



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

Distr.
GENERAL

CERD/C/452/Add.3
13 October 2003

Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

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

Sixteenth periodic reports of States parties due in 2003

Addendum

THE NETHERLANDS*

[19 June 2003]

* This document contains the fifteenth and sixteenth periodic reports submitted in one document, due on 9 January 2001 and 2003, respectively. For the thirteenth and fourteenth reports of the Netherlands, submitted in one document, the summary records of the meetings at which the Committee considered that report, and the concluding observations of the Committee, see documents CERD/C/362/Add.4, CERD/C/SR.1413 and CERD/C/SR.1414, and CERD/C/304/Add.104.

The information submitted by the Netherlands in accordance with the consolidated guidelines for the initial part of the report of States parties is contained in HRI/GEN/1/Rev.4.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. INTRODUCTION	1 - 3	4
PART ONE		
The Netherlands (European part of the Kingdom)		
II. RESPONSES TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE	4 - 59	4
A. Amendments to the Criminal Code	5 - 7	4
B. Living conditions of the Roma minority and specific measures taken to improve them	8 - 12	5
C. Further implementation of the Employment of Minorities (Promotion) Act	13	6
D. Participation of minorities in local government elections	14 - 19	6
E. Changes brought about by the new Aliens Act	20 - 32	7
F. Statistical data on complaints, indictments and judicial decisions relating to acts of terrorism	33 - 59	10
III. INFORMATION RELATING TO ARTICLES 2-7 OF THE CONVENTION	60 - 215	16
A. Article 2	60	16
B. Article 4	61 - 88	17
C. Article 5	89 - 192	22
D. Article 6	193 - 197	44
E. Article 7	198 - 214	45

CONTENTS (*continued*)

	<i>Paragraphs</i>	<i>Page</i>
PART TWO		
Aruba		
IV. RESPONSES TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE	215 - 217	49
V. INFORMATION RELATING TO ARTICLES 2-7 OF THE CONVENTION	218 - 255	49
A. General	218 - 227	49
B. Article 5	228 - 242	51
C. Article 7	243 - 255	54

I. INTRODUCTION

1. In pursuance of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter “the Convention”), the present report by the Kingdom of the Netherlands is submitted in accordance with the General Guidelines adopted in 1980 by the Committee on the Elimination of Racial Discrimination, as revised at its 984th meeting, on 19 March 1993. For the principal demographic, economic and social indicators and a description of the Kingdom’s constitutional system, see the core documents for the Kingdom of the Netherlands (HRI/CORE/1/Add.66, 67 and 68). This, the consolidated fifteenth and sixteenth report, covers the years 1998 up to June 2002 and follows on from the consolidated thirteenth and fourteenth periodic report which was submitted to the Committee in April 1999 and covered the period up to December 1997.

2. This report also contains a number of responses to the concluding observations made by the Committee (CERD/C/57/CRO.3/Add.2) in August 2000 after examining the thirteenth and fourteenth reports.

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

PART ONE

The Netherlands (European part of the Kingdom)

II. RESPONSES TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE

4. In its conclusions and recommendations dated 17 August 2000 (CERD/C/304/Add.104), the Committee invited (para. 15) the Government to provide further information on the following subjects.

A. Amendments to the Criminal Code

5. As mentioned in the fourteenth report (CERD/C/362/Add.4), the Government has proposed increasing the maximum penalties for structural forms of racial discrimination. Draft legislation to this effect was brought before Parliament in June 2002.

6. Discrimination and incitement to hatred or discrimination are offences under articles 137, paragraphs (c)-(g) and 429 quater of the Criminal Code. Under the Government’s proposal, a new provision will be added to articles 137 (c) (Deliberately insulting a group of people), 137 (d) (Incitement to discrimination), 137 (e) (Dissemination of discriminatory utterances) and 137 (g) (Deliberate discrimination in the exercise of an office, profession or business), prescribing a higher maximum penalty for anyone making a profession or habit of the offences defined in the said articles or committing the offences defined in those articles in association with at least one other person. The Government has proposed that the maximum penalties be

doubled. The new maximum penalty for insulting groups of people and incitement to discrimination would be two years' imprisonment or a fine of €11,250, while the new maximum penalty for dissemination of discriminatory utterances and deliberate discrimination in the exercise of an office, profession or business would be one year's imprisonment or a fine of €11,250.

7. The Government has decided not to add grounds for increasing the penalty for assisting discriminatory activities (article 137 (f) of the Criminal Code) or discrimination in the exercise of an office, profession or business (article 429 quater of the Criminal Code). This is because doubling the maximum penalties for these offences when committed repeatedly (three and two months' imprisonment respectively) would produce very little additional benefit in terms of the normative effect of the anti-discrimination provisions of the Criminal Code.

B. Living conditions of the Roma minority and specific measures taken to improve them

Position of caravan dwellers in the Netherlands

8. With a total population of some 6,000, the Roma and the Sinti form a small minority group in the Netherlands.

9. The Caravan Act (which was in force until 1999) regulated the right of all people (not only the Sinti and the Roma) to lead itinerant lives. Over the years, two problems have emerged: an increasing shortage of caravan sites, which are now quite inadequate to cope with the total number of caravan dwellers, and the illegal use of caravan sites by people who are not entitled to stay on them. Since the Caravan Act was repealed on 1 March 1999, the relevant policy now falls under ordinary housing legislation, and local authorities have been approached to transfer responsibility for managing caravans and caravan sites to housing corporations.

10. In January 2000, at its annual consultation with the Government, the Caravan Dwellers' Initiative Group drew attention to the continuing shortage of sites. The State Secretary for Housing, Spatial Planning and the Environment agreed to monitor the policies of local authorities in this area. It was also agreed that the issue of education for children of caravan dwellers, including Roma and Sinti children, would be discussed in a forthcoming Caravan Dwellers Monitor.

Position of Moluccans in the Netherlands and measures taken to improve it

11. The estimated number of people in the Moluccan community (which has formed an integral part of Dutch society since 1951) is 35,000. They are profoundly concerned at the extremely serious conflicts that have disrupted life in the Moluccas since January 1999. The Foreign Minister has repeatedly intervened, both bilaterally and in cooperation with the European Union (EU), other individual member States and other non-EU Governments, to urge the Indonesian authorities to re-establish peace and public order on the Moluccas. The Government of the Netherlands is also one of the main sources of humanitarian aid. The Minister for Urban Policy and Integration of Ethnic Minorities in a previous Government

maintained contacts with the Moluccan community in the Netherlands and had very frequent consultations with political, church, social and aid organizations to keep them informed about Dutch policy. In this way the Minister kept abreast of developments in the Moluccan community.

12. In September 2000, in the light of the situation in the Moluccas, temporary arrangements were introduced for Moluccans staying in the Netherlands on tourist visas and wishing to extend their stay with relatives here because of the situation back home. These arrangements were due to end in September 2002 and the Government decided in the spring of 2002 not to extend them. The Government of the Netherlands fully supports the Malino-II Agreement (February 2002) between the Government of Indonesia and representatives of the Moluccan ethnic and religious communities to restore public order in the Moluccan provinces.

C. Further implementation of the Employment of Minorities (Promotion) Act

13. See paragraphs 90-96 of the present report.

D. Participation of minorities in local government elections

Turnout/participation of ethnic minorities in various elections

14. Foreign nationals who have been legally resident in the Netherlands for five years are entitled to vote and to stand for local election.

15. The 1998 local and national elections saw progress regarding the political representation of ethnic minorities (although this trend was more marked at the national than at the local level). The percentage of ethnic minority members in the House of Representatives of the States General is higher than in local councils.

16. A survey of political participation by ethnic minorities in the four largest cities has revealed differences between the various minorities. People of Turkish origin participate most (although often through their own ethnic organizations), followed by people of Surinamese origin. People of Moroccan origin participate less, and there are considerable divisions within that group. People of Antillean origin participate least in local politics.

17. The government memorandum entitled *Kansen krijgen, kansen pakken* ("Having opportunities, seizing opportunities"), which was published on 30 November 1998, stated that the Minister for Urban Policy and Integration of Ethnic Minorities would take measures to encourage a higher turnout by minorities at municipal elections.

18. The campaign for the municipal elections held on 6 March 2002 started in February that year and was aimed at encouraging voters to turn out at all the forthcoming elections (not only the municipal elections, but also the national elections in May 2002 and provincial elections in March 2003). It focused on minorities in two particular ways:

(a) Associations of minorities that sit on the National Ethnic Minorities Consultative Council (LOM) were invited to submit a joint plan of activities designed to encourage their supporters to turn out and vote. The sum of €272,270 was set aside for this purpose;

(b) The sum of €272,270 was likewise set aside for television advertisements specifically aimed at minorities, and broadcast on the channels they mainly watch.

19. A survey conducted in Rotterdam by the Centre for Research and Statistics on the turnout of voters from the various minority groups reported significant differences between them. The Antillean community had the lowest turnout rate (20 per cent) and the Turkish the highest (50 per cent). The survey report suggests that there may be some relationship between voter turnout and the number of candidates from the relevant minority standing for election. Of all the minorities, the Turkish community had the largest number of candidates standing and also the highest level of voter participation.

E. Changes brought about by the new Aliens Act

20. The Aliens Bill entered into force on 1 April 2001. Further details of the statutory framework created by the new Aliens Act 2000 are set out in the Aliens Decree.

21. The aim of the new Aliens Act 2000 is to shorten asylum procedures and to simplify the system of residence permits for people admitted to the Netherlands for purposes of asylum or on related grounds. In order to shorten the asylum procedure, there is now just one type of residence permit for all asylum-seekers who are eligible to stay in the Netherlands. Just as under the old Act, people are eligible to stay under the terms of international treaties such as the Convention relating to the Status of Refugees and the European Convention for the Protection of Human Rights and Fundamental Freedoms, on compelling humanitarian grounds, or because returning to their country of origin would cause them particular hardship in view of the overall situation there. Under the new Act, all such persons are eligible for the same type of temporary permit, which can be converted into a permanent permit after three years have elapsed. Unlike temporary permits, permanent permits are no longer withdrawn if the grounds on which they were issued cease to exist. If, for example, an asylum-seeker has been admitted to the Netherlands because of the overall security situation in his or her country of origin and the situation in that country subsequently improves, a temporary permit can be withdrawn but a permanent one cannot. Another difference is the public order criterion. A temporary permit can be withdrawn if the asylum-seeker constitutes a threat to public order or national security. A permanent permit, on the other hand, can only be withdrawn if the person in question is convicted by a final and conclusive court judgement of an offence carrying a penalty of at least three years' imprisonment. In addition, either type of permit can be withdrawn if inaccurate information has been supplied, so that the decision to grant the application for asylum was reached on the basis of false information.

22. All asylum-seekers who are granted a temporary or permanent permit are entitled to the same package of rights and provisions at a level laid down in the Convention relating to the Status of Refugees. This means, among other things, that they are all entitled to education, labour market access, social services, housing and family reunification, irrespective of the grounds on which the permit was granted. With regard to family reunification, there is a difference between the old Act and the new one. The new criterion is that the principal applicant

must have financial resources equivalent to 100 per cent of the relevant standard level of social assistance. Under the old Act, when the category of asylum-seekers entitled to family reunification was smaller, the criterion was an independent income equivalent to 70 per cent of the standard level of social assistance. However, the new criterion will only start to apply three years after the Act has entered into force. The new financial criterion does not apply to spouses and minor children who entered the Netherlands at the same time as the principal applicant and have the same nationality, or who entered the Netherlands not later than three months after the principal applicant was granted a temporary permit. In these cases no income requirements are set. Nor does the new financial criterion apply to other dependent family members of the principal applicant, such as dependent partners or dependent children over the age of 18, who entered the Netherlands at the same time as the principal applicant or within three months, and who have the same nationality.

23. There is thus a clear difference between the new Aliens Act and the old one. In the past there were three different types of residence permit, each linked to a separate set of provisions. Under the new Act there is only one type of residence permit and only one set of provisions.

24. The new system has been introduced to put an end to lengthy legal procedures aimed at obtaining a different status with a higher level of provision. Now that there is only one type of permit and only one level of provision, procedures will be shorter. This is in the interests of both the asylum-seeker and the authorities, as a clear decision about whether to admit an asylum-seeker to the Netherlands can be reached more quickly.

25. Other changes to asylum policy as a result of the new Aliens Act 2000 include the abolition of the objection procedure and its replacement by the notification of intent, a limited right of appeal to the Council of State and the multi-purpose decision. In certain situations it is also possible to extend by one year the time limit within which a decision on an application for asylum must be given. Further details of these changes are given below.

26. Asylum-seekers whose application for a residence permit has been rejected can apply to the Aliens Division of the district court for review and subsequently lodge an appeal with the Council of State. The objection procedure, preceding appeal, provided for under the old Act has been replaced by what is known as a notification of intent, whereby the asylum-seeker receives written notice, giving reasons, of the Government's intention to reject his or her application. The asylum-seeker is given an opportunity to respond to this notification before a final decision is made by the Immigration and Naturalization Service (IND). In its final decision, the IND must take account of the applicant's response. Another new feature is that applicants may, as a rule, automatically remain in the Netherlands until a decision on their application for review has been reached by the courts; under the old Act this was the subject of a separate decision.

27. Another change is the introduction of the multi-purpose decision. This means that an order rejecting an application for asylum automatically places the applicant under an obligation to leave the Netherlands by a certain date. A multi-purpose decision also empowers the authorities to terminate reception facilities and deport the applicant. Applicants can no longer initiate separate proceedings against each of these decisions, as they could under the old Act. All the consequences of the rejection of an asylum application are now reviewed by the district court in a single procedure. However, if the applicant applies for review, the multi-purpose decision is, as a rule, suspended while the review is pending.

28. Under the new Act, the six-month time limit within which a decision must normally be taken may, exceptionally, be extended by not more than one year. This may be done if the situation in the country of origin is expected to remain uncertain for a brief period or to improve in the near future, or if there has been such a massive increase in the number of applications for asylum that IND cannot decide on all of them within six months (for example, when a particular country suffers a disaster that causes a large number of asylum-seekers to flee the country within a short period of time).

29. Under the law applying to aliens other than asylum-seekers, the grounds for granting a residence permit are the same, namely, international obligations, compelling humanitarian reasons and essential Dutch interests. This covers, inter alia, applications to enter the Netherlands in order to study, join one's family, stay with one's partner or receive medical treatment. The provisions of the old Act have not been changed. Ordinary cases are also governed by a two-stage permit system. This means that aliens who have lived in the Netherlands on a temporary permit for five years, under certain conditions, become eligible for a permanent permit.

30. The requirements regarding family reunification and financial resources are the same for ordinary applicants as for asylum-seekers in cases where the dependent family member has not entered the Netherlands at the same time as the principal applicant or within three months or where he or she has a different nationality.

