

MIGRANTS, MINORITIES AND EMPLOYMENT IN THE NETHERLANDS

EXCLUSION, DISCRIMINATION AND ANTI-DISCRIMINATION

**RAXEN 3 Report
to the ▲ European Monitoring Centre on
Racism and Xenophobia (EUMC)**

by the ▲ RAXEN Focal Point for the Netherlands
Dutch Monitoring Centre on Racism and Xenophobia

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Table of contents

1.	EXECUTIVE SUMMARY.....	4
2.	INTRODUCTION.....	7
3.	RESEARCH METHOD.....	8
4.	GENERAL OVERVIEW AND CONSULTED SOURCES.....	9
4.1.	Introduction.....	9
4.2.	Migration history.....	9
4.2.1.	Decolonisation.....	10
4.2.2.	Economic growth and labour migration.....	10
4.2.3.	International conditions: refugees.....	11
4.2.4.	Illegal migration.....	12
4.2.5.	Future developments.....	12
4.3.	Statistical data on the labour market.....	13
4.3.1.	Definitions.....	13
4.3.2.	Position in the labour market.....	14
4.3.3.	Ethnic business ventures.....	17
4.4.	Specific groups.....	19
4.4.1.	Asylum seekers and refugees.....	19
4.4.2.	Women.....	19
4.4.3.	Antisemitism.....	20
4.4.4.	Islamophobia.....	20
4.5.	Legal and policy instruments.....	21
4.5.1.	Legal instruments.....	21
4.5.2.	Employment policies.....	24
4.6.	Other initiatives and practices.....	25
4.6.1.	Social partners.....	25
4.6.2.	Codes of conduct.....	26
4.6.3.	Other initiatives.....	27
4.7.	Intercultural management.....	28
5.	ANALYSIS OF THE DATA.....	32
5.1.	Introduction.....	32
5.2.	Causes.....	32
5.2.1.	Supply side factors.....	32
5.2.2.	Demand side factors.....	33
5.2.3.	Making supply and demand meet.....	34
5.3.	Discrimination.....	36
5.3.1.	Complaints and judgements.....	36
5.3.2.	Recruitment and selection.....	37
5.3.3.	Harassment.....	39
5.3.4.	Wage discrimination.....	41

5.3.5.	Termination	43
6.	CONCLUSIONS.....	46
6.1.	Employment and participation	46
6.2.	Ethnic minorities and native Dutch employees	46
6.3.	Policy measures taken by the government and others	46
6.4.	Legal measures	47

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1. EXECUTIVE SUMMARY

This report concerns the labour market position of ethnic minorities in the Netherlands and will discuss the degree to which discrimination is a determining factor for this position.

Various sources were used in the reporting process. The labour market position of ethnic minorities is a subject of continuous research, and many organizations – governmental, semi-governmental and non-governmental – are involved in gathering data, which provide a fairly reliable picture. In determining the disadvantaged position of minorities, however, discrimination is often not regarded as a factor of importance. There is a need for more focused research into the extent to which discrimination is a determining element in the disadvantaged labour market position of minorities.

Most ethnic minorities in the Netherlands have a migration history. The first wave of migration began after the Second World War with persons from Indonesia coming to the Netherlands following the decolonisation period. A second period of migration occurred during the sixties as a result of the workers being brought to the Netherlands from Mediterranean countries. A third period can be identified by the arrival of persons from Surinam during the first half of the seventies, before and directly after this country's independence was declared in 1975. In the early 1990s, international conditions led to the arrival of groups of refugees. Initially, the government assumed that migrants from former colonies would assimilate and that labour migrants would return to their home countries. Only when it became obvious that assimilation did not take place to the extent that was expected, and that migrants did not return home, the government reacted by setting up a restrictive asylum and immigration policy. The government acknowledged that the Netherlands had become an immigration country and developed an integration policy.

The concept of 'ethnic minority' is based on the standard Dutch definition: a person

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substantially in recent years, with the drop for ethnic minorities being greater than for native Dutch people. Nevertheless, the difference is still exceptionally large: in 2001, 9% of the ethnic minorities were unemployed as opposed to 3% of the native Dutch.

The ethnic minorities who are employed are overrepresented in low-paid jobs and jobs with short-term and flexible contracts. The latter is particularly responsible for making them vulnerable during periods of increasing unemployment. There are already initial indications that more members of ethnic minority groups lose their jobs than do native Dutch people.

Specific groups among the ethnic minorities have their own separate problems to deal with. Women of Turkish and Moroccan origin in particular score low in labour market participation. On the other hand, the participation of women of Surinamese and Antillean/Aruban origin is comparable or somewhat better than that of native Dutch women.

As long as asylum seekers do not have a residence permit they are only permitted to work on a very limited scale. Those who have been given the right to stay encounter obstacles in the form of requirements for a work permit.

Legal instruments that are intended to reduce the discrepancy in the labour market position of ethnic minorities have only had a limited positive effect. The § SAMEN Act, introduced to stimulate the employment of ethnic minorities in the workforce, is in many cases observed in letter but not in spirit. The § Newcomers Integration Act (*Wet inburgering nieuwkomers*) is intended to provide language and integration courses to persons who have lived in the Netherlands only a short time. Long waiting lists and failure to complete courses are weak points in the enforcement of the law.

The § Equal Treatment Act (*Algemene wet gelijke behandeling*) prohibits unequal treatment on the basis of race or ethnic origin, including in the labour market. The specialized body charged with monitoring the law, the ▲ Equal Treatment Commission, deals with complaints and provides non-binding advice. In 2001, 48 opinions involving race and nationality were passed, a higher number than in the previous year. This, however, does not suggest that there is evidence of more discrimination; data from the ▲ National Federation of Anti-Discrimination Agencies for 2001 show a drop in the number of labour complaints as opposed to data for 2000.

Labour market policy, which is aimed at promoting the participation of ethnic minorities in the workforce, has been fairly successful. In 2001 the government drew up covenants with companies in several different sectors by which the companies committed themselves to hiring more ethnic minorities. The covenant for small- and medium-sized businesses produced more filled vacancies than were provided for in the covenant itself.

The social partners, united in the ▲ Joint Industrial Labour Council, have also entered into accords to increase the inflow and mobility of ethnic minorities. In 2001 the earlier policy was tightened up.

Instruments such as codes of conduct and the introduction of intercultural management are valuable at branch and company levels for implementing a necessary change in culture so that minorities can be more easily brought into existing organizations. Relatively few organizations are using these instruments.

Research shows that causes for the low degree of participation can partly be traced to conditions among the minorities themselves, in particular the lack of linguistic skills, low educational levels in a market in which the highly-educated are in demand, and specific ways of looking for work that are out of step with the way organizations look for employees. From the employer side, a great deal of stress is placed on economic factors, so that in times of labour shortages more job-seekers are drawn

from all niches of the market, including ethnic minorities. In addition, there are indications that some of the selection methods utilized result in a preference for native employees. This suggests that discrimination has taken place, often unconsciously, unintentionally and indirectly. Biased opinions about schooling, linguistic skills and adaptability play a large role.

Discrimination in the workplace is an everyday phenomenon that varies from jokes about certain population groups to structural underpayment for ethnic minorities.

Intermediary organizations such as the ▲ Centres for Work and Income (CWIs) are inadequately equipped to match work-seeking minorities with interested employers.

2. INTRODUCTION

The position of ethnic minorities in the labour market in the Netherlands is a source of concern. Although the labour market position of these groups greatly improved during the second half of the nineties as a result of economic prosperity in the Netherlands, there was still clear evidence of structural disadvantage. Participation in the workforce lagged significantly behind that of the native Dutch population, and unemployment remained four times as high: in 2000, 11% of the ethnic minorities were unemployed as opposed to 3% of the native Dutch. It did become apparent that there were substantial differences among the various groups of ethnic minorities, and that the women in some groups were definitely in better positions than those in others. In the ■ Second Report on the Netherlands, the European Commission against Racism and Intolerance (ECRI) specifically focused attention on this subject and encouraged the Dutch government to take special measures.¹

The sources of disadvantage in the labour market could partly be ascribed to factors among the ethnic groups themselves such as language deficiency, low educational levels in a market in which the highly-educated were in demand, and ways of looking for work that did not connect with the channels used by employers. Beyond these factors, prejudice and conscious or unconscious discrimination on the part of employers also seemed to play a role.

In this report, the labour market position of ethnic minorities in the Netherlands and the occurrence of discrimination will be brought into focus. First the migration framework will be described and the definitions that are used to characterize persons belong to ethnic minority groups will be considered. Included here will be the legal requirements that migrants must satisfy in order to work in the Netherlands. Then the labour market position of the groups in question will be outlined, with a look at the roots of this position. Special attention will be paid to groups that are extra vulnerable to discrimination and neglect, such as women and asylum seekers/refugees. The report will also discuss the regulations taken by the government and other organizations to reduce the gap; among these will be intercultural management. In analysing the data, various issues will be linked together. The report will end with conclusions and a number of recommendations.

¹ ECRI (2001) ■ Second Report on the Netherlands, approved 15 December 2000, Strasbourg: European Commission against Racism and Intolerance.

3. RESEARCH METHOD

A variety of sources were used for gathering data, with the emphasis on the literature. Research on the position of ethnic minorities in the labour market is being carried out by several different organizations in the Netherlands. This research is being conducted by academic institutes and commercial organizations. In many cases the work was commissioned by the Ministry of Social Affairs and Employment. Many such studies have been made public and constitute a source of information.

The gathering of statistics and other data is also being done by various organizations such as the Central Bureau of Statistics, which periodically issues its ■ Survey of the Work Force (*Enquête Beroepsbevolking*, or the EBB) to provide a reliable picture of the labour market situation in the Netherlands in general and that of ethnic minorities in particular.

In addition, in 1994 and most recently in 1998 the ▲ Institute for Socio-economic Research (ISEO), in cooperation with the ▲ Social and Cultural Planning Bureau (SCP), carried out the large-scale study entitled ■ The Social Position of Ethnic Minorities and their Use of Services (*Sociale Positie en Voorzieningengebruik Allochtonen*, or SPVA). The study was commissioned by the Ministry of the Interior and Kingdom Affairs. A new SPVA survey is expected in 2002.

The SCP, a semi-governmental organ, makes use of EBB and SPVA data in putting together its reports on the labour market position of ethnic minorities. In its most recent report, '*Rapportage minderheden 2001, deel II: Meer Werk*' (■ Minorities Report 2001, part II: More Work),² it was pointed out that data from the EBB differs from that of the SPVA. The annually published EBB provides a more up-to-date picture than the SPVA, which is issued once every four years. The disadvantage of the EBB, however, is that the number of ethnic minorities being surveyed is on the low side, so that it's not always possible to make distinctions between, say, age or educational level. In addition, the EBB is carried out by native Dutch pollsters, whereas multi-lingual, ethnic minority pollsters are called in for the SPVA. This results in different outcomes in the two surveys in areas such as unemployment figures among ethnic minorities.³ The presented data have to be seen in this perspective.

In the report, data for 2001 have been used as far as these were available. In some cases, figures for 2001 had not been published at the time of writing the report. In those cases, the most recent figures, most often from 2000, have been used.

Other sources used come from non-governmental organizations, which vary from anti-discrimination organizations to trade unions.

² Dagevos, J.M. (2001) ■ Rapportage Minderheden 2001, part II: Meer Werk, The Hague: Sociaal en Cultureel Planbureau

³ Dagevos, J.M. (■ 2001) *ibidem*, pp. 10

4. GENERAL OVERVIEW AND CONSULTED SOURCES

4.1. Introduction

The Netherlands is an immigration country, a conclusion based on the fact that more people come to the Netherlands to stay for more than four months than people who leave. Table 1 shows the development in population increase in the rising number of migrants. These figures refer to total immigration from both Western and non-Western countries. A considerable number of immigrants are Dutch people who are returning after having lived abroad.

Table 1: Immigration in the Netherlands (from all countries)

Period	Number of inhabitants (x 1000)	Number of immigrants
1995	15,493	96,099
1996	15,567	108,749
1997	15,654	109,860
1998	15,760	122,407
1999	15,863	119,151
2000	15,987	132,850
2001	16,103	132,790

Source: CBS (■ 2002), Voorburg/Heerlen⁴

4.2. Migration history

Until the beginning of the First World War, the Netherlands was an emigration country. Many people left, most of them bound for the United States. Starting in 1918, emigration and immigration balanced each other out. During the forties and fifties of the last century, many people from the country's former colony, the Dutch East Indies, came to the Netherlands. At the same time, many people left the Netherlands during the fifties and sixties. Encouraged by the Dutch government they headed for countries such as Australia, Canada and the United States. Starting in the sixties the Netherlands became de facto an immigration country. Large groups of people from a wide range of countries began coming to the Netherlands. Three factors are responsible for this immigration: decolonisation, economic growth and international developments.

