplan Mensenrechten. Bescherming en bevordering van mensenrechten op nationaal niveau', available at www.rijksoverheid.nl/documenten-en-publicaties/publicaties/2013/12/10/nationaal-actieplan-mensenrechten.html.

of prostitutes, in order to apply for a license, and requested an adjusted proposal.⁴⁹¹ This proposal is currently under review by the Council of State (*Raad van State*).⁴⁹² The Act is scheduled to come into force in July 2014.⁴⁹³

9.3.4 changes in the provision of specific victim support by the main actors in the field;

A national referral system describing the working methods of the various governmental and civil society actors involved in identification, support and shelter is being developed to facilitate adequate referral for the victims of human trafficking.⁴⁹⁴ According to the National Rapporteur, this referral mechanism is necessary because the new Aliens Circular, accompanying the new Modern Migration Policy Act, no longer contains a process description for the protection of victims.⁴⁹⁵ An interdepartmental working group has started in the second half of 2013, which will prepare proposals for the referral system. Results are expected in March 2014. Relevant NGOs and the National Rapporteur will be involved as well.⁴⁹⁶

9.3.5 cooperation of government actors or public services with NGOs active in the field.

The Taskforce to Tackle Trafficking (*Taskforce aanpak mensenhandel*) is a platform for cooperation for groups involved in victim support and law enforcement in the area of trafficking (labour exploitation as well as sexual exploitation). The Ministry of Health, Welfare and Sports, Comensha, and the National Rapporteur on Trafficking and others are involved.⁴⁹⁷

⁴⁹¹ Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2013), 'Wet regulering prostitutie en bestrijding misstanden seksbranche', website, available at: www.eerstekamer.nl/wetsvoorstel/32211_wet_regulering_prostitutie

⁴⁹² Netherlands, Minister of Security and Justice (*Minister van Veiligheid en Justitie*) (2013), 'Gevolgen behandeling Wrp voor beleid op prostitutie en mensenhandel toezeggingen', Letter sent to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 24 October 2013, no. 439674, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/10/25/gevolgen-behandeling-wrp-voor-beleid-op-prostitutie-en-mensenhandel-en-toezeggingen-27-maart-2013.html.

⁴⁹³ Netherlands, Ministry of the Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Nationaal Actieplan Mensenrechten', Den Haag: Ministry of the Interior and Kingdom Relations.

⁴⁹⁴ Netherlands, National Rapporteur Trafficking in Human Beings and Sexual Abuse of Children (*Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen*) (2013), *Mensenhandel. Negende rapportage van de Nationaal rapporteur*, The Hague, BNRM, available at: www.nationaalrapporteur.nl/publicaties/Negende/.

⁴⁹⁵ Netherlands, National Rapporteur Trafficking in Human Beings and Sexual Abuse of Children (*Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen Kinderen*) (2013), 'Wet Modern migratiebeleid van kracht', Press release, 4 June 2013, available at: www.nationaalrapporteur.nl/actueel/nieuws/2013/20130604-wet-modern-migratiebeleid-van-kracht.aspx?cp=63&cs=16790.

⁴⁹⁶ Netherlands, Ministry of the Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Nationaal Actieplan Mensenrechten', Den Haag: Ministry of the Interior and Kingdom Relations.

⁴⁹⁷ Netherlands, Minister of Security and Justice (*Minister van veiligheid en Justitie*) (2013), *Memorie van antwoord Implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake de voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brieven/2013/07/03/memorie-van-antwoord-implementatie-richtlijn-bestrijding-mensenhandel/lp-v-j-0000003646.pdf.

The Strategic Consultation on Trafficking (*Strategisch Overleg Mensenhandel*) consists of several NGOs and care and shelter organisations. The National Rapporteur is its auditor.⁴⁹⁸

9.4 Developments with regard to the rights of victims of gender-based violence

9.4.1 changes in the role of specialised government actors, the police and courts;

Local governments will be responsible for the Advice and Support Centres on Domestic Violence and Child Abuse from 1 January 2015. The Civil Support Act (*Wet Maatschappelijke Ondersteuning*) will be amended accordingly, along with the procedure for the Youth Act. Preparations have started at the local level.⁴⁹⁹

9.4.2 changes in the provision of specific victim support by the main actors in the field;

No relevant changes occurred in 2013.

The Institute on Gender Equality and Women's History, Atria, has raised concerns that the integrated approach towards violence in dependent relationships, the planned shift of responsibility for the Advice and Support Centres on Domestic Violence to local governments, and the merging of these centres with the Advice and Report Centres on Child Abuse in 2015 may have negative consequences for the local level of priority assigned to domestic violence and the prevention thereof. This may cause differences in the level of support provided to victims depending on their place of residence.⁵⁰⁰

9.4.3 measures taken to improve the effective protection of victims by the police, the courts or other relevant bodies, at the national or cross-border levels;

Domestic violence has been incorporated in an integrated national approach towards violence in dependent relationships since 2011.⁵⁰¹

⁴⁹⁸ Netherlands, Minister of Security and Justice (*Minister van veiligheid en Justitie*) (2013), *Memorie van antwoord Implementatie van de richtlijn 2011/36/EU van het Europees Parlement en de Raad inzake de voorkoming en bestrijding van mensenhandel, de bescherming van slachtoffers ervan, en ter vervanging van kaderbesluit 2002/629/JBZ van de Raad (PbEU L 101)*, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brieven/2013/07/03/memorie-van-antwoord-implementatie-richtlijn-bestrijding-mensenhandel/lp-v-j-0000003646.pdf.

⁴⁹⁹ Netherlands, State secretary for Security and Justice (Staatssecretaris voor Veiligheid en Justitie) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁵⁰⁰ Netherlands, Atria (2013), *Kanttekeningen bij G4 visie beleid huiselijk geweld*, available at www.atria-kennisinstituut.nl/atria/nl/actueel/publicaties_en_aanwinsten/_pid/column2_1/_rp_column2_1_elementId/1_292517

⁵⁰¹ Netherlands, State secretary for Security and Justice (Staatssecretaris voor Veiligheid en Justitie) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

The Act on the Obligation to have a Reporting Code for Domestic Violence and Child Abuse⁵⁰² came into force on 1 July 2013. It obliges organisations and professionals in certain sectors to have a reporting code, containing steps to follow in case of signs of domestic violence or child abuse. Research has shown that professionals who have a reporting code take action three times as often as professionals who do not have such a code.⁵⁰³ The accompanying decree⁵⁰⁴ describes the minimum requirements for such a reporting code. The adapted Reporting Code Toolkit was presented in October 2013.⁵⁰⁵

A gender impact scan on domestic violence policy is currently being conducted to assess its gender sensitivity.⁵⁰⁶

