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**European Commission
against Racism and Intolerance**

**Third report on the
Netherlands**

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Table of contents

<u>FOREWORD</u>	3
<u>EXECUTIVE SUMMARY</u>	4
<u>I. FOLLOW-UP TO ECRI'S SECOND REPORT ON THE NETHERLANDS</u>	5
<u>INTERNATIONAL LEGAL INSTRUMENTS</u>	5
<u>CRIMINAL LAW PROVISIONS</u>	5
<u>CIVIL AND ADMINISTRATIVE LAW PROVISIONS</u>	8
<u>ADMINISTRATION OF JUSTICE</u>	9
<u>SPECIALISED BODIES AND OTHER INSTITUTIONS</u>	10
- <u>Equal Treatment Commission</u>	10
- <u>National Ombudsman</u>	11
- <u>Art. 1</u>	11
- <u>Local antidiscrimination bureaus</u>	11
<u>EDUCATION AND AWARENESS-RAISING</u>	12
<u>RECEPTION AND STATUS OF NON-CITIZENS</u>	13
- <u>Asylum seekers and refugees</u>	13
- <u>Integration measures</u>	15
<u>EMPLOYMENT</u>	17
<u>ACCESS TO PUBLIC SERVICES</u>	19
- <u>Access to education</u>	19
- <u>Access to housing</u>	20
- <u>Access to public places</u>	20
- <u>Access to other services</u>	21
<u>VULNERABLE GROUPS</u>	21
- <u>Muslims</u>	21
- <u>Antilleans</u>	21
- <u>Roma and Sinti</u>	23
<u>ANTISEMITISM</u>	23
<u>MEDIA</u>	24
<u>CONDUCT OF LAW ENFORCEMENT OFFICIALS</u>	25
<u>EXTREMISM</u>	26
<u>MONITORING THE SITUATION</u>	27
<u>II. NEW DEVELOPMENTS</u>	30
<u>THE TONE OF POLITICAL AND PUBLIC DEBATE AROUND INTEGRATION AND OTHER ISSUES RELEVANT TO ETHNIC MINORITY GROUPS</u>	30
<u>III. SPECIFIC ISSUES</u>	33
<u>ISLAMOPHOBIA</u>	33
<u>BIBLIOGRAPHY</u>	36

Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 29 June 2007 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's second report on the Netherlands on 15 December 2000, progress has been made in a number of the fields highlighted in that report. The Netherlands has become party to several international instruments that are relevant to combating racism and racial discrimination, notably Protocol No. 12 to the European Convention on Human Rights. Criminal, civil and administrative law provisions against racism and racial discrimination have been fine-tuned, as reflected in the increased sentences established in 2004 for the systematic commission of certain racist offences. Work is underway for the establishment of a network of professional local antidiscrimination bureaus throughout the country, with the aim of improving the protection provided to victims of racism and racial discrimination and the monitoring of these phenomena. In parallel, efforts have been intensified to record and counter these phenomena within the criminal justice system, notably the Public Prosecutor Service, but also the police, which has been assisted since 2002 by an internal National Bureau on Discrimination Issues. Independent research to monitor racism and racial discrimination nation-wide has been commissioned and will be carried out regularly. Attention has been given to the disadvantaged position of members of ethnic minorities on the labour market and measures have been taken to tackle racial discrimination in access to places of entertainment.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. Partly as a consequence of a number of national and international events, the tone of Dutch political and public debate around integration and other issues relevant to ethnic minorities has experienced a dramatic deterioration since ECRI's second report, resulting in a worrying polarisation between majority and minority communities. Controversial policies, sometimes in breach of national and international equality standards have been proposed and, even when finally not adopted, have resulted in stigmatisation of and discrimination against members of minority groups. The Muslim, and notably the Moroccan and Turkish, communities have been particularly affected by these developments, which have resulted in a substantial increase of Islamophobia in both the political arena and other contexts. The climate of opinion around members of other groups, notably Antilleans, has also clearly worsened, as reflected in policies and practices targeted at them in different fields. The situation of Roma and Sinti groups has not yet been given the necessary attention at central government level. Targeting the ethnic minority population only, the integration policies adopted since ECRI's second report have not reflected an idea of integration as a two-way process. In spite of efforts made, antisemitic, and notably Holocaust denial, Islamophobic and other racist material on the Internet has continued to increase. While efforts are underway, the criminal justice system, and notably the police, still needs to enhance its role in monitoring and countering racially-motivated offences.

In this report, ECRI recommends that the Dutch authorities take further action in a number of areas. It recommends in particular that the Dutch authorities: take the lead in promoting a public debate on integration and other issues relevant to ethnic minorities that avoids polarisation, antagonism, and hostility among communities; take steps to counter the use of racist and xenophobic discourse in politics; oppose publicly and vigorously all manifestations of Islamophobia; and review a number of policies in the light of the prohibition of direct and indirect racial discrimination. ECRI also recommends that the Dutch authorities monitor the effectiveness of the integration measures introduced since ECRI's second report and address the integration deficit among the majority population through a number of awareness raising and educational measures targeted at this part of the Dutch population. ECRI furthermore recommends that the Dutch authorities: make a wider use of positive measures to redress disadvantage and discrimination experienced by ethnic minority groups in a number of fields, including employment; investigate racial profiling practices; and take a number of measures aimed at countering Islamophobia, antisemitism and racism and racial discrimination towards Antilleans, Roma, Sinti and other groups.

I. FOLLOW-UP TO ECRI'S SECOND REPORT ON THE NETHERLANDS

International legal instruments

1. In its second report, ECRI recommended that the Netherlands ratify Protocol No. 12 to the European Convention on Human Rights (ECHR), which provides for a general prohibition of discrimination. It also recommended that the Netherlands ratify the Framework Convention for the Protection of National Minorities, the European Convention on Nationality and the European Social Charter (Revised). ECRI is very pleased to note that the Netherlands has since then ratified all these instruments¹.
2. Since the publication of ECRI's second report on the Netherlands, the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems have been opened for signature and ratification and have entered into force. The Convention was ratified by the Netherlands in November 2006. As concerns the Additional Protocol, which the Netherlands signed in January 2003, ECRI is pleased to note that the preparatory work towards ratification of this instrument is well underway.
3. Since the publication of ECRI's second report on the Netherlands, the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families has entered into force. The Dutch authorities have stated that they do not intend to ratify this instrument, since it contains provisions that are contrary to Dutch legislation.

Recommendations:

4. ECRI recommends that the Dutch authorities ratify the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems as soon as possible. It also recommends that the Dutch authorities ratify the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families.

Criminal law provisions

5. In its second report, ECRI examined the criminal law provisions against racism and racial discrimination in force in the Netherlands, in particular: Article 137c of the Criminal Code (racist insults); Article 137d (incitement to racial hatred, discrimination and violence); Article 137e (dissemination of racist material); Article 137f (participation in, or support of, racist activities) and Articles 137g and 429quater (racial discrimination in the exercise of a public service, profession or trade). It recommended that the maximum penalties established for these offences be increased, in accordance with plans that were ongoing at that time. ECRI also recommended that the Dutch authorities complement these norms with a legal provision establishing the racist motivation of an offence as a specific aggravating circumstance in sentencing.
6. ECRI is pleased to note that legislation was adopted in 2004 to increase the maximum sentences provided for in Articles 137c, 137d, 137e and 137g, in cases

¹ Protocol No. 12 to the ECHR was ratified on 28 July 2004 and entered into force in respect of the Netherlands on 1 April 2005. The Framework Convention for the Protection of National Minorities was ratified on 16 February 2005 and entered into force on 1 June 2005. The European Convention on Nationality was ratified on 21 March 2001 and entered into force on 1 July 2001. The European Social Charter (Revised) was ratified on 3 May 2006 and entered into force on 1 July 2006.

of systematic commission of the relevant offences². Nevertheless, there is still no criminal law provision establishing the racist motivation of an offence as a specific aggravating circumstance. However, ECRI notes that the instructions of the Public Prosecution Service (see below) require public prosecutors to request a sentence increased by 25% in case of an offence with racist motivation.

7. In its second report, ECRI also examined the implementation of the provisions against racism and racial discrimination. ECRI's recommendations essentially addressed the need to improve the performance of the police and the Public Prosecution Service in the implementation of these provisions.
8. ECRI is pleased to note that since then, a number of measures have been taken. In 2003, the Public Prosecution Service issued new instructions on the handling of cases of racism and discrimination. These instructions, which are currently being reviewed, essentially require public prosecutors to prosecute these offences more vigorously and systematically. ECRI also notes that racism and discrimination feature among the six priorities set by the Public Prosecution Service in its multi-year plan up to 2010. Reflecting this high level of priority, anti-discrimination support centres are being established at each of the eleven regional Public Prosecutor's offices, a measure which is expected to increase efficiency and ensure consistency in the prosecution of cases of racism and discrimination. ECRI also notes that in November 2006, the National Discrimination Expertise Centre (LECD), which since 1998 has assisted the Public Prosecution Service in dealing with cases of racism and discrimination, has produced a handbook to increase the expertise of Public Prosecutors and their clerks with respect to these offences. The Dutch authorities furthermore report that substantial investment will be made in training prosecutors specifically in dealing with cases of racism and discrimination.
9. Improvements are also being made within the police service. A National Bureau on Discrimination Issues (with similar functions to the LECD, but within the police service) was established in 2002, as recommended by ECRI in its second report. The Dutch authorities report that most police regions have now designated one liaison officer for cases of racism and discrimination. More recently, commitments were signed between the Minister of the Interior and the police to improve the latter's performance in combating racism and discrimination³. These commitments include the holding of regular local inter-agency (i.e. police, Public Prosecution Service, municipal authorities and interest groups) meetings to ensure co-ordination on criminal policy against racism and discrimination, although there are reports indicating that such consultation is only operational in a few cities at the moment. Commitments also include a rigorous implementation of the instructions of the Public Prosecution Service mentioned above, which are binding also on the police. Furthermore, specific training in countering racism and discrimination has been provided to police officers, notably in Amsterdam and Rotterdam⁴.
10. In spite of these important initiatives, ECRI considers that improvements remain to be made, especially in dealing with racially-motivated offences (i.e. common offences that are committed with a racist motivation), an area that ECRI had already identified in its second report as needing priority attention from the Dutch authorities. ECRI has received consistent reports according to which in some cases, the police still discourage complainants from making a report of these offences or do not investigate the reported offences with the necessary

² Act to increase the sentence for structural forms of discrimination, Bulletin of Acts and decrees 2003, 480.

³ National Framework for the Dutch Police.

⁴ See below, Conduct of law enforcement officials.

thoroughness. More generally, police officers are reported to be not always equipped with the necessary tools to recognise and deal with racially-motivated offences professionally. Official figures on the way in which the Dutch criminal justice system deals with racially-motivated offences are not available, although work is underway to generate such data⁵. However, ECRI understands that the 25% increase in the severity of a sentence for racially-motivated offences, as required by the instructions of the Public Prosecution Service, was applied for the first time only in 2006.