⁴ <http://www.cbs.nl/>; look also at <http://statline.cbs.nl/> and search for other years

4.2.1. Decolonisation

With the decolonisation of the Dutch East Indies, many repatriates and immigrants came to the Netherlands during the forties and fifties. The years 1950 (20,000), 1958 (30,000) and 1962 (15,000) were especially heavy years for Indonesia-Dutch immigration. During the seventies, a large number of people migrated from Surinam. In 1975 Surinam gained its independence. Many people in Surinam feared for an uncertain future and decided to leave for the Netherlands before independence was declared. The Netherlands Antilles and Aruba have not been decolonised, but because of the poor economic conditions there and the educational and employment opportunities that exist in the Netherlands, migration to the Netherlands began to accelerate during the eighties.

4.2.2. Economic growth and labour migration

Economic conditions in the Netherlands began improving in the late fifties. Worker migrants were brought in from the Mediterranean countries to fill the gaps in the Dutch labour market. These migrants were called guest workers. Dutch companies recruited people for heavy, unskilled work from countries such as Italy, Spain, Morocco and Turkey. Many other people came to the Netherlands on their own initiative. This marked the beginning of the immigration flow from Turkey and Morocco that is still going on. Both the Dutch government and the worker migrants themselves thought their stay would be temporary at first. After working for a brief period of time they planned to return to their homelands with the money they had earned in the Netherlands. But most of the worker migrants stayed in the Netherlands and decided to bring their wives and children to live with them. Many people came to the Netherlands as part of this family reunification process.

In the meantime, the Dutch government decided in the seventies to introduce a more restrictive immigration policy. The economic crisis that had occurred at the beginning of the seventies caused a drop in the demand for labour, and unemployment increased. Under these conditions, the Dutch government decided it was no longer expedient to admit worker migrants into the country. Nevertheless, Moroccans and Turks continued to come to the Netherlands through the process family reunification or family formation. From that point on, family reunification (bringing wife and children to the Netherlands) and family formation (bringing in a marriage partner from one's country of origin) were the major legal avenues into the Netherlands for people from these countries. People who come to the Netherlands for family formation or family reunification are also called follow-up migrants (Dutch: *volgmigranten*). This follow-up migration turned out to be greater than the worker migration. Whereas in 1975 there were about 70,000 people in the Netherlands who had been born in Turkey or Morocco, by 2000 that number had risen to 330,000.

4.2.3. International conditions: refugees

The Netherlands has been receiving refugees since the Second World War. Since 1980 the number of refugees in the Netherlands has risen significantly. In 1980 1,000 persons requested asylum. Table 2 shows the development in the number of asylum seekers since 1995. In 2001 the new, stricter § Aliens Act (*Vreemdelingenwet 2000*) went into effect, which, it is assumed, accounts for the reduced number of requests for asylum in 2001.

Various causes are given for this increased flow of refugees. During the past fifteen years, partly due to the fall of communism, centres of conflict have developed that have given rise to heavy streams of refugees. Wars have been fought, or are still in progress, in countries such as former Yugoslavia, Iraq, Afghanistan and Somalia. People who come to the Netherlands as refugees are usually from these countries. Another cause that is often mentioned are the economic differences that now exist in the world. People from poor countries want to come to the Netherlands for a better life, but they are not admitted because the Netherlands now pursues a restrictive immigration policy. This forces these people to appeal to the asylum procedure. Because international conditions are not going to change in the near future, the flow of refugees will continue, and the Netherlands, under the Geneva Convention, is required not to send asylum seekers to their country of origin before their request for asylum is assessed.

Table 2. Number of requests for asylum

Year	Number of requests for asylum
1995	29,260
1996	22,860
1997	34,440
1998	45,220
1999	39,300
2000	43,890
2001	32,580

Source: CBS (■ 2002), Voorburg 2002

Not all refugees who come to the Netherlands are eventually admitted to the country. In the CBS data, a refugee is only regarded as an immigrant if he is registered in the Municipal Personal Records Database. This occurs after a six-month stay in an asylum seekers' centre. Until 1 June 2000, this was after a one-year stay. The asylum procedure is often not completed by then, and there is a chance that the refugee will finally not be given the right to stay in the Netherlands. Research shows that after the submission of a request for asylum, 44% of all asylum seekers are given a residence permit.⁵

⁵ Doornbos, N. and K. Groenendijk (2001) ■ Uitkomsten van asielprocedures: een cohortonderzoek, in: *Nederlands Juristenblad* 76 (6), pp. 145-253

4.2.4. Illegal migration

In the above section legal migration was discussed. In addition to this, however, there is also illegal migration to the Netherlands. No exact figures are available on illegal migration. There are differing estimates of how many people are staying in the Netherlands without residence permits. They run from 46,000 to as many as 116,000.⁶ Most illegal migrants come from countries that have been the source of many other migrants to the Netherlands. The migrant communities in the Netherlands receive their illegally residing compatriots into their midst. Another substantial number of illegal aliens comes from more recent asylum countries such as Afghanistan, Iraq and Iran.

Illegal aliens often work in their own ethnic circle for family and friends, in many cases for no more than board and lodging. Figures from the Immigration and Naturalization Service (IND) indicate that most illegal aliens work in restaurants and cafés and in the horticulture sector.⁷

The Dutch government attempts to implement stricter laws and regulations for illegal immigrants. The so-called § *Koppelingswet*, which allows for the matching of data of the immigration service with other public service providers, makes it near to impossible to apply for social services, including education and health care, for those who do not have a residence permit. Nevertheless, illegal aliens try to build a life for themselves by seeking support from their own ethnic group and by not being conspicuous.

A special development is the decision announced in May 2002 by the [FNV](#), the largest federation of trade unions in the Netherlands, that illegal aliens can become members of affiliated unions.

4.2.5. Future developments

It is expected that immigration will continue. The CBS estimates the total annual number of immigrants for the period 2000 to 2050 at 130,000. The annual number of emigrants will slowly rise to 100,000. This leaves a migration balance of an estimated 30,000 by the mid-21st century.⁸ It is still unclear how the government should respond to this constant flow of migrants: should the government restrict immigration as much as possible, or should it pursue a more open policy and take maximum advantage of the chances offered by migration?

⁶ Verlaan, J. and M. Thie (2002) ■ Illegalen ook voor het CBS ongrijpbaar, in: NRC Handelsblad (14.03.2002), p.3

⁷ Ibid.

⁸ Alders (2001) ■ Bevolkingsprognose 2000-2050 : recente ontwikkelingen in de migratie en veronderstellingen voor de toekomst, in: Maandstatistiek van de bevolking (03), CBS (2001), Voorburg/Heerlen. [<http://www.cbs.nl/nl/publicaties/publicaties/maatschappij/bevolking/b-15/b-15-01-03.pdf>]

4.3. Statistical data on the labour market

This chapter provides statistical data on the labour market position of ethnic minorities in the Netherlands.

4.3.1. Definitions

The Dutch statistical and analytical literature refers to persons from a different ethnic background with the Dutch term *allochtonen*. As this term is not directly translatable into English, these persons will be referred to as ‘ethnic minorities’ in this report. According to the *old definition*, a member of an ethnic minority is a person who does not have Dutch nationality or a person who does have Dutch nationality but was not born in the Netherlands. Whenever this old definition is used in this text, it will be so indicated. The *new definition* describes a member of an ethnic minority as a person who was either not born in the Netherlands or has one parent who was not born in the Netherlands.

For the purposes of this report, the narrow definition of ethnic minorities comprises all categories of the population of foreign origin or descent.

A still narrower group is defined in the SAMEN Act, or the § Act to Stimulate the Employment of Minorities. It specifies the following target groups:

- persons born in Turkey, Morocco, Surinam, the Netherlands Antilles, Aruba and former Yugoslavia or in countries in South or Central America, Africa or Asia, with the exception of Japan and the former Dutch East Indies;
- the Moluccan population;
- children of the above.

Data collected in the framework of the SAMEN Act therefore do not match the definition of ethnic minorities. Where applicable, this is mentioned in the report.

Table 3: Ethnic minorities in the Netherlands per generation, according to country of origin, 1 January 2000

Country of origin	Total	First generation	Two parents born abroad	One parent born abroad
Total	2,775,302	1,431,122	518,343	825,837
Non-Western countries	1,408,777	886,239	386,296	136,242
Including:				
Afghanistan	21,468	19,819	1,581	68
Iraq	33,449	29,825	3,123	501
Iran	22,893	19,832	1,779	1,282
Morocco	262,221	152,540	100,055	9,626
Dutch Antilles	107,197	69,266	15,535	22,396
Surinam	302,514	138,249	82,326	36,396
Somalia	28,780	21,418	7,197	165
Turkey	308,890	177,754	118,492	12,644

Western countries	1,366,525	544,883	132,047	689,595
Including:				
Belgium	112,604	34,854	5,929	71,821
Germany	401,119	107,231	21,799	272,089
Indonesia	405,155	140,659	71,120	193,376
Italy	33,870	16,161	2,261	15,358
Spain	30,013	17,282	3,509	9,222
United Kingdom	69,263	40,984	3,428	24,851
Former Yugoslavia	66,947	50,416	9,319	7,212

Source: ■ Maandstatistiek van de Bevolking 2000 (09), CBS, Voorburg/Heerlen

4.3.2. Position in the labour market

As was mentioned above, the position of ethnic minorities in the Dutch labour market is problematic. The participation of ethnic minorities in the labour market lags behind that of the native population. Table 4 provides data on the participation of ethnic minorities in the Dutch labour market. It shows that in the year 2001, the participation of ethnic minorities in the labour market was 50% and that of the native population was 67%. There are also large differences between the various groups of ethnic minorities. Participation in the labour market is especially low within the Turkish and Moroccan population group: 48% and 42% respectively. This is mainly because few Turkish and Moroccan women work: 33% and 26% respectively. These figures are quite different from those for Surinamese women (59%) and Antillean/Aruban women (58%). Participation in the labour market by Surinamese women is even higher than participation by native Dutch women (55%). As the table shows, there is a significant rise in the labour participation for all groups from 2000 to 2001, with the exception for Antillean/Aruban women. Ethnic minorities have been able to take advantage of the high demand for labour.

Table 4: Participation in the labour market, 15-64 years of age, 2000/2001

Participation in the labour market (%)	Total 2000	Total 2001	Men 2000	Men 2001	Women 2000	Women 2001
Total	65	65	77	77	52	53
Native Dutch	67	67	79	80	54	55
Western migrants	63	63	75	73	51	54
Non-Western migrants	48	50	59	60	36	40
Including:						
Turks	44	48	61	62	26	33
Moroccans	34	42	48	56	19	26
Surinamese	63	62	72	66	55	59
Antilleans / Arubans	55	55	61	62	50	48

Source: CBS (■ 2002), Voorburg/Heerlen

Figures from Table 5 show that the labour market position for ethnic minorities has improved in recent years. In 1994, only 37% of the non-Western migrants were

active in the Dutch labour market. In 2000 that percentage had risen to 48%. Participation in the labour market among the native Dutch population rose more steeply, however: from 57% to 65%. So there is still a considerable difference between non-Western migrants and the native Dutch population.

Table 5: Inactives (non-workers) in percentage of the population, from 15-64 years of age, according to ethnicity, 1994-2000 (old definition)

Inactivity in %	1994	1995	1996	1997	1998	1999	2000
Total population	43	42	39	39	38	36	35
Native Dutch	42	41	40	38	36	35	33
Western migrants	48	45	45	43	42	39	37
Non-Western migrants	63	62	60	57	54	54	52
Turks	71	70	67	64	63	61	56
Moroccans	72	72	71	66	64	64	66
Surinamese	52	49	47	44	39	40	37
Antilleans / Arubans	56	54	50	55	50	52	45

Source: ■ ‘Enquête Beroepsbevolking 1999, CBS (2000), Voorburg

There are also significant differences between the unemployment figures for ethnic minorities on the one hand and for Western migrants and the native Dutch population on the other (see Table 6). Unemployment among the native Dutch population is 3%, and among the ethnic minorities is 9%.