31. With regard to family reunification involving minors left behind in the country of origin, the relationship between the minor and the parent legally resident in the Netherlands must be demonstrated both in law and in practice. To demonstrate the legal relationship, a legalized document (birth certificate) must be produced. The question of whether the de facto relationship between parent(s) and child has survived the separation is judged on the basis of the individual facts and circumstances of the case. For example, the relationship must already have existed outside the country of origin, the child must not have settled into another nuclear family on a long-term basis, and the parent must still be exercising parental responsibility and meeting the costs of the child's care and education.

32. Because the application of these criteria has resulted in distress, the Government has decided to change them. There will now be no requirement to produce evidence that the de facto relationship has survived during the first five years after separation. This five-year relaxation is intended to recognize the principle that parents and children belong together and that no hasty decision can be taken on the breakdown of the parent-child relationship. After five years, however, it will generally be assumed that the child is settled in the country of origin and that family reunification in the Netherlands is unlikely to be the best course. Exceptions can be made to the rule if the child is unlikely to have an acceptable future in the country of origin or if the child could not be traced earlier due to a state of war.

F. Statistical data on complaints, indictments and judicial decisions relating to acts of racism

33. In April 2002 the National Discrimination Expertise Centre reached the following conclusions on the basis of data gathered from the discrimination registration system.

The Public Prosecution Service

34. In 1998 a total of 216 offences of discrimination (offences under articles 137 (c)-(g) and 429 quater of the Criminal Code) were reported to the Public Prosecution Service. The equivalent figures in 1999, 2000 and 2001 were 193, 214 and 198 respectively. In 1998, 1999, 2000 and 2001 the Service took decisions on 236, 196, 271 and 219 of these cases respectively. A great majority of the cases (78 per cent in 1998, 75 per cent in 1999, 78 per cent in 2000 and 83 per cent in 2001) involved deliberately insulting a group of people. Of the cases that were dealt with, 58 per cent, 53 per cent, 59 per cent and 64 per cent respectively resulted in a notice of summons and accusation, and 15 per cent, 9 per cent, 9 per cent and 12 per cent respectively resulted in an out-of-court settlement.

35. In 1998 two infringements of article 429 quater of the Criminal Code (Discrimination in the exercise of an office, profession or business) were reported to the Public Prosecution Service. The equivalent figures in 1999, 2000 and 2001 were 5, 0 and 0 respectively. Six infringements of article 137 (g) (Deliberate discrimination in the exercise of an office, profession or business) were reported to the Service in both years. No cases of assisting discriminatory activities were reported in 1998, 1999 or 2000. In 2001 no infringements of article 137 (g) were reported. Between 1998 and 2001, the number of cases of assisting discriminatory activities (art. 137 (f)) reported each year was 0, 1, 9 and 0 respectively.

Table 1

Discrimination offences reported to the Public Prosecution Service

Year	Art. 137 (c) Insulting behaviour	Art. 137 (d) Incitement to discrimination	Art. 137 (e) Dissemination of discriminatory utterances	Art. 137 (f) Assisting discriminatory activities	Art. 137 (g) Deliberate discrimination in the exercise of an office, profession or business	Art. 429 quater Discrimination in the exercise of an office, profession or business	Total
1998	177	23	8	0	6	0	216
1999	145	17	19	1	6	5	193
2000	178	15	6	9	6	0	214
2001	167	11	19	1	0	0	198

Table 2**Discrimination offences disposed of by the Public Prosecution Service**

Year	Art. 137 (c) Insulting behaviour	Art. 137 (d) Incitement to discrimination	Art. 137 (e) Dissemination of discriminatory utterances	Art. 137 (f) Assisting discriminatory activities	Art. 137 (g) Deliberate discrimination in the exercise of an office, profession or business	Art. 429 quater Discrimination in the exercise of an office, profession or business	Total
1998	180	22	22	1	10	1	236
1999	148	22	15	1	9	1	196
2000	216	21	11	9	8	6	271
2001	182	11	22	0	4	0	219

Cases disposed of by the courts

36. The courts disposed of 104 cases involving charges of discrimination in 1998, 113 in 1999, 107 in 2000 and 104 in 2001. In this connection, it should be remembered that the accused may also have been charged with other offences besides discrimination as can be seen from the following examples:

(a) In the 104 cases dealt with in 1998, the accused was found guilty in 88 cases and acquitted in 9; 3 cases were consolidated during the proceedings, in 2 of which the Public Prosecution Service's case was declared inadmissible, and in a third the notice of summons and accusation was declared invalid;

(b) In 1999 the accused was found guilty in 105 cases and acquitted in 6; 4 cases were consolidated during the proceedings, in 1 of which the notice of summons and accusation was declared invalid, and in another the accused was discharged from prosecution on a point of law;

(c) In 2000 the accused was found guilty in 94 cases and acquitted in 10; 5 cases were consolidated during the proceedings, in 2 of which the notice of summons and accusation was declared invalid and in a third the accused was discharged from prosecution on a point of law;

(d) In 2001 the accused was found guilty in 98 cases and acquitted in 4; 9 cases were consolidated during the proceedings and in 2 cases the notice of summons and accusation was declared invalid.

Table 3
Cases disposed of by the courts

Year	Action taken						Total
	Guilty	Acquittal	Summons invalid	Prosecution inadmissible	Consolidated	Discharged on point of law	
1998	91	10	1	2	3	0	104
1999	105	6	1	0	6	1	113
2000	94	10	2	0	5	1	107
2001	98	4	2	0	9	0	104

1. Monitoring of racist incidents and utterances, and right-wing extremism

37. Racism and racial discrimination undermine essential elements of Dutch constitutional principles. They are reprehensible phenomena and must be identified and tackled as early as possible. The Racism and Right-Wing Extremism Monitor Project has contributed to this process. All findings from the Project are forwarded to the House of Representatives. Following a first report in 1998 and a second in 1999, the third report shows that the great majority of the population (80 per cent) believe indigenous Dutch people¹ and immigrants should receive equal treatment in matters of distribution, such as housing and employment. About 13 per cent of the indigenous Dutch population are unfavourably disposed towards ethnic minorities. A larger proportion is opposed to immigration, and 40 per cent believe that asylum-seekers are on average more criminal than Dutch people.

38. The Fourth Racism and Right-Wing Extremism Monitor Report was published in December 2001 and contains statistics for 1999 and 2000. Although considerable care and caution need to be exercised when interpreting statistics on violence, the Racism and Right-Wing Extremism Monitor Report for 2001² identifies a deterioration in the situation over recent years. It suggests that this gradual deterioration points to a need for increased alertness and greater efforts to combat racism. In addition, recent years have brought new insights into changes in the grounds for discrimination. The Racism Monitor for 2001 reports an emerging trend in 1999 and 2000 towards greater violence. There were more acts of violence against individuals than in previous years. In addition, the number of anti-Semitic utterances has increased in recent years and many incidents in 1999 and 2000 were in some way related to the problem of asylum-seekers. At the same time, extreme right-wing acts attracted wide publicity, which added to the impact of such violence on society. Following the events of 11 September 2001, there was an increase in Islamophobic incidents. The National Federation of Anti-Discrimination Bureaux and Hotlines reports that the grounds for discrimination are diversifying. Constant improvements in the quality and detail of

record-keeping at the Anti-Discrimination Bureaux are providing clearer insight into the various grounds for discrimination (sex, age, sexual orientation, handicap, etc.). These improvements are set to continue, partly because of the Incentive Scheme for the Professionalization of Anti-Discrimination Bureaux. The Fifth Report noted that the incidence of racist violence had declined, while the number of complaints about discrimination had increased. Developments such as the consequences of 11 September 2001 and the growing polarization in the public debate on asylum-seekers, refugees and immigrants in general have definitely produced a sort of “culture of threat” in the Netherlands.

(a) Magenta Internet Discrimination Hotline (MDI)

39. The object of Magenta, the Dutch Complaints Bureau for Discrimination on the Internet (MDI), is to look into complaints about discriminatory utterances based on creed, origin, sexual preference, gender, skin colour (race), disability and/or age, and, if necessary, to get them removed from the Internet. Magenta is an independent not-for-profit body which focuses mainly on the Dutch part of the Internet.

40. Between 1999 and 2002 there was a sharp increase in the number of complaints received by Magenta about discrimination on the Internet. In 1999 there were 181 complaints; in 2000 the number rose to 550; in 2001 there were 691 complaints and Magenta recorded 1,081 utterances.³ In 2002, by contrast, Magenta received 1,008 complaints concerning no fewer than 1,798 utterances: an increase of 30 per cent in the number of complaints and 70 per cent in the number of utterances compared with the previous year.⁴

41. In 2002 Magenta noted that more than half of the recorded utterances constituted criminal offences. The majority of the complaints related to anti-Semitic utterances or utterances that were racist or discriminatory on the basis of origin or skin colour. Although most of the utterances were removed following a request from Magenta, over 140 will be reported to the police and 169 will be passed to the Public Prosecution Service’s National Discrimination Expertise Centre for further assessment.

42. In 2002 most of the complaints related to web sites and Internet chat rooms. There has been a spectacular increase in the number of complaints about remarks made in chat rooms (899), clearly paralleling the growing popularity and use of such facilities on the Internet.

43. Last year was also marked by a surge of Dutch anti-Semitism and Islamophobia on the Internet. Political turbulence in the Netherlands (the meteoric rise of the new LPF political party, the assassination of its leader, Pim Fortuyn, the social unrest that resulted from this event and the reactions of the political establishment) produced a deluge of anti-Islamic and xenophobic utterances on the Internet. The situation in the Middle East also prompted many discriminatory utterances. In the course of 2002, 291 anti-Islamic utterances were reported, as well as a further 316 utterances directed specifically at Moroccans and Turks.

44. With 607 utterances directed against Muslims, Moroccans and Turks and 584 against Jews (compared with respectively 125 and 194 in 2001), there was clearly a major increase in the expression of anti-Islamic and anti-Semitic feelings on the Internet and these have continued to run high over the past year.

45. Magenta also noted that discrimination on the Internet is no longer the exclusive preserve of extreme right-wing groups or individual right-wing extremists, but that “ordinary members of the public” are increasingly indulging in it. The organization explains this by reference to the current mood in the country, itself nurtured by factors such as the explicit political, ethnic and religious divisions.

(b) Convention on Cybercrime

46. At the international level, the Council of Europe adopted a Convention on Cybercrime and a related protocol specifically designed to combat racism on the Internet.

47. Although combating racism on the Internet is the specific aim of the Convention on Cybercrime, it does not deal with the issue of making the dissemination of messages or material of a racist or xenophobic nature through computer networks a criminal offence.

48. The dissemination of such material in this way poses even greater challenges to law enforcement. Therefore, it has been necessary to adopt a coordinated approach in order to achieve an effective domestic and international response based on common elements such as those included in the first Additional Protocol to the Convention on Cybercrime.

49. This Protocol was adopted by the Council of Europe’s Committee of Ministers in November 2002 and extends the Convention’s scope, including its substantive, procedural and international cooperation provisions, to include offences relating to the dissemination of racist or xenophobic propaganda. As a result, the Protocol not only harmonizes the substantive legal elements of such behaviour, but also improves the ability of the States parties to make use of the means of international cooperation set out in the Convention.

50. Particularly in the light of the events of 11 September 2001 in the United States and possible racist repercussions in the Netherlands, there is once again a greater focus on efforts to improve the reporting of racist incidents.

51. As regards public attitudes, it appears that indigenous Dutch people do not particularly object to having people from ethnic minorities as neighbours, as employers or as partners or playmates for their children. However, looking at the trend over a number of decades, indigenous Dutch people do not appear to have grown more reconciled to the idea of having “foreign” neighbours.

52. People of Surinamese, Antillean or Aruban origin scarcely object to indigenous Dutch people as partners or as playmates for their children. However, there is some objection to the idea among people of Turkish and Moroccan origin; the fewest objections are found among the second generation, except when it comes to having an indigenous Dutch person as a partner. People of Turkish and Moroccan origin regularly seek and find partners in their country of origin. All in all, however, the degree of mutual acceptance between ethnic minorities and the indigenous Dutch population appears to be fairly substantial.

2. Improved reporting of cases: the current situation

(a) The police and racial discrimination

Police policies on diversity

53. A large-scale survey of the prevailing ethos in the Dutch police service was completed in 2000. Many of the results were taken into account in the police Diversity Action Plan for 2001-2005, published at the end of that year. This focused, among other things, on cultural change and improving police etiquette. Police training is also paying increasing attention to diversity issues.

54. For the 2000-2002 period, the Minister of the Interior and Kingdom Relations made an extra annual sum of €2.36 million available to the police forces for the improvement of their diversity policies. In addition, a national diversity expertise centre (LECD) was set up for the police. The centre, which was opened on 1 March 2001, assembles and supplies expertise on diversity issues and provides support for the implementation of the forces' diversity policies. In addition, it organizes various symposiums, training courses and activities in this area.

Instructions on discrimination

55. Instructions on discrimination were adopted by the Board of Procurators-General on 24 February 1999. They took effect, and were brought to the attention of chief public prosecutors, on 1 April 1999. The Instructions deal with coordination between the Public Prosecution Service, local authorities, the police and the Anti-Discrimination Bureaux and, among other things, the procedure for reporting and complaining about cases of discrimination. The Instructions supersede the 1997 Guidelines on Discrimination Cases.

56. Among other things, the Instructions prescribe that official reports must be drawn up of all complaints to the police about discrimination. Proper coordination is needed in order to ensure that a uniform policy is developed and implemented within the Public Prosecution Service and the police. At the public prosecutor's offices and in police forces, responsibility for coordination lies with the public prosecutors and the liaison officers. At the periodic consultations between representatives of the Board of Chief Commissioners and the Public Prosecution Service, agreement is also regularly reached on action to combat discrimination and racism. In order to ensure that such activities are properly coordinated, the representative of the Board of Chief Commissioners has consultations with a representative of the Anti-Discrimination Bureaux several times a year (representatives of the Public Prosecution Service, the Ministry of the Interior and Kingdom Relations, the Anne Frank House - whose representative is a researcher at the University of Leiden - and the police are also present). We are not aware of the large numbers of complaints about racist offences referred to by the National Bureau against Racial Discrimination (LBR), nor have such numbers been apparent from the National Ombudsman's annual reports in recent years.

Improvements in the recording of cases of discrimination, racism and intolerance

57. The Dutch police are working to improve the reporting of cases of discrimination, racism and intolerance. The Board of Chief Commissioners decided in 2001 to appoint a liaison officer for cases of discrimination in each police region and to set up a National Bureau for Discrimination Cases (LBD) to provide support for the 25 police forces and act as an internal police help desk. The Bureau will be embedded within the Rotterdam-Rijnmond police force and is to be based on the National Discrimination Expertise Centre (LECD) set up in 1998 within the Public Prosecution Service.

58. The Rotterdam-Rijnmond police force has now found the necessary premises, and staff recruitment is under way. Although some posts have still officially to be filled, the Bureau has already started work and the interim director is consulting with relevant partners at the national level (including the Anne Frank House, the Dutch Monitoring Centre on Racism and Xenophobia, the National Federation of Anti-Discrimination Bureaux, the National Bureau against Racial Discrimination, the Public Prosecution Service's National Discrimination Expertise Centre and the police National Diversity Expertise Centre. Finally, LBR is participating in the National Platform for Consultation and Cooperation against Racism and Discrimination (NPRD) set up on 8 April 2002 by the Ministry of the Interior and Kingdom Relations (see also paragraphs 193-195 below).