11. As concerns the implementation of the provisions against racism and racial discrimination mentioned above (paragraph 5), official figures are at present available only for the Public Prosecution Service⁶. These figures indicate that the Public Prosecution presses charges in around 60-65% of the cases that are reported to it. In approximately half of the remaining cases financial settlements are reached, while in the other half charges are dropped. It is not clear to ECRI the extent to which these figures reflect a more vigorous approach to prosecuting these offences as required by the 2003 instructions. ECRI also notes that at the time of writing, the more severe penalties introduced in 2004 for the systematic commission of these offences⁷ have not yet been applied. Furthermore, it notes that, while a number of prosecutions and sentences for racist insults and incitement to racial hatred, discrimination and violence have been secured, there have been cases where protection against these occurrences has not been provided. This has included, for instance, racist expression uttered during extreme-right-wing demonstrations.
12. In its second report, ECRI also recommended that the Dutch authorities strengthen their efforts to counter racist offences committed through the Internet. The Dutch authorities report that, in conformity with a recommendation made by ECRI in its second report, they have increased their financial support to the Complaints Bureau for Discrimination on the Internet (*Meldpunt Discriminatie Internet, MDI*)⁸. ECRI notes that the number of complaints that reach the MDI has risen considerably since ECRI's second report and that, after reaching a peak in 2004, it stabilised at around 1,200 per year. ECRI welcomes the fact that prosecutions were secured in a number of cases – for instance, three prosecutions took place in 2006. Civil society organisations have often stressed, however, that a more vigorous prosecution policy and sentencing approach would be desirable in order to curb the dissemination of racist material through the Internet more effectively.

Recommendations:

13. ECRI encourages the Dutch authorities in their efforts to ensure that the criminal justice system provides an effective response to manifestations of racism and racial discrimination.
14. ECRI recommends that the Dutch authorities improve the response of the criminal justice system to racially-motivated offences. It strongly recommends that the Dutch authorities raise the awareness of the instructions of the Public Prosecution Service concerning these offences among the police. ECRI draws the attention of the Dutch authorities to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which provides

⁵ See below, Monitoring the situation in the country.

⁶ The aggregate figures concerning all offences are: 242 cases reported to the Public Prosecution Service in 2002, 204 in 2003, 214 in 2004, 241 in 2005 and 246 in 2006.

⁷ See above, paragraph 6.

⁸ See below, Media.

detailed guidance on how to improve the role played by the police in countering racially-motivated offences⁹.

15. ECRI reiterates its recommendation that the Dutch authorities introduce a provision explicitly establishing that the racist motivation of an offence constitutes a specific aggravating circumstance in sentencing, as recommended in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination¹⁰.
16. ECRI encourages the Dutch authorities to ensure that the criminal justice system provides adequate protection against all instances of incitement to racial hatred, discrimination and violence.
17. ECRI recommends that the Dutch authorities promote a more vigorous prosecution and sentencing practice in respect of offences committed through the Internet.

Civil and administrative law provisions

18. The main piece of civil and administrative legislation against racial discrimination, the 1994 General Equal Treatment Act (*Algemene wet gelijke behandeling, AWGB*), was amended in 2004 to transpose the two European Union Directives on equal treatment¹¹. The AWGB provides protection against discrimination on grounds covered by ECRI's mandate in the following areas: employment and occupation, provision of goods and services (including education), social security and protection and healthcare. In its second report, ECRI recommended that the Dutch authorities consider extending the material scope of the AWGB to cover other areas, including important functions carried out by public authorities, such as law enforcement. ECRI notes that this question has been considered. However, it understands that the conclusion was that such extension was not necessary, as there are no indications that the protection currently offered by Article 1 of the Constitution¹² and the General Administrative Law Act is insufficient.
19. In its second report, ECRI noted that the AWGB provided protection against victimisation (i.e. adverse treatment incurred by an alleged victim of discrimination for pursuing his/her rights under equal treatment legislation) only in cases of dismissal from employment. It recommended that protection against victimisation be extended to all areas covered by the AWGB and that such protection also be extended to third parties and witnesses. ECRI is pleased to note that this has been done through the 2004 amendments to the AWGB.
20. It has been highlighted that, when racial discrimination is established, the sanctions available are not always adequate. In cases of discriminatory dismissal from employment, the AWGB prescribes that such dismissal is null and void, and the discriminated party can use ordinary court procedures to claim wages, compensation or be reinstated in the job. However, violations of the AWGB other

⁹ ECRI General Policy Recommendation No.11, paragraph 11 (and paragraphs 65-67 of the Explanatory Memorandum).

¹⁰ ECRI General Policy Recommendation No.7, paragraph 21 (and paragraph 47 of the Explanatory Memorandum).

¹¹ Directive 2000/43/EC of the Council of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation.

¹² Article 1 (Equality) : "All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, or sex or on any other grounds whatsoever shall not be permitted".

than discriminatory dismissal can only be redressed through “softer sanctions” imposed by the Equal Treatment Commission¹³. The Dutch authorities have underlined, however, that even if this is not explicitly stated in the AWGB, court proceedings can in all cases be initiated on the basis of Article 6:612 of the Civil Code (unlawful act).

21. ECRI notes that a recent review of the AWGB commissioned by the Government indicates that the AWGB does not provide a sufficient basis for members of the public to be aware of their rights and comply with their non-discrimination obligations.

Recommendations:

22. ECRI recommends that the Dutch authorities extend the material scope of the General Equal Treatment Act (AWGB) to important public authority activities that are currently not covered, such as the activities of the police, other law enforcement officials and border control officials, as provided for in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination¹⁴.
23. ECRI recommends that the Dutch authorities keep the effectiveness of the sanctions available for violations of the AWGB under review. In this connection, ECRI draws the attention of the Dutch authorities to the guidance it has provided in this area in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination¹⁵.
24. ECRI encourages the Dutch authorities to strengthen their efforts to raise awareness among potential victims of their rights and among the general population of their non-discrimination obligations under the AWGB.

Administration of justice

25. Since its second report on the Netherlands, ECRI has received an increasing number of reports according to which racial profiling (i.e. the use, with no objective and reasonable justification of grounds such as race, colour, language, religion, nationality or national or ethnic origin in control, surveillance and other similar law enforcement activities) is not uncommon in the Netherlands. Racial profiling is reported to take place in the framework of police activities aimed at countering crime generally. In this context Antilleans and Moroccans are, for instance, reported to be particularly vulnerable groups¹⁶. However, concern has been expressed that racial profiling practices have particularly intensified in the context of activities carried out to prevent and counter terrorist crimes. In this context, it is the Muslim population of the Netherlands that is reported to have been especially targeted. Since ECRI’s second report, the Netherlands has adopted different pieces of legislation, aimed to various degrees at preventing and countering terrorist crimes. This includes legislation that strengthens police powers to carry out identity checks (Extended Scope Compulsory Identification Act, 2005) and legislation that, in certain circumstances, enables the police to

¹³ These “softer sanctions” include: making recommendations to the party having committed the discrimination; forwarding findings in an Opinion to the Minister concerned or to organisations of employers, employees, professionals etc.; and bringing legal action with a view to obtaining a ruling that conduct contrary to the relevant equal treatment legislation is unlawful, requesting that such conduct be prohibited or eliciting an order that the consequences of such conduct be rectified.

¹⁴ ECRI General Policy Recommendation No.7, paragraph 7 (and paragraph 26 of the Explanatory Memorandum).

¹⁵ ECRI General Policy Recommendation No.7, paragraph 12 (and paragraphs 31-34 of the Explanatory Memorandum).

¹⁶ See below, Vulnerable groups – Antilleans.

carry out preventative searches without reasonable suspicion of an offence. ECRI understands that a review of the Extended Scope Compulsory Identification Act, which is to take place in 2008, will assess, *inter alia*, possible patterns of racial discrimination in the implementation of the Act. More generally, however, ECRI notes that the lack of ethnic monitoring of relevant police and security activities and the absence of in-depth research on racial profiling practices negatively affect the Dutch authorities' ability to recognise and address any such practices.

Recommendations:

26. ECRI recommends that the Dutch authorities investigate racial profiling practices in the Netherlands. Such practices should be investigated in the context of countering all crime, including terrorist crime, and with respect to activities carried out both by law enforcement personnel and intelligence and security services. ECRI stresses in particular the need for in-depth research and for ethnic monitoring of relevant police and security activities to be carried out. ECRI strongly encourages the Dutch authorities to draw inspiration from its General Policy Recommendation No. 11, which provides detailed guidance in all these areas¹⁷.

Specialised bodies and other institutions

- Equal Treatment Commission

27. In its capacity as a semi-judicial independent body with the task of investigating, mediating and adjudicating alleged violations of Dutch anti-discrimination legislation (including on grounds covered by ECRI's mandate), the Equal Treatment Commission (*Commissie Gelijke Behandeling, CGB*) has in recent years continued to be the main mechanism through which respect of equal treatment legislation is ensured in the Netherlands. In its second report, ECRI noted that although the decisions of the CGB were not legally binding, they were usually complied with. ECRI notes that an evaluation carried out by the CGB in 2005 shows that the decisions of the CGB are followed by the party found to be in breach of equal treatment legislation in 70% of the cases. When the case is brought before the courts, the latter refer to the CGB's decision in 81% of the cases and follow such decisions in 61% of the cases. ECRI also notes that the CGB has recently strengthened its activities aimed at monitoring the follow-up given to its decisions.
28. ECRI is pleased to note that, since its last report, the CGB's powers to initiate *ex-officio* investigations have been strengthened and that one such investigation is currently ongoing concerning discrimination on grounds of racial or ethnic origin in access to work traineeships. ECRI also welcomes the fact that, since its second report, the CGB has been increasingly involved in preventative policy assessment, whereby organisations and authorities have submitted their envisaged policies to the CGB for an assessment of their conformity with equal treatment legislation. ECRI notes that such advice has been sought in 26 cases in 2006, 7 of which concerned the grounds of race and religion.
29. ECRI notes that since its second report, the CGB has rendered an increasing number of decisions and that some of these decisions, notably concerning grounds covered by ECRI's mandate, have received considerable national attention. ECRI notes with regret, however, that the CGB and its decisions have not always enjoyed public support by the Dutch authorities. Thus, for instance, ECRI notes that in March 2006, following a CGB decision which found that a school was wrong to dismiss a Muslim female teacher from its classes for

¹⁷ ECRI General Policy Recommendation No.11 on combating racism and racial discrimination in policing, paragraphs 1-4 (and paragraphs 27-47 of the Explanatory Memorandum).

refusing to shake hands with men, the then Minister for Immigration and Integration called the very existence of the CGB into question.

Recommendations:

30. ECRI recommends that the Dutch authorities provide all the necessary political support to the Equal Treatment Commission and contribute to backing the authority of its decisions and their enforcement.

- National Ombudsman

31. While it noted that the National Ombudsman was not the body with primary responsibility for dealing with manifestations of racism and racial discrimination, in its second report ECRI expressed the hope that this institution would play an active role in countering any actions on the part of public authorities that may be connected to these phenomena. ECRI notes that since then, the National Ombudsman has carried out work in a number of areas that are connected with combating racism and racial discrimination, including certain aspects of the asylum procedure and possible patterns of racial discrimination in controls related to drug trafficking or, more recently, in the career paths of ethnic minority police officers¹⁸.