Table 6: Unemployed, 15-64 years of age, 2000/2001

Unemployed (%)	Total 2000	Total 2001	Men 2000	Men 2001	Women 2000	Women 2001
Total	4	3	3	2	5	5
Native Dutch	3	3	2	2	5	4
Western migrants	5	4	3	3	7	6
Non-Western migrants	11	9	10	9	12	9
Including:						
Turks	9	8	8	8	12	7
Moroccans	13	10	12	8	15	15
Surinamese	9	6	7	8	11	5
Antilleans / Arubans	8	8	8	9	9	7

Source: CBS (■ 2002), Voorburg/Heerlen

Unemployment figures have declined considerably. In 1995 nearly a quarter of the ethnic minorities were unemployed; in 2000 that figure was 11%, further decreasing to 9% in 2001. Unemployment among the native Dutch dropped from 7% in 1995 to 3% in 2000 and 2001. Concerning unemployment, the level of education makes little difference. Although persons who are highly educated have less chance of becoming unemployed, there is a considerable difference between the native Dutch and ethnic minorities at the same educational level (see Table 7).

Table 7: Unemployment and education, 15-64 years of age, 2000

Unemployment (%)	Educational level:		
	Low	Middle	High
Total	6	3	3
Native Dutch	4	3	2
Western migrants	8	4	3
Ethnic minorities	14	8	9

Source: ■ Allochtonen in Nederland, CBS (2001), Voorburg/Heerlen

Ethnic minorities are not only more frequently unemployed, but they also more often have low-level jobs (Table 8) and temporary jobs (Table 9).

Table 8: Professional level of current job, 15-64 years of age, 2000

Participation in the labour market (%)	Turks	Moroccans	Surinamese	Antilleans	Native Dutch
Elementary occupations	28	33	14	12	6
Lower occupations	46	42	36	34	27
Middle occupations	19	19	33	34	33
Higher occupations	6	5	12	12	24
Academic professions	1	1	4	7	9

Source: E.P. Martens (1999), ■ *Minderheden in beeld – SPVA 98*, Rotterdam: ISEO

Table 9: Type of employment contract of the working population, according to ethnic group, 1998

Participation in the labour market (%)	Turks	Moroccans	Surinamese	Antilleans	Native Dutch
Permanent job	71	76	79	75	86
Contract for a limited period	12	9	8	10	5
Prospect of permanent work	5	5	4	3	3
Temporary work	7	7	6	8	3
Other work	5	3	3	3	3

Source: E.P. Martens (1999), ■ *Minderheden in beeld – SPVA 98*, Rotterdam: ISEO

As far as social security is concerned, ethnic minorities are in a different situation than the native Dutch.

According to the CBS, at the end of 1999, 1.5 million persons in The Netherlands, or 14% of the population between 15 and 64 years, were receiving social benefits (either unemployment or disability benefits). Of the native Dutch population, 13% receive a social benefit allowance. Of the ethnic minority groups, 26% received an allowance of this kind. The younger generation ethnic minorities, however, received social benefits considerably less often than the first generation: around 8% against 28%. The relative high percentages of minorities which claimed unemployment benefits can be explained by the higher unemployment figures; the higher number of

minorities dependent on a disability benefit are in part connected with age: of the men of Turkish and Moroccan origin over 40 years, around 30% had a disability benefit.

4.3.3. Ethnic business ventures

A growing number of persons of ethnic background set up their own business. Research undertaken as part of the Ethnic Entrepreneurship Monitor 2000 (*Monitor etnisch ondernemerschap 2000*)⁹ shows that between 1986 and 2000 the number of entrepreneurs from ethnic minority groups had risen sharply. Within that group, the number of people from the first generation is striking: in 1986 the number of entrepreneurs from their ranks was 14,450. By 2000 that number had risen to 44,000. Altogether they direct 36,500 businesses. Twenty-two percent of all entrepreneurs with ethnic backgrounds are women.

A considerable number of beginning entrepreneurs in the Netherlands are of ethnic origin: 16%.¹⁰ The number of beginning entrepreneurs of ethnic origin whose businesses succeed is growing. In 1992-1993 the percentage of starters who closed their businesses after a year was 28%; by 1998 that figure had dropped to 21% (see note 9).

Research in Amsterdam shows that entrepreneurship is popular among relatively small communities such as Egyptians, Pakistanis and Indians (see Table 10).¹¹

Most ethnic businesses are small; two-thirds of them are one-man businesses, as opposed to 44% of the businesses directed by native Dutch persons. Only 5% of the businesses directed by minorities have the 'BV' legal form (private companies with limited liability), while about a quarter of the businesses run by native Dutch people are BVs. Ethnic minorities do not have the information and the means to establish the more elaborate companies with a limited liability.

Table 10: Origin of ethnic entrepreneurs in Amsterdam, 1997

Country of origin	Number	% of the working population
Surinam	1,347	5,0
Turkey	822	8,6
Morocco	599	5,4
Egypt	419	> 33
India	386	> 33

⁹ Van den Tillaart, H. (2001) ■ Monitor etnisch ondernemerschap 2000 – zelfstandig ondernemerschap van etnische minderheden in Nederland in de periode 1990 – 2000, Nijmegen: ITS

¹⁰ Vereniging van Kamers van Koophandel en Fabrieken, (2001) ■ Startersprofiel 2000 – Startende ondernemingen in beeld, Woerden: Vereniging van kamers van Koophandel en Fabrieken. Of the 70,000 starting entrepreneurs, 11,000 were born outside the Netherlands; 4,100 of these were born in traditional migration countries such as Morocco, Turkey, Surinam and the Dutch Antilles/Aruba.

¹¹ De Feijter, H., L. Stercx en E. de Gier (2001), ■ Nieuw Amsterdams Peil – wonen, werken en leven in een multiculturele metropool, Amsterdam: SISWO/University of Amsterdam

Pakistan	383	> 33
Italy	215	14,0
Antilles	167	3,3
China	127	N.A.
Hong Kong	126	N.A.

Source: Van den Tillaart (■ 2001)

Table 11 shows that the restaurant and café sector is an important choice for ethnic entrepreneurs, with 26% active in that area. Only a small number of Dutch entrepreneurs choose this trade: 6%.

Many entrepreneurs from ethnic minority groups – about 35%¹² – have low incomes, and some of them run the risk of dropping below the poverty line. In spite of this, the chance of success for ethnic entrepreneurs is considerable because many of them are active in extremely expansive branches with prospects for success,¹³ such as the wholesale food and clothing trade.

Table 11: Ethnic businesses in the Netherlands according to branch of trade, 1998/2000, in %

Sector	Ethnic companies, beginning of 1998	Ethnic businesses, mid-2000	Dutch businesses, 1998	Dutch businesses, 2000
Agriculture/forestry	1	2	N/a	N/a
Industry	3	3	9	8
Building trade	2	4	11	12
Car dealerships, repair	3	3	4	4
Wholesale business	18	16	9	8
Retail business	16	15	16	15
Restaurants, cafés	29	26	6	6
Transport	3	4	5	5
Financial services	14	18	23	15
Personal services	10	9	18	18

Source: Van den Tillaart, (2001), ■ *Monitor Etnisch ondernemerschap 2000*, Nijmegen: ITS, p. 37

¹² Hoff, S.J.M. (2001) ■ Armoede onder zelfstandige ondernemers, in: Armoedemonitor 2001, Den Haag: Sociaal en Cultureel Planbureau/Centraal Bureau voor de Statistiek, p. 91

¹³ Kloosterman, J. en J. van der Leun (2001) ■ Starten in de stad. Stedelijke kansenstructuur en immigrantenondernemerschap, in: Engbersen, G. (red.), ■ *De verborgen Stad – de zeven gezichten van Rotterdam*, Amsterdam: Amsterdam University Press, pp. 77-91

4.4. Specific groups

4.4.1. Asylum seekers and refugees

In its response to the question whether asylum seekers who have not yet been granted permanent residency may participate in the labour process, the Dutch government operates from the basic principle that shortages in the Dutch labour market do not play a role.¹⁴ Asylum seekers are permitted to work for a maximum of 12 weeks during a 52-week period in ‘activities of a short-term nature’.¹⁵ This means they may work in the agricultural sector and seasonal restaurants and cafés (seaside snack bars, etc.). An important reason to grant this exception is the shortage of workers in this type of employment. The ▲ DUMC takes the view that the distinction made between this specific type of short-term employment and other types of employment is contradictory. Shortage in employment of any kind should be a reason to grant asylum seekers conditional work permits.

A governmental proposal is now under discussion whereby this restriction would be enlarged and according to which asylum seekers would be allowed to undertake any kind of work. The 12-week maximum, however, would remain in force.

For persons who have obtained a residence permit on the basis of their asylum status, the employer must apply for a work permit for the first three years after the residence permit has been issued. This interferes with the possibilities in the labour market that are available to refugees. Many refugees are at a disadvantage in the labour market and at first have to rely on jobs through temporary employment agencies. For each temporary job, a new work permit has to be applied for, and many employment agencies simply refuse because the application procedure takes so much time. Many employers cannot wait for these applications to be dealt with. Even after the three-year period is over, the refugee is supposed to be in possession of a work permit, in this case for an unlimited period. However, the relevant authority, the ▲ Centre for Work and Income (CWI), is allowed to take a year to deal with the request, which has become common practice. During this period the refugee is still dependent on the specific work permit, which weakens his or her position on the labour market.

4.4.2. Women

As Table 4 shows, women from many different ethnic minority groups are at a distinct disadvantage when it comes to participation in the labour market. On 1 February 2001, in response to this situation, the State Secretary for Labour, Health Care and Emancipation and the Minister for Integration and Urban Policy ☀ set up the ▲ commission for Participation of Ethnic Minority Women in the Workforce (*Arbeidsdeelname Vrouwen uit Etnische Minderheidsgroepen*, or AVEM). The aim of the commission was to promote the participation in the workforce of women from

¹⁴ Nederland, Tweede Kamer, ■ vergaderjaar 2000-2001, 28 026, nr.1 (28.09.2001), p. 4

¹⁵ Nederland, art. 22 Delegatie- en uitvoeringsbesluit Wet arbeid vreemdelingen (recently changed 1.9.1998, Stcrt. 1998, 166)

ethnic minority groups. At the beginning of 2002 they issued a recommendation to members of the government in which they explained how the social participation of women from ethnic minority groups can be promoted (partly in the light of a move towards participation in the workforce). Specific points in this statement are: returning to work and personnel mobility within businesses and institutions, thorny areas experienced in combining work and childcare, the connection between services set up to facilitate entry into the labour market and the way of life of women from ethnic minority groups.¹⁶

4.4.3. Antisemitism

Antisemitism in labour relationships is mainly expressed in the workplace and to a lesser degree in recruitment and selection, promotion to higher functions or dismissal. According to the ▲ Centre for Information and Documentation Concerning Israel (*Centrum Informatie en Documentatie Israel*, or CIDI), which registers information having to do with expressions of antisemitism, the number of anti-Jewish incidents has increased on the whole and CIDI has noted that the expressions of antisemitism elicit less social disapproval than in the past. A certain degree of familiarization has taken place, so that even victims are less likely to report such incidents.¹⁷

In 2001 there were nine reports of antisemitism, some submitted to the CIDI itself and some to the ▲ Anti-Discrimination Agency in Amsterdam. In almost all cases the problem had to do with treatment in the workplace. One report concerned dismissal. There were no reports concerning recruitment and selection, labour negotiation, terms of employment or promotion.

4.4.4. Islamophobia

Specific information regarding anti-Islamic incidents in the work environment is not being collected. However, the ▲ DUMC, in response to the terrorist attacks on the US of 11 September 2001 and requested by the ▲ EUMC, has gathered information on incidents against Muslims and Islamic institutions.¹⁸

The Dutch report concludes that labour relations between Muslims and non-Muslims are more complex since 11 September. Complaints were filed about a reduction of tolerance on the work floor towards wearing headscarves, towards prayer opportunities or towards people of (presumed) Islamic belief in general. One woman of Moroccan origin had been dismissed by the Hague police force because she had refused to participate in the three-minute silent commemoration for the victims in the USA. After an investigation, ordered by the mayor of The Hague, it appeared that the

¹⁶ Commissie AVEM (2002) ■ *Aanbevelingen op maat*, The Hague: Commissie AVEM

¹⁷ Hirschfeld, H. (2002) ■ *Overzicht antisemitische incidenten Nederland 2001*, Den Haag: CIDI, p. 41

¹⁸ Allen, C. and J.S. Nielsen (2002) ■ *Summary report on Islamophobia in the EU after 11 September 2001*, Vienna: EUMC, pp. 24

dismissal was wrongful. The woman had to be rehabilitated and reintegrated in another department of the police force.¹⁹

The Equal Treatment Commission notes in her annual report 2001 that there has been no rise in the number of complaints regarding Islamophobia after 11 September.

