

# Frans National contribution to the Fundamental Rights Report 2023

## The Netherlands

**Contractor's name:** Art.1, Dutch knowledge centre on discrimination

**Authors' names:** Eddie Nieuwenhuizen, Peter Jorna (chapter 3)

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# Contents

1	Equality and non-discrimination .....	6
1.1	Legal and policy developments or measures relevant to fostering equality and combating discrimination focussing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance .....	6
1.2	Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-economic status, health status and physical appearance.....	11
2	Racism, xenophobia and related intolerance.....	16
2.1	Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime .....	16
2.2	Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive.....	22
3	Roma equality and inclusion .....	30
3.1	Policy developments in regards to the implementation of national action plans .....	30
3.2	Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion .....	34
4	Asylum, borders, visas, migration and integration.....	43
4.1	National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions.....	43
4.2	Use of the large-scale IT Systems in the area of asylum, migration and border control .....	44
5	Information society, privacy and data protection.....	46
5.1	Initiatives in the use of artificial intelligence in both private and public sectors.....	46
5.2	Legal and policy initiatives on data protection and private life .....	73
6	Rights of the child.....	86
6.1	Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee .....	86
6.2	Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings. ....	89
7	Access to justice – Victims' Rights and Judicial Independence ....	94

7.1	Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025 .....	94
7.2	Measures addressing violence against women .....	97
8	Developments in the implementation of the Convention on the Rights of Persons with Disabilities .....	103
8.1	CRPD policy and legal developments & implementation of the European Accessibility Act.....	103
8.2	CRPD monitoring at national level .....	105
	Annex 1 – Promising Practices .....	112
	Annex 2 – Case Law .....	127

## Policy and legal highlights 2022

Franet country study: policy and legal highlights 2022	
Issues in the fundamental rights institutional landscape	<p><b>First National Plan against Discrimination and Racism:</b></p> <p>In September 2022, the National Coordinator against Discrimination and Racism presented the first <a href="#">National Programme against Discrimination and Racism</a>. The National Programme provides a comprehensive overview of ongoing national policies against discrimination and racism. In addition, the National Programme contains new policy initiatives proposed by the National Coordinator.</p>
EU Charter of Fundamental Rights	No development.
Equality and non-discrimination	<p><b>Report by special Senate Committee on the efficacy of anti-discrimination legislation</b></p> <p>In June 2022, the special Committee of Enquiry established by the Senate published the <a href="#">general report</a> of its investigations into the relationship between anti-discrimination legislation and its effects in practice. The general conclusion is that anti-discrimination legislation is not adequate enough and too complicated.</p>
Racism, xenophobia & Roma Equality and Inclusion	<p><b>First step towards criminalisation Holocaust denial</b></p> <p>In October 2022, the national government, by adopting a <a href="#">draft bill</a>, took the first step towards explicitly criminalising the public condoning, denial or gross trivialisation of crimes of genocide, crimes against humanity and war crimes and the Holocaust.</p>
Asylum & migration	<p><b>The national government adopts bill to distribute asylum applicants among municipalities</b></p> <p>In 2022, the government has adopted a <a href="#">bill</a> for an act that would give the national government more powers to order municipalities to take in asylum applicants. Goal of this law is to break the deadlock over how to accommodate the overflow of asylum applicants at the central application centre and to distribute asylum applicants more evenly around the country.</p>
Data protection and digital society	<p><b>The national government launches a digitalisation strategy</b></p> <p>In 2022, the government launched a digitalisation strategy that has been laid down in three separate work agendas. So far only the first <a href="#">working agenda</a> has been published. This working agenda focuses on a society in which everyone participates digitally, in which everyone can rely on the digital world, in which everyone has control over their digital life and in which a value-driven digital government works for everyone.</p>

Rights of the child	No development.
Access to justice, including victims of crime	<p><b>Government commissioner on sexual transgression and sexual violence</b></p> <p>On 5 April 2022, the Government commissioner on sexual transgression and sexual violence (<i>Regeringscommissaris seksueel grensoverschrijdend gedrag en seksueel geweld</i>) <a href="#">started</a> with her activities. The Government commissioner is tasked with advising the government, solicited and unsolicited, on measures needed to combat sexually transgressive behaviour and sexual violence.</p>
Convention on the Rights of Persons with Disability	No development.

# 1 Equality and non-discrimination

## 1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination focussing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance

On 28 Jun 2022, an initiative bill on hate crimes was resubmitted to the House of Representatives.<sup>1</sup> Members of the House of Representatives took the initiative for this bill, which introduces a general aggravating ground in Article 44bis of the Criminal Code for offences committed with a discriminatory motivation on the grounds of race, religion, sex, sexual orientation and/or disability. For a crime with such motivation, the penalty is increased by one third. At the end of 2022, the House of Representatives has not yet voted on the bill.

On 5 August 2022, the initiative bill on the criminalising of conversion therapy was submitted to the House of Representatives.<sup>2</sup> Conversion therapy is an approach aiming to change the sexual orientation or gender identity of lesbian women, homosexual men, bisexual women or men, transgender persons or intersex persons. Members of the House of Representatives took the initiative for this bill. In a policy letter to the House of Representatives, the Minister of Education, Culture and Science stated that the government supports this bill.<sup>3</sup>

The bill 'Supervision of equal opportunities in recruitment and selection' is under review of the House of Representatives since December 2020. The House of

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<sup>1</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2022), Bill by Members Elleweg en Segers amending the Criminal Code in order to introduce discriminatory motivation as a ground of aggravation ([Voorstel van wet van de leden Buitenweg en Segers tot wijziging van het Wetboek van Strafrecht in verband met de invoering van het discriminatoir oogmerk als strafverzwarringsgrond](#)).

<sup>2</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2022), Draft Bill by Members Van der Laan, Van der Woude, De Hoop, Westerveld, Kwint en Van Esch amending the Criminal Code for the criminalisation of acts aimed at changing or suppressing sexual orientation gender identity or gender expression conversion therapy ([Voorstel van wet van de leden Van der Laan, Van der Woude, De Hoop, Westerveld, Kwint en Van Esch tot wijziging van het Wetboek van Strafrecht en enige andere wetten in verband met het strafbaar stellen van handelingen gericht op het veranderen of onderdrukken van de seksuele gerichtheid, genderidentiteit of genderexpressie](#)).

<sup>3</sup> The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*) (2022), 'Policy response to the study Exploration of legal and policy interventions to prevent and combat conversion', (['Beleidsreactie op het onderzoek 'Verkenning van juridische en beleidsmatige interventies ter voorkoming en bestrijding van conversietherapie'](#)), Letter to the House of Representatives, 5 July 2022.

Representatives has not yet voted on the bill. This bill amends the Working Conditions Act (*Arbo-wet*) and the Placement of Personnel by Intermediaries Act (*Wet allocatie arbeidskrachten door intermediairs*).<sup>4</sup> This bill obliges every employer to use a working method which indicates how discrimination will be prevented during the recruitment process. The bill refers to the following non-discrimination grounds: age, gender, race, nationality, religion, marital status, political preferences, sexual orientation, and disability. If an intermediary, such as an employment agency, is involved, the employer must check whether this agency uses such a working method. Under the new law, the Netherlands Labour Authority (labour inspection) will have the authority to check whether employers have a working method aimed at prevention of discrimination. If the employer does not apply such a working method, the Netherlands Labour Authority can impose a fine. At the end of 2022, the bill is still under review of the House of Representatives. On 22 December the Minister submitted a bill to the House of the Representatives which adds to the original bill an obligation to report discrimination.<sup>5</sup> If an intermediary like an employment agency is confronted by a discriminatory request the intermediary in question has to report this to the Netherlands Labour Authority.

On 14 July 2022, the Minister of Social Affairs and Employment submitted the "Equal opportunities for all. Labour market discrimination action plan 2022-2025" to the House of Representatives.<sup>6</sup> This action plan has an integrated approach that oversees combating discrimination (on all legally recognized discrimination grounds), promoting equal opportunities and raising awareness of diversity and inclusion. The action plan is structured around four clusters of activities:

- Cluster A. Increasing knowledge among employers and employees about rights, obligations and how to comply with them.
- Cluster B. Motivating and supporting employers in taking effective measures for equal opportunities and to promote diversity and inclusion; for instance by spreading good examples
- Cluster C. Better and more effective (compliance with) legislation, supervision and enforcement.

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<sup>4</sup> The Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2020), Bill on supervision of equal chances in recruitment and selection ([\[Wet toezicht gelijke kansen bij werving en selectie\]](#)):.

<sup>5</sup> The Netherlands, Minister of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2022), Memorandum of amendment Bill on supervision of equal chances in recruitment and selection ([\[Nota van wijziging wetsvoorstel toezicht gelijke kansen bij werving en selectie\]](#)).

<sup>6</sup> The Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2022), Equal opportunities for all. Labour market discrimination action plan 2022-2025 ([\[Actieplan Arbeidsmarktdiscriminatie 2022-2025. Gelijkwaardige kansen voor iedereen\]](#)).

- Cluster D. Continuously increasing knowledge and expertise, including of macro-trends.

The action plan covers the period 2022-2025.

On 14 June 2022, the special Committee of Enquiry established by the Senate (*Eerste Kamer der Staten-Generaal*) published the general report of its investigations into the relationship between anti-discrimination legislation and its effects in practice.<sup>7</sup> The Committee focused on four major domains, the labour market, education, social security, and the police. For each domain a separate report was written. The methodology of the Committee of Enquiry consists of desk research, interviews with experts and legal analysis using a grounded theory methodology. The study was limited to the grounds of race/ethnicity, gender, age and disability. The general conclusion is that anti-discrimination legislation is not adequate enough and too complicated. Even non-discrimination legislation can (unintentionally) cause discrimination. People do not make sufficient use of their rights, for instance with regard to complaints. Parliament and government should therefore take on a stronger role, including in setting standards against discrimination and enforcing laws and regulations against it. In order to improve the quality of legislation, the committee suggests introducing an assessment framework to help government and parliament avoid discriminatory effects in legislation. This assessment framework consists of questions that legislators should ask themselves during the legislative process in order to prevent or combat discrimination. For parliament, these questions are therefore important criteria for assessing legislative proposals. The questions are grouped into six main themes: trust, attention, standards and use of language, simplicity, responsibility and leadership, and clear and effective procedures and complaints procedures. These are not new themes, but this study confirms the need to work on these key issues.

One of the reports of the Senate's parliamentary committee of inquiry on the effectiveness of anti-discrimination legislation focused on the police.<sup>8</sup> This report is based on desk research and literature study and document and discourse analysis. This study shows that ethnic profiling (physical and algorithmic) by the police and discrimination within the police work environment are the two most pressing discrimination problems within the police domain. Both appear to be caused and perpetuated by the following mechanisms: (abstract or unclear) norms, (lack of) leadership and professionalism, a (discriminatory) police culture and (inadequate) complaints procedures. The measures proposed in this study to

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<sup>7</sup> The Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2022), Do Equal Justice. A parliamentary enquiry into legislators' ability to combat discrimination ([Gelijk recht doen : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)).

<sup>8</sup> Ljucic, V., Verhaar, O. & Terlouw, A. (2022), Do equal Justice, Report on police. Parliamentary inquiry on the effectiveness of anti-discrimination legislation ([Gelijk recht doen. Deelrapport politie : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)), The Hague, Senate (*Eerste Kamer der Staten-Generaal*).



counter discrimination by and within the police explicitly target these mechanisms. The study identifies standard-setting as the main promising measure to counter discrimination at the legal level. This involves clarifying and translating the constitutional prohibition of discrimination into clear rules (e.g. in the Police Act or internal guidelines), both in police conduct towards the public and in the police working environment. At the implementation level, this study emphasises the importance of professionalism in countering discrimination. Measures at this level mainly act on two mechanisms: prejudice and organisational culture. On the one hand, they are aimed at reducing the influence of prejudice on police officers' decision space, and on the other hand at mitigating negative aspects and effects of the ('familial' and 'hard') police culture.

One of the other reports of the Senate's parliamentary committee of inquiry on the effectiveness of anti-discrimination legislation focused on the labour market.<sup>9</sup> This report is based on desk research, literature study and interviews with experts and stake holders. The conclusions with a view to legislation and the legislative process are:

1. Much discrimination in the labour market is unintentional and is caused by ingrained norms, habits and rules. This is institutional discrimination.
2. To break through institutional discrimination, it is important to identify the mechanisms, to analyse them (what are the ingrained norms, habits and rules?) and to combat them with an informed approach, based on scientific, professional and experiential knowledge. This is the theory of change.
3. An effective theory of change consists of a balanced strategy to change behaviour. This is done through norming (influencing the prevailing social norm), normalising (influencing existing habits) and regulating (adapting and/or influencing current rules).
4. The research on institutional discrimination in the labour market shows that legislators often do not have an explicit theory of change, and the rationale for choosing particular measures and their expected effect is often patchy or lacking. Integral institutional theory of change
5. The comparison of various sets of measures in this study shows that institutional discrimination cannot be combated through one or a few individual normative, normalising or regulatory measures. An 'integral' institutional theory of change most effectively influences practices in organisations and sectors

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<sup>9</sup> Bosselaar, H., Kocsis, T. & Terlouw, A. (2022), Do equal Justice, Report on labour market. Parliamentary inquiry on the effectiveness of anti-discrimination legislation ([Gelijk recht doen. Deelrapport arbeidsmarkt : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)), The Hague, Senate (*Eerste Kamer der Staten-Generaal*).

On 19 September 2022, the National Coordinator against Discrimination and Racism presented the first National Programme Against Discrimination and Racism<sup>10</sup> The programme was drawn up in consultation with various ministries. The Coordinator also held talks with civil society organisations and citizens. The National Programme provides a comprehensive overview of ongoing national policies against discrimination and racism. In addition, the National Programme contains new policy initiatives proposed by the National Coordinator. These are proposed reinforcements of policy and new initiatives that should give a new impetus to combat discrimination and racism. Among the new proposals are:

- The establishment of a national holiday to celebrate the abolition of slavery in the former Dutch colonies.
- Public and private organisations using datasets and algorithms should repeatedly test them for discriminatory impact and inclusiveness. There will be an algorithm watchdog as soon as possible that checks for transparency, discrimination and arbitrariness.
- Strengthening the role and effectiveness of the antidiscrimination services. Antidiscrimination services provides assistance and advice to people who are discriminated against. Moreover the antidiscrimination services register and monitor the complaints about they handle..
- Schools should support student with a migration background in finding internships.
- In its procurement policy the government should take into account whether inclusion and diversity is one of the priorities among suppliers.
- Reporting bodies such as the police and antidiscrimination services should include Muslim discrimination and the discrimination against transgender people in their registration of discrimination incidents.

The Bill for good landlordship (*Wetsvoorstel goed verhuurderschap*) is discussed by the House of Representatives.<sup>11</sup> This bill gives municipalities the option to introduce nationally uniform rules to promote good landlordship (including rules aimed at preventing of discrimination).

The bill that aims to simplify the Transgender Act bill is still under review of the House of Representatives.<sup>12</sup> The House of Representatives has not yet voted on

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<sup>10</sup> The Netherlands, National Coordinator against Discrimination and Racism (*Nationaal Coordinator tegen Discriminatie en Racisme*) (2022), National Programme Against Discrimination and Racism 2022 ([Nationaal Programma tegen Discriminatie en Racisme 2022](#)).

<sup>11</sup> The Netherlands, Minister of Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2022), Bill for good landlordship ([Wetsvoorstel goed verhuurderschap](#)).

<sup>12</sup> The Netherlands, Minister voor Rechtsbescherming (*Minister for Legal Protection*) (2021), Amendment to Book 1 of the Civil Code in connection with amending the conditions for changing

the bill. The bill was sent to the House of Representatives on 4 May 2021. Under this bill, persons whose gender identity does not correspond to the sex established at birth can, under certain conditions, change their gender in the birth certificate. Those conditions were already relaxed in 2014 with the Transgender Act, and the procedure is now being further simplified following an evaluation of the Act. The bill contains four amendments to Book 1 of the Dutch Civil Code. First of all, the expert statement, in which a doctor or psychologist establishes that there is a lasting conviction of belonging to the opposite sex, is abolished. Instead, the procedure will be divided into two steps: a written submission of the wish to change gender registration, and a confirmation of this wish four to twelve weeks later. Secondly, the age limit will be abolished, so that children under the age of sixteen can change their gender registration. This is done through a request to the court. The third change is the possibility of starting the administrative procedure to change gender registration in the municipality of residence instead of the municipality of birth. The fourth change is that the sex reassignment procedure also applies by analogy to people with an intersex condition.

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-economic status, health status and physical appearance**

Homosexual couples are more likely to be invited by real estate agents and intermediaries for a viewing of a house than heterosexual couples. This emerged from the second national study on discrimination in the Dutch housing market.<sup>13</sup> This second national study is a repeat of a study published in 2021.<sup>14</sup> The researchers conducted 3,283 correspondence tests using fictional home seekers

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the indication of gender in the birth certificate [[Wijziging van Boek 1 van het Burgerlijk Wetboek in verband met het veranderen van de voorwaarden voor wijziging van de vermelding van het geslacht in de akte van geboorte](#)],

<sup>13</sup> Hoogenbosch, A. B. Tierolf, B., Sikkema, M., Kwakernaak, M. & Mesic, A. (2022), Monitor discrimination in the rental housing market 2022 ([Monitor discriminatie bij woningverhuur 2022](#)), Utrecht, Verwey-Jonker Instituut.

<sup>14</sup> Hoogenbosch, A. & Fiere, B. (2021), Equal opportunities for a rental home in the Netherlands? Monitor discrimination in the housing market ([Gelijke kansen op een huurwoning in Nederland? Monitor discriminatie bij woningverhuur](#)), Rotterdam, Art.1 – RADAR.

who responded to advertisements.<sup>15</sup> These tests took place in the period from October 2021 to March 2022. 800 of these correspondence tests focused on discrimination of homosexual couples. In a correspondence test, researchers respond in writing to real-life advertisements and present landlords with (at least) two substantially equal and thus interchangeable candidate tenants, who differ only in the characteristic to be studied, such as sexual orientation. In this study, the authors set up fictitious homosexual couples (consisting of two typical male names) and heterosexual couples (consisting of one typical male name and one typical female name). The results of the tests comparing homosexual couples with heterosexual couples suggest that homosexual couples are more likely to be invited for a viewing than heterosexual couples. However, this favourable treatment of homosexual couples should, however, be interpreted with caution, because the reaction to advertisements by the homosexual couples went out about three hours earlier than the reaction of the heterosexual control couples. This favouritism could therefore also be related to the 'first come, first served' principle.

In May 2022, a report was published compiling all discrimination-incidents in the Netherlands as registered by the Dutch police and by the Dutch antidiscrimination services in 2021.<sup>16</sup> The report differentiates the figures on basis of legally recognized non-discrimination grounds. As socio-economic status and physical appearance are not legally recognised non-discrimination grounds in the Netherlands, the report provides no figures on these grounds. Disability and chronic disease (which covers health status), sexual orientation and sexual identity are legally recognized non-discrimination grounds.

In this study, the year 2021 is compared with the year 2020.

The police registered 6,580 discrimination-incidents in 2021. 32 % of these incidents related to sexual orientation and 2 % related to disability and chronic disease. In 2020 these figures were 32 % and 2 % respectively.

The Dutch antidiscrimination services registered 6,922 discrimination-incidents in 2021, 4 % of these incidents related to sexual orientation, 1 % to gender identity and 15 % to disability and chronic disease (disability). In 2020, these figures were respectively 5 %, 2 % and 15 %.

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<sup>15</sup> Hoogenbosch, A. B. Tierolf, B., Sikkema, M., Kwakernaak, M. & Mesic, A. (2022), Monitor discrimination in the rental housing market 2022 [[Monitor discriminatie bij woningverhuur 2022](#)], Utrecht, Verwey-Jonker Instituut.

<sup>16</sup> Walz, G. & Fiere, B. (2022), Discrimination figures in 2021 : A report on registrations of reports of discrimination in the Netherlands by the police, antidiscrimination bureaus and other organisations ([Discriminatiecijfers in 2021 : Een rapport over registraties van meldingen van discriminatie-incidenten door de politie, en meldingen bij antidiscriminatievoorzieningen en andere organisaties in Nederland](#)), Rotterdam / The Hague, Art.1 / Nationale Politie.

In 2022, Statistics Netherlands published its finding of the 13<sup>th</sup> edition of The Netherlands' Safety Monitor (*Veiligheidsmonitor*).<sup>17</sup> This monitor monitors the attitudes and experiences of the general population of the Netherlands regarding habitability and safety of the neighbourhood, fear and prevention of crime, victimisation and the attitudes towards the police and municipality. The 13<sup>th</sup> edition of this monitor is based on a survey conducted by a questionnaire among a representative sample of 173,473 residents of the Netherlands of 15 years and older in the period 4 August 2021 – 31 October 2021. In this edition for the first time respondents were asked whether they had felt discriminated against in the past 12 months. 11 % of the respondents say they have felt discriminated against in the past 12 months. This amounts to more than 1.6 million people. Of the homosexual male respondents 17 % say they felt discriminated against on basis of their sexual orientation in the past 12 months, of the homosexual female or lesbian respondents 12 % say they felt discriminated against on basis of their sexual orientation in the past 12 months.<sup>18</sup> Of the bisexual male respondents 7 % say they felt discriminated against on basis of their sexual orientation in the past 12 months and.<sup>19</sup>

In 2022 the Netherlands Institute for Social Research (SCP) published two reports as part of its 2022 LGBT Monitor that focuses on the life situation of lesbian, gay, bisexual and transgender (LGBT) persons.

The first part of the 2022 LGBT Monitor examines attitudes among the general population regarding gender and sexual diversity.<sup>20</sup> It is based on the SCP Life Situation Index and several editions of the European Social Survey.

Figures below are from edition 9 of the European Social Survey. Data for this edition were collected in 2018 and 2019 by computer-assisted personal interviews held among a stratified sample of 3,463 persons. And from the latest edition the SCP Life Situation Index. Data for this edition were collected in 2019 by a questionnaire held by interviews among a representative sample of 1,058 persons. In general, the Dutch population has (very) positive views on homosexuality and bisexuality, with a small percentage of people (4 %; figure from the 2019 edition of the SCP Life Situation Index ) holding explicitly negative views. At the same time, people have less positive views on certain subjects – particularly regarding (visible) intimacy between people of the same sex: figures from the 2019 edition of the SCP Life Situation Index indicate that 25 % of the respondents find two men

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<sup>17</sup> Akkermans, M., Kloosterman, R., Moons, E., Reep, C. & Tummers-van der Aa, M. (2022), Safety Monitor 2021 ([Veiligheidsmonitor 2021](#)), The Hague, Statistics Netherlands.

<sup>18</sup> Akkermans, M. & Kloosterman, R. (2022), Experienced Discrimination. Statistical Trends ([Gediscrimineerd gevoeld? Statistische trends](#)), The Hague, Statistics Netherlands.

<sup>19</sup> Akkermans, M. & Kloosterman, R. (2022), Experienced Discrimination. Statistical Trends ([Gediscrimineerd gevoeld? Statistische trends](#)), The Hague, Statistics Netherlands

<sup>20</sup> Huijnk, W. (2022), Views on sexual and gender diversity in the Netherlands and Europe 2022 ([Opvattingen over seksuele en genderdiversiteit in Nederland en Europa 2022](#)), The Hague, The Netherlands Institute for Social Research (SCP).

kissing in public offensive while 9 % find a man and a woman kissing in public offensive). A somewhat larger percentage of the Dutch population similarly has reservations regarding equal rights in relation to adoption (figures from the edition 9 of the European Social Survey indicate 80 % in favour of equal rights between homosexual couples and 10 % against equal rights). Views on homosexuality and bisexuality in the Netherlands are very positive compared to many other European countries, with the exception of Iceland where attitudes are even more positive. As regards gender diversity: in 2019, 9 % of the Dutch population had a negative attitude towards gender diversity, with 32 % having a neutral attitude and 60 % having positive attitude (figures are from the 2019 edition of the SCP Life Situation Index). Compared to views on homosexuality and bisexuality, attitudes are often less explicitly positive and the neutral group is larger in size. Several statements were put to respondents, including regarding opinions of transgender people as teachers. A significant majority (71%) indicated that they would have no problem with their child being taught by a transgender teacher. Nearly one in ten (9%), however, would consider this to be a problem (these figures are from the 2019 edition of the SCP Life Situation Index). This proportion is roughly twice as large as the proportion of the Dutch population who indicate that they would consider it a problem if their child were taught by a gay teacher.

The second part of the 2022 LGBT Monitor focuses on the life situation of lesbian, gay, bisexual and transgender (LGBT) persons with regard to various themes, such as safety, participation and health.<sup>21</sup> It is based exclusively on large-scale, representative population surveys: the SCP Life Situation Index, the Safety Monitor, the Health Survey, the Prevalence Monitor for Domestic and Sexual Violence, and registry data. It concludes that LGB persons occupy a vulnerable position when it comes to safety. These conclusions are based on figures from the latest edition of the Safety Monitor.<sup>22</sup> The latest edition of the safety monitor is based on a survey conducted among a representative sample of 173,473 residents of the Netherlands of 15 years and older in the period 4 August 2021 – 31 October 2021. 5.2% of this sample were LGB persons. LGB persons are more likely to be a victim of violent crimes, disrespectful behaviour, hacking and cyberbullying than heterosexuals. 11 % of gay/lesbian persons have been the victim of a violent crime in the past five years. This is 9 % among bisexuals and 7 % among heterosexuals. Accordingly, it is not surprising that feelings of unsafety are also stronger among LGB persons than among heterosexuals: 40 % and 30%, respectively, report feeling unsafe sometimes or often. This applies to locations

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<sup>21</sup> Huijnk, W., Damen, R. & Van Kampen, L. (2022), *Lgbt-monitor 2022 : The life situation of lesbian, gay, bisexual and transgender persons in the Netherlands*, The Hague ([Lhbt-monitor 2022 : De leefsituatie van lesbische, homoseksuele, biseksuele en transgender personen in Nederland](#)), The Netherlands Institute for Social Research (SCP).

<sup>22</sup> Huijnk, W., Damen, R. & Van Kampen, L. (2022), *Lgbt-monitor 2022 : The life situation of lesbian, gay, bisexual and transgender persons in the Netherlands*, The Hague ([Lhbt-monitor 2022 : De leefsituatie van lesbische, homoseksuele, biseksuele en transgender personen in Nederland](#)), The Netherlands Institute for Social Research (SCP).

such as nightlife venues and places where many young people gather. Between 2012 and 2019, there was a decrease in feelings of unsafety and violence-related victimisation among gay/lesbian persons. In the most recent years, however, there is no decrease among this group, while there is among heterosexuals.

The Netherlands Working Conditions Survey (*Nationale Enquête Arbeidsomstandigheden*) provides information on the working conditions, employability, and health. Through a large and representative sample (n=58.000) of Dutch employees, the survey periodically collects information. The 2021 edition of this survey included a question about whether employees experienced discrimination at work over the past 12 months.<sup>23</sup> 8% of the respondents state they had experienced discrimination at work on personal level. 0,6 % state they had been discriminated because of their sexual orientation.

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<sup>23</sup> Van den Heuvel et al (2022), Netherlands Working Conditions Survey : method and overall results ([Nationale Enquête Arbeidsomstandigheden 2021 : Methodologie en globale resultaten](#)), Leiden / The Hague, TNO / Statistics Netherlands .



## 2 Racism, xenophobia and related intolerance

### 2.1 Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime

Real estate agents and intermediaries often cooperate in the request to exclude persons with a Polish or Moroccan sounding name from a rental property. This emerged from the second national monitor on discrimination in the Dutch housing market.<sup>24</sup> This second national monitor is a repeat of the first monitor published in 2021.<sup>25</sup>

The study investigated the first steps of the rental process, such as mediation, viewing and selection.<sup>26</sup> The researchers conducted 3,283 correspondence tests using fictional home seekers who responded to advertisements. These tests took place in the period from October 2021 to March 2022. In a correspondence test, researchers respond in writing to real-life advertisements and present landlords with (at least) two substantially equal and thus interchangeable candidate tenants, who differ only in the characteristic to be studied, such as ethnicity. In this study the profiles of the home seekers or prospective tenant were almost identical: only the name differed. Some of them sounded Dutch, Polish or Moroccan. The aim was to be invited for a viewing of the rental property.