- Art. 1

32. In operation since January 2007, Art. 1 is the result of a merger between the National Bureau against Racism (*Landelijk bureau ter bestrijding van rassendiscriminatie, LBR*), which until the merger only dealt with grounds of discrimination covered by ECRI's mandate, and the Federation of local antidiscrimination bureaus. As a result of the merger, Art. 1 covers discrimination on all grounds recognised in Dutch equal treatment legislation. In its second report, ECRI recommended that the Dutch authorities ensure that adequate funding be available to the LBR to enable this organisation to carry out its tasks effectively. The Dutch authorities report that funding for Art. 1 has been maintained for 2006 and 2007 and that extra funding has been provided to make up for the cost of the merger. However, doubts have been expressed on the extent to which these resources match the extension of the mandate of the new association to deal with all grounds of discrimination.

- Local antidiscrimination bureaus

33. In its second report, ECRI noted that the many local authority-funded antidiscrimination bureaus carried out good and often innovative work against racism and racial discrimination. It therefore recommended that the Dutch authorities make available the necessary resources to enable these bureaus to work effectively. Since then, the establishment of a network of functioning local anti-discrimination bureaus dealing with discrimination on all grounds (including those covered by ECRI's mandate), has been central to the Dutch authorities' strategy to combat racism and racial discrimination. The main tasks of these bureaus are to provide protection against discrimination by handling individual complaints and to provide a coherent picture of discrimination in the Netherlands by registering such complaints in a professional and uniform manner. Although it may in part reflect the fact that such funding is not yet fully earmarked for this purpose – a formal obligation for municipalities to spend this money to handle and register complaints will only be in force from 2008 - research seems to indicate that local authorities are still widely unaware of their responsibilities to carry out anti-discrimination work. Thus, for instance, the majority of local communities do not yet fund an antidiscrimination bureau and less than half of

¹⁸ See below, Conduct of law enforcement officials.

the antidiscrimination bureaus that should exist are reported to be actually in place. More generally, civil society organisations have welcomed the emphasis currently put on the local dimension of antidiscrimination work. However, they have also stressed that more leadership and guidance from the central authorities is necessary to ensure that such work is actually carried out in practice.

Recommendations:

34. ECRI recommends that the Dutch authorities ensure that the attention paid by the National Bureau against Racism to combating racism and racial discrimination and the expertise gained by this organisation in this field are continued within Art.1. To this end, ECRI encourages the Dutch authorities to ensure that funding arrangements of the new organisation reflect its extended mandate, which covers discrimination on all grounds covered by Dutch equal treatment legislation.
35. ECRI encourages the Dutch authorities in their efforts to establish a functioning network of local anti-discrimination bureaus which provide protection against and register complaints of, racism and racial discrimination. It recommends that the Dutch authorities provide the necessary leadership and guidance to raise local authorities' awareness of their responsibilities to carry out antidiscrimination work and ensure that such bureaus are actually established throughout the country.

Education and awareness-raising

36. In its second report, ECRI recommended that the Dutch authorities ensure that existing material aimed at combating racism and stereotypes be used in teaching practice. As an illustration of initiatives taken to this end, the Dutch authorities have highlighted the extra-curricular teaching projects and the teacher training activities they have carried out to educate students about World War II and its significance today¹⁹. These initiatives cover themes such as the importance of freedom, human rights, mutual respect, democracy and citizenship. They aim to promote awareness of certain social processes and the role played in these by the general public, and to teach students about the neglected stories of certain groups, such as the Roma and Sinti. These initiatives respond to the growing chronological distance from World War II, which requires measures to raise awareness among the younger generations generally. They also respond to a reportedly growing hostility among a number of Muslim pupils to being taught about the Holocaust and World War II, a circumstance that has resulted in some schools ceasing to teach about these subjects altogether.
37. In its second report, ECRI also recommended that the Dutch authorities equip all teachers with the skills to teach in a multicultural society and to react to any manifestations of racism and discriminatory attitudes in schools. ECRI has no information on specific measures taken to implement this recommendation. However, it notes that a statutory provision added to the Primary Education Act in February 2006 may provide the grounds for initiatives to be taken in the direction indicated by that recommendation. This provision explicitly requires schools to promote active citizenship and social integration and to provide students with knowledge of the different backgrounds and cultures of their peers. The Dutch authorities report that the school inspectors have started to monitor the extent to which schools comply in practice with these requirements, but that it is too early to provide an overall assessment. ECRI stresses that this provision provides a good opportunity for school communities to promote an idea of integration as a two-way process²⁰, where majority students and teachers are required to gain

¹⁹ See below, Antisemitism.

²⁰ See below, Reception and status of non-citizens – Integration measures.

knowledge of and promote respect for backgrounds and cultures different from their own. Seizing this opportunity appears all the more necessary, as research indicates particularly high levels of xenophobia among young people.

38. ECRI notes that human rights are not taught as a separate subject in compulsory education, but that they are reflected in the cross-cutting goals of education and are imparted in the teaching of other subjects that students study at certain grades.

Recommendations:

39. ECRI reiterates its recommendation that the Dutch authorities equip all teachers with the skills to teach in a multicultural society and to react to any manifestations of racism and discriminatory attitudes in schools, in accordance with its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education²¹.
40. ECRI recommends that the Dutch authorities monitor the extent to which the statutory provision introduced into the Primary Education Act in February 2006 is applied in practice. It strongly recommends that, in so doing, the Dutch authorities ensure that the obligation for schools to provide students with knowledge of the backgrounds and cultures of their peers is respected.
41. ECRI encourages the Dutch authorities to strengthen the human rights dimension of the curricula in all subjects. In the long term, however, ECRI recommends that the Dutch authorities consider making human rights, including non-discrimination, a compulsory subject at both primary and secondary levels.

Reception and status of non-citizens

- Asylum seekers and refugees

42. Since ECRI's second report, figures concerning asylum applications in the Netherlands have decreased dramatically – from 43,895 in 2000 to 9,782 in 2004 and approximately 14,500 in 2006. This decrease reflects in part the more restrictive approach taken by the Dutch authorities in matters relating to asylum since ECRI's second report. Since then, a new Asylum Act entered into force on 1 April 2001, with the primary objective of reducing the time for decisions on refugee status. ECRI notes that as a result of the Act, the use of the accelerated procedure, which already existed prior to the Act to deal with manifestly-unfounded claims and leads to a decision on the asylum claim in 48 hours, has been generalised. In 2006, for instance, 42% of all applications were processed through this procedure, which also applies to vulnerable categories of asylum seekers, such as traumatised persons or unaccompanied children. Although the Dutch authorities have reported to ECRI that they do not set targets for the share of claims to be examined through this procedure, ECRI notes that since its second report, the intention to increase this share has publicly been stated.
43. Organisations active in the field of protecting the right to seek asylum report that the application of the accelerated procedure, combined with other restrictive practices (for instance concerning the possibility to introduce new facts and circumstances after a first negative asylum decision, or the standard of proof applicable to asylum claims), have increased the risk that *bona fide* refugees may be removed from the Netherlands to unsafe third countries and even returned to their countries of origin. It has also been reported to ECRI that, under the normal procedure, asylum seekers still have to wait for a long time before they receive a decision on their claims. Furthermore, ECRI notes reports according to which in

²¹ ECRI General Policy Recommendation No.10, Section III.

recent years an increasing number of children, either with their families or unaccompanied, have been detained in centres for aliens. The Dutch authorities have stressed that a recent evaluation of the Aliens Act has highlighted shortcomings in both the accelerated and the normal procedure and that improvements will therefore have to be made. ECRI is also pleased to note that the Dutch authorities have announced their intention to introduce new policies for unaccompanied minor children.

44. In its second report, ECRI noted that manifestations of hostility *vis-à-vis* asylum seekers were not infrequent. The Dutch authorities report that although some isolated incidents have taken place, the overall situation has improved. However, ECRI also notes reports by civil society organisations according to which the markedly negative tone of public debate around issues relevant to ethnic minority groups generally in the Netherlands since ECRI's second report²² has also had a negative impact on asylum seekers. In this connection, ECRI notes that the debate about a proposed general amnesty concerning approximately 26 000 asylum seekers who had been in the asylum procedure for a long time and included individuals in very different situations, did little to improve the climate of opinion around asylum seekers. ECRI notes that, following the plans announced by the Dutch government in February 2004 not to grant such an amnesty and proceed with the deportation of those without a title to remain in the country, the government that was sworn in on 22 February 2007 decided to accord it. Provided they meet certain criteria, the persons concerned will now be able to obtain residence permits. ECRI welcomes these recent decisions. However, as stressed in other parts of this report with respect to other proposed measures, which have been widely discussed and finally abandoned²³, ECRI remains seriously concerned that such plans contribute to eroding the general public's support for human rights and respect for international protection obligations.

Recommendations:

45. ECRI urges the Dutch authorities to ensure that the procedures in place for seeking asylum in the Netherlands enable those in need of protection to have the merits of their individual claims thoroughly examined and do not put people at risk of being returned to countries where they may be subject to serious human rights violations. To this end, it recommends in particular that they review the accelerated procedure and its use. ECRI stresses that channelling claims to any accelerated procedure in place should not be driven by statistics but strictly determined by the merits of the claims. ECRI also recommends that the Dutch authorities strengthen their efforts to shorten the waiting period for asylum decisions under the normal procedure.
46. ECRI strongly encourages the Dutch authorities in their plans to review their policies on unaccompanied children and stresses that detention of children should be strictly limited to cases where it is absolutely necessary and in the best interest of the child.
47. ECRI recommends that the Dutch authorities take the lead in placing public debate on asylum securely in the realm of human rights and refrain from adopting or proposing policies that contribute to eroding the general public's support for human rights and respect for international protection obligations.

²² See below, Section II, The tone of political and public debate around integration and other issues relevant to ethnic minority groups.

²³ See below, Section II, The tone of political and public debate around integration and other issues relevant to ethnic minority groups and Section III, Islamophobia.

- **Integration measures**

48. Since ECRI's second report, issues related to integration and measures to promote it have been at the centre of public debate in the Netherlands. The general negative tone of such debate is discussed in another part of this report²⁴. Here, ECRI would like to address some of the concrete integration measures introduced.
49. In its second report, ECRI noted that the Integration of Newcomers Act (*Wet Inburgering nieuwkomers, WIN*) had introduced obligatory integration courses for newcomers and recommended that the Dutch authorities carefully monitor the effects of the compulsory dimension of these integration courses. ECRI notes that, since then, the compulsory dimension of integration measures has been extended very significantly. These measures now apply to newcomers, prior and subsequent to their arrival in the Netherlands, but also to persons who have resided in the Netherlands for a long time. Following a change in the original plans, such measures do not apply in principle to Dutch citizens of non-Dutch origin.
50. The first measure introduced consists of a compulsory oral exam (civic integration examination abroad) on Dutch language and culture prior to entry into the Netherlands. Under the Civic Integration Abroad Act, since March 2006 persons who intend to apply for permanent residence in the Netherlands (essentially for marriage or family reunification purposes) have been required to pass this exam for their applications for an authorisation for temporary stay (MVV) to be considered further. The Dutch authorities have stressed that the language skills and competences required to pass the exam are minimal and that in the period from 15 March 2006 to 15 March 2007, approximately 90% of those who took the exam passed it. ECRI notes however, that the total number of applications for an MVV has registered a considerable decrease over that same period. Although ECRI understands that precise figures are not available, the Dutch authorities have reported a 25% decrease in applications. ECRI also notes that there is a fee of 350 € to be paid every time the exam is taken. Furthermore, it notes that citizens of certain countries (including a number of non-EU countries) are exempted from taking the exam²⁵. Such exemptions have been justified on the ground that the levels of economic, social and political development prevailing in these countries are comparable to Dutch ones. ECRI notes that civil society organisations have expressed doubts concerning the conformity of such exemptions with the prohibition of discrimination on the basis of nationality.
51. The other main new integration measure introduced since ECRI's second report through the Civic Integration Act, consists of a compulsory integration exam that newcomers (who have already successfully taken the civic integration examination abroad) and so called *oudkomers* (i.e. persons who have been residing in the Netherlands since before the entry into force of the Act on 1 January 2007) need to take within certain time limits. This exam tests candidates for both knowledge of the Dutch language and culture and the necessary skills to make one's way in Dutch society. Candidates must pay for the preparatory

²⁴ See below, Section II, The tone of political and public debate around integration and other issues relevant to ethnic minority groups.