The effects of the temporary restraining order in case of domestic violence have been assessed by analysing 105 cases of imposition of the order. In 21 percent of the cases of domestic violence where a restraining order was imposed, additional domestic violence was registered by the police in the first one and a half years after occurrence, and in an additional 32 per cent of the cases violence occurred but was not registered by the police. In the cases where no restraining order was imposed, new violence was registered by the police in 30 percent of the cases. The main explanation for the correlation found between the restraining order and the lower incidence of additional domestic violence seems to lie in the support that is offered after the imposition of a restraining order.⁵⁰⁷

voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁵⁰² Netherlands, Act on amendment of several acts considering implementation of the obligation of a reporting code for domestic violence and child abuse (*Wet tot wijziging van diverse wetten in verband met de invoering van de verplichting voor bepaalde instanties waar professionals werken en voor bepaalde zelfstandige professionals om te beschikken over een meldcode voor huiselijk geweld en kindermishandeling en de kennis en het gebruik daarvan te bevorderen, onderscheidenlijk die meldcode te hanteren (verplichte meldcode huiselijk geweld en kindermishandeling)*) 14 maart 2013, available at:

www.eerstekamer.nl/behandeling/20130419/publicatie_wet/document3/f=/vj8wcmf4cwpx.pdf .

⁵⁰³ Netherlands, State secretary for Security and Justice (Staatssecretaris voor Veiligheid en Justitie) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁵⁰⁴ Netherlands, Law Gazette of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2013), 'Besluit verplichte meldcode huiselijk geweld en kindermishandeling', Vol. 2013, No. 324, available at: <https://zoek.officielebekendmakingen.nl/stb-2013-324.html>.

⁵⁰⁵ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veiligheid en Justitie*) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁵⁰⁶ Netherlands, State secretary for Security and Justice (*Staatssecretaris voor Veiligheid en Justitie*) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁵⁰⁷ Regioplan (2013), *Effectief uit huis geplaatst? Effect evaluatie van de Wet tijdelijk huisverbod*, Amsterdam, Regioplan, available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/11/16/effectevaluatie-van-de-wet-tijdelijk-huisverbod.html.

In addition, the procedural and legal obstacles that reduce the effectiveness of the Temporary Domestic Exclusion Order Act (*Wet tijdelijk huisverbod*) have been studied via a survey of 408 municipalities, the Domestic Violence Advice and Support Centres (*Steunpunten huiselijk geweld*) and all police forces. A number of obstacles were identified, mainly regarding the decision on imposition of the restraining order.⁵⁰⁸

9.4.4 measures taken to enable the Netherlands to ratify the Council of Europe 'Istanbul Convention' relating to violence against women and domestic violence.

The legislative procedure for ratification has begun. According to the State Secretary for Health, Welfare and Sports, current policy and implementation are almost entirely in accordance with the Convention. An impact analysis will be conducted in the Caribbean part of the Kingdom to assess the consequences of ratification and the approach for implementation.⁵⁰⁹ Legislation and policy on domestic violence in the Netherlands, on both the national and local levels,⁵¹⁰ is gender neutral – which is not in accordance with the Convention.⁵¹¹ According to experts, the existing Dutch approach to prevent domestic violence is too limited⁵¹² and an overall National Action Plan is missing.⁵¹³

⁵⁰⁸ Regioplan (2013), *Knelpunten in de uitvoering van de Wet tijdelijk huisverbod*, Amsterdam, Regioplan, available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/11/16/knelpunten-in-de-uitvoering-van-de-wet-tijdelijk-huisverbod.html.

⁵⁰⁹ Netherlands, State secretary for Security and Justice (Staatssecretaris voor Veiligheid en Justitie) (2013), 'Voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 127936-106005-DMO, 15 July 2013, available at: www.rijksoverheid.nl/bestanden/documenten-en-publicaties/kamerstukken/2013/07/15/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties/kamerbrief-over-voortgangsrapportage-geweld-in-afhankelijkheidsrelaties.pdf.

⁵¹⁰ Netherlands, Municipalities Amsterdam, Rotterdam, Utrecht and The Hague (*Gemeentes Amsterdam, Rotterdam, Utrecht en Den Haag*) (2013), *Gemeentelijke visie Huiselijk geweld en kindermishandeling*.

⁵¹¹ Netherlands, Römken, R. (2010), 'Omstreden gelijkheid', *Justitiële verkenningen*, Vol. 36, No. 8. ; Atria (2013), 'Reactie op voortgangsrapportage Geweld in afhankelijkheidsrelaties', Letter 25 March 2013, available at [www.atria-](http://www.atria-kennisinstituut.nl/atria/nl/actueel/publicaties_en_aanwinsten/_pid/column2_1/_rp_column2_1_elementId/1_292530)

[kennisinstituut.nl/atria/nl/actueel/publicaties_en_aanwinsten/_pid/column2_1/_rp_column2_1_elementId/1_292530](http://www.atria-kennisinstituut.nl/atria/nl/actueel/publicaties_en_aanwinsten/_pid/column2_1/_rp_column2_1_elementId/1_292530)

⁵¹² Netherlands, Dutch CEDAW Network (2012), *Shadow report of the Dutch NGOs on the response of the Kingdom of the Netherlands to the request of the Committee on the Elimination of Discrimination against Women in its Concluding Observations (CEDAW/C/NLD/CO/5, para 52) to provide, within two years, information on the steps undertaken to implement the recommendations in paragraphs 27 and 29*, available at: www.tiye-international.org/wordpress/wp-content/uploads/2009/09/12-CEDAW-Network_Shadowreport_NLD_def1.pdf. ; Netherlands, Van Schijndel, A., Kroes, W. and Timmermans, M. (2013), 'Preventie huiselijk geweld staat op laag pitje', Web page, 13 February 2013, available at: www.socialevraagstukken.nl/site/2012/02/13/preventie-huiselijk-geweld-staat-op-laag-pitje/.

⁵¹³ Netherlands, Dutch CEDAW Network (2012), *Shadow report of the Dutch NGOs on the response of the Kingdom of the Netherlands to the request of the Committee on the Elimination of Discrimination against Women in its Concluding Observations (CEDAW/C/NLD/CO/5, para 52) to provide, within two years, information on the steps undertaken to implement the recommendations in paragraphs 27 and 29*, available at: www.tiye-international.org/wordpress/wp-content/uploads/2009/09/12-CEDAW-Network_Shadowreport_NLD_def1.pdf. ; Netherlands, Dutch CEDAW Network (2013), 'Inbreng Netwerk VN Vrouwenverdrag Rondetafelgesprek Hoofdlijnenbrief Emancipatie', Letter, 11 June 2013, available at www.vrouwenverdrag.nl/_documenten/vv/doc/2013/InbrengNetwerkVNVrouwenverdragRondetafelgesprekHoofdlijnenbriefEmancipatie11juni2013.pdf.