59. Since its establishment in 1998, the Public Prosecution Service's National Discrimination Expertise Centre (LECD) has played a major role in the training and support of specialist discrimination officers (i.e. public prosecutors) and the coordination and recording of cases of discrimination. LBD is likely to prove at least as useful as LECD is in dealing with these issues in the ambit of the Public Prosecution Service.

**III. INFORMATION RELATING TO ARTICLES 2-7
OF THE CONVENTION****A. Article 2****Theme-based grant programme**

60. In 2002 the Ministry of Social Affairs and Employment decided to institute a grant programme based on the theme of the application of the Convention on the Elimination of All Forms of Discrimination against Women to newcomers. Civil society organizations can apply for funding for projects designed to make women in the target group aware of the rights set out in that Convention and so to empower young women in the ethnic minority communities and women refugees who have newly arrived in the Netherlands. Projects are expected to pay specific attention to increasing women's awareness of their rights in relation to the dangers of people trafficking, sexual violence and forced prostitution. Initiatives directed at the empowerment of young women in the ethnic minority communities and women refugees should focus on increasing their self-confidence and awareness of women's rights.

B. Article 4

Important case law

61. A summary of important judgements in discrimination cases from 1999 to 2002 is given below.

62. By judgement of 18 May 1999, the Supreme Court dismissed an appeal against a judgement handed down by Arnhem court of appeal on 27 December 1997. In this case (also mentioned in CERD/C/362/Add.4, paragraphs 85-87), the plaintiff had been found guilty of publicly inciting discrimination, with others, against people on account of their race (article 137 (d) of the Criminal Code) by saying things such as “As soon as we have the opportunity and the power, we’ll abolish the multicultural society” in a speech in his capacity as leader of the Centre Democrats.

63. By judgement of 13 July 1999, The Hague district court found the leader and the secretary of the Dutch Nationalists (VNN) (which had broken away from the banned, disbanded CP '86 party and has since been absorbed into the New National Party) guilty of publicly inciting discrimination, with others, against people on account of their race (article 137 (d) of the Criminal Code) by placing and leaving racist texts on the VNN’s Internet home page and by distributing leaflets containing such texts. Both men were sentenced to one month in prison, and both lodged appeals. By its judgements of 12 October 2001 (Nos. 2001.24 and 2001.25), the appeal court in The Hague quashed the judgement and acquitted both men of the charges brought against them. No appeal in cassation has been instituted.

64. By judgement of 9 November 1999, Dordrecht district court confiscated two copies of a Dutch translation of *Mein Kampf*. The copies of the book were among the goods offered for sale at the annual open-air book market in Dordrecht. No further penalty or order was imposed on the bookseller since the court felt that he had not intended to propagate the ideas expressed in the book but had simply felt that the stock of war-related books on his stall would be incomplete without it. Moreover, the accused had had only two copies in stock.

65. On 11 August 1999, the Public Prosecution Service reached an out-of-court settlement of 500 guilders with a man who raised his arm and shouted “Sieg Heil” on the public highway in Oss.

66. On 28 January 2000, the district court in The Hague passed judgement in the case of a landlord who had made insulting remarks to a man seeking to hire shop premises from him. The would-be tenant was a member of an ethnic minority. When he was introduced to the landlord, the latter said “that sort are all interested” and/or “I want a Dutch greengrocer” and/or “that he could get plenty of that sort”. The court sentenced the accused to a fine of 500 guilders.

67. On 5 April 2000, a man who had made insulting remarks to Germans living in the same street was sentenced by the district court in Den Bosch to a fine of 50 guilders and a two-week prison sentence suspended for two years.

68. On 27 April 2000, in an appeal concerning a case in which doubts had been cast on the authenticity of Anne Frank's Diary, Amsterdam court of appeal upheld the local district court's judgement of 9 December 1998. The facts of the case were as follows:

(a) A number of authors had published a book entitled *Het 'Dagboek' van Anne Frank: een kritische benadering* ("The 'Diary' of Anne Frank: a critical approach"). In it, they denied the authenticity of Anne Frank's Diary. The authors stated, for example, "her (Anne's) personality is a fabrication and is as improbable as the experience that the Diary purports to relate" and that "the Diary (must) be regarded as an untenable fiction, a novel, a lie". The writers had sent the book to various recipients, including a number of Dutch libraries;

(b) The Anne Frank House and the Anne Frank Fund, based in Switzerland, applied to the court to declare it unlawful to cast doubt on the document's authenticity and asked for a ban on the further distribution of the book. The court found in their favour and declared the casting of doubt on the authenticity of Anne Frank's Diary to be unlawful. Taking account of the harsh, generally disparaging and insulting wording of the passages concerned, the court found that the authors had shown extreme negligence both towards the plaintiffs and the victims of the holocaust and their surviving relatives in distributing the book in the way they had done. The court felt that their utterances were insulting and unnecessarily hurtful to the victims of the holocaust and their surviving relatives and that they would inevitably have caused psychological or emotional damage. The authors appealed on the grounds of freedom of thought and expression. However, the court of appeal found that those freedoms are limited by the statutory provisions necessary in a democratic society to protect the rights and freedoms of others;

(c) The court of appeal upheld the decision of the district court and prohibited the authors from disseminating the book on pain of a penalty payment of 25,000 guilders for each offence.

69. On 4 May 2000, the district court in Breda acquitted a doorman who was accused of denying two people of Moroccan origin entry to a catering establishment. The court felt that this could not be proved to be a case of racial discrimination since the doorman had not actually said that no members of ethnic minority groups were admitted. The Public Prosecutor has lodged an appeal.

70. On 8 June 2000, a man who not only uttered a stream of invective against "Turks, Moroccans and blacks" so loudly that his words were audible several streets away, but also punched a young bystander of ethnic origin, was sentenced by the district court in Breda to a suspended fine of 500 guilders.

71. In a case on which the Supreme Court of the Netherlands pronounced judgement on 13 June 2000, the Public Prosecutor had issued an originating notice of summons and accusation charging the defendant with having committed an act of discrimination in the exercise of his profession (article 429 quater of the Criminal Code) by denying a person of Iranian origin access to a discotheque on account of his race. With regard to this case, the following decisions were made:

(a) A district court had acquitted the defendant on the grounds that the provisions of the Criminal Code against racial discrimination, including article 429 quater, were not designed to protect a group on the grounds of being residents in a deportation centre for asylum-seekers (where the Iranian was living) whose applications had been finally rejected;

(b) The Supreme Court found that this conclusion by the district court was based on too narrow an interpretation of the notion of “discrimination on account of race” as referred to in article 429 quater of the Criminal Code. Although the district court had rightly found that the term “race” should be interpreted in accordance with the list in article 1 of the Convention, it had failed to appreciate that residents of the deportation centre shared not only an address, but also the characteristics listed in that article. Article 429 quater does apply to such indirect discrimination based on race. The Supreme Court quashed the district court judgement and referred the case to a court of appeal for retrial.

72. By judgement of 4 July 2000, in a case involving a series of offences including drawing swastikas and white power symbols on letters from the municipality of Alphen aan den Rijn, the district court in The Hague imposed on the defendant 140 hours of community service plus a three-month suspended prison sentence. In addition, it ordered the man to attend a training course given by the Salvation Army to learn to control his aggression.

73. By judgement of 11 August 2000, Maastricht district court imposed a one-week prison sentence on two men who had chanted “Holland for the Dutch, foreigners out, Turks and Moroccans out” in a pavement café in Maastricht, while at the same time repeatedly giving the Nazi salute.

74. By judgement of 26 September 2000, Middelburg district court imposed a four-month prison sentence, half of it suspended, on a number of individuals who had used insulting language and exhibited violent behaviour in a public place. They had insulted a man, his girlfriend and his nephew, who were visiting a catering establishment, by uttering remarks such as “Fucking Turks are all faggots”. When a member of staff asked them to leave, the defendants uttered new insults and there was a fight which escalated.

75. By judgement of 6 October 2000, Hilversum district court convicted two people of shouting insulting slogans on 5 May (the day on which the Netherlands celebrates its liberation from Nazi occupation). The slogans included: “Sieg Heil”, “Jews, Jews”, “White Power”, etc.

76. By judgement of 17 October 2000, Zutphen district court imposed a five-month prison sentence, two months of which were suspended for two years, on two people who had physically assaulted a female asylum-seeker, while at the same time uttering a string of overtly racist insults. The district court also ordered them to pay compensation for both material and non-material damage.

77. By judgement of 24 October 2000, Middelburg district court imposed a fine of 500 guilders and a two-week suspended prison sentence on a person who had indulged in deliberately insulting behaviour towards a group of people of Moroccan origin in a public place.

78. By judgement of 19 November 2000, in a case in which a number of young men were on trial for defacing a war memorial and a building in the Jewish cemetery in The Hague, the district court in The Hague imposed prison sentences of between two and eight weeks (some of them suspended). The youths had daubed the monuments with slogans like “Six million too few” and “Heil Hitler”.

79. By judgement of 15 December 2000, Arnhem district court imposed a fine of 1,500 guilders and a two-week suspended prison sentence on a person who had disseminated racist and anti-Semitic texts on the Internet under a pseudonym. The appeal court in Arnhem later upheld the conviction and imposed a suspended prison sentence of four weeks and a fine of 1,500 guilders.

80. Dordrecht district court dismissed a case against an individual accused of shouting the slogan “Our own people first” at a group of young people of Moroccan origin. On 12 February, however, the accused was found guilty by the court of appeal in The Hague. The court felt that, taking account of the wide public familiarity with the views of certain political parties in the Netherlands, the slogan was unmistakably intended to mean that non-indigenous people, and in particular members of ethnic minorities, should be disadvantaged compared to the indigenous population. The statement by the defendant that the phrase had been used in response to loud heckling from a group of foreigners and/or people of ethnic origin, namely Moroccan, was taken by the Court to confirm that it had been intended in a discriminatory sense.

81. In a case on which Assen district court gave judgement on 14 February 2001, five youths had thrown Molotov cocktails at the centre for asylum-seekers in Roden one evening. One had actually ignited close to a caravan which was occupied by several people at the time. The Public Prosecutor believed that this was a racist act and took this into account when demanding sentence: 20 months’ imprisonment, 6 of which would be suspended for 2 years. The court considered it proven that the accused had committed arson and incited hatred, discrimination or violence against people on account of their race. In the court’s opinion, the facts of the case left no doubt that this had been an act with racist elements, directed at the centre for asylum-seekers and the people living there. Taking everything into account, it concluded that although the act - attempted arson against the centre for asylum-seekers - did display racist features, it could not be described as a racist attack inspired by a deep-rooted hatred of foreigners. The two main culprits, who had turned out to be the initiators and ringleaders, were sentenced to six months’ imprisonment (suspended) and 240 hours of community service and were put on probation.

82. Following an acquittal by Groningen district court in a case of discrimination at a discotheque, the Supreme Court quashed the judgement and referred the case to the court of appeal in Leeuwarden, which pronounced judgement on 3 April 2001. The case concerned an incident in which a resident of the Ter Apel deportation centre for asylum-seekers was refused entry to a club. The Supreme Court addressed the issue of indirect discrimination implied by article 429 quater of the Criminal Code and ruled that this form of discrimination must be regarded as a measure which, although apparently neutral, in fact affects exclusively or predominantly people in a particular group, while the difference in treatment cannot be explained

by objectively justified factors unrelated to discrimination on any particular grounds. The Supreme Court felt that the district court had failed to appreciate that the residents of the deportation centre shared not only an address but also the common feature that their skin colour, national or ethnic origin and/or geographical or cultural origin differed from those of the indigenous Dutch population. The court of appeal in Leeuwarden eventually acquitted the defendant because it could find no legitimate and conclusive evidence of direct or indirect discrimination and felt that the difference in treatment could only be explained on the grounds of objectively justified factors. The Advocate General instituted an appeal in cassation.

83. The content of an article by satirist Theo van Gogh in the popular weekly current affairs magazine *HP/De Tijd* under the title “Long live Islam” prompted the Anti-Discrimination Bureau in Schiedam to complain to the Public Prosecutor. After he decided on 24 September 1999 not to prosecute, the Bureau asked the court of appeal in Amsterdam to bring a prosecution on the grounds that the article was intentionally insulting to Muslims. By judgement of 9 April 2001, the court of appeal rejected the complaint on the grounds that it was clear from material elsewhere in the magazine that the article had to be read in the context of the public debate raging at the time of its publication. This suggested that the limits of press freedom and/or freedom of expression had not been breached in this case.

84. On 29 May 2001, the Supreme Court pronounced judgement in a case in which the court of appeal in The Hague had imposed a prison sentence of six weeks for incitement to commit an offence (article 131 of the Criminal Code) and public incitement to hatred on account of race or religion (article 137 (d) of the Criminal Code). The accused had committed the alleged offences during a speech given at a meeting of the nationalist political party CP’86. He was chairman of the political party concerned and was also chairing the meeting, which was held in hired rooms. He was aware that journalists had been invited to attend and were present. The grounds for appeal boiled down to the claim that the defendant had not intended his remarks to be public, but this was rejected by the Supreme Court. The defendant had recognized members of the press on his arrival, and “from that moment on, there was at least a provisional intention [to commit the offence] (...), in the sense that in subsequently addressing the meeting - even though the meeting was not intended to be open to all - he knowingly exposed himself to the considerable probability that remarks made during the meeting would be reported by the press and come to the notice of the general public, which - as the Court of Appeal has established - is what actually happened”.

85. By judgement of 12 July 2001, Roermond district court found a number of extreme right-wing demonstrators guilty of carrying banners and placards displaying wording insulting to particular groups of people on account of their race and religious beliefs.

86. On 2 April 2002 the Supreme Court pronounced judgement in a case against a member of Dordrecht town council (Supreme Court, 2 April 2002, No. 106.01, *Nieuwsbrief Strafrecht* 13 May 2002, issue 6, No. 139, pp. 313-315). In a speech made at an official meeting of the council, the man had, in his capacity as a councillor, described the present and future state of the Netherlands, unmistakably seen (according to the court of appeal) from the point of view of a single section of society, described as “our own Dutch citizens”. The councillor had subsequently handed the text of his speech to a journalist for publication. The councillor was found guilty of public incitement to hatred in writing (article 137 (d) of the Criminal Code).

87. A subsequent complaint about a consideration of the court of appeal with regard to legal immunity and its limits did not lead to cassation. Among other things, the Supreme Court considered that “the protection from prosecution which the relevant provision (section 22 of the Municipalities Act) offers a town councillor does not extend to actions other than those specified in the statutory provision reproduced above (Supreme Court, 24 June 1983, *Dutch Law Reports 1984*, 801). Accordingly, the defendant has no right to immunity as regards passing his speech to anyone outside the council meeting other than the members of the council”.