²⁵ Exempted from the examination are citizens of those countries for which an authorisation for temporary stay is not required, i.e. citizens of all EU member States, Australia, Canada, Iceland, Japan, Liechtenstein, New Zealand, Norway, South Korea, Switzerland and United States. More specific exemptions are given to persons of Surinamese nationality who have completed primary education in the Dutch language in Surinam or the Netherlands, as well as to migrants for a temporary reason, such as study, au pair work or medical treatment. Other categories that are exempted are persons with a work permit, self-employed persons, skilled immigrants and family members of a person in possession of an asylum residence permit.

integration courses for the exam, which are often organised by the municipalities, although the persons concerned may apply to have these costs reimbursed under certain circumstances. In its second report, ECRI recommended that the integration courses provided for under the WIN should be tailored as much as possible to the concrete circumstances of the person concerned. The Dutch authorities have stressed that the Civic Integration Act provides for a wide range of products and services tailored to individual needs. However, ECRI notes reports according to which this is not yet the case in practice in many municipalities.

52. The Dutch authorities have stated that compliance with the obligation to take the integration exam can result in positive outcomes, such as the granting of a permanent residence, whereas there are no sanctions, such as administrative fines, for lack of compliance with such obligation. As mentioned above, Dutch citizens have in the end been exempted from the requirement to take the integration exam. However, ECRI notes with perplexity reports according to which municipalities have in some instances asked Dutch citizens who are on welfare benefits to produce an integration certificate in order to avoid being fined. More generally, concern has been expressed that the requirement to pass the integration exam may result in exclusion and discrimination, for instance by employers and service providers, as they may feel authorised to demand integration certificates from persons seeking employment or services. At present, however, the Dutch authorities are not aware of any such occurrences.
53. ECRI does not consider the imposition of sanctions to be the most appropriate or effective approach in matters of integration and believes that positive incentives are in principle a sufficient means of persuasion. At the same time, it notes that civil society organisations have not expressed a strong opposition to a certain degree of compulsion in integration measures as such. The main opposition from civil society organisations to the new system of integration measures is rather linked to a widespread perception, stemming directly from the very negative tone of public debate within which these measures have been adopted, that such measures have been taken to punish and stigmatise immigrants rather than to improve their position in Dutch society. Such a perception is compounded by what civil society groups have described as a deliberate attempt in recent years to make family reunification and formation more difficult. In this respect, ECRI notes that, in addition to the fees required for the civic integration examination abroad, the fees for residence permits are reported to have increased by approximately 600% in recent years.
54. ECRI notes that the Dutch authorities plan to monitor the implementation of the new integration measures and their effectiveness, notably through their Annual Report on Integration. The Dutch authorities have stressed that, since October 2004, the Report has included a method (integration card) for evaluating the progress of groups targeted by integration policies within Dutch society.
55. More generally, ECRI welcomes the fact that the Dutch authorities have repeatedly confirmed their understanding of integration as a two-way process, involving both majority and minority communities. ECRI considers, however, that this approach has not been reflected in the concrete integration measures taken since ECRI's second report, which have been aimed essentially at addressing actual or perceived deficiencies among the minority population. In ECRI's opinion, a credible policy at central government level in the Netherlands, which attempts to address with comparable energy and determination the integration deficit of the majority population, for instance in terms of genuine respect for diversity, knowledge of different cultures or traditions or as concerns deep-rooted stereotypes about cultures and values, is still lacking.

56. This is not to say, naturally, that work has not been carried out in the Netherlands to address the attitudes of the majority population. In ECRI's opinion the focus on combating racial discrimination is a good illustration of this²⁶. However, in order to further emphasise the integration responsibilities of the majority population, ECRI considers that this focus against discrimination should be explicitly and consistently presented to the public as forming an integral part of integration policy. ECRI also notes that since ECRI's second report, the Dutch authorities have launched a Broad Initiative on Social Cohesion, which aims at designing plans with municipalities, civil society and religious organisations to enhance mutual ties between communities, including majority communities, and their commitment to Dutch society.

Recommendations:

57. ECRI urges the Dutch authorities to closely monitor the implementation of the integration measures introduced through the Civic Integration Abroad Act and the Civic Integration Act. It recommends that, in so doing, they take into account the perspective of civil society groups.
58. ECRI recommends that the Dutch authorities monitor the impact of the civic integration examination abroad and of the increase in fees for residence permits on the number of applications received for these permits. ECRI also recommends that the Dutch authorities review the Civic Integration Abroad Act from the point of view of its conformity with the prohibition of discrimination on grounds of nationality, notably as concerns the system of exemptions.
59. ECRI strongly recommends that the Dutch authorities monitor the implementation of the Civic Integration Act and its impact on the real situation of minority groups. ECRI urges the Dutch authorities to ensure that the requirement to have an integration certificate is not used to discriminate against Dutch citizens of non-Dutch origin and does not prevent people from accessing opportunities in employment and other fields.
60. ECRI strongly recommends that the Dutch authorities ensure that a wide range of preparatory integration courses, which reflect to the greatest extent possible the individual needs of the persons concerned, is available in practice.
61. ECRI recommends that the Dutch authorities genuinely reflect in their policies the idea of integration as a two-way process. To this end, ECRI strongly recommends that the Dutch authorities develop a credible policy at central government level to address the integration deficit among the majority population, by promoting genuine respect for diversity and knowledge of different cultures or traditions and eradicating deep-rooted stereotypes on cultures and values. To the same end, it recommends that the Dutch authorities make their work against racial discrimination an integral part of their integration policy and that they consistently present it as such to the public.

Employment

62. In its second report, ECRI welcomed legislation that required companies above a certain size to strive for better representation of ethnic minorities among their workforce by means of monitoring, reporting and planning obligations (*SAMEN Act*)²⁷. It recommended that the Dutch authorities work to ensure employers' compliance with such obligations. ECRI notes, however, that the SAMEN Act was discontinued in December 2003. The Dutch authorities have reported that the

²⁶ See above, Criminal law provisions, Civil and administrative law provisions and Specialised bodies and other institutions.

²⁷ *Wet stimulering arbeidsdeelname minderheden*.

evaluation of this legislation indicated that it had not succeeded in securing better representation of ethnic minorities in employment, although civil society organisations report that, following a difficult initial period, employers' compliance with the Act had finally started to improve. As an alternative measure to the SAMEN Act, the Dutch authorities established an expertise centre on diversity and employment (DIV), which since 2004 has promoted diversity management among employers. ECRI understands that DIV will be discontinued at the end of 2007.

63. Civil society organisations have underlined that these developments reflect a more general trend since ECRI's second report in the Netherlands to relinquish labour market policies specifically targeted at ethnic minority groups. The Dutch authorities confirm that since ECRI's second report, preference has been given to general labour market policies targeted at persons in need of support irrespective of ethnic origin. However, they also stress that the priority areas covered by these policies (e.g. reduction of long-term and youth unemployment) are problem areas which particularly affect ethnic minority groups. In addition, the Dutch authorities stress that they have commissioned a study on obstacles faced by ethnic minorities in the labour market²⁸. This study identifies stereotyping and discrimination among such obstacles and proposes a range of measures to tackle these, ranging from awareness-raising campaigns and diversity policies in the workplace to the deployment of positive role models and the establishment of codes of conduct and complaints procedures. The Dutch authorities report that they have taken a number of measures on the basis of this study. These include, once again, general measures but also some initiatives targeted specifically at ethnic minority groups, such as women of foreign origin, refugees, and youth of Moroccan and other non-Dutch origin.
64. Since ECRI's second report, the majority of registered complaints of discrimination continue to concern employment. ECRI notes that there has been a considerable increase in the number of complaints of discrimination on grounds covered by its mandate that are filed with the local antidiscrimination bureaus, a phenomenon that is reported to reflect at least in part a better awareness among the general population of the institutional antidiscrimination framework in place. ECRI notes that religion has increasingly been cited as a ground of discrimination in employment and that most complaints relate to discrimination in the workplace, a circumstance that may tend to indicate that the provisions in force against racial harassment still need to be more fully applied. ECRI notes that at the same time as the number of complaints filed with the antidiscrimination bureaus increases, the number of decisions rendered by the CGB²⁹ on employment discrimination cases related to race and religion has decreased in the last few years.
65. More generally, ECRI notes that since its second report, unemployment has increased noticeably for ethnic minorities, especially Moroccans, Turks and Antilleans. Although a middle-class is reported to be slowly emerging from among ethnic minority groups, the members of these groups are still seriously over-represented among unemployed youth and the long-term unemployed.

Recommendations:

66. ECRI strongly recommends that the Dutch authorities strengthen their efforts to improve the position of ethnic minority groups in the labour market. It encourages the Dutch authorities in their efforts to combat discrimination. However, it considers that positive measures in the field of employment aimed specifically at the ethnic minority population should be used more widely than is the case at

²⁸ Ethnic minorities in the Labour Market: Images and facts, obstacles and solutions, April 2005.

²⁹ See above, Specialised bodies and other institutions.

present. In so doing, it recommends that the Dutch authorities target these measures to those groups that appear to be most disadvantaged, particularly Moroccans, Turks and Antilleans.

67. ECRI recommends that the Dutch authorities monitor the implementation of the legal provisions in force against racial discrimination in employment. In particular, it recommends that they monitor the effectiveness of the provisions prohibiting racial harassment in the workplace and take any necessary corrective action.