9.5 Promising practices

9.5.1 New promising practices

Title (original language)	Uitbreiding Voorschotregeling compensatie voor slachtoffers
Title (EN)	Expansion of advance payment of compensation for victims
Organisation (original language)	Centraal Justitieel Incassobureau
Organisation (EN)	Central Judicial Collection Agency
Government / Civil society	Government
Funding body	Government
Reference (incl. url, where available)	<p>Netherlands, State secretary for Security and Justice (<i>Staatssecretaris voor Veiligheid en Justitie</i>) (2013), 'Beleidsreactie pamflet VVD-fractie inzake slachtofferbeleid', Letter to House of Representatives (<i>Tweede Kamer der Staten Generaal</i>), No. 381794 , 22 July 2013, available at: www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/07/23/beleidsreactie-pamflet-vvd-fractie-inzake-slachtofferbeleid.html</p> <p>About current advanced payment provision: Netherlands, Central Fine Collection Agency (<i>Centraal Justitieel</i> Netherlands, Incassobureau (2013), 'Voorschotregeling', Web page, available at: www.cjib.nl/Onderwerpen/schadevergoedingsmaatregel/Voorschotregeling/</p>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	January 2016
Type of initiative	Expansion of advance payment
Main target group	Victims of crime
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Since 2011 victims of violent and sexual offenses receive their compensation from the Violent Offenses Compensation Fund, even if the perpetrator doesn't pay the entire sum. The State Secretary for Security and Justice announced plans for expansion of this regulation, starting 2016, to victims of all

	crimes.
Highlight any element of the actions that is transferable (max. 500 chars)	The advanced payment to victims can be implemented in every country where the payment of compensation to victims is monitored and/or coordinated by an independent organisation.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The current advanced payment provision is considered a good practice by several experts. Expansion to other categories of victims
Give reasons why you consider the practice as having concrete measurable impact	The impact on victims who wouldn't receive the full compensation when the perpetrator fails to pay, is quite easily measurable in terms of the amount of money they would not have received without this provision.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	In Member States that have a right of monetary compensation for victims, and where the payment is monitored and/or coordinated by a governmental or other independent organisation, an advance payment could be introduced.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not applicable yet
Explain, if applicable, how the practice provides for review and assessment.	Not applicable yet

Title (original language)	Slachtofferloketten
Title (EN)	Victim Offices
Organisation (original language)	Politie, Openbaar Ministerie, Slachtofferhulp Nederland
Organisation (EN)	Police, Prosecutor Services, Victim Support Netherlands
Government / Civil society	Government and civil society
Funding body	Government
Reference (incl. url, where available)	Netherlands, Central Government (<i>Rijksoverheid</i>) (2013) 'Slachtofferloket', Web page, available at: www.rijksoverheid.nl/onderwerpen/slachtofferbeleid/slachtoff

	erloket
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2008
Type of initiative	organisational measure
Main target group	Victims of crime
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	In the Victim Offices the case managers of Victim Support, the Police and the Public Prosecution Service work together in one regional office, in order to provide information and explanation to victims and their next of kin about the detection, prosecution, right of compensation, oral victim impact statement, attendance of the court hearings and the sentencing.
Highlight any element of the actions that is transferable (max. 500 chars)	The cooperation of these three actors and the one-stop-shop for all information for victims can be transferred to other Member States.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	Both the cooperation and the physical offices are long term.
Give reasons why you consider the practice as having concrete measurable impact	The first offices have been evaluated: their efficiency and impact on victims have been assessed.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	This practice can be transferred to other Member States, since providing information to victims on their rights and on the criminal proceedings is an obligation for all Member States, according to Directive 2012/29/EU and the combination of the various actors providing this information into one office would be possible in all Member States.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	In the evaluation of the first four Victim offices, the opinion of victims on the offices was reviewed, in order to assess their impact.
Explain, if applicable, how the practice provides for review and	In 2011 the first four offices were evaluated. http://www.wodc.nl/onderzoeksdatabase/evaluatie-nieuw-

assessment.	slachtofferloket.aspx
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Title (original language)	Slachtoffermonitor
Title (EN)	Victim monitor
Organisation (original language)	Regioplan
Organisation (EN)	Regioplan
Government / Civil society	Civil society
Funding body	Department of Security and Justice
Reference (incl. url, where available)	Netherlands, Regioplan (2013), <i>Eerste meting Slachtoffermonitor: ervaringen van slachtoffers met justitiele slachtoffer-ondersteuning. Deel twee: Openbaar Ministerie, Rechtspraak en Slachtofferhulp Nederland</i> , Amsterdam, Regioplan, available at: www.rijksoverheid.nl/documenten-en-publicaties/rapporten/2013/09/04/deel-2-eerste-meting-slachtoffermonitor.html Netherlands, Regioplan (2012), <i>Eerste meting Slachtoffermonitor: ervaringen van slachtoffers met justitiele slachtoffer-ondersteuning. Deel een: Politie</i> , Amsterdam, available at: www.wodc.nl/onderzoeksdatabase/1833b-Monitor-slachtofferzorg.aspx
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	Part two was published May 2013, Part one (The Police) was published in 2012.
Type of initiative	Research
Main target group	Policy makers at government, police, Public Prosecution Service and other organisations
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Victim Monitor is the first study in this form to assess the opinions and experiences of victims, regarding the support they received from victim support organisations.
Highlight any element of the actions that is transferable (max. 500 chars)	A survey among victims on how they perceive the support received and their needs for further support is transferable to every Member State.

Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The study is supposed to monitor opinions and needs of victims. Repeating this study will provide insight in the quality and impact of victim support services and its developments.
Give reasons why you consider the practice as having concrete measurable impact	Reporting on the opinions and needs of victims provides information for policy makers. The extent to which these results are used in formulation of new or amended policies, can be measured.
Give reasons why you consider the practice as transferrable to other settings and/or Member States?	In any Member State or setting, it is valuable to have information about the opinions and needs of victims, to achieve an adequate victim support policy.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The aim of the monitor is to involve victims in policy development by reviewing their opinions on victim support provisions.
Explain, if applicable, how the practice provides for review and assessment.	The practice is a review in itself, it assesses the current victim support provisions from the perspective of victims.

10 EU Member States and international obligations

10.1 Key developments relating to structures for the implementation and monitoring of the Convention on the Rights of Persons with Disabilities (CRPD) as outlined in Article 33 of the CRPD.