4.5. Legal and policy instruments

There is a broad variety within the ethnic minority groups in the Netherlands, requiring a wide range of instruments and policies for the improvement of their labour market participation. For each category, different factors are relevant to explain their employment position.²⁰ In The Netherlands, various measures exist to prevent discrimination and to increase the labour participation of ethnic minorities.

4.5.1. Legal instruments

4.5.1.1. SAMEN Act

The most comprehensive legal instrument is the SAMEN Act (§ Act to Stimulate the Employment of Minorities), which was adopted in 1998. It succeeded the § BEAA Act (Act to Stimulate the Proportional Labour Participation of Ethnic Minorities). This act had a number of flaws and was repealed.

The SAMEN Act imposes a number of obligations on employers aimed at compelling them to employ more ethnic minorities. According to the Act, employers are obliged to submit an annual report to the Labour Authority, which is to include data about the number of ethnic minorities in their employ and the measures they are taking to recruit more migrant employees. Since the adoption of the Act, the labour participation of minorities has increased. It is not clear, however, to what extent the Act was responsible for the increase.²¹

Compliance with the SAMEN Act is weak, but increasing. In 1998, only 49% of the employers complied with the obligatory submission of a report,²² a percentage which rose to 72% in 2001.²³ A large percentage of the reports that have been deposited do not provide the required target figures for the number of ethnic minorities to be employed. Three-quarters of the submitted reports indicate measures taken to increase the number of ethnic minorities. These measures are mostly aimed at recruitment and selection (46%), analysis and research (17%) career development

¹⁹ See also: Benbrahim, M. (2001) ■ 'Van mijn baas mocht ik na 11 september niet meer bidden', in: Contrast no. 36 (22.11.2001)

²⁰ Social and Economic Council (■ 2000).

²¹ Zandvliet et al. (2000) ■ Evaluatie wet SAMEN, The Hague: Elsevier bedrijfsinformatie

²² ibid.

²³ ■ Kamerstukken II, 2001/02, 27 223 en 27.083, nr. 20 (26.11.2001).

policies (11%) and codes of conduct (11%).²⁴ Actual proportional representation is reached in only a few cases.

Although there is little interest among employers in observing the Act, it does contribute to a greater awareness of the problems ethnic minorities are facing on the labour market. Compliance with the Act has been positively influenced by the measures taken by various governmental organizations, such as the ▲ Centres for Work and Income (CWI). At all CWIs, special advisors (BAMs or ‘*Bedrijfsadviseur minderheden*’) have been appointed to advise employers on the employment of minorities. They provide information, mediation and advice on issues such as intercultural management.

Employers’ organizations and trade unions have used the Act to raise awareness among individual companies. Local governments, to which the Act applies as well, do not necessarily comply any better with the Act than private companies.²⁵ In the evaluation report,²⁶ four recommendations are given: try and reduce the bureaucracy involved; expand the use of the existing informational material and the activities of the BAMs; reinforce the role of civil organizations, employers’ organizations and trade unions; and create more opportunities for intercultural management.

The SAMEN Act was meant to expire in 2001. The government, however, with a view to the structurally disadvantaged position of ethnic minorities on the labour market, decided to extend the Act until 2003. At the time of this writing no decision has been taken on its further extension.

4.5.1.2. Newcomers Integration Act

To facilitate the integration of immigrants, the § Newcomers Integration Act (the Wet inburgering nieuwkomers, or WIN)²⁷ was enacted on 9 April 1998. This law offers immigrants the opportunity to commit themselves to participation in a programme that includes a language course and an introduction to Dutch society and culture. Foreigners with a permanent residence permit and refugees with a refugee status or status issued on humanitarian grounds, (*vergunning tot verblijf*, or residence permit) are eligible for participation in the integration programme in the context of the new law. Foreigners living in the Netherlands with a conditional residence permit (*voorwaardelijke vergunning tot verblijf*, or VVTV) are only included in the WIN in the event that this status is changed to a permanent status. The law also applies to newcomers with Dutch nationality who were born outside the Netherlands (such as Dutch people from overseas parts of the Kingdom). The integration programme is open to 16- and 17-year-olds as long as they are no longer required to attend school.²⁸

²⁴ Ibid.

²⁵ Platform werkgelegenheid allochtonen Rijnmond (2000) ■ Wet SAMEN en gemeenten, Rotterdam: Stichting Buitenlandse Werknemers Rijnmond.

²⁶ Zandvliet et al. (■ 2000).

²⁷ Nederland, ■ Staatsblad 1998, 261 (9.4.1998)

²⁸ Also see: <http://www.minBZK.nl> (24.05.2002) and <http://www.inburgernet.nl> (24.05.2002)

Various companies also offer integration courses during working hours. The first was PTT Post, which ☀ signed an implementation covenant with the Ministry for Social Affairs and Employment in February 2001. Participants follow a specially adapted programme aimed at resulting in the same qualifications as those for the regular WIN programme.²⁹

In June 2000 ☀ several ministries³⁰ set up an Integration Taskforce³¹ to deal with waiting lists for participation in obligatory language courses and other problems. The Taskforce has a mandate until the end of 2002 and is concentrating on relieving the bottlenecks in the integration process. The Minister for Urban Affairs and Integration Policy has offered support for a plan to improve integration.³²

Criticism of the way the WIN has been implemented has been voiced by the ▲ Dutch Refugee Council (*VluchtelingenWerk Nederland*), among others. They have issued a warning concerning the call for more attention to ‘Dutch norms and values’ in the integration process. An integration course provides only the basis for the newcomers’ efforts to feel at home in the Netherlands. Newcomers cannot learn the same norms and values in a short period of time that native Dutch people spend their whole lives learning. In the experience of the Dutch Refugee Council, newly arrived refugees need mainly practical information. Only later do they have questions about Dutch customs and manners, because only then do refugees come in contact with native Dutch people.³³

Another type of integration course has also been set up for so-called *oldcomers* – people who have been living in the Netherlands for a longer period of time but have not become sufficiently integrated in the society. In this programme, municipalities have been given financial resources to reach such people as the long-term unemployed and people caring for small children. Possible sanctions such as those included in the WIN are not part of this programme.

4.5.1.3. Equal Treatment Act³⁴

The § Equal Treatment Act (*Algemene wet gelijke behandeling*) or ETA has been in force since 1994. Its scope is not only the employment sphere; it also covers education, housing, and the provision of goods and services.

The ETA regulates discrimination committed on a number of grounds: besides race and ethnic origin, it covers religion, belief, political opinion, nationality, heterosexual

²⁹ Heijmans, T. (2001) ■ ‘Geef ze taalles en een mentor en je hebt wereldkrachten’, in: de Volkskrant (01.11.2001), p. 2

³⁰ The Ministries of the Interior and Affairs of the Realm; Health, Welfare and Sports; Education, Culture and Science; and Social Affairs and Employment.

³¹ <http://www.taskforce-inburgering.nl> (29.05.2002)

³² ■ Letter from the Minister for Urban Affairs and Integration Policy to the Lower House, 2001-2002, 27 083, no.22 (6.3.2002)

³³ VluchtelingenWerk press release, <http://www.vluchtelingenwerk.nl> (23.05.2002)

³⁴ This section was adapted from: Houtzager, D.C. (2001) ■ Equal Treatment in The Netherlands, in: Miguel Sierra, M. and K. Romberg (eds.) ■ From Principle to Practice – evaluation of legislation dealing with racial and ethnic discrimination in certain EU Member States, Brussels: European Network Against Racism

or homosexual orientation and civil status. It may be noted that two grounds mentioned in the § Framework Directive 2000/78/EC, handicap and age, are not among these. Separate legislation is being developed for these; they will not be included in the ETA for the time being.

The ETA has a so-called closed system: there is a general prohibition of unequal treatment. Exceptions are only possible if they are explicitly mentioned in the Act.

According to the ETA, both direct and indirect discrimination are prohibited, although objective justifications may exist for indirect discrimination. These justifications are the same as those applied by the ▲ European Court of Justice in gender case law: the unequal treatment serves an objectively justified goal; the chosen measures are appropriate and necessary to reach this goal and the goal cannot be reached otherwise.

The ETA is supervised by the ▲ Equal Treatment Commission ([Commissie Gelijke Behandeling](#) or CGB), a semi-judicial body. The Commission's main task is to investigate private complaints and to rule on whether the provisions of the ETA were violated.

The rulings of the Commission are non-binding. The reason for the choice for a non-binding status was that the Commission was intended to be easily accessible for persons complaining about discrimination. If the status of a court had been given to the Commission, it would not have been able to play an active role in the proceedings, such as informing the victim about his or her rights. In case a ruling by the Commission is not followed, the victim or the Commission itself can present a case in a civil court and claim his or her rights.

4.5.2. Employment policies

Besides applying legal measures, the government pursues an employment policy for ethnic minorities.

The Dutch government has made its position known with regard to the ■ second ECRI report on the Netherlands³⁵: that the improvement of the labour market position of ethnic minorities is an undiminished priority.³⁶ In addition, the fight against unemployment and the further development of equal treatment legislation plays an important role. The government makes specific reference to the implementation of the § Race Equality Directive (2000/43/EC) and the results of the evaluation of the § Equal Treatment Act.

³⁵ ECRI (2001) ■ Tweede rapport over Nederland, goedgekeurd op 15 december 2000, Strasbourg: European Commission against Racism and Intolerance
http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Netherlands/Netherlands_CBC_2.asp

³⁶ Kamerstukken II, 2001/02, 28 198, nr. 3 (07.03.2002). ■ Brief van de Minister van Sociale Zaken en Werkgelegenheid aan de Tweede Kamer, AV/RV/2001/82351, Standpunt 2^e ECRI-rapportage over Nederland inzake discriminatie etnische minderheden bij de arbeid (04.12.2001)

An instrument applied by the government is the formulation and signing of a frame covenant with a number of large companies. The ☀ ‘Frame covenant regarding multicultural staff policy, influx and promotion of ethnic minorities in large companies’ was signed by the Minister of Social Affairs and Employment, the Minister for Integration and Urban Policy and fourteen large companies including ABN-AMRO Bank, Coca Cola Netherlands and KLM. In the light of the recommendations of the ▲ Task Force on Minorities and Employment,³⁷ companies who signed the covenant committed themselves to implement a number of measures such as the establishment of a trainee programme for the highly educated, appointing more members of ethnic minorities in the staffs of temporary job agencies and personnel departments, improving intercultural management, introducing a mentor model for new employees from ethnic minority backgrounds and involving employees’ councils in the influx and promotion of ethnic minorities. The government committed its support and advice.

A ☀ separate covenant was signed on 18 April 2000 by the ▲ [Dutch Federation of Small and Medium-Sized Enterprises](#) (MKB) and the same group of ministers. It was agreed that 20,000 ethnic job seekers would be channelled into vacancies in small and medium-sized companies. The covenant, with a three-year term, has been successful. In the period 1 July 2000 to 30 June 2001, a number of the 428,000 job seekers found work in the MKB sector, 16% of them from ethnic minority groups. By 31 October 2001, companies in the MKB had registered a total of 50,000 unfilled job vacancies at the Centres for Work and Income (CWI),³⁸ far above the target of 45,000 by 1 January 2002.

4.6. Other initiatives and practices

4.6.1. Social partners

As far as the involvement of the social partners is concerned, there is the ☀ agreement entitled ‘More Opportunities with Minorities’ (*Met minderheden meer mogelijkheden*), which was signed in 1994 by the advisory body known as the ▲ Joint Industrial Labour Council (*Stichting van de Arbeid* or *STAR*), established and run by the employers’ organizations and the trade unions. The covenant is aimed at increasing employment opportunities for minorities. In the agreement’s evaluation,³⁹ the Labour Council proposes a number of priorities. These include:

- Further increase the average educational level;
- Increase the effectiveness of labour market mediation, especially the mediation aimed at the lower segments of the market;


³⁷ The Task Force on Minorities and Employment was established in April 1998 and consisted of representatives of the social partners, the government and employment intermediaries. The task force was brought to an end in 1999. Its final document was published at the end of 2000.