Access to public services

- Access to education

68. In its second report, ECRI expressed concern at *de facto* racial segregation in Dutch schools. This resulted from a range of factors, including spatial (socio-economic) segregation and the practice of indigenous Dutch parents living in neighbourhoods with a large ethnic minority population of sending their children to schools in other areas (the so-called “white flight”). ECRI recommended that the Dutch authorities counter this phenomenon by improving support to weaker schools, in order to attract enrolment in these schools by a wider mix of children, and by encouraging parents to send their children to a school within the neighbourhood where they live.
69. ECRI notes that since its second report, the issue of the desegregation of Dutch schools has been widely discussed. The governing principle remains the right of parents to send their children to the school of their choice. However, the Dutch authorities stress that, following a report by the Education Council³⁰, which examined and made recommendations on issues of desegregation, individual schools have been required since August 2006 to consult with their municipalities about the best ways to combat school segregation. The concrete commitments depend on the local situation, but the Dutch authorities have stressed that options include group enrolment of underrepresented pupils, providing parents with better information about school selection, pupil exchanges and the development of joint activities between schools, for instance in the fields of sport or culture. The Dutch authorities have also reported that they continue to channel extra funds to schools whose pupils experience socio-economic disadvantage.
70. Although the Dutch authorities recognise that imbalances in the levels of educational attainment between the majority and minority populations are still very significant, they underline that such imbalances are getting smaller. Since ECRI’s second report, the average educational level has increased more for ethnic minority groups than it has among the majority Dutch population.

Recommendations:

71. ECRI recommends that the Dutch authorities continue to address *de facto* segregation in Dutch schools, in line with its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education³¹. In so doing, the Dutch authorities should continue to combine measures aimed at improving the quality of schools with a significant ethnic minority population with initiatives aimed at providing incentives for parents to send their children to schools in their own neighbourhoods.

³⁰ *Beacons of dispersal and Integration*, 2005.

³¹ ECRI General Policy Recommendation No.10, paragraph 3 b.

- **Access to housing**

72. Since ECRI's last report, increasing attention has been given in the Netherlands to policies aimed at countering the disproportionate concentration of members of ethnic minority groups in certain neighbourhoods. In this context, the decision of the Municipality of Rotterdam to ban persons who do not meet certain income requirements from residing in certain neighbourhoods has attracted considerable national and international attention and criticism. The Urban Areas (Special Measures) Act provides that in order to stop the deterioration of certain neighbourhoods, municipal authorities may obtain permission from the Minister of Housing, Spatial Planning and Environment to set requirements for potential residents of these neighbourhoods, provided that these measures are essential to alleviating the problems addressed and that they are justified by the seriousness of the problem. In application of this Act (which has since then been referred to as the "Rotterdam Act") in 2006 the Municipality of Rotterdam obtained an authorisation from the then Minister to ban persons who do not have an income from employment from residing in a number of local districts. ECRI notes that this measure, which it understands was originally targeted to ethnic minorities and only subsequently to persons defined by the income requirement, was found by the CGB³² to discriminate indirectly on the basis of race and ethnic origin. The Dutch authorities have maintained, however, that the measure in question is in conformity with the principle of non-discrimination, notably as it is a temporary measure taken as a last resort and in consideration of the fact that those affected are able to find accommodation in the same municipality or elsewhere in the area. They have also stressed that this measure has been adopted to complement other social policies aimed at improving the conditions in these neighbourhoods and that it will be evaluated in 2007.
73. ECRI notes that the Dutch authorities have recently selected forty districts throughout the country, including all the districts covered by the Rotterdam Act, to which they will target priority interventions in the field of housing, but also in other areas, including employment, education and security.

Recommendations:

74. ECRI encourages the Dutch authorities to continue their efforts to counter the disproportionate concentration of ethnic minority groups in disadvantaged neighbourhoods. While recognising the challenges posed by this task, ECRI strongly recommends that the Dutch authorities monitor the impact of measures taken in these fields and ensure that these comply with the prohibition to discriminate directly or indirectly on the basis of grounds covered by ECRI's mandate. It recommends that policies that are found to be in breach of such prohibition should be discontinued.
75. ECRI recommends that in their efforts to combat *de facto* segregation the Dutch authorities give priority to measures aimed at improving the socio-economic conditions prevailing in disadvantaged areas.

- **Access to public places**

76. In its second report, ECRI recommended that the Dutch authorities strengthen their efforts to counter racial discrimination in access to places of entertainment, through both awareness-raising measures targeted at those running these establishments and a more vigorous implementation of the existing legal provisions against discrimination. ECRI is pleased to note that since then the Dutch authorities have devoted attention to this problem and funded a number of

³² See above, Specialised bodies and other institutions.

projects aimed at countering it. The approach adopted by the Dutch authorities combines a smoother, more preventative, approach with the possibility of taking legal action when appropriate. As part of this approach, they have supported the establishment of door policy panels, an initiative piloted in Rotterdam which has since then been extended to other municipalities. Composed of representatives of the entertainment industry, the local authorities, the police, the Public Prosecutor Service and the local antidiscrimination bureaus, the panel examines customer complaints relating to entrance policies and takes the necessary action.

Recommendations:

77. ECRI encourages the Dutch authorities in their efforts to counter racial discrimination in access to places of entertainment. It recommends that the Dutch authorities monitor the effectiveness of measures taken to this end, including the impact of door policy panels.

- *Access to other services*

78. Since ECRI's second report, racial discrimination in access to certain banking services has been increasingly reported and discussed in the Netherlands. Problems examined have concerned essentially indirect racial discrimination in the granting of mortgages. ECRI notes, for instance, that the CGB³³ found that the practice followed by the vast majority of banks of refusing mortgages to those in possession of a temporary residence permit amounted to indirect discrimination on grounds of race and nationality. ECRI also notes that the CGB is currently carrying out an investigation into redlining practices (i.e. practices consisting of refusing mortgages to applicants living in certain areas) in order to assess their conformity with equal treatment legislation. ECRI is pleased to note that in 2006 the Ministry of Finance played an important role in encouraging the adoption of a code of conduct by the banking sector. In force since January 2007, the code provides that surname or postal code should not be taken into account in banks' decisions on whether or not to grant a mortgage. ECRI understands that the Ministry of Finance is notified of complaints for violations of the provisions of the code that may point to structural problems.

Recommendations:

79. ECRI encourages the Dutch authorities in their efforts to counter racial discrimination in banking services. It recommends that they monitor the effectiveness of initiatives in place to counter this phenomenon.

Vulnerable groups

- *Muslims*

80. See below, Section III.

- *Antilleans*

81. Approximately 100,000 Dutch citizens from the Caribbean part of the Kingdom of the Netherlands (i.e. the Netherlands Antilles and Aruba) live in the Netherlands, i.e. the European part of the Kingdom. ECRI notes that a number of policies addressed specifically at this part of the Dutch population, and notably at the younger generation, are in place. However, some of these policies (notably in the field of security), and other practices directly or indirectly connected to these have been reported to ECRI to have a racially discriminatory character.

³³ See above, Specialised bodies and other institutions.

82. The Dutch authorities have reported that many Antilleans who live in the Netherlands experience various inter-connected problems, including low levels of education, high levels of unemployment, broken families, teenage pregnancy and involvement in criminal activities. They have also reported that, in order to improve opportunities for young first- and second-generation Antilleans, arrangements have been made with cities with a high concentration of Antillean population. As part of these arrangements, projects and policies are developed in collaboration with the communities concerned for reducing early school-leaving, unemployment and criminal activities among Antilleans between 12 and 24 years of age. The Dutch authorities report that such arrangements, which have been in place since 2005 and will continue until 2008, will be evaluated.
83. The Dutch authorities have also stressed that many young Antilleans do not register their residence in the Netherlands and frequently change the place where they stay. This, the Dutch authorities explain, renders the adoption of measures targeted at individual members of this community who are at risk and in need of support, more difficult. The Dutch authorities have stressed that it is in order to address this situation, that they have introduced, with the special authorisation of the Dutch Data Protection Authority, a temporary reference system exclusively for Antilleans (Reference Index Antilleans, *Verwijsindex Antillianen*, VIA), which enables the educational, care and support services, the courts and the police to reach Antillean youths at risk more effectively and provide them with targeted support. A number of civil society organisations claim that the VIA discriminates directly on the basis of race and ethnic origin. The Dutch authorities underline that the VIA is a temporary measure that addresses a specific situation within a particular group through an effective and personalised approach. Irrespective of the situation that the VIA is designed to address, however, the establishment of a registration system with clear links to the criminal justice system that is based on race and ethnic origin and limited to one specific group, can hardly comply, in ECRI's opinion, with the prohibition of racial discrimination.
84. More generally, civil society groups have reported to ECRI that Antilleans, and especially the young, are particularly targeted by racial profiling practices, in that they are often stopped and searched by law enforcement officials without an apparent reason. ECRI also notes reports of discriminatory pre-flight checks for drugs at Schiphol airport on Antilleans travelling to Curaçao, which have sometimes also resulted in air tickets being confiscated. Furthermore, ECRI notes with serious concern that since its second report, the Dutch authorities have proposed legislation aimed at returning young Antilleans (who, as mentioned above, are Dutch citizens) from the Netherlands to the Caribbean part of the Kingdom, in certain circumstances linked to education, employment and criminal records. ECRI understands that these plans have been abandoned by the Government sworn in on 22 February 2007.

Recommendations:

85. ECRI recommends that the Dutch authorities carefully review their policies targeting the Dutch Antillean population to ensure that such policies are in conformity with the prohibition of racial discrimination. In particular, it recommends that the Dutch authorities review the introduction of the Reference Index Antilleans in the light of such prohibition. It also urges the Dutch authorities to discontinue any plans that impinge in a racially-discriminatory manner on Dutch citizens' freedom of movement.

86. ECRI reiterates in this context the recommendations made above concerning the need to investigate racial profiling practices in the Netherlands³⁴.

- ***Roma and Sinti***

87. In its second report, ECRI underlined the need for the Dutch authorities to take wider responsibility at central government level over issues related to the Roma and Sinti communities in the Netherlands. It notes, however, that since then the situation has not changed.

88. At central government level, funds were earmarked in 1998 for the rehabilitation of victims of World War II, part of which are being used to design and implement a number of projects for the benefit of the Roma and Sinti communities in different areas. One of these projects consists of the establishment of a multi-functional centre for Roma and Sinti. The centre will be established on a small scale before the end of 2007 and include an office where complaints of unfair treatment by a government institution may be filed. While these projects are welcome, ECRI shares the view consistently expressed by civil society groups that the levels of disadvantage and discrimination faced by the members of the Roma and Sinti communities are such that they can hardly be tackled effectively without a corresponding commitment and co-ordination role at central government level.

89. Education, employment, relations with the criminal justice system and access to public places are some of the areas where research shows that Roma and Sinti experience serious disadvantage and discrimination. ECRI also notes that in specific areas (such as housing) the ethnic Dutch Traveller community also experience problems similar to those affecting certain Roma and Sinti communities. Cutting across these areas of disadvantage and discrimination, there is a serious lack of Roma and Sinti representation in public life and institutions, which points to a continuing need for empowerment measures. But there is also a vicious circle of prejudice and mistrust, reflected in the low number of complaints submitted by the members of these communities to official and semi-official institutions, which only a demonstrable long-term commitment on the part of the central government has, in ECRI's opinion, the potential to break.

Recommendations:

90. ECRI recommends that the Dutch authorities take responsibility also at central government level for issues relating to the situation of the Roma, Sinti and Traveller communities throughout the Netherlands. To this end, ECRI recommends that the Dutch authorities draw up, at the central government level and in close co-operation with the Roma, Sinti and Traveller communities, a comprehensive strategy aimed at reducing the disadvantage and discrimination these face and make available adequate resources to implement it. ECRI recommends that the areas highlighted above be given priority consideration in the elaboration of such a strategy. The strategy should also set clear targets and provide methods for evaluating progress achieved.