The conclusion of this study is that prospective tenants with a Polish or Moroccan-sounding name are invited for a viewing less often than persons with a Dutch-sounding name. A woman with a Moroccan sounding name is also less often invited. Profiles with a Moroccan-sounding male name have a 23 % lower chance of being invited for a viewing than profiles with a Dutch-sounding male name (in the first monitor this percentage was 13 %). Profiles with a Moroccan-sounding female name have a 22 % lower chance of being invited for a viewing than profiles with a Dutch-sounding female name (in the first monitor this percentage was 7 %). Profiles with a Polish-sounding male name have an 11 % lower chance of being invited for a viewing than profiles with a Dutch-sounding male name (in the first

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<sup>24</sup> Hoogenbosch, A. B. Tierolf, B., Sikkema, M., Kwakernaak, M. & Mesic, A. (2022), [Monitor discrimination in the rental housing market 2022](#) (*Monitor discriminatie bij woningverhuur 2022*), Utrecht, Verwey-Jonker Instituut.

<sup>25</sup> Hoogenbosch, A. & Fiere, B. (2021), [Equal opportunities for a rental home in the Netherlands? Monitor discrimination in the housing market](#) [*Gelijke kansen op een huurwoning in Nederland? Monitor discriminatie bij woningverhuur*], Rotterdam, Art.1 - RADAR, available at: <https://radar.nl/download/6949/>

<sup>26</sup> Hoogenbosch, A. B. Tierolf, B., Sikkema, M., Kwakernaak, M. & Mesic, A. (2022), [Monitor discrimination in the rental housing market 2022](#) (*Monitor discriminatie bij woningverhuur 2022*), Utrecht, Verwey-Jonker Instituut.



monitor this percentage was 13 %). The study did not test with Polish female names.

Profiles with female names (Moroccan-sounding and Dutch-sounding) received an invitation in 14 % of the advertisements compared to 18 % of the profiles with male names (Moroccan-sounding, Polish-sounding or Dutch-sounding). Based on this comparison, it can be said that female profiles are invited significantly less often than male profiles.

The differences between the first and second monitor are striking. For instance, the net discrimination rate for the Moroccan-sounding name was 12 % in the first monitor and 23 % in this second one. For the Polish-sounding male name this was 8 % and 11 % respectively. In the first monitor there was no significant difference for the profile with the Moroccan-sounding woman's name (7 % net degree of discrimination), in this second monitor there is significant unequal treatment of the Moroccan-sounding women's names compared to the Dutch-sounding women's names with a net degree of discrimination of 22 %. The net degree of discrimination is the percentage in which the test profile (profile with a Moroccan or Polish sounding male or female name) is systematically disadvantaged compared to the control profile (profile with a Dutch sounding name).

Besides the correspondence tests the researchers used mystery calls to investigate the willingness of a housing agent to comply with a discriminatory request from a fictitious landlord.<sup>27</sup> Actors called housing agents and asked the question 'Would it be possible not to rent to foreigners; those Moroccans, Turks and Poles?'. In February 2022, 193 mystery calls were conducted. The results of the calls show the following percentages: In 16 % of the calls, the housing agent did not want to cooperate with the discriminatory request of the fictitious landlord. In 35 % of the calls, the housing agent showed a clear willingness to cooperate with the discriminatory request and to exclude candidates on the basis of origin. In 34 % of the calls, the emphasis in the response of the housing agent was on the freedom of choice of the landlord. In 12 % of the calls, the housing agent indicated that he selects on the basis of criteria which can indirectly discriminate against people, because they promote prejudice. In the remaining 4 % of the calls, no, or no clear reaction was given to the discriminatory request.

A study conducted in the city of Utrecht found no evidence of discrimination against home seekers with a Moroccan sounding name.<sup>28</sup> The study investigated the first steps of the rental process, such as mediation, viewing and selection. The researchers conducted 508 correspondence tests using fictional home seekers who

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<sup>27</sup> Hoogenbosch, A. B. Tierolf, B., Sikkema, M., Kwakernaak, M. & Mesic, A. (2022), [Monitor discrimination in the rental housing market 2022](#) (*Monitor discriminatie bij woningverhuur 2022*), Utrecht, Verwey-Jonker Instituut.

<sup>28</sup> Van der Hoff, M., Hoogenbosch, A. & Sikkema, M. (2022), [Monitor discrimination in the rental housing market in the municipality of Utrecht](#) (*Monitor discriminatie bij woningverhuur gemeente Utrecht*), Utrecht, Verwey-Jonker Instituut.

responded to advertisements. These tests took place in the period from October 2021 to April 2022. In a correspondence test, researchers respond in writing to real-life advertisements and present landlords with (at least) two substantially equal and thus interchangeable candidate tenants, who differ only in the characteristic to be studied, such as ethnicity. In this study the profiles of the home seekers or prospective tenant were almost identical: only the name differed. Some of them sounded Dutch or Moroccan. The aim was to be invited for a viewing of the rental property. The conclusion of this study is that prospective tenants with a Moroccan-sounding name are not discriminated against: they are invited for a viewing as often as those with a Dutch-sounding name. This conclusion is not in line with a national study<sup>29</sup> which found that prospective tenants with a Moroccan-sounding name are systematically discriminated against. Besides the correspondence tests the researchers<sup>30</sup> used mystery calls to investigate the willingness of a housing agent to comply with a discriminatory request from a fictitious landlord. Actors called housing agents and asked the question 'Would it be possible not to rent to foreigners; those Moroccans, Turks and Poles?'. In the period February 2022-April 2022, 34 mystery calls were conducted. Of the 34 housing agents that were called, only one (2.9%) was clear in the response indicating not to cooperate with the discriminatory request. In contrast, 14 mediators (41.2%) were willing to cooperate with the discriminatory request. 16 intermediaries (47.1%) did not directly agree to the discriminatory request, but give the landlord full scope to make the final selection based on its discriminatory request.

In May 2022, a report was published compiling all discrimination-incidents in the Netherlands as registered by the Dutch police and by the Dutch antidiscrimination services in 2021.<sup>31</sup> The report differentiates the figures on basis of legally recognized non-discrimination grounds. In this study, the year 2021 is compared with the year 2020. The police registered 6,580 discrimination-incidents in 2021. 42 % of these incidents related to race or ethnic origin or race. In 2020 this figure was also 42%. The Dutch antidiscrimination services registered 6,922 incidents about discrimination in 2021, 34 % of these incidents related to race or ethnic origin. In 2020, this figure was 52 %.

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<sup>29</sup> Van der Hoff, M., Hoogenbosch, A. & Sikkema, M. (2022), [Monitor discrimination in the rental housing market in the municipality of Utrecht](#) (*Monitor discriminatie bij woningverhuur gemeente Utrecht*), Utrecht, Verwey-Jonker Instituut.

<sup>30</sup> Hoogenbosch, A. B. Tierolf, B., Sikkema, M., Kwakernaak, M. & Mesic, A. (2022), [Monitor discrimination in the rental housing market 2022](#) (*Monitor discriminatie bij woningverhuur 2022*), Utrecht, Verwey-Jonker Instituut.

<sup>31</sup> Walz, G. & Fiere, B. (2022), Discrimination figures in 2021 : A report on registrations of reports of discrimination in the Netherlands by the police, antidiscrimination bureaus and other organisations [[Discriminatiecijfers in 2021 : Een rapport over registraties van meldingen van discriminatie-incidenten door de politie, en meldingen bij antidiscriminatievoorzieningen en andere organisaties in Nederland](#)], Rotterdam / The Hague, Art.1 / Nationale Politie.

In 2022 Statistics Netherlands published its finding of the 13<sup>th</sup> edition of The Netherlands' Safety Monitor (*Veiligheidsmonitor*).<sup>32</sup> This monitor monitors the attitudes and experiences of the general population of the Netherlands regarding habitability and safety of the neighbourhood, fear and prevention of crime, victimisation and the attitudes towards the police and municipality. The 13<sup>th</sup> edition of this monitor is based on a survey conducted among 173,473 residents of the Netherlands of 15 years and older in the period 4 August 2021 – 31 October 2021. In this edition for the first time respondents were asked whether they had felt discriminated against in the past 12 months. 11 % of the residents say they have felt discriminated against in the past 12 months. This amounts to more than 1.6 million people. More than one in three respondents (36% who felt discriminated against in the past 12 months say this was because of their race or skin colour.<sup>33</sup> Over a quarter of the respondents with Dutch Caribbean origin (27 %) and Surinamese origin (26,2 %) felt discriminated against on the grounds of their race or skin colour in 2021.<sup>34</sup> Of those in these ethnic groups who experienced discrimination in 2021, more than 80 % said it was because of their race or skin colour. 22 % of the respondents of Moroccan origin felt discriminated against on the grounds of their race or skin colour in 2021. This amounts to 63,7 % of the respondents in this group who experienced discrimination in 2021. 18,3 % of the respondents of Turkish origin felt discriminated against on the grounds of their race or skin colour in 2021. This amounts to 53,4 % of the respondents in this group who experienced discrimination in 2021. To put these figures in perspective: 1,2 % of the respondents of Dutch origin felt discriminated against on the grounds of their race or skin colour in 2021. This amounts to 16,2 % of the respondents in this group who experienced discrimination in 2021.

The Netherlands Working Conditions Survey (*Nationale Enquête Arbeidsomstandigheden*) provides information on the working conditions, employability, and health. Through a large and representative sample (n=58.000) of Dutch employees, the survey periodically collects information. The 2021 edition of this survey included a question about whether employees experienced discrimination at work over the past 12 months.<sup>35</sup> 8% of the respondents state they had experienced discrimination at work on personal level. 2,4% state they had been discriminated because of their skin colour or ethnic origin.

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<sup>32</sup> Akkermans, M., Kloosterman, R., Moons, E., Reep, C. & Tummers-van der Aa, M. (2022), Safety Monitor 2021 ([Veiligheidsmonitor 2021](#)), The Hague, Statistics Netherlands.

<sup>33</sup> Akkermans, M., Kloosterman, R., Moons, E., Reep, C. & Tummers-van der Aa, M. (2022), Safety Monitor 2021 ([Veiligheidsmonitor 2021](#)), The Hague, Statistics Netherlands .

<sup>34</sup> Akkermans, M. & Kloosterman, R. (2022), Experienced Discrimination. Statistical Trends ([Gediscrimineerd gevoeld? Statistische trends](#)), The Hague, Statistics Netherlands .

<sup>35</sup> Van den Heuvel et al (2022), Netherlands Working Conditions Survey : method and overall results ([\[Nationale Enquête Arbeidsomstandigheden 2019 : Methodologie en globale resultaten\]](#)), Leiden / The Hague, TNO / Statistics Netherlands .

On 11 October 2022, the Netherlands Institute for Social Research (SCP) published a report on the integration of persons with a migration background containing figures about perceived discrimination.<sup>36</sup> The report is based on findings from the Survey on Migrant Integration (SIM2020). This survey was carried out among individuals with a Turkish (n = 696), Moroccan (n = 570), Surinamese (n = 638), Caribbean-Dutch (n = 592), Somali (n = 519), Iranian (n = 855) and Polish (n = 682) background in 2020. A comparison group of individuals without a migration background (n = 771) was surveyed too. Individuals with a migration background are defined as first and second-generation migrants. The report contains figures on perceived discrimination (answer to the question about whether respondents have experienced discrimination) by origin or migrant group, gender and generation. The figures for each origin groups are:

-people with a Surinamese background: 17 % for the whole group, 15 % for females, 19 % for males, 16 % for 1st generation, 18 % for 2nd generation;

-people with a Caribbean-Dutch background: 16 % for the whole group, 17 % for females, 16 % for males, 15 % for 1st generation, 18 % for 2nd generation

-people with a Turkish background: 12 % for the whole group, 10 % for females, 14 % for males, 9 % for 1st generation, 16 % for 2nd generation

-people with a Moroccan background: 12 % for the whole group, 17 % for females, 11% for males, 9% for 1st generation, 16 % for 2nd generation

-people with an Iranian background: 8 % for the whole group, 7 % for females, 8 % for males, 7 % for 1st generation, 9 % for 2nd generation

-people with a Somali background: 11 % for the whole group, 10 % for females, 11 % for males, 8 % for 1st generation, 24 % for 2nd generation

people with a Polish background: 16 % for the whole group, 14 % for females, 17% for males (there is no second generation among people with a Polish background).

The annual report of Information and Documentation Israel (CIDI) shows that the number of antisemitic incidents reported to the CIDI is a total of 183 antisemitic incidents in 2021.<sup>37</sup> This is an increase of 36% compared to 2020 (135 incidents). In addition to incidents of verbal abuse in the streets and bullying in schools, there are also positive trends in digital hate messages and threats. Within these three categories, the number of incidents has at least doubled compared to 2020.

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<sup>36</sup> Dagevos, J., De Voogd-Hamelink, M. and Damen, R. (2022), Established in the Netherlands, but it's not home. Initial findings of the Survey on Migrant Integration (sim2020) ([Gevestigd, maar niet thuis. Eerste bevindingen uit de Survey integratie migranten\(sim2020\)](#)), The Hague, The Netherlands Institute for Social Research (SCP).

<sup>37</sup> CIDI (2022), Monitor antisemitic incidents in the Netherlands ([Monitor antisemitische incidenten in Nederland 2021](#)), The Hague, Information and Documentation Israel (CIDI).

A report, authored by the Utrecht Data School on behalf of Central Jewish Consultative Committee (CJO) and the Information and Documentation Israel (CIDI), is the first structural exploration of the form and extent to which antisemitism is expressed online in the Netherlands.<sup>38</sup> The report analysed cases of antisemitism in 2020 on a number of social media platforms, and a selection of websites and weblogs. This is the first application of a specially developed methodology to recognise antisemitic statements and is therefore a valuable first measurement. In order to estimate the problem reasonably, methods and algorithms had to be developed. Using search programs, Twitter, YouTube, Telegram, Reddit, a number of Dutch-language Facebook pages and 5,667 Dutch websites were searched for antisemitic statements. In total, more than 1,800,000 messages were found in the course of the preparation of the report. These were further (automatically) analysed for actual antisemitic content by means of carefully 'trained' algorithms. Of these, 200,395 were labelled as antisemitic. Only antisemitic texts could be investigated. The available technology is not yet suitable for the analysis of images, sound fragments or videos. The findings point to a large, structural problem with online antisemitism. On almost every platform, even on more strictly moderated platforms such as Twitter, much hatred against Jews was found. However, there is a visible difference with platforms where no effective moderation takes place. A relatively large amount of antisemitism was observed on Telegram and YouTube in particular. The expressions are often more openly and extensively antisemitic. About 25% of all Dutch-language comments about Jews on YouTube turn out to be antisemitic in nature (the films themselves were not investigated, unfortunately). On Telegram this is 36%, and more than two out of three of these comments are explicitly antisemitic.

A study conducted by research institute Bureau Omlo found uncovered various patterns of racism within the Dutch Ministry of Foreign Affairs.<sup>39</sup> The study was commissioned by the Ministry of Foreign Affairs. For this study 33 individual in-depth interviews were conducted and four focus groups established, in which a total of 47 staff members participated. The individual interviews were conducted with people who have direct experience of racism within the ministry: bi-cultural staff members working in The Hague and at the missions, local employees of colour at the missions, and a number of white staff members. In the focus groups discussions were held with staff who, given the nature of their position, might have insight into racism in the workplace and potential signs of racism, or have specific expertise. The study makes clear that racism is a broad phenomenon which manifests itself in many different ways. It can be aggressive, direct, open and deliberate or subtle, indirect, hidden, unintentional or unconscious. Bi-cultural

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<sup>38</sup> Veerbeek, J., Bakker, J., Mohamed, S., Reksoprodjo, M., Stienen, T. & Schäfer, M.T. (2022), Study Online antisemitism in 2020 ([Onderzoek Online antisemitisme in 2020](#)), Utrecht Data School - Utrecht University.

<sup>39</sup> Omlo, J., Kaya, A., Charif, S., Butter, E., Kromhout, M. & Ramlakhan, K. (2022), [Racism at the Ministry of Foreign Affairs : An exploratory study](#), Utrecht / The Hague, Bureau Omlo / Ministry of Foreign Affairs.

staff and local employees of colour experience different expressions of racism, including verbal abuse, derogatory treatment, cultural racism and all kinds of accusations and imputations. Staff also report being sometimes passed over, ignored and excluded. They experience racist jokes and low expectations. The emphasis on a person's ethnic and cultural background leads to people questioning their loyalty. Staff are also concerned about the way various ethnic groups are stigmatised in everyday conversation. Moreover, the study concludes that institutional racism exists at the ministry. The study identified various processes and mechanisms within the organisation and its organisational culture that create scope for racism and provide insufficient safeguards to prevent racism. This concerns unfair recruitment and advancement processes and unfair processes that lead to staff leaving the ministry. Strong social anti-discrimination standards, a well-functioning complaints procedure and an inclusive organisational culture are also lacking.

## **2.2 Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive**

On 28 Jun 2022, an initiative bill on hate crimes was resubmitted to the House of Representatives.<sup>40</sup> Members of the House of Representatives took the initiative for this bill, which introduces a general aggravating ground in Article 44bis of the Criminal Code for offences committed with a discriminatory motivation on the grounds of race, religion, sex, sexual orientation and/or disability. For a crime with such motivation, the penalty is increased by one third. The House of Representatives has not yet voted on the bill.

On 14 June 2022, the special Committee of Enquiry established by the Senate (*Eerste Kamer der Staten-Generaal*) published the general report of its investigations into the relationship between anti-discrimination legislation and its effects in practice.<sup>41</sup> The Committee focused on four major domains, the labour market, education, social security, and the police. For each domain a separate report was written. The methodology of the Committee of Enquiry consists of desk

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<sup>40</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2022), Bill by Members Elleweg en Segers amending the Criminal Code in order to introduce discriminatory motivation as a ground of aggravation ([Voorstel van wet van de leden Buitenweg en Segers tot wijziging van het Wetboek van Strafrecht in verband met de invoering van het discriminatoir oogmerk als strafverzwarringsgrond](#)).

<sup>41</sup> The Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2022), Do Equal Justice. A parliamentary enquiry into legislators' ability to combat discrimination ([Gelijk recht doen : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)).



research, interviews with experts and legal analysis using a grounded theory methodology. The study was limited to the grounds of race/ethnicity, gender, age and disability. The general conclusion is that anti-discrimination legislation is not adequate enough and too complicated. Even non-discrimination legislation can (unintentionally) cause discrimination. People do not make sufficient use of their rights, for instance with regard to complaints. Parliament and government should therefore take on a stronger role, including in setting standards against discrimination and enforcing laws and regulations against it. In order to improve the quality of legislation, the committee suggests introducing an assessment framework to help government and parliament avoid discriminatory effects in legislation. This assessment framework consists of questions that legislators should ask themselves during the legislative process in order to prevent or combat discrimination. For parliament, these questions are therefore important criteria for assessing legislative proposals. The questions are grouped into six main themes: trust, attention, standards and use of language, simplicity, responsibility and leadership, and clear and effective procedures and complaints procedures. These are not new themes, but this study confirms the need to work on these key issues.

One of the reports of the Senate's parliamentary committee of inquiry on the effectiveness of anti-discrimination legislation focused on the police.<sup>42</sup> This report is based on desk research and literature study and document and discourse analysis. From this research it emerged that ethnic profiling (physical and algorithmic) by the police and discrimination within the working environment of the police as the two most pressing discrimination problems in the police domain. Both appear to be caused and maintained by the following mechanisms: (abstract or unclear) standards, (lack of) leadership and professionalism, a (discriminatory) police culture and (inadequate) complaints procedures. The measures to counter discrimination by and within the police proposed by this study are explicitly aimed at these mechanisms. The study identifies setting standards as the most important promising measure to counter discrimination at the level of legislation. This entails clarification and translation of the constitutional discrimination prohibition into clear rules (in the Police Act for example or internal guidelines), both in police actions towards the public and in the working environment of the police. This study stresses at the implementation level the importance of professionalism in counteracting discrimination. Measures at this level mainly act on two mechanisms: prejudice and organisational culture. On the one hand, they are aimed at reducing the influence of prejudice on the decision space of police officers, and on the other at mitigating negative aspects and effects of the ('family' and 'tough') police culture.

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<sup>42</sup> Ljucic, V., Verhaar, O. & Terlouw, A. (2022), *Do equal Justice, Report on police. Parliamentary inquiry on the effectiveness of anti-discrimination legislation* ([Gelijk recht doen. Deelrapport politie : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)), The Hague, Senate (*Eerste Kamer der Staten-Generaal*).

One of the other reports of the Senate's parliamentary committee of inquiry on the effectiveness of anti-discrimination legislation focused on the labour market.<sup>43</sup> This report is based on desk research, literature study and interviews with experts and stakeholders. The conclusions with a view to legislation and the legislative process are:

1. Much discrimination in the labour market is unintentional and caused by ingrained norms, habits and rules. This is institutional discrimination.
2. To break through institutional discrimination, it is important to identify the mechanisms, analyse them (what are the ingrained norms, habits and rules?) and combat them with an informed approach, based on scientific, professional and experiential knowledge. This is the theory of change.
3. An effective theory of change consists of a balanced strategy to change behaviour. This is done through norming (influencing the prevailing social norm), normalising (influencing existing habits) and regulating (adapting and/or influencing current rules).
4. The research on institutional discrimination in the labour market shows that legislators often do not have an explicit theory of change, and the rationale for choosing particular measures and their expected effect is often patchy or lacking. Integral institutional theory of change
5. The comparison of various sets of measures in this study shows that institutional discrimination cannot be combated through one or a few individual normative, normalising or regulatory measures. An 'integral' institutional theory of change most effectively influences practices in organisations and sectors

On 15 September 2022 the Netherlands Institute for Human Rights published a preliminary investigation into the alleged discriminatory effects of the practices of the Tax and Customs Administration. <sup>44</sup> For many years the Tax and Customs Administration processed data on the (dual) nationality of childcare benefit applicants. Many parents lodged a complaint with the Netherlands Institute for Human Rights about discrimination by the Tax and Customs Administration. The Netherlands Institute for Human Rights concludes, after analysing all childcare allowance applications in 2014 and 2018, that the Tax and Customs Administration tough fraud approach on childcare benefits structurally affected parents of foreign

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<sup>43</sup> Bosselaar, H., Kocsis, T. & Terlouw, A. (2022), Do equal Justice, Report on labour market. Parliamentary inquiry on the effectiveness of anti-discrimination legislation ([\*Gelijk recht doen. Deelrapport arbeidsmarkt : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan\*](#)), The Hague, Senate (*Eerste Kamer der Staten-Generaal*).

<sup>44</sup> The Netherlands, Netherlands Institute for Human Rights (*College Rechten van de Mens*) (2022) Preliminary investigation into the alleged discriminatory effects of the practices of the Tax and Customs Administration ([\*Vooronderzoek naar de vermeende discriminerende effecten van de werkwijzen van de Belastingdienst/Toeslagen\*](#)), Utrecht, College voor de Rechten van de Mens.



background more often than parents of Dutch origin. On average, parents of foreign origin were selected for supervisory actions up to twice as often. The Institute concludes that indirect discrimination is at least suspected in all individual cases. Tax and Customs Administration can rebut these suspicions by proving that the differences found between the groups are due to factors unrelated to origin.

One of the reports of the Senate's parliamentary committee of inquiry on the effectiveness of anti-discrimination legislation focused on ethnic discrimination in higher education.<sup>45</sup> It based on desk research and interviews with experts. This study concludes that a student's experience of ethnic discrimination may arise when a lecturer himself exhibits discriminatory behaviour, but may also arise when a lecturer reacts inadequately (in the affected student's view) to a student's discriminatory behaviour towards another student. Qualitative research shows that students can also feel hurt or excluded by other aspects of the learning environment. These include, for instance, the teaching material itself, but also the diversity among authors of literature to be studied and the perspectives with which the world is viewed from literature. Furthermore, diversity among teachers appears to influence student perceptions of diversity and inclusion, partly because of the great importance of role models. What is the extent of the problem? No specific research is available to shed light on this. There are also relatively few complaints and reports, but the research findings that are available suggest that the problem is larger than the complaints and reports indicate. The research leads to the following general promising measure: investing in the skills of individual teachers to shape equal treatment regarding origin in education. Conversely, the sources see shortcomings in this area as part of the explanation for the discrimination problem, i.e. as a mechanism. The study further reveals that there are further gains to be made in implementation, namely at the training or team level. The mechanism at play here can be described in general terms as 'the lack of a professional culture when working together to create a discrimination-free learning environment'. In similar general terms, therefore, the main promising measure or good practice at this level is to encourage such an organisational culture. At the institution and faculty level, there is evidence of a gap between diversity policy and implementation in teaching practice.

On 19 September 2022, the National Coordinator against Discrimination and Racism presented the first National Programme Against Discrimination and Racism.<sup>46</sup> The programme was drawn up in consultation with various ministries. The Coordinator also held talks with civil society organizations and citizens. The

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<sup>45</sup> Dibbets, A., Verhaar, S. & Terlouw, A. (2022), Do equal Justice, Report on education. Parliamentary inquiry on the effectiveness of anti-discrimination legislation ([Gelijk recht doen. Deelrapport onderwijs : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)), The Hague, Senate (*Eerste Kamer der Staten-Generaal*).

<sup>46</sup> The Netherlands, National Coordinator against Discrimination and Racism (*Nationaal Coördinator tegen Discriminatie en Racisme*) (2022), National Programme Against Discrimination and Racism 2022 ([Nationaal Programma tegen Discriminatie en Racisme 2022](#)).

National Programme provides a comprehensive overview of ongoing national policies against discrimination and racism. In addition, the National Programme contains new policy initiatives proposed by the National Coordinator. These are proposed reinforcements of policy; new initiatives that should give new impetus to combat discrimination (on all grounds) and racism. Among the new proposals are:

- The establishment of a national holiday to celebrate liberation the abolition of slavery in the former Dutch colonies.
- Public and private organisations using datasets and algorithms should repeatedly test them for discriminatory impact and inclusiveness. There will be an algorithm watchdog as soon as possible that checks for transparency, discrimination and arbitrariness.
- Strengthening the role and effectiveness of the antidiscrimination services. The antidiscrimination service provides assistance and advice to people who are discriminated against. Moreover, they register and publish complaints.
- Schools should support student with a migration background in finding internships.
- In its procurement policy the government takes into account in its procurement policy whether inclusion and diversity are one of the priorities among suppliers.
- Reporting bodies such as the police and antidiscrimination services should include Muslim discrimination and the discrimination against transgender persons in their registration of discrimination incidents

From 18 October 2022 to 9 December 2022, an internet consultation was opened on the draft Bill for the amendment to the Surrender Act and the Criminal Code to re-implement parts of Framework Decision 2002/584/JHA on the European Arrest Warrant and parts of Framework Decision 2008/913/JHA on combating certain forms and expressions of racism.<sup>47</sup> The part of the draft bill related to Framework Decision 2008/913/JHA is made in response to a letter of formal notice sent on 9 June 2021 by the European Commission to the Netherlands, because the EU rules on combating racism and xenophobia through criminal law (Framework Decision

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<sup>47</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), Draft Bill for the amendment to the Surrender Act and the Criminal Code to re-implement parts of Framework Decision 2002/584/JHA on the European Arrest Warrant and parts of Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia ([Consultatieversie. Wijziging van de Overleveringswet en het Wetboek van Strafrecht tot herimplementatie van onderdelen van het kaderbesluit 2002/584/JBZ betreffende het Europees aanhoudingsbevel en van onderdelen van het kaderbesluit 2008/913/JBZ betreffende de bestrijding van bepaalde vormen en uitingen van racisme en vreemdelingenhaat](#))

2008/913/JHA) have not been fully or properly transposed into Dutch legislation.<sup>48</sup> In the opinion of the European Commission the Dutch legal system still fails to criminalise the specific forms of hate speech mentioned in the Framework Decision, namely the public condoning, denial or gross trivialisation of international crimes and the Holocaust. The draft bill contains an amendment to Article 137c of the Criminal Code (which criminalises group insult) that makes an explicit reference to public condoning, denial or gross trivialisation of crimes of genocide, crimes against humanity and war crimes and the Holocaust.

On 6 October 2022, the work plan of the National Coordinator for Combating Anti-Semitism (*Nationaal Coördinator Antisemitismebestrijding*) was sent to the House of Representatives.<sup>49</sup> In this plan, the National Coordinator outlines its mission statement and provides a starting point for concrete actions in the continuing fight against anti-Semitism. The work plan is grouped around three pillars: (1) monitoring and follow-up; (2) education and prevention; (3) remembrance and celebration. Among other things, the National Coordinator wants to make it easier to punish online anti-Semitism. The government must catch up to tackle anti-Semitism on new media platforms. Anti-Semitic statements too often remain on these platforms without consequences, as our system is still too focused on violations in the physical space. The National Coordinator would also like to see a stricter approach to anti-Semitic chants in football stadiums. This includes broader use of new technologies like facial recognition, better documentation of incidents, immediately stopping matches and helping clubs to maintain crowd control in stadiums. A third priority is education about Judaism. Around 102,000 Dutch Jews lost their lives in the Holocaust. As a result, there are now fewer Jews who can propagate their culture. Unfamiliarity breeds suspicion, unfortunately. Cherishing and promoting Jewish life therefore play an important role in the work plan.