³⁸ Press release of the Minister of Social Affairs nr. 01/171 (31.10.2001)


³⁹ Stichting van de Arbeid (2000) ■ *Met minderheden meer mogelijkheden*. Terugblik op het 2^e stichtingsakkoord over het minderhedenbeleid. The Hague: Stichting van de Arbeid.



- Add to the information about other cultures by such means as intercultural management;
- Prevent and combat discrimination, both intentional and unintentional;
- Improve the convergence of supply and demand with regards to the difference in search channels between employers and ethnic minority job seekers;
- Improve the cooperation and communication between social security providers and the job centre;
- Aim employment policies at specific target groups: youth and the elderly.

In addition to recommendations for governmental agencies, the Labour Council also advises the social partners to use the opportunities created by collective labour agreements (CAOs). Social partners should differentiate the implementation of policies in the CAOs for ethnic minorities by geographical area. They should also focus their activities on youth and education. They should pursue a non-discrimination policy, increase the role of the employees' council, promote multicultural staff policies and emphasize observance of the SAMEN Act.

The agreement in the STAR was followed in 2001 by a reviewed  joint declaration entitled 'More Minorities with Opportunities'. The adjoining report aimed at a more detailed implementation of the previous agreements.⁴⁰

4.6.2. Codes of conduct⁴¹

For many years, companies and institutes have adopted  codes of conduct in order to discourage undesirable behaviour. In adopting a code of conduct, an organization makes it clear that it considers preventing and resisting discrimination based on, among other things, ethnic origins to be a matter of importance. A code of conduct consists of guidelines for an organization concerning how to act. These guidelines are maintained within the organization, often with a supervisory body and procedure set up by the organization itself. Some codes of conduct mostly govern internal matters. They are aimed at personnel policy and behaviour between fellow workers. An example is the model code of conduct for the national government. Other codes of conduct have a broader scope and include behaviour towards customers, visitors and commissioning authorities. Examples are the codes of conduct for the health services and the hotel and restaurant sector. Some codes of conduct, such as those for automobile insurance companies, are completely external in orientation.

In most anti-discrimination codes, the concept of discrimination is broadly interpreted. These codes include not only discrimination based on race but also discrimination based on sex, sexual orientation or religion. More recently, age and disability are being included. In 1992 the Ministry of the Interior urged the development of more codes of conduct. On the Ministry's initiative,  the  General Declaration against Racial Discrimination was signed by several governmental

⁴⁰ Stichting van de Arbeid (2.06.2001) ■ Meer minderheden met mogelijkheden, The Hague: Stichting van de Arbeid

⁴¹ Also see: Bochhah, N. (2002) ■ Van must tot lust – potentie gedragscodes nog te weinig benut, Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie LBR

organizations, political parties and social organizations. It was agreed, among other things, that codes of behaviour should be adopted as an instrument for combating racial discrimination. A report was also published on codes of behaviour for preventing racial discrimination,⁴² and the Minister of the Interior at the time, Ien Dales, stated that it was important that a code of conduct be developed within each social sector or branch of trade. Since then, anti-discrimination codes have been developed for several branches and social sectors. There are ☀ codes of conduct for the following branches: insurance (1992), employment policy (1993), FNV (1993), hotels and restaurants (1993), sports (1994), retail trade (1995), health care services (1995), social work (2000), national government (2001) and greenhouse horticulture (2001). Codes of conduct in greenhouse horticulture can serve as an important instrument for combating discrimination, since there has long been an awareness of complaints about unequal treatment and discrimination in this sector. ☀ The Ministry of the Interior issued its own code of conduct as far back as in 1994.

Experiences with the observance of codes of conduct are not always positive. Often the grievance procedures do not always work as they should, or the members of affiliated companies or organizations are not always ready to comply with the code.⁴³

The government can be expected to serve as model in the fight against inequality and discrimination. The introduction of codes by other ministries based on the national government's model code of conduct is to be followed with interest.

4.6.3. Other initiatives

Initiatives have been undertaken in many sectors to improve the labour market position of ethnic minorities.

- ☀ KOM (*Krachtig Ondernemen met Minderheden*; Effective Entrepreneurship with Minorities)
The long-term •KOM project ('dot KOM') was commissioned by the Taskforce for Minorities and Labour Market and launched in mid-1999 with the objective of 'developing and implementing a branch-oriented approach for attracting a larger inflow of ethnic minority personnel and keeping them longer. The project operates nationally, with the branch organizations seen as commissioning authorities. A pilot has been carried out in three branches (Security, Hotel/Restaurant, Transport & Logistics), the goal of which was to improve cooperation among relevant organizations in the labour market concerning long-term unemployed ethnic minorities (social partners, municipalities, CWI, educational institutes, etc.). A regional work group was assembled per pilot and a plan of action was drawn up. A five-step procedural approach is being used. The pilots were completed in mid-2001 and the results were promising. Many of the participating companies have introduced measures in the area of interculturalisation.⁴⁴
- Mayor/Entrepreneurs Meetings
In June 2001 the ☀ meeting Colourful entrepreneurship: just do it (*Kleurrijk*)

⁴² Pattipawae, N. (1992) ■ Gedragcodes ter voorkoming en bestrijding van rassendiscriminatie, The Hague: Ministry of the Interior

⁴³ Bochhah, N. (■ 2002) *Ibid.*, p. 9

⁴⁴ Veilbrief, A. (2002) ■ Hebben en Houden, in: NRC Handelsblad (13.03.2002)

ondernemen: gewoon doen) was organized by the Ministry of Social Affairs and Employment and the Ministry of the Interior and Affairs of the Realm, and ‘Ondernemers Doen Meer’ (Entrepreneurs Do More), a joint venture of VNO-NCW, the Anne Frank House and the Stichting Projecten Samen Werken (Cooperative Projects Foundation).

In 2000 and 2001, ‘Ondernemers Doen Meer’ ☀ organized Mayor/ Entrepreneurs Meetings in 27 municipalities. In these meetings, mayors and local entrepreneurs had the chance to meet each other. The agenda featured the local approach to multicultural personnel policy. Each meeting closed with concrete follow-up agreements. The findings from these meetings were collected and issued in the publication ‘Gewoon dóen’ (Just Do It). This publication was presented to two ministers by Tilburg’s mayor J. Stekelenburg during the meeting in The Hague. A total of 850 entrepreneurs have participated in the Mayor / Entrepreneurs Meetings.

4.7. Intercultural management

An important way for businesses and institutions to create a more diverse and multicultural personnel file is to introduce intercultural management, or ICM. More and more organizations are operating in a multicultural environment and are searching for suitable solutions to the changes this brings with it. Many forms of ICM have been developed over the years, and in the Netherlands there are ☀ more than 300 bureaus active in the area of service and counselling. Yet it has been observed that many employers and personnel departments in a variety of sectors are not aware of the possibilities afforded by ICM.⁴⁵ Intercultural management comprises three main aspects: 1) it is primarily concerned with management, 2) it has to do with recognizing that diversity is important for the development of the organization, and 3) it focuses on the achieving equal opportunities and equal treatment.

KPMG was recently commissioned by the Ministry of Health, Welfare and Sports to ☀ conduct research into the introduction of measures having to do with Intercultural Management by the business community in the Netherlands.⁴⁶ The major conclusions were as follows:

Two-thirds of the companies have no ICM policy.

In the 1994 agreement drawn up by the ▲ Joint Industrial Labour Council (STAR), ‘More Opportunities with Minorities’, a number of measures were mentioned that are aimed at stimulating the participation of ethnic minorities in the labour market. According to KPMG, the extent to which employers introduce these types of measures is a good indication of how far ICM has been introduced in the Dutch business community. Research shows that two-third of the companies have not introduced a single measure.

⁴⁵ Scheve, S. (2001) ■ *Bonte Bedrijvigheid – Een kennismaking met intercultureel management* Rotterdam: Landelijk Bureau ter bestrijding van Rassendiscriminatie LBR, p. 4

⁴⁶ KPMG (2001) ■ *Intercultureel management – the state of the art: uitdagingen voor overheid, bedrijven en maatschappelijke organisaties*, Hoofddorp: KPMG - Bureau voor economische argumentatie

Table 12: Adoption of the measures from the STAR agreement

Measures	%
None of the measures	65
One or more of the measures	35
Of which:	
Creating a grievance procedure in the event of discrimination	14
Measures having to do with recruitment and selection	11
Equality in social and personnel policy expressed in codes of conduct	10
Introduction or intensification of ICM	7
Other	6

Source: Koning, K. (1999) ■ *Meer minderheden op de arbeidsmarkt!*, in: *Economisch Statistische Berichten (ESB)*, (25.06.1999)

Often it goes no further than an anti-discriminatory grievance procedure

One-third of the companies in the Netherlands undertake activities on behalf of ethnic minorities in their company. The most common measure is the creation of a grievance procedure in the event of discrimination resulting from measures aimed at recruitment and selection. Only 7% of the companies actually stated that they had taken ICM measures.

ICM is mainly aimed at recruitment and selection.

Personnel shortages resulting from the tight labour market and, to a lesser degree, the need to enter ethnic minority markets appear to be the main reasons for focusing attention on attracting personnel from ethnic minorities. The necessary adjustment and interculturalisation of recruitment channels and selection procedures is often farmed out to specialized recruitment and selection bureaus.

Less attention for personnel mobility and cultural change.

Important aspects of ICM that have to do with changing organizational culture are hardly ever dealt with. Examples are: focus on personnel mobility, adjustment of management style and leadership, unwritten codes, stimulation of standards, preventing out-flow, et cetera.

This confirms the earlier analysis that the enthusiasm for ICM within the Dutch business community is primarily motivated by personnel shortages, which explains why it is mainly focused on inflow. A complete cultural change, on the other hand, requires more long-term effort, working on an organization-wide basis, and is less easy to oversee and define than the

adjustment of recruitment and selection. In addition, there are few practical examples of how a good policy of personnel mobility and cultural change can be put together. As far as the future is concerned, it can be expected that the need for mobility and cultural change will increase. Indeed, businesses that fail to take measures in this area run the risk of losing ethnic minority employees almost as fast as they hire them.

The research also showed that ICM is being introduced in a variety of ways in different sectors:

Sectors with little interest in ICM	Some interest	Relatively high interest	Most active sector in the area of ICM
Agriculture and horticulture, industry and the building trades, small- and medium-sized businesses, publishers, cleaning services, commercial services	Transport companies, retail trade	banks, insurance companies, employment agencies, security sector	health care (especially hospitals and nursing homes).

5. ANALYSIS OF THE DATA

5.1. Introduction

What follows is a closer analysis of the data as set down in [Chapter 4](#). This analysis will deal with technical aspects of the labour market with regard to supply and demand, making supply and demand meet, work-related discrimination and other topics. It must be noted that it seems to be a trend, that in surveys and research studies into the disadvantaged position of ethnic minorities the factor of discrimination is often not a subject of in-depth study. Although in some reports it is admitted that a mechanism of statistical discrimination exists, other forms of indirect or direct discrimination seem to be neglected.

5.2. Causes

Different causes have been found for the weak position of ethnic minorities in the labour market. Three elements have been identified: supply side factors, demand side factors and the role of intermediaries.

5.2.1. Supply side factors

On the supply side are factors that are related to the ethnic minorities themselves. Causes that are frequently named are referred to as the *deficit thesis* and the *differential thesis*.⁴⁷ The former refers to the relatively low level of education among ethnic minorities as well as an inadequate command of the Dutch language. The latter refers to the lack of acculturation.

According to the deficit thesis, the level of education determines the employment opportunities of ethnic minorities to a considerable degree. Unemployment is relatively higher among the less educated,⁴⁸ the large supply of persons with a higher education causes the displacement of people with a lower education. The fact that education increases the chances for a job is generally acknowledged.⁴⁹

Still, the level of education cannot explain the difference in unemployment figures. At all levels of education, unemployment among ethnic minorities is higher than among the native population. Furthermore, more ethnic minorities work below their level of training than do native Dutch persons.