88. By judgement of 9 October 2001, the Supreme Court upheld a judgement by the Amsterdam court of appeal, in which a writer called Waterdrinker was acquitted of various charges, including insulting people on account of their race. At issue was a passage in a novel he had written in which one of the characters says, “But then what can you expect with a Jew in charge?” The Supreme Court rejected the appeal in cassation by the Public Prosecution Service, although it also distanced itself from the argument advanced by the court of appeal. The mere fact that an insulting remark is made by a character in a novel does not exclude the possibility that the author can be deemed responsible for the utterance. The Supreme Court emphasized that, to decide whether a particular passage is insulting, the passage must not be read in isolation but in the context of the whole novel. The decision must be influenced by a number of circumstances, such as the nature and tenor of the novel and the place of the passage within it. These circumstances may take away the insulting character of a passage which would certainly be insulting if read in isolation. The Supreme Court found that circumstances of this kind were present in this case.

C. Article 5

1. The right to work

(a) Employment: facts and figures

89. Between 1994 and 1999, the rate of employment growth among ethnic minorities was twice that among indigenous Dutch people (30 per cent compared with 14 per cent). The unemployment rate among ethnic minorities fell from 25 per cent in 1994 to 13 per cent in 1999, compared with a decrease among indigenous Dutch people from 7 per cent to 3 per cent. This rapid decline in unemployment among ethnic minorities in the second half of the 1990s continued in 2000 and 2001. Recent figures from Statistics Netherlands show a decline from 10 per cent in 2000 to 9 per cent in 2001. In the indigenous population, unemployment remained unchanged at 3 per cent in both 2000 and 2001. The aim of the previous Government to reduce unemployment among ethnic minorities to 10 per cent in 2002 was thus achieved as early as 2000 and surpassed in 2001.

Table 4
**Unemployment among ethnic minorities (percentage of
the workforce aged 15-64), 1994-1999**

	Unemployment rate		Number of employed (x 1 000)	Number of unemployed (x 1 000)	Change in unemployment rate
	1994 %	1999 %	1999 %	1999	1994-1999 %
Ethnic minorities ¹	25	13	341	52	-42
Turkey	31	13	54	8	-64
Morocco	30	18	40	9	-36
Suriname	21	10	105	11	-54
Netherlands Antilles	21	15	22	4	-20
Other ethnic minorities	26	14	121	19	-21
Other ethnic groups ²	13	6	267	18	-47
Indigenous Dutch ³	7	3	6 197	222	-48
Total	8	4	6 805	292	-47

Employed: persons in employment (including the self-employed) who work at least 12 hours a week.

Unemployed: persons who work less than 12 hours a week or do not work at all and are actively seeking and available for work.

Unemployment rate: number of unemployed as a percentage of total workforce (employed + unemployed).

Source: Ministry of Social Affairs and Employment, based on Statistics Netherlands, Labour Force Survey.

¹ Persons who are nationals of, or were born in, Turkey, Morocco, Suriname or the Netherlands Antilles (including Aruba) and other non-European countries with the exception of the Dutch East Indies/Indonesia, Tunisia and Algeria.

² Persons who are nationals of, or were born in, one of the European countries (with the exception of the Netherlands and Turkey), the Dutch East Indies/Indonesia, Tunisia or Algeria.

³ Dutch nationals born in the Netherlands.

Table 5
Rates of unemployment and employment among ethnic minorities,
2000-2001

	Unemployment rate (% of the workforce)		Number of employed (x 1 000)	
	2000	2001	2000	2001
Total	3.8	3.4		
Origin				
Indigenous Dutch	3	3	5 833	5 910
Non-indigenous	8	6	1 084	1 154
Of which ethnic minorities:	10	9	399	447
Turkey	9	8	91	103
Morocco	13	10	59	75
Suriname	9	6	135	137
Netherlands Antilles	8	8	42	44
Other ethnic minorities	12	11	73	87
Other non-indigenous	6	5	684	706

Origin: Non-indigenous people are individuals with at least one parent born outside the Netherlands.

Ethnic minorities: Persons who are nationals of, or have at least one parent born in, Turkey, Morocco, Suriname, the Netherlands Antilles, Aruba, former Yugoslavia or countries in Central or South America, Africa or Asia, with the exception of Japan and the former Dutch East Indies.

Source: Statistics Netherlands, Labour Force Survey.

(b) Employment of Minorities (Promotion) Act (*Wet SAMEN*)

90. As mentioned in the fourteenth periodic report, the Fair Employment of Ethnic Minorities Act (WBEAA) has been replaced by the Employment of Minorities (Promotion) Act (*Wet SAMEN*). The main provisions have remained unchanged: organizations employing more than 35 people are still required to keep a register of personnel from the target group. They also have to submit written reports stating the number of staff from ethnic minorities employed by them, the measures they have taken to promote recruitment among ethnic minorities and those they propose to take in the future. The Employment of Minorities (Promotion) Act entered into force on 1 January 1998.

91. The new Act is intended to make it easier for individual companies to practise multicultural personnel management. Originally, it was intended that it would cease to be effective at the end of 2001 but its lifetime has now been extended to the end of 2003. Over recent years substantial investments have been made to help employers to implement the Act. These include the following:

(a) The burden of administration placed on employers has been reduced by including in the form for the annual reports which employers have to complete a list of measures from which they can choose in order to achieve fairer representation of minorities in their workforces;

(b) For the convenience of employers, the annual reports form also includes pre-printed particulars of their company;

(c) Since 2001, there is a central address to which reports can be made, and they can also be made by e-mail;

(d) A central database has been constructed so that particulars of all the relevant organizations are available in one place and employers are clearer about the address for their reports;

(e) In 1998 a special Helpdesk was set up on behalf of the Ministry of Social Affairs and Employment at the Central Employment Services Authority (CBA) to answer questions about the new Act from employers, trade unions and relevant civil society organizations. The Helpdesk has since extended its scope to include the provision of other services in relation to multicultural personnel management;

(f) A web site (www.wetsamen.nl) has been developed and has been available to the general public since January 2002. Employers, workers, civil society organizations and other interested parties can use it to find all the information they need about the new Act and multicultural personnel management. It also provides digital access to the annual reports and a number of new instruments: a list of FAQs and the answers to them, an electronic tool for employers, a benchmarking tool with which to compare performance at company, branch and industry level and a guide to relevant organizations in the field of multicultural personnel management;

(g) Between January and June 2002, staff employed by the Centre for Work and Income (CWI job centre) to advise companies on ethnic minorities ran a number of pilots based on the list of businesses which had persistently failed to make annual returns despite reminders from the Labour Inspectorate. Firms on the list were approached individually and/or in groups and provided with information about multicultural personnel management techniques and how to make the annual reports prescribed under the Act.

92. These improvements and support services have gradually increased the number of businesses making the statutory annual reports. The latest figures from the central database show that approximately 39 per cent of the companies concerned have made returns for 1997, approximately 65 per cent for 1998 and approximately 69 per cent for 1999, while the rate for 2000 is over 72 per cent. Analysis of the returns for 2000 reveals that 95 per cent of the employers making returns have devised measures to improve representation of minorities in their workforces. This is two to three times the percentage recorded in previous years. Analysis also reveals that the average enterprise now has a greater number of employees from the target group. Compared with a "fair" national figure of 7 per cent, the average was 8.4 per cent in 1999 and 8.8 per cent in 2000.

93. The Employment of Minorities (Promotion) Act will cease to be effective on 31 December 2003. In autumn 2002 consultations will be held with all the concerned parties to consider how employers, employers' organizations and trade unions can best be encouraged to pursue multicultural personnel management policies in the future.

Minorities Accord with social partners

94. In June 2001, following separate talks with the Government on ethnic minorities, the employers and trade unions signed a third Central Accord on minorities. This covers the period through to the end of 2004 and underlines the necessity of sustained joint action by all three parties to improve the position of ethnic minorities in the labour market. The accord emphasizes the particular need to seize opportunities at individual company level, since that is where combinations of work and training are implemented, work experience places and job vacancies filled, and communication problems and discriminatory practices arise. It is also where multicultural personnel management must be put into practice, the Employment of Minorities (Promotion) Act implemented and the worker participation bodies play their part.

95. The policy recommendations, priorities and themes of this third Central Accord are fully consistent with the goals and activities recorded in the previous Government's memorandum on the Action Plan 2000-2003 on labour market policy for ethnic minorities.

96. The social partners have agreed to consider the necessity or desirability of further centralized agreements once the third Central Accord expires at the end of 2004.

(c) Action Plan 2000-2003 on labour market policy for ethnic minorities

97. In its Action Plan 2000-2003, the previous Government announced a large number of extra measures designed to achieve a further structural reduction in unemployment among ethnic minorities. Its target (reductie TOT i.p.v. VAN), a 10 per cent reduction by 2002, was met as early as 2000. The main measures in this regard in 2000 and 2001 are outlined below.

Businesses

98. In April 2000, work started on the implementation of an agreement reached with employers' organizations to find more jobs for ethnic minorities in small and medium-sized enterprises. Under the terms of the agreement, employers in that field would aim to register 30,000 new vacancies with the Centre for Work and Income (CWI) within the next year and in the same period to fill 20,000 of those vacancies, preferably with people from ethnic minorities. Within the year, over 30,000 vacancies were registered and this led to the placement of 20,000 job seekers, more than 15,000 of whom were from ethnic minorities. In view of the success of the venture, new tasks were agreed and the period of the agreement was extended to the close of 2002. By July 2002 almost 68,000 vacancies had been registered by small and medium-sized enterprises and over 57,000 job seekers had found work, more than 49,000 of whom were from ethnic minorities. Apart from getting people into work, the programme has created lasting employment opportunities. Under the terms of the agreement, no fewer than 50 per cent of the placements had to be for a period of at least six months. Research (Regioplan, July 2002) shows that 64 per cent of people from ethnic minorities given a job under the programme were still in work six months later, 33 per cent with the same employer. Leaving

aside placements with temporary employment agencies and the category designated “unknown”, the proportion still in work after six months rose from 64 to 71 per cent, 49 per cent still with the same employer.

99. CWI planned to conduct a major publicity campaign in autumn 2002 concerning the agreement. The campaign would target the four main groups in the non-indigenous population and take the form of radio and television advertisements about CWI services for job seekers from ethnic minorities. These were to be broadcast on various ethnic minority-oriented channels and include material specifically targeting women.

100. In 2003, the tailor-made, one-to-one approach developed by CWI for non-indigenous job seekers under the agreement is to be mainstreamed and will henceforth apply to all job seekers.

101. In June 2000 the Government concluded a voluntary framework agreement with 14 major businesses on the recruitment of ethnic minorities and the implementation of multicultural personnel management policies. The aim was to reach such agreements with 100 major companies and this has since been amply achieved. In March 2002, implementation agreements were concluded with a total of 110 businesses. The companies concerned are in a variety of sectors and include finance companies, temporary employment agencies, manufacturing firms, trading enterprises and construction companies. The terms of the agreements are equally varied and address matters such as staff training in relation to multicultural personnel management (66 per cent), recruitment targets for the ethnic minorities (58 per cent), the use of selection tests free of cultural bias (38 per cent), new combinations of work and training (36 per cent), career-building measures (30 per cent) and the provision of training opportunities (26 per cent). An interim evaluation (SEOR [Foundation for Economic Research], June 2002) shows that a large majority of companies regard voluntary agreements as an appropriate way of implementing multicultural personnel management policies. A special project unit within the Ministry of Social Affairs and Employment is supporting company implementation and thus helping to bridge the gap between policy and practice.

102. “Effective Business with Minorities” (*Krachtig Ondernemen met Minderheden* or KOM for short) is a project designed to develop and implement an industry-oriented approach to ensuring the lasting use of non-indigenous workers. Improving cooperation between parties in the regional labour market and the pursuit of multicultural personnel policies are important aspects. The approach has been piloted in three industries (catering and entertainment, security, and transport and logistics) and manuals have been produced defining methods and identifying factors producing success or failure. In mid-2001, it was decided to run two further pilots (in the cleaning and construction industries) and to seek to expand existing knowledge and experience. In early 2002, the five industry organizations involved in the project signed voluntary cooperation agreements urging companies to apply the approach that has been developed.

Benefits agencies

103. The Ministry of Social Affairs and Employment makes agreements with benefits agencies (Employment Services/CWI, municipalities) to ensure that general measures to promote employment have at least a proportionate effect on ethnic minorities. Such measures include the campaign to offer work or training to everyone who has not managed to find a new job within a

year of becoming unemployed. Specific action will be taken to ensure that general measures have an equal impact on ethnic minorities and to help them move out of unemployment.

104. In autumn 2000, the Government and the Association of Netherlands Municipalities (VNG) agreed a joint Agenda for the Future. The aim of this is to boost and coordinate efforts to create a comprehensive strategy embracing labour market participation, reintegration and opportunities. On the basis of the Agenda for the Future, administrative agreements have been made with the four major cities and with the 26 largest municipalities for the 2001-2004 period. In addition, a case management grant scheme has been developed for the smaller local authorities. Under this scheme, performance targets are to be agreed with the authorities concerning the number of job seekers to be screened and assisted and the success rate of the operation.

105. Given that a large proportion of people receiving benefits under the National Assistance Act are of non-Western origin (31 per cent in the Netherlands as a whole and 49 per cent in the four major cities), agreements have been made with the four major cities and the 26 largest municipalities to strive for a proportionate reduction in unemployment amongst ethnic minorities. The 26 largest municipalities have also agreed to create combined programmes of work and training for both newly arrived and more established migrants and to make specific arrangements for refugees with higher education qualifications. Local authorities wishing to develop projects for the latter can obtain help from the job support department of the Foundation for Refugee Students (UAF). Funding for this support has been supplied by the Ministry of Social Affairs and Employment.

106. A more recent development is the new institutional structure for the delivery of services for job seekers and benefits claimants introduced on 1 January 2002. The new structure gives priority to work rather than income. Wherever possible, services are concentrated in the hands of a single type of agency, known as Centres for Work and Income (CWIs). These seek in the first instance to identify and secure suitable jobs for their clients. In addition, however, they assess the chances of the individual job seeker finding work and prepare written recommendations for the municipalities and UWV, the body that implements employee insurance schemes, on any necessary reintegration measures. For ethnic minorities, they have developed the one-to-one approach mentioned in relation to the voluntary agreement with the small and medium-sized enterprise sector.

Training/combinations of training and work

107. Arrangements combining paid employment with theoretical training make it possible for unemployed people to achieve a rapid and lasting return to work, while at the same time meeting the demand from employers for skilled workers. They are suitable for a wide range of job seekers from ethnic minorities (including recent and more established migrants and refugees with higher education qualifications), for women returning to work after raising families and for premature school-leavers. Many local authorities and organizations already have experience with such combined arrangements. The Integration Task Force is currently assisting 10 local authorities to design and implement them and agreements were made in 2001 and the first quarter of 2002 with some 40 major companies to set up and run their own combined courses. Work is being done at six TPG Post centres to implement "in-house" integration programmes

featuring a combination of both language and job-related training and postal delivery work. Likewise, the local authorities have agreed to devise combinations of training and work as part of the Agenda for the Future.

