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1961 EUROPEAN SOCIAL CHARTER

10th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF ARUBA

Article 1 and Article 1 of the 1988 Additional Protocol
for the period 01/01/2011 - 31/12/2014

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CYCLE XXI-1 (2016)

European Social Charter

Report by the Government of Aruba



for the period

1 January 2011 – 31 December 2014

regarding Article 1 of the Charter and

Article 1 of the Additional Protocol

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Foreword

The Government of Aruba submits hereby its report for the period 1 January 2011 through 31 December 2014 in accordance with Article 21 of the European Social Charter, on the measures taken to give effect to Article 1 of the Charter and Article 1 of the 1988 Additional Protocol, complying with any questions or requests for information consequent its previous report and responding to any comments made by the European Committee of Social Rights. Other than the information supplied in this report, no other changes in law or regulation has been effected during the reporting period. The Government therefore kindly refers the Committee to its past reports.

In accordance with Article 23 of the Charter, copies of this report have been communicated to the following representative organisations of workers and employers:

The Employer's organisations:

- The Aruba Hotel and Tourism Association
- The Aruba Trade and Industry Association

The Worker's organisations:

- The Union of Public and Private Employees of Aruba
- The Aruban Union of Nurses
- The Federation of Workers of Aruba

Article 1 – Right to Work

Paragraph 1 – Policy of full employment

Employment Situation

Table 1. Government Expenditure on Employment, 2011-2014

	2011	2012	2013	2014 ¹
GDP in millions	3.212	3.167	3.315	3.354
	%GDP	%GDP	%GDP	%GDP
Labour Dept in 1000s	8.406	0,26%	6.101	0,19%
DPL in 1000s ²	---	---	3.192	0,10%
EPE in 1000s	2.052	0,06%	2.446	0,08%
TOTAL	10.458	0,324%	11.739	0,367%
			11.995	0,359%
			7.983	0,238%

Source: Labour Department, DPL, EPE, Central Bank of Aruba (Statistical Tables Fourth Quarter 2014)

¹ 2014 Expenditure amounts are estimates.

² All expenditures for DPL in 2011 fell under the Labour Department. As of 2012, DPL had its own budget.

Table 2. Labour Market Indicators, 2010-2013

Total Population			Gender	Oct. 2010 (Census)	Nov. 2011 (LFS)	Nov. 2012 (LFS)	Nov. 2013 (LFS)
1	Employed		Man	23.363	24.404	24.811	26.209
			Woman	23.163	23.512	26.559	26.307
			Total	46.528	47.916	51.371	52.517
2	Unemployed		Man	2.821	2.293	2.918	2.207
			Woman	2.698	2.376	2.543	2.113
			Total	5.519	4.669	5.461	4.321
(1+2)	Labour Market		Man	26.184	26.697	27.729	28.416
			Woman	25.861	25.888	29.102	28.420
			Total	52.047	52.585	56.832	56.838
4	Inactive		Man	11.335	11.671	11.510	11.534
			Woman	17.062	18.160	15.951	17.682
			Total	28.397	29.831	27.459	29.214
5	Population 15 years +		Man	37.519	38.368	39.239	39.950
			Woman	42.923	44.048	45.053	46.102
			Total	80.442	82.416	84.291	86.052
6	Total Population		Man	48.241	48.964	49.693	50.336
			Woman	53.243	54.287	55.228	56.168
			Total	101.484	103.251	104.923	106.504
(3:5)	Participation Rate (%)		Man	69.8	69.6	70.7	71.1
			Woman	60.2	58.8	64.6	61.6
			Total	63.6	63.8	67.4	66.1
(2:3)	Unemployment (%)		Man	10.8	8.6	10.5	7.8
			Woman	10.4	9.2	8.7	7.4
			Total	10.6	8.9	9.6	7.6
(1:5)	Employed Population 15 years + (%)		Man	62,3	63.6	63.2	65.6
			Woman	54.0	53.4	59.0	57.1
			Total	56.8	58.1	60.9	61.0

Source: Central Bureau of Statistics, Labour Department - Labour Force Survey (LFS)

Employment Policy

The Government continues to invest in varying programmes in an effort to place more people in employment. These programmes, which will be described below, are Enseñansa pa Empleo, Ban Traha (and its sub-pilot programme) and the Social Forming Programme and are either endeavours by the different Government departments separately or in cooperation with one another and/or other organisations.

Enseñansa pa Empleo (Education for Employment)

The Government carries forward in providing adult education for upgrading and the learning of a new trade to facilitate the marketability of job seekers.

The Government hereby submits with this report detailed information on the courses and participants of EPE for the years 2012 through 2014. Annex 1.

Ban Traha

As the Committee recalls, the Reintegration Project of 2007 resulted in a very modest success rate. While a number of unemployed individuals were placed in employment, the programme was far from being considered a success. In June 2014, the Government initiated a new programme called *Ban Traha* (Let's Work). This programme is based on a collaboration between the Labour Department, Department of Labour Progress and the Department of Social Affairs with the objective of placing 500 social assistance recipients (back) to the labour market during a period of two years. Achieving this objective will not mean the end of the programme, but rather will be a validation of the chosen course. The difference with the previously less successful programme is the increased personal attention with each individual participant. The Government will elaborate on this point below.

The total group of social assistance recipients was initially divided into two age groups: age group 15 – 24 years and age group 25 years and above. Each recipient underwent a thorough interview for reassessment of their current employable status. A total number of 1262 persons (57% women) were deemed viable candidates for reintegration to the labour market and were sent on to the Job Centre. Those deemed unfit candidates were sent for a re-examination by a medical officer, after which they were categorized to follow one of two assistance trajectories: the long route would consist of an intensive guidance for persons with, for example, (drug) addiction issues and the short route would be for those persons with challenging circumstances, for example, lack of child care. Eligible 18-24 year olds were offered participation in the Social Forming Programme, described in detail below.