The Ministry of Health, Welfare and Sport has published two draft bills on the ratification of the CRPD for the purposes of online consultation: a Ratification Act (*Goedkeuringswet*) stipulating the enactment of the CRPD for the Netherlands⁵¹⁴ and an Implementation Act (*Uitvoeringswet*) defining the legal reforms necessary for CRPD ratification.⁵¹⁵

In the explanatory memorandum to the Ratification Act, the Ministry specifies the structures for the implementation and monitoring of the CRPD, as outlined in Article 33 of the CRPD. According to the memorandum, the Ministry of Health, Welfare and Sport is the contact point for all issues concerning implementation of the treaty. The Ministry is already responsible for the ratification process and participates in the steering group of ministries, municipalities and regional authorities working on ratification. The steering group coordinates the measures aiming at the implementation of the treaty and the information provision regarding these measures. The Ministry appoints the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) as the independent monitoring body for the CRPD, and states that representative organisations should be involved in monitoring. The memorandum refers to the involvement of several representative disabled people's organisations (DPOs) in the ratification process thus far, including the Council for the Chronically Ill and Disabled (*CG-Raad*), Platform VG, The Coalition for Inclusion (*Coalitie voor Inclusie*) and the Dutch Association for Disabled Care (*Vereniging Gehandicaptenzorg Nederland*).⁵¹⁶

The Netherlands Institute for Human Rights announced in its advice on the two draft bills that it is considering the experiences of other monitoring bodies as it studies how best to fulfill its role as monitoring body. It calls for the creation of a National CRPD Action Plan in which the government details the steps to be taken to fulfil treaty obligations. This Action Plan could in turn be used as a framework for the monitoring tasks of the independent body.⁵¹⁷

⁵¹⁴ Netherlands, State Secretary of of Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2013), *Ambtelijk concept: Rijkswet van ... tot goedkeuring van het op 13 december 2006 te New York tot stand gekomen Verdrag inzake de rechten van personen met een handicap* (Trb. 2007, 169)), available at: <http://internetconsultatie.nl/vnverdraghandicap/document/764>.

⁵¹⁵ Netherlands, State Secretary of of Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2013), *Ambtelijk concept: Rijkswet van ... tot uitvoering van het op 13 december 2006 te New York tot stand gekomen Verdrag inzake de rechten van personen met een handicap* (Trb. 2007, 169)), available at : <http://internetconsultatie.nl/vnverdraghandicap/document/766>.

⁵¹⁶ State Secretary of of Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2013), *Ambtelijk concept: Memorie van Toelichting bij Rijkswet van ... tot uitvoering van het op 13 december 2006 te New York tot stand gekomen Verdrag inzake de rechten van personen met een handicap* (Trb. 2007, 169)), available at: <http://internetconsultatie.nl/vnverdraghandicap/document/765>

⁵¹⁷ Netherlands, The Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), *Advies over de concepten van de Goedkeuringswet en Uitvoeringswet bij het VN-Verdrag inzake de rechten van personen met een handicap*, Utrecht, The Netherlands Institute for Human Rights, available at: <http://zoekservice.mensenrechten.nl/StippWebDLL/Resources/Handlers/DownloadBestand.ashx?id=2077>.

10.2 Reforms of the legal framework and specific policy reforms introduced as a result of CRPD ratification in the Netherlands.

As the Netherlands has yet to ratify the CRPD, no reforms of the legal framework or policy have taken place. Nevertheless, the draft bill for the implementation of the CRPD includes two legal reforms that will be introduced by the government to comply with CRPD obligations. The bill, drawn up by the Ministry of Health, Welfare and Sport, has been subject to public internet consultation. The State Secretary for Health responsible for the bill had previously announced that he would send the draft bills, after integration of public feedback, to the Council of State after the summer of 2013.⁵¹⁸ In the National Action Plan on Human Rights published in December 2013, the government states that it will do so still in 2013.⁵¹⁹ According to the website of the Council of State, the bill is currently under consideration.⁵²⁰ After the Council of State publishes its advice on the bill, it can be sent to Parliament. In drawing up the implementation bill, the Ministry referred to two legal impact assessments of ratification by the Institute for Human Rights at the University of Utrecht (SIM) in 2012,⁵²¹ and to a financial and economic impact analysis conducted by the research institute SEOR at the University of Rotterdam.⁵²²

The draft Implementation Act introduces two major legal changes. First, the scope of the Act on Equal Treatment on Grounds of Disability or Chronic Illness (*Wet gelijke behandeling op grond van handicap of chronische ziekte*, Wgbh/cz) will be expanded to cover access to goods and services. Until now, the Act only extended to the areas of employment, education, public transport and housing. Second, the Electoral Code (*Kieswet*) will be changed to improve the accessibility of polling stations. Article J4.2 of the Electoral Code, which currently stipulates that local authorities should ensure that "at least 25%" of polling stations are accessible to persons with physical disabilities, will be changed to state that "as many polling stations as possible, but at least 25%" should be accessible to persons with physical disabilities.⁵²³

The Netherlands Institute for Human Rights, envisaged to be an independent monitoring body for the CRPD after ratification, is positive about the extended scope of the Wgbh/cz. It supports the emphasis on polling station accessibility, adding that all polling stations should be accessible and that CRPD obligations go further than the accessibility of polling stations.

⁵¹⁸ Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2013), 'Stand van zaken ratificatieproces VN Verdrag Handicap', Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), No. 126743-105769-DMO, 27 June 2013.

⁵¹⁹ Netherlands, Ministry of the Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2013), 'Nationaal Actieplan Mensenrechten', Den Haag: Ministry of the Interior and Kingdom Relations.

⁵²⁰ The Netherlands, Council of State (*Raad van State*) (2014), 'Adviesaanvragen in behandeling bij de Afdeling advisering van de Raad van State', website, available at: <http://www.raadvanstate.nl/adviezen/actuele-adviezen/aanhangige-adviezen.html>.

⁵²¹ Netherlands, Netherlands Institute of Human Rights (*Studie- en Informatiecentrum Mensenrechten*, SIM) (2012), *Ratificatie... En dan?*, Utrecht, Studie- en Informatiecentrum Mensenrechten ; Netherlands Institute of Human Rights (*Studie- en Informatiecentrum Mensenrechten*, SIM) (2012), *Aanvullend rapport: Ratificatie... En dan?*, Utrecht, Utrecht, Studie- en Informatiecentrum Mensenrechten.

⁵²² Netherlands, De Jong, J.M., Den Exter, A.P. and Hulst, E.H. (2013), *Economische gevolgen van ratificatie van het VN Verdrag Handicap*, Rotterdam, SEOR.

⁵²³ Netherlands, State Secretary of Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2013), *Ambtelijk concept: Rijkswet van ... tot uitvoering van het op 13 december 2006 te New York tot stand gekomen Verdrag inzake de rechten van personen met een handicap (Trb. 2007, 169)*, available at: <http://internetconsultatie.nl/vnverdraghndicap/document/766>.

According to the Institute, all procedures, facilities and provisions relating to elections should be accessible to people with disabilities, implying, for example, that voting ballots should be accessible to voters with visual disabilities. The Institute is also critical of the government's proposal to exempt the Caribbean Netherlands from ratification of the CRPD. Another point of criticism refers to safeguarding equality before the law, as provisions on legal representation may conflict with the CRPD. The Institute also calls for the signing and ratification of the Optional Protocol and for adding disability to Article 1 of the Dutch Constitution which stipulates the general principle of equal treatment. Finally, the Institute calls on the government to support ratification of the CRPD through a National Action Plan detailing additional measures and policies to realise CRPD objectives.⁵²⁴

⁵²⁴ Netherlands, The Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2013), *Advies over de concepten van de Goedkeuringswet en Uitvoeringswet bij het VN-Verdrag inzake de rechten van personen met een handicap*, Utrecht, Netherlands Institute for Human Rights, available at: <http://zoekservice.mensenrechten.nl/StippWebDLL/Resources/Handlers/DownloadBestand.ashx?id=2077>.