108. A survey of existing combinations of this kind formed the basis for a methodological guide to such arrangements written for the use of local authorities and completed in mid-2002.

Young people

109. An incentives programme (SPAG) has been launched to encourage local authorities to implement projects to reduce the high level of unemployment amongst young people from ethnic minorities. The projects are directed at mobilizing the young people concerned and helping them into work or vocational training. Attempts are being made to facilitate access to mainstream training institutions and employment services, and local authority schemes.

110. When the incentives programme was launched in 1994, it targeted only the Antillean and Aruban communities. In 1998, its focus was expanded to include young people of Moroccan and Turkish origin and, in view of its success, the Government decided in April 2000 to extend it by another three years. Twenty-eight local authorities are currently receiving grants. Since 1 May 2001, these can also be used for projects serving older members of various ethnic minorities. The incentives programme will cease on 1 May 2004 and projects continuing after that date must be funded and run by mainstream institutions, such as those providing social services or services to job seekers.

111. Between 1998 and 1 May 2001, a total of 1,731 young Antilleans and Arubans and 2,500 young Moroccans and Turks were enrolled on projects. Around a third of the Antilleans and Arubans were helped into work or work-related training, while 20 per cent dropped out. Among the Turks and Moroccans, the success rate was almost 50 per cent and the dropout rate around 6 per cent. Between 1 May 2001 and 1 April 2002, over 1,100 young people were enrolled and over 1,000 previous participants continued in the projects. At the end of that period, the success rate was 21 per cent and the dropout rate 12 per cent.

Integration and refugees with higher education qualifications

112. Between its inception and the end of 2002, the Government's Integration Task Force had three tasks: to eliminate the waiting lists that existed on 1 July 2000 for Dutch language lessons for established migrants, to improve the integration process and to provide more information on that process.

113. From the start of 2001, the Task Force performed these tasks as follows. To reduce waiting lists more rapidly, it made an extra 5 million guilders available to those local authorities with the longest lists. Monitoring revealed that a year later (on 1 May 2001) 94 per cent of the lists had been eliminated.

114. To improve the integration process, regional task forces were set up, comprising both local authorities and benefits agencies. In consultation with agencies on the ground, the task forces drew up and implemented regional "improvement agendas". At the same time, supraregional efforts were launched to develop a number of major aspects of integration, such as

childcare, individual support and counselling, action to reduce the dropout rate and combat absenteeism, information provision and municipal coordination. New methods were developed and piloted. The need for further professionalization of the integration process was addressed by disseminating knowledge and experience via network meetings, conferences, a newsletter, a databank and a web site. In 2001 new courses featuring combinations of Dutch language and vocational training were launched by 12 Regional Training Centres, and around 380 candidates were enrolled to train for work in the electrical trades, metalworking sector, care and welfare services, retail industry and computer field. An alternative kind of arrangement combines Dutch language training with a temporary contract of employment or work experience placement. Projects of this kind are being run in four major local authority areas and at six TPG Post centres.

115. Through to mid-2002, the Integration Task Force was mainly preoccupied with getting projects up and running. Over that period, it provided 41 local authorities with project development support. At the end of 2002 there was the prospect of concrete results in the form of guidance for the benefits agencies.

116. Refugees with higher education qualifications present a particular problem. Only 35 per cent of them manage to find paid work at all and half of them end up in jobs for which they are overqualified. A quarter of all refugees in the Netherlands have higher education qualifications. In April 2002, an action plan designed to facilitate their transition into work was presented to Parliament. The plan is based on a comprehensive approach under which help is to be offered to highly qualified refugees at every step of the way: from asylum application, via the process of social and professional integration, right through to actual re-entry into the labour market. An early and sustained investment of appropriate effort will increase their chances of moving swiftly into work. The keys to success will be to include in the integration process an evaluation of educational qualifications gained elsewhere, to develop prior learning assessment and recognition procedures, to encourage the customization of language courses, to seize the opportunities presented by the Agenda for the Future and to disseminate expertise concerning the reintegration of highly qualified refugees into the labour market (to be done by UAF).

Women

117. In February 2001, a Committee on Employment of Women from Ethnic Minority Groups was set up by the Ministry of Social Affairs and Employment and the Ministry of the Interior and Kingdom Relations. Its task was to advise on the best way to promote participation by ethnic minority women in society generally and the labour market in particular. On 7 March 2002, the Committee presented a report containing 16 recommendations on integration, emancipation, childcare and labour market policy. In the main, the Committee recommended improvements in the integration process (more hours, greater individualization, more programmes combining work and training), and the elimination of specific obstacles to women's participation (access, childcare, poverty trap, help with finding appropriate training/work). Above all, the Committee felt that there was a need for better coordination of initiatives to increase their effectiveness. In response to the report, the Government announced new measures based on the recommendations. In essence, there was to be an effort to mainstream activities designed to promote the participation of women from ethnic minorities, using existing structures, monitoring arrangements and instruments. The Action Plan for women returning to the workplace presented to the House of Representatives in July 2001 included a package of specific measures to promote participation by ethnic minority women (who make up a considerable proportion of this group).

In March 2002, as part of the implementation of the Action Plan, the former Minister and State Secretary signed a declaration of intent setting a target of 70,000 job placements for women returnees in the following four years. This was subsequently translated into voluntary agreements with a number of parties (the Centres for Work and Income, the Association of Netherlands Municipalities, the Netherlands Wholesale and International Trade Federation, the local authorities and the Regional Platforms for Labour Market Policy) on specific action to be taken to promote participation by ethnic minority women in the labour market.

118. In addition, the Government proposes to establish a national steering committee to encourage action in relation to ethnic minority women, assist local authorities in their role as coordinators and monitor progress on the measures announced by the Government in its response to the Committee report.

(d) Discrimination at work

General

119. Action to combat discrimination against ethnic minorities in the workplace is taken primarily within the wider context of labour market policies for ethnic minorities. Inequality and disadvantage are tackled by developing and encouraging measures and activities designed not only to increase and maintain the ethnic minority presence in the workplace, but also to improve the general climate at work, for example through intercultural management and multicultural personnel policies. These measures are described in the sections of the present report relating to employment. Of the measures listed there, the voluntary agreements with the major businesses and with the small and medium-sized enterprise sector and the measures designed to improve the operation of the Employment of Minorities (Promotion) Act are proving particularly effective in promoting equal treatment and combating discrimination against ethnic minorities.

120. In addition, measures are being taken specifically to promote equal treatment and non-discrimination. Specific measures designed directly or indirectly to improve the position of ethnic minorities in the workplace include the following.

Employers and trade unions

121. Primary responsibility for the position of ethnic minorities at work lies with employers and trade unions. This is reflected in the Minorities Accords drawn up by the Labour Foundation, a body comprising representatives of both.

122. Following the evaluation of the second Minorities Accord, the employers and trade unions decided that the Labour Foundation's third Minorities Accord should place explicit emphasis on encouraging multicultural personnel policies and anti-discrimination codes of conduct and corporate complaints procedures.

123. The voluntary agreements between the Government and the social partners mentioned earlier in the present report must not be seen as the only measures reflecting the will to promote equal treatment. The agreements on measures to promote equal pay and cooperation on this

subject between the employers and trade unions must also be seen in this light, as must the project for the market gardening sector. In addition, the Ministry of Social Affairs and Employment subsidizes projects initiated by the trade unions. The various measures are discussed in greater detail below.

Equal pay

124. On the basis of the Equal Pay Action Plan launched in May 2000 and the advisory report by the Labour Foundation, the Equal Treatment Commission and the Council for Public Sector Personnel Policy, agreements have been reached on a number of activities and the roles of various actors in them.

125. The employers and trade unions have agreed to take part in research on equal pay and, with the aid of funding from the Ministry of Social Affairs and Employment, have developed an Equal Pay Checklist. The Checklist identifies and explains a 10-step procedure which employers can use to screen their pay systems and ensure equal pay. It has now been distributed to employers and unions by the Labour Foundation. Although designed primarily to promote equal pay between men and women, it is also expected to impact on the pay of ethnic minority workers of both sexes.

126. The Ministry of Social Affairs and Employment has promised funding to the Equal Treatment Commission to develop a computer tool (to be known as an Equal Pay Quicksan) to help the Commission gain insight into the staffing and pay structures of labour organizations. Technical feasibility is a crucial factor. This is currently being investigated prior to a decision on the actual development of the scan. The scan is intended to include all the grounds covered by equal treatment legislation and will therefore also address the position of ethnic minorities.

127. The Ministry of Social Affairs and Employment web site provides information on equal pay to employers, workers and members of works councils. The information includes links to other relevant web sites, such as that of the Equal Treatment Commission, and will be updated as necessary.

Project for employees from ethnic minorities in the market gardening sector

128. Following the establishment of a special project for ethnic minority workers in the market gardening sector, the employers' association for the sector (LTO-Nederland), Netherlands Trade Union Confederation (FNV), National Federation of Christian Trade Unions in the Netherlands (CNV) and the Ministry of Social Affairs and Employment have all cooperated on the development of a code of conduct, special training arrangements and an employment monitoring system designed to prevent and eliminate discrimination against ethnic minorities in the market gardening sector.

129. The code of conduct, including complaints procedures, was officially presented to the Minister of Social Affairs and Employment on 3 December 2001. Plans have been drawn up for it to be publicized and disseminated. The Minister has brought the code to the attention of the Labour Foundation, which has responded by promising to write to member employers and trade unions recommending them to implement it.

130. There is now a special combined Dutch language and technical skills course for ethnic minority workers, and the first certificates were awarded to successful participants in June 2002. The course includes material directed at the participants' fellow workers and managers and parts of it are designed to improve social and communicative skills.

131. The development of the employment monitoring system is not yet complete.

Project funding

132. Under the European Community EQUAL initiative, a number of projects designed in part to combat discrimination qualify for co-funding by the Ministry of Social Affairs and Employment. In addition, funding is being given to two FNV and CNV projects in the industrial relations field. These are designed to improve the position of ethnic minorities within labour organizations and to promote equal treatment for this group. The FNV project relies on a decentralized approach to encourage worker representatives to pursue effective policies. The focus is mainly on small and medium-sized enterprises. The CNV project is developing a diversity monitor for use by works councils in the police service.

“Article 13” project

133. In order to implement national equal treatment legislation and legislative amendments consequent on Article 13 EC, a four-part project has been set up to promote equal treatment of a number of target groups, including ethnic minorities, in the workplace. Its aims are: (a) to encourage works councils to address the issue of equal treatment; (b) to promote equal treatment in small and medium-sized enterprises; (c) to promote equal treatment in large companies; and (d) to organize a conference on equal treatment. The project is scheduled to run from 2002 to the end of 2004.

Good practice to combat inappropriate workplace behaviour

134. TNO Work and Employment has recently completed on behalf of the Ministry of Social Affairs and Employment a study of ways of combating inappropriate workplace behaviour. Its report lists 16 examples of good practice which go further than simply combating discrimination.

135. The report identifies three types of inappropriate behaviour: aggression and violence, discrimination, and vandalism. Aggression and violence include verbal aggression (e.g. name-calling, shouting, baiting), physical aggression (e.g. striking, grabbing), psychological aggression and intimidation (e.g. threats, blackmail, bullying, mobbing, stalking) and sexual harassment (e.g. wolf whistles, offensive remarks, indecent assault). Fourteen of the examples of good practice cited in the report include action to combat discrimination or prevent it occurring. In most cases, a holistic approach is adopted and no explicit distinction is drawn between the different types of inappropriate behaviour or different target groups, including ethnic minorities.

136. Full details of the examples of good practice will appear on the Ministry of Social Affairs and Employment web site.

Research on equal treatment

137. Work has been completed or is currently proceeding on a number of research projects. Some of these relate to the position of more than one target group, others only to that of ethnic minorities. They also include research addressing a single specific aspect of equal treatment, such as equal pay. In the list given below, projects (A) to (C) were started partly in response to the FNV findings on workplace discrimination against ethnic minorities and the annual reports on complaints of discrimination issued by the Equal Treatment Commission, the National Bureau against Racial Discrimination (LBR) and the National Federation of Anti-Discrimination Bureaux and Hotlines.

Project A - Labour Inspectorate research project on the position of target groups (categorized on grounds of sex, ethnicity and length of employment) in work organizations

138. The Labour Inspectorate's first research project was a pilot study on the position of ethnic minorities in work organizations. Its design was based on that of earlier research by the Inspectorate on the position of women in work organizations, which also included an analysis of pay differences. The new project incorporated a novel element: the background to worker mobility. By this, the Inspectorate means the extent to which ethnic minorities move on (and upwards) to other jobs within the same organization (internal mobility) or to other employers (external mobility). This was investigated by examining the reasons for the inflow and outflow of both indigenous and non-indigenous workers. The study was published in April 2000 and the figures in it refer to 1998. It is to be repeated and it is intended that the studies should eventually reveal trends in the position of ethnic minorities in work organizations over time.

139. In 1998, the pay gap between indigenous and ethnic minority workers, corrected for job level, industry, experience, etc., was 3 per cent in favour of the former. (See also under (e) below for research on pay differences at microlevel.) The inflow into work organizations was 27 per cent for ethnic minorities compared with 15 per cent for indigenous workers. The outflow was 20 per cent for ethnic minorities against 13 per cent for indigenous workers. Much of the outflow can be ascribed to external mobility: 48 per cent of the ethnic minorities against 59 per cent of indigenous workers moved to another employer. In the case of the ethnic minorities, however, a relatively large proportion of the outflow was explained by "other reasons": 31 per cent against 14 per cent for indigenous workers. This category includes workers who have become self-employed, moved to standby or temping arrangements, or left the organization for unknown reasons.

140. The Labour Inspectorate's repeat study is to appear in autumn 2002 and will give figures for 2000. It will adopt an integrated approach, with the background characteristics of workers being described at macrolevel by sex, ethnicity and length of employment. There will be follow-up analyses of pay differences (both gross and net) and differences in mobility between male and female, ethnic minority and indigenous, and full- and part-time workers.

Project B - Research on recruitment and selection of ethnic minorities

141. June 2001 saw the publication of a study on the recruitment and selection of ethnic minorities and their job search and application behaviour.

142. The study examined the search behaviour both of ethnic minority job seekers and of employers wishing to recruit from ethnic minorities. It also examined equal treatment aspects of the process of recruitment and selection.

143. The results of the research on equal treatment match those of earlier studies. The problems identified on the employers' side are: negative and stereotyped view of ethnic minorities, ignorance of possible processes of exclusion, ineffective use of recruitment channels (no specific policies), communication failures during job interviews and failure to employ objective selection criteria. In the case of the job seekers, the study identified a high degree of motivation frustrated by ineffective search and application behaviour.

144. The study revealed virtually no significant differences between male and female job seekers.

Project C - Research on mobility among ethnic minorities

145. A study published in March 2002 included quantitative research on the differences in internal and external mobility between indigenous and non-indigenous workers and on the personnel and organizational policies of work organizations, as well as qualitative research on the extent to which such organizations take account of ethnic minority workers. The research was conducted over approximately the first 10 months of 2001. The figures refer to the 1998-2000 period.