A new procedure for dealing with social assistance clients was also simultaneously introduced. Social assistance seekers would now have a job application obligation and must provide proof to their assigned employment intermediary every two weeks that they have made real attempts to apply for jobs in order to receive or maintain their social assistance. They must also cooperate with offers for upgrading and schooling to increase their employment marketability. Chronic failure to show up to their meetings with the intermediary, to respond to their phone calls or emails, to show up for a job interview or to cooperate with upgrading or schooling would result in the decline of the petition for or the withdrawal of the social assistance.

Participants in Ban Traha receive intensive guidance by an employment intermediary that will remain their specific intermediary throughout the programme. In this manner, the participant and intermediary can build a trusting relationship to facilitate communication, knowledge of the participant's personal circumstance and weaknesses and strengths so that employment matching can be more effective. Participants undergo courses in social skills and work ethic and, if needed, upgrading and schooling provided by the Education for Employment or Social Forming Programme (see below).

Ban Traha Pilot Sub-Programme

The Government is also spearheading a pilot sub-programme to the Ban Traha to stimulate entrepreneurship. Two social assistance recipients currently follow this pilot sub-programme. Both individuals worked from home: one had a hair salon, the other baked cakes. Neither declared her extra income and thus was acting against the regulations for social assistance eligibility. They were put in contact with IDEA, a government department that helps and guides (would-be) entrepreneurs through the necessary paperwork and rules and regulations for operating their own business. This includes information on tax, labour, public health, and various other legal obligations. They are also receiving guidance by a professional accountant on how to keep their books and attend to their money and personal budget.

The preliminary results appear satisfactory. For the first six months of the Ban Traha program, 136 persons were placed in employment. The breakdown is as follows:

Age 15-24 years	: 13
Age 25+ years	: 47
Independently	: 76

Of the participants, eight are taking upgrading courses at the Enseñansa pa Empleo. Two individuals started the Social Forming Programme. At the onset, 4% of social assistance receivers saw a reduction in the amount they received and for 6%, the social assistance was permanently terminated.

The Social Forming Programme

The Social Forming Programme's (SFP) objective is to help underprivileged young men aged 18-24 years, who are at-risk individuals for crime because they are neither employed nor attending school, and to improve their chances in the labour market. A committee was set up in January 2010 to design a programme for this group and concluded its findings in the SFP. The SFP is a twelve-month military-based training designed to encourage routine, create structure, instil discipline, teach norms and values and build self-confidence in the participants.

The SFP is a two-part programme divided in four and eight months. The first four months are dedicated to physical training, discipline and teamwork and the latter eight months are dedicated to education. Participants take part in a variety of educational courses to increase their chances on the labour market: language (English, Dutch and Papiamento), mathematics and computer skills as well as intangible skills, such as social skills, behaviour and motivation and aggression regulation. They also attend various presentations by NGOs (Planned

Parenthood, drug addiction, STDs). Besides the courses offered as part of the programme, participants can take additional courses at the Education for Employment at no cost as long as they are a participant in the SFP. Participants are also offered an internship during this part of the programme. These internships can take place at the military base or in private enterprises and vary in disciplines. Past internships included jobs in carpentry, auto mechanics, maintenance, guide at the National Park and electrician help.

The programme accepts two groups per year. The first group consisted of 20 persons but this was increased to 24 persons with the second group and onward. The participants first undergo a medical check-up, and are evaluated on their physical condition and intelligence to determine eligibility. A criminal background check is also performed on applicants, but is not cause for ineligibility. Once accepted into the programme, participants receive a monthly stipend of Awg. 750,00. Upon completion of each part of the programme, the participants receive a certificate, confirming their qualifications.

The first three years of the programme was financed by the Ministry of Internal Affairs in cooperation with the Ministry of Defence of the Kingdom of the Netherlands. The Government of Aruba shall take over financing the programme in 2015.

Table 3. Social Forming Programme, Participants 2011 - 2014

Groups	No. of Participants Programme Start	No. of Participants Programme Completion
Group 1 (Nov. 2011)	20	9
Group 2 (Mar. 2012)	24	12
Group 3 (Jan. 2013)	24	5
Group 4 (Aug. 2013)	24	10
Group 5 (Jan. 2014)	24	15
Group 6 (Aug. 2014)	24	14*

Source: SFP

* current number of participants,

The reasons why participants dropped out of the programme range greatly. Some considered the programme too much pressure as they were unaccustomed to discipline, to having to deal with so many others and to submit to receiving orders by the training sergeant. Others were injured during training and couldn't continue. Some participants cited financial reasons and opted to find a job on their own, as the monthly stipend was considered insufficient.

Paragraph 2 – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

1. Prohibition of discrimination in employment

The Government acknowledges the Committee's remarks in the GC's report of its 128th GC Meeting in Strasbourg in 2013 that while a representative for the Government did not attend the Meeting, written information was provided but that none of the information provided related to Article 1§2. The Government apologizes for its absence and has taken steps to remedy this situation in the future.

However, the Government kindly refers the Committee once again to the written information provided for that meeting as the Government believes that the information provided, though admittedly not completely, related to Article 1§2. The Government communicates the following information as well.