Antisemitism

91. The number of manifestations of antisemitism is reported to have fluctuated since ECRI's second report, with the highest peaks in the period 2002-2004 and an increase in the most serious manifestations (physical violence and threat of violence), which totalled nine cases registered in 2005. Overall, these manifestations have shown a close link with developments in the Middle East. Extreme right-wing groups are reported to be increasingly at the origin of these

³⁴ See above, Administration of justice.

manifestations, especially in more recent years, although radical Muslim groups and, to a lesser extent, extreme left-wing movements are also reported to be responsible.

92. ECRI is particularly concerned by reports indicating that since ECRI's second report, antisemitic insults and expressions have tended to become a feature of everyday life, reflecting in part a similar trend in Holocaust denial, notably among the younger generations. As an illustration of this, the word "Jew" is reported to be increasingly used as an insult and different aspects of the Holocaust are reportedly questioned in everyday situations, such as in schools. Two aspects have been singled out by civil society organisations as contributing to this development: firstly, the wide presence of antisemitic, notably Holocaust denial, propaganda on the Internet, which has risen dramatically since ECRI's second report. ECRI notes that in 2006 antisemitic material was the first category concerned by complaints submitted to the MDI³⁵, together with Islamophobic material. Secondly, antisemitic expression during football matches is reported to be easily imported into real-life situations outside the stadiums.
93. ECRI notes that the Dutch authorities have taken a number of measures to address these and other manifestations of antisemitism since ECRI's second report. As mentioned above³⁶, work is underway to educate students about World War II and its significance today. Measures have also been taken to counter antisemitic and other types of racist expressions during football matches, as recommended in ECRI's second report. These measures have included the strengthening of criminal legislation and the issuing of guidelines for criminal justice authorities, as well as the adoption of regulations with sanctions and monitoring mechanisms by individual football associations and the national football authorities. It has been reported however, that these mechanisms are not always applied. Furthermore, as mentioned in other parts of this report³⁷, a more permissive approach has been registered to the holding of extreme right-wing demonstrations, where expressions of antisemitism have sometimes occurred.

Recommendations:

94. ECRI recommends that the Dutch authorities monitor manifestations of antisemitism and take the necessary action to counter any such manifestations. In particular, ECRI encourages the Dutch authorities to strengthen their efforts to educate students about the Holocaust and against antisemitism and to counter racism and antisemitism in football. ECRI also recommends that the Dutch authorities ensure a more vigorous response against extreme right-wing demonstrations.

Media

95. Since ECRI's second report, most information on the presence of stigmatising or unbalanced reporting in the Netherlands in the areas covered by ECRI's mandate has concerned the portrayal of the Muslim communities. These communities are widely reported to have been the subject of generalisations and frequent associations with terrorism in both print and broadcast media. Although, as noted in ECRI's second report, codes of media self-regulation are in place, they are reported to be rarely applied in practice. Civil society organisations have expressed a wish for professional monitoring of racism and xenophobia in the Dutch media to be carried out. ECRI notes that, as far as the Internet is

³⁵ See above, Criminal law provisions.

³⁶ Education and awareness raising.

³⁷ See above, Criminal law provisions and below, Extremism.

concerned, the MDI³⁸ has continued to provide invaluable monitoring and remedial functions concerning racist, antisemitic and xenophobic material.

96. Civil society organisations have also stressed that in order to prevent and counter stigmatising or unbalanced reporting and its impact on the public, more needs to be done to promote media awareness among the general population and to promote diversity in all media. As concerns this last aspect, ECRI notes that although broadcasting companies are reported to have become more aware of the importance of cultural diversity in programming, this has not yet been translated into meaningful activities. Furthermore, although the Dutch authorities stress that there are more and more media professionals of ethnic minority background, ECRI notes reports according to which the number of ethnic minority students enrolled in media training institutes is still disproportionately low.

Recommendations:

97. ECRI recommends that the Dutch authorities engage in a debate with the media and members of relevant civil society groups on the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of any minority groups, including the Muslim communities.
98. ECRI recommends that the Dutch authorities support the monitoring of racism and xenophobia in the media. It recommends that they support initiatives aimed at improving representation of ethnic minorities in the media profession and that they promote a better reflection of cultural diversity of the contents within all media. ECRI also encourages the Dutch authorities to promote media awareness among the general population, with a particular emphasis on promoting critical thinking among young people and equipping them with the necessary skills to become aware of and react to racist or stereotyping material.
99. ECRI recommends that the Dutch authorities continue to support the work of the Complaints Bureau for Discrimination on the Internet (MDI), including by ensuring that adequate resources are available to this organisation to carry out its work effectively.

Conduct of law enforcement officials

100. In its second report, ECRI made a number of recommendations in the field of ensuring a sustainable presence of ethnic minority officers within the police. It stressed that particular care should be taken to ensure such presence at all levels and recommended that the Dutch authorities investigate the reasons behind a disproportionate number of ethnic minority officers leaving the service and raise awareness among the police of their own prejudices and stereotypes.
101. The Dutch authorities have reported that the representation of ethnic minority officers in the police is gradually improving. They report that when all police forces are considered, ethnic minorities constitute around 10% of the total number of officers, with some police districts showing higher percentages (14% in Amsterdam, for instance). ECRI also notes however, that there are police forces where the representation of ethnic minority police officers is extremely low. The Dutch authorities have stressed that, as reflected in the 2006-2010 Multi-Year Framework for Police Diversity Policy, attention is increasingly shifting, in matters of recruitment, from an approach aimed at reflecting the composition of society to an approach centred around the achievement of strategic and operational goals, where diversity is viewed as a business issue.

³⁸ See above, Criminal law provisions.

102. The Dutch authorities confirm that in some police forces, a disproportionate number of ethnic minority officers are still leaving the service and mention among the reasons for this the prevailing police culture and the standards of behaviour that characterise it, together with perceptions about inadequate career prospects. ECRI notes with interest that the 2006-2010 Multi-Year Framework commits the police to investigating this phenomenon further, including through more systematic and professional exit interviews and that the National Bureau on Discrimination Issues³⁹ is carrying out an investigation into this issue. The Dutch authorities have reported that ethnic minority officers are increasingly respected by their colleagues. However, ECRI notes persisting reports according to which ethnic minority officers are still sometimes faced with racist attitudes in their work environment. ECRI also notes that the National Ombudsman is investigating possible patterns of discrimination in the career paths of ethnic minority officers in one particular police force⁴⁰.
103. ECRI notes that the 2006-2010 Multi-Year Framework also contains commitments relevant to the implementation of ECRI's recommendation that the police be made aware of their own prejudices and stereotypes. Thus, for instance, the National Bureau for Discrimination Issues is developing a multicultural and diversity competences self-assessment tool for police officers. ECRI also notes that in certain police forces, such as Amsterdam and Rotterdam, a considerable number of police officers have received specific training provided by civil society organisations, or with their close implication, on this issue. ECRI is pleased to note that these police forces have reportedly shown a keen interest in receiving such training and that the feedback by police and trainers about the usefulness of such training has been generally very positive.

Recommendations:

104. ECRI recommends that the Dutch authorities strengthen their efforts to ensure a sustainable representation of ethnic minorities within the police forces. To this end, it encourages them in their efforts to identify and address the causes of ethnic minority officers leaving the police service and investigate possible patterns of discrimination in these officers' career paths. ECRI also recommends that the Dutch authorities ensure that police officers receive specialised training to help them become aware of prejudice and stereotypes.
105. ECRI recommends in particular that the Dutch authorities ensure that efforts in these fields are made within police forces throughout the country.
106. ECRI encourages the Dutch authorities to monitor the effectiveness of the work of the National Bureau for Discrimination Issues and to take any necessary measures to increase such effectiveness.

Extremism

107. In its second report, ECRI noted that the moderate success of politically organised right-wing extremist groups in the Netherlands at that time could be linked to a certain receptiveness among mainstream parties to intolerant ideas and xenophobic platforms. ECRI considers that, since its second report, such receptiveness among mainstream parties has become more obvious. It also notes that, following the last Parliamentary elections in November 2006, the

³⁹ See above, Criminal law provisions.

⁴⁰ See above, Specialised bodies and other institutions.

Freedom Party (*Partij voor de Vrijheid, PVV*)⁴¹ gained nine of the 150 seats in the Dutch Parliament.

108. Research indicates, however, that right-wing extremism in the Netherlands, especially among youth, is increasing in the form of non-political movements organised in an informal manner and essentially through the use of digital means of communication (the so-called *Lonsdale* youth). Civil society organisations point out, however, that the Dutch authorities' approach to countering right-wing extremism is still excessively influenced by a focus on formally and politically organised variants of right-wing extremism, which does not sufficiently reflect these recent developments. More generally, ECRI notes that since its second report the attention devoted by the Dutch authorities to countering extreme right-wing movements has clearly diminished in favour of the fight against Islamic radicalisation. While civil society organisations, including Muslim groups, have welcomed anti-radicalisation measures, they have consistently underlined that the corresponding decline in the attention paid to countering right-wing extremists has resulted in a marked strengthening of the latter's activities. In this connection, ECRI notes that the extreme right is reported to be increasingly at the origin of racial violence and that anti-Muslim violence is an increasingly important part of this. A more permissive approach to right-wing demonstrations, during which racist expressions, including of an antisemitic character, have remained unpunished, has also been consistently reported. In this connection, the Dutch authorities have stressed that the recent Action Plan on Polarisation and Radicalisation makes it clear that right-wing extremism among youth is as much of a priority as other forms of radicalisation. ECRI notes that research also highlights an increase in the activities of radical Islamist youth since ECRI's second report and that violent attacks between this youth and right-wing extremist groups have been on the rise. Civil society organisations have underlined the need for further investigation into the mutually-reinforcing links between radical Islamist and right-wing extremist groups to be carried out.

Recommendations:

109. ECRI recommends that the Dutch authorities include measures aimed at countering non-political and informally organised networks and movements in their efforts to counter the development of right-wing extremist groups. It encourages the Dutch authorities to ensure that these efforts are not diminished as a result of the attention devoted to countering Islamic radicalisation among youth. ECRI recommends that the Dutch authorities investigate more deeply the mutually-reinforcing dimensions of extreme-right and Islamic radicalism.

Monitoring the situation

110. In conformity with ECRI General Policy Recommendation No. 4⁴², in its second report ECRI recommended that the Dutch authorities include research of minority groups' experience and perception of racism and racial discrimination in their methods for monitoring these phenomena in the Netherlands. It thus welcomes the fact that since then, the Dutch authorities have commissioned independent research on the overall situation of racism and racial discrimination in the Netherlands that combines perception-based social-scientific research with legal research (Racial Discrimination Monitor 2005). ECRI is also pleased to note that the Dutch authorities have stated their intention to carry out such research at regular (two- or three-year) intervals. While welcoming this initiative, civil society

⁴¹ See below, Section II, The tone of political and public debate around integration and other issues relevant to ethnic minority groups.