On 12 October 2022, the policy programme of the Ministry of Education, Culture and Science (Agenda against racism and discrimination) on how to fight discrimination and racism in the field of education, media, culture and science was sent to the House of Representatives.<sup>50</sup> The policy programme contains a number of ambitions including; (1) Education programmes and teaching and study materials contain a broad representation of history and society with attention to discrimination and racism; (2) Research proposals pay attention to the effects on different groups; (3) The output of media and cultural organisations, include multiple perspectives and reach and involve different target groups; (4) The government facilitates the return of cultural goods from a colonial context and

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<sup>48</sup> European Union, European Commission (2021), '[June infringements package: key decisions](#)', Web page.

<sup>49</sup> The Netherlands, National Coordinator for Combating Anti-Semitism (*Nationaal Coördinator Antisemitismebestrijding*) (2022), Working plan combating discrimination ([Werkplan Antisemitismebestrijding 2022-2025](#)).

<sup>50</sup> The Netherlands, Ministry of Education, Culture and Science (*Ministerie van Onderwijs, Cultuur en Wetenschap*) (2022), Agenda against discrimination and racism ([Agenda tegen discriminatie en racisme](#)).

encourage international cooperation in this field; (5) Pupils in primary education receive school advice for secondary education that suits them and is free of bias; (6) All students have equal opportunities in finding internships; (7) There are no barriers for students from underrepresented groups; (8) All institutions are safe and inclusive for all; (9) All institutions are accessible ; (10) All institutions promote equal opportunities for all; (11) Managers and teachers are knowledgeable about discrimination, racism and inclusion.

The bill that aims to simplify the Transgender Act is still debated by the House of Representatives,<sup>51</sup> Under this bill, persons whose gender identity does not correspond to the sex established at birth can, under certain conditions, change their gender in the birth certificate. Those conditions were already relaxed in 2014 with the Transgender Act, and the procedure is now being further simplified following an evaluation of the Act. The bill contains four amendments to Book 1 of the Dutch Civil Code. First of all, the expert statement, in which a doctor or psychologist establishes that there is a lasting conviction of belonging to the opposite sex, is abolished. Instead, the procedure will be divided into two steps: a written submission of the wish to change gender registration, and a confirmation of this wish four to twelve weeks later. Secondly, the age limit will be abolished, so that children under the age of sixteen can change their gender registration. This is done through a request to the court. The third change is the possibility of starting the administrative procedure to change gender registration in the municipality of residence instead of the municipality of birth. The fourth change is that the sex reassignment procedure also applies by analogy to people with an intersex condition.

On 8 June 2022, in a press release, the National Police announced that a National Coordinator for the Combat against discrimination and racism (*Landelijk Coördinator Aanpak uitsluiting, discriminatie & racism*) has been appointed.<sup>52</sup> On 19 October 2022, the first action plan of this National Coordinator was submitted by the Minister of Justice and Security to the House of Representatives.<sup>53</sup> In this action plan the National Coordinator describes how to maintain the non-discrimination inside the police force. The plan of action intends to ensure a more effective investigation, assessment and handling (including sanctioning) of reports of normative behaviour and take into account the interests of all stakeholders. It

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<sup>51</sup> The Netherlands, Minister voor Rechtsbescherming (*Minister for Legal Protection*) (2021), Amendment to Book 1 of the Civil Code in connection with amending the conditions for changing the indication of gender in the birth certificate [[Wijziging van Boek 1 van het Burgerlijk Wetboek in verband met het veranderen van de voorwaarden voor wijziging van de vermelding van het geslacht in de akte van geboorte](#)].

<sup>52</sup> The Netherlands, National Police (*Nationale Politie*) (2022), Always a penalty for a racist police officer, ([Altijd sanctie voor racistische politiemedewerker](#)), Press release, 8 June 2022.

<sup>53</sup> The Netherlands, National Police (*Nationale Politie*) (2022), Never look away again. Action plan discrimination and racism. Version 1.1. 13 October 2022, ("[Nooit meer wegstappen](#)" : [Plan aanpak uitsluiting, discriminatie & racisme. Versie 1.1 Versie datum 13 oktober 2022](#)).

also includes a brief summary with specific measures for preventing the dropout of students and young graduated.

On 19 December 2022, Prime Minister Rutte held a speech in which apologised for the past actions of the Dutch State: to enslaved people in the past, everywhere in the world, who suffered as a consequence of those actions, as well as to their daughters and sons, and to all their descendants, up to the present day.<sup>54</sup> The government will make €200 million available in a fund for measures aimed at raising awareness, fostering engagement and addressing the present-day effects of slavery. The programming of activities and allocation of funds will take place in consultation with descendants and other relevant parties.<sup>55</sup> In addition the government has proposed establishing an independent commemoration committee. The committee will be tasked with ensuring a large-scale, dignified commemoration of the history of slavery on 1 July 2023, together with the Caribbean parts of the Kingdom, Suriname and other countries.

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<sup>54</sup> The Netherlands, National Government (*Rijksoverheid*) (2022), [Speech by Prime Minister Mark Rutte about the role of the Netherlands in the history of slavery](#).

<sup>55</sup> The Netherlands, National Government (*Rijksoverheid*) (2022), [Government apologises for the Netherlands' role in the history of slavery](#). News Item, 19 December 2022.

### 3 Roma equality and inclusion

#### 3.1 Policy developments in regards to the implementation of national action plans

Development regarding the implementation of the action plans	
Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework? If yes, please provide a hyperlink	Yes/ <b>No</b> /Other. No. So far, in 2022, the Netherlands did not adopt one or several 'action plans' in order to implement the 'Roma strategic framework 2020-2030' launched by the European Commission in October 2020. The Netherlands' national Roma strategy <sup>56</sup> is not a strategy as such, but rather an integrated set of policy measures within the Netherlands' social inclusion policies, either in explicit reference to the communities concerned or mainstreamed in generic policy terms. As these policy measures are not provided - yet - with underlying operational action plans, recent developments in terms of policies and activities will be taken up in section two of this chapter (3.2: Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion).
How were Roma and Traveller civil society organizations consulted for the development of the action plan (please check with the competent national authorities and the most significant Roma organizations)?	Regarding (further) development of (the set of) policy measures, Sinti and Roma contact persons were invited to discuss in a so called 'Flexible Dialogue' with the government (April 13, 2022) the priorities agreed upon last year, when this mechanism was introduced by the government. <sup>57</sup> Roma civil society monitoring,

<sup>56</sup> The Netherlands, Ministry of Social Affairs and Employment (Ministerie van Sociale Zaken en Werkgelegenheid) (2021), [Policy measures in the Netherlands for the equality, inclusion and participation of Roma and Sinti](#) (*Beleidsmaatregelen in Nederland voor de gelijkheid, inclusie en participatie van Roma en Sinti*), 30 September 2021.

<sup>57</sup> Art.1 (2022), [Franet National contribution to the Fundamental Rights Report 2022, the Netherlands](#), page 23-25.

	<p>funded by the European Commission (2021-2025), assessed member state contributions to the Roma Framework, including the Dutch policies. The international Roma network organisation Phiren Amenca coordinated this initiative for the Netherlands, in cooperation with an independent researcher.<sup>58</sup> In its conclusions the report, based on desk research and interview data collected from five non-governmental organisations and spokespersons (Roma and non-Roma) based in the Netherlands, mentions in its conclusions positive developments in the Dutch contribution (the first steps to dialogue and combatting antigypsyism) as well as points for improvement (meaningful involvement in all phases of the policy cycle; acknowledge the diversity of communities and their problems, inclusively statelessness).<sup>59</sup> For current topics see also section 3.2 (“Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion”).</p>
<p>Was the Equality Body and the NHRI and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent national authority, the Equality body, NHRI and Ombuds institution)?</p>	<p>See above for explanations on the absence of action plans. The base line document on policy measures has not been discussed with the institutions mentioned; to parliament most of its elements have been made known, in 2021.<sup>60</sup> The new National Coordinator on Discrimination and Racism, however, did take this document into account in 2022 under the heading antigypsyism (<i>antiziganisme</i>) when designing the new national programme (see section 2 of this chapter).</p>

<sup>58</sup> Phiren Amenca, 28 March 2022, <https://phirenamenca.eu/the-civil-society-coalition-of-the-roma-civil-monitor-for-the-netherlands-met-in-person/>

<sup>59</sup> Phiren Amenca ( 2022), [Civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion, and participation in the Netherlands](https://romacivilmonitoring.eu/countries/the-netherlands/), see page 7 and 30-31) published on 30 November 2022; Country overview, <https://romacivilmonitoring.eu/countries/the-netherlands/>

<sup>60</sup> Art.1 (2022), [Franet National contribution to the Fundamental Rights Report 2022, the Netherlands](#), page 25-26.



Does the national strategic framework and the action plan foresee a regular monitoring and review? If yes, who will conduct this.	Yes/No/ <b>Other</b> Monitoring and reviewing is likely to take place in the years to come, following up on the first period (2011-2020). Not known yet is which organisation will be conducting this periodic Sinti and Roma inclusion Monitor in the next (second) period 2020-2030
<b>Implications of the war in Ukraine on the situation of Roma</b>	
Have Roma from Ukraine entered your country?	In Dutch parliament the position of Roma among refugees from Ukraine entered the debate in March 2022, when the attitude of Polish – Ukrainian border control towards people with colour had been questioned. <sup>61</sup> About the de facto entrance of Roma from Ukraine in the Netherlands, media made briefly reference in February 2022, March 2022, May 2022 and August 2022 (see cell below).
If Roma from Ukraine entered your country how was this communicated in the media?	Dutch national broadcasting news regularly informed in general terms on Ukrainian refugees, reporting about the welcoming attitude by the Dutch population towards families in need through assistance in relief centres or sharing even their living with women and children refugees. An example of a Ukrainian Roma family adopted by a Dutch Traveller family has been portrayed by a national newspaper. <sup>62</sup> In the city of Haarlem, a Traveller family, already in touch with Roma families, travelled to Lviv, brought back

<sup>61</sup> The Netherlands, House of Representatives (2022), Current developments in Ukraine ([Actuele ontwikkelingen in Oekraïne](#)), Debate 10 March 2022, Parliamentary document 2021/2022-59-1, pages 18/55; The Netherlands, House of Representatives (2022), Questions posed by member of Parliament, with the answers given by the National Government ([Vragen gesteld door de leden der Kamer, met de daarop door de regering gegeven antwoorden](#)). Parliamentary document 2021/2022-2768

<sup>62</sup> De Volkskrant (2022), 'Refugees on a Travellers campsite' ([Vluchtelingen op het woonwagencamp](#)), *De Volkskrant*, 22 February 2022.



seven persons (3 women and 4 children) offering relief on the local mobile home location. Other aspects were also involved in this case, as the initiator stated to be member of a Dutch political party and candidate for the next elections (2023), stressing the importance of women and children from a Christian European country over men from Syria and other Islamic countries, mentioning also the plight of Travellers for pitches and camp sites.

In March 2022 the Dutch national tv news <sup>63</sup> indirectly touched the Roma aspect without making reference, however, to the particular ethnic background, but by zooming in, at the end of the item, on a Roma family – men, women and children –having just arrived at the central station of Amsterdam and received by the Red Cross. An Amsterdam based Dutch Roma grass roots NGO called Zas Angle<sup>64</sup> informed that some of the Roma families stayed for a while in the cities Amsterdam, Zaandam and in Breda, before moving on to other countries (Germany, Sweden and France). Zas Angle, working with Dutch Roma multiproblem families offered assistance in cultural and linguistical situations in reception centres for displaced persons, in case of Roma families from Ukraine.<sup>65</sup> A few families in the Utrecht province are still assisted by the Zas Angle NGO.<sup>66</sup> In another occasion and locality, the Roma background was mentioned in a newsclip distributed by the municipality of Bernheze<sup>67</sup>: “The composition of the group Ukrainian refugees in our municipality (in May: 87 persons) is very divers: women and children, ‘third country’

<sup>63</sup> NOS (2022), National 8’clock news p.m. 22 March 2022, ([Nationaal Acht uur Journaal 22 maart 2022](#)), Arrival of refugees at Amsterdam Central Station at 0:31 - 0:44.

<sup>64</sup> Roma organisation Zas-Angle, personal information received by email (9 September 2022)

<sup>65</sup> Zas Angle (2022), ‘Roma from Ukraine’, ([Roma uit Oekraïne](#)). Web page.

<sup>66</sup> Personal information received by email, 8 September 2022

<sup>67</sup> The Netherlands, Municipality of Bernheze (2022), Refugee Relief Centres filling up ([Opvanglocaties lopen vol](#)), web page, 10 May 2022

	<p>students. Furthermore we welcomed Ukrainian Roma and individual men. The municipality has been indicated by the national network coordination and information Ukraine (KCIO) as one of the relief centers for refugees". Finally, in July – August, local newspapers reported that twelve chalets / mobile homes had been squatted by Travellers in the city of Alkmaar.<sup>68</sup> As these mobile homes were allocated by the municipality for Ukrainian refugees, Travellers stated on camera and in subsequent talks with the city-alderman, to have waited for more than 30 years for mobile homes and pitches. A similar case has been reported in Pijnacker, a municipality near The Hague.<sup>69</sup></p>
<p>Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or energy prices etc.) on Roma? If yes, provide reference</p>	<p>No specific reference articles, reports or analyses in this respect, so far.</p>

### **3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion**

<sup>68</sup> Alkmaar Centraal (2022), 'Travellers in Alkmaar pulling out squatted chalets for refugees, radio station Alkmaar central region' ([Angel eruit, Alkmaarse woonwagenbewoners gaan bezette chalets voor vluchtelingen verlaten](#)), 21 July 2022.

<sup>69</sup> TV West (2022), 'Travellers in Pijnacker squat caravans for Ukrainians' ([Woonwagenbewoners in Pijnacker kraken caravans die bedoeld zijn voor Oekrieners](#)), News Item, 12 August 2022, *TV-West, regional broadcasting*.

## Housing

Not favourable to tackling the mobile home issue are the crises currently striking Dutch society in several domains (such as in housing, energy transition) as well as globally due to international conflicts with direct implications for subsistence. In preceding contributions to annual overviews<sup>70</sup> it had been notified already that the implementation of new national outlines on mobile home policies hardly lives up to expectations - neither of the communities concerned (Travellers, Sinti and Roma) nor human rights institutions (National Ombudsman, Netherlands Institute of Human Rights) - in terms of needs, fundamental rights and identity, and, in terms of urgency and political will at municipal level. Knowledge, expertise and communications in this matter have been given impulses by Platform31. This organisation on urban issues has been commissioned by the national government in 2019 to facilitate the cooperation and exchange between municipalities, housing corporations, as well as other stakeholders (the inhabitants concerned). In 2022 Platform31 continues to carry out this work through communities of practice, webinars, research and advice.<sup>71</sup>

In the media and in parliament the mobile home issue has been drawn into a controversy, when a daily newspaper<sup>72</sup> found out about the existence of a checklist-instrument enabling municipalities to make risk analyses linking forms of criminality to certain groups in society, mentioning also mobile home locations (*woonwagencentra*) and their inhabitants (*woonwagebewoners*), owners as well as tenants.<sup>73</sup> Questioned in parliament upon the content of this article the Minister of Justice and Security promised to change this checklist, by removing this specific type of location and group of inhabitants.<sup>74</sup>

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<sup>70</sup> Art.1 (2022), [Franet National contribution to the Fundamental Rights Report 2022, the Netherlands](#).

<sup>71</sup> Platform31 (2022), Local policies on Mobil Homes, Learning Skills and Expertise Program ([Kennis- en Leerprogramma Lokaal Woonwagenebeleid](#)), web page.

<sup>72</sup> Binnenlands Bestuur (2022), 'Municipalities make use of 'black list' including mobile home dwellers', ([Gemeenten hanteren 'zwarte lijst' met woonwagebewoners](#)), *Binnenlands Bestuur*, monthly magazine for municipalities, 7 Junie2022.

<sup>73</sup> Center for Criminality prevention and Safety (*Centrum voor Criminaliteitspreventie en Veiligheid*) (2020), Privacy Protocol Model, Manual for Intermunicipal data exchange to combat criminality ([Model privacy protocol, Handleiding voor intergemeentelijke gegevensdeling ter bestrijding van ondermijning](#)), page 21/90.

<sup>74</sup> The Netherlands, House of Representatives (*Tweede Kamer*) (2022), Q-and-A's by the minister to parliament on media articles relating mobile home dwellers blacklisted, 2022 ([Vragen uit het parlement 13-6-2022 en Antwoorden van de minister 13-7-2022 over het bericht 'Woonwagebewoners op de zwarte lijsten bij gemeenten: nationale waakhond doet onderzoek'](#)), 13 July 2022. Parliamentary document 2021-2022, 3529,

## Education

Each year the ministry of Education provides an extra financial scheme supporting children in need including pupils of Sinti and Roma cultural background. To this end, applying primary schools receive an amount of €3,695 per month per registered pupil, in order to facilitate additional human resources and educational materials.<sup>75</sup> Although explicit reference is made regarding Roma and Sinti (cultural backgrounds), no written item ('prove') is requested since 2021 in the pupil administration (*leerlingadministratie*), such as a parental declaration (*Ouderverklaring*) or any other notification of their ethnicity after protests by Sinti parents in 2020 against this registration form.<sup>76</sup> Furthermore twice a year a network meeting on education for Travellers, Roma and Sinti takes place, in order to exchange information on local and national level, for counsellors and municipality officials. Special attention is given to topics of specific and current interest, such as the role of intermediary assistance by Roma and Sinti key persons at school.<sup>77</sup>

## Dialogue

The ministry of Social Affairs and Employment is charged with the coordination of the Dutch social inclusion policies (the 'Integration Agenda'), acting also as National Roma Contact Point liaising with the EU as well as with other ministries, municipalities, human rights institutions and civil society organisations (including organisations of the communities concerned). This Ministry intends to have twice a year a 'flexible dialogue' with Sinti and Roma, as this mechanism for contact and consultation is called. In 2021 the following priorities were agreed upon by the participants for the year 2022: finding ways to combat prejudices regarding Sinti and Roma, to make use of positive role models and to create better access to the municipal

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<sup>75</sup> The Netherlands, Minister for Primary and Secondary Education (2022), Extra Financial Support Scheme 2022 ([Regeling van 12 augustus 2022, nr. PO/FenV/33271986, houdende aanpassing van de bedragen personele bekostiging primair onderwijs voor het schooljaar 2021-2022 en het vaststellen van de bedragen voor ondersteuning van leerlingen in het primair en voortgezet onderwijs schooljaar 2021-2022](#)), Staatscourant, 30 august 2022, page 9/26, No 2022-22601.

<sup>76</sup>The Netherlands, Minister for Primary and Secondary Education (2022), Extra Financial Support Scheme 2022 ([Regeling van 12 augustus 2022, nr. PO/FenV/33271986, houdende aanpassing van de bedragen personele bekostiging primair onderwijs voor het schooljaar 2021-2022 en het vaststellen van de bedragen voor ondersteuning van leerlingen in het primair en voortgezet onderwijs schooljaar 2021-2022](#)), Staatscourant, 30 august 2022, page 24/26, No 2022-22601.

<sup>77</sup> OWRS(2022), Education ([Onderwijs](#)), Web page.

organization. The Ministry has commissioned the implementation of this instrument to Movisie, institute for social issues.<sup>78</sup> As indicated in the preceding Dutch FRANET report, a pool of Sinti and Roma spokespersons have been formed, whether or not of grass roots organisational backgrounds.<sup>79</sup> In its flexibility the dialogue also allows Travellers to participate, specifically when it comes to housing issues (mobile homes and pitches).

In a letter to parliament on World War II victims and remembrance of World War II, the State Secretary for Health, Welfare and Sport referred to the dialogue between government and Sinti and Roma.<sup>80</sup> The State Secretary stressed in this letter that he will consult the advisory committee (5 Sinti and Roma) on future steps after the closure of the Sinti and Roma emancipation and participation fund (2015-2022: a total budget of €4 million). Among the proposals approved in 2022 (22 projects and 7 individual study grants) three participatory projects were highlighted: Sinti and Roma guest conservatory-ship to the Westerbork Museum, preservation of a cross-media initiative in Amsterdam and woodworking carpentry among youngsters (Limburg). For prolonged consultation the State Secretary<sup>81</sup> referred to the ministry of Social Affairs and Employment (National Roma Contact Point), such as on the working definition of antigypsyism (International Holocaust Remembrance Alliance recommendation three on Sinti and Roma: the Porrajmos awareness, past and present), the findings of the FRA report on Roma and Travellers living conditions in six EU countries (2020), and the Dutch commitments to the European Union Framework up to 2030.

In the two meetings which took place so far (in 2021 and 2022) four ministries were represented: Welfare, Education, Interior and Kingdom Relations (responsible for housing), and Social Affairs and Employment. Not mentioned in this dialogue is the ministry of Justice and Security. This Ministry communicates, together with the Ministry of Social Affairs and Employment, twice a year with institutional stakeholders on multiproblems in order to develop innovations and strategies, in topics such as

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<sup>78</sup> OWRS(2022), Education ([Onderwijs](#)), Web page.

<sup>79</sup> Art.1 (2022), [Franet National contribution to the Fundamental Rights Report 2022, the Netherlands](#), page 24.

<sup>80</sup> The Netherlands, State secretary for Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2022), Progress report on the implementation of laws on War victims ([Voortgangsrapportage uitvoering wetten oorlogsgetroffenen](#)), Letter to House of Representatives, 9 November 2022.

<sup>81</sup> The Netherlands, State secretary for Health, Welfare and Sport (*Staatssecretaris van Volksgezondheid, Welzijn en Sport*) (2022), Progress report on the implementation of laws on War victims ([Voortgangsrapportage uitvoering wetten oorlogsgetroffenen](#)), Letter to House of Representatives, 9 November 2022

forced marriages and criminality, liaising also with international governmental organisations. Decision making at the municipal level is connected locally with youth care and police input.<sup>82</sup> In this domain Roma and Sinti presence is absent.

### **Antigypsyism (*antiziganism*)**

In 2022 the organisation Movisie introduced an approach with tools for municipalities to counteract discrimination and racism in its several forms including antigypsyism (*antiziganisme*).<sup>83</sup> In the *antiziganisme* section of the publication<sup>84</sup> Movisie takes international commitments into account – ten common basic principles on Roma policies (EU) and the definition of antigypsyism (International Holocaust Remembrance Alliance) – applying these elements to the Dutch context. The term *antiziganisme* is used instead of antigypsyism in accordance with the Dutch language and diversity among Roma and Sinti communities. The booklet explains to the readers the several levels – (un)conscious and personal as well as institutional - on which discrimination and/or racism, in this case antigypsyism (*antiziganisme*) might come to the surface – and how this phenomenon might be triggered by two factors mentioned – stereotyping in concrete day to day interactions and media exposure – suggesting also elements for municipal actionplans on counteracting antigypsyism (*antiziganisme*). For this section Movisie asked advice and feedback from three academics and one Sinteza. From the Flexible Dialogue meeting in 2021 on discrimination, a few (anonymised) quotes by Sinti and Roma have been extracted from the notes (internal report), functioning as illustration to the concrete examples selected. In addition Movisie developed a sheet in order to facilitate the local dialogue between municipalities, Sinti and Roma, in order to counteract antigypsyism (*antiziganisme*) in education, employment and housing.<sup>85</sup>

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<sup>82</sup> Center for Crime prevention and Safety (*Centrum voor Criminaliteitspreventie en Veiligheid* (CCV) (2022), Multiproblem families with a Romabackground, national innovationplatform and strategic thinktank ([multiprobleemfamilies met een Roma achtergrond, landelijk innovatieplatform en strategisch beraad](#)), web page.

<sup>83</sup> Movisie (2022), No room for discrimination, tools for municipalities ([Geen ruimte voor discriminatie, een handreiking voor gemeenten](#)), pp 78-96, 21 March 2022, commissioned by the ministries of Justice & Security, Social Affairs and Employment and Science & Education.

<sup>84</sup> Movisie (2022), No room for discrimination, tools for municipalities ([Geen ruimte voor discriminatie, een handreiking voor gemeenten](#)), 21 March 2022, commissioned by the ministries of Justice & Security, Social Affairs and Employment and Science & Education.

<sup>84</sup> Movisie, No room for discrimination, tools for municipalities ([Geen ruimte voor discriminatie, een handreiking voor gemeenten](#)), 21 March 2022, commissioned by the ministries of Justice & Security, Social Affairs and Employment and Science & Education.

<sup>85</sup> Movisie (2022), How to counteract antigypsyism ([Hoe ga je antiziganisme tegen](#)).

The antigypsyism issue has also been taken up by the National Coordinator against Discrimination and Racism, appointed by the Minister of Home Affairs and Kingdom Relations in 2021, in a first national programme, which was launched on 30 August 2022.<sup>86</sup> In the prevention section of the programme, the Coordinator explicitly refers to Roma and Sinti where the Holocaust is mentioned.<sup>87</sup> In the section on protection the Coordinator connects the combat of antigypsyism (*antiziganisme*) with policy measures outlined by the national government: the Social Inclusion Monitor (Roma and Sinti), the National Roma Contact Point to the EU and the mediator pilot in municipalities to enforce participation of Roma and Sinti in education and employment.<sup>88</sup>

## Statelessness

In 2022 the bill on this issue passed its final phase, since the Dutch committee of experts (*Adviescommissie Vreemdelingenzaken*, ACVZ) advised in 2014 to revise the current one. Its suggestion to take the position of Roma also into consideration was accepted by the State Secretary for Justice and Safety<sup>89</sup>, as problems relating statelessness and naturalisation persisted after the regulation in 1977 (*Generaal Pardon*) of 550 Roma newcomers with a Yugoslavian background. A law proposal determining statelessness and ruling its procedure (*Wet Vaststellingsprocedure Staatloosheid*) has been submitted for debate in the House of Representatives (2021-2022) and the Senate (2022-2023), in order to reduce the number of stateless people in the Netherlands. Estimations of the number of persons possibly stateless - and therefore entitled to a permanent residence status - vary from 6,000 (by Statistics Netherlands<sup>90</sup>) up to 14,000 persons (by NGOs<sup>91</sup>). In majority

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<sup>86</sup> The Netherlands, National Coordinator against Discrimination and Racism (*Nationaal Coordinator tegen Discriminatie en Racisme*) (2022), National Programme Against Discrimination and Racism 2022 (*Nationaal Programma tegen Discriminatie en Racisme 2022*), filed as a parliamentary document in October 2022, <https://zoek.officielebekendmakingen.nl/blg-1053691.pdf>.

<sup>87</sup> The Netherlands, National Coordinator against Discrimination and Racism (*Nationaal Coordinator tegen Discriminatie en Racisme*) (2022), National Programme Against Discrimination and Racism 2022 (*Nationaal Programma tegen Discriminatie en Racisme 2022*), page 18.

<sup>88</sup> The Netherlands, National Coordinator against Discrimination and Racism (*Nationaal Coordinator tegen Discriminatie en Racisme*) (2022), National Programme Against Discrimination and Racism 2022 (*Nationaal Programma tegen Discriminatie en Racisme 2022*).

<sup>89</sup> The Netherlands, State Secretary for Justice and Security (*Staatssecretaris voor Justitie en Veiligheid*) (2022), [Letter to the House of Representatives](#), 4 November 2022.

<sup>90</sup> Statistics Netherlands (2022), Asylum requests slightly increasing in the second quarter, clarifications of the concept stateless ([Lichte stijging asielverzoeken in tweede kwartaal](#)), 29 July 2022

<sup>91</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten Generaal*) (2022), Determining statelessness, ([Vaststelling staatloosheid](#)), Proceedings Parliamentary debate no.32, 5 April 2022, page 19.



this population segment has a recent migration / asylum background (predominantly from intra-state conflict zones in the middle east and Africa), whereas stateless 'in situ' (tied to the Netherlands since a long time or by birth) affects approximately 1,600 persons, predominantly Moluccans from the former Dutch colony Indonesia and Roma.<sup>92</sup>

The Roma case (labelled 'being stateless and/or undocumented') has been commissioned by the Research and Documentation Centre (WODC) of the Ministry of Justice and Security<sup>93</sup> to the Verwey Jonker Institute in April 2021, in order to find out if the proposed law could also benefit this minority.<sup>94</sup> Although the conclusive paragraph of the report does not contain recommendations (towards the law bill for example), a few practical suggestions are gathered from the interviewees. The State Secretary promised to come back to this after consulting the municipalities concerned and the Dutch Association for Citizens registration (*Nederlandse Vereniging voor Burgerzaken*).<sup>95</sup> In the House of Representatives a substantial majority (119 Representatives) voted in favour of the bill (31<sup>st</sup> of May 2022), which was subsequently forwarded to the Senate for final Q&A's (Permanent Committee Immigration and Asylum) and plenary voting<sup>96</sup>. All in all only one member of parliament asked the State Secretary about the Roma, namely whether progress is made in the research announced and why its findings were not included into the debate.<sup>97</sup> Considering its first part this question has been responded satisfactory by the State Secretary (by sending the report after publication to parliament, accompanied by a letter<sup>98</sup>). The most important part, however, missed out: why the Roma case is dealt with separately from the parliamentary debate. Possibly the answer lies in the researchers' response to the underlying question (whether Roma might benefit from the new procedure as proposed): partly so, but to a limited

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<sup>92</sup> The Netherlands, State Secretary for Justice and Security (*Staatssecretaris voor Justitie en Veiligheid*) (2021), 'Rules determining statelessness (Bill), ([Regels met betrekking tot de vaststelling van staatloosheid \(Wetsvoorstel\)](#)), Letter to the House of Representatives, 21 December 2021.