On the issue of prohibition of discrimination in employment, the Committee stated in Conclusions XVII-1 that the prohibition of discrimination enshrined in the Constitution is insufficient as it prohibits all forms of discrimination in very general terms. The Government acknowledged the Committee's assessment on this issue but did not acknowledge that the protection against discrimination in Aruba is unsatisfactory. Any resident of Aruba, whether or not for an employment matter, may submit a claim of discrimination and the judge can test the claim directly against the Constitution. The Government further communicated to the Committee that a *recommendation* had been submitted to the tripartite committee for the review of the labour legislation regarding adding a prohibition of discrimination to the Civil Code, not a definitive statement that amendments would be made. Review on this particular issue is on-going.

The Government further reminds the Committee that international instruments such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are also applicable to Aruba. While these instruments do not have direct applicability, judges may apply these stipulations in questions of interpretation particularly for discrimination when claims are based on broad terms like good employership, as stipulated in art. 1614ij of the Civil Code, or reasonableness and fairness (art. 6:248), obviously unreasonable (art. 1615s), etc. These interpretations are supported in Supreme Court jurisprudence where in, for example, HR 20 March 1992, NJ 1992, 495 discriminatory termination of employment was deemed obviously unreasonable.

As it regards remedies available to victims of discrimination, the Government informs the Committee that there exist no legislative provisions imposing pre-defined upper limits to compensation in discrimination cases, including in cases where the employee is dismissed as a result of making a claim of discrimination.

While the Courts are unwilling to divulge official internal policy positions on the burden of proof in discrimination cases, the unofficial standpoint is based on the premise that he who claims, must prove.

Exclusion from employment based on nationality

Currently, only those individuals who have the Dutch nationality may become public servants. Individuals with other nationalities may also work for the Government, but do so on a contract basis, for project-based or temporary employment.

In the private sector, the only employment position requiring the Dutch nationality is that of casino dealers. This policy has been in effect even before Aruba attained its Status Aparte on the 1st of January 1986. The policy was originally limited to Dutch passport holders born in Aruba, but this was extended in 2000 to spouses of Dutch nationals born in Aruba, Dutch nationals born in Europe, Suriname nationals and those naturalised per the 16th of May 2000. The Government has submitted a bill to the Parliament for a new legislation regulating casino and gaming enterprises, in which the nationality restriction has been removed. Once approved by the Parliament, any person of any nationality may perform labour as a casino dealer, contingent on a clean certificate of good behaviour.

2. Prohibition of forced labour

The Committee requested further information from the Government on the content of article 82 of the Organic Act of Civil Servants; to whom it applies, in what circumstances. The Government responded to this request in its 2007 Report. While the text law of article 83§1b of the Organic Act has not been removed, it has been declared a dead letter decades ago and has no weight for execution. The Government understands that according to the Committee the non-application of legislation is not sufficient to ensure a situation is in conformity with the Charter, nevertheless, as reported in 2007, the Government stresses that the provision applies to no one and would under no circumstances be a legitimate disciplinary action to be exercised by the Government against any public servant.

Prison work

The Government informs the Committee that Aruba has only one prison, the Correctional Institute of Aruba (KIA), where both males and females who are detained for long periods and convicted individuals are housed. Working as a prisoner is possible only by those who have demonstrated exemplary behaviour and have volunteered for the option. Working is not a right. Prison workers are not considered employees in the sense of an employer-employee relationship since working is purely optional and offered as an activity to give the prisoners something to do.

Most prisoners work inside the KIA. Those eligible to work outside of the KIA must have the Dutch nationality, are registered in the public registry and are in their final phase of the time they have to serve; this as a means to assist the prisoner with a smooth transition back to the work force once released. Foreign nationals are not eligible for work outside of the KIA because they are considered more of a security and flight risk. Also, they are immediately deported upon release.

Prisoners, who work inside the KIA, are compensated Awg. 8 per day. Compensation for those who work outside of the KIA is determined by the entity that commissioned the work. This amount is comparable to the compensation received in the private sector taking into

account the Minimum Wage Ordinance and thus higher than the payment received by those who work inside the KIA. Since the nature of the working relation in KIA is not an employment relation, social premiums are not withheld from the compensation received nor paid to the respective institutions managing the social funds. As such, prisoners do not receive employment injury or unemployment benefits. The private company employing a prison worker is, however, obligated to insure the worker for employment injury. Medical care is provided within the KIA itself. Where specialised care is necessary and not available within KIA, it is provided, even if travel abroad is required. All medical expenses are paid directly from the budget of the Ministry of Justice.

The period of imprisonment has no relevance to the old-age pension coverage for legal resident prisoners. Foreign national prisoners do not participate in the pension scheme.

Prisoners, whether performing labour inside or outside of the KIA, are permitted to work a maximum of eight hours per day.

Coercion in connection with domestic work

The Government recognizes that domestic work often involves abusive, degrading and inhuman living and working conditions for the domestic workers concerned. In order to prevent these conditions, homes of private persons in Aruba are subject to inspection visits by the responsible authority (Department of Integration Management and Admission of Aliens, DIMAS). The petition for a work and residential permit includes an authorisation form to be signed by the home owner, awarding the inspectors the right to enter the private home for inspection. Inspections are always carried out prior to the arrival of the migrant worker to make sure that the living conditions are acceptable. Inspections may also be carried out at later times as well.

As it regards whether penal law effectively protects domestic workers in case of exploitation, the Government informs the Committee that while there are no laws protecting domestic workers explicitly, the new Penal Code includes various stipulations against the exploitation of people, whether or not for commercial gain. The Government kindly refers the Committee to Annex 2 for the text of article 2:239§1 and §2 of the Penal Code.

Additionally, the petition to request a work permit for a migrant worker demands a copy of the written labour contract that details the type of work to be performed, the wage, rest days, daily rest period, vacation days, and the fact that they will be provided room and board.