11 Charter case law (reference to the EU Charter of Fundamental Rights in national jurisprudence)

11.1

Provide key information and analysis on the **five** most important national judgements that refer to the EU Charter of Fundamental Rights in a prominent manner, **namely when this has a clear traceable impact on the reasoning of the Court**. This is not considered to be the case where a judgement only reflects that parties have mentioned the Charter in their submissions without affecting the reasoning of the Court. Focus should be put on judgements delivered by the highest Courts (like Constitutional Courts, Supreme Courts or Supreme Administrative Courts). Where, however, these Courts did not hand down such judgements in 2013, also judgements by lower ranking Courts should be reported. Equally, those judgements by lower Courts should be reported that are of crucial importance to the reception, standing and usage of the Charter at national level. Put each case in a separate table (see below).

Deciding body (in original language)	Centrale Raad van Beroep
Deciding body (in English)	The Administrative High Court
Case Number (also European Case Law Identifier, ECLI where applicable)	ECLI:NL:CRVB:2013:BZ2161
Parties	Appellant vs the Board of Directors of the Sociale Verzekeringsbank (Social Insurance Bank)
Decision date	22 February 2013
Web link to the judgement (if available)	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:CRVB:2013:BZ2161
Key facts of the case (max. 250 words)	<p>The appellant was born in Surinam in 1951. As from 15 October 1972 he has lived in The Netherlands. The Social Insurance Bank sent him a survey of the pension he had accumulated on 8 January 2009. It was indicated that the appellant had not been insured for old age pension (Algemene Ouderdomswet) from 2 March 1966 up to and including 14 October 1972, because he lived in Surinam at the time and did not reside in The Kingdom of the Netherlands. The appellant appealed to the District Court against this decision, alleging that the term Kingdom of the Netherlands should be interpreted in such a way, that it includes Surinam. The District Court dismissed the appeal. The appellant relied on articles 25 and 34 of the EU Charter of Fundamental Rights., among other things. The Administrative High Court now judges that the appellant's reliance on the EU Charter fails, because there is no situation in which the law of the European Union is implemented (Article 51 of the Charter). Dismissal of the case.</p> <p>Social security.</p> <p>Question: is the law of the European Union implemented when denying someone the benefits of a pension scheme when he lived in Surinam and not in the European part of the Kingdom of the Netherlands?</p>
Charter Article(s) that are referred to by the Court	Article 51 of the Charter.
Translation of the Paragraphs where	The appellant's reliance on the EU Charter on Fundamental Rights fails, now that there is no situation in

the Court is in its reasoning referring to the Charter	which the law of the Union is executed (Article 51 of the Charter).	
Was the Charter already referred to by the Parties or was it the Court that used the Charter <i>ex officio</i> ?	Parties referred to it.	
Was the Charter directly applied?	Yes, the Court judged about the question whether EU law was involved in the question submitted.	
Was the Charter used in order to:	a. interpret national law?	Yes: is EU law involved when the court judges a case which took place in Surinam?
	c. check legality of national law?	No
	d. interpret EU law?	No
	e. check legality of EU secondary law?	No
	f. (other use)?	No
Was the Charter referred to together with other international sources, such as:	a. (Unwritten) general principles of EU law?	No
	b. The European Convention on Human Rights or other Council of Europe conventions?	Yes, prohibition to discriminate in the ECHR (dismissed by the court) and the right to social security as laid down in article 5 of the European Convention on Social Security (provision is not binding on all persons in the Netherlands, according to the court).
	c. International law (UN conventions, etc.)?	Prohibition to discriminate as laid down in the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights and the International Convention on the Elimination of all Forms of Racial Discrimination ((dismissed by the court or deemed as not binding all persons in The Netherlands); the right to social security, including social insurance, as laid down in article 9 of the International Covenant on Economic, Social and Cultural Rights (provision not deemed to be binding on all persons in The Netherlands by the court).
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	Yes, EU law does not apply in this case.	
Did the invocation of the Charter make a difference to (the outcome of)	Yes, EU law does not apply to Surinam.	

the case?	
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Deciding body (in original language)	Raad van State
Deciding body (in English)	Administrative Jurisdiction Division of the Council of State
Case Number (also European Case Law Identifier, ECLI where applicable)	ECLI:NL:RVS:2013:BZ8388
Parties	Appellant (the alien) vs the Minister for Immigration, Integration and Asylum
Decision date	17 April 2013
Web link to the judgement (if available)	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:BZ8388
Key facts of the case (max. 250 words)	<p>The appellant was detained as an alien on the basis of a decision of 23 August 2012. On 17 September 2012 the District Court dismissed the appellant's appeal and rejected his claim for compensation. The appellant relies on article 6 of the Charter, which lays down the right to liberty and security and article 47 of the Charter, which says: "Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice." The appellant states that he was not heard within a reasonable time after his detention as an alien. His appeal was on the sixth day after his detention and the District Court heard him on the eighteenth day. The District Court holds that this was as soon as possible. The appellant states that the Dutch provisions which apply to detention in general should have applied to his case, too. These provisions lay down that the court should ex officio assess the case of someone who is detained within three days and fifteen hours (Code on Criminal Procedure). There should be no difference between regular detention and the detention of aliens. The procedure followed is in conflict with article 6 and 47 of the Charter, among other things, especially the requirement to be brought promptly before a tribunal. The Administrative Jurisdiction Division of the Council of States judges, however, that the appellant was brought promptly before a tribunal on the basis of judgements by the ECtHR, which make the answer to this question dependent on the circumstances of the case. Article 6 of the Charter applies, rather than article 47, as it specifies article 47 of the Charter. A second point that the appellant raises is that the judgement about the decision to detain him should have been taken in the light of the lawfulness of the decision to return him to his home country. Only this is an effective remedy. The judgement about the decision to detain him was dealt with by the court on 10 September 2012; the judgement about the decision to return him to his home country was dealt with by the court on 17 October 2012. The Administrative Jurisdiction Division of the Council of State holds that in this case, too, the appellant relies on Article 6 of the Charter, which specifies Article 47 of the Charter (effective remedy). The Administrative Jurisdiction Division of the Council of State allows the appeal, saying that the judgement about the decision to detain the appellant should have been pronounced at the same time as the judgement about the lawfulness of the decision to return him to his home country, as the first decision depends on the circumstances of the second decision.</p> <p>Immigration and asylum.</p> <p>Questions: does article 6 of the Charter allow a difference in treatment of regular detainees and the</p>