<sup>93</sup> The Netherlands, Research and Documentation Centre of Ministry of Security and Justice (WODC) (2022), 'Roma in trouble by lacking documents' ([Roma in de knel door ontbrekende documenten](#)), News release, 18 October 2022.

<sup>94</sup> The Netherlands, State secretary for Justice and Security (*Staatssecretaris voor Justitie en Veiligheid*) (2022), [Letter to the House of Representatives](#), 4 November 2022.

<sup>95</sup> The Netherlands, State secretary for Justice and Security (*Staatssecretaris voor Justitie en Veiligheid*) (2022), [Letter to the House of Representatives](#), 4 November 2022.

<sup>96</sup> The Netherlands, Senate (*Eerste Kamer*), Permanent Committee Immigration and Asylum (2022), [Questions relating to bill on rules determining statelessness](#), Questions awaiting answers, 13 September 2022.

<sup>97</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten Generaal*) (2022), Determining statelessness, ([Vaststelling staatloosheid](#)), Proceedings Parliamentary debate no.32, 5 April 2022, page 18.

<sup>98</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten Generaal*) (2022), Determining statelessness, ([Vaststelling staatloosheid](#)), Proceedings Parliamentary debate no.32, 5 April 2022, page 19.



extent.<sup>99</sup> In the Roma case, the researchers concluded, lacking residence rights poses a bigger problem than statelessness alone.

All in all, exploring residence status and nationality of Roma in the Netherlands resulted in a report of which the title is ambiguous ('it is very complicated to lay a hand on papers'). In their qualitative survey among 44 respondents (19 being Roma and 25 local professionals) from a substantial number of municipalities the researchers managed to present from both sides important experiences, observations and suggestions. Practical suggestions have been taken in and presented, some policy-wise (more outreaching/comprehensive, less complex/differentiated), others more practical (mediator-oriented, legal roadmap, helpdesk, budgets). Not new are the findings, however, about the problematic consequences (access to care, housing, education, work, travelling) and in guessing about numbers ('a few hundred'<sup>100</sup>) when compared to the Doctors of the World alarming report based on their multi-annual grass roots care project among Roma.<sup>101</sup> The researchers do end critically, in the form of a 'ethical paragraph' addressing decision makers, by underlining the importance for Roma of being taken seriously because of widespread and deeply felt discrimination, distrust in institutions (and research), frustrated feelings of belonging and no future perspectives<sup>102</sup>.

## Council of Europe

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<sup>99</sup> Smits van Waesberghe, E. & Hoogenbosch, A (2022), Difficult to get papers. An explorative research on the nationality and residential position of Roma in the Netherlands ([Bijzonder ingewikkeld om aan papieren te komen, Een verkennend onderzoek naar de nationaliteit en verblijfspositie van Roma in Nederland](#)), Utrecht, Verwey-Jonker Instituut.

<sup>100</sup> Smits van Waesberghe, E. & Hoogenbosch, A (2022), Difficult to get papers. An explorative research on the nationality and residential position of Roma in the Netherlands ([Bijzonder ingewikkeld om aan papieren te komen, Een verkennend onderzoek naar de nationaliteit en verblijfspositie van Roma in Nederland](#)), Utrecht, Verwey-Jonker Instituut.

<sup>101</sup> Doctors of the World in cooperation with Amnesty Netherlands and Anne Frank Foundation, Stateloos maakt radeloos, de situatie van stateloze Roma in Nederland in 2009, <http://www.woonwagenwijzer.nl/download/bram/RomaSinti/Stateloos-maakt-radeloos.pdf> See also: FRANET, the Netherlands, National Focal Point, Thematic Study, 2012, <https://fra.europa.eu/sites/default/files/situation-of-roma-2012-nl-v1-1.pdf>.

<sup>102</sup> Smits van Waesberghe, E. & Hoogenbosch, A (2022), Difficult to get papers. An explorative research on the nationality and residential position of Roma in the Netherlands ([Bijzonder ingewikkeld om aan papieren te komen, Een verkennend onderzoek naar de nationaliteit en verblijfspositie van Roma in Nederland](#)), Utrecht, Verwey-Jonker Instituut.

On the fourth periodic country visit to the Netherlands, a Joint advisory committee of the Council of Europe - Framework convention on the protection of national minorities (FCNM) and the European charter of regional and minority languages - met on 29 and 30 June 2022 with representatives from government, institutions (National Ombudsman), Human rights Institute) and civil society (among others Sinti, Roma and Travellers).<sup>103</sup> Next year the findings will be reported.<sup>104</sup>

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<sup>103</sup> Council of Europe (2022) , '[News of the Framework Convention for the Protection of National Minorities, Netherlands: visit of the Advisory Committee on the Framework Convention for the Protection of National Minorities and the Committee of Experts of the European Charter for Regional or Minority Languages](#)', Web page, 29 June 2022.

<sup>104</sup> Personal information by the secretary of the joint committee (30<sup>th</sup> of June 2022)

## 4 Asylum, borders, visas, migration and integration

### 4.1 National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

<b>EUMS</b>	<b>Implementation of Article 3 of <a href="#">Directive 2002/90/EC</a></b>	
	<b>How has your EUMS implemented Article 3 of Directive 2002/90/EU</b>	Yes The Netherlands, Criminal Code (Wetboek van Strafrecht), <a href="#">Article 197a</a> .
	<b>Cases [incident numbers] of criminalisation of humanitarian assistance</b>	
	<b>Number of cases recorded by the police in 2022</b>	No figures available.
	<b>Number of investigations initiated in 2022</b>	No figures available.
	<b>Number of court decisions taken in 2022</b>	No cases found.

## 4.2 Use of the large-scale IT Systems in the area of asylum, migration and border control

On 8 February 2022 the Dutch Data Protection Authority submitted a letter of advice to the State Secretary for Justice and Security on the Draft Bill amending the Aliens Act 2000 to provide a basis for the use of biometrics in automated border control (*Wijziging van de Vreemdelingenwet 2000 teneinde te voorzien in een grondslag voor het gebruik van biometrie bij automatische grenscontrole*).<sup>105</sup>

The draft bill consists of the addition of a new article to the Aliens Act 2000 (article 107b) providing a legal basis for the use of biometric data in automated border control. It concerns electronic checks of travellers who pass through an e-gate upon entering or leaving Schiphol Airport (the Self Service Passport Control-System). By presenting the travel document and taking a facial image (facial scan) in the e-gate, it is verified whether the person presenting the travel document is also the legitimate holder of the document and (extensive) database checks are carried out. With the draft bill, the government intends to create a legal basis for the use of a facial scan in the e-gate and its storage for a period of 24 hours because the GDPR designates a facial image as special personal data. In view of the provisions of Article 9 (first paragraph) of the GDPR, the processing of special personal data is, in principle, prohibited, unless a ground for exemption mentioned in the second paragraph of Article 9 (second paragraph) applies. The draft bill specifically refers to exemption g (processing is necessary for reasons of substantial public interest) of the GDPR. However, the explanatory memorandum to the draft bill also states that the requirements of this ground for exception are not met, given the possibility of checking in the first-line check at a counter where manual checks are carried out without a facial scan of the traveller.

The Dutch DPA is of the opinion that a significantly more effective (and possibly more efficient) implementation of the border control and surveillance, resulting in better protection of national security, if demonstrated, qualifies as 'necessary for reasons of substantial public interest' as defined in Article 9, paragraph 2g of the GDPR. The Dutch DPA recommends further

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<sup>105</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2022), 'Letter of advice Draft Bill amending the Aliens Act 2000 to provide a basis for the use of biometrics in automated border control' ([Advies over het concept voor de wijziging van de Vreemdelingenwet 2000 voor het gebruik van biometrie bij automatische grenscontrole](#)), Letter to State Secretary for Justice and Security, 10 February 2022. (

substantiation that the use of the elf Service Passport Control-System provides a significantly more effective implementation of border control and surveillance compared to manual checks, and to remove the contradictions mentioned in this context on the applicability of the ground of exemption exception ground g ('necessary for reasons of substantial public interest') in the explanatory memorandum.

On 24 February 2022, the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) fined the Dutch Ministry of Foreign Affairs €565,000 for long-term, large-scale, serious infringements of the General Data Protection Regulation (GDPR) in its visa-issuing process.<sup>106</sup> NVIS, the digital system used by the Ministry of Foreign Affairs for the Schengen visa process, is inadequately secured. As a result, there is a risk that unauthorised persons could access and change files. Furthermore, the Ministry of Foreign Affairs failed to provide visa applicants with sufficient information about the sharing of their personal data with third parties. In addition to imposing a fine, the Dutch DPA ordered the ministry to ensure an appropriate level of security (subject to a penalty of €50,000 per two weeks) and provide applicants with adequate information (subject to a penalty of €10,000 per week).

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<sup>106</sup> The Netherlands, Dutch Data Protection Authority (Autoriteit Persoonsgegevens) (2022), 'Decision to impose a fine and an order for periodic penalty' payments(['Besluit tot het opleggen van een boete en een last onder dwangsom'](#)) Letter to Minister of Foreign Affairs, 24 February 2022.

## 5 Information society, privacy and data protection

### 5.1 Initiatives in the use of artificial intelligence in both private and public sectors

Actor	Type	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Govern ment / Parliame ntary	Nationa l Draft Act	The Bill for the Data processing by partnerships Act ( <i>Wetsvoorstel gegevensverwerking door samenwerkingsverbanden</i> ) is currently under review of the Senate. This is the last stage in Dutch legislative process. The aim of this bill is to improve the exchange and processing of data between authorities that cooperate with each other in combatting, for example, subversive crime, disturbances to public order, or the misuse of public money and social services. The	Yes  Privacy; Data protection ; Discrimination ; Legal Protection  The Netherlands Institute for Human Rights sent a letter to the Senate expressing its concerns about this bill. The bill offers not enough legal protection for citizens and leaves room for discrimination.  The Dutch DPA advises the Senate to vote against the bill in its present form. The bill leaves the door wide open for unlimited surveillance by an unlimited number of parties, public and private.	The Netherlands, Minister of Justice and Security / Minister for Legal Protection ( <i>Minister van Justitie en Veiligheid / Minister voor Rechtsbescherming</i> ) (2020), Bill for Data processing by partnerships Act [ <a href="#">Wetsvoorstel gegevensverwerking door samenwerkingsverbanden</a> ]  The Netherlands, Netherlands Institute for Human Rights ( <i>College voor de Rechten van de Mens</i> ) (2021), 'Opinion on the Data processing by partnerships Act' ( <a href="#">Advies inzake het wetsvoorstel Wet</a>

		<p>bill intends to enable the analysis of exchanged data by artificial intelligence. The draft bill has an article that stipulates that by a general administrative order (<i>algemene maatregel van bestuur</i>) rules shall be made concerning the manner in which the data will be handled including for instance rules concerning the registration, storage and destruction of data. One article of the bill mandates the participants in the partnerships to maintain confidentiality vis-à-vis third parties about the data they process within the partnership and the results of the data processing.</p>		<p><a href="#">Gegevensverwerking door samenwerkingsverbanden</a>), Letter to the Senate, 24 June 2021</p> <p>The Netherlands, Dutch Data Protection Authority (<i>Autoriteit Persoonsgegevens</i>) (2021), 'Opinion on the Data processing by partnerships Act, (<a href="#">Advies over het gewijzigd voorstel voor de Wet gegevensverwerking door samenwerkingsverbanden</a>)', Letter to the Senate, 9 November 2021.</p>
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<p>Independent state institution</p>	<p>Report / study</p>	<p>Study on the use of algorithms by employers in the recruitment and selection process carried out by research institute SEO Amsterdam Economics on request of the Netherlands Institute for Human Rights (<i>College voor de Rechten van de Mens</i>). The Institute asked SEO Amsterdam Economics whether and how employers use algorithms to recruit and select people and whether they are aware of the possible risks of exclusion and discrimination. To this end, SEO Amsterdam Economics conducted a questionnaire among 896 employers in the Netherlands. The survey provides a representative picture of</p>	<p>Yes.</p>	<p>Vervliet, T. (2022), Digital recruitment &amp; selection : The use of algorithm in the recruitment and selection process of employers and awareness of risks of exclusion and discrimination (<a href="#"><u>Digitale werving &amp; selectie : Algoritmegebruik in het werving- en selectieproces van werkgevers en het bewustzijn van risico's op uitsluiting en discriminatie</u></a>), Amsterdam / Utrecht, SEO Amsterdam Economics /The Netherlands Institute for Human Rights.</p>
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		<p>how Dutch employers have set up their recruitment and selection policies. Almost all employers use algorithms for recruitment and selection to a greater or lesser extent. Recruiting via platforms such as LinkedIn is the norm in the Netherlands. Via these platforms, employers distribute vacancies (96% of all employers) or actively search for candidates themselves (71%). In addition, over one in ten employers use algorithms themselves to select (12%) and assess (12%) candidates in job applications. That the use of algorithms can lead to discrimination and exclusion is little</p>		
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		known. Employers also hardly check systems for fairness.		
Government / Parliamentary	Report / study	<p>Study on discrimination in social security conducted the special Committee of Enquiry established by the Senate (<i>Eerste Kamer der Staten-Generaal</i>). This report focuses on discrimination in social security. It is based on desk research and interviews with experts.</p> <p>General conclusion of the study is that the use of algorithms can lead to lead to discrimination. This can happen, for example, when algorithms are fed with sensitive personal data such as 'country of birth' or 'postcode'.What comes out of the system</p>	<p>Yes</p> <p>Discrimination</p>	<p>Houtzager, D. &amp; Terlouw, A. (2022), Do equal Justice, Report on sociale security. Parliamentary inquiry on the effectiveness of anti-discrimination legislation (<a href="#"><u>Gelijk recht doen. Deelrapport sociale zekerheid : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan</u></a>), The Hague, Senate (<i>Eerste Kamer der Staten-Generaal</i>).</p>

	<p>can then unintentionally select people by ethnic origin,for example, and can indirectly have a discriminatory effect.</p> <p>The study found that implementing bodies are aware of this discrimination risk. In various ways, they take measures to prevent unfair and/or discriminatory outcomes of algorithms. For example, implementing bodies have stipulated that the outcome of a selection by an algorithm is always followed by human decision-making. Furthermore, employees are trained on potentially undesirable outcomes.</p> <p>The study concludes that when using</p>		
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	<p>algorithms, preventing discrimination requires constant attention. Setting up a structure of checks and balances is important in this regard.</p> <p>At the level of legislation, the study found that more scope for customisation contributes to combating discrimination, At the level of legislation, the study showed that more room for customization contributes to combating discrimination. At the policy level, it emerged that accountability is a good way for both implementing bodies and stakeholders to gain insight into the algorithms used. Such insight is also facilitated</p>		
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		by establishing algorithm registries. Creating ethical guidelines can also help create awareness about the proper use of algorithms.		
Independent state institution	Report / Study	Based on the study, the Rathenau Institute formulates seven recommendations that serve as a starting point for any implementing organisation that aims to develop or deploy profiling algorithms. The recommendations stem from the inventory of measures at the three implementing organisations which were investigated. The seven recommendations are: (1) Make legal requirements and	Yes  Privacy; Data protection ; Discrimination ; Legal Protection	Rathenau Institute (2022), Balancing algorithms - Exploring measures to protect human rights in the profiling by implementing organisations, ( <a href="#"><i>Agortmes afwegen – Verkenning naar maatregelen ter bescherming van mensenrechten bij profilering in de uitvoering</i></a> ), The Hague, Rathenau Institute.

		<p>ethical principles more manageable; (2) Encourage ethical expertise throughout the organisation;(3) Continue to invest in privacy scrutiny (As implementing organisations, ensure that the data protection officer is positioned to provide incisive oversight of profiling systems.); (4) Strengthen the way in which bias review takes place; (5) Invest in active information provision; (6) Strengthen procedural rights safeguards; (7) Avoid compartmentalisation in the development and assessment of algorithmic applications</p>		
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<p>Government / Parliamentary</p>	<p>National Draft Act</p>	<p>On 21 October 2022, the Minister of Finance submitted the bill to amend the Anti-Money Laundering and Anti-Terrorist Financing Act (<i>Wetsvoorstel wijziging Wet ter voorkoming van witwassen en financieren van terrorisme</i>) to the House of Representatives. For the financial services sector, the bill creates the possibility of joint transaction monitoring for banks and outsource this. This expanding cross-bank cooperation in transaction monitoring is expected to drive up efficiency and effectiveness in tackling money laundering, particularly with the help of artificial intelligence. the final bill</p>	<p>Yes</p> <p>Privacy; Data protection</p>	<p>The Netherlands, Minister of Finance (<i>Minister van Financiën</i>) (2022), Bill to amend the Anti-Money Laundering and Anti-Terrorist Financing Act (<i>Wetsvoorstel wijziging Wet ter voorkoming van witwassen en financieren van terrorisme</i>)</p> <p>The Netherlands, Advisory Division of Council of State (<i>Afdeling Advisering Raad van State</i>) (2021), Advisory report on the bill to amend the Anti-Money Laundering and Anti-Terrorist Financing Act (<a href="#"><i>Advies over conceptwetsvoorstel wijziging Wet ter voorkoming van witwassen en financieren van terrorisme</i></a>)</p>
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		has adopted several changes following strong criticisms over privacy issues from the Advisory Division of the Council of State and the Dutch DPA . As a result, the final bill restricts the scope of monitoring and the types of data that may be shared and processed among banks. More conditions have been added concerning the protection and security of personal data. In addition, the bill stipulates that the measures must be evaluated after four years.		The Netherlands, Dutch Data Protection Authority ( <i>Autoriteit Persoonsgegevens</i> ) (2020), 'Advice draft bill Plan of approach to money laundering ( <a href="#"><i>Advies consultatieversie voorstel voor de wet plan van aanpak witwassen</i></a> )', Letter to Minister of Finance, 10 March 2020.
Independent state	Report / study	In this document, published in March 2022 the Dutch DPA published its thoughts	Yes  Privacy; Data protection	The Netherlands, Dutch Data Protection Authority ( <i>Autoriteit Persoonsgegevens</i> ) (2022),

institution		<p>on the upcoming European Artificial Intelligence Act, advocating for a rigorous review of high-risk AI systems. The Dutch DPA stresses the following : (1) high-risk AI systems a require rigorous review; (2) give the national DPA's a role in the risk assessment of AI systems; (3) organise strong supervision of AI-systems.</p>		<p>Opinion on Artificial Intelligence Act, 15 March 2022 (<a href="#">Draft AP Inzet Artificial Intelligence Act. Versie 15 maart 2022</a>).</p>
CSO	Report/ Study	<p>Comments Meijers Standing Committee of Experts on International Migration, Refugee and Criminal Law on the AI Act by the European Commission. Considering the fast development of AI technologies and the impact AI can have on</p>	<p>Yes Privacy; Data protection</p>	<p>Meijers Standing Committee of Experts on International Migration, Refugee and Criminal Law (2022), <a href="#">CM2203 Comments on the AI Regulation Proposal</a>.</p>

		<p>individuals and the protection of their fundamental rights, the AI Act) is an important initiative that is to be welcomed. However, the current proposal fails to provide adequate protection for citizens. The AI Act should ensure the protection of individuals against possible harm caused by AI technologies. It should provide procedural guarantees and access to legal remedies. Further, it should identify the actors who can be held accountable for potential damages and for the violation of rights. In this comment, while considering the amendments in the Presidency compromise text of 29 November</p>		
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		<p>2021, the Meijers Committee addresses specific gaps in protection in the AI proposal and provides some suggestions for improvement. Aside from the more detailed recommendations in the comments below, the Meijers Committee proposes to: Include individual safeguards to ensure transparency and accountability of the use of AI systems; Expand the scope of the AI Act to databases in the field of migration and asylum law; Prohibit the use of polygraphs, lie detectors, and social scoring systems.</p>		
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Academia	Report / study	<p>Paper. Algorithmic decision-making and similar types of artificial intelligence (AI) may lead to improvements in all sectors of society but can also have discriminatory effects. While current nondiscrimination law offers people some protection, algorithmic decision-making presents the lawmakers and law enforcement with several challenges. For instance, algorithms can generate new categories of people based on seemingly innocuous characteristics, such as web browser preference or apartment number, or more complicated categories combining many data points. Such new types of</p>	<p>Yes</p> <p>Non-discrimination.</p>	<p>Gerards, J. and Zuiderveen Borgesius, F. (2022), 'Protected Grounds and the System of Non-Discrimination Law in the Context of Algorithmic Decision-Making and Artificial Intelligence', <a href="#">Colorado Technology Law Journal</a>, Vol. 20, 1 June 2022.</p>
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		<p>differentiation could evade non-discrimination law, as browser type and house number are not protected characteristics, but such differentiation could still be unfair, for instance if it reinforces social inequality. This paper attempts to determine which system of nondiscrimination law would best be applied to algorithmic / decisionmaking,</p> <p>considering that algorithms can differentiate on the basis of characteristics that do not correlate with protected grounds of discrimination such as ethnicity or gender. The paper analyses the current loopholes in the</p>		
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		<p>protection offered by non-discrimination law and explores the best way for lawmakers to approach the issue of algorithmic differentiation. While this paper focuses on Europe, this paper's concentration on concept and theory rather than specific application, should prove useful for scholars and policymakers from other continents.</p>		
Academia	Report / study	<p>Paper. In order to create a well-functioning internal market for Artificial Intelligence (AI) systems, the European Commission recently proposed the Artificial Intelligence Act. However, this legislative proposal pays limited attention to the</p>	<p>Yes</p> <p>Privacy; Data protection; Legal Protection; Non-discrimination</p>	<p>Van Kolfshoeten (2022), 'EU Regulation of Artificial Intelligence: Challenges for Patients' Rights', <a href="#">Common Market Law Review</a>, Vol 55, pp.81-112, 2022.</p>

		<p>health-specific risks the use of AI poses to patients' rights. This article outlines that fundamental rights impacts associated with AI such as discrimination, diminished privacy and opaque decision-making are exacerbated in the context of health and may threaten the protection of foundational values and core patients' rights. However, while the EU is facilitating and promoting the use and availability of AI in the health sector in Europe via the Digital Single Market, it is unclear whether it can provide the concomitant patients' rights protection. This article theorizes the</p>		
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		Europeanization of health AI by exploring legal challenges through a patients' rights lens in order to determine if the European regulatory approach for AI provides for sufficient protection to patients' rights.		
Academia	Report / study	The Fundamental Rights and Algorithm Impact Assessment (FRAIA) is a discussion and decision making tool for government organisations. The tool facilitates an interdisciplinary dialogue by those responsible for the development and/or use of an algorithmic system. It helps to map the risks to human rights in the use of algorithms and to take	Yes  Privacy; Data protection	Gerards J. Schäfer, T., Vankan, A. & Muis, I. (2022), <a href="#"><i>Fundamental Rights and Algorithm Impact Assessment</i></a> , The Hague, Ministry of the Interior and Kingdom Relations.

		<p>measures to address this. FRAIA is the English translation of Impact Assessment Mensenrechten en Algoritmes (published in 2021). The result of this tool is that all relevant points for attention when using algorithms are addressed in a timely and structured manner. This prevents an organization from using algorithms of which the consequences are not yet clear. FRAIA also reduces the risks of carelessness, ineffectiveness or infringements of citizens' rights. The FRAIA is written by scholars of Utrecht University.</p>		
Government /	Policy plan	Plan or working agenda of the national	Yes	The Netherlands, National Government (2022),

Parliamentary		<p>government setting out a part of the Dutch digitisation strategy. It has four main goals: (1) Everyone can participate in the digital age (2) Everyone can trust the digital world; (3) Everyone is in control of their digital lives; (4) A values-driven digital government that works for everyone. The plan indicates a large number of concrete actions including: making transparent which algorithms and underlying 'rules' are used within the government; developing an implementation framework for application of algorithms by the government; establishing an algorithm watchdog ;</p>	Privacy; Data protection	<p>Working agenda Value-driven Digitisation (<a href="#">Werkagenda Waardengedreven Digitaliseren</a>).</p>
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		establish a public algorithm register.		
NHRI	Opinion	On 7 December 2022, the Netherlands Institute for Human Rights decided in a preliminary opinion that it was plausible an algorithm discriminated against a person. A student at the Vrije Universiteit in Amsterdam (VU) filed a complaint alleging that the software used to proctor an exam that was given remotely did not recognize her because of her skin colour when she attempted to log in and complete the exam. The university must now demonstrate that the anti-cheating software it	Discrimination	The Netherlands, Netherlands Institute for Human Rights ( <i>College voor de Rechten van de Mens</i> ) (2022), <a href="#">Opinion 2022-146</a> , 7 December 2022.

		used does not discriminate.		
NHRI	Tool	A short visual story website in which we follow Salma and Richard during their application process. Through their story, it becomes clear how application algorithms can sometimes (unintentionally) reduce the chances of jobseekers, for example because of their gender or ethnicity, or because they have a disability. At the end of the website the tool informs individuals how to handle and where they can go to in case they have been rejected or that they found out that certain software has been used.	Discrimination	Netherlands Institute for Human Rights ( <i>College voor de Rechten van de Mens</i> ) (2022), Applying for a job with the robot recruiter ( <a href="#">Solliciteren bij de robotrecruiter</a> ).
Government /		On 21 December 2022, the online public	Privacy; Data protection; Discrimination	The Netherlands (National Government) (2022), Het

<p>Parliamentary</p>		<p>algorithm register was opened. The register is maintained by the Ministry of Interior. The register is in development. A number of government organisations have currently published algorithms in the algorithm register. Each record of the register is about one particular algorithm. Each record contains the following entries: general information (including information on the responsible organisation), application (information on purpose, impact, proportionality), legal aspects, meta-data, use case, supervision. The aim of this register is to contain all algorithms used by government</p>		<p>Algoritmeregister van de Nederlandse overheid (<i>The Algorithm Register of the Dutch government</i>).</p>
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		organisations. Eventually, registration will be a legal requirement.		
Government / parliamentary	Policy letter	In a letter submitted to parliament, the State Secretary for Kingdom Relations and Digitalisation outlines the role of the algorithm supervisor which will start from 2023. The supervisor will be part of the Dutch DPA. The Dutch DPA will receive €1 million from 2023 for this task rising to a structural €3,6 million euros in 2026. The tasks of the algorithm supervisor includes the identification and analysis of risks and effects across different sectors, and facilitates cooperation between different organisations	Privacy; Data protection; Discrimination	The Netherlands, Staatssecretaris Koninkrijksrelaties en Digitalisering ( <i>State Secretary for Kingdom Relations and Digitalisation</i> ) (2022), Note on algorithm supervisor ( <a href="#"><i>Inrichtingsnota algoritmetoezichthouder</i></a> ) , Letter to House of Representatives, 22 December 2022.

		that have supervision over algorithms. Further, the letter provides that the algorithm supervisor will aim for the joint interpretation of standards of algorithms and the creation of an overview of legal and other frameworks.		
Court	Judgement	This judgement concerns a conflict between the Dutch central bank (DNB) and online bank Bunq. The Dutch central bank had decided that Bunq was not properly complying with anti money laundering legislation which requires banks to run risk profiles of clients and monitor their transactions accordingly. Bunq said this can best be done using AI, but the central bank disagreed,	Data protection; Discrimination	The Netherlands, Trade and Industry Appeals Tribunal ( <i>College van Beroep voor het bedrijfsleven</i> ) (2022), <a href="#">Bunq vs DNB</a> , Case no. 21/323 and 21/1108, ECLI:NL:CBB:2022:707.