Migrant workers are awarded a work and residence permit for a maximum period of one year. If an employment conflict arises which results in the termination of the labour contract, more oft than not, the employer would inform DIMAS that the migrant worker no longer is in their employ and that they withdraw their status as guarantor for the migrant worker; this would in essence mean withdrawal of the permit because the reason for which the permit was granted, no longer exists. Once an individual does not have employment, he/she may not remain in Aruba. However, for as long as the residence permit is valid, the migrant worker is able to seek alternate employment and may avail himself/herself to the

relevant government departments for assistance and mediation as it concerns the employment conflict itself. Important to note is that prior to withdrawing the work and residence permit, the migrant worker has the right to tell his/her version of the conflict and has the right to be heard by DIMAS and, if necessary, by the Labour Department.

3. Other aspects of the right to earn one's living in an occupation freely entered upon

The Government respectfully refers the Committee to its comments under the section *Ban Traha* regarding Employment Policy under paragraph 1 – policy of full employment, in which the reasons for which rejection by an unemployed person receiving social assistance to accept a job offer may result in the reduction or withdrawal of the assistance. The Committee may note that those unwilling to participate in the program and those not displaying a genuine effort in improving their unemployment status saw their assistance terminated. This latter would include purposely making a negative impression with potential employers with their bad attitude or inappropriate attire. It would also include failure to take upgrading courses to be able to apply for the jobs that are available. Insistence to hold out for a higher paying job despite not possessing the necessary skills for the higher paying jobs would also be reason for termination of the social assistance.

Social assistance recipients not in agreement with the Government's decision to reduce or terminate the assistance may lodge a complaint against the Government first through the LAR-procedure. The LAR-committee reviews the case and advises the Government whether a decision, in accordance with the general principals of proper administration, has been made. The Government then has the opportunity to revise its decision. If the Government maintains its original decision or if the revised decision is still unacceptable to the person concerned, he/she may present his/her case before the judge in the Court of First Instance. Appeals are possible. No complaints were lodged by any of the persons for whom their assistance was reduced or terminated.

Privacy at work

Employees who work from home are quite a new phenomenon, one that has not infiltrated the local working culture and acceptability yet. Nevertheless, the Government considers that workers who are expected to reply to emails or phone calls after normal working hours are, in fact, working overtime and, therefore, entitled to overtime compensation. As the Committee is aware, those workers in the private sector earning 2,1 times the minimum wage¹ or more do not fall under the protection of the Labour Ordinance where overtime is regulated. Only those earning less, may invoke the right to overtime. All others have the liberty to make contractual arrangements for overtime compensation.

As it regards the general supervision of employees, the Government informs the Committee that an employee who voluntarily enters into a labour relation by definition gives up a certain amount of his/her privacy. This encroachment, however, must meet the criteria of necessity, proportionality and subsidiarity. Additionally, where an employer monitors the

¹ Article 3 of the Labour Ordinance stipulates that the wage limit for applicability of the provisions of the ordinance would be the minimum wage multiplied by a factor of 2. This amount would increase 0,1 commencing on the 1st of January the year following its introduction up to a maximum factor of 2,5. As is permitted, the Minister of Labour could opt out of increasing the factor after receiving advice from the Social Economic Council and did so in 2014.

employee via security cameras or checks phone calls and/or email messages at the work place, the employee must be informed that such checks are performed.

What you do outside of working hours is also protected under the right of privacy but in some cases these actions may affect an employee's performance at work or the reputation of the company and thus may have consequences. Such was the case when an employee acted against the company's drug-free workplace policy and was terminated. Despite the fact the employee did not take drugs during working hours, her drug use in her private time had consequences for her employment. The Supreme Court agreed with the company in HR 14 September 2007, JAR 2007/250 (Dirksz/Hyatt) stating that the use of drugs in the private sphere is not without risk of immediate termination. Testing the company's policy against the above-mentioned criteria, the Court determined that the company had a legitimate aim to conserve the good reputation of the enterprise and to provide a pleasant experience for its guests by offering impeccable employee behaviour without the negative influences of drug use. Because of the nature of the representative position of the employee, the Court also deemed the interest of the employer to prevent damage to its reputation more important than the employee's interest to use drugs in her free time. The Court also did not receive decisive arguments to dispute the fact that tying a positive drug test to termination of the labour relation was not appropriate.²

There have been no (court) cases related to the infringement of workers' privacy during the reporting period.

Paragraph 3 – Free placement services

The Government informs the Committee that the Labour Department underwent a small re-organisation in 2011 in which the Job Centre became its own separate department, the Departamento di Progreso Laboral (DPL). The primary goal was separating the roles of policy from that of implementation the department originally held, both as it regarded administratively and physically. The decision to split the policy was based on the idea that the Labour Department would provide the framework within which the policies are to be executed and the guidelines for interpreting political priorities and intentions. The objective is therefore to allow the executing department the necessary space for increased awareness of their role so that they may concentrate on improving their service to the community and increase their efficiency.

The public employment service experiences indeed low placement rates. The reason has predominantly to do with the level of education of the jobseekers not matching the higher requirements of the available vacancies. The Government refers the Committee to the Government's comments under Paragraph 1 for the efforts it is making to bridge this gap and increase job placements.

The DPL has a close working relationship with private employment services to increase the placement of jobseekers. When one agency is unable to place a jobseeker, information is exchanged between the agencies to find a suitable placement.

² Van der Grinten, Wim C.L., *Arbeidsovereenkomstenrecht*, Kluwer B.V.: 2008, p. 73.