146. The findings from the quantitative part of the research were that the differences between ethnic minority and indigenous workers were chiefly due to the extent to which they have managed to achieve a reasonably firm foothold in the labour market. The firmer the foothold, the less pronounced the differences.

147. In the case of external mobility, the differences between indigenous and ethnic minority workers proved to be slight, with the latter changing employers marginally less often. Sex and education were not significant explanatory factors in this regard, but age did seem to have some influence: young people from ethnic minorities seemed to change jobs slightly less often than young indigenous workers.

148. In the case of internal mobility, the proportion of ethnic minority workers varied between different branches and/or industries. Where there was overrepresentation, as in the trade and catering sectors, rates of internal mobility were generally low. Conversely, in sectors with relatively high rates of internal mobility, such as public administration, the ethnic minorities were underrepresented.

149. The qualitative part of the research, involving interviews with personnel officers and workers, elicited such a poor response that its results must be regarded as of very doubtful validity. They were chiefly as follows. Organizations seemed to have little experience of intercultural management (as part of their diversity policy or otherwise). There appeared to be

some indication that the capacities of ethnic minority workers were more frequently underused than those of indigenous workers, and that ethnic minority discussed their ambitions with supervisors and management less frequently. This supports observations made by other researchers that ethnic minority workers are often employed in jobs for which they are formally overqualified.

Project D - Research on the position of temporary workers

150. Research on the position of workers employed on a flexible basis showed that 3.6 per cent of all workers had a temporary contract of employment. Of those in this position, 79 per cent were indigenous and 22 per cent from ethnic minorities. The figures referred to 2000.

151. An earlier sample survey, based on figures from 1997 and 1999 and examining the relationship between reasons for unemployment and the duration of dependency on unemployment benefits, revealed no significant differences between indigenous workers and ethnic minorities or between men and women.

152. Of new unemployment benefit claimants in 1999, 10 per cent were non-indigenous and 67 per cent indigenous. The real proportion of non-indigenous claimants may in fact be higher than this, since ethnic origin was not always apparent from the records. In 22 per cent of cases it was unclear whether the claimant was indigenous or non-indigenous.

153. More than two thirds of long-term claimants (74 per cent) were of indigenous origin and 5 per cent non-indigenous. Once again, since the ethnicity of 20 per cent of all clients could not be established, it is possible that the real percentage of non-indigenous claimants is higher than this.

154. There were virtually equal numbers of men and women among new claimants.

155. The main reason for unemployment was the ending of a temporary contract of employment or temping work via an agency. Here too, there were no significant differences based on ethnicity or sex. There was, however, some slight indication that a greater proportion of non-indigenous workers enter unemployment following the expiry of a temporary contract of employment (or contract for agency temping work). In most cases, they had been declared redundant.

Project E - Research on pay differences at microlevel

156. In addition to macrolevel research of the kind described above, there is also a need for studies of pay differences at microlevel. An analysis of individual situations is often the only way to expose unjustified pay gaps. A pilot study of microlevel pay differences has been commissioned by the Ministry of Social Affairs and Employment and is currently being conducted in three enterprises. The aim of the study is to develop a sound scientific method of investigating equal pay at the level of the individual work organization. The pilot is due to be completed in October 2002. The results will be used to decide on follow-up action.

(e) **Special projects**

Childcare

157. As part of a national project to improve the educational standard of day care and playgroups for young children, an American method entitled "Anti-Bias Curriculum" has been adapted to the Dutch setting by the Netherlands Institute for Care and Welfare (NIZW). The method (*Ik ben ik en jij bent jij*, NIZW, 2000) is designed to reduce racial and other prejudices in day-care centres and playgroups, and focuses on educational standards, preparing young children for a multicultural society, and managing diversity. The method will be available for use by all day-care centres and playgroups in the Netherlands from 2000 onwards.

(f) **Employment of minorities in the armed forces**

Table 6

Ethnic minorities in the armed forces, 1998-2001

	1998	1999	2000	2001
Total personnel	75 145	74 623	72 584	73 026
Total ethnic minority personnel	5 952	5 486	5 325	5 408
Total percentage of ethnic minority personnel*	7.9%	7.4%	7.3%	7.4%
New personnel	6 076	6 488	7 068	9 349
New ethnic minority personnel	562	493	490	657
Percentage of ethnic minorities among new personnel	9.2%	7.6%	6.9%	7.0%

* The target for equal representation of ethnic minorities in Ministry of Defence posts, based on data from Statistics Netherlands, was 4 per cent in 1998, 4.7 per cent in 1999, 5.5 per cent in 2000 and 6.0 per cent in 2001.

158. The figures in the table show that the Ministry of Defence met all its targets for equal representation of ethnic minorities between 1998 and 2001. Recruitment of new ethnic minority personnel to civilian and military posts is no longer increasing. In 1999, for the first time, outflow exceeded inflow, causing the total percentage of ethnic minority personnel to fall.

159. At the end of 1999, the Ministry of Defence published the 2000 policy document on defence. The policy document lists key measures that will complete the switchover to a restructured, downsized, all-volunteer force. This process has brought a number of shortcomings to light, and new requirements have been laid down, particularly as regards the personality characteristics of military personnel. This will profoundly alter the personnel structure of the armed forces over the coming decade and will greatly reduce the average age of military personnel. It is hoped that an increase in the number of young people, particularly in the lower ranks, in combination with variable periods of service, will result in a more flexible personnel

structure. For many people, a professional career in the armed forces will no longer mean a job for life. These changes in personnel structure will affect recruitment and improve opportunities for people from ethnic minorities.

160. Dutch society is changing rapidly. Demographic trends such as the ageing of the population and the greater proportion of women and people from ethnic minorities on the labour market are particularly important to the armed forces. Recent studies have shown that most people in the target group (aged 18 to 29) do not know that it is possible to serve in the armed forces on a temporary contract (only 45 per cent of the indigenous Dutch target group and 33 per cent of the ethnic minority target group are aware of this). The same studies show that young people from ethnic minorities are more interested in finding a job in the armed forces than young indigenous Dutch people. Much of the potential in this segment of the labour market has so far remained unexploited. The Ministry of Defence is now drawing up detailed plans to step up recruitment among ethnic minorities.

161. Recent cases of misconduct in the army, including discrimination, have led the Ministry of Defence to take a number of measures, including:

(a) Clearer guidelines for commanding officers on how to act in cases of misconduct, including legal action;

(b) Targeted information campaigns and education programmes aimed at all Ministry of Defence personnel concerning policies for equal representation of ethnic minorities, in order to ensure that ethnic minority personnel are not stigmatized or discriminated against;

(c) Measures to highlight cases of exemplary conduct by instructors, NCOs and officers;

(d) Creation of a department where discrimination, racism and extreme right-wing utterances can be reported.

(g) Result of large-scale study of police service ethos

162. A large-scale study of the prevailing ethos in the police service has been carried out, and a report appeared in autumn 2001. The survey gives an up-to-date picture of how the working climate in police forces is perceived by minority groups, including ethnic minorities.

163. In 1999 the Ministry of the Interior and Kingdom Relations organized a conference for senior police officers entitled "The police and diversity after 2000". Policy on ethnic minorities was a major topic at the conference. A working group comprising representatives of all ranks of the police and headed by a senior police officer drew up a Diversity Action Plan to deal with the problems that had been identified at the conference. The Action Plan, which was published in October 2001, contained specific proposals and recommendations aimed at the recruitment and, above all, retention of people from ethnic minorities within the police force. These included initiatives to improve police culture and behaviour towards colleagues. Another issue was the

position and quality of confidential advisers. The Minister of the Interior and Kingdom Relations has allocated police forces an additional €2.36 million a year over the period 2000-2002, to be spent on projects aimed at the recruitment and retention of people from ethnic minorities within the police force.

164. Since 1999 police forces have been required, as part of the policy and management cycle, to report on and account for their policy on the inflow, transfer and retention of ethnic minority officers, with reference to short-term and long-term targets. This is in line with reporting requirements under the Employment of Minorities (Promotion) Act. So far, only part of the police service has complied with the reporting requirement under the Act. As a result, there are still no reliable nationwide statistics on ethnic minority police officers. Compliance with the Act will be an important issue in the coming period.

165. A proposal which will soon give police forces a picture of the current position of their ethnic minority officers is now being drawn up. On 1 March 2001 a National Diversity Expertise Centre (LECD) was set up to support and encourage police forces in implementing the policy on diversity.

166. A report entitled *Past blauw bij jou?* ("Is blue your colour?"), containing the results of research among young people from ethnic minorities on their interest in and awareness of job opportunities in the police, has been published. This report is relevant to the national police recruitment campaign, which is largely aimed at specific target groups such as ethnic minorities.

2. The right to housing

General

167. In the period in question there was no change in the non-discriminatory housing policies in force since the early 1980s. Since 1995, however, many local authorities - especially in the larger towns and cities where many people from ethnic minorities live - have changed to new systems of housing distribution which are more transparent and offer greater freedom of choice.

168. Since 1998, the Social and Cultural Planning Office's Reports on Minorities have ceased to contain information on housing. The most recent figures on the housing of ethnic minorities date from 1998 and are based on the four-yearly housing needs survey conducted in that year. The results of the 2002 survey will not be available until mid-2003.

169. For this reason, the information provided in the previous report can only be updated to 1998.

Housing benefit

170. Since the previous reporting period, there have been no significant changes in relation to housing benefit. Take-up among ethnic minorities continues to increase (for further details, see the thirteenth and fourteenth periodic report).

Ethnic minorities

171. The 1998 survey of housing needs revealed a further improvement in the housing conditions of ethnic minorities (*Perspectief op wonen. Rapportage van het Woning Behoeftte Onderzoek 1998*, p. 94). A greater proportion now live in single-family dwellings and own their own homes. There is also less overcrowding in terms of numbers sharing accommodation. The gap between ethnic minorities and the indigenous population is closing but has not yet disappeared.

172. Second-generation immigrants are now entering the housing market. The survey shows that they are better housed than the first generation and are quickly catching up with the indigenous population in this respect.

173. Developments in relation to the indicators mentioned in the previous report are as follows:

(a) Household size

No data on trends in household size between 1994 and 1998 have been identified. Figures for fertility rates between 1996 and 2001 suggest that average household size in the Turkish and Moroccan communities has declined slightly, whereas that in the other minority communities has probably increased a little. The main reason for this is higher fertility among new groups of immigrants (mostly from Africa).

(b) Home-ownership

Between 1994 and 1998, home-ownership increased among the main ethnic minorities: from 7 per cent to 9 per cent among people of Turkish and Moroccan origin, and from 17 per cent to 24 per cent among those of Surinamese and Antillean origin. As such, however, the rates are still substantially lower than among the overall population (51 per cent).

(c) Housing benefit

Between 1994 and 1998 take-up of housing benefit also increased: up from 35 per cent to 44 per cent among ethnic Turks and Moroccans and from 35 per cent to 44 per cent among Surinamese and Antilleans. This is significantly higher than the rate for the overall population (29 per cent).

Refugees and asylum-seekers with residence permits

174. Refugees and asylum-seekers with residence permits enjoy the same rights and are subject to the same obligations as any other person residing legally in the Netherlands. When they leave central reception facilities and look for permanent housing they are regarded as “technically homeless” (“*technisch dakloos*”) on the housing market and as such enjoy some priority in the allocation of housing.

175. In December 2002, the Equal Treatment Commission found that a housing corporation had discriminated on grounds of nationality and therefore failed to comply with the Equal Treatment Act when it refused housing to an asylum-seeker in possession of a temporary residence permit.

176. The Dutch municipalities were 93 per cent successful in achieving the targets set by the central Government as regards the provision of housing for refugees and asylum-seekers with residence permits. The targets are linked to the size of the municipality's population. Some municipalities failed to meet their targets, but this has so far been offset by the fact that others exceeded theirs due to receding demand on the housing market. Moreover, municipalities failing to meet their targets on time are obliged by law to do so later. Between the introduction of housing targets (May 1993) and the end of December 2002, over 142,000 refugees and asylum-seekers with residence permits were housed.

Caravan dwellers

177. As announced in the previous consolidated reports, the Caravan Act was repealed in 1999, putting an end to the statutory discrimination against caravan dwellers and placing them on an equal footing with all other Dutch citizens.

178. At the same time, as the Caravan Act was repealed, certain temporary provisions were added to the amended Housing Act giving preferential treatment to caravan dwellers to compensate for the present shortage of caravan sites. These provisions were to remain in force until 31 December 2003.

Urban renewal and regeneration

179. Ethnic minorities in the Netherlands tend to be concentrated in the major cities. Policies developed to tackle social problems in inner city neighbourhoods include action to improve housing and the residential environment. To this end, a temporary urban regeneration subsidy scheme was introduced in early 1997 with the aim of promoting the creation of a more varied housing stock in problem neighbourhoods where cheap dwellings are currently the only available form of housing. The annual budget for the scheme was 65 million guilders in both 1997 and 1998.

180. In June 1997 the State Secretary for Housing, Spatial Planning and the Environment presented a policy document on urban regeneration to the House of Representatives. In it, the Government undertook to provide an extra 3.7 billion guilders over the next 12 years to complete a programme of urban regeneration in rundown neighbourhoods and to renovate others, particularly those built shortly after the Second World War.

181. The coalition agreement of August 1998 pledged another 2.25 billion guilders for urban regeneration up to the year 2010. The total urban regeneration budget (which includes completion of existing programmes) up to the year 2010 is slightly under 10 billion guilders. However, the coalition agreement of July 2002 implied that this would be cut by 0.9 billion guilders.

3. The right to public health, medical care, social security and social services

(a) Social security and social assistance

Benefit Entitlement (Residence Status) Act

182. The Benefit Entitlement (Residence Status) Act was introduced on 1 July 1998. This is a framework act linking the right of non-Dutch nationals to facilities and benefits (conferred by way of a decision from an administrative authority) to the possession of a legal residence permit. It therefore applies to all aliens as defined in the Aliens Act, irrespective of nationality and ethnic origin.

183. The purpose of the Benefit Entitlement (Residence Status) Act is to restrict entitlement to social security and other such public benefits to Dutch citizens and foreign nationals holding residence permits. There is no discrimination on the basis of nationality or ethnicity; foreign nationals are excluded from benefit entitlement exclusively on the ground that they do not hold a legal title to residence. Their ethnic or national origin is irrelevant. The purpose of the Act is to discourage illegal immigration into the Netherlands and to support the Government's immigration policy.

184. The Act was evaluated three years after it entered into force. This evaluation was completed in 2001 and showed that the Act was in general being faithfully implemented without any major problems being encountered. The Act has proved to be effective in excluding aliens without valid residence permits from receiving benefits.