⁴² ECRI General Policy Recommendation No.4 on national surveys on the experience and perception of discrimination and racism from the point of view of potential victims.

organisations have stressed that the openness of the Dutch authorities to reviewing ongoing policies in the light of the research findings has been limited.

111. More generally, civil society organisations have stressed that overall government policies and strategies against racism and racial discrimination that have been adopted in recent years, including the National Action Plan against Racism (NAPAR) and the Strategy against Discrimination (a policy document covering discrimination on all grounds, with which the government also responded to the findings of the Racial Discrimination Monitor) have tended to confirm existing policies more than to genuinely discuss and shape them with civil society. Although it notes that the NAPAR and the Strategy against Discrimination contain some important government commitments, ECRI considers that the mechanisms to monitor and evaluate progress are limited.

Recommendations:

112. ECRI encourages the Dutch authorities in their efforts to monitor racism and racial discrimination through methods that integrate victims' perception and experience of these phenomena. It recommends that such research be carried out at regular intervals. It encourages the Dutch authorities to ensure that such research is adequately used to inform policies against racism and racial discrimination.
113. ECRI encourages the Dutch authorities to continue their efforts to develop overall strategies and policies against racism and racial discrimination. It recommends that they ensure that all such strategies contain mechanisms for implementation, monitoring and evaluation that are as reliable as possible.
114. As highlighted in its General Policy Recommendation No.1⁴³, ECRI attaches importance to the collection of data broken down by categories such as "race", colour, language, religion, nationality and national and ethnic origin, in order to monitor possible patterns of discrimination in different areas of life and redress, as necessary, situations of disadvantage facing certain minority groups. The Dutch authorities do not collect information broken down according to all these grounds. However, a considerable amount of information is available in the Netherlands broken down by "allochthony" – "allochthonous" persons (in Dutch *allochtonen*) being persons who, irrespective of their nationality, were born outside the Netherlands (first-generation *allochtonen*) or have one parent born outside the Netherlands (second-generation *allochtonen*)⁴⁴. However, the extent to which this information is used to inform policy aimed at improving the situation of those persons who are found to be at particular disadvantage is not clear to ECRI, especially as social policies in recent years have been targeted less and less at specific ethnic minority groups⁴⁵. Instead, it has been stressed that such information is rather used to target security measures at particular minority groups⁴⁶. Furthermore, ECRI notes that, as the number of citizens who are third-generation descendants of persons born outside the Netherlands increases, the classification on the basis of "allochthony" appears less and less apt to monitoring patterns of racial discrimination.

⁴³ ECRI General Policy Recommendation No.1: Combating racism, xenophobia, antisemitism and intolerance.

⁴⁴ *Allochtonen* are further categorised as Western and non-Western. The non-Western category includes persons from Turkey, Africa, Latin America and Asia, but not from countries such as Indonesia and Japan. The socio-economic and cultural circumstances which prevail in these two countries accounts for their inclusion in the Western category.

⁴⁵ See for instance above, Employment.

⁴⁶ See above, Vulnerable groups – Antilleans.

Recommendations:

115. ECRI recommends that the Dutch authorities improve their systems for monitoring the situation of minority groups in different areas of life by collecting relevant information broken down according to categories such as national or ethnic origin, religion, language and nationality. It recommends that they ensure that this is done in all cases with due respect to the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should be elaborated in close co-operation with all the relevant actors, including civil society organisations and take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.
116. ECRI stresses the need for such data to be used to monitor patterns of discrimination or situations of disadvantage facing minority groups. It should not be used for purposes that contribute to further stigmatising the members of such groups.
117. In its second report, ECRI recommended that the Dutch authorities strengthen their efforts to monitor racist incidents and to ensure that this is done consistently throughout the country. It also recommended that the Dutch authorities strengthen their efforts to gain a more accurate picture of the way in which the Dutch criminal justice system deals with racist offences, which includes both the specific offences provided for in Articles 137c-g and 429quater of the Criminal Code⁴⁷ and racially-motivated offences (i.e. common offences that are committed with a racist motivation).
118. ECRI welcomes the initiatives that have since then been taken in the Netherlands in these areas. The establishment of a network of local antidiscrimination bureaus⁴⁸ constitutes a central part of the Dutch government's strategy to monitor racist incidents. ECRI notes that Art.1⁴⁹ will train these bureaus in registering such incidents so as to ensure consistency throughout the country and increase effectiveness. The authorities and civil society organisations have pointed out that these measures should also contribute to bridging the apparent gap between incidents experienced and incidents reported. In this respect, ECRI notes that the Racial Discrimination Monitor 2005 indicates that three out of four persons who claimed to have been the victim of a racist incident did not report it, mainly due to the conviction that doing so would not make a difference.
119. As regards monitoring the criminal justice system's response to racist offences, ECRI notes that at present, there are no publicly available official data concerning the totality of these offences and covering all the different levels of the criminal justice system. The data that is available is gathered through a monitoring project (*Monitoring racism and the extreme right*) carried out jointly by the Anne Frank Stichting and the University of Leiden, which combines different data sources and methodologies. Improvements in generating official data appear to be particularly needed with respect to racially-motivated offences. Better monitoring of the way in which the police deal with such offences is especially urgent. The Dutch authorities appear to be aware of this need. They report that work is underway for the preparation of a comprehensive registration system that will capitalise on the experience gathered in a number of pilot monitoring projects carried out within police forces in Amsterdam and other municipalities. Improvements are also needed within the Public Prosecution Service and the courts, although progress is reported to be more advanced at this level. Thus, ECRI notes that the Public

⁴⁷ See above, Criminal law provisions, paragraph 5.

⁴⁸ See above, Specialised bodies and other institutions.

⁴⁹ See above, Specialised bodies and other institutions.

Prosecution Service has made a commitment to have a functioning monitoring system in place by September 2007. Concerning the criminal justice system's response to the specific offences provided for in Articles 137c-g and 429quater of the Criminal Code, as mentioned above⁵⁰, the only data available relates to the Public Prosecution Service and the courts, whereas data from the police is not readily available.

Recommendations:

120. ECRI encourages the Dutch authorities in their efforts to monitor racist incidents and to gain a better picture of the way in which the Dutch criminal justice system deals with racist offences. It stresses the need for all levels of the criminal justice system to make progress towards a consistent monitoring system.
121. ECRI strongly recommends that the Dutch authorities address in particular the role of the police in monitoring racist incidents and racially-motivated offences. Measures that can be taken to this end include: the adoption of a definition of a racist incident, initiatives to encourage victims and witnesses of racist incidents to report such incidents; and the adoption of a racist incident report form to be used by the police and other agencies. ECRI strongly encourages the Dutch authorities to draw inspiration from its General Policy Recommendation No. 11 which provides detailed guidelines on all these areas⁵¹.

II. NEW DEVELOPMENTS

The tone of political and public debate around integration and other issues relevant to ethnic minority groups

122. Since ECRI's second report, there has been a dramatic change in the tone of political and media debate in the Netherlands around integration and other issues relevant to ethnic minority groups. Events that have contributed to this change include world-scale events, such as the terrorist attacks of 11 September 2001 and the ensuing global fight against terrorism, but also circumstances that have a more national dimension. Prominently among these feature two events: firstly, the emergence on the political scene of Pim Fortuyn, a successful political leader who was very outspoken on matters of immigration and integration and vocal about his views on Muslims and who was killed in 2002 by an extreme environmentalist of Dutch origin; secondly, in 2004 the murder, by a Dutch citizen of Moroccan origin, of Theo van Gogh, a film-maker and a columnist, following the publication of a film on the subject of domestic violence against Muslim women.
123. As a result of these and other events, integration and other issues relevant to ethnic minority groups, as well as the approaches that had been taken in the Netherlands to these questions up until then, have been the subject of fundamental and deep questioning in political and public debate. Such a debate has been markedly characterised by a strong tendency to reject the exercise of responsibility in communicating on these issues and to abandon nuanced and balanced approaches to these questions that would avoid unnecessary polarisation and animosity among different segments of Dutch society. Responsible communication and a balanced approach have been consistently categorised and dismissed as sterile "political correctness" and "old politics", and ultimately as self-censorship in an environment where freedom of expression has

⁵⁰ See above, Criminal law provisions, paragraph 6.

⁵¹ ECRI General Policy Recommendation No.11, paragraphs 12-14 (and paragraphs 68-75 of the Explanatory Memorandum).

often been interpreted or portrayed as a freedom which should be unrestricted and all encompassing.

124. ECRI is deeply concerned about these developments, not only because they have allowed for racist and xenophobic expression to become, sometimes quite explicitly, a more usual occurrence within public debate itself, but especially because of the impact that the new political and public debate has had on public opinion and on the actions of ordinary citizens. In other parts of this report, ECRI has not failed to highlight a number of good initiatives against racism and racial discrimination that have been taken in the Netherlands at different levels since its second report. Here, however, ECRI would like to express its regret that the effect of such initiatives can only be diminished or negated by the far-reaching consequences of a public debate on integration and other issues relevant to ethnic minority groups that is as negative as that which has been taking place in the Netherlands in recent years.
125. ECRI notes that since its last report, political and media debate around integration and other issues relevant to ethnic minority groups has shifted from a more technical debate, in which different areas of disadvantage were examined and addressed, to a more general debate on cultures and values of different groups and, ultimately, on the inherent worth and mutual compatibility of such cultures and values. ECRI notes with regret that in this context, cultures have been strongly stereotyped and values automatically and arbitrarily assigned to one or another group.
126. The debate around freedom of expression is in ECRI's opinion a good illustration of this. Freedom of expression has correctly been presented as a cornerstone of a democratic society. However, it has also been systematically portrayed as a value essentially alien to people of non-Western background, an assumption that has been favoured by the way in which this fundamental freedom has been presented. ECRI notes that freedom of expression has often been portrayed as an essentially unrestricted freedom and interpreted as automatically and inherently entailing a right to deliberately offend others. It notes that this has inevitably created antagonism and hostility among different parts of Dutch society, which has in turn legitimised in the eyes of many the perception that members of minority groups are as such less committed to this fundamental value of democracy.
127. The debate around freedom of expression represents only one example of the overall shift towards a debate based on stereotyped cultures and values. In a more general way, ECRI would like to underline that this shift in public debate has resulted in a polarisation of positions that it considers as extremely counterproductive in terms of preparing the grounds for a constructive dialogue among the different communities in the Netherlands. For instance, members of Muslim groups have reported to ECRI that they find it insulting and frustrating to have to systematically display, unlike their non-Muslim peers, anti-terrorism positions or a commitment to freedom of expression or other human rights, simply due to their Muslim background. The potentially divisive and stigmatising use currently made of the word "allochtonen"⁵² as a catch-all expression for "the other" in the Netherlands has also been highlighted.
128. While the tone of public debate has changed in respect of all issues that concern ethnic minorities directly or indirectly, including immigration, security or the fight against terrorism, it is integration that has gained the centre of attention in the Netherlands since ECRI's second report. Extensive discussions have taken place on the supposed failure of the traditional Dutch approach to integration, qualified

⁵² See above, Monitoring the situation in the country.

as multiculturalism, and substantial support has been expressed for a shift in policy which many regard as more, or in some cases essentially, assimilationist in nature. ECRI notes that public debate on integration in the Netherlands in recent years has tended to disproportionately focus on actual or perceived deficiencies within the minority population and to overlook the fact that the responsibility for a successfully integrated society rests as much with that part of the Dutch population as with the rest of it. Overall, in ECRI's opinion, the tone of public debate on integration in the last few years has made integration more difficult, not easier.