Paragraph 4 – Vocational guidance, training and rehabilitation

The Government informs the Committee that it assuredly has submitted a report concerning this paragraph of the Charter and respectfully refers the Committee to its First Report in 2003 and its 2007 Report. While this latter report stated that there were no new developments, it did refer the Committee to the Government's comments under paragraph 1 (policy of full employment) of this Article of said report which contained information on the vocational training programme Education for Employment. It also included information on the Re-integration Programme which the Government considers an effort in vocational rehabilitation.

The Government's effort to attain full employment is very much interlinked with the vocational guidance, training and rehabilitation it provides and cannot be seen completely divorced from each other.

Article 1 of the 1988 Additional Protocol

Equal Rights

The Government informs the Committee that Article 1614aa of the Civil Code which declared null and void any contractual provision making a distinction between men and women as it regards the employment contract, instruction of employment, promotion, employment terms and conditions and at the termination of the labour, has been recoded to Article 1614zb. Pay falls under the employment terms and conditions and the right to equal pay for work of equal value therefore falls under the protection of this provision.

In accordance with article 1613n of the Civil Code, pay may only be made in cash, food and beverage, a certain quantity of products of the enterprise, housing, activities/services to be carried out for the worker and training for the worker. By law, workers are guaranteed only a minimum wage; the minimum wage is applicable for workers 18 years and older, regardless of the gender of the worker.

Additionally, the Government submits the following information for the Committee's review:

Table 4. Median Wage, by sector and gender, in Awg., 2014

Sector	Man	Woman	Total
Construction	2600.00	2119.00	2600.00
Electricity, Gas, Water	5210.00	4953.00	5156.00
Financial Services	4295.00	4115.00	4149.00
Health and Social Work	3701.00	3641.00	3694.00
Wholesale and Retail	2200.00	1899.00	1999.00
Hotels and restaurants	2507.00	2169.00	2290.00
Industry	2400.00	1899.00	2160.00
Agriculture	2080.00	1999.00	2072.00
Mining etc.	2340.00	2525.00	2340.00
Education	3080.00	3600.00	3389.00
Real Estate, Rental and related services	1950.00	1911.00	1924.00
Government	5582.00	4913.50	5087.00
Other community services	2524.50	2133.50	2310.00
Transportation, Storage, Communication	2799.00	2406.00	2600.00
Total	2435.50	2121.00	2272.00

Source: Social Insurance Bank

The Committee asked the Government whether legislation permits, in equal pay cases, comparisons of pay to be made outside the company directly concerned, and under what circumstances. There are currently no legislative provisions permitting comparisons of pay outside of the company.

Specific protection measures

The Committee had previously concluded that the situation in the Netherlands in respect of Aruba is not in conformity with this Article on the grounds that legislation prohibited women from performing night work. The Government is pleased to inform the Committee that the new Labour Ordinance (AB 2013 no. 14) that has come into effect as per the 1st of April 2013 officially abolished the prohibition as provisioned in article 17 of the Labour Ordinance prohibiting night work for women. As the Committee recalls, the Government communicated in the past that article 17 had been non-applicable for many years but at the same time had not been deleted from the legislation text.

The Government takes note of the Committee's remarks in Conclusions XX-1 stating that the Civil Code was amended codifying the right of female workers to paid pregnancy and maternity leave. The Government would like to clarify that the Civil Code was amended to *extend* the right of female workers to paid pregnancy and maternity leave, as this right had been codified decades earlier. Initially, women had the right to eight weeks and this was extended to twelve weeks.

Position of women in employment and training and measures to promote equal opportunities

The Government respectfully refers the Committee to Table 2, as provided under paragraph 1 of Article 1 of the European Social Charter of this report, for statistical information on the employment situation of women, such as the employment and unemployment rate. As it regards the gender pay gap, the Government refers the Committee to Table 4 above.

The Committee also requested the Government to provide information on the measures taken to promote access to employment for women. In this respect, the Government informs the Committee that all the changes in legislation which added pregnancy and maternity protection, the right to breast feed/pump breast milk and the abolition of discriminatory labour provisions have made employment even more accessible to women. The Government's various recent efforts as described under Employment Policy (pgs. 2-4) above also positively contributed to making employment more accessible to women. Notwithstanding these improvements and as is evident in Table 2, women are more present on the labour market than men and are less unemployed than men.

ANNEX 1

Overzicht Cursisten 2012

Overzicht Cursisten 2012

Voor het jaar 2012 heeft een totaal van 2612 personen een cursus met succes afgerond, (diploma of verklaring).

Van de bovengenoemde totaal tellen we een totaal van 251 personen tussen de leeftijd van 18 – 24 jaar, dit is 9.6% van de totale cursisten.

Deze groep had enorme belangstelling voor deze cursussen, namelijk:

- 1) Klein vaarbewijs
- 2) Engels
- 3) Computer beginners

De groep van 40-plussers heeft een aandeel van 51% van de totale cursisten.

De drie cursussen met de meeste belangstelling voor deze groep zijn:

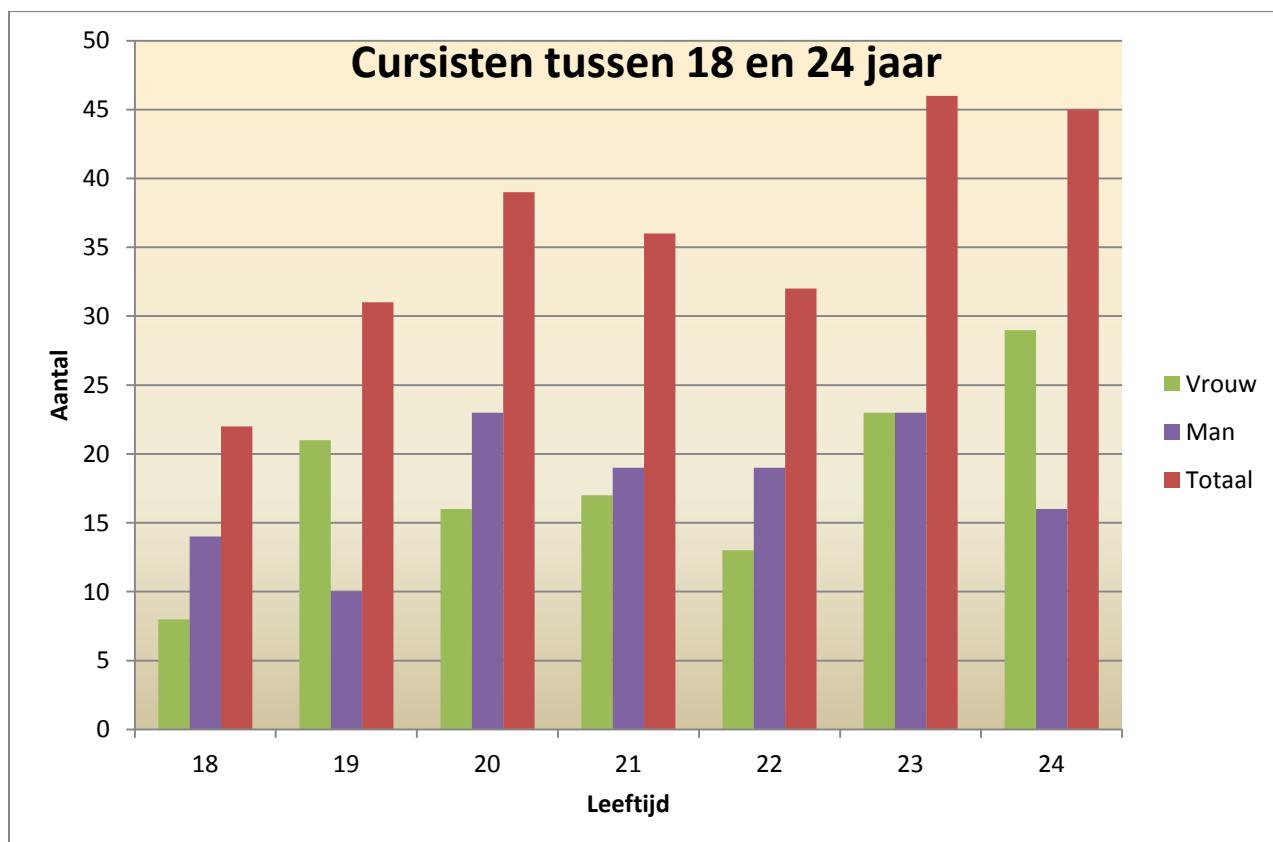
- 1) Engels
- 2) Klein vaarbewijs
- 3) Nederlands

De overgrote meerderheid van de groep, is de groep tussen de 30 en de 50 jaar.

Aantal Cursisten tussen 18 en 24 jaar (2012)

Geboorte jaar	Totaal	Vrouw	Man
1995 (18jr)	22	8	14
1994 (19jr)	31	21	10
1993 (20jr)	39	16	23
1992 (21jr)	36	17	19
1991 (22jr)	32	13	19
1990 (23jr)	46	23	23
1989 (24jr)	45	29	16
Total	251	127	124

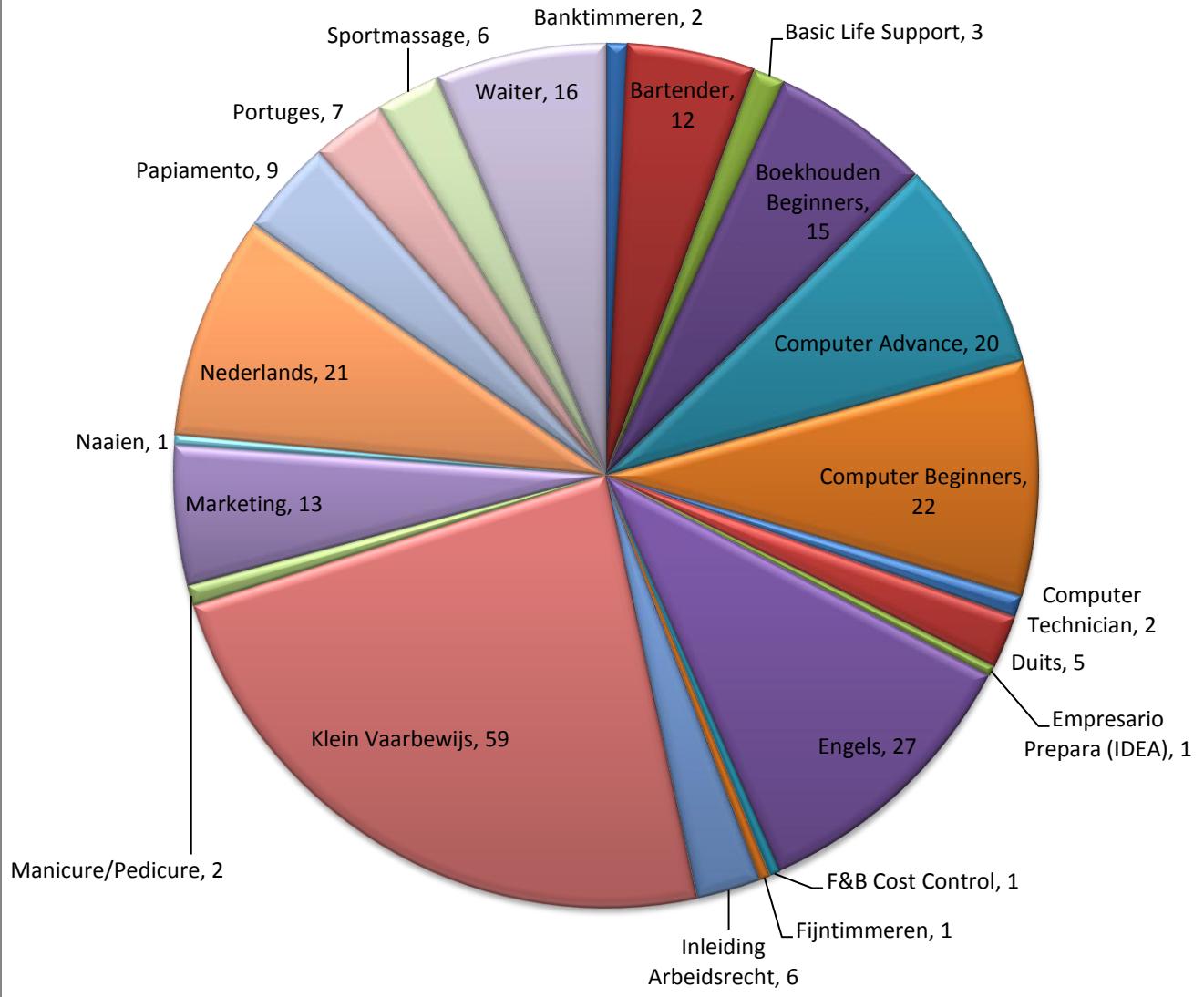
Totaal Cursisten voor het jaar 2012 is 2612



