

1. Extent and impact of systemic racism and effective legal, policy and institutional measures that address racism beyond a summation of individualized acts

Racial discrimination in the Netherlands is a serious and persistent problem in all areas of society. It is clear that this is not a series of unfortunate incidents, but rather a structural and systemic problem. The Dutch government has acknowledged that institutional racism exists in the Netherlands and subsequently has taken a number of measures to address this. Moreover, the tax authority has acknowledged that discriminatory patterns existed in their practices, in light of the childcare benefit scandal.¹

The Senate has started a broad-scale investigation into the effectiveness of anti-discrimination legislation both in law and in practice. Moreover, financial boosts for the Dutch NHRI and the local anti-discrimination services (ADVs) have been provided. With the additional funding for the Dutch NHRI, a training ([Voordelen Voorbij](#)) for public officials on bias in their decision-making was developed. The program increases understanding of conscious and unconscious stereotypes and prejudices about ethnic minorities. In addition, it creates interventions for improving procedures in discrimination complaints. The additional funding that has become available for ADVs can also be used by municipalities for other matters; and some municipalities have no anti-discrimination policy at all. Given the general importance of signaling and supporting discrimination, it is undesirable that these would depend on municipal priorities.² Next to additional funding, a National Coordinator Discrimination and Racism (NCDR) has been established. Whether the establishment of an NCDR will give the hoped-for boost to the fight against discrimination and racism remains to be seen because the success of the NCDR depends on cooperation from the various departments and government organizations. Next to that, the NCDR intends to issue an annual National Program, of which the first was published September 2022.³

The existing approach to discrimination relies mostly on individual complaints from victims. They must demonstrate that they have been discriminated against by someone. However, it is often very difficult for an individual complainant to identify one precise and concrete discriminatory act or behavior within an organization or to fully expose all the considerations underlying a particular decision so that the discrimination becomes plausible. Because institutional racism is precisely indirect, structural and collective, this approach to individual rights and complaint opportunities falls short. Therefore, it is still necessary to introduce a collective complaints procedure to deal with cases and situations on racial profiling. Following the childcare benefit scandal and the high number of received discrimination complaints, the Dutch NHRI, in its capacity as National Equality Body, investigated the difference in the effect of the processes and practices of the Tax Authority for two groups: parents of Dutch origin and parents of foreign origin. In doing so, it analyzed the anonymized data of all parents who applied for childcare benefits in the years 2014 and 2018. In light of the findings, the Dutch NHRI concluded that there is a general presumption of discrimination by the tax authority. Whether this presumption can be rebutted, is subject to investigation in individual cases.⁴

¹ For a more elaborate explanation on the childcare benefit scandal please refer to the [UPR report](#), section 2.

² For more elaboration, please refer to our [publication](#) on institutional racism and accompanied letter to parliament.

³ [Nationaal Programma tegen Discriminatie en Racisme 2022](#) (National Program against Discrimination and Racism)

⁴ Netherlands Institute for Human Rights, [Vooronderzoek naar de vermeende discriminerende effecten van de werkwijzen van de Belastingdienst/Toeslagen](#) (Preliminary investigation into the alleged discriminatory effects of the practices of the Tax Authority)

To carry out their task, many public authorities rely on (algorithmic) risk profiling techniques, for instance to detect fraud or other types of crimes. In its legislative advice on the government's law proposal 'Data processing by partnerships' (Wetsvoorstel gegevensverwerking door samenwerkingsverbanden), the NHRI warned for bias and its discriminatory effects. The law, if adopted, would give the government greater algorithmic profiling powers similar to those used by the tax authority but on a larger scale. High-risk algorithmic systems should be pre-screened for discrimination before they can be deployed; and their effects should be regularly monitored, evaluated and – if necessary - adjusted.

2. Hate speech, incitement to racial discrimination, hostility and violence

Hate speech and other forms of discrimination on the ground of ethnic origin or religion are widespread. These forms of discrimination take place online as well as offline. Especially since the rise of populist parties in the Netherlands, hate speech has increased. Such groups claim that the right to freedom of expression is a right without limitations. As a consequence, there is a trend to normalisation of racist speech in the public domain.