(b) Public medical insurance

185. Under Dutch civil law, medical services must be paid for by the actual recipient of the services or by a third party who is responsible for his or her maintenance. If the recipient has either public or private medical insurance, this will normally cover the costs of health care. As a result of the Benefit Entitlement (Residence Status) Act, illegal immigrants are not entitled to public medical insurance. People who have no medical insurance and are unable to pay their medical expenses can apply for benefits under the Social Assistance Act. In order to do so, however, they must be legally resident in the Netherlands. Dutch law makes no social security provision for illegal immigrants.

186. However, according to Dutch ethical standards, urgent medical care must be provided even if the recipient is uninsured or unable to pay for it. Urgent medical care includes emergency treatment in life-threatening situations, prevention of loss of essential functions, care in situations that pose a threat to the health of third parties, maternity care, preventive health care for children and young people, and vaccinations. The patient's condition and the degree of urgency are assessed by the attending physician.

187. In cases where illegal immigrants are unable to pay for the care provided, health-care providers can recover their expenses from a Government-subsidized fund set up for the purpose. One of the main aims of the fund is to identify and solve problems concerning health services for illegal immigrants.

188. On 13 November 2000 a Government document entitled *Interculturalisatie van de Zorg* (“Interculturalization of care”) was published by the Ministry of Health, Welfare and Sport in response to an advisory report on the subject by the Council for Public Health and Care. This re-emphasizes the importance that the Government, and in particular the Ministry, attaches to this matter. Research has shown that various ethnic minorities are, on average, in worse health (and perceive themselves to be so) than indigenous Dutch people. Dutch society is increasingly multicultural, and people from widely differing ethnic and cultural backgrounds are making increasing use of health-care services. It is vital for the care sector to respond to this correctly. This is why the Ministry asked the Council to produce an advisory report. The report makes a number of recommendations to the Ministry.

189. The Ministry’s aim is to reinforce and give new impetus to current policy and so help make sure that everyone living in the Netherlands has access to good-quality health care. To this end, the following measures have been taken by the Ministry of Health, Welfare and Sport:

- (a) A project group has been set up to implement the Council’s recommendations;
- (b) An action plan for the implementation of the Council’s recommendations was published in late 2001;
- (c) Since 2002, the project group has been engaged in detailed planning and implementation. The first priorities are to establish a central, independent interculturalization support unit, to integrate non-indigenous care advisers into the system, to strengthen the position of non-indigenous clients and to conduct a programme of research.

190. Meanwhile, efforts are being made in many parts of the health-care system to achieve interculturalization. One example is the establishment of a referral point for people who wish to work in the Dutch health-care field but hold qualifications gained outside the Netherlands. Another is the development by the umbrella organization for the mental health-care sector of an action plan for interculturalization in that part of the health service.

4. The right to education and training

Early childhood education

191. Too many children are already lagging behind by the time they start primary school, and never manage to catch up again. There are about 200,000 such children in the 2-5 age group, from disadvantaged, poorly educated families. In cooperation with the Ministry of Education, Culture and Science, policies have therefore been drawn up to improve these children’s early years education. A campaign has been launched to persuade ethnic minority parents to enrol their children in playgroups. Intensive programmes such as Kaleidoscope and Pyramid have been developed to help children who are lagging behind developmentally. Ways of improving the training of playgroup leaders are being looked at, so that they can deal more effectively with disadvantaged children. Between 2002 and 2006, there will be a structural budget allocation of around €100,000,000 a year for these activities.

5. The right to equal participation in cultural activities

Cultural participation by ethnic minorities in the Netherlands

192. Statistics show that ethnic minorities are underrepresented among visitors to cultural institutions: this is particularly true of people of Turkish and Moroccan origin, and to a lesser extent of those whose origins lie in the former Dutch colonies of Suriname and the Netherlands Antilles. This situation is due mainly to their inadequate command of Dutch and low level of education. If educational attainment is taken into account, the differences disappear: higher educated people of ethnic origin visit performance venues and museums as frequently as their indigenous Dutch counterparts. For this reason alone, it is gratifying to note that the level of educational attainment among ethnic minorities is gradually rising: the rate of secondary and higher education qualifications among second- and third-generation youngsters - those who were born or have grown up in the Netherlands - is far higher than among their parents or grandparents.

D. Article 6

1. The Burgerzaal conference, the follow-up conference and the current situation

Incentive Scheme for the Professionalization of Anti-Discrimination Bureaux

193. The Government of the Netherlands acknowledges the importance of involving representatives of ethnic minority organizations in such areas as local anti-discrimination policy. Organizations representing ethnic minorities were among those invited to attend the national working conference organized in April 2001 by the Minister for Urban Policy and Integration of Ethnic Minorities in collaboration with the City of Rotterdam to discuss local cooperative efforts to form coalitions between the most relevant organizations working to combat discrimination and racism. Such coalitions will in any case include the Anti-Discrimination Bureaux, the police, the Public Prosecution Service and local authorities. The conference was a follow-up to one held in February 2000 (known as the Burgerzaal conference) on the importance of cooperation at the local and regional levels. The results of the two conferences formed part of the Netherlands' contribution to the October 2000 conference on racial discrimination in Strasbourg and the United Nations Conference held in Durban in September 2001 on the same subject. In his speech at the end of the follow-up conference, the Minister for Urban Policy and Integration of Ethnic Minorities proposed that a National Platform for Consultation and Cooperation against Racism and Discrimination (NPRD) be set up.

NPRD

194. The National Platform for Consultation and Cooperation against Racism and Discrimination was established fairly recently (in April 2002). It consists of 25 independent experts drawn from the most relevant governmental and non-governmental organizations in the Netherlands. Its aims are to monitor and examine positive and negative developments and trends in relation to racism and discrimination, and to present, record, discuss and fine-tune initiatives and ideas for the elimination of racism and discrimination. Eventually, it is hoped that NPRD will help to strengthen the entire national anti-discrimination strategy. In this regard, it is

expected to make a major contribution to the establishment of a National Action Plan. (National Action Plans are an initiative of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, in 2001.) (See also paragraph 197 below.)

195. Local cooperation has been given an additional boost by the Incentive Scheme for the Professionalization of Anti-Discrimination Bureaux, launched in 2001. This grant scheme, which is designed to help local and provincial authorities make their Anti-Discrimination Bureaux more professional, allows improvement of local cooperation to be included in professionalization plans. During the term of the previous Government, the Minister for Urban Policy and Integration of Ethnic Minorities and the Minister of Justice were jointly responsible for the scheme, and both their ministries have allocated funds to it. A sum of 3 million guilders (subsequently increased to 6 million guilders, or €2,722,680) has been made available for the 2001-2003 period. Twenty-one project proposals have been submitted and all have been approved. The projects must be completed by 1 August 2004.

2. Current situation regarding the Model Government Code of Conduct against Racial Discrimination

196. A Model Code of Conduct against Racial Discrimination for central government personnel, together with an action plan, was approved by the Government and submitted to parliament on 5 October 2001. A launch conference will be held in late 2003 for officials tasked with implementing the action plan in the various ministries.

3. Current situation regarding the national follow-up of the World Conference against Racism

197. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance took place in Durban, South Africa, 2001. This Conference developed a Programme of Action to identify concrete actions that States should adopt to combat racism, racial discrimination, xenophobia and related forms of intolerance more effectively at the national level. The Government of the Netherlands, like other Member States of the United Nations, promised to develop and implement such a National Action Plan.

E. Article 7

1. Education and teaching

Youth care

198. In 2000, a code of conduct for youth care personnel was drawn up by employers and trade unions in the youth care sector. The purpose of the code is to help staff deal more effectively with diversity at work and to combat discrimination on grounds of race, sex and sexual orientation. The code was circulated to all the relevant establishments in 2000. Implementation is being monitored by regional conferences. The code is designed to help youth care personnel deal with discrimination against young homosexual and/or heterosexual people, whether indigenous or from ethnic minorities.

National youth organizations

199. A number of national youth organizations that receive government grants are taking explicit steps to become multicultural. Some national youth organizations are undertaking specific activities to encourage the integration of ethnic minority young people. For example, as a first step, the Dutch Scouting Association is working with Muslim groups to familiarize Muslim boys and girls with scouting and organized youth services.

European Youth Programme

200. In March 2000 the European Youth Programme was approved by the European Commission, the European Parliament and the European Council. It is scheduled to run to the end of 2006 and gives young people from Member States and a number of "third countries" the opportunity to take part in brief exchange visits as part of a group. They can apply to do voluntary work abroad or carry out transitional group initiatives. There will be courses and exchanges for youth workers. One of the goals of the Programme is to encourage mobility and participation by young people and to combat discrimination and xenophobia. At the insistence of the Netherlands, measures to combat discrimination on other grounds - such as race and sexual orientation - have been made an explicit goal of the Programme. A number of European Youth Programme projects have been explicitly designed to combat discrimination.

Sport and minorities

201. Sports policy aimed at ethnic minorities comprises measures to encourage them to participate in sports (as players and management personnel) and the creation of a positive, tolerant atmosphere in the Dutch sports world.

202. One initiative to improve the atmosphere was the Action Plan for Sport, Tolerance and Fair Play (1997-2000). Over the same period, efforts to encourage participation in sports gave priority to supporting initiatives targeting less active groups - such as girls, women and older people from ethnic minorities - and projects for the recruitment and training of sports management personnel from ethnic minorities. The action plan to encourage young people to undertake voluntary work also included a substantial number of projects specifically targeting young people from ethnic minorities.

203. Since 2001, the Netherlands Olympic Committee/Netherlands Sports Confederation (NOC/NSF) has been funded by the Ministry of Health, Welfare and Sport to take the lead in developing the multi-year Fair Play policy plan (entitled "Sportsmanship and Respect") and implementing it in cooperation with the national sports organizations. Various national organizations (football, hockey, handball, basketball, water sports, korfbal, fighting sports and strength sports) are now involved in implementation. Activities are directed at improving the atmosphere and behaviour in clubs and associations and combating discrimination among players and spectators. Local authorities and primary and secondary schools can also endorse the plan and take part in activities.

204. National sports organizations, provincial sports councils and local authorities are all active in this area. There is a national consultative body for advisers in the field of sport and ethnic minorities (LOSA) within which there are regular exchanges of information on the

progress of activities and the factors influencing their success or failure. In December 2001, a national conference on the subject of sport and ethnic minorities was held by the national support organization for sporting activity, the Netherlands Institute for Sport and Physical Exercise (NISB), and LOSA.

205. Since 1999, the “Sport for All” policy has been greatly stepped up. Local authorities are being encouraged to increase their efforts to strengthen the sports sector and to use sport to help achieve social goals in areas like welfare, urban regeneration, preventive health care and crime prevention. Over 200 of the almost 500 local authorities in the Netherlands are now doing so and many of them are setting up activities specifically for ethnic minority groups.

2. Culture

206. Artistic talent among ethnic minorities needs to be actively identified, organized and coached. This will not happen spontaneously. For this reason, the Ministry of Education, Culture and Science has commissioned the establishment of three organizations (Atana, the Phenix Foundation and Network CS) to help implement the Government’s diversity policy. Atana focuses on membership of boards and committees in the cultural sector, Phenix on individual arts practitioners and Network CS on cultural institutions.

Atana

207. Atana was set up in 2000 to spot new talent for boards, committees and advisory posts among minorities.

Phenix Foundation

208. Phenix advises artists and art directors on funding and the cultural infrastructure, supports and develops pilot projects and provides a platform for initiatives designed to increase the diversity of cultural life in the Netherlands. Its role can take many different forms: encouraging activity, recruiting funds, monitoring, producing or co-producing, or providing assistance and support in the form of expertise or funding. In 2002 Phenix hoped to implement between 13 and 18 projects.

Network CS

209. Network CS is intended to increase the expertise of cultural institutions in relation to cultural diversity and to facilitate in this regard the exchange of experience with personnel policies, programming and public relations (plus the relationship between these three elements).

210. The network was launched in 2002 with a budget of €227,000.

Cultural Outreach Programme

211. In addition, the Ministry of Education, Culture and Science has concluded voluntary agreements with seven major local authorities in the Netherlands committing them to implementing cultural diversity projects.

3. Information

Policy to ensure representation of ethnic minorities in the media

212. In 1999, the Government of the Netherlands established a specific policy on the media and ethnic minorities. The main aims of the 1999 policy were:

(a) To ensure a balanced range of programming, permeating all programme areas and ensuring fair representation of minority groups in radio and television (both on and off the screen);

(b) Where necessary, to provide “niche programming” to serve minority communities: mother-tongue programming to meet specific information needs.

213. Action to achieve these aims is being taken mainly in the field of public broadcasting (radio and television). The press is largely left to market forces, but newspapers that address migrants or a specifically multicultural audience can request a subsidy from the Netherlands Press Fund.

214. Action to reach minorities through public broadcasting includes:

(a) In the sixties the Dutch Public Broadcasting Services started with niche programming to serve guest workers and immigrants from former Dutch colonies;

(b) 1995: The Netherlands Programme Foundation Service (NPS) was set up with a statutory duty to devote part of its airtime to programmes with a multicultural content (20 per cent on television and 25 per cent on radio);

(c) The Dutch Media Act contains measures to encourage other broadcasting organizations to offer diversified programming serving all segments of the population, including minorities;

(d) Measures to encourage the production of programmes by people from ethnic minorities (through funding). Example: creation of a Government-subsidized local and regional broadcasting organization (MTNL) to produce television programmes for relevant audiences in the four largest cities (where 30-40 per cent of the population belong to ethnic minorities);

(e) In the Netherlands there are different organizations that try to encourage people from ethnic minorities to work in the public broadcasting sector and other parts of the media profession;

(f) Local radio: FunX, a multicultural radio station serving the four largest cities with programming designed for younger people from ethnic minorities;

(g) Measures to ensure that boards of local and regional public broadcasting organizations are representative and include members of ethnic minorities.

PART TWO

Aruba

IV. RESPONSES TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE

215. In its conclusions and recommendations of 17 August 2000 (CERD/C/304/Add.104), the Committee invited the Government (para. 17) to provide further information on domestic workers.

216. Domestic workers enjoy the same basic protection under the Civil Code of Aruba as any other workers. Their contracts also have the same status as any other labour contract.

217. With regard to freedom of movement, residence permits issued to domestic workers stipulate that they have to live at their employer's house. But a contract cannot restrict the freedom of movement of domestic workers in their free time, when they can go wherever they like. Moreover, domestic workers are free to travel or to return to their country of origin at any time.

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

A. General

1. Migration

218. People from all over the world have settled in Aruba. The island's population is composed of nationals of no fewer than 124 different countries. Aruba has always been a place where foreigners are welcomed and treated in a friendly manner. Aruban society is the result of numerous waves of migration, each contributing to the ethnic and cultural diversity of the island.

219. In recent years the labour market has no longer been able to satisfy demand, and large numbers of workers have had to be brought in. Over the last 10 years immigration has reached unprecedented heights. Between 1991 and 2000, the population increased from 66,687 to 90,506, a rise of 35.7 per cent. Much of this increase is due to an influx of people with another nationality, mostly from neighbouring countries, and to a lesser extent of Dutch nationals not born in Aruba.