⁴⁷ This classification was developed by J. Veenman c.s. in ■ *Buitenspel, over langdurige werkloosheid onder ethnische minderheden*, Assen, 1998. Cited from: Sociaal-economische Raad (2000) ■ *Kansen geven, kansen nemen*, Den Haag: SER.

⁴⁸ See Table 7, and Dagevos (■ 2001), op. cit., pp.16

⁴⁹ See a.o.: *Vrouwenvakschool Midden-Nederland (2000) ■ Een bredere horizon. De ervaringen van ex-cursistes op de arbeidsmarkt*. Utrecht: VVS Midden-Nederland.

The differential thesis looks into the lack of acculturation, which influences the attitude and behaviour of ethnic minorities while looking for work. Their more traditional schooling and occupational orientation can prove to be dysfunctional in the Dutch situation. Another setback, especially for the lower educated, is their lack of knowledge about labour market mechanisms and their own abilities, also described as a lack of information capital.⁵⁰ Many ethnic minority members rely on formal channels in their search for jobs: the CWI or temporary employment agencies, whereas networks and informal search channels are hardly used. Of the lower educated, many seem to exhibit a passive attitude, especially when they rely on intermediaries such as the CWI. Higher educated persons more often take the initiative to look for jobs, and they present themselves better in job interviews in the eyes of prospective employers.

In this regard, job centres and other institutes should make the labour market more transparent and clear away the obstacles in information and communication. The lack of acculturation should partly explain the high unemployment among well-educated refugees as well.

5.2.2. Demand side factors

On the demand side, there are three possible causes for the weak employment position of ethnic minorities: 1) factors related to the economic trends, 2) the transformation of the economy from a labour-intensive to a services-oriented economy and 3) the selection processes in the labour market.

The first thesis is based on the assumption that more people find work during periods of economic prosperity, including ethnic minorities.

According to the transformation thesis, the Dutch economy underwent a rapid transformation from an industrial to a service-oriented economy during the 1980s. Many members of ethnic minorities were working in the industrial sectors and lost their jobs in the crisis that hit the economy at the beginning of that decade. These people, who were often less educated, were unable to adjust to the new demands of the labour market. A service-based economy requires different skills.

The selection processes refer to recruitment and selection policies applied by employers. Here discriminatory factors come into play. Many employers discriminate on the basis of ethnic origin when employing new staff, either consciously or unconsciously, directly or indirectly.⁵¹

In the selection process in many companies, subjective criteria regarding personality or attitude of the candidate are not laid down in protocols. This leaves room for normative elements in the selection, which can be disadvantageous for ethnic

⁵⁰ Olde Monnikhof, M. and T. Buis (2001), ■ De werving en selectie van etnische minderheden, Nijmegen: ITS, pp. 39.

⁵¹ Equal Treatment Commission (2001) ■ Oordelen en commentaar 2000, Utrecht, Commissie gelijke behandeling and Schriemer, R. (2002) ■ Kerncijfers discriminatie 2001. The Hague: National Federation of Anti discrimination agencies.

minorities. In cases where employers do take measures to select ethnic minority candidates, this is usually done by adopting intercultural or diversity policies. Examples are adapted selection instruments and intercultural training for staff managers.⁵²

Research carried out for the ▲ International Labour Organization led to the remarkable conclusion that discrimination against ethnic minorities in the labour market occurs more often in the Netherlands than in neighbouring countries.⁵³ Employers prefer native employees because they rate their skills higher than those of ethnic minorities.⁵⁴ Whether this is based on previous experiences or from hearsay does not seem to matter. This mechanism of statistical discrimination is fuelled by the perception that a lower productivity leads to decreased profits.⁵⁵ A biased perception of ethnic minorities therefore hinders their chances in the labour market. Once hired, employees from ethnic minorities are often confronted by colleagues who do not accept them.⁵⁶

The situation within the police forces is illustrative: despite recruitment policies for multi-culturalisation aimed at attracting more police officers with a migrant background, the number of these officers remains low. Data about the ethnic composition of the police forces submitted under the SAMEN Act have been favourably presented, because Western migrants and non-policing staff (such as catering and cleaning staff) have been taken into account as well.⁵⁷ In addition, many policemen and -women from ethnic minority groups quit their jobs because of the discriminatory atmosphere at work.⁵⁸

5.2.3. Making supply and demand meet

The search channels and methods that employers use in looking for employees are different from those used by potential workers from ethnic minority groups. Members of ethnic minorities often look for work within their own ethnic group and use a network of family members, friends or relations. By looking for work within their own circle, they often end up in under-valued employment. They do not consult classified advertisements as often as native job seekers do.

⁵² Olde Monnikhof (■ 2001), *ibid.*, pp. 96

⁵³ Zegers de Beijl et al. (2000) ■ Documenting discrimination against migrant workers in the labour market, Geneva: ILO.

⁵⁴ This also applies to other minorities such as people with functional handicaps and older employees. See Besamusca-Jansen (2000), ■ Equal Opportunities of workforce in the Utrecht Region. Driebergen: Hogeschool De Horst.

⁵⁵ Schippers, J. and J. Siegers (2002) ■ Allochtonen op de Nederlandse arbeidsmarkt: Bedreigingen en kansen, in: *Migrantenstudies*, vol. 2, 18^e jaargang, pp. 111-112

⁵⁶ Equal Treatment Commission (■ 2000) *ibid.* and Van Ast (2000) ■ Kerncijfers discriminatie 2000, The Hague: National Federation of Anti discrimination agencies.

⁵⁷ Experiences of this kind have been registered by Paraat, organization of police officers from ethnic minorities. See: Schenk, W. (2002) ■ Witte politie alleen verliest gezag, in: *de Volkskrant* (03.05.2002), p. 3.

⁵⁸ Sandfort et al. (2000) ■ *Omgangsvormen, werkbeleving en diversiteit bij de Nederlandse politie*. Delft: Eburon

Ethnic minorities are already quite familiar with the services of the (semi-governmental) ▲ CWI, with temporary employment agencies and other organizations. But employers rarely use the CWI when looking for new staff. They prefer to use their own channels instead, which are often informal, or media that do not reach ethnic minority job seekers. So demand and supply do not meet. In order to break this cycle, the role of intermediaries in the labour market is important.

The ▲ CWIs, established in the late 1990s, are based on the single-window principle: it is inefficient to have various windows for social security benefits and support for employment seekers. In the past, an unemployed person had to report to one office to request a social security allowance and to another office for employment mediation. With the establishment of the CWIs, a single window has been created. The tasks of the CWIs include processing applications for social security allowances, giving advice and information, classifying job seekers and offering primary employment mediation. Although the CWIs seem to be successful in their work on behalf of native job seekers, their methodology is not yet geared towards the specific needs of ethnic job seekers.⁵⁹ The assumption that job seekers are able and supposed to do things independently, on which the CWIs are based, makes mediation for these groups especially difficult.

In order to dismantle the existing ignorance and unfamiliarity and the related stereotyping on the part of the employers, and to improve the information capital of ethnic job seekers, intermediaries such as the CWIs could play a more active role. Qualified job seekers could be introduced to employers so as to make these groups more familiar to each other. Information and communication regarding ethnic minority job seekers, aimed at personnel departments in companies, could be improved. Intermediaries could support job seekers by helping them build networks and inform them about the ins and outs of labour market mechanisms.⁶⁰

As far as application procedures and selection are concerned, prejudices and (indirect) discrimination are widespread. As was mentioned above, many organizations have not defined and laid down the ‘soft’ and normative-cultural requirements, which are used in selection processes. This allows for subjective and ethnocentric interpretations, on which a decision to hire a person could be based.⁶¹

⁵⁹ Veenman (2000) ■ CWI en allochtonen op de arbeidsmarkt, Utrecht: FORUM.

⁶⁰ Olde Monnikhof, ■ *ibid.*, pp. 110

⁶¹ Olde Monnikhof, *ibid.*, p. 114

5.3. Discrimination

In order to gauge to what extent the above-mentioned prejudices and stereotypes actually lead to discrimination, attention is given here to complaints and legal procedures.

5.3.1. Complaints and judgements

The figures provided by the National Federation of Anti-Discrimination Agencies show a decrease in the number of work-related complaints in 2001 (16%)⁶² as compared with 2000 (20%). In 1999 the percentage was 18%.

In 2001, the [▲ Equal Treatment Commission](#) (CGB), pronounced 48 judgements on discrimination based on race and nationality in labour matters.⁶³ In comparison with previous years, this is a significant increase. In 2000, several of the 23 cases were ruled upon, whereas in 1999 there were 31 judgements. The rise in the number of complaints in 2001 can be partly explained by the fact that the Commission has had an increase in labour productivity. Whether the increase reflects a higher occurrence of discrimination in employment cannot be concluded. The figures do not include complaints by Muslim women, who were discriminated against for wearing a headscarf. Generally, an ethnic component is involved in these cases because most Muslim women have an ethnic minority background. The CGB issued 10 rulings in these cases in 2001.

There are also labour cases registered at the [▲ National Discrimination Expertise Centre](#) (LECD), which is part of the Public Prosecutions Department. These have to do with either discriminatory remarks at work (article 137c-e Dutch Penal Code) or with discrimination in the exercise of one's trade or profession (article 137g and 429quater Penal Code). Data for 2001 are not available yet.

Table 13: Number of incidents reported to the Public Prosecution Department, 1998-2000

Site of incident	1998	1999	2000	2001
Work	13	5	21	8
Total	216	193	214	198

Source: (2001) [▲ National Discrimination Expertise Centre LECD](#)

In order to paint a clear picture of developments of racial discrimination in the labour market, the following themes are discussed:

- recruitment and selection
- treatment

⁶² Schriemer, R. (■ 2002), *ibid.*

⁶³ Commissie Gelijke Behandeling (2002) ■ Jaarverslag 2001, Utrecht: Commissie Gelijke Behandeling

- compensation
- promotion and termination

Not all the cases of alleged discrimination end up at the Anti-Discrimination Agencies (ADBs), the CGB or the Public Prosecutions Department. For instance, the evaluation of equal treatment legislation showed that 12.5% of the complaints of discrimination made by employees ended up at the CGB.⁶⁴ In labour cases, moreover, the plaintiff runs the risk of becoming a victim of victimization: whoever objects to unfair treatment has to contend with the very persons against whom the complaint was made. This might result in harassment, intimidation, transfer or dismissal. So the victim suffers not only from unfair treatment but also from the repercussions resulting from having filed the complaint.⁶⁵ In this connection • Leenders sees victimization as the greatest threat to the enforcement of equal treatment legislation because it has been shown that a relatively large number of people who appeal to the law for protection run into problems.⁶⁶ Their employment may be terminated, for instance.⁶⁷ This concerns more than half the number of plaintiffs. So, fear of victimization also partly accounts for the fact that the number of reports of discrimination in the labour market is relatively low. This seems to indicate evidence of structural underreckoning.

5.3.2. Recruitment and selection

In the ■ *Trendrapportage 1999-2000*, issued by the ADB in The Hague, it was noted that complaints about recruitment and selection take third place (22%), after dismissal (23%) and treatment (40%).

The ADB in Rotterdam, Radar, came up with the following figures in 2001, indicating that recruitment and selection rate second, after treatment:

⁶⁴ Asscher-Vonk, I.P. & C.A. Groenendijk (1999) ■ *Gelijke behandeling: regels en realiteit, een juridische en rechtssociologische analyse van de gelijke behandelingswetgeving*. The Hague: Sdu, p. 360.

⁶⁵ T. Havinga (2001) ■ *Repercussies van klagen tegen de werkgever: de zaak gewonnen, baan verloren*, in: T. Loenen (ed.) (2001): ■ *Gelijke behandeling: oordelen en commentaar 2000*. Deventer: Kluwer, pp. 91-103.

⁶⁶ M.A.J. Leenders (2000) ■ *Procesrecht en handhaving van de AWGB*, in: T. Loenen (ed.) (2000): ■ *Gelijke behandeling: oordelen en commentaar 1999*. Deventer: Kluwer, p. 69.