		<p>ordering Bunq to change its strategy. The Trade and Industry Appeals Tribunal ruled that the central bank had not sufficiently proved Bunq's methodology was not in line with the legislation and rejected the central bank's claim Bunq did not have enough information about its business clients. The court did find, however, that Bunq had not done enough to establish how its customers made their money or to investigate the source of income of politically prominent people.</p>		
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## 5.2 Legal and policy initiatives on data protection and private life

A bill to amend the Telecommunications Data Retention Act (*Wet bewaarplicht telecommunicatiegegevens*) has been before the House of Representatives since 12 September 2016.<sup>107</sup> The purpose of this bill is to bring Dutch law on data retention in line with the Digital Rights Ireland judgment of the CJEU. On 26 March 2018, the Minister of Justice and Security informed the House of Representatives in a letter that the bill to amend the Telecommunications Data Retention Act (*Wet bewaarplicht telecommunicatiegegevens*), will be changed considerably due to the European Court of Justice (ECJ) arrest in the case of Tele2 Sverige and the case Home Secretary v. Watson.<sup>108</sup> The Minister will prepare an amendment to the original bill. The obligation to retain telecommunications data will be limited to user data. Traffic and location data do not have to be stored by providers. A balanced retention obligation for so-called user data of a telephone number or IP address is, essential for the investigation and prosecution of serious criminal offences, according to the Minister. In an increasing number of cases, such as child pornography, cybercrime and online arms trade, it is often crucial that the police and the Public Prosecution Service to be able to determine in retrospect which person used a telephone number or IP address found in a criminal investigation at a specific time. On 25 September 2018, the Minister of Justice and Security sent a letter to the House of Representatives in which he informs the House of Representatives about a delay of the amendment to the original bill which he announced on 26 March 2018.<sup>109</sup> The delay is made necessary because of the large use of Carrier Grade Network Address Translation (GCN). With CGN dozens to hundreds of Internet connections can be bundled under a single public IPv4 address so that with a relatively limited number of public IP addresses all users have sufficient connections.

From 26 December 2021 to 6 February 2022 an internet consultation on the draft bill implementing Directive (EU) 2019/1024 on open data and the re-use of public sector information was launched.<sup>110</sup> In a letter of advice to the responsible minister the

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<sup>107</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2022), Bill to amend the Telecommunications Data Retention ([Westsvoorstel Aanpassing bewaarplicht telecommunicatiegegevens](#)), Web page.

<sup>108</sup> The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2018), 'Data retention' ('[Dataretentie!](#)'), Letter to the House of Representatives, 25 September 2018.

<sup>109</sup> The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2018), 'Data retention' ('[Dataretentie!](#)'), Letter to the House of Representatives, 25 September 2018.

<sup>110</sup> The Netherlands, State Secretary for Digitalisation (*Staatssecretaris voor Digitalisering*) (2021), Draft bill Open data directive Act ([Conceptwetsvoorstel Wet implementatie Open data richtlijn](#)).

Dutch Data Protection Authority states that the draft bill (in which the government encourages government agencies to make government data, including personal data, available for reuse) does not set sufficient limits.<sup>111</sup> With the risk of personal data being shared without the consent or knowledge of the people concerned. In the letter the Dutch Data Protection Authority argues in favour of a general prohibition on the reuse of personal data in public records. And then to lay down in rules when which personal data may be made available for reuse, and are therefore an exception to that prohibition. The government responded to the comments made by the Dutch DPA by redrafting the bill.<sup>112</sup> The bill now contains a general prohibition on the re-use of personal data in public records. Any deviation from this must be laid down by an act of parliament.

On 8 February 2022, the Senate passed the bill<sup>113</sup> implementing EU Regulation 2019/881(Cyber Security Act) <sup>114</sup>. On 9 April 2022, the Act took effect.

On 1 March 2022, the Dutch Data Protection Authority (Dutch DPA) published its annual report on the notifications of personal data breaches it received in 2021.<sup>115</sup> In 2021 24.886 breaches were notified to the Dutch DPA That is an increase of 4% compared to 2021 (23,976 data breaches). The number of data breach notifications due to hacking, malware or phishing again increased sharply. In 2021, there were 88% more of these notifications than in 2020.

On 11 March the Dutch Data Protection Authority (Dutch DPA), the Netherlands Authority for Consumers and Markets (ACM), the Dutch Data Protection Authority (AP), the Dutch Authority for the Financial Markets (AFM), and the Dutch Media Authority (CvdM) issued a press release in which they press for better information about online use of internet users' data. Businesses, organizations, and governments must inform people better about how they use their data online. That is why they will launch

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<sup>111</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2022), 'Opinion on Draft bill Open data directive Act' ([Advies over het concept voor het wetsvoorstel implementatie Open data richtlijn](#)), Letter to the Minister of Interior and Kingdom Relations, 28 June 2022.

<sup>112</sup> The Netherlands, State Secretary for Digitalisation (*Staatssecretaris voor Digitalisering*) (2022), Explanatory Memorandum. Draft bill Open data directive Act ([Memorie van Toelichting. Conceptwetsvoorstel Wet implementatie Open data richtlijn](#)).

<sup>113</sup> The Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2022), Bill implementing EU Regulation 2019/881 ([Uitvoeringswet cyberbeveiligingsverordening](#)).

<sup>114</sup> The Netherlands, State Secretary for Economic Affairs and Climate Policy (*Staatssecretaris van Economische Zaken en Klimaat*) (2021), Bill implementing EU Regulation 2019/881 [[Regels ter uitvoering van Verordening \(EU\) 2019/881 -Uitvoeringswet cyberbeveiligingsverordening](#)], 17 May 2021.

<sup>115</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2022), Data breaches report 2021 ([Datalekkenrapportage 2021](#)).

a study into how businesses, organizations, and governments are able to inform internet users in a way that everybody understands. This will be one of the first actions of the Digital Regulation Cooperation Platform (SDT), which these organisations launched in late 2021.

On 7 April 2022, the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) imposed a €3.7 million fine on the Tax Administration for illegally processing personal data over a period of years in its 'fraud identification facility' (FSV).<sup>116</sup> This was a blacklist which the Tax Administration used to register indications of fraud, often with major repercussions for people who had been wrongly included on the list. Over the course of its investigation into the fraud identification facility' (FSV) the Dutch DPA uncovered numerous violations of the GDPR. For example, the Tax Administration had no statutory basis for processing the personal data on the list. Without such a basis in the GDPR, it is prohibited to process personal data. In many cases the personal data was not even correct, and as a result people were wrongly registered as possible tax frauds. Furthermore, the list was not properly protected, and the Tax Administration's internal privacy supervisor was not involved at an early stage in the creation of the list. According to the Tax Administration's own investigation staff were instructed to base their fraud risk analysis in part on factors like nationality and physical appearance. In determining the amount of the fine, the DPA also considered that this was by no means the first time that the Tax Administration had violated the GDPR. In 2018, for example, the DPA determined that the Tax Administration did not adequately protect personal data. The €3.7 million fine comprises multiple fines for 6 violations in total. The Tax Administration had no statutory basis for processing personal data in the FSV: €1 million. The purpose of the fraud identification facility' (FSV) was not specifically described in advance: €750,000. The ' ; fraud identification facility' (contained incorrect and obsolete information: €750,000. This particular data was stored for far too long: €250,000. The fraud identification facility' (FSV) was not adequately protected: €500,000. The Tax Administration waited over a year to ask its internal privacy supervisor for advice about assessing the risks of using the FSV: €450,000. In February 2020 the Tax Administration shut down the FSV.

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<sup>116</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2022), 'Decision to impose a fine' (['Besluit tot boeteoplegging'](#)), Letter to Minister of Finance, 7 April 2022.

On 25 April 2022, the Minister for Justice and Security submitted the draft Bill amending the Security of Network and Information Systems Act (*Wet beveiliging netwerk- en informatiesystemen*) to the House of Representatives.<sup>117</sup> The draft Bill regulates that providers, who are neither a vital provider nor part of the national government, will have more access to threat and incident information about their own network and information systems. Based on this information, they can take measures to prevent incidents or to limit the consequences thereof.

On 6 May 2022 the government sent a letter<sup>118</sup> to the House of Representatives responding to the advisory report<sup>119</sup> on regulating online content made by the Advisory Council on International Affairs (*Adviesraad Internationale Vraagstukken*) on request of the government. The Council had already published this report on 24 June 2020. The advisory report contains 10 recommendations to the government: (1) Recalibrate the Netherlands' internet policy. Current internet policy in the Netherlands traditionally relies heavily on self-regulation by the internet sector. This creates the risk that internet platforms will gain too much control over regulation as well as enforcement and supervision. The Council is of the opinion that, in a democratic state under the rule of law, ultimate control should remain in public hands, particularly in a field where the private sector would otherwise dominate. Although cooperation with the private sector in multistakeholder governance is the preferred option, the government must have a strong presence when it comes to protecting human rights and the rule of law. Efforts to combat harmful online content can only be effective in an international context. This necessitates a recalibration of the Netherlands' internet policy, shifting from self-regulation to forms of co-regulation, with an active role for the government. (2) Advocate a duty of care for internet platforms, under clear conditions. (2) Defend and promote the open and free nature of the internet on the basis of values of democracy and the rule of law. (3) Strengthen Dutch representation in international internet organisations. (4) Promote the establishment of international standards for dealing with harmful online content, solidly anchored in existing human rights standards. (5) Initiate measures aimed at transparency and supervision. (6) Promote value-sensitive design and the digital commons. (7) Involve independent national expert bodies in the assessment of harmful online content. (8) Advocate a duty of care for internet platforms, under clear conditions. (9) Ensure that internet platforms' terms of use are

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<sup>117</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), Bill amending Security of Network and Information Systems Act ([Wetsvoorsel Wijziging Wet beveiliging netwerk- en informatiesystemen](#)).

<sup>118</sup> The Netherlands, Minister of Foreign Affairs et al (*Minister van Buitenlandse Zaken e.a.*) (2022), 'Cabinet response to Advisory report on Regulating Online Content', ([Kabinetsreactie AIV Advies Regulering van Online Content](#)), Letter to House of Representatives, 6 May 2022.

<sup>119</sup> The Netherlands, Advisory Council on International Affairs (*Adviesraad Internationale Vraagstukken*) (2020), [Regulating Online Content. Towards a Recalibration of the Netherlands' Internet Policy](#), Advisory report no. 113, 24 June 2020. f

human rights-inclusive.(10) Increase the digital resilience of internet users. In the letter the government<sup>120</sup> states that these recommendations will provide a clear direction for the internet policy of the government and the government's attitude on regulating online content.

On 21 June 2022, the Minister of Justice and Security submitted the Bill implementing EU Regulation 2021/784 on addressing the online dissemination of terrorist content to the House of Representatives.<sup>121</sup> The core of the draft Bill is the establishment of a new independent administrative body, the Authority, to exercise the obligations under the Regulation. One of those obligations is the imposition of sanctions, penalty payments or administrative fines on, for example, hosting services that have acted in breach of the Regulation, for example by not complying within one hour with an order to remove terrorist online content from their platform.

On 9 May 2022, the Advisory Division of the Council of State published an advisory report<sup>122</sup> on the draft Bill for the Administrative Approach Online Child Pornographic Material Act<sup>123</sup>. This draft Bill aims to clean the Internet of online child pornographic material.<sup>124</sup> The draft Bill makes it possible to take action under administrative law against providers who, often unintentionally, are involved in the storage or transmission of online child pornography material, but who nevertheless fail to take action against this. The tasks and powers proposed in this Bill will be assigned to a new independent administrative body: the Authority for Tackling Online Child Pornography. This Authority will have the power to investigate online child pornography and can force hosting providers to take this material offline by imposing a binding instruction. Compliance with this instruction can be enforced by means of a penalty pay an administrative fine. Furthermore, hosting providers will be obliged to take appropriate and proportionate measures to limit the storage and transmission of online child pornography

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<sup>120</sup> The Netherlands, Advisory Council on International Affairs (*Adviesraad Internationale Vraagstukken*) (2020), [Regulating Online Content. Towards a Recalibration of the Netherlands' Internet Policy](#), Advisory report no. 113, 24 June 2020. f

<sup>121</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), Bill for the Act implementing the Regulation on terrorist online content ([Wetsvoorstel Uitvoeringswet verordening terroristische onlineinhoud](#) )

<sup>122</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Advisering Raad van State*) (2022), Advisory report on the Draft Bill for the Administrative Approach Online Child Pornographic Material Act ([Advies over Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal](#)).

<sup>123</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2021), Draft Bill for the Administrative Approach Online Child Pornographic Material Act ([Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal](#)).

<sup>124</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2021), Draft Bill for the Administrative Approach Online Child Pornographic Material Act ([Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal](#) )



material. The authority can also collect information to share with the police and the Public Prosecution Service for follow-up investigations. The Council of State in its advisory report questions whether establish an independent administrative body is necessary.<sup>125</sup> The Council of State recommends the government to reconsider the establishment of new independent administrative body.

On 6 July 2022, the National Coordinator for Security and Counterterrorism published the annual Cyber Security Assessment Netherlands (CSAN), which provides insight into threats, interests and resilience in relation to cyber security and the effect of these factors on national security.<sup>126</sup> In this Cybersecurity Assessment Netherlands, the National Coordinator for Security and Counterterrorism states that in order to function without disruption, it is crucial that society can withstand digital threats. The security of digital processes is essential in a strongly digitized society like the Netherlands. Digital security therefore is inextricably interlinked with national security. The question 'How digitally safe is the Netherlands?' is impossible to answer. Moreover, 100 percent security does not exist. Digital processes can always fail due to technical or human errors. Cyberspace is also the preferred playing field of a growing number of states, and cyber attacks are the new normal. Moreover, attacks by cybercriminals have now reached an industrial scale. The digital threat is therefore permanent and is increasing rather than decreasing, with all the associated consequences. Coordinated and integrated risk management within and between the different levels of organisations, sectors and the national level is still in its infancy. Resilience in the Netherlands has not yet reached the required level. Restrictions in digital autonomy that apply for European countries and the Netherlands also involve restrictions for resilience.

On 15 June 2022, the Review Committee for the Intelligence and Security Services (*Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten*) or CTIVD ruled that five datasets (containing the data of millions of citizens) were unlawfully in the possession of the two secret services, the General Intelligence and Security Service (*Algemene Inlichtingen en Veiligheidsdienst* or AIVD) and the Military Intelligence and Security Service (*Militaire Inlichtingen- en Veiligheidsdienst* or MIVD), and must be

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<sup>125</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Advisering Raad van State*) (2022), Advisory report on the Draft Bill for the Administrative Approach Online Child Pornographic Material Act ([Advies over Wet bestuursrechtelijke aanpak online kinderpornografisch materiaal](#)).

<sup>126</sup> The Netherlands, National Coordinator for Security and Counterterrorism (*Nationaal Coördinator Terrorismebestrijding en Veiligheid*) (2022), [Cyber Security Assessment Netherlands CSAN 2022](#).

immediately deleted.<sup>127</sup> The class action complaint that led to this decision was filed by the Dutch digital rights organisation Bits of Freedom and is the first of its kind. It is also the first time the CTIVD's Complaints Department has used its binding authority. An appeal to this binding ruling is not possible. In their complaint, Bits of Freedom referred to the so-called 'relevance assessment'. This is an important safeguard in the Dutch Intelligence and Security Services Act 2017, which stipulates that, when collecting huge amounts of data (bulk data), the secret services must delete the data of citizens they are not investigating as quickly as possible and within eighteen months at the latest. The services have been collecting more and more data, but seriously lag behind when it comes to removing data on citizens they are not investigating and will not be investigating. They are thus breaking the law. Therefore, in July 2021, the organisation submitted a complaint about the unlawful retention of the data. They asked the Complaints Department of the independent oversight body CTIVD to have the bulk datasets deleted. The decision of the Complaints Department shows two things. First, the Dutch intelligence services do not respect national regulations. They collect more data than they can handle and keep that data longer than permitted. Second, the supervisory system is not capable of intervening by itself when the secret services are breaking the law. The Oversight Department, which previously ruled that this practice was unlawful, has no binding powers. The Complaints Department does have binding powers, but can only use them if someone files a complaint. This makes the Dutch society dependent on the initiative of civil society organisations, such as Bits of Freedom, for effective checks and balances.

On 23 August 2022, the Cyber Security Council (*Cyber Security Raad*) sent a letter of advice letter to the Minister of Justice and Security on real alternatives for lawful access to end-to-end encrypted communications, other than curtailing encryption. The Cyber Security Council (CSR) is a national, independent advisory body of the Dutch government.<sup>128</sup> According to the Cyber Security Council, optimising hacking activities and making more intensive use of business intelligence are real alternatives to lawful access to end-to-end encrypted communications, other than curtailing encryption.

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<sup>127</sup> The Netherlands, Review Committee for the Intelligence and Security Services (*Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten*) (2022), Decision on Bits of Freedom's complaint about the actions of the AIVD and MIVD ([Beslissing inzake de klacht van Bits of Freedom over het handelen van de AIVD en de MIVD](#)).

<sup>128</sup> The Netherlands, Cyber Security Council (*Cyber Security Raad*) (2022), 'Advisory letter regarding real alternatives for legitimate access to end-to-end encrypted communications, other than containment of encryption', ([Adviesbrief inzake reële alternatieven voor rechtmatige toegang tot end-to-end versleutelde communicatie, anders dan inperking van encryptie](#)), Letter to Minister of Justice and Security, 23 August 2022.

On 8 July 2022, the Minister of Justice and Security submitted to the House of Representatives a Bill to criminalise the use of personal data for intimidating purposes.<sup>129</sup> The Bill adds a new article to the Criminal Code that criminalises sharing another person's personal data in order to instil fear or intimidate (doxing). Under the Bill, those found guilty of doxing can face up to one year in prison or a fine of up to €9,000. Doxing is defined as sharing personal data with the intention of intimidating or causing serious problems to another person or hindering him in the performance of his duties or profession. The new article cannot be invoked against journalists and whistleblowers who disclose news facts and wrongdoings in good faith because they do not intend to intimidate. At the end of 2022 the bill is still being debated by the House of Representatives.

On 15 December 2022, a regulation entered into effect which enables businesses and self employed people to shield their visiting addresses.<sup>130</sup>

On 6 September 2022 an evaluation study on the Dutch General Data Protection Regulation Implementing Act (UAVG) was published.<sup>131</sup> The General Data Protection Regulation Implementing Act (UAVG) entered into force on 25 May 2018. Central question of this study is: How were the standards of the General Data Protection Regulation Implementing Act and to what extent did this Act contribute to an efficient and effective implementation and enforcement of the GDPR? The study is commissioned by the Ministry of Justice and Security. This study is based on desk research, case studies, legal analysis, a questionnaire survey among 190 data protection officers, working for administrative bodies (24%), social institutions (38%) and companies (37%), 33 in-depth interviews (including interviews with the management of a number of organisations (five), data protection officers (ten), lawyers (five), judges (three), some independent experts, such as academics (five) and (former) employees of ministries). The General Data Protection Regulation Implementing Act is a Dutch law that supplements the GDPR. It is clear from the study that the General Data Protection Regulation Implementing Act has only limited significance. The law does not offer any more clarification of the GDPR standards. This is perhaps understandable in view of the background to the

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<sup>129</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), Bill to criminalise use of personal data for intimidating purposes ([Wetsvoorstel strafbaarstelling gebruik persoonsgegevens voor intimiderende doeleinden](#)).

<sup>130</sup> The Netherlands, Minister of Economic Affairs and Climate Policy (Minister van Economische Zaken en Klimaat) (2022), Decision 24 November 2022 amending the Trade Register Decree 2008 providing a basis for shielding visiting addresses on request ([Besluit van 24 november 2022, houdende wijziging van het Handelsregisterbesluit 2008 inzake een grondslag voor het afschermen van bezoekadressen op verzoek](#)).

<sup>131</sup> Winter, H., Drouen, T., Van Eck, M., Kramer, L., Geertsema, B., Cazemier, J. & Ridderbos-Hovingh, C. (2022), Data protected? Evaluation of the Dutch. General Data Protection Regulation Implementing Act (UAVG), the duty to report data breaches and the power to impose fines ([Bescherming gegeven? Evaluatie UAVG, meldplicht datalekken en de boetebevoegdheid](#)), Groningen, Pro Facto.

ActG, the limited time available for its creation and the choice made at the time for a 'policy-neutral' transposition of the existing standards. However, in the systematics of data protection law, in the combination of the GDPR, General Data Protection Regulation Implementing Act and sectoral codes of conduct, it was precisely from those codes of conduct that an operationalisation of the standards in data protection law was expected. Against this background, the finding of this study that codes of conduct have not been developed is important. There are various reasons why codes of conduct have not been developed, but one key reason seems to be the requirement for an independent and effective monitoring mechanism, which must be part of any code of conduct.

On 2 June 2022, Dutch daily newspaper "De Volkskrant" reported that Dutch General Intelligence and Security Service (AIVD) is using hacking software developed by Israeli company NSO Group.<sup>132</sup> It quoted four confidential sources. The paper said the claims are the first tangible link between the Netherlands and NSO Group, a commercial company which produces the Pegasus phone hacking software. The software was used on a notorious crime boss. The AIVD did not reply to the report of "De Volkskrant".

On 29 August 2022, in a letter to the House of Representatives, State Secretary for Digitilisation announced that government agencies would be given manoeuvrability to use commercial cloud services.<sup>133</sup> Until now, the Dutch central government was only allowed to use its own cloud services despite using Microsoft's systems, including Office and Teams. In 2011, the government decided that commercial cloud services presented security risks outweighing the advantages. The change of heart followed the shift instigated by the Covid-19 pandemic and major technological and security developments within public cloud services. According to the State Secretary, increased service reliability, security, and faster response times to vulnerabilities have opened doors to public cloud utilization. However, commercial cloud services will be subject to a few conditions, including a pre-deployment risk assessment. On 11 November 2022 the Dutch DPA sent a letter to the State Secretary for Digitilisation, in which it states that there are major privacy risks in the use of US cloud environments among Dutch government agencies.<sup>134</sup>

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<sup>132</sup> Modderkolk, H.(2022), ' AIVD uses controversial Israeli hacking software', (['AIVD gebruikt omstreden Israëlische hacksoftware'](#)), De Volkskrant, 2 Juny 2022.

<sup>133</sup> The Netherlands, State Secretary for Kingdom Relations and Digilisation (*Staatssecretaris Koninkrijksrelaties en Digitalisering*) (2022), National cloud policy 2022 ([Rijksbreed cloudbeleid 2022](#)), Letter to House of Representatives, 29 August 2022.

<sup>134</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2022), 'National cloud policy 2022'([Rijksbreed cloudbeleid 2022](#)), Letter to State Secretary for Digitilization, 11 November 2022

The Dutch DPA highlighted that the privacy risks have not been adequately mapped out in the government's cloud policy, including the risks associated with storing personal data outside of jurisdictions subject to the GDPR, and whether such jurisdictions data protection regimes are deemed adequate. The Dutch DPA points out to the state secretary that storage with a European company is the best choice in terms of privacy.

On 19 September 2022, the Research and Documentation Centre of the Ministry of Justice and Security published a study on the implementation of the hacking power. The Computer Crime Act III (*Wet Computercriminaliteit III*) came into force on 1 March 2019.<sup>135</sup> The Act sets out a legal basis for the hacking power in the Dutch Code of Criminal Procedure (Sections 126nba, 126uba and 126zpa). The new investigative power allows law enforcement officials 'to access computerised systems remotely by stealth, under certain conditions, that are used by suspects, with a view to certain investigative objectives in the area of the investigation of serious criminal offences'. The current report consists of an evaluation of the process surrounding the implementation of the hacking power in the first two years after the Act came into force. Data were collected by a combination of research methods, including document analysis, interviews and case review. A second report is to follow at the end of 2024, containing the second part of the evaluation, which will focus on the implementation of the Act in full. Between March 2019 and March 2021, orders to hack were issued in 26 criminal investigations. The new hacking power gives police access to encrypted data of suspects in serious crime investigations. This was not easily possible before the Computer Crime Act III. Contrary to what the name computer crime suggests, over the past two years the hacking power has mainly been used in criminal investigations into more serious forms of traditional crime. The study identified a number of implementation bottlenecks. One bottleneck is the following: The aim is for the hacking power to be used covertly and remotely. In practice, it is sometimes necessary to be present on location in the vicinity of the computerised system in order to penetrate and gain access. The legislator does not appear to have taken this option into account. Another bottleneck concerns the a reporting obligation for unknown vulnerabilities which was created from the point of view of security. The Police experience the reporting obligation as a key obstacle. First and foremost, because the reporting obligation similarly also applies to vulnerabilities in systems that are specifically made for and by persons with criminal intentions. This means that these people must ultimately be informed

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<sup>135</sup> Van Uden, A. and Van den Eenden, C.A.J. (2022), The hacking power in practice: An empirical study into the implementation of the hacking power (Sections 126nba, 126uba, 126zpa of the Dutch Code of Criminal Procedure) (*De hackbevoegdheid in de praktijk. Een empirisch onderzoek naar de uitvoering van de hackbevoegdheid (artikelen 126nba, 126uba, 126zpa Sv)*), The Hague, Ministry of Security and Justice - Research and Documentation Centre (WODC).

that their system, which is used almost exclusively for criminal purposes, contains a vulnerability. This raises the question to what extent reporting such vulnerabilities increases the level of security.

A study commissioned by the Ministry of Justice and Security and carried out by scholars of the Radboud University concludes that the current legal framework for processing personal data during criminal investigations is insufficiently adapted to the new reality in which the National Police collects large amounts of personal data.<sup>136</sup> The current legal framework is laid down in the Code of Criminal Procedure and the Police Data Act. The study shows that the Code of Criminal Procedure pays particular attention to the use of digital investigative powers: in which cases, for what purposes and with the permission of which authority may personal data be collected? Much less attention is paid to the further use of that data. And this further use by the police may cause privacy violations. Furthermore, it is not clear how the rules on this in the Police Data Act relate to the Code of Criminal Procedure. The authors of the study formulated four recommendations. Firstly, the legislator would have to develop a regulatory framework in the Code of Criminal Procedure in a general title that applies to the processing of data during the exercise of digital investigative powers. Secondly, the legislator must also create a specific normative framework for the examination of bulk data for criminal procedure purposes. Thirdly, the provisions allowing the data obtained in the investigation to be used for entirely different purposes deserve to be thought in further detail. Fourthly, the supervision of processing data for criminal investigation purposes will have to be tightened by the creation of a committee supervising the police forces and the Public Prosecution Office. The study is based on (primarily legal) desk research supplemented by interviews and an expert meeting.

On 27 September 2022, the House of Representatives passed the bill for the Electronic Data Exchange in Healthcare Act (*Wet elektronische gegevensuitwisseling in de zorg*).<sup>137</sup> This Act will oblige healthcare providers to exchange patients' data with each other electronically. Currently, this data is still often exchanged via fax or physical data carriers like DVD. The Act will no longer impose a data sharing obligation on healthcare providers. The bill is currently under review of the Senate.

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<sup>136</sup> Fedorova, M.I., Molder, R.M. te, Dubelaar, M.J., Lestrade, S.M.A. and Walree, T.F. (2022), Data processing in criminal investigations; an exploratory study of the relevant viewpoints for the regulation of the processing of personal data for criminal investigation purposes ([\*Strafvorderlijke gegevensverwerking. Een verkennende studie naar de relevante gezichtspunten bij de normering van het verwerken van persoonsgegevens voor strafvorderlijke doeleinden\*](#)), Nijmegen, Radboud University Nijmegen.

<sup>137</sup> The Netherlands, Minister of Health, Welfare and Port (2021), Bill for Electronic Data Exchange in Healthcare Act. ([\*Wetsvoorstel Wet elektronische gegevensuitwisseling in de zorg\*](#)).

The bill for the Data Protection Collective Act (*Verzamelwet gegevensbescherming*) will be sent to the House of Representatives by the responsible ministers this year.<sup>138</sup> This bill intends to amend the Act Implementing the GDPR and other laws, The Bill considers, among other things, the introduction of new legal grounds for the processing of special categories of personal data for accountants, health associations, and fraud prevention, and to clarify authorised purposes for the use of biometric data. Proposed amendments in this draft bill are: legal ground for auditors to process special categories of personal data; legal grounds for automated transaction monitoring, legal grounds for processing health data without explicit consent; legal ground for trustees to process special categories of personal data and other sensitive personal data; legal ground for processing personal data to trace drivers or recover fines; clarification of authorised purposes to process biometric data; generic possibility to restrict data subject rights under strict conditions; data subject rights to rectify and erase no longer apply to non-profit publicly accessible archives; independent rights for children of 12 years and older.