220. In 1991, 15,910 people with non-Dutch nationality were living in Aruba. According to the 2000 census, 30,620 of the 90,506 residents of the island are legal immigrants. According to an analysis done by the Social and Economic Council (SER), 32 per cent of the total population is non-Aruban. As stated in the previous report, registration by ethnic origin has never taken place and is not considered desirable. Such distinction as is made between people living on the island is based on nationality. In general, anyone with Dutch nationality who was born in Aruba is considered to be Aruban.⁵

221. Table 7 below gives a breakdown of the main foreign-born population by nationality; table 8 gives the official population figures by place of birth.

Table 7
Population by nationality, 2000

Nationality	Number	Percentage
Dutch	73 440	81.1
American	656	0.7
Colombian	5 769	6.4
Venezuelan	2 516	2.8
Dominican Republic	2 139	2.4
Portuguese	82	0.1
Other nationalities	5 905	6.5
Total	90 506	100

Table 8
Population by place of birth, 2000

Place of birth	Number	Percentage
Aruba	59 886	66.2
Netherlands Antilles	3 555	3.9
The Netherlands	3 755	4.1
Colombia	7 192	7.9
Venezuela	2 914	3.2
Dominican Republic	3 692	4.1
Other	8 997	9.9
Not reported	517	0.6
Total	90 508	100.0

Source: Population Census 2000; Statistics Netherlands (CBS).

222. Although international migration has always been a feature of Aruba's demography, many of the changes in the size and composition of the population have taken place during the last 10 years. The fast-growing economy not only solved most of the unemployment problems on the island, but also triggered a huge demand for all types of labour. During the early 1990s there was a large influx of workers from abroad, mainly in the construction sector.

223. In 1997, 33 per cent of the foreign-born population reported that they had found their current job through family or friends living or working in Aruba. This indicates a growing trend towards chain migration. Of the foreign-born population, 64.4 per cent indicated that they wish to settle permanently in Aruba.

224. In 1998 and 1999, 956 and 821 people respectively applied for naturalization. In 2000, the number of applicants had reached 360 by May of that year.

2. Admissions policy

225. Under Aruba's admissions policy, all aliens may be eligible for admission, irrespective of nationality or origin. Most aliens are admitted in order to work in Aruba. However, there are language requirements (e.g. knowledge of Dutch) for certain jobs, and so not all aliens are eligible for them. For further information on admissions policy, see the previous report.

226. In 1999 the total number of applications for a work and/or residence permit was 18,243, an increase of 496 over the corresponding figure for 1998. Of the 18,243 applications, 1,048 were still being processed on 31 December 1999. Of the applications submitted, 14,358 were granted and 1,366 rejected.

227. The Minister of Justice tightened up policy on the admission of foreign nationals as of 1 September 2002.

B. Article 5

1. The labour market

228. The Department of Labour advises the Department of Public Order and Safety on the labour market situation and indicates whether, from the point of view of the labour market, aliens should or should not be admitted. Analyses and forecasts by the Department of Labour are of great importance for balanced economic development.

229. The economic development of Aruba in the last 15 years would have been impossible without considerable foreign labour. Foreign workers now constitute a significant proportion of the local labour force. The 2000 Census survey indicates that non-Aruban males are concentrated in the construction and hotel/restaurant sector, while non-Aruban females in fact constitute the majority in the latter sector. The survey counted 41,918 people aged 15-64 years who had a job, of whom 24,745 were born in Aruba and 17,173 elsewhere. It furthermore showed that non-Arubans who had a job and were between the ages of 15-64 accounted for 41 per cent of the total working-age population. Of the economically active population, 40.95 per cent are non-Aruban (foreign-born). The numbers of male and female non-Arubans differ. There are more non-Aruban females than non-Aruban males in almost every age bracket. In 2000, non-Aruban women accounted for 41.65 per cent of the female population aged 15-64. The second largest female ethnic group in Aruba are Colombians (3,983 abs).

Unemployment

230. The growth in the tourist industry and the concomitant expansion of the building and service sectors have caused unemployment to decline dramatically. According to official figures supplied by the Department of Labour, the unemployment rate among the economically active population at the end of 2000 was 6.9 per cent. About 59 per cent of unemployed people are Aruban and 41 per cent non-Aruban. In comparison with 1996, these figures show a decrease in unemployment among Arubans and a large increase among the foreign-born.

2. Housing facilities

231. With a population of 90,506 and a relatively limited size, Aruba is one of the most densely populated countries in the region. In 1999 the estimated population density was 501 per square kilometre, compared with 495 per square kilometre in 1998. For the years 2000 and 2001, the figures increase to 506 and 515, respectively. On a global scale, Aruba is one of the 20 most densely populated countries. As a result of rapid population growth, there is still a significant housing shortage in Aruba. For statistical information on the development of the density of the Aruban population, see table 9 below.

Table 9

Population, rate of population change and population density, 1999-2001

Year	Population	Males	Females	Annual population growth rate	Population density (inh./ km ²)
1999	90 135	43 480	46 655	1.07	501
2000	91 065	43 710	47 355	1.03	506
2001	92 638	44 352	48 286	1.73	515

Source: Statistics Netherlands (SBS).

232. As mentioned in the previous report, the Aruban Government's public housing agency (*Fundacion Cas pa Comunidad Arubano*, or FCCA) has two schemes to help low-income groups, both Arubans and non-Arubans.

(a) Rented public housing

233. In 2001/ 2002, about 750 dwellings were built in six districts in various parts of the island. FCCA rents or sells these dwellings. In order to qualify for rented housing in one of these districts, people must be registered as seeking housing. Those who are eligible are the people on the waiting list and those who urgently require a dwelling on social grounds. In order to be placed on the list for FCCA-rented housing, Dutch nationals born in the Netherlands Antilles or the Netherlands must have been listed in the population register for at least two years, and people who do not have Dutch nationality must have been listed in the population register for at least five years. Between 1998 and early August 2000, 856 people were placed on the list for rented housing, and 409 were allocated rented housing.

(b) Low-interest loans to build new houses

234. From 1 January 1998 to 8 August 2000 a total of 855 people became eligible for a building loan.

3. The right to public health, medical care, social security and social services

235. In 1996 the Government introduced a general medical insurance scheme, the aim of which is to provide a system of high-quality, affordable health care that is equally accessible to all.

236. General medical insurance, AZV, was introduced in stages over a number of years. Since 1 January 2001, everyone listed in the population register (irrespective of nationality) is automatically covered by the general medical insurance scheme.

4. Legal remedies

237. The long-awaited Ordinance on Administrative Justice (LAR) came into force in December 1997. LAR gives individuals legal protection against decisions by government bodies. Any individual who disagrees with such a decision can lodge an objection with the government body responsible, on a form obtainable from the objections advisory committee, which will give him an opportunity to express his views at a hearing. The committee will then make recommendations to the Government, which will decide in the light of the recommendations whether or not to revise its decision. If the decision is still in the Government's favour, the individual may lodge an appeal with the administrative court.

238. Before LAR came into force, any individual who disagreed with a decision given by a government authority could normally only seek redress in a civil court. The advantage of the new procedure is that it is less formal and in principle free of charge. As a result, there will be less of a psychological barrier for individuals who want to lodge an objection.

239. Most cases concern the Ordinance on Admissions and Deportations (LTU). The Minister of Justice refuses to issue residence and/or work permits if the statutory requirements are not met or if the Department of Labour has recommended against it (see previous report). In 2000, 45 per cent of LAR procedures were LTU cases. Under the terms of LAR, anyone whose interests are directly affected may lodge an objection and may subsequently appeal against a written decision by the Government dismissing their application. Most objections concern rejections of first-time applications for work and residence permits. This is the result of a decision by the Council of Ministers on 7 January 1997. Since 1 January 1997, no more work and residence permits have been issued for an indefinite period to first-time applicants.

240. There are also a considerable number of appeals concerning applications for family reunification. Those who apply for family reunification need to have appropriate housing and earn at least the minimum wage. Children should not be older than six years of age (so that they can be integrated into the school system). People often make applications for family reunification even though the above conditions have not been satisfied. Children often live illegally in Aruba for long periods of time. There is a common misconception that if one or both of the parents become naturalized Dutch citizens, children who have been living in Aruba illegally for a long time will acquire legal status.

241. Immediately enforceable injunctions are almost always granted where a person is at risk of imminent deportation under LTU. Withdrawal of an objection or appeal usually means that the application has been, or will be, granted after all.

242. Illegal residence and illegal employment continue to be a major problem. Foreign employees applying for work and residence permits are often already working for an Aruban employer without the necessary documents, even though applicants for permits are required to remain abroad until a decision is given.

C. Article 7

Language policies in a multicultural society

243. With the growing realization that Aruba has a cultural identity of its own and the acknowledgement of the importance of language in this connection, a need has emerged (particularly since Aruba became separate from the Netherlands Antilles in 1986) to be able to use both spoken and written Papiamentu in all areas of society on an equal footing with Dutch. As mentioned in the previous report, there is a draft Ordinance on Official Languages which formally states that Papiamentu and Dutch are the official languages of Aruba, thereby underscoring their equal status. The draft Ordinance was submitted to the States (as Aruba's parliament is known) at the end of 2000 and passed its first review, after which some changes were made in the original text. It has not yet been formally adopted.

244. The main aim of the Ordinance on Official Languages is to encourage the use of Papiamentu for administrative and legal purposes. Under the terms of article 3, paragraph 4, individuals may request that a document drawn up by an administrative authority in one official language be translated into another official language. The translation is supplied to the person who requested it (either for a fee or free of charge) by the administrative authority that drew up the original document. For the time being, such translations will almost always be from Dutch into Papiamentu. The Aruban Language Institute (*Instituto di Lengua Arubano*), which is attached to the Department of Education, will assist the translation process. As more and more people avail themselves of this facility, experience in the translation of specialized legal terms will increase, and it is expected that this will encourage administrative authorities to draft documents in Papiamentu in the first place (administrative authorities in Aruba have traditionally used Dutch, particularly in written documents).

245. Except in nursery school and the first two years of primary school, children are taught in Dutch, even though most of them are of Papiamentu mother tongue and speak Papiamentu at home. Only 5.8 per cent of primary school pupils speak Dutch at home.

246. The reason why nursery and primary schools place so much emphasis on what is a foreign language to most of the pupils is that, for the time being, secondary schooling is still entirely in Dutch. There is therefore great pressure on primary schools to place more emphasis on Dutch than would normally be placed on a language that is foreign to most pupils.

247. In a policy document entitled *Un bon enseñansa: Condicion pa un miho futuro, Plan Strategico 1999-2008* (Good education: a precondition for a better future, Strategic Plan 1999-2008), the project group Priepeb (*Proyecto de Inovacion de Enseñansa preparatorio y enseñansa basico*, Innovation Project for Pre-school and Primary Education) proposes a multilingual system of primary education for the immediate future. Papiamentu is the vernacular and will be the main language of instruction. This is to ensure that children understand what they are being taught and are given an opportunity to fully develop their personalities and their cultural

identity. The second language of instruction will be Dutch. This is because Dutch will, for the time being, continue to be the sole language of instruction in secondary schools. Children will need to acquire a sufficient command of Dutch by the time they complete primary school to be able to follow lessons at secondary school.

248. Another reason to opt for bilingual education in the future is that Papiamentu is only spoken in Aruba and the Netherlands Antilles, and that children will therefore require a basic knowledge of other languages. These are Spanish, English and Dutch - languages of importance to Aruba not only for social, cultural and economic reasons, but also with a view to further study.

249. Given Aruba's multilingual situation, there are also plans to offer Spanish and English as school subjects and, at a later stage of primary education, as languages of instruction. The importance of the mother tongue to Papiamentu-speaking children is now acknowledged, but Priepeb believes that, provided the necessary conditions are satisfied, provision should also be made for children with a different mother tongue, at least when it comes to learning to read.

250. The Prisma project has been launched to help Spanish-speaking children. Prisma was originally developed in the Netherlands as a remedial Dutch-language teaching project for non-Dutch-speaking lateral entrants. It comprises two programmes, one for oral/aural skills and the other for reading skills. The project was first introduced in just one school, but has since been extended to all public-authority primary schools.

251. It is planned that Dutch will for the time being remain the language of instruction in secondary schools. This was the conclusion reached in 1998 by the Steering Group on the Restructuring of General Secondary Education in a policy document entitled *Na caminda pa restructuracion di nos enseñansa secundario general* (Towards the restructuring of our system of general secondary education). In the new system of general secondary education, Papiamentu will be given a place of its own that does justice to its position as the vernacular and the vehicle for Aruba's cultural heritage and specific identity. This systematic focus on Papiamentu will help the language develop, and an understanding of the structure of Papiamentu will make it easier for people to learn foreign languages.

252. In junior vocational education (*Educacion Profesional Basico*, or EPB), teaching at the lowest level will be in Papiamentu. Both Dutch and Papiamentu will also be taught as subjects. Papiamentu has been chosen as the language of instruction because the pupils in question will leave school after this and Papiamentu is the main language on the local labour market. At all other levels of junior vocational education, the language of instruction will be Dutch, and Papiamentu will be taught as a subject.

253. At the Aruban Teacher Training Institute (*Instituto Pedagogico Arubano*, or IPA), student teachers receive what is known as cultural and social training, which provides an understanding of economic, demographic, political, administrative, social and cultural developments in Aruban society. The idea is to give students an insight into the process of cultural change in modernizing multicultural societies, and of the social processes whereby identity is formed and social prejudices and stereotypes develop.

254. The IPA *Education and Inequality* training module covers three kinds of inequality: socio-economic, ethnic and sexual. One of the aims of this module is to show student teachers how schools and teachers can take differences between pupils into account, as well as what education can and cannot do to reduce or eliminate social inequality.

255. The Priepeb *Grupo Modelo* recently submitted an alternative proposal to the Minister of Education for a multilingual model whereby Papiamentu is used as the language of instruction and is also taught as a subject in primary school, while children are familiarized with three other languages (Dutch, English and Spanish).

Notes

¹ The term “indigenous” is used throughout the present report to refer to Dutch nationals born in the Netherlands. Non-indigenous people are individuals with at least one parent born outside the Netherlands.

² The Racism and Right-Wing Extremism Monitor project has been conducted since 1997 by the University of Leiden in cooperation with the Anne Frank House. The Ministry of the Interior and Kingdom Relations helped to pay for the publication of the Fourth Report in 2001 and the Fifth Report in 2002.

³ Magenta’s annual report for 2000, entitled *Inhoudelijk Jaarverslag 2000*, Amsterdam: Stichting Magenta, Meldpunt Discriminatie Internet, 2001. De Stichting Magenta, Meldpunt Discriminatie Internet (MDI) (www.meldpunt.nl).

⁴ See Magenta’s annual report for 2002, published in February 2003.

⁵ When dealing with statistical information it should be borne in mind that Aruban nationals (like Netherlands Antillean and Dutch nationals) have Dutch nationality - in other words, anyone born in Aruba to a mother or father with Dutch nationality automatically acquires Dutch nationality. In addition, some 500-1,000 migrants apply for naturalization each year.