⁶⁷ Also see Asscher-Vonk & Groenendijk (■ 1999) *ibid.*, pp. 419-423

Table 14: Number of complaints of work-related discrimination, Rotterdam

Nature of complaint	number
Workplace	47
Recruitment and selection	9
Out-flow	5
Terms of employment/ Working conditions	2
Promotion/mobility	2
Arbitration	3

Source: data RADAR (■ 2001)

The State Secretary of Social Affairs and Employment has stated that discrimination in the workplace forms a considerable hindrance to the wished-for social integration and influx of ethnic minorities in labour market.⁶⁸ One of the problems encountered in selection and recruitment is the psychological test. The criticism directed against these tests is that they are not developed for persons from non-Western cultures. Consequently, candidates from ethnic minority groups tend to score lower. We are aware of virtually no complaints about this matter, but since the ▲ Hofstee Commission raised the issue of psychological tests in 1990 they have become a regular subject of publicity. The ▲ National Bureau against Racial Discrimination (LBR) has always been deeply involved in this subject and has been responsible for related publications and congresses.⁶⁹ The LBR has found that tests are still being used that are known to be fully or partly incomprehensible to ethnic minorities. For this reason, the LBR is arguing for an independent cooperative venture involving several different parties to expand the criteria for psychological tests and evaluate the existing ones. In this way it should become possible for the education and health care sectors and the labour market to use tests that provide reliable data about ethnic minorities.

In 2000, the subject of psychological tests attracted attention once again with the publication of the ● Van den Berg dissertation.⁷⁰ As a solution to the problem of cultural bias, Van den Berg developed a Multicultural Capacities Test.⁷¹ An important feature of this test is that no difficult words are used in the instructions and that the candidate is thereby made familiar with the text. The vocabulary is also not as extensive as in a standard test.

In evaluating recruitment and selection, the ▲ CGB makes every attempt to follow an established pattern. The commission takes the position that it cannot go into a particular candidate's fundamental suitability, so it focuses on whether this evaluation involved a distinction made on the basis of race or nationality. For such a

⁶⁸ ■ Kamerstukken II, 2000-2001, 27 223, no. 11, p. 5.

⁶⁹ See recent: Van de Vijver, A.J.R. (ed.) (2001) ■ Deskundigen over het testen van allochtonen, Amsterdam-Rotterdam: LBR and Nederlands Instituut van Psychologen.

⁷⁰ Van den Berg R.H. (2001): ■ Psychologisch onderzoek in een multiculturele samenleving: psychologische tests, interview- en functioneringsbeoordelingen. Amsterdam: Vrije Universiteit.

⁷¹ Contrast (15.02.2001).

distinction it is not necessary that race or nationality be the only cause for unequal treatment; it is sufficient that race or nationality be part of the basis for unequal treatment.⁷² The opposing party is required to demonstrate that they judged the suitability of the candidate based on objective criteria. The procedure that is followed must provide insight and be systematic and verifiable.⁷³

In 2000, five judgements were pronounced involving recruitment and selection. In three of the judgements, the CGB decided that illegal acts had been committed. During the previous year the commission had made eight judgements, with one involving illegal acts. In 2000 the commission also followed its precedent with regard to linguistic requirements for certain jobs. In principle, linguistic requirements constitute an indirect distinction on the basis of race and nationality. Whether such a requirement is illegal or not depends on the demand for justification. To reject a Cape Verdean candidate for the job of catering worker because of insufficient mastery of the Dutch language was deemed in violation of the law by the commission.⁷⁴ On the other hand, the rejection of a woman with an Iranian background on account of her accent was deemed permissible.⁷⁵ The woman had applied for work in a day-care centre and the linguistic requirements had a pedagogical basis. This linguistic requirement was functional, so in this case the indirect distinction was justified.

5.3.3. Harassment

In the ■ *Trendrapportage 1999-2000*, the ▲ ADB in The Hague indicated that most labour cases have to do with discrimination in the workplace among colleagues themselves (40%). At the ▲ ADB in Amsterdam in 2000, discrimination in the workplace also scored highest (46%). The same picture emerges from the 2001 figures of the ▲ ADB Rotterdam, RADAR (see Table 13). The problems in the work climate experienced by ethnic minority employees have barely been investigated. The scanty research shows that in the workplace, employees from ethnic minorities are often unable to really connect with their native colleagues.⁷⁶ The reason for this lies both in the difference in working styles and in the tedious division into teams. Certain sector-related cultures play another role, such as within the police forces.⁷⁷ The latter is especially prevalent in organizations that work in closely-knit teams. The day-to-day culture in employment situations is not free of harassment, and that quickly leads to discrimination. Numerical relationships play an important role in this kind of exclusion. A single individual is more vulnerable than a group.

In judging discrimination in the workplace, the position of the CGB is important. The commission utilizes past case law, which stipulates that not only is the employer himself expected to refrain from discrimination, but he is also expected to see that

⁷² CGB 1999-30 (09.04.1999).

⁷³ CGB 1999-33 (20.04.1999).

⁷⁴ CGB 2000-59 (29.08.2000).

⁷⁵ CGB 2000-36 (13.06.2000).

⁷⁶ Gowricharn, R. (2001) ■ In- en uitsluiting in Nederland, Een overzicht van empirische bevindingen, WRR werkdocument 122, The Hague: Wetenschappelijke Raad voor het Regeringsbeleid, p. 16.

⁷⁷ See also note 55: Schenk, W. (■ 2002) *ibid.*

those under his authority refrain from discrimination. Complaints about discrimination must be dealt with carefully, and appropriate measures should be taken when needed. If the employer falls short of this responsibility, he may be acting in violation of the equal treatment law.⁷⁸ The rules are quite strict in this regard, but they are also strict for the plaintiff. First of all, for a successful appeal to the commission the employer must be aware of the complaint of discrimination. This requires action by the person involved himself. In addition, the plaintiff is usually faced with problems of proof. It is up to him to make the challenge of discrimination plausible or the complaint will simply run aground.⁷⁹ Not surprisingly, the stories of both parties are often diametrically opposed.⁸⁰ Written proof is usually not available, and most colleagues are not overly anxious to serve as witnesses; experience has taught them that witnessing can seriously threaten the stability of work relationships. The degree of difficulty in cases of harassment is also reflected in the figures. In 1999, the CGB issued twelve judgements on racial harassment in the workplace, with four of those cases determined to be in violation of the law. In 2000, seven judgements were pronounced, with only one in violation of the law. A breakdown for 2001 has not been made yet.

The CGB honours the view that whenever discrimination has been demonstrated, the employer is obliged to take appropriate measures regardless of whether the victim himself has taken exception.⁸¹ This is important, because victims of discrimination regularly report incidents without being interested in taking further steps. An example of this is a complaint filed with the ▲ ADB of The Hague.⁸² A Moroccan man was confronted by a racist application form that was making the rounds at his place of work. His colleagues thought it was funny. The man felt offended, but he didn't want to do anything about it. Finally he reported the incident to his employer, but only to register that it had occurred. In these kinds of cases, the equal treatment legislation obliges the employer to intervene in an appropriate way.

In addition, the commission also states those who are not directly targeted for discriminatory harassment have a right to a discrimination-free work environment.⁸³ This concerns a complaint from a native employer who was disturbed by discrimination. According to the judgement of the commission, 'the right to a discrimination-free work environment extends to all employees working together in the workplace and who are troubled by discrimination there'. This is an important broadening of the circle of people authorized to raise the issue of discrimination in the workplace and is thereby an expansion of the legal protection for employees.

Sometimes a judgement of the CGB results in court action. That was the case in the matter of a complaint about the attitude of an employer towards a Moroccan woman. The employer asked the Occupational Health and Safety Department whether the employee would continue working a 32-hour week after her child had been born. In doing so he made reference to her two children, her Western upbringing, but

⁷⁸ CGB 2000-34 (06.06.2000).

⁷⁹ CGB 2000-52 (11.08.2000).

⁸⁰ CGB 2000-73 (07.11.2000).

⁸¹ CGB 1999-25 (23.03.1999).

⁸² ■ *Trendrapportage Discriminatiezaken 1999-2000*, The Hague Discrimination Bureau, 2001, p. 21.

⁸³ CGB 2000-34 (06.06.2000).

especially her traditional and conservative Moroccan husband. The subdistrict court in Schiedam found the action of the employer discriminatory, partly on the basis of the CGB's judgement, and awarded the woman compensation.⁸⁴

In another case, an employee of Turkish origin had endured an unending series of jokes about Turks in the factory where he worked. After his contract had ended, he filed a complaint with the CGB about discriminatory treatment. The CGB ruled that it was the company's duty to see to a working environment free of discrimination; now that the employer had failed to do so, he had violated the § Equal Treatment Act. With the CGB ruling behind him, the employee went to court and asked for a compensation of damages of € 10,000. The district court turned his case down and the man went in appeal. The appeal court followed the CGB's ruling and awarded the employee damages of € 1,000.⁸⁵

With the increased participation of ethnic minorities in the labour market, it is important that employers develop a policy that is aimed at tackling discrimination in the workplace. One reason why that policy is important is because incidents can easily arise in the event of staff changes between the existing personnel and newcomers from ethnic minority groups, who can thereby find themselves victimized.⁸⁶ An example of how such a complaint can progress is the case of an employee of Surinamese descent. The woman worked in the health care services and was treated unfairly by a colleague. The conflict escalated and she was threatened with dismissal. On the advice of the ADB The Hague the case was brought before the CGB. The CGB declared that the complaint was well founded. In the dissolution of the labour agreement that followed the judgement of the CGB was used, and this contributed to the awarding of reasonable damages. For its part the ADB deemed this a satisfying result, but realized at the same time that the victim had lost her job.

5.3.4. Wage discrimination

In April 2000, the Health and Safety Inspectorate published a study on the position of ethnic minorities and native employees.⁸⁷ The Inspectorate described the position of ethnic minorities and native employees for the year 1998 as it applied to the entire business community and four of the eight governmental sectors: policy, water boards, municipalities and provinces. The study showed that employees from ethnic minority groups tend to be of a younger average age, with less education and shorter periods of employment. The outflow among ethnic minorities is higher; they are more frequently involved in part-time work and are overrepresented in the Randstad (the conurbation in the western Netherlands). The study also showed that the average gross income for ethnic minority employees is lower than for native employees. This

⁸⁴ Nederland: Kantonrechter Schiedam (05.07.2000) in: Jurisprudentie Arbeidsrecht (2000), no. 180.

⁸⁵ CGB 1999-25 and Rechtbank The Hague (12.09.2001). Also: Bochhah, N. (2002) ■ Schadevergoeding voor discriminerende bejegening op de werkvloer, in: Zebra Magazine, March 2002, no. 1, p. 25

⁸⁶ Bureau Discriminatiezaken (2001) ■ Trendrapportage Discriminatiezaken 1999-2000, The Hague: Bureau Discriminatiezaken, p. 20.

⁸⁷ Spijkerman, R. (2000) ■ De positie van allochtonen en autochtonen in het bedrijfsleven en bij een deel van de overheid, The Hague: Elseviers bedrijfsinformatie.

difference in hourly wage is called the uncorrected difference in compensation and is calculated at 22%. This means that ethnic minority employees earn an average of 22% less per hour than native employees. When divided into figures for male and female employees, the percentage for men (25%) is higher than that for women (17%). The main explanation for the difference in wages is that ethnic minority employees usually hold lower positions (58%). If the percentage of 22% is corrected for differences in personal traits, functions and other characteristics, the figure can be reduced by 3%. The question is, does this 3% mean that wage discrimination according to race is not such a serious problem in the Netherlands? It is our opinion that such a conclusion has no basis in this study. Not only are increasing numbers of cases of wage discrimination according to race being brought before the CGB, but there are also several comments that should be made in regard to the results of the study.

The study speaks of corrected differences in compensation. The differences in background characteristics – such as less education or fewer years in service – are supposedly the main explanation for the difference in wages. But the CGB's experience with wage studies shows that the level of education is seldom mentioned in the individual personnel files, especially not for people in lower functions. This, however, is the research methodology that was followed. Moreover, the level of education is completely absent from the files of 26% of the ethnic minority employees.⁸⁸ With regard to the number of years in service, the study uses proportional correction; thus the more years of service, the more correction. The number of years of service is only significant insofar as it has any influence on primary employment benefits, i.e. wages. If after three years an employee has attained his maximum wage, then years of service no longer play an explanatory role. As far as equal treatment legislation is concerned, comparisons should be made between equivalent (or almost equivalent) jobs. Only if differences are noted there should the wage criteria be reviewed. This is not the methodology followed by the Health and Safety Inspectorate in its study. The job rating was not utilized as the standard, but as the variable and explanatory factor.