3. Reparatory justice initiatives regarding slavery, the slave trade, the transatlantic slave trade, colonialism, apartheid, genocide and past tragedies contributing to the development and recognition of the dignity of the affected States and their people

In December 2022, the prime-minister apologized for the Netherlands' role in the colonial slavery past. The government also wants to allocate 200 million euros for an awareness fund. In addition, another 27 million euros will be set aside for a slavery museum, which will open in 2025. The year 2023 is dedicated to the commemoration of the slavery past. The municipalities of Rotterdam, Amsterdam, The Hague and Utrecht also officially apologized, as did the province of North Holland.⁵

By issuing an apology, the government is taking an important step in recognizing the seriousness of the slavery past and the violations of the most fundamental human rights that took place during that period, and the effects this still has on people. There are valuable recommendations from the Advisory Committee on the Dialogue Group on Slavery and from international (human rights) bodies to take further steps in recognizing and commemorating the slavery past. The Dutch NHRI considers it particularly important that recognition and remembrance contribute to increasing awareness among all Dutch citizens.

4. Participatory and inclusive design and implementation processes that contribute to halting, reversing and repairing the lasting consequences and ongoing manifestations of systemic racism; and the role of people and communities of African descent and young people in these processes

The NHRI developed a risk profiling assessment framework for government agencies to prevent ethnic profiling.⁶ It contains a standard that government agencies must adhere to as a minimum for creating and deploying a risk profile, and is based on rulings by national and international courts and regulators.

⁵ Netherlands Institute for Human Rights, [Excuses voor het slavernijverleden](#) (apologies for the slavery past), 2 december 2022.

⁶ Netherlands Institute for Human Rights, [Discriminatie door risicoprofielen](#) (Discrimination through riskprofiles)

5. Promotion and protection of human rights and fundamental freedoms of Africans and of People of African descent against excessive use of force and other human rights violations by law enforcement officers

The National Police has made several reforms over the past years in order to prevent racial profiling by police officers. Such include the introduction of a professional code (Handelingskader), training module for police officers and the drafting of several regional level policy documents to promote better registration of discriminatory incidents, improve cooperation and prevent ethnic profiling.

By contrast, the Royal Netherlands Marechaussee (RNM), tasked with border control, continued to allow for the use of risk profiles that are (partly) based on race. This resulted in proceedings brought before the court by a group of non-governmental organisations and two individuals in mid 2021. In 2023, the Court of Appeal in The Hague concluded that the use of ethnicity at border controls by RMN amounts to discrimination.⁷

6. Racial discrimination and inequality experienced by children and youth of African descent in all areas of life, including the administration of justice, law enforcement, education, health, family life and development.

In the Netherlands, primary schools advise children on their level of secondary education. These recommendations are based on school tests as well as a teacher's recommendation. Children in primary education with an immigration background and with parents with a lower income and lower education, have a chance to receive a recommendation to pursue education at a lower level than they could be recommended on the basis of their school results. Whereas on average 15 percent of all students reported that teachers underestimated their capabilities, at least 40 percent of students of Dutch-Turkish or Dutch-Moroccan origin reported this.

7. Racism, racial discrimination, xenophobia and related intolerance targeting migrants and refugees.

Research by the Netherlands Institute for Social Research (SCP) on perceived discrimination in the Netherlands confirms that people with an immigration background, and Muslims in particular, experience the highest levels of discrimination in Dutch society. They experience discrimination in all domains, including the labor market, the housing market, education, sports and social media.⁸

As a result of the acute shortage of asylum reception places in the Netherlands, in the summer of 2022, the government announced that municipalities can indicate that they want to receive Ukrainians but not asylum seekers from other countries. This in order to free up more space elsewhere for other asylum seekers. Various sources also reveal that thousands of reception places for refugees from Ukraine are kept free, while other asylum seekers stay in Ter Apel in degrading conditions. With such a policy, a municipality directly discriminates on the basis of origin between people fleeing from Ukraine, and asylum seekers

⁷ Netherlands Institute for Human Rights, [Gerechtshof: gebruik etniciteit bij controle op illegaal verblijf is discriminatie](#) (Court: use of ethnicity in controlling illegal residence is discrimination), 14 February 2023; Global Legal Monitor, [Appeals Court Finds Police Branch of Dutch Armed Forces Guilty of Racial Profiling.](#)

⁸ For more elaboration, please refer to [CERD report](#).

from other countries.⁹ The government wants to solve the shortage of asylum reception places with a new law on "municipal task enabling asylum reception facilities" (Spreidingswet). The Spreidingswet can be an important step toward a sustainable shelter system but there are also human rights concerns regarding this bill.¹⁰

⁹ Netherlands Institute for Humans Rights, [Oproep aan de Staatssecretaris van Asiel & Migratie: legitimeer geen discriminerend opvangbeleid van gemeenten](#) (Call to Secretary of State for Asylum & Migration: do not legitimize discriminatory reception policies of municipality), 29 July 2022.

¹⁰ Please refer to [the legislative advice](#) the Dutch NHRI wrote on the new law for further elaboration.