On 10 October 2022, the government presented the Netherlands' new National Cybersecurity Strategy 2022-2028.<sup>139</sup> In the National Cybersecurity Strategy, the Dutch government sets out, for the coming four years, a vision of how to achieve a safe digital society and the role of the government, businesses and citizens. The Strategy contains an action plan setting out concrete steps for a safe digital society. To achieve that vision, objectives have been formulated under four pillars. The first is about increasing the digital resilience of the government, businesses and civil society organisations. The second is about the provision of secure and innovative digital products and services in our country. The third is about combating digital threats from criminals and nation states. And finally, the fourth pillar is about having enough cybersecurity specialists, education on digital security, and the digital resilience of citizens. The digital security system as a whole is being strengthened to enable to achieve these objectives. For instance, the National Cybersecurity Centre, Digital Trust Centre and the Cyber Security Incident Response Team for Digital Service Providers are being merged into a single national cybersecurity authority. Clear, verifiable legislation and regulations will also be brought in, putting a stop to the reliance on voluntary guidelines.

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<sup>138</sup> The Netherlands, Minister for Legal Protection and Minister of Interior and Kingdom Relations (2022), Bill for Data Protection Collective Act ([Wijziging van de Uitvoeringswet Algemene verordening gegevensbescherming en enkele andere wetten in verband met het stroomlijnen en actualiseren van het gegevensbeschermingsrecht - Verzamelwet gegevensbescherming](#)).

<sup>139</sup> The Netherlands, National Government (Rijksoverheid) (2022), Netherlands' Cybersecurity Strategy 2022-2028 ([Nederlandse Cybersecuritystrategie 2022-2028](#)).

In an interview with Dutch daily newspaper 'NRC' the head of the Dutch DPA indicated that the government neglects fundamental rights.<sup>140</sup> In bills submitted by the government to parliament the provisions on data protection are too often formulated in very general and vague terms. as a result of which the government gives itself too much freedom to process, share and use sensitive personal data of citizens as it sees fit.

On 23 December 2022, the Minister of Justice and Security submitted by letter<sup>141</sup> an updated version of the National Digital Crisis Plan<sup>142</sup> to the House of Representatives. The Plan describes the joint approach to a digital crisis at national level.

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<sup>140</sup> Kuiper, M. & Pelgrim, M. (2022), 'Government neglects fundamental rights, says privacy watchdog' ([Het kabinet verwaarloost grondrechten, zegt de privacywaakhond](#)). *NRC*, 20 December 2022.

<sup>141</sup> The Netherlands, Minister of Justice and Security (Minister van Justitie en Veiligheid) (2022), 'National Digital Crisis Plan' (['Landelijk Crisisplan Digitaal'](#)), Letter to House of Representatives, 23 December 2022.

<sup>142</sup> The Netherlands, National Coordinator for Security and Counterterrorism (*Nationaal Coördinator Terrorismebestrijding en Veiligheid*) (2022), National Digital Crisis Plan ([Landelijk Crisisplan Digitaal](#)).



## 6 Rights of the child

### 6.1 Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee

Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the [EU Child Guarantee](#).

<b>Legislative changes</b>	No changes.
<b>Policy changes</b>	On 22 April 2022, the Minister for Social Affairs and Employment and the Minister for Poverty Policy, Participation and Pensions submitted by letter <sup>143</sup> the national plan for the Child Guarantee <sup>144</sup> to the House of Representatives. This plan comprises six sections. The first examines the context of child poverty within income and poverty policy. The second is further divided into individual sections on the five areas addressed by the child guarantee: child care and early childhood education, education, healthcare, nutrition and housing. The third section deals with the involvement of stakeholders in the process. The fourth section lists qualitative and quantitative goals for child poverty, and the fifth looks at data collection and monitoring and evaluating progress

<sup>143</sup> The Netherlands, Minister of Social Affairs and Employment / Minister for Poverty Policy, Participation and Pensions (*Minister van Sociale Zaken en Werkgelegenheid / Minister voor Armoedebeleid, Participatie en Pensioenen*) (2022), 'Offer national plan child guarantee' ([Aanbieding nationaal plan kindergarantie](#)), Letter to the House of Representatives, 22 April 2022.

<sup>144</sup> The Netherlands, Minister of Social Affairs and Employment / Minister for Poverty Policy, Participation and Pensions (*Minister van Sociale Zaken en Werkgelegenheid / Minister voor Armoedebeleid, Participatie en Pensioenen*) (2022), [National Plan. Dutch situation regarding policy on child poverty in light of the Council recommendation establishing a European Child Guarantee](#) (*Nationaal Plan. Stand van zaken in Nederland omtrent het kinderarmoedebeleid in het licht van de Raadsaanbeveling over de kindergarantie*).

	<p>on these goals. Finally, the sixth section outlines a way forward, taking into account the coalition agreement of the present government.</p> <p>On 3 October 2022, the Ombudsman for Children responded to the national plan for the Child Guarantee by sending a letter to the Minister for Poverty Policy, Participation and Pensions.<sup>145</sup> The Ombudsman for Children misses the right of children's rights as the starting point of the Plan; in particular, the right to life and development. As a result, the Plan lacks an approach in a number of essential areas that are precisely important for the development of children living in poverty. Specifically, the Ombudsman misses in the plan an approach to the domains relating to the income position of parents and the relationship between children and their parents.</p>
<p><b>Other measures or initiatives</b></p>	<p>On 14 March 2022, the Minister for Poverty Policy, Participation and Pensions informed the House of Representatives by letter about the steps already taken to further reduce child poverty. Child poverty ambitions were formulated in 2019.<sup>146</sup> The Minister describes progress on ambition no 2 decline of 'the number of low-income households with children) and ambition no 4 a periodic qualitative overview of good examples and initiatives by municipalities and other local and national organisations aimed at preventing child poverty and its negative impact on children. With regard to policy ambition 2 the letter states the following: The most recently available figures from Statistics Netherlands were published in December 2021 and relate to 2020. In 2020, the downward trend that started since 2013 continued. In 2020, 221 thousand underage children (6.9 % , or about 1 in 14 children) were part of a household with an income below the low-income threshold, 17 thousand less than in the previous year (7.4 %). The number of children in a family that had been living on a low income for at least four years fell that year by almost 3 thousand to</p>

<sup>145</sup> The Netherlands, Ombudsman for Children (*Kinderombudsman*) (2022), [Letter to the Minister for Poverty Policy, Participation and Pensions](#), 3 October 2022.

<sup>146</sup> The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebelid, Participatie en Pensioenen*) (2022), 'Progress ambitions child poverty' ([Voortgang ambities kinderarmoede](#)), Letter to House of Representatives, 14 March 2022.

	<p>95.000 (3.1 %). The number of children at risk of long-term poverty has been decreasing since 2015. With regard to policy ambition 4 the letter states that such an overview has been compiled and published for the first time. The overview is an annex to the policy letter.<sup>147</sup></p> <p>On 7 July 2022, the Minister for Primary and Secondary Education submitted a letter to the House of Representative outlining a new policy initiative: 'School &amp; Environment programme'.<sup>148</sup> With the School &amp; Environment programme, the government is making 34 million euros available to offer extra support to pupils and students in primary and secondary education who are in vulnerable circumstances. This includes, for instance, help with homework, extra technology lessons or more opportunities for sports. The programme should ensure that all pupils get fair opportunities.</p> <p>As compensation for increasing energy prices, the national government offered a contribution to energy bills in the form of a payment of €190 in both November and December 2022 to each household in the Netherlands.<sup>149</sup></p> <p>Besides, the Dutch government has introduced a price cap for electricity and gas in 2023 for so called small consumers (this category includes households, self-employed people, small businesses and associations)<sup>150</sup>. For gas the maximum rate will be €1.45 per cubic meter up to a consumption</p>
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<sup>147</sup> The Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2022), Dealing with child poverty. Tools for professionals, policymakers, experts and volunteers ([Omgaan met kinderarmoede. Handreikingen voor professionals, beleidsmakers, ervaringsdeskundigen en vrijwilligers](#)).

<sup>148</sup> The Netherlands, Minister for Minister for Primary and Secondary Education (*Minister voor Primair en Voortgezet Onderwijs*) (2022), 'School & Environment programme' ([Programma School en Omgeving in het funderend onderwijs](#)) ; The Netherlands, Minister for Poverty Policy, Participation and Pensions (*Minister voor Armoedebeleid, Participatie en Pensioenen*) (2022), 'Progress ambitions child poverty' ([Voortgang ambities kinderarmoede](#)), Letter to House of Representatives, 7 July 2022.

<sup>149</sup> The Netherlands, Government of the Netherlands (*Rijksoverheid*) (2022), '[How do I get the €190 contribution to my energy bill in November and December?](#)', Web page.

<sup>150</sup> The Netherlands, Ministry of Economic Affairs and Climate Policy (*Ministerie van Economische Zaken en Klimaat*) (2022), 'Lower energy bills from 1 January due to widened price cap' ([Vanaf 1 januari lagere energierekening door verruimd prijsplafond](#)), News release, 4 October 2022. (

	of 1,200 cubic metres. For electricity the maximum rate will be lowered to €0.40 per kWh with a maximum consumption of 2,900 kWh.
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## 6.2 Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings.

<b>Legislative changes</b>	The government is working on a new Code of Criminal Procedure. <sup>151</sup> On 7 July 2020, the government published an internal version ( <i>ambtelijke versie</i> ) of the complete draft Bill implementing the new Code of Criminal Procedure. <sup>152</sup> The current Code dates from 1921 and has been amended many times since then. <sup>153</sup> The new Code consists of 8 books. Book number 6 contains special rules of criminal procedure including one chapter on rules for the prosecution of juveniles or children. All the special provisions for juveniles or children which are found scattered in the present Code are found in Book 6 of the draft Code. The draft Code contains a number of innovations: the position of parents in the juvenile criminal procedure is extensively regulated (standard practices are codified, partly with a view to legal equality); providing a legal basis of the (audio-visual) registration of interrogations of minors.
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<sup>151</sup> The Netherlands, Government of the Netherlands (*Rijksoverheid*) (2022), '[Modernisation of the Code of Criminal Procedure](#)', Web page.

<sup>152</sup> The Netherlands, Ministry of Justice and (*Ministerie van Justitie en Veiligheid*) (2020), Draft bill for New Code of Criminal Procedure, Internal version, July 2020, ([Wetsvoorstel tot vaststelling van het nieuwe Wetboek van Strafvordering, Ambtelijke versie, Juli 2020](#)],

<sup>153</sup> The Netherlands, Ministry of Justice and (*Ministerie van Justitie en Veiligheid*) (2020), Explanatory Memorandum to draft bill for New Code of Criminal Procedure, Internal version, July 2020. (Memorie , available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/07/30/ambtelijke-versie-juli-2020-memorie-van-toelichting-wetboek-van-strafvordering/Amtelijke+versie+juli+2020+Memorie+van+Toelichting+Wetboek+van+Strafvordering.pdf>

	<p>On 16 May 2022 the Advisory Division of the Council of State (<i>Raad van State</i>) published a review of the of the complete draft Bill implementing the new Code of Criminal Procedure.<sup>154</sup> In this review the Council of State made only one observation on the position of juvenile suspects. The proposals on juvenile suspects include the provision that communications to juvenile suspects should be made in 'simple and accessible language'. The objective of comprehensibility is not always achieved in practice. The Council of State considers it important that due attention be paid to this</p> <p>On 6 April 2022 the temporary regulation for free legal aid for summoned minor suspects took effect.<sup>155</sup> The immediate cause for this regulation was the ruling by the Amsterdam District Court on 6 November 2022 in which it was decided that a minor suspect who has not been arrested, is entitled to free legal aid. This temporary regulation stipulates that a minor summoned by police (but not arrested yet) is entitled to free legal aid.<sup>156</sup> The regulation is temporary because the government has lodged an appeal against the ruling of the Amsterdam District Court.</p>
<b>Policy developments</b>	<p>On 10 March 2022 the Research and Documentation Centre of the Ministry of Security and Justice published a study on the differences in recidivism trends among juveniles.<sup>157</sup> In this study the authors report (trends in) reconviction rates among two offender groups : juvenile</p>

<sup>154</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Advisering Raad van State*) (2022), Review of the new Code of Criminal Procedure ([Advies over het nieuwe Wetboek van Strafvordering](#)).

<sup>155</sup> The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2022), Free legal aid for summoned minor suspects. Temporary regulation ([Kosteloze rechtsbijstand voor ontboden minderjarige verdachten. Tijdelijke regeling](#)).

<sup>156</sup> The Netherlands, District Court Amsterdam (*Rechtbank Amsterdam*) (2021), [Case no. AMS 21/809](#), 9 November 2021, ECLI:NL:RBAMS:2021:6411. available at:

<sup>157</sup> Boschman, S.E., Piersma, T.W., Weijters, G., Tollenaar, N. and Teerlink, M. (2022), Differences in recidivism trends among juveniles - Insight in the development of recidivism among different groups of juvenile offenders and persons released from juvenile detention ([Verschil in recidivetrends onder jeugdigen. Inzicht in ontwikkelingen in recidive onder verschillende groepen jeugdige justitiabelen](#)), Research and Documentation Centre - Ministry of Security and Justice.

	<p>offenders (persons who are convicted under the juvenile criminal law in the years 2008 up to and including 2017) and persons released from juvenile detention in the years 2008 up to and including 2017. Both groups are followed up to July 2020 to determine the prevalence, frequency and relative risk of recidivism using data from the Research and Policy Database for Judicial Information (OBJD) to calculate reconviction rates. The use of the OBJD implies that only crime that comes to the Public Prosecution Service's attention is included in this study. The study concludes that a third of the juvenile offenders and more than half of the persons released from juvenile detention. For both juvenile offenders and people released from juvenile detention the relative risk of recidivism increases significantly over the cohorts 2011 up to and including 2015. This increase cannot be fully explained by changes in group composition. When all background characteristics are taken into account, there is still a significant increase in the relative risk of recidivism over the cohorts. Trends in recidivism prevalence and recidivism frequency vary between subgroups with different demographic, socioeconomic, criminal and neighbourhood characteristics. Recidivism prevalence and frequency were already high and increase relatively strong for juveniles living in institutions, juveniles with earlier convictions, juveniles in low income households and juveniles in neighbourhoods with high crime rates. The increase in the share of juveniles with earlier convictions can be partly explained by introduction of adolescent criminal law. Adolescent criminal law makes it possible that majors aged 18 to 22 can be convicted by juvenile criminal law or placed in juvenile detention study aims to explain the trends in reconviction rates over time and to describe group differences in reconviction rates.</p>
<p><b>Other measures or initiatives</b></p>	<p>On 15 august 2022 a study on how judges and public prosecutors think about sentencing and sentencing goals in serious criminal cases of youth and young adults was published.<sup>158</sup> The study was commissioned by the Ministry of Security and Justice and carried out by scholars from several Dutch universities. The study is based on legal-theoretical research and two</p>

<sup>158</sup> Huls, E., Asscher, J., Van den Brink, Y., Creemers, H., Liefwaard, T. & Rap, S. (2022), Sentencing and sentencing goals in serious criminal cases of youth and young adults ([Strafmaat en strafdoelen in ernstige jeugd en adolescentenstrafzaken](#)), Leiden / Amsterdam / Utrecht, Leiden University / University of Amsterdam / VU University Amsterdam / Utrecht University.

empirical research methods: a survey among prosecutors and judges who handle (youth) criminal cases and criminal cases against young adults (N = 140) and in-depth interviews with a selection of 25 respondents (n = 15 from the judiciary, n = 10 from the prosecution). This study shows a diverse picture of the experiences and views of judges and prosecutors regarding the youth sentencing system applying to 16- to 23-year-olds who are guilty of a serious violent or sexual offence. It has become clear that the results of this study do not lend themselves to an unequivocal answer to the central research question. In the case of 16- and 17-year-olds, the majority of the respondents indicate that they can work with the current system of youth sentencing (72%) and that they have no desire to increase the maximum term of youth detention for serious violent and sexual offences (61%). Respondents show greater support for such an increase for 18- to 23-year-olds. Although 63% of the respondents state that the current system of youth sentencing for young adults found guilty of serious violent or sexual offences is adequate, 61% of the respondents in this target group would like to see the maximum term of youth detention increased. It is striking that the need for an increase in the maximum term of youth detention for both age groups is felt significantly less by participating judges compared to the participating prosecutors. The interviews revealed an equally diverse picture of the underlying experiences, views and arguments. In addition, the above results cannot be viewed separately from the legal and legislative consequences, other concerns, and the legal and scientific relevant context. Ultimately, it is up to the legislator to decide on the desirability of adapting the statutory youth sentencing system with respect to minor and young adults who are guilty of a serious violent or sexual offence. This also applies to the decision on a possible increase of the maximum duration of youth detention.

A report conducted by Inspectorate of Justice and Security concludes that Dutch Probation Service makes insufficient use of adolescent criminal law.<sup>159</sup> Adolescent criminal law ACL took

<sup>159</sup> The Netherlands, Inspectorate of Justice and Security (2022), Bespoke counselling. An investigation into the quality of the probation service's counselling task ([Op maat adviseren. Een onderzoek naar de kwaliteit van de adviestaak van de reclassering](#)).

	<p>effect on 1 April 2014. It allows a more flexible use of juvenile and adult criminal law sanctions for 16 to 23-year-olds in the prosecution and trial of a young adult. The application of both a sanction from juvenile criminal law and a sanction from adult criminal law are possible. The Justice and Security Inspectorate sees two important reasons for not using adolescent criminal law. Firstly, the probation service does not always strike a good balance between juvenile and adult criminal law. Secondly, the advice for juvenile criminal law is often not feasible in practice because the right treatments are not available for these young people. This is because municipalities have insufficiently purchased the treatments or because there are waiting lists for these treatments.</p>
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## **7 Access to justice – Victims’ Rights and Judicial Independence**

### **7.1 Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025**

On 31 March 2022 a study about the psychosocial support provided by Victim Support Netherlands was published<sup>160</sup>. The study was conducted by the Netherlands Institute for the Study of Crime and Law Enforcement (*Nederlands Studiecentrum voor Criminaliteit en Rechtshandhaving*) on commission of the Ministry of Security and Justice. The aim of this study was to determine what type of psychosocial support is offered by Victim Support Netherlands (*Slachtofferhulp Nederland*) to victims of serious violent and sexual crimes together with any theories underlying its policy, and to investigate whether the support offered is in line with what is known in current scientific literature. The study is divided into a number of sub-studies, in which various methods were used: desk research; interviews with 14 employees of Victim Support; interviews with 11 victims; a survey among 102 former clients of Victim Support; and research in the registration system of Victim Support. Conclusion of this study is that, the Victim Support's means of support of providing information, normalization and watchful waiting is in line with the Dutch and European guidelines. Due attention is paid to the client's self-reliance and resilience, and referrals are made if treatment seems desirable, in line with what is known about this from the literature and therefore evidence-based. Support provided by Victim Support Netherlands contributes to reaching the policy objective of providing victims who need it with support in overcoming the consequences of a serious violent and sexual offence. The study contains three recommendation: (1) examining whether it would be possible to provide aftercare for some clients since some clients indicate that the service occasionally stops too abruptly; (2) implementing an alternative source of information (a victim panel) for evaluation purposes because the internal registration system of Victim Support provides too little information; (3) examining what happens to victims after they have been referred by Victim Support to other organisations.

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<sup>160</sup> Kragting, M., Elbers, N.A., Mooren, T., Spoelstra, M. & Bijleveld, C. (2022), What works - Psychosocial support by Victim Support Netherlands ([What works - Psychosociale dienstverlening Slachtofferhulp Nederland](#)), Amsterdam, Netherlands Institute for the Study of Crime and Law Enforcement.

On 23 May 2022 the Minister for Legal Protection submitted a policy letter that informs the House of Representatives about the Long-Term Agenda for Victim Policy 2022-2025 (*Meerjarenagenda Slachtofferbeleid 2022-2025*).<sup>161</sup> This letter outlines the policy goals of the national government for the period 2022-2025. The policy informs about the implementation of the Act extending the rights to the victim in the Criminal Code and the Code of Criminal Procedure.<sup>162</sup> This Act will take effect on 1 July 2022, 1 January 2023 and 1 July 2023. The bill for this Act passed the Senate on 20 April 2021. This Act leads to several major changes. As of 1 July 2022 the right to address the court will take place at a fixed time during the trial, namely prior to the public prosecutor's closing argument. As of 1 January 2023 the Act entitles the stepfamily of the victim to make a victim impact statement during the trial, and makes it mandatory that victims will be consulted on the special conditions that can be attached to the conditional end of the detention under hospital orders (TBS) imposed on a person convicted for a serious violent or sex crime. As of 1 July 2023, the Act makes it compulsory for defendants charged with serious violent crimes or serious sex offences to be present at the trial when victims make their victim statement.

Other policy goals announced in this letter are<sup>163</sup>:

- A more active approach by Victim Support Netherlands regarding the legal support of victims. At the moment this active approach only relates to offering offer practical and emotional support.
- A plan by the National Police to improve the individual assessment of victims by the police. The method of individual assessment of victims introduced in 2018 was a new task for the police. This plan focuses on improving the training for police officers, enhancing job performance and better information sharing between the police, Victims Support and the Public Prosecution Service.
- A plan for a more consistent and affordable compensation system for victims of a criminal offense. This plan will be presented at the end of 2022.
- Improving the internet portal for victims ([MijnSlachtofferzaak.nl](https://mijnslachtofferzaak.nl)), improving the support for victims of sex offences, improving the support of victims of hate crime, to support victims in cleaning crime scenes, and stimulating restorative justice in detention

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<sup>161</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2022), 'Long-Term Agenda for Victim Policy 2022-2025' ([Meerjarenagenda Slachtofferbeleid 2022-2025](#)), Letter to House of Representatives, 23 May 2022.

<sup>162</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2022), Act extending victim rights ( [Wet uitbreiding slachtofferrechten](#) )

<sup>163</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2022), 'Long-Term Agenda for Victim Policy 2022-2025' ([Meerjarenagenda Slachtofferbeleid 2022-2025](#)), Letter to House of Representatives, 23 May 2022.

On 16 May 2022, the Advisory Division of the Council of State (*Raad van State*) published its advisory report on the new Code of Criminal Procedure.<sup>164</sup> The government is working on a new Code of Criminal Procedure.<sup>165</sup> On 2 April 2021, the government decided to adopt the Bill implementing the new Code of Criminal Procedure.<sup>166</sup> Chapter IIIA of the current Code (on the legal position of the victim) will be replaced by Chapter 5 of Book 1 in the new Code. The first title of this chapter contains a definition of the term of victim. The second title contains a number of articles in which the rights of the victim are laid down. The third title elaborates on the claim for compensation, with which the injured party can join the criminal proceedings. The fourth title contains the legal remedies that can be used by the victims. In its advisory report, the Council of State states that since 1992 the position of the victim has been strengthened considerably.<sup>167</sup> The new Code contains few major changes regarding the position of the victim. The Council of State welcomes this given the rapid development of victims' rights in recent decades. The Council of State recognises the importance of a good position of the victim in the criminal process.<sup>168</sup> However, granting more legal victim rights does not necessarily lead to better outcomes for the victim. The real benefit for a victim can be achieved through proper implementation and practical enforcement of existing laws and regulations.

The new Code adds a small number of changes strengthening the position of the victim. An important improvement in the legal rights position of victims is the possibility to separately deal with the claim for compensation submitted by the victim as an injured party after the closing of the criminal case. In this stage (of separate treatment) the court can impose compensation measures. A declaration of inadmissibility of the claim due to the disproportionality of the burden on the criminal proceedings is no longer an issue in that case. In the new Code victims are granted the opportunity, as a directly interested party, to complain about the lack of prosecution as well as about the lack of investigation. At the end of 2022, the Bill implementing the new Code of Criminal Procedure was not submitted by the government to the House of Representatives yet.

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<sup>164</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Adviserig Raad van State*) (2022), Advisory report on the New Code for Criminal Procedure ([Advies Wet seksuele misdrijven](#)).

<sup>165</sup> The Netherlands, National Government (*Rijksoverheid*) (2022), '[Modernisation of the Code of Criminal Procedure](#)'.

<sup>166</sup> The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2021), '[Nieuwe Wetboek van Strafvordering voor advies naar Raad van State](#)', News release, 2 April 2021.n

<sup>167</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Advisering Raad van State*) (2022), Advisory report on the New Code for Criminal Procedure ([Advies Wet seksuele misdrijven](#)).

<sup>168</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Advisering Raad van State*) (2022), Advisory report on the New Code for Criminal Procedure ([Advies Wet seksuele misdrijven](#)).

On 21 June 2022, the Senate<sup>169</sup> passed the bill for the Act on the Innovation of Criminal Proceedings (*Innovatiewet Strafvordering*)<sup>170</sup>. This bill anticipates the new Code of Criminal Procedure. It amends the present Code of Criminal Procedure on five topics, so that experience can be gained in anticipation of the new Code of Criminal Procedure. Thus, the Act consists of five measures which will also be laid down in the new Code of Criminal Procedure. One of these measures concerns victim rights and concerns the mediation between perpetrator and victims under supervision of a mediator. A regulation is introduced for the way in which mediation can take place after the start of the investigation at the court hearing. This is already happening in practice, but the proposal is more elaborate and clarifies the consequences of mediation in that situation. The Act took effect on 1 October 2022.

## 7.2 Measures addressing violence against women

On 20 January 2022, YouTube programme Boos (angry), which is run by public broadcasting company BNNVARA, reported on sexual abuse and abuse of power perpetrated by members of the talent show The Voice of Holland of Broadcaster RTL.<sup>171</sup> It states that several women claim they have been the victims of sexual misconduct during their time with the show. In spring 2021, the Boos editorial team were told about apparent inappropriate sexual behaviour on the set of The Voice of Holland. Broadcaster RTL decided to stop The Voice of Holland. The affair caused a social stir in the Netherlands. Another major incident was the resignation of the director of football of football at Ajax football club e resigned from his position on 6 February 2022. after admitting to sending a series of inappropriate messages to female colleagues. The national government responded by drafting a National action plan on sexual transgressive behaviour and sexual violence (*Nationaal actieplan seksueel grensoverschrijdend gedrag en seksueel geweld*).

Both incidents made also the national government decide to set up a Government commissioner on sexual transgression and sexual violence.<sup>172</sup> On 5 April 2022, the Government commissioner on sexual transgression and sexual violence (*Regeringscommissaris seksueel grensoverschrijdend gedrag en seksueel geweld*)

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<sup>169</sup> The Netherlands, Senate (*Eerste Kamer*) (2022), Innovation Criminal Proceedings Act, Web page. ([Innovatiewet Strafvordering](#)).

<sup>170</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), Innovation Criminal Proceedings Act, ([Innovatiewet Strafvordering](#)).

<sup>171</sup> BNNVARA (2022), This is the Voice of Holland : [BOOS \(20 January 2022\)](#)

<sup>172</sup> The Netherlands, National Government (2022), Government strengthens approach to sexually transgressive behaviour and sexual violence by instituting government commissioner ([Kabinet versterkt aanpak seksueel grensoverschrijdend gedrag en seksueel Cabinet geweld met regeringcommissaris](#)), News item, 8 February 2022.

started with her activities.<sup>173</sup> The Government commissioner is tasked with advising the government, solicited and unsolicited, on measures needed to combat sexually transgressive behaviour and sexual violence.

On 13 June 2022, the Advisory Division of the Council of State (*Raad van State*) published its advice<sup>174</sup> on the Draft Bill sexual offences.<sup>175</sup> In this bill the definition of rape and sexual assault no longer depend on force but on the lack of consent. Currently, the Dutch Criminal Code defines rape as the 'actions comprising or including the sexual penetration of the body' that have taken place by force (Art. 242). Force is specified as 'coercion through violence, the threat of violence or through another act or the threat of another act'. Under the revised draft Bill, rape and sexual assault do not depend on whether the perpetrator breaks the will of the victim. Instead, the threshold for sexual assault and rape is the absence of will: when the other person shows explicit verbal or physical restraint in behaviour, markedly passive behaviour, or when, obvious (non)verbal signs, indicate reluctance on her or his part. The revised draft Bill distinguishes between sexual assault and rape where the perpetrator knew that the victim did not want the sexual acts but performed them anyway (Arts. 241 and 243) – with a higher maximum penalty in case of force, violence or threat – and sexual assault and rape where the intentions of the victim cannot be established, but where the perpetrator had serious reason to suspect that the other person did not consent (Arts. 240 and 242). The revised draft Bill also introduces a new article in the Criminal Code (Article 429ter) that criminalises sexual harassment in public. The Advisory Division of the Council of State (*Raad van State*) agrees with the government that the criminalization of sexual offenses should be reviewed. The bill is more in line with modern views and insights about sexually transgressive behaviour, technological developments and international obligations. The Advisory Division of the Council of State warns that expectations about the new law should not be too high. Sexual crimes are and often remain difficult to prove if the suspect and the victim contradict each other. Moreover, the police and the Public Prosecution Service must have sufficient capacity to detect and prosecute these crimes. That capacity is currently lacking.