The government is also of the opinion that the study of the wage service does not lend itself to unambiguous conclusions.⁸⁹ The cabinet would also like to break the study down into the various ethnic groups. It is a known fact, for instance, that refugees are usually highly educated, but despite this they have difficulty finding jobs at their level. The CGB has recommended that a more specific study be carried out to investigate the causes of the wage difference on the basis of race and nationality, with a subdivision according to ethnicity and sex. This recommendation has been adopted by the government.

In 1999 the CGB began working with the so-called wage line study for the first time.⁹⁰ In this type of study, the average wage of ethnic minorities and native employees within various job groups is investigated.⁹¹ This methodology provides

⁸⁸ Spijkerman, R. (■ 2000), *Ibid.*, p. 26.

⁸⁹ ■ Kamerstukken II, 2000/01, 27 099, no. 3, p. 6.

⁹⁰ CGB 1999-70 (09.07.1999).

⁹¹ Also see Loenen, T. (2000) ■ *Ras en nationaliteit*, in: T. Loenen (ed.) ■ *Gelijke behandeling: oordelen en commentaar 1999*, Deventer: Kluwer, pp. 21-22.

wage line constructions, from which the average wage per job group and ethnic group can be derived. The wage line study makes use of *revised* salaries, in which the most important wage criteria (job level and term of service) are kept equal. If differences are encountered in the revised wages, then the employer must be able to provide justification. Those who perform jobs of equal (or almost equal) value have the right to the same wages. There are other factors that play a role in determining wages, such as the last wage earned, experience and market value. However, wages should be calculated on the basis of equivalent criteria, that is:

- the employer should calculate wages in a comprehensible way;
- the criteria for calculating wages for ethnic minorities and natives should be the same;
- the employer should be able to provide justification if he uses criteria that result in wage differences between ethnic minority employees and natives.

The complaint about wage discrimination relates to a company in the province of South Holland, where two Ghanaian employees claim to have received racist treatment and to have been paid less than their colleagues, among them Turks, Moroccans and native Dutch people. The outcome of the wage line investigation into this matter shows that the revised wages for ethnic minorities are lower than for natives. This confirms the situation described by the plaintiffs: Ghanaian workers in the company are paid less than Turks and Moroccans, and these in turn are paid less than Dutch workers. Because of the opacity of the wage system used, the employer is not able to offer sufficient justification for the wage differences. For this reason, the commission decides that the company's wage scale involves distinctions based on race and nationality.

The existence of discrimination in wages between native Dutch and ethnic minorities was more recently confirmed by a study carried out by the University of Amsterdam, in collaboration with the Dutch federation of trade unions (FNV).⁹² The survey concluded that the gross hourly wages for ethnic minorities were € 13.20. In comparison, native Dutch employees earned € 14.90.

5.3.5. Termination

As far as the problems related to promotion or employee flow are concerned, there have been relatively small numbers of registered complaints. However, the existence of a 'glass ceiling', indicating that members of ethnic minority groups are unable to reach leading positions in organizations and companies, is widely assumed.⁹³ In 2001, the Ministry of Social Affairs and Employment commissioned a study into the

⁹² Tijdens, K. et al (2002) ■ *Loonwijzer 2001/2002 – Werk, loon en beroepen van mannen en vrouwen in Nederland*, Amsterdam: Institute for Advanced Labour Studies/University of Amsterdam, pp. 4

⁹³ Paarlberg, B. (2002) ■ *Blinde Vlek in kleurrijk Nederland*, in: *de Volkskrant* (26.03.2002), p. 16

mechanisms of promotion and employee flow.⁹⁴ The study concluded that as far as termination or outflow is concerned, ethnic minorities more often than native Dutch employees lose or quit their job. The percentages of inflow and outflow are twice as high, meaning that ethnic minority groups more often are confronted with periods of unemployment. The internal flow shows a lesser discrepancy between various groups, but a disadvantage for ethnic minorities is established. Native Dutch persons more often are promoted to higher-paid jobs, whereas ethnic minority members more often flow into similarly paid or lower paid jobs. The differences are partly attributed to an absolute shortage of ethnic minority members with higher education and to linguistic and attitudinal aspects. The report also states that, although ambitions of all groups are similar, ethnic minorities tend to express their ambitions less explicitly to their superiors, which ‘characterizes the modest attitude of minorities’.⁹⁵ Measures in the field of interculturalisation are introduced by few employers. The conclusion is drawn that impediments for the promotion of ethnic minorities may exist.

The ▲ DUMC takes the view that the conclusions are too cautious and too weak. As with the recruitment and selection of ethnic minorities, discriminatory treatment on the shop floor, the structural lower payment (see below) and the increased chance of being laid off in situations of economic decline, a pattern of discrimination is discernable.

More focused research into the existence and the scope of these mechanisms of discrimination is needed.

The previously mentioned study of equal compensation by the Health and Safety Inspectorate also looked at employee outflow. Besides the known reasons for outflow such as new employer, pension or dismissal, reasons for outflow for any particular group are not known. This group is greater among ethnic minorities (31%) than among natives (14%).⁹⁶ It is unclear to what extent discrimination is involved. It should be repeated here that in the ■ *Tendrapportage 1999-2000* from the ▲ ADB in The Hague, complaints about discriminatory treatment in cases of termination took second place. Data from the ▲ ADB in Rotterdam, RADAR, on 2001 support this trend (see Table 13).

In 2000, the CGB passed seven judgements on termination on the basis of race or nationality. The commission deemed only one of those cases to be in breach of the law.⁹⁷ The harvest was even leaner the year before: out of six judgements, not one was decided in favour of the plaintiff. It is striking that the great majority of complaints in this category were dismissed. This may be because the burden of proof is often problematic, but it may have something to do with the fact that the feeling of discrimination is dominant. Although this feeling may be justifiable – as in the complaints about treatment in the workplace – any more than that is difficult to prove by law.

⁹⁴ Zandvliet, K. et al (2001) ■ *Doorstroom van etnische minderheden op de werkvloer*, Rotterdam: SEOR BV.

⁹⁵ Zandvliet, K. (■ 2001) *ibid.*, p.75

⁹⁶ Loenen, ■ 2000: 32.

⁹⁷ CGB 2000-101 (29.12.2000). Data for 2001 are not yet available.

Within the context of the consultation on minorities, the Minister of Social Services and Employment was not able to obtain information concerning possible differences between ethnic minorities and native employees in cases of permission granted by the ▲ Regional Directors of the Centre for Work and Income (CWIs) to terminate employment.⁹⁸ In requests to terminate employment, the nationality or ethnicity need not be mentioned. Nevertheless, because of the principle of *last in, first out*, and because of the fact that many ethnic minorities are employed on a temporary basis, the chance is considerable that in a shrinking labour market, ethnic minorities (and this applies to women and young people as well) are the first to be considered for dismissal. In a situation where discrimination of ethnic minorities in employment is common, applying this principle may constitute indirect discrimination. Data published in 2002 indicate that, as a result of these developments, the unemployment figure for ethnic minorities is already growing.⁹⁹

On the basis of article 7 of the § Dismissal Decree, the ▲ CWI is required to pay extra attention to countering discrimination in making its judgements.¹⁰⁰ The CWI never gets around to making such a judgement, however, because in requests for dismissal the principle of years of service prevails. This indirect discrimination, which arises from the application of the seniority principle, is justified according to the Minister of Social Affairs and Employment. The responsibility of the employer to provide for the employee increases with the employee's length of service. Nevertheless the CWI, on the basis of article 4:2, paragraph 5 of the § Dismissal Decree, may consider departing from the principle of years of service. Such a move is permitted when the employee being presented for dismissal has a weak job position and the next employee being considered for dismissal does not. This consideration can go wrong if there are more employees from ethnic minority groups being considered for dismissal. The employees' council should seek advice concerning the possibility of a collective dismissal. It is the responsibility of the employees' councils, on the basis of article 28 of the § Employees' Councils Act, to watch out for cases of discrimination. In addition, the explanation of article 7 of the Dismissal Decree states that over-representation of certain groups can be an indication of discrimination. The ▲ DUMC takes the view that the CWIs should not adopt a passive attitude in such cases. In response to the evaluation of the § Equal Treatment Act, the question arises whether the CWI ought to explicitly test requests for dismissal for violation of the equal treatment norm. If discrimination is confirmed, the CWI should then deny its permission for dismissal. From all appearances, this recommendation will be followed when the dismissal system is redesigned.

⁹⁸ ■ Kamerstukken II, 2000/01, 27 223, no. 17.

⁹⁹ Haagsche Courant (2002) ■ Allochtone werknemer verliest baan sneller, in: Haagsche Courant (29.05.2002), p. 4

¹⁰⁰ Staatscourant (1998) nr. 238.

6. CONCLUSIONS

6.1. Employment and participation

Although the employment opportunities for ethnic minorities have increased tremendously since the mid-1990s, more needs to be done to close the gap in labour participation between the Dutch and the minority population.

It is clear that on the part of the ethnic minorities, a lower level of education, a lack of command of the language, labour orientation and the manner in which employment is looked for are factors, which hamper their adequate employment participation. On the other hand, employers do not recognize cultural differences and do not anticipate these differences. Furthermore, employers' prejudices about educational and linguistic disadvantages among certain groups influence their choice for hiring staff. Recruitment and selection methods applied by employers are often marked by discrimination, be it unconscious, indirect or direct. Data supplied by various sources indicate that discrimination is still a significant factor in determining the labour market position of ethnic minorities.

The intermediary organizations such as the Centres for Work and Income are under-used by employers, while persons from ethnic minorities often only use these centres as a means to find work.

6.2. Ethnic minorities and native Dutch employees

Working members of ethnic minority groups find themselves at a lower position in many areas than native Dutch employees. They work to a greater extent in short-term, flexible jobs, which makes them more vulnerable to dismissal during times of declining employment than native Dutch employees. Their average hourly wage is substantially lower and, depending on the conditions in the workplace or work environment, they are regularly the target of discourteous, discriminatory harassment.

It should be pointed out that the situation differs greatly from group to group, and that it is not possible to speak of 'the' ethnic minority individual in the Netherlands. So the average derived from the overall figures provides a good picture of the actual situation. Some groups have practically made up for their disadvantages on all fronts, whereas others are still clearly far behind.

6.3. Policy measures taken by the government and others

The Dutch government, the social partners and others have recognized the problem. The participation of ethnic minority groups in the labour market is being stimulated

in many different ways, not only by means of legal measures but also, and often effectively, by means of policy measures. Minority covenants are one example that can be named that have resulted in a considerable number of people finding work.

In a large number of businesses and institutions, measures have been taken to arrive at a comprehensive means of achieving diversity through the introduction of intercultural management. Although two-thirds of the organizations and institutions in the Netherlands have focused no attention at all on these matters, it is encouraging to note that intercultural management is being broadly supported in a number of sectors.

The introduction of codes of conduct is generally regarded as a good means for combating discrimination within and by business and institutions. The national government now has a model code of conduct, which it has made available. Time will tell whether this code will be accepted and adopted by all the government ministries. In this respect the government is seen by other sectors as the leading example.

6.4. Legal measures

The § SAMEN Act, despite increased compliance with the obligation to submit reports, has never been able to achieve a multicultural recruitment and selection policy on the part of employers. The absence of sanctions in the law may have something to do with this.

The ☀ Minority Business Advisors play an important role in raising the consciousness of businesses and institutions and in supporting employers in their multi-cultural personnel policy. With an approach that focuses on the organization, these advisors can remove the obstacles that get in the way of hiring ethnic personnel.

The specific areas of concern are newcomers, asylum seekers and refugees, and women. The § Newcomers Integration Act (*Wet Inburgering Nieuwkomers*, or WIN) requires newcomers to take a number of courses so that can better hold their own in Dutch society and integrate more fully in Dutch life. The problems concerning waiting lists for the courses and course drop out have not yet been rectified, but they are receiving the specific attention of the government. Despite the shortages in the job market, the position of the government – that asylum seekers be allowed to work on a very limited scale during the asylum procedure – has not been abandoned. Those who have been granted refugee status are still dependent on a work permit for the next few years according to the Newcomers Integration Act, which limits their work possibilities on a variety of bureaucratic grounds. The legal protection against unequal treatment will be adjusted as a consequence of the evaluation of the § Equal Treatment Act (AWGB) and the implementing of the § Race Equality Directive (2000/43/EC).