	treatment of aliens who are detained, where the time period within which they are heard by the court differs? Does article 6 of the Charter make it necessary for a court in terms of an effective remedy to judge the decision to detain an alien and the decision to return him to his home country at the same time?	
Charter Article(s) that are referred to by the Court	Articles 6, 47, 51, and 52 of the Charter.	
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	<p>The question whether there is a prompt decision should be answered in the light of the circumstances of the case (see among other things the ECtHR judgement of 21 October 1986, Sanchez Reisse vs Switzerland , no. 9862/82; www.echr.coe.int). The alien appealed against the decision of 23 August 2012 on 29 August 2012. The District Court heard the appeal within the time limit, laid down in article 94, subsection 2, of the Aliens Act 2000 on 10 September 2012, after which it ended the investigation. The District Court pronounced its judgement about the appeal on 17 September 2012 within the time limit laid down in article 94, subsection 3, of the Aliens Act. In view of the de judgements of the ECtHR of 18 September 2001, Erdogan vs the Netherlands, no. 49820/99 and of 1 October 2002, Tekdemir vs the Netherlands, nos. 46860/99 and 49823/99 (www.echr.coe.int) and due to a lack of special individual facts and circumstances, which should have been mentioned by the appellant, which would have prompted an earlier judgement in his case, the District Court judged promptly in the sense of article 5, subsection 4 of the ECHR, now that it pronounced its judgement against the appeal within nineteen days. In view of the above there is no violation of article 6 of the Charter, in so far as this article guarantees a right to an effective legal remedy, among which a prompt judicial decision, nor is it an infringement of article 5 of the ECCHR, so that the appeal fails in this respect.</p> <p>An immediate discontinuance of the detention, ordered by the District Court, is because of the above-mentioned reasons not safeguarded when appeals, submitted at the same time or nearly the same time, against the separate decision to return an alien to his home country and against the measure of detention are not heard at the same time. It is therefore in conflict with the essence of the right to an effective legal remedy laid down in article 6 of the Charter, i.e. the right to an immediate release when the detention is unlawful. Article 6 of the Charter therefore requires that the District Court hears appeals against a separate decision to return an alien to his home country and a against the decision to detain him, when they have been submitted at the same time or nearly the same time, at the same time, also when the alien has not made an express request.</p>	
Was the Charter already referred to by the Parties or was it the Court that used the Charter <i>ex officio</i>?	Parties referred to it.	
Was the Charter directly applied?	Yes, the Court judged about the question whether the appellant was brought promptly before a judge and whether he had access to an effective legal remedy where the decisions to return him to his home country and to detain him were concerned.	
Was the Charter used in order to:	b. interpret national law?	Yes. Does an alien have access to an effective legal remedy when his appeal against the decision to return him to his home country is heard later than his appeal against the decision to detain him?.
	g. check legality of national law?	Yes. Is the distinction between the treatment of regular detainees and aliens who are detained in terms of the period of time within which they are brought before a tribunal allowed?
	h. interpret EU law?	No

	i. check legality of EU secondary law?	No
	j. (other use)?	No
Was the Charter referred to together with other international sources, such as:	d. (Unwritten) general principles of EU law?	Yes. Article 6, subsection 1 TEU, about the status of the Charter. Article 267, second and third paragraphs, about the interpretation of Treaties. Article 15, subsection 2 DIRECTIVE 2008/115/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, about a prompt judicial hearing about the lawfulness of the detention of a third-country national.
	e. The European Convention on Human Rights or other Council of Europe conventions?	Yes. Article 5, subsections 1, 3 and 4, article 6, subsection 1, and article 13 of the ECHR, among other things about a prompt hearing by a court and access to an effective legal remedy.
	f. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	No. There is a link with EU law. See above.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	Yes, the Administrative Jurisdiction Division of the Council of State held the appeal of the alien had been dealt with promptly, but that he had no effective legal remedy as to the hearings of the appeal against the decision to detain him in view of the lawfulness of the decision to return him to his home country.	

Deciding body (in original language)	Raad van State
Deciding body (in English)	The Administrative Jurisdiction Division of the Council of State
Case Number (also European Case Law Identifier, ECLI where applicable)	ECLI:NL:RVS:2013:BZ2265
Parties	Appellants (the Association of Owners of Securities – VEB NCVB and the natural legal persons and other legal persons mentioned in the annex to the judgement) vs the Minister of Finance
Decision date	25 February 2013
Web link to the judgement (if)	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2013:BZ2265

available)		
Key facts of the case (max. 250 words)	<p>The Minister of Finance decided on 1 February 2013 to disown the owners of securities and other capital of the public limited company SNS REAAL PLC and the public limited company SNS BANK PLC (hereinafter: SNS BANK). The appellants appeal against this decision. They allege, among other things, that their rights to a fair trial and other procedural aspects were infringed upon. They rely on article 6 ECHR and article 47 of the Charter. The appellants point out that they only had available a short time to appeal against the decision, that there was only a short time between the appeal and the hearing of this appeal by the Administrative Jurisdiction Division of the Council of State and the circumstance that in some cases they only had a few days available to study the documents that were dealt with during the hearing. This meant that they could insufficiently defend their interests. The Administrative Jurisdiction Division of the Council of State judges that article 6 ECHR does not consist of an absolute right of access to a tribunal. Member States have a margin of appreciation, provided that the essence of the access to a tribunal is not violated, the limitations serve a legitimate aim and the limitations are proportional. The Administrative Jurisdiction Division of the Council of State acknowledges that the time limits laid down in the Act on Financial Supervision are shorter than usual in administrative law. This does not violate the right of access to a tribunal, however. Furthermore, the public interest in this particular case required a prompt judgement. The appellants have been able to put forward their points of view both orally and in writing. That this has been strenuous, does not change the Council's judgement. The appeal fails in this respect.</p> <p>Banking and insurance law.</p> <p>Question: is it fair to limit the time within which parties can appeal and prepare themselves for a hearing?</p>	
Charter Article(s) that are referred to by the Court	Article 47 and 51 of the Charter.	
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	Article 47 of the EU Charter on Fundamental Rights (hereinafter: EU Charter) contains provisions similar to those of article 6 ECHR. Not taking into consideration whether in this case the law of the Union is implemented in the sense of article 51, subsection of, of the EU Charter, the application of the provisions mentioned from the Act on Financial Supervision is, now that they are not contrary to article 6 of the ECHR, not contrary to article 47 of the EU Charter either . . .	
Was the Charter already referred to by the Parties or was it the Court that used the Charter <i>ex officio</i>?	Parties referred to it.	
Was the Charter directly applied?	Yes, the Administrative Jurisdiction Division of the Council of State judged about the question whether the trial was fair.	
Was the Charter used in order to:	c. interpret national law?	Yes: are the time limits laid down in the Act on Financial Supervision fair?
	k. check legality of national law?	No
	l. interpret EU law?	No
	m. check legality of EU secondary law?	No
	n. (other use)?	No
Was the Charter referred to together with other	g. (Unwritten) general principles of EU law?	No
	h. The European Convention on Human Rights or other Council of Europe	Yes. Article 6 ECHR on a fair trial and Ashingdale vs the United Kingdom, 28

international sources, such as:	conventions?	May 1985, no. 8225/78, www.echr.coe.int/
	i. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a purely internal situation without cross-border element and not linked with EU law?	Yes.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	It indirectly confirmed that there was a fair trial.	