On 11 October 2022, the Minister of Justice and Security submitted the Draft Bill on Sexual Offences to the House of Representatives.<sup>176</sup>

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<sup>173</sup> The Netherlands, National Government (*Rijksoverheid*) (2022), 'Mariëtte Hamer starts today as government commissioner on sexual transgression and sexual violence' (['Mariëtte Hamer start vandaag als regeringscommissaris seksueel grensoverschrijdend gedrag en seksueel geweld'](#)), News release, 5 April 2022.

<sup>174</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Adviserinf Raad van State*) (2022), Advisory report on the Bill Sexual Offences ([Advies Wet seksuele misdrijven](#)).

<sup>175</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2021), Draft Bill on sexual offences ([Concept wetsvoorstel seksuele misdrijven](#)).

<sup>176</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), Bill on sexual offences ([Wetsvoorstel seksuele misdrijven](#)).

On 27 June 2022 the Minister of Education, Culture and Science and the Minister of Social Affairs and Employment submitted a policy letter containing the outlines of a national action plan on sexual transgressive behaviour and sexual violence to the House of Representatives.<sup>177</sup> The final action plan was scheduled to be published in the autumn of 2022. But at the end of 2022 no action plan was published. The overarching aim of the approach in the national action plan is to prevent sexually transgressive behaviour and sexual violence and to achieve a society in which everyone feels safe. This requires a culture change. To achieve this, the national action plan sets out the following goals:

1. To establish social norms and to get a general picture of how we want to interact with each other in society, with explicit attention to gender stereotyping and power inequality;
2. To set strict formal standards in laws and regulations;
3. To support organisations, municipalities and associations on how to develop policies on how to combat and to prevent sexually transgressive behaviour and sexual violence;
4. To support bystanders;
5. To improve the accessibility of emergency services for victims and perpetrators;
6. To improve for victims the use of and guidance to adequate and effective help.

On 26 September 2022, a study on the role of gender in violence was sent by the national government to the House of Representatives.<sup>178</sup> The study was conducted by research institute Regioplan and commissioned by the Ministry of Health, Welfare and Sport. Goal of this study was to examine how already available data on domestic and sexual violence and homicide can provide insight into the role of gender in this violence. This study uses data collected by Netherlands Statistics: the first edition of the survey study Prevalence Monitor Domestic Violence and

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<sup>177</sup> The Netherlands, Minister of Education, Culture and Science / Minister of Social Affairs and Employment (*Minister van Onderwijs, Cultuur en Wetenschap / minister van Sociale Zaken en Werkgelegenheid*) (2022), 'Outline national action plan on sexual transgressive behaviour and sexual violence', ([Inhoudelijke contouren nationaal actieplan seksueel grensoverschrijdend gedrag en seksueel geweld](#)), Letter to House of Representatives, 27 June 2022.

<sup>178</sup> Duysak, S., Galesloot, N., Korfs, W., and Schols, H. (2020), The role of gender in violence. Research report ([De rol van gender bij geweld. Onderzoeksrapport](#)), Amsterdam, Regioplan.



Sexual Violence <sup>179</sup> and homicide figures <sup>180</sup>. The data in the Prevalence Monitor were collected in 2020. The homicide figures relates to the period 2016-2020. Some central findings of this finding are:

- Women are more likely to be victims of domestic violence. Over the past 12 months, 9 % of women have been victims of some form of domestic violence compared to 7 % of men.
- Women are more often victims of (ex-)partner violence than men. Six in 10 victims of (ex-)partner violence are women; four in 10 are men.
- Women are much more likely to be victims of sexual violence than men. Over the past 12 months, 15 per cent of women were victims of some form of sexual violence compared to 7 per cent of men.
- Differences between women and men are also more pronounced when zooming in on serious violence. In the past five years, 3 per cent of women were victims of severe physical sexual violence compared to 1 per cent of men. Female victims of severe physical violence also tend to be victims of multiple forms of severe physical violence than men. In the vast majority, serious violence is committed by a man.
- Women are almost five times more likely than men to be victims of murder and/or manslaughter by someone in the home, and almost 14 times more likely to be victims of their (ex-)partner.

On 21 September 2022, a study on sexual violence was published.<sup>181</sup> The study was conducted by research institute Rutgers and commissioned by the Ministry of Security and Justice. Goal of this study was to conduct secondary analyses on the data collected as part of the Prevalence Monitor Domestic Violence and Sexual Violence 2020 (conducted by Statistics Netherlands in 2020)<sup>182</sup> with the aim of distinguishing important phenomena related to sexual victimization and better mapping victim-perpetrator relationships. For every phenomenon in this study, it was found that women are much more likely to be victims of sexual victimisation

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<sup>179</sup> Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2020), Prevalence Monitor Domestic Violence and Sexual Violence 2020 ([Prevalentiemonitor Huiselijk Geweld en Seksueel Geweld 2020](#)).

<sup>180</sup> Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2021), Deceased, murder and manslaughter, location Netherlands, Statline ([Overledenen, moord en doodslag, pleeglocatie Nederland](#)).

<sup>181</sup> Joemmanbaks, F. & De Graaf, H. (2022), Phenomena of sexual violence in the Netherlands; secondary analyses on data of the Prevalence Monitor Domestic Violence and Sexual Violence 2020 ([Fenomenen van seksueel geweld in Nederland. Secundaire analyses op data van de Prevalentiemonitor Huiselijk Geweld en Seksueel Geweld 2020](#)), Utrecht, Rutgers.

<sup>182</sup> Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2020), Prevalence Monitor Domestic Violence and Sexual Violence 2020 ([Prevalentiemonitor Huiselijk Geweld en Seksueel Geweld 2020](#)).

than men.<sup>183</sup> For example, 7.4% of women have experienced offline nonverbal sexual harassment and 7.3% experienced offline verbal sexual harassment. For men, these percentages are 1.3% and 2.5%, respectively. In addition, women are also relatively often victims of online verbal sexual harassment (5.6%) and physical sexual violence without penetration (4.8%). In almost all phenomena, young women aged 16 to 24 and bisexual men and women, are primarily affected by sexual victimisation. For example, nearly a quarter (24.9%) of young women aged 18 to 24 have experienced offline nonverbal sexual harassment, while a fifth of young women (21.5%) aged 16 to 18 have experienced online verbal sexual harassment. In addition, just over a quarter (26.2%) of bisexual women and an eighth (12.5%) of bisexual men have experienced offline verbal sexual harassment in the past 12 months. Bisexual men and women do not conform to heteronormative norms, which prompts some perpetrators to harass them. For most phenomena in this study, the perpetrator is usually an acquaintance. This can be a colleague or teammate, but also a doctor, religious leader or an online contact. Among female victims of online verbal sexual harassment, that perpetrator is an acquaintance in almost three-quarters (72.0%) of the cases. Similarly, physical sexual violence with and without penetration is primarily (70.0%) perpetrated by an acquaintance among female victims. However, there are a few exceptions. The perpetrator is most often a stranger for male victims of online verbal sexual harassment (54.1%) and female victims of offline nonverbal sexual harassment (72.1%)

On 4 November 2022 the Minister of Justice and Security submitted by letter<sup>184</sup> the Action plan on strengthening the chain approach to sexual offences (*Actieplan versterken ketenaanpak zedenzaken*)<sup>185</sup> to the House of Representatives. The objective of this plan is to reduce the processing time of sexual offence cases in the criminal justice system. The Action Plan contains three main lines of action: (1) focusing on meaningful interventions; (2) optimising work processes within and between the involved organisations; (3) improving capacity and priority management. Each of these action lines aims to contribute to shortening the processing times, but also serves the broader objective of the Action Plan to improve and further professionalise the handling of sexual offence cases by criminal justice organisations and to improve and professionalise their approach to sexual offences cases. In the context of the meaningful disposal of cases, a topic central to Action Line 1, it is for example, it will be examined whether - if a victim so desires - wider use can be made of restorative justice. Cooperation

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<sup>183</sup> Joemmanbaks, F. & De Graaf, H. (2022), Phenomena of sexual violence in the Netherlands; secondary analyses on data of the Prevalence Monitor Domestic Violence and Sexual Violence 2020 ([Fenomenen van seksueel geweld in Nederland. Secundaire analyses op data van de Prevalentiemonitor Huiselijk Geweld en Seksueel Geweld 2020](#)), Utrecht, Rutgers.

<sup>184</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2022), 'Action plan strengthening the chain approach to sexual offence cases' ([Actieplan versterken ketenaanpak zedenzaken](#)), Letter to House of Representatives, 4 November 2022.

<sup>185</sup> The Netherlands, Action plan strengthening the chain approach to sexual offence cases ([Actieplan versterken ketenaanpak zedenzaken](#)).



between the organisations in the criminal justice system or chain and reviewing and improving working agreements between them, is central to action point 2. Action point 3 examines, among other things, the question of the staffing of the organisations involved.

On 6 November 2022, the Sexual Assault Centre (*Centrum Seksueel Geweld*) published its annual report about 2021.<sup>186</sup> More victims reported to the Centre for Sexual Violence again in 2021. Despite COVID, 33% more victims found their way to the Sexual Assault Centre in 2021 than the previous year. The Sexual Assault Centre continues to see the number of victims reporting increasing every year, with 2022 seeing the biggest peak (10,000 victims) since the Sexual Assault Centre was established in 2012-2016. The Sexual Assault Centre provide immediate help for anyone who has been sexually assaulted or raped. At the Sexual Assault Centre, a team of doctors, nurses, police officers, psychologists, social workers and sex therapists work together to provide specialist care to victims of sexual assault and rape.

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<sup>186</sup> Sexual Assault Centre (*Centrum Seksueel Geweld*) (2022), *Annual report Sexual Assault Centre 2021* ([Jaarverslag Centrum Seksueel geweld 2021](#)).

## **8 Developments in the implementation of the Convention on the Rights of Persons with Disabilities**

### **8.1 CRPD policy and legal developments & implementation of the European Accessibility Act**

The Netherlands has not ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities. On 28 June 2022, the Advisory Division of Council of State (*Raad van State*) sent an advisory report to the government on the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities.<sup>187</sup> In this report the Council of State does not give a positive or negative opinion for ratification, but provides points for consideration for determining the government position on ratification.

From 22 December 2021 to 25 March 2022, an internet consultation on the draft bill on the implementation of Directive (EU) 2019/882 was opened.<sup>188</sup> The Netherlands Institute for Human Rights made an advisory report on this draft bill.<sup>189</sup> This report contains the following three recommendations:

1. The Institute recommends deleting the proposed amendment to the Equal Treatment on the Grounds of Disability or Chronic Illness Act (*Wet Gelijke Behandeling / Chronische Ziekte*). According to this Act, providers of products and services

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<sup>187</sup> The Netherlands, Advisory Division of Council of State (*Afdeling Adviserinf Raad van State*) (2022), Information on the Optional Protocols to the UN Convention on Disability and UNESCR and the 3rd Protocol to the UNCRC ([Voorlichting over de facultatieve protocollen bij het VN-verdrag handicap en IVESCR en het 3e protocol bij het IVRK](#)).

<sup>188</sup> The Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2021), Draft Bill for Act implementing the accessibility requirements for products and services ([Concept Wetsvoorstel. Implementatiewet toegankelijkheidsvoorschriften producten en diensten](#)).

<sup>189</sup> The Netherlands, Netherlands Institute for Human Rights (*College Rechten van de Mens*) (2022), Advice on draft bill implementing Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services ([Advies over het wetsvoorstel tot implementatie van Richtlijn \(EU\) 2019/882 van het Europees Parlement en de Raad van 17 april 2019 over toegankelijkheidsvoorschriften voor producten en diensten](#)).

are obliged to ensure general accessibility. They must also provide reasonable accommodations in individual cases if necessary. The proposed amendment to the Act stipulates that a provider automatically fulfils these obligations if the product or service complies with the new Accessibility Directive. This just does not mean that this is always sufficient for everyone. The adaptation therefore poses a great risk to the legal protection of people with disabilities.

2. The Institute recommends to clarify which products and services are covered by the bill. It is now not always clear to consumers or providers which product or service should be accessible, while different rules may apply to similar situations.

3. The Institute recommends the government to consult with persons with disabilities and their representative organizations in the legislative process of this bill.

The regional Municipal Health Services (GGDs) monitor whether a person who tests positive for coronavirus lives in a disability care home<sup>190</sup> or in nursing home<sup>191</sup>. By doing so, measures can be taken by these home or local authorities if necessary.

From 27 June 2022 to 11 September 2022, an internet consultation on the draft General Administrative Order implementing Directive (EU) 2019/882 in public transport was opened.<sup>192</sup>

On 25 October 2022, the responsible public authorities and the public transport operators signed the Administrative Agreement on Public Transport Accessibility 2022-2032.<sup>193</sup> This agreement contains measures to make public transport more accessible. The agreement aims to improve for the period 2022-2032:

1. the accessibility of bus, tram and metro stops

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<sup>190</sup> The Netherlands, National Government (*Rijksoverheid*) (2022), '[Disability care homes - Confirmed cases among residents](#)', Web page, Corona Dashboard.

<sup>191</sup> The Netherlands, National Government (*Rijksoverheid*)(2022), '[Nursing care homes - Confirmed cases among residents](#)', Web page, Corona Dashboard.

<sup>192</sup> The Netherlands, State Secretary for Infrastructure and Water Management (*Staatssecretaris voor Infrastructuur en Waterstaat*)(2022), Draft Public transport accessibility amendment decree ([Concept Wijzigingsbesluit toegankelijkheid van het OV](#)).

<sup>193</sup> The Netherlands, National Government (2022), Administrative Agreement Accessibility Public Transport 2022-2032 (final version 25-10-2022) ([Bestuursakkoord Toegankelijkheid Openbaar Vervoer 2022-2032 \(eindversie 25-10-2022\)](#)).

2. the accessibility of toilets at stations and in trains
3. the accessibility of scheduled buses, community buses and new forms of public transport
4. the travel assistance for those who need it
5. the availability of up-to-date and accessible information for travellers if there is a problem with the accessibility of public transport facilities such as stations, platforms and lifts

## **8.2 CRPD monitoring at national level**

On 28 February 2022, the Netherlands Institute for Human Rights published the third report in a monitor on the inclusion of people with disabilities in Dutch society.<sup>194</sup> This third report covers the year 2020 and follows a first report that dealt with 2012 and a second report that dealt with 2016. The monitor contains 37 indicators that provide insight into the level of participation of people with disabilities in the areas of independent living, participation in society, education and employment. A total of 37 indicators were measured by Statistics Netherlands. Each of these indicators can be traced back to a provision of the Convention. These measurements show the extent to which people with disabilities can actually participate and how their participation compares with that of people without disabilities. The indicators in this report address the treaty provisions on the right to live independently and be part of society (Article 19 CRPD), the right to work and employment (Article 27 CRPD) and the right to education (Article 24 CRPD). The general conclusion of this report is that people with disabilities in all three areas - housing, work and education - are less able to participate in society than people without disabilities. But different groups of people with disabilities have different experiences. In general it can be said that the more severe the nature of the disability, the less or more difficult it is to participate. The Institute sees that it is precisely with these groups, which most need support or adaptation to be able to participate, that matters are less well organised,

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<sup>194</sup> The Netherlands, Netherlands Institute for Human Rights (*College Rechten van de Mens*) (2022), Understanding inclusion III : Participation of people with disabilities in independent living in society, education and employment ([\*Inzicht in inclusie III : Participatie van mensen met een beperking op het gebied van zelfstandig leven in de maatschappij, onderwijs en werk\*](#)),, Utrecht, College voor de Rechten van de Mens.

In addition to these general findings, the Institute sees a number of striking issues with each of the three treaty articles examined.

On the right to live independently and be part of society (Article 19 CRPD): Most people with disabilities receive the adaptation or support that enables them to live comfortably and to participate in society. At the same time, people who urgently need adjustment or support, such as people with a serious physical disability, are less often helped satisfactorily. Participation of people with disabilities has come under pressure with regard to the use of neighbourhood facilities, such as parks, public transport or shops during the pandemic. Even before the crisis, people with disabilities already used the neighbourhood facilities less often than people without disabilities.

On the right to work and employment (Article 27 CRPD). Despite some hopeful trends and the tight labour market that has created opportunities for some people with disabilities, the employment position of people with disabilities remains vulnerable. This is especially the case for the groups of people with a mental illness, people with more severe forms of physical disability and people with an intellectual disability. They are less often in paid work, even if they would like to, and they do not always receive the support and aids they need.

On the right to education (Article 24 CRPD). The measurement of the indicators on education does not provide a conclusive picture of the educational position of pupils with a disability. In particular, there is a lack of data to be able to say something well-founded about reasonable accommodation and effective measures, tailored to the individual. One of the most important findings of this measurement is that many children and young people with disabilities still fall outside the regular education system. They are not in school or go to special education. Their share is highest among the group of students with intellectual disabilities.

On 6 February 2022, the Netherlands Institute for Human Rights submitted a report to the Committee on the Rights of Persons with Disabilities.<sup>195</sup> This report provides the Committee with additional information on the status of the implementation of the

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<sup>195</sup> The Netherlands, Netherlands Institute for Human Rights (*College Rechten van de Mens*) (2022), [Additional Report to the Committee on the Rights of Persons with Disabilities on the adoption of the List of Issues for the initial report of the Netherlands](#), Utrecht, College voor de Rechten van de Mens.

CRPD in the Netherlands. The report complements the report<sup>196</sup> submitted by the Institute in 2018 concerning the initial report of the Netherlands.

Overall the Netherlands Institute for Human Rights acknowledges in this additional report<sup>197</sup> that not only in the first 2 years, but also in the next 3 years following the ratification of the treaty (in 2016), efforts have been made to improve the realisation and implementation of the CPRD in the Netherlands.

However, the Netherlands Institute for Human Rights finds that the Netherlands are still to make more of an effort in various areas, in particular:

Participation in the law- and policymaking process: the participation of persons with disabilities in the law- and policymaking process is not structurally embedded in the Netherlands. This means there is no governmentwide procedure (yet) that helps to ensure that all government departments closely consult and actively involve persons with disabilities.

According to the Netherlands Institute for Human Rights, the Ministry that functions as the focal point should continue to encourage and facilitate other departments in fulfilling this obligation.

Provision of reasonable accommodation: persons with disabilities are still declined reasonable accommodation in different areas, such as employment, education and in relation to access to goods and services. More ought to be done to raise awareness of the responsibility to provide reasonable accommodation to persons with disabilities.

Access to social support services and aids: in different areas, such as living independently or personal mobility, persons with disabilities are confronted with complex administrative procedures to apply for social support and (mobility) aids. Information about where and how to apply is often unclear, and the application process takes a lot of time. Furthermore, there are no (binding) guarantees that persons will receive the same aid when moving to another municipality.

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<sup>196</sup> The Netherlands, Netherlands Institute for Human Rights (*College Rechten van de Mens*) (2018), [Submission to the Committee on the Rights of Persons with Disabilities. Concerning the initial report of the Netherlands](#), Utrecht, College voor de Rechten van de Mens.

<sup>197</sup> The Netherlands, Netherlands Institute for Human Rights (*College Rechten van de Mens*) (2022), [Additional Report to the Committee on the Rights of Persons with Disabilities on the adoption of the List of Issues for the initial report of the Netherlands](#), Utrecht, College voor de Rechten van de Mens.

Coordination mechanism: the first CRPD implementation plan 'Unlimited participation', developed by the focal point Ministry, ran until 31 December 2021. The Netherlands Institute for Human Rights deems it crucial that an adequate follow-up plan is developed. Furthermore, it is important that acquired knowledge and structures necessary for the proper implementation of the Convention will not be lost.

Covid-19 pandemic: persons with disabilities report obstacles in relation to the measures taken to combat the covid-19 pandemic. Due attention should be given to the position of persons with disabilities when adopting or phasing out measures in this regard.

One of the reports of the Senate's parliamentary committee of inquiry on the effectiveness of anti-discrimination legislation focused on discrimination of pupils with a disability in accessing primary education.<sup>198</sup> It is based on desk research and interviews with experts and parents. This study shows that children with disabilities have an unequal position in accessing primary education. At its core, this problem may have to do with how disabilities are viewed and dealt with in education. Thereby, problems in accessing education for children with disabilities arise in many ways. There are two major problems: (1) children with disabilities are not admitted to a regular school and end up (unintentionally) in special needs education, and (2) children are granted dispensation from compulsory education and end up sitting at home or being accommodated in a day-care centre or other care setting. Thereby, exclusion from mainstream education at an early age can lead to exclusion from mainstream society later in life. Because of the lack of research on discrimination against children with disabilities in education in the Netherlands, it is not clear what form of discrimination children with disabilities may face when they experience problems in accessing a primary school. Access problems seem to be well understood by the government and are being addressed through, among other things, extra supervision, better information about special needs education and experiments to see if the system needs to be adjusted. However, the authorities have no positive view on the inclusion of children with disabilities. At the implementation level, there are several initiatives by civil society organisations and schools and partnerships aimed at inclusive education, all of which contain elements of commitment to a positive view on inclusion in education. The movement towards inclusive education that seems to be emerging in the Netherlands is identified both from the Dutch education field and

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<sup>198</sup> Dibbets, A., Verhaar, S. & Terlouw, A. (2022), Do equal Justice, Report on education. Parliamentary inquiry on the effectiveness of anti-discrimination legislation ([Gelijk recht doen. Deelrapport onderwijs : Een parlementair onderzoek naar de mogelijkheden van de wetgever om discriminatie tegen te gaan](#)), The Hague, Senate (*Eerste Kamer der Staten-Generaal*).

internationally as the most promising approach against discrimination in access to education. With the ratification of the UN Convention on Disability, the Netherlands has also made commitments to work towards an inclusive education system. At the same time, there are still political and societal debates around the feasibility, affordability and effectiveness of inclusive education.

On 23 June 2022, Foundation Appt (*Stichting Appt*) published the results of its monitor on the accessibility of government apps.<sup>199</sup> It concludes that only 1,25 % of all governments apps are accessible despite the legal requirement on the accessibility of government apps. 11 of 523 government mobile applications are fully accessible and usable by people with disabilities. 62 apps are partially accessible.

On 13 September 2022, the National Ombudsman published a report on the financial difficulties of young people with disabilities who receive a Wajong benefit from the benefits agency UWV or a Participation Act benefit through the municipality.<sup>200</sup> Central question of this report is: To what extent do young people with disabilities experience financial difficulties due to the implementation of laws and regulations? The report is based on desk research, interviews with policy officers of municipalities and civil society organisations, interviews young people with a disability who receive a benefit and their families. The National Ombudsman concludes that the laws and regulations for young people with disabilities are too complex and put them at great risk of long-term financial hardship. According to the National Ombudsman, the government assumes that young people with a disability are self-reliant from the age of eighteen, possibly with the help of their environment. But this group has too low an income to make ends meet and is therefore dependent on the government. There is also little cooperation between the authorities and inflation, high energy prices and a tight housing market are causing even more problems. The National Ombudsman recommends that the government arrange more help for young people with disabilities in all areas of their life - from work to housing. He advocated for the use of personal counselors. That can be arranged through the Social Support Act. He also recommended raising the additional income limit so the young working people can keep more of their income. The

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<sup>199</sup> The Netherlands, Foundation Appt (*Stichting Appt*) (2022), 'Renewed monitor: 1 year since legal requirement on the accessibility of government apps', ([Vernieuwd onderzoek: 1 jaar sinds de wettelijke verplichting toegankelijkheid van overheidsapps](#)), Web page, 23 June 2022.

<sup>200</sup> The Netherlands, National Ombudsman (2022), Participation without restrictions. The financial difficulties of young people with disabilities in the Wajong and Participation Act ([Meedoen zonder beperkingen. De financiële problemen van jongeren met een beperking in de Wajong en Participatiewet](#)).



government must also more clearly explain how changes in their life will affect their income so that they are not caught off guard by an additional tax assessment or lower benefit.

On 5 December 2022, the Netherlands Institute for Human Rights published the sixth report as a part of its monitor on the implementation of the CRPD.<sup>201</sup> The report presents the situation in the Netherlands with regard to one aspect of the CRPD: the obligation imposed by article 20 on States Parties to ensure effective access to justice for persons with disabilities on an equal basis with other. This report is based on desk research and interviews with stake holders and with persons with a disability. The Netherlands Institute for Human Rights concludes that access to justice for persons with disabilities is not realized.

People with disabilities often do not even start proceedings because they do not know how to start these proceedings. This is due to complicated laws and regulations or a lack of accessible information about them.

Moreover, the report reveals that the knowledge about the rights of people with disabilities among professionals involved in legal protection is still insufficient. The Institute therefore recommends that the police and judiciary, the legal profession and the judiciary train people working for these bodies in the rights of people with disabilities.

Another important bottleneck is the accessibility of procedures. People with disabilities reported that it often happens that they cannot reach the locations. Besides physical accessibility, there are also problems around accessible information

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<sup>201</sup> The Netherlands, Netherlands Institute for Human Rights (College Rechten van de Mens) (2022), Legal protection for people with a disability. Annual report about the implementation of the CRPD in 2022 ([Rechtsbescherming van mensen met een beperking. Jaarlijkse rapportage over de naleving van het VN-verdrag handicap in Nederland 2022](#)).

The Institute recommends the national government to make and implement a national action plan to guarantee the legal protection of people with disabilities. This plan must be part of a multi-year strategy and the responsibility for this lies with the government. The national action plan must include concrete measures with special attention to autonomy, participation and accessibility, Moreover the Institute recommends the national government to sign the optional Protocol to the Convention on the Rights of Persons with Disabilities.

## Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socio-economic status, health status and physical appearance, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about participation and engagement of Equality bodies and CSOs in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.
<b>Title (original language)</b>	#DatMeenJeNiet / Dat Meen je niet
<b>Title (EN)</b>	You cannot be serious
<b>Organisation (original language)</b>	Movisie
<b>Organisation (EN)</b>	Movisie, national knowledge institute on social issues.
<b>Government / Civil society</b>	Civil society
<b>Funding body</b>	Government

<b>Reference (incl. URL, where available)</b>	<p>Broekroelofs, R., Van Slobbe, C., Verloove, J., Van den Hee, M. and Ebers, M. (2022), #DatMeenJeNiet Intervening in online discrimination: lessons learned. Final report project #DatMeenJeNiet (<a href="#">Ingrijpen bij online discriminatie: lessons learned. Eindrapportage project #DatMeenJeNiet</a>), Utrecht. Movisie.</p> <p>Movisie (2022), e-learning #DatMeenJeNiet Recognising and countering online discrimination. Manual for professionals (<a href="#">e-learning #DatMeenJeNiet Herkennen en tegengaan van online discriminatie. Handleiding voor professionals</a>), Utrecht, Movisie.</p>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	<p>August 2019 - August 2022</p>
<b>Type of initiative</b>	<p>Training</p>
<b>Main target group</b>	<p>Young People</p>
<b>Indicate level of implementation: Local/Regional/National</b>	<p>National</p>
<b>Brief description (max. 1000 chars)</b>	<p>The aim of #ThatMeenJeNot (hashtag of a Dutch expression which means you cannot be serious) was for young people to propagate the social norm that online discrimination is not acceptable by taking action against online discrimination on social media more often. In the project, 34 adolescents and young adults were trained and followed in speaking out against online discrimination on social media. These participants are called upstanders because they stood up against online discrimination and hatespeech online. They did this by speaking out publicly and through private messages (DMs) on their own social media channels. For example, by proactively posting information, tips or stories of experience about discrimination or by responding to a discriminatory or hateful comment.</p> <p>The project resulted in a training manual for teachers and professionals who which can be used who want to teach or train young people in recognizing discrimination online discrimination and how to respond to it.</p>
<b>Highlight any element of the actions that is</b>	<p>The whole practice is transferable.</p>

<b>transferable (max. 500 chars)</b>	
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	The practice was a three-year project. Lessons learned during this project were used in training manual for professionals so the that the lessons learned during the project will have a lasting effect.
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	The assessment report of the practice found that both upstanders and their followers also find the collective speaking out against discrimination 'empowering', as it makes them feel less alone in their experiences and makes them feel that opposing discrimination is taken seriously.
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	Because online discrimination is a problem in every Member State,
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	The report assessing the practice by monitoring the actions from the usptanders and interviewing uostanders and follwers ollowing and found that the actions of the upstanders have mainly contributed to awareness and knowledge among their followers about (online) discrimination in general and the various forms of discrimination in particular. Followers indicate that speaking out against discrimination is topical and necessary, that the intersectional approach of #DatMeenJeNiet appeals to them, that they find the project 'connecting'. Both upstanders and their followers also find the collective speaking out against discrimination 'empowering', as it makes them feel less alone in their experiences and makes them feel that opposing discrimination is taken seriously. The study also concludes that actually activating bystanders through a group of upstanders is difficult.
<b>Explain, if applicable, how the practice provides for</b>	The practice has been assessed by Movisie, national knowledge institute on social issues.