Cursus indeling voor leeftijd groep 18 t/m 24 jaar

Cursus	Aantal
Banktimmeren	2
Bartender	12
Basic Life Support	3
Boekhouden Beginners	15
Computer Advance	20
Computer Beginners	22
Computer Technician	2
Duits	5
Empresario Prepara	1
Engels	27
F&B Cost Control	1
Fijntimmeren	1
Inleiding Arbeidsrecht	6
Klein Vaarbewijs	59
Manicure/Pedicure	2
Marketing	13
Naaien	1
Nederlands	21
Papiamento	9
Portugees	7
Sportmassage	6
Waiter	16
Totaal	251

Cursus indeling voor leeftijd groep 18 t/m 24 jaar



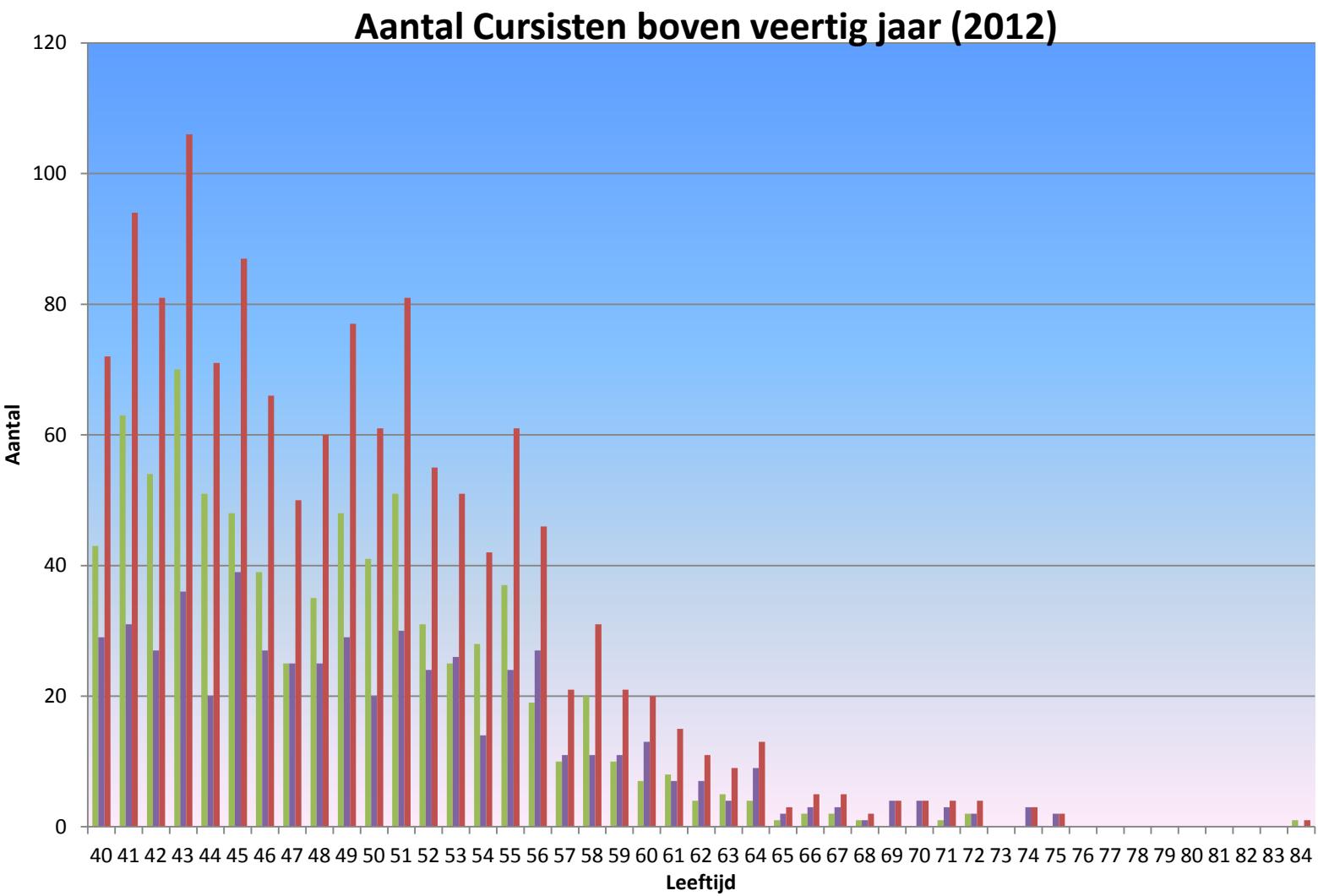
40 jaar en ouder

Cursisten boven de veertig jaar voor het jaar 2012

Leeftijd	Totaal	Vrouw	Man