Deciding body (in original language)	Hoge Raad
Deciding body (in English)	Supreme Court
Case Number (also European Case Law Identifier, ECLI where applicable)	ECLI:NL:HR:2013:BR0671
Parties	Interested party, lodging an appeal in cassation with the Supreme Court against a judgement by the Court of Appeal in Amsterdam of 20 May 2010, nr. P08/00208, as to invitations to pay custom duties
Decision date	22 February 2013
Web link to the judgement (if available)	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2013:BR0671
Key facts of the case (max. 250 words)	The interested party had to pay custom duties based on an (additional) tax demand of 28 April 2005 for the import of among other things, party tents. The Inland Revenue Service confirmed the demand, after the interested party had asked for a review. The District Court in Haarlem dismissed the request for a judicial review. The interested party appealed to the Court of Appeal. The Court of Appeal confirmed the judgement of the District Court. The Court of Appeal held that the Inland Revenue Service, in view of a judgement of the Court of Justice of the European Communities (hereinafter: ECJ) of 18 December 2008 in case C-349/07 (Sopropé) that the principle of respect for the rights of defence was violated, when the) interested party addressed was not placed in a position in which he could effectively make known his views about the elements on which the administration based its decision prior to the time that the tax demand was issued. However, he was not adversely affected, partly because he could still lodge a request for a review and a further request for judicial review at the District Court. The question is whether the principle of respect for the rights of the defence is a principle of EU law that has direct effect. If so, the question is whether this right has been violated, now that the interested party was not heard before the issue of the (additional) tax demand. The principle

	<p>of respect for the right of defence is regarded, on the basis of the case law of the ECJ, as a principle of European law. See article 41 of the Charter on Fundamental rights of the EU, but this article is only addressed to the institutions, bodies, offices and agencies of the Union. Moreover, this right is not absolute. If the Inland Revenue Service violated the respect for the right of defence, laid down in EU law, the question is which legal consequences this should have. Should they be determined by national law? If not: which circumstances should the national court take into account when it determines the legal consequences, more in particular may it take into account that the procedure, without the violation by the administration of the principle of respect for the rights of defence, laid down in European law, would have had another outcome?</p> <p>Tax law.</p> <p>Questions: see above</p>
<p>Charter Article(s) that are referred to by the Court</p>	<p>Article 41, subsection 2, opening sentence and under a, of the Charter.</p>
<p>Translation of the Paragraphs where the Court is in its reasoning referring to the Charter</p>	<p>3.4.2. Neither the Community Customs Code (hereinafter: the CCC), nor Dutch law, provide procedural stipulations which oblige the customs authorities, before they issue an announcement in the sense of Article 221, subsection 1 of the CCC, to make it possible for the customs debtor to make clear his point of view as to the factors on which the claim of customs duties is based. Due to this, the question arises whether the principle, based on European law, applied by the Court, about the respect of the right of defence by the administration can be applied directly by the national court insofar as this principle implies a duty of the administration to give the person addressed by a decision to his disadvantage which the administration intends to take against him, the opportunity, prior to this decision, to give his point of view about the factors on which the decision is based. This question must be answered before the allegations in claim II in this case can be judged. Consideration 38 of the Sopropé case refers for one of the conditions for the execution of this principle, i.e. the period of time, the conditions which have to be met in national law, if they have not been determined by the law of the Union, as in the present case. On the basis of this consideration it has been argued in legal literature that the principle of defence, laid down in European law, depends, before it is applied, as to a national administration, on the conditions which have been determined in national law. This principle, it is argued, cannot be applied by the national court directly. The question whether the national court can impose this obligation, based on European law, on the administration, also if the CCC or national law does not lay down any stipulations in this respect, has not been explicitly answered by the case law of the European Court of Justice, so that the Supreme Court will ask a prejudicial decision in this respect.</p> <p>3.5.1. If the answer to the question referred to in 3.4.2. leads to the conclusion that the principle of respect of the rights of defence by the administration, laid down in European law, can be directly applied, the question is whether the Court rightly judged that there has been a violation of the rights of the defence in the sense of prevailing case law of the Court of Justice (cf. among others the Sopropé case, considerations 36 and 37 and ECJ 17 June 2013, Commission/Italy, C-243/08, considerations 44 and 45) due to the fact that the Inspector did not give the interested party prior to the announcements in the sense of Article 221, subsection 1, of the CCC, the opportunity to express his views about the factors on which those announcements were based.</p> <p>3.5.2. The case law of the European Court of Justice shows that the principle of the right of defence is regarded as a fundamental principle of European law. In that sense it is now also expressed in article 41, subsection 2, opening sentence and under a, of the Charter on Fundamental Rights of the European Union, which, pursuant to article 6, subsection 1, of the Treaty on European Union has the same legal value as the Treaties, but the Charter on Fundamental Rights of the European Union, according to its wordings, is only addressed to institutions, bodies, offices and agencies of the Union. Furthermore, case law of the Court of Justice shows that this right is not absolute (see in this sense ECJ 15 June 2006, Dokter and others, C-28/05, Jurisprudence p. I-5431, point 75, and ECJ 3 September 2008, Kadi, C-402/05P, Jurisprudence p. I-6351, point 342, compare furthermore ECJ 29 January 2013, Ciprian Vasile Radu, C-396/11). This gives rise to the question, in this case, when this principle is violated.</p> <p>3.5.5. The Sopropé case cannot without any reasonable doubt give rise to the conclusion that there is a</p>