129. Some of the measures finally adopted to promote integration (such as the system of integration exams and courses) are examined in other parts of this report⁵³. Here, ECRI notes that, in the framework of the heightened debate on integration, the Dutch authorities have discussed or proposed a number of policies, whose conformity with human rights and equality standards has in some cases been questionable and which, in other cases, clearly violated these standards. Although some of these policies were finally not adopted or not implemented (such as the obligation to speak Dutch in public, or the expulsion of certain Dutch citizens of Antillean origin), ECRI notes that the mere fact that these policies were proposed has resulted in discrimination and manifestations of racism in practice, as illustrated by instances where services were refused or insults directed to persons that were not speaking Dutch.
130. ECRI notes that proposals of this type have been made or have been supported by exponents of different political parties. However, it notes that more recently, the Freedom Party⁵⁴, has been particularly vocal in proposing controversial policies and in resorting to racist or xenophobic discourse, targeting above all Muslim communities. Furthermore, ECRI notes that exponents of mainstream political parties rarely take a stand against this type of discourse.
131. ECRI takes note of the Dutch authorities' position, that the change in the tone of public debate around integration and other issues relevant to ethnic minority groups experienced in the Netherlands in recent years was probably a necessary step towards a new start in integration policies in the Netherlands. ECRI welcomes the assurances of the Dutch authorities that, after years of heated debate on these questions, the time has now come to try and bring people together and to put the emphasis on people's common interests rather than their differences, as reflected in the new government's slogan "Working Together, Living Together". It also notes the stated intention to better reflect the idea of integration as a two-way process in their integration policies. ECRI has registered a welcome reception by civil society organisations to these stated intentions, although these organisations also eagerly wait for a clear change to be seen in practice. Invariably, however, they have expressed total willingness to take part in a public debate that opposes polarisation instead of fuelling it and that considers them as credible interlocutors in shaping and implementing policies on integration and other issues relevant to ethnic minority groups.

Recommendations:

132. ECRI urges the Dutch authorities to take the lead in promoting a public debate on issues of integration and other issues of relevance to ethnic minority groups that avoids polarisation, antagonism and hostility among communities. In so doing, particular care should be taken to avoid stereotyping cultures and assigning values automatically to individuals on the basis of perceived belonging to such cultures.

⁵³ See above, Reception and status of non-citizens – Integration measures.

⁵⁴ See above, Extremism.

133. ECRI considers that there is an urgent need for those taking part in public debate in the Netherlands, especially political parties and the media, to recognise that a responsible exercise of freedom of expression, including on integration and other issues relevant to ethnic minority groups, is a sign of respect for this fundamental freedom, which ultimately reinforces, not undermines, democracy.
134. ECRI strongly recommends that the Dutch authorities take steps to counter the use of racist and xenophobic discourse in politics. To this end it recalls, in this particular context, its recommendations formulated above concerning the need to ensure an effective implementation of the existing legislation against incitement to racial hatred, discrimination and violence⁵⁵. In addition, ECRI calls on the Dutch authorities to enforce vigorously the existing legal provisions targeting specifically the use of racist and xenophobic discourse by exponents of political parties.

III. SPECIFIC ISSUES

Islamophobia

135. Since ECRI's last report, Islamophobia is reported to have increased dramatically in the Netherlands. In other parts of the present report, ECRI has highlighted how national and international events have been at the origin of a shift in public debate that has had a deeply negative impact on the situation of and on public perceptions about, the members of minority groups. Here, ECRI stresses that Muslims are the minority group that appears to have been affected the most by these events. As further detailed below, since ECRI's second report the Muslims of the Netherlands have been the subject of stereotyping, stigmatising and sometimes outright racist political discourse and of biased media portrayal and have been disproportionately targeted by security and other policies. They have also been the victims of racist violence and other racist crimes and have experienced discrimination.
136. The Netherlands is home to approximately one million Muslims, which represents around 6% of the total Dutch population. Persons of Moroccan and Turkish origin account for about two-thirds of the total Muslim population. The rest is essentially made up of Surinamese Muslims and, since the 1990s, refugees and asylum seekers coming mainly from Bosnia and Herzegovina, Somalia, Iran, Pakistan and Afghanistan. Although the situation concerning the members of the many different Muslim communities in the Netherlands varies substantially, these have all to different degrees been affected by the general climate of increasing Islamophobia experienced in the Netherlands since ECRI's second report.
137. In the period after the events of 11 September 2001, and especially in the months following the murder of Theo van Gogh on 2 November 2004, the Netherlands witnessed a sharp rise in racist violence and other racist crimes, essentially targeted at its Muslim population. This comprises violence directed against individuals, but also violence directed against property, including arson attacks on mosques and Islamic schools and violence against shops owned by Muslim persons. Racist graffiti also often appeared on these establishments. Reports of racist insults in the streets, on public transport and during sports events rose dramatically around that time and leaflets expressing anti-Muslim sentiment appeared in many places in the Netherlands.
138. Although these occurrences reflect the dramatic worsening of the climate of opinion concerning Muslims around that period, all civil society organisations concur to say that, more generally, the climate of opinion around this part of the

⁵⁵ See above, Criminal law provisions.

Dutch population has clearly deteriorated since ECRI's second report. The role of political discourse in determining this situation appears to ECRI to have been crucial. ECRI notes that in recent years, Dutch politicians have not hesitated to resort to stereotyping, stigmatising and sometimes outright racist remarks concerning Muslims and to derogatory remarks about Islam, in both cultural and religious terms. Typically, this type of discourse has portrayed Muslims as invading the country in waves, thereby posing a major threat to the country's security and identity. Policies have accordingly been advocated to close the borders to them. Islam has been repeatedly qualified as a "subculture" and Muslims have been presented as the carriers of backward values, generally incompatible with democracy and the values of Western societies. Islam has also been portrayed as a violent religion in itself, many of whose aspects Muslims need to abandon to adapt to life in the Netherlands. Although in the opinion of many observers the borders of the criminal law provisions against racist expression, and notably those against incitement to racial hatred, discrimination and violence have in some instances been crossed, ECRI is not aware of cases where these provisions have been applied with respect to politicians. More generally, however, ECRI notes with regret that stigmatising, stereotyping and even outright racist discourse targeting Muslims (which, as mentioned above⁵⁶, has more recently been voiced notably by the Freedom Party, PVV) has remained as a rule unchallenged by mainstream political parties.

139. Since ECRI's second report, a number of policies directly or indirectly targeting Muslims have been discussed in the Netherlands. Some of these policies have gained extensive national and international attention for their controversial nature, including due to their dubious conformity with human rights and equality standards. ECRI expresses concern at this situation, especially since these proposals do not appear to ECRI to be justified on any ground other than a willingness to artificially increase divisiveness in society and capitalise on the ensuing feelings of hostility. One illustration of this, in ECRI's opinion, is the recent debate concerning the need for the holders of certain public functions to renounce their non-Dutch nationality. This proposal was introduced by the PVV, following the appointment, in November 2006, of two Secretaries of State holders of, respectively, Moroccan and Turkish passports in addition to their Dutch ones. Without an apparent concrete reason, a debate was thus started in Dutch society concerning the links between citizenship and loyalty to the State, which has contributed to further polarise positions and communities. In a similar way, ECRI considers that the widely-discussed proposal (finally not adopted) to introduce a ban on the wearing of burkas and niqabs in public, has increased feelings of victimisation, stigmatisation and alienation among Muslims and raised once again majority and minority communities against each other. Irrespective of its human rights implications, the proposed measure and the debate around it do not appear to ECRI to be in any way proportional to the situation the proposed measure aimed to address, as ECRI understands that only a few dozen women are reported to wear the garments in question in the Netherlands. Instead, it has been reported to ECRI that, in practice, the discussions around the proposed ban have opened new opportunities for further discrimination or exclusion of Muslim women generally in everyday life.
140. The current negative climate around Muslims in the Netherlands is also closely connected to the security concerns posed by terrorism. These legitimate concerns are reported to have impacted in a seriously disproportionate manner on the members of the Muslim population at different levels, including the elaboration and implementation of security policies. As highlighted in other parts of this report, there are also reports according to which Muslims have been

⁵⁶ See above, The tone of political and public debate around integration and other issues relevant to ethnic minority groups.

disproportionately targeted by the implementation of anti-terrorism legislation⁵⁷. Furthermore, while they recognise the need for measures aimed at preventing radicalisation among youth of Muslim background, civil society organisations have stressed that the public attention given to these measures has exceeded the scale of the problem⁵⁸.

141. Sweeping generalisations and associations made in the media between Muslims on the one hand, and terrorism on the other, have unfortunately compounded the situation. While these generalisations and associations can be found in virtually all types of media, including newspapers, radio and television, ECRI notes reports according to which Islamophobic material is widely available on the Dutch-based Internet facilities. ECRI is particularly disturbed at reports according to which this type of material is increasingly present on Internet chat rooms and websites that do not cater in principle for users with racist or extremist views, a circumstance that seems to suggest that Islamophobic views are increasingly becoming part of mainstream thinking.
142. Against this background, it is perhaps not surprising that the members of the Muslim population in the Netherlands experience discrimination in different areas of life, including employment or access to public places. For many Muslims, discrimination often happens at the intersection between religion, nationality and ethnic origin. Official figures indicate that Moroccans are in a particularly vulnerable situation. A number of areas where Muslims experience discrimination are addressed in other parts of this report⁵⁹.

Recommendations:

143. ECRI urges the Dutch authorities to respond firmly to all instances of racially-motivated crime, including violence, targeting Muslims. It reiterates in this context the recommendations it has made concerning the need to improve the response of the criminal justice system to racially-motivated offences⁶⁰.
144. ECRI calls on the Dutch authorities to oppose publicly and vigorously all manifestations of anti-Muslim sentiment in politics.
145. ECRI calls on the Dutch authorities to refrain from promoting debate on policies that have as their main objective the polarisation of Dutch society around issues of relevance to the Muslim communities and from adopting any such policies. It strongly recommends that the Dutch authorities refrain from adopting policies that discriminate against Muslims directly or indirectly.
146. ECRI recommends that the Dutch authorities tackle the problems and concerns highlighted above through the effective implementation of the recommendations made in the corresponding parts of this report⁶¹.
147. ECRI recommends that the Dutch authorities take all opportunities to challenge generalisations and associations made in public debate and the media between the Muslim communities and terrorism. In this respect, ECRI draws the attention of the Dutch authorities to its General Policy Recommendation No. 8 on combating racism while fighting terrorism⁶².

⁵⁷ See above, Administration of justice.

⁵⁸ See above, Extremism.

⁵⁹ See for instance above, Administration of justice and Employment .

⁶⁰ See above, Criminal law provisions and Monitoring the situation in the country.

⁶¹ See above, Criminal law provisions, Administration of justice, Employment and The tone of political and public debate around integration and other issues relevant to ethnic minority groups.

⁶² General Policy Recommendation No. 8: Combating racism while fighting terrorism.

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