<b>review and assessment.</b>	Broekroelofs, R., Van Slobbe, C., Verloove, J., Van den Hee, M. and Ebers, M. (2022), #DatMeenJeNiet Intervening in online discrimination: lessons learned. Final report project #DatMeenJeNiet ( <a href="#">Ingrijpen bij online discriminatie: lessons learned. Eindrapportage project #DatMeenJeNiet</a> ), Utrecht. Movisie.
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice in relation to the two topics addressed in the chapter: regarding the implementation of national action plans and regarding the legal or policy developments addressing Roma/Travellers equality and inclusion.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please, provide one example of a promising practice related to the topics addressed in the chapter, i.e., in relation to data protection, and/or artificial intelligence systems.
<b>Title (original language)</b>	Solliciteren bij de robotrecruiter
<b>Title (EN)</b>	Applying for a job with the robot recruiter
<b>Organisation (original language)</b>	College voor de Rechten van de Mens
<b>Organisation (EN)</b>	Netherlands Institute for Human Rights
<b>Government / Civil society</b>	Civil Society
<b>Funding body</b>	National government
<b>Reference (incl. URL, where available)</b>	Netherlands Institute for Human Rights ( <i>College voor de Rechten van de Mens</i> ) (2022), Applying for a job with the robot recruiter ( <a href="#">Solliciteren bij de robotrecruiter</a> ).

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2022-
<b>Type of initiative</b>	Awareness raising tool
<b>Main target group</b>	
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	A short visual story website in which we follow Salma and Richard during their application process. Through their story, it becomes clear how application algorithms can sometimes (unintentionally) reduce the chances of jobseekers, for example because of their gender or ethnicity, or because they have a disability. At the end of the website the tool informs individuals how to handle and where they can go to in case that they have been rejected or that they found out that certain software has been used.
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The whole practice is transferable.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	Because is supported and maintained by the Netherlands Institute for Human Rights.
<b>Give reasons why you consider the</b>	Because it informs in a very concrete way the risks involved by using algorithms in recruitment processes.

<b>practice as having concrete measurable impact</b>	
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	Because the use of algorithms in the recruitment process and the risks involved are
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	The practice is made by Netherlands Institute for Human Rights that has done a lot of research on the use by employers of algorithms and the risks of exclusion and discrimination.
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	The practice is a website so the number of visitors can be monitored.

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide a promising practice for the related topics addressed in the chapter (i.e., the impact of poverty and exclusion on children and children and justice).</b>
<b>Title (original language)</b>	Landelijke pilot Reprimande



<b>Title (EN)</b>	National Pilot Reprimande
<b>Organisation (original language)</b>	National Politie / Openbaar Ministerie / Halt
<b>Organisation (EN)</b>	National Police / Public Prosecution Service / Halt(national organisation which provides alternatives ways of punishing juvenile offenders for minor crimes)
<b>Government / Civil society</b>	Government
<b>Funding body</b>	National Government
<b>Reference (incl. URL, where available)</b>	Netherlands, National Police (Nationale Politie) (2020), 'Pilot Reprimand for minor suspects launched', Pilot Reprimande'Pilot Reprimande minderjarige verdachten van start, News release, 1 October 2020.  uit Beijerse, J., Fischer, T., Van Guldener, C., Postma, L. & Weerman, F. (2022), Police reprimand for juvenile first offenders of minor offences. Evaluation of the national Pilot Reprimand ( <a href="#">De politie-reprimande voor minderjarige first offenders van lichte feiten. Evaluatie van de landelijke Pilot Reprimande</a> ), Rotterdam, Erasmus School of Law, commissioned by the Ministry of Justice and Security.
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	. 1 October 2020 –  The practice is still going on and is still considered a project. The minister for Legal Protection announced in a letter (30 May 2022) <sup>202</sup> that the practice will be implemented as a structural practice only after the recommendations of the evaluation study will be implemented.
<b>Type of initiative</b>	Alternative to detention
<b>Main target group</b>	Juvenile first offenders (12-18 year olds)

<sup>202</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2022), 'Response to the evaluation report. Police reprimand for juvenile first offenders of minor offences ([Reactie op het rapport 'De politie-reprimande voor minderjarige first offenders van lichte feiten](#))', Letter to House of Representatives, 30 May 2022,

<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	On 1 October 2020 this pilot started in which children who commit their first minor offense will not be imprisoned but face a strong reprimand (a firm conversation with a police officer in the presence of their parents) instead. Goals of this pilot are: (1) to prevent a trial with detention at the police station; (2) to provide a clear framework for a national uniform procedure for the implementation of this practice;(3) to provide proportional and pedagogical handling outside the criminal justice system.
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The whole practice is transferable.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	Because the Ministry of Security and Justice indicated that the practice will be implemented if the evaluation study has shown its impact (see below).
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	The practice was assessed and proved to have impact.
<b>Give reasons why you consider the practice as transferable to other settings</b>	Because all Member States are looking for alternatives to detention.

<b>and/or Member States?</b>	
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	<p>The practice has been developed and implemented by the National Police, the Public Prosecution Service and Halt (national organisation which provides alternative ways of punishing juvenile offenders for minor crimes).</p>
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	<p>The practice has been assessed by the Erasmus School of Law. The study was commissioned by the Ministry of Justice and Security.</p> <p>Conclusions on the output of the pilot: The national figures show that in the period from 1 October 2020 to 30 November 2021, a total of 3,964 reprimands were recorded (about 15% of all cases against minors). Of the 5,024 cases falling within the pilot criteria, 56% were disposed of with a reprimand. Of the remaining 44%, it is not known why reprimands were not used or made use of the reprimand.</p> <p>Conclusions concerning the objectives of the pilot.</p> <p>The first objective is to prevent a trial with detention at the police station. The vast majority of juveniles whose case is settled with a reprimand are not (or no longer) detained at the police station. Yet 11% of juveniles in reprimand cases were still detained at the police station, and of that group, 18% stayed there for more than five hours.</p> <p>The second objective is to provide a clear framework for a national uniform procedure. This goal, according to the researchers, has not yet been fully realised. In practice, the familiarity, registration and working methods appear to differ between and within police units.</p> <p>The third objective is to provide proportional and pedagogical handling outside the criminal justice system. To this end, the reprimand interview in the presence of parents is seen by the parties involved as an important pedagogical tool.</p> <p>The fourth goal is to prevent recidivism. Based on an international literature review of the effectiveness of the reprimand (and similar interventions), the researchers conclude that there is considerable evidence that</p>

	<p>the application of the reprimand leads to less recorded recidivism than traditional settlements through (juvenile) criminal law.</p> <p>uit Beijerse, J., Fischer, T., Van Guldener, C., Postma, L. &amp; Weerman, F. (2022), Police reprimand for juvenile first offenders of minor offences. Evaluation of the national Pilot Reprimand (<a href="#">De politie-reprimande voor minderjarige first offenders van lichte feiten. Evaluatie van de landelijke Pilot Reprimande</a>), Rotterdam, Erasmus School of Law, commissioned by the Ministry of Justice and Security.</p>
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<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women.</b>
<b>Title (original language)</b>	Beëindiging Onderling Relatoneel Geweld’ (BORG)
<b>Title (EN)</b>	Ending Relational Violence (BORG)
<b>Organisation (original language)</b>	Reclassering Nederland
<b>Organisation (EN)</b>	Dutch Probation and Parole Service
<b>Government / Civil society</b>	Government
<b>Funding body</b>	National Government
<b>Reference (incl. URL, where available)</b>	Beijersbergen, K.A. & Piersma, T.W.(2022), The effectiveness of the BORG training programme.A comparative recidivism study conducted among perpetrators of intimate partner violence ( <a href="#">De effectiviteit van de BORG-training. Een vergelijkend recidiveonderzoek onder daders van partnergeweld</a> ), The Hague, Research and Documentation Centre (WODC) -Ministry of Justice and Security
<b>Indicate the start date of the promising practice</b>	2014-

<b>and the finishing date if it has ceased to exist</b>	
<b>Type of initiative</b>	Training
<b>Main target group</b>	Perpetrators of intimate partner violence
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	<p>Training developed to reduce intimate partner violence. It is developed and provided by the Dutch Probation and Parole Service. The training programme has been executed nationwide in the Netherlands since the summer of 2014. The programme involves a group training course that consists of twelve group and three individual sessions. Although the training programme was set up as a group training programme, the programme can also be followed on an individual basis – for example, if the perpetrator is unfit to take part in group settings. The objective of the training programme is to break the spiral of violence within the (former) relationship, thereby ensuring that intimate partner violence decreases or stops. In addition, there are three secondary objectives: gaining insight into the relationship dynamics, identifying the risks that may trigger violent behaviour, and applying skills and strategies to prevent disagreements and conflicts from escalating.</p>
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The whole practice is transferable
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	Because it has been implemented nationally by the Dutch Probation and Parole Service since 2014.

<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>We have selected because it has been thoroughly assessed. This study found no indications that imposing the BORG training programme on perpetrators of intimate partner violence is more or less effective in preventing intimate partner violence than not imposing the BORG training programme. However, a number of issues have emerged in this study that could play a key role in terms of the lack of an effect. These problems, provide starting points for the improvement of the BORG training programme, which may make the programme effective after all. In addition, a substantial percentage of participants seems positive about the training programme. Furthermore, the BORG training programme could potentially be used at an early stage for a large group of perpetrators (couples) of intimate partner violence, given that the Probation and Parole Service is already involved by the police in any arrests due to domestic violence.</p>
<p><b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b></p>	<p>Because intimate partner violence is one of the most common form of domestic violence and has been high on the political agenda in th</p>
<p><b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b></p>	<p>The practice is developed by the Dutch Probation and Parole Service.</p>
<p><b>Explain, if applicable, how the practice provides for review and assessment.</b></p>	<p>An assessment study has been made by the Research and Documentation Centre (WODC) of the Ministry of Justice and Security.</p> <p>This study examined to what extent the BORG training programme has been effective in reducing (domestic violence) reoffending among perpetrators of intimate partner violence and what any potential successful and less successful aspects of the training programme may be.</p>

	Beijersbergen, K.A. & Piersma, T.W.(2022), The effectiveness of the BORG training programme.A comparative recidivism study conducted among perpetrators of intimate partner violence ( <a href="#">De effectiviteit van de BORG-training. Een vergelijkend recidiveonderzoek onder daders van partnergeweld</a> ), The Hague, Research and Documentation Centre (WODC) -Ministry of Justice and Security.
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<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> <b>Please provide one example of a promising practice of national monitoring bodies (e.g., a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation, etc.) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding.</b>
<b>Title (original language)</b>	Provincies, gemeenten en het VN-verdrag handicap. Handreiking bij het maken en uitvoeren van beleid en regelgeving in het licht van het VN-verdrag handicap
<b>Title (EN)</b>	Provinces, municipalities and the CRPD. Guidance on making and implementing policies and regulations in the light of the CRPD
<b>Organisation (original language)</b>	College voor de Rechten van de Mens
<b>Organisation (EN)</b>	Netherlands Institute for Human Rights
<b>Government / Civil society</b>	Civil society
<b>Funding body</b>	Government
<b>Reference (incl. URL, where available)</b>	Netherlands Institute for Human Rights ( <i>College voor de Rechten van de Mens</i> ) (2022), Provincies, gemeenten en het VN-verdrag handicap. Handreiking bij het maken en uitvoeren van beleid en regelgeving in het licht van het VN-verdrag handicap ( <a href="#">Provincies, gemeenten en het VN-verdrag handicap. Handreiking bij het maken en uitvoeren van beleid en regelgeving in het licht van het VN-verdrag handicap</a> ).

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	2022
<b>Type of initiative</b>	Guidance
<b>Main target group</b>	Local and regional administrators and civil servants (policy officers)
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	A guide for local and regional administrators and civil servants on the CRPD and how to implement the CRPD in their legal activities and in their policy making and policy implementing activities. Under the CRPD, the government is obliged to make the Netherlands more accessible and inclusive. This means that when making laws, rules and policies, administrators civil servants should check whether these laws, rules and policies contribute to the implementation of the cCRPD. And whether sufficient attention is paid to the role of participation of people with disabilities. The manual contains two checklists. One checklist for for legal activities and one for policy making and policy implementing activities
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The whole practice is transferable.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	Because it is supported by the Netherlands Institute for Human Rights, the national monitoring body of the CRPD.
<b>Give reasons why you consider the</b>	Because the target group of this practice can make a differences in how the CRPD is implemented.



<b>practice as having concrete measurable impact</b>	
<b>Give reasons why you consider the practice as transferable to other settings and/or Member States?</b>	Because all Member States are member of the CRPD.
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	The practice is developed by the Netherlands Institute for Human Rights, the national monitoring body of the CRPD.
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	It doesn't.

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> <b>Please provide one high court decision addressing discrimination against LGBTIQ people or on the grounds of socio-economic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.</b>
<b>Decision date</b>	28 September 2022
<b>Reference details</b>	The Netherlands, Court of Appeal The Hague (Gerechtshof Den Haag) (2022), <a href="#">Case no. K22220367</a> , ECLI:NL:GHDHA:2022:1870, 28 September 2022.
<b>Key facts of the case (max. 500 chars)</b>	<p>This case concerns the protestant secondary school Gomarus in Gorinchem. A criminal inquiry was launched by the Public Prosecution Service into the Gomarus school after former students told newspaper 'NRC' on 26 March 2021 they had been blackmailed by staff into declaring their sexuality to their parents (incidents took place in 2016 and 2017).</p> <p>A criminal inquiry was launched by the Public Prosecution Service. The Public Prosecution Service concluded in June 2021 that the school had acted beyond the boundaries of acceptable behaviour but the Public Prosecution Service decided not to prosecute the school because had reportedly changed its approach. Two former homosexual students decided to initiate legal proceedings under Article 12 of the Code of Criminal Procedure to force the public prosecution department to take action against the institution for its approach on homosexuality. Under article 12 of the Code of Criminal Procedure interested parties can file a complaint with the Court of Appeal that will then decide whether the Public Prosecution Service has to prosecute the defendant. In this case the Court Appeal decided in favour of the Public Prosecution Service : no prosecution has to take place because the school has changed its policy regarding homosexuality. Had the school not done so it could have been prosecuted under section 137d of the Criminal Code (this article criminalizes incitement to discrimination) and possibly under 137e of the Criminal Code (1. prosecution for incitement to discrimination (art. 137d of the Criminal Code) and possibly for keeping in stock for distribution or publication an object containing discriminatory remarks (art. 137e, paragraph 1 under 2).</p>

<b>Main reasoning/argumentation (max. 500 chars)</b>	<p>A school in secondary education which in its official approach (and official documents) towards homosexual student discriminates can be prosecuted for incitement to discrimination (art. 137d of the Criminal Code) and possibly for keeping in stock for distribution or publication an object containing discriminatory remarks (art. 137e, paragraph 1 under 2 of the Criminal Code). In this case the school was not prosecuted because the school changed its approach towards homosexual students.</p>
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	<p>A school can be prosecuted for discrimination if the school distinguishes between heterosexual and homosexual students and staff members in its policy documents.</p>
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	<p>No prosecution took place because the school has changed its policy.</p>
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>“Met beklagden is het hof van oordeel dat de school haar Bijbelse visie mag laten doorwerken in het beleid. Echter door in de notitie bewust onderscheid te maken tussen heteroseksuele en homoseksuele leerlingen en - personeelsleden door alleen voor die laatste categorieën een aparte gedragslijn en behandeling op te nemen, is het hof met het Openbaar Ministerie van oordeel dat er vanwege die notitie voldoende aanknopingspunten zijn voor vervolging wegens het aanzetten tot discriminatie (artikel 137d Sr) en eventueel voor het ter verspreiding of openbaarmaking in voorraad hebben van een voorwerp waarin discriminatoire uitlatingen zijn vervat (artikel 137e, lid 1 onder 2, Sr), zoals door de advocaat-generaal is geconcludeerd.”</p> <p>“With the defendants, the court of appeal is of the opinion that the school is allowed to let its Biblical vision be reflected in its policy. However, by deliberately making a distinction in the memorandum between heterosexual and homosexual students and staff by only including a separate line of conduct and treatment for the latter categories, the court of appeal is of the opinion, together with the public prosecutor, that because of this memorandum there are sufficient grounds for prosecution for incitement to discrimination (art. 137d of the Criminal Code) and possibly for keeping in stock for distribution or publication an object containing discriminatory remarks (art. 137e, paragraph 1 under 2 of the Criminal Code), as concluded by the advocate-general.”</p>

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide the most relevant <b>high court</b> decision concerning the application of <b>either the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally.</b>
<b>Decision date</b>	7 July 2022
<b>Reference details</b>	The Netherlands, Court of Appeal Amsterdam ( <i>Gerechtshof Amsterdam</i> ) (2022), Case no. 23-002601-20, ECLI:NL:GHAMS:2022:2015, 7 July 2022.
<b>Key facts of the case (max. 500 chars)</b>	On 17 November 2018, the defendant made discriminatory statements on the facebook page of the insulted person. The defendant made statements about black ("negroid") persons in the context of protests held against the use of the black face character Black Pete ( <i>Zwarte Piet</i> ) during Saint Nicholas festivities. He compared black persons protesting against Black Pete to monkeys or apes, and that black protestors are underdeveloped people. The insulted persons declared ( <i>aangeven</i> ) the defendant to the Public Prosecution Service and the the Public Prosecution Service decided to prosecute the defendant under article 137c of the Criminal Code (which criminalizes group insult). The defendant was convicted by the District Court. The Court of Appeal confirmed this ruling by the District Court. The defendant argued that he was unfairly prosecuted because he was one of the few persons to be prosecuted among the many persons who made derogatory on the face book page in question. But the Court of Appeal decided that the defendant was not unfairly prosecuted.
<b>Main reasoning/argumentation (max. 500 chars)</b>	Criminal law also sets limits to what one says to or about others via public social media - through which opinions and views can be expressed quickly and easily without facing the recipient of the message 'in real life'
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	This judgement makes clear sets limits to what one says to or about others via public social media -through which opinions and views can be expressed quickly and easily without facing the recipient of the message 'in real life'
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	The defenadant was sentenced to a fine of €400 to be replaced by 8 (eight) days' imprisonment in default of payment and redress.

**Key quotation in original language and translated into English with reference details (max. 500 chars)**

“De verdachte heeft, onder meer ter terechtzitting in hoger beroep, kenbaar gemaakt dat hij vindt dat het niet netjes is wat hij heeft gezegd en dat hij daarvoor zijn excuses wil aanbieden. Ondanks deze in zoverre positief te waarden opstelling van de verdachte, is het hof er niet van overtuigd dat hij daadwerkelijk het laakbare van zijn handelen en de grote (emotionele) gevolgen die dat voor de aangeefster en andere zwarte mensen heeft gehad, inziet en betreurt, aangezien hij ter terechtzitting ook stellig het standpunt heeft ingenomen dat hij niet heeft gediscrimineerd. Anders dan de raadvrouw ziet het hof in de omstandigheid dat de verdachte zijn excuses heeft gemaakt dan ook geen aanleiding om tot een lagere straf te komen (en overigens ook niet om een hogere straf op te leggen).

Met de strafoplegging beoogt het hof niet alleen de verdachte, maar ook anderen in de samenleving voor wie dat nodig is, duidelijk te maken dat het strafrecht óók grenzen stelt aan hetgeen men tegen of over anderen zegt via openbare sociale media – langs welke weg meningen en opvattingen snel en gemakkelijk zijn te geven zonder dat men de ontvanger van de boodschap ‘in het echt’ voor zich heeft.”

“The defendant made it known, including at the appeal hearing, that the the contested statements were out of order, and that he wanted to apologise for it. Despite this attitude of the defendant, which to that extent can be appreciated in a positive way, the court of appeal is not convinced that the defendant actually understands and regrets the reprehensible nature of his actions and the great (emotional) consequences this has had for the declarant and other black people, as he also firmly took the position during the hearing that he did not discriminate. Unlike the defense counsel, the court of appeal therefore sees no reason in the apologies of the defendant to impose a lower punishment (nor, for that matter, to impose a higher punishment).

By imposing the punishment, the court of appeal aims to make clear not only to the defendant, but also to others in society for whom it is necessary, that criminal law also sets limits to what one says to or about others via public social media - through which opinions and views can be expressed quickly and easily without facing the recipient of the message 'in real life'.”

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION</b> Please provide the most relevant high court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS).
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter (i.e. data protection, and/or artificial intelligence systems).
<b>Decision date</b>	18 October 2022
<b>Reference details</b>	The Netherlands, Trade and Industry Appeals Tribunal (College van Beroep voor het bedrijfsleven College) (2022), <a href="#">Bunq vs DNB</a> , Case no. 21/323 and 21/1108, 18 October 2022, ECLI:NL:CBB:2022:707.
<b>Key facts of the case (max. 500 chars)</b>	This case concerns a conflict between the Dutch central bank (DNB) and online bank Bunq. The Dutch central bank had decided that Bunq was not properly complying with anti money laundering legislation which requires banks to run risk profiles of clients and monitor their transactions accordingly. Bunq said this can best be done using AI, but the central bank disagreed, ordering Bunq to change its strategy. The Trade and Industry Appeals Tribunal ruled that the central bank had not sufficiently proved Bunq's methodology was not in line with the legislation and rejected the central bank's claim Bunq did not have enough information about its business clients. The court did find, however, that Bunq

	had not done enough to establish how its customers made their money or to investigate the source of income of politically prominent people.
<b>Main reasoning/argumentation (max. 500 chars)</b>	The Trade and Industry Appeals Tribunal found that the Dutch central bank had not proved that Bunq's automated methodology for classifying clients in certain standard risk categories on the basis of "peer grouping" and its use of AI and data analysis did not comply with Dutch anti money laundering legislation . Banks usually rely on manual interviews and questionnaires to screen and categorise new clients into risk profiles. The court also rejected the central bank's claim that Bunq lacked enough data on its business clients. It held that the Dutch central bank should not make the use of manual processes mandatory for banks.
<b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b>	The ruling states that de Dutch central bank (DNB) was wrong to ban Bunq from using AI in screening clients .The central bank had accused Bunq of failing to comply with both national and European anti-money laundering (AML) laws that require banks to determine risk profiles of new and existing clients and monitor their transactions accordingly.
<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	This ruling allows banks to use artificial intelligence (AI) in its transaction monitoring processes has been welcomed by one legal expert.
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>"Het College stelt vast dat aan het verwijt dat DNB bunq hier maakt het uitgangspunt ten grondslag ligt dat bunq niet steeds voldoende cliëntspecifieke informatie verzamelt voordat zij de zakelijke relatie aangaat. Op de zitting van het College heeft DNB ook uiteengezet dat het ontoereikende cliëntenonderzoek aan de poort doorwerkt in de transactiemonitoring. Uit wat hierover onder 8.5.5 en 8.6.4 is overwogen, volgt dat dit uitgangspunt onjuist is. Daarom moet worden geoordeeld dat DNB niet het bewijs heeft geleverd dat bunq geen adequate voortdurende controle op haar zakelijke relatie met haar klanten uitoefent. Wat bunq en DNB in dit verband onder meer over 'machine learning' naar voren hebben gebracht, behoeft om die reden geen bespreking meer. Dit betekent dat de overtreding van artikel 3, tweede lid, aanhef en onder d, van de Wwft, wat betreft de transactiemonitoring, niet is komen vast te staan."</p> <p>"The Tribunal notes that underlying the Central Banks's reproach of Bunq here is the premise that Bunq does not always gather sufficient client-specific information before entering into the business relationship. At the hearing before the Tribunal, Central Bank also explained that the inadequate customer due diligence at the gate is reflected in the transaction monitoring. It follows from what</p>

	<p>has been considered in this regard under 8.5.5 and 8.6.4 that this premise is incorrect. It must therefore be held that the Central Bank has not produced evidence that Bunq does not exercise adequate ongoing monitoring of its business relationship with its customers. What bunq and DNB have put forward in this context about 'machine learning', among other things, needs no further discussion for that reason. This means that the violation of section 3, second paragraph, opening words and under d, of the Anti-Money Laundering and Anti-Terrorist Financing Act (Wetsvoorstel wijziging Wet ter voorkoming van witwassen en financieren van terrorisme), as regards transaction monitoring, has not been established.”</p> <p>The Netherlands, Trade and Industry Appeals Tribunal (<i>College van Beroep voor het bedrijfsleven</i>) (2022), <a href="#">Bunq vs DNB</a>, Case no. 21/323 and 21/1108, ECLI:NL:CBB:2022:707.</p>
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<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide the most relevant high court decision for the related topics addressed in the chapter.</b>
<b>Decision date</b>	6 April 2022
<b>Reference details</b>	The Netherlands, District Court The Hague ( <i>Rechtbank Den Haag</i> ) (2022), <a href="#">Case no. C-09-595728-HA ZA 20-656</a> , 6 April 2022, ECLI:NL:RBDHA:2022:3043.
<b>Key facts of the case (max. 500 chars)</b>	<p>Public water companies regularly disconnect households with children from drinking water. The children’s rights organization Defence for Children and the Dutch Section of the International Commission of Jurists (NJCM) summoned the Dutch state and public water companies Dunea and PWN to appear in court because the cutting-off of drinking water of households with children violates human and children’s rights. According to the UN Children’s Rights Convention, children have an independent right to access to clean drinking water. By being cut off, Defence for Children and the NJCM feel this right is at stake. Moreover, children suffer from the cut-off, while they are not the ones responsible for the debt incurred. The Small-scale Consumer Disconnection Policy Regulation (‘Afsluitregeling’) prohibits shutting off the water for vulnerable consumers, for whom a cut-off poses serious health risks. Children are not by definition regarded as vulnerable consumers. The Court states that children have a right to access to water according to the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights, but that this</p>



	<p>right is not absolute. Therefore, despite these treaties, the State and drinking water companies are allowed to shut off households with minors from drinking water for nonpayment. According to the court, with due observance of the Small-scale Consumer Disconnection Policy Regulation, in general this is not unlawful towards children.</p> <p>In respons to this ruling, the Dutch Section of the International Commission of Jurists (NJCM) stated that they disagreed “with the court about whether children have an independent right to water or not. It would have been a small step for the judge to forbid to cut off children in general. We are disappointed the judge didn’t do that. It now remains possible for vulnerable children to run out of water and suffer the harmful consequences.”</p> <p>Defence for Children and the Dutch Section of the International Commission of Jurists (NJCM) have filed an appeal against the judgement.</p> <p>Public Interest Litigation Project (PILP) - Dutch Section of the International Commission of Jurists (NJCM) (2022), <a href="#">‘Judge still allows children to be cut off from drinking water’</a>, News release, 12 April 2022.</p> <p>Defence for Children (2022), Defence for Children filed appeal in water case (<a href="#">‘Defence for Children in hoger beroep in waterzaak’</a>), News release, 23 December 2022.</p>
<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The Court states that children have a right to access to water according to the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights, but that this right is not absolute. Therefore, despite these treaties, the State and drinking water companies are allowed to shut off households with minors from drinking water for nonpayment. The judge also confirms that water companies are not allowed to cut off families for no reason. The judgement leaves room for families with children that will be cut off in the future, to take it to court themselves and argue that they should have access to water based on international children’s and human rights.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>Children have a right to access to water according to the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights, but that this right is not absolute. Therefore, despite these treaties, the State and drinking water companies are allowed to shut off households with minors from drinking water for nonpayment.</p>

<b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b>	State and drinking water companies are allowed to shut off households with children from drinking water for nonpayment.
<b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b>	<p>“Het voorgaande leidt tot de conclusie dat de Staat en/of de drinkwaterbedrijven niet op grond van het IVRK en/of het EVRM gehouden zijn om ervoor te zorgen dat huishoudens met minderjarige kinderen niet van drinkwater worden afgesloten bij wanbetaling. Daar waar dat – met inachtneming van de Afsluitregeling – gebeurt, is dat in zijn algemeenheid niet onrechtmatig jegens kinderen.”</p> <p>“The above leads to the conclusion that the State and/or the drinking water companies are not obliged under the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights he CRC and/or the ECHR to ensure that households with minor children are not shut off from drinking water in case of non-payment. Where this is done - with due observance of the Small-scale Consumer Disconnection Policy Regulation - this is generally not unlawful towards children.”</p> <p>The Netherlands, District Court The Hague (<i>Rechtbank Den Haag</i>) (2022), <a href="#">Case no. C-09-595728-HA ZA 20-656</a>, 6 April 2022, ECLI:NL:RBDHA:2022:3043.</p>

<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide the most relevant high court decision related topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women).</b>
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b> <b>Please provide the most relevant High Court decision, which quoted the CRPD or prominently referred to the CRPD in the reasoning.</b>
<b>Decision date</b>	No case law has been identified for this thematic area.