	<p>violation of the principle of respect of the rights of the defence by the administration in the present case, as the judgement in the Sopropé case was pronounced on the basis of a situation in which the facts showed that the interested party had not been heard at all in the period before the case was brought before a court. In this respect the present case differs from the case which gave rise to the Sopropé case. The Supreme court draws attention to the fact that primary decisions, in this case announcements in the sense of Article 221, subsection 1 of the CCC, and the decision after a complaint had been filed are all part of one administrative procedure and that this procedure therefore differs in this respect from the one which gave rise to the judgement of the Court of Justice of 22 November 2012 in case C-277/11 (M against Minister of Justice, Equality and Law Reform, Ireland, Attorney General). The Supreme Court will therefore ask the Court of Justice for a prejudicial decision.</p> <p>3.6.1. If the answer of the Court of Justice to the prejudicial question referred to in 3.5.2. leads to the conclusion that the Inspector, making his announcements referred to in Article 221, subsection 1 of the CCC violated the principle of respect by the administration of the rights of the defence, laid down in European law, the question arises which legal consequences this should have.</p> <p>3.6.2. The Sopropé case does not say whether the consequences that the national court should draw on the basis of the violation of the principle of defence, when there is no procedure in European law and relying on the principle of procedural autonomy, are determined or not by national law. As the levying and collection of customs duties is covered by the CCC, the Supreme Court will ask for a prejudicial decision.</p> <p>3.6.3. If the legal consequences of the violation by the administration of the principle are fully determined by European law, the question arises whether, if there has been a violation of the principle of defence, the national court is obliged, for this reason only, to annul the decision. Or can the court, as the Court has done in this case, also consider the consequences of the violation of this principle?</p> <p>3.6.4. For a confirmative answer to the first question described in 3.6.3. it may be argued that the duty to hear the person addressed by a decision to his disadvantage prior to taking the decision, is a duty of a formal nature in the sense that it applies irrespective of what the person addressed could put forward.</p> <p>For an affirmative answer to the second question described in 3.6.3. it may be argued that an efficient rule of law is hindered if the national court would have to annul a decision, when it is clear that what the interested party would have been able to put forward would not have led to another decision. There are clues in the case law of the Court of Justice for the latter interpretation of the principle of defence (in this sense see ECJ 11 November 1987, France/Commission, 259/85, Jurisprudence p. 4393, considerations 12-13; ECJ 21 March 1990, Commission/Belgium, C-142/87, Jurisprudence, p. I-959, consideration 48, ECJ 11 January 2007, Technische Glaswerke Ilmenau/Commission, C-404/04P, Jurisprudence p. I-1, consideration 131), These judgements were pronounced on the basis of disputes which referred to compliance by the Institutions of the European Union with the principle and they therefore also referred to the supervision of the Court of Justice. The present case refers to compliance of the administrative organ of a Member State and therefore the supervision by a court of this Member State. On this basis the Supreme Court will ask for a prejudicial decision with reference to the obligations implied by the principle of defence, laid down in European law, for the national court in the case that the national administration violated this principle.</p>
<p>Was the Charter already referred to by the Parties or was it the Court that used the Charter <i>ex officio</i>?</p>	<p>Unclear.</p>
<p>Was the Charter directly applied?</p>	<p>The Supreme Court asked prejudicial questions to the ECJ on the basis of, among other things, the Charter.</p>

Was the Charter used in order to:	d. interpret national law?	No.
	o. check legality of national law?	No
	p. interpret EU law?	Yes. Prejudicial questions to the ECJ were asked.
	q. check legality of EU secondary law?	No
	r. (other use)?	No
Was the Charter referred to together with other international sources, such as:	j. (Unwritten) general principles of EU law?	Yes, principle of respect for right of the defence.
	k. The European Convention on Human Rights or other Council of Europe conventions?	No.(
	l. International law (UN conventions, etc.)?	No.
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	No. The questions are how EU law should be applied.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	The invocation of the Charter leads to one of the questions asked to the ECJ.	

Deciding body (in original language)	Centrale Raad van Beroep
Deciding body (in English)	The Administrative High Court
Case Number (also European Case Law Identifier, ECLI where applicable)	ECLI:NL:CRVB:2013:1090
Parties	Appellant vs the Board of Directors of the Sociale Verzekeringsbank (Social Insurance Bank)
Decision date	12 July 2013
Web link to the judgement (if available)	http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:CRVB:2013:1090
Key facts of the case (max. 250)	The appellant was born in 1975 and has the nationality of Burundi. He arrived in The Netherlands with two of his children in August 2005. His wife and other child arrived in October 2006. A fourth child was

words)	<p>born in September 2007. All family members had a residence permit asylum for a limited period of time. This permit was withdrawn on 5 November 2007. An appeal was dismissed. The Immigration and Naturalisation Office (IND) invited the family in a letter of 9 June 2011 to apply for a residence permit regular for a limited period of time, the aim of which would be “residence of an alien, whose residence is accepted due to special, dire circumstances”. This permit was issued to the appellant and his family as from June 2011. The Social Insurance Bank granted child support again as from October 2011. In the meantime, no child support had been granted.</p> <p>The Social Insurance Bank told the appellant in a decision of 22 June 2010 that he was no longer entitled to child support as from April 2010, as he had no residence permit. The appellant now appeals against previous decisions to make the allowance of child support dependent on a residence permit.</p> <p>Social security.</p> <p>Question: is the law of the European Union implemented when making the decision to allow child support dependent on a residence permit?</p>	
Charter Article(s) that are referred to by the Court	Article 51 of the Charter.	
Translation of the Paragraphs where the Court is in its reasoning referring to the Charter	The reliance on the EU Charter on Fundamental Rights fails. Pursuant to article 51, subsection 1, of the EU Charter the provisions of the EU Charter only address Member States in so far as they implement the law of the Union. No law of the Union is implemented by means of the link, as laid down in Article 6, subsection 2, of the General Act on Child Support (Algemene Kinderbijslagwet) on a residence permit, so that the present refusal to allow child support is not within the scope of the EU Charter.	
Was the Charter already referred to by the Parties or was it the Court that used the Charter <i>ex officio</i>?	Parties referred to it.	
Was the Charter directly applied?	It was found that the Charter was not applicable.	
Was the Charter used in order to:	e. interpret national law?	Yes: is EU law implemented when the court judges a case about making child support dependent on a residence permit?
	s. check legality of national law?	No
	t. interpret EU law?	No
	u. check legality of EU secondary law?	No
	v. (other use)?	No
Was the Charter referred to together with other international sources, such as:	m. (Unwritten) general principles of EU law?	No
	n. The European Convention on Human Rights or other Council of Europe conventions?	Yes. Article 8 ECHR and case law of the ECtHR in which it regards the respect for human dignity and human freedom as the “very essence” of the ECHR. Children and other vulnerable person are entitled in particular to protection. All national authorities are obliged to safeguard the “essence” of) ECHR-rights. At the same time they cannot be denied a certain margin of appreciation when giving shape to and implementing

		<p>these rights. Although the ECHR does not safeguard a right to any support (ECTHR 6 July 2005, consideration 54, Stec and others vx the UK, no. 65731/01 and others; and ECtHR 25 October 2011, consideration 91, Valkov and others vs. Bulgaria, no. 2033/04 and others), it cannot be excluded that the refusal to give support may result in problems on the basis of Article 8 ECHR, for example if due to such refusal the normal development of the private life and the family life of the minor is made impossible. However, this is not the case here.</p> <p>Reliance on Article 8 ECHR in conjunction with Article 14 ECHR, fails too. No such dire circumstances have been proven to exist in this case.</p>
	o. International law (UN conventions, etc.)?	Yes, International Convention on the Rights of the Child. Discrimination. Fails.
Was the Charter referred to in a <u>purely internal</u> situation without cross-border element and not linked with EU law?	No. There is a link to EU law. See above.	
Did the invocation of the Charter make a difference to (the outcome of) the case?	It reinforced the judgement (to leave intact previous judgements).	