40	72	43	29
41	94	63	31
42	81	54	27
43	106	70	36
44	71	51	20
45	87	48	39
46	66	39	27
47	50	25	25
48	60	35	25
49	77	48	29
50	61	41	20
51	81	51	30
52	55	31	24
53	51	25	26
54	42	28	14
55	61	37	24
56	46	19	27
57	21	10	11
58	31	20	11
59	21	10	11
60	20	7	13
61	15	8	7
62	11	4	7
63	9	5	4
64	13	4	9
65	3	1	2
66	5	2	3
67	5	2	3
68	2	1	1
69	4	0	4
70	4	0	4
71	4	1	3
72	4	2	2

73	0	0	0
74	3	0	3
75	2	0	2
76	0	0	0
77	0	0	0
78	0	0	0
79	0	0	0
80	0	0	0
81	0	0	0
82	0	0	0
83	0	0	0
84	1	1	0
Total	1339	785	553

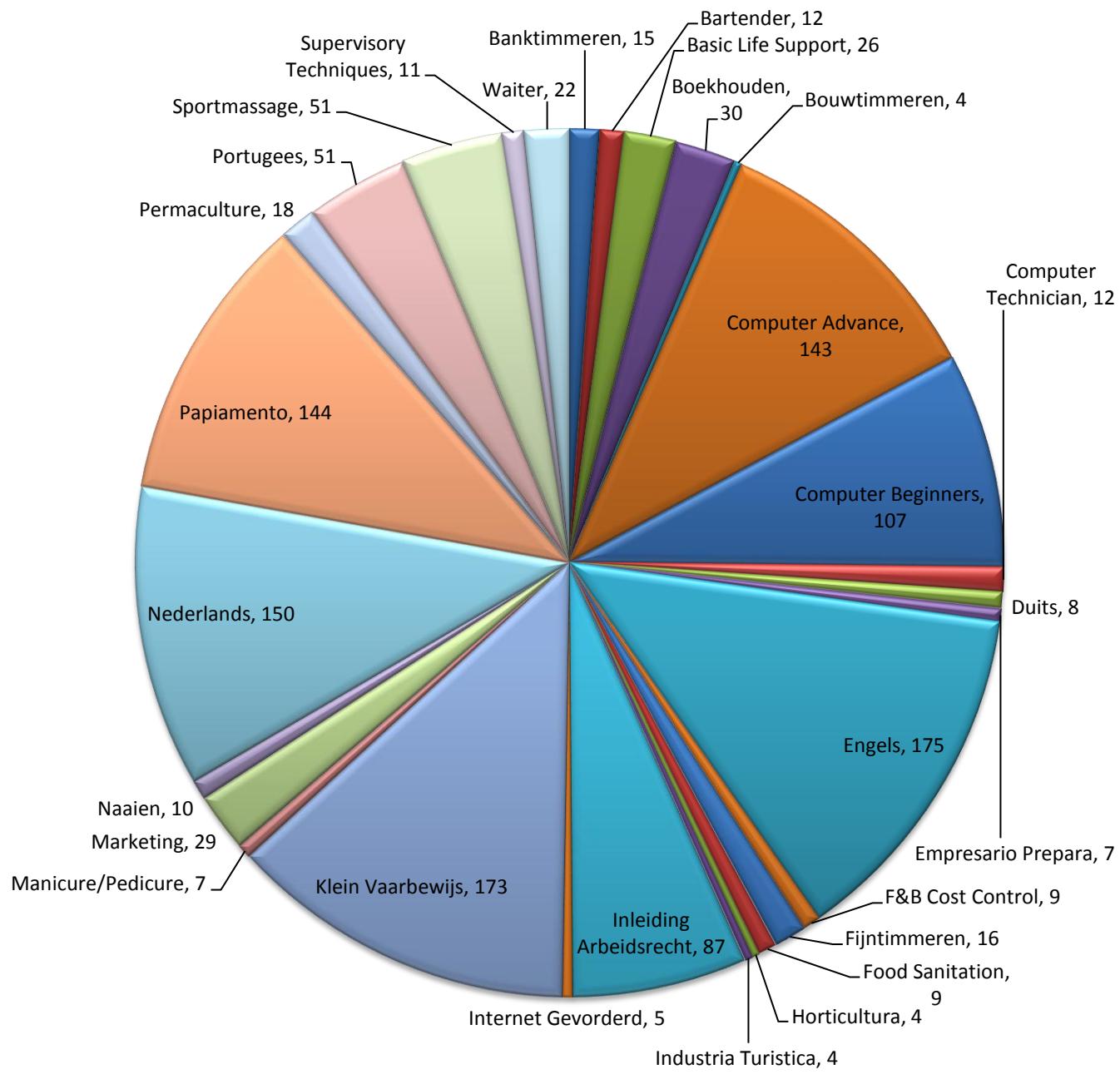
Totaal Cursisten voor 2012 is 2612



Cursus indeling voor leeftijd groep 40 en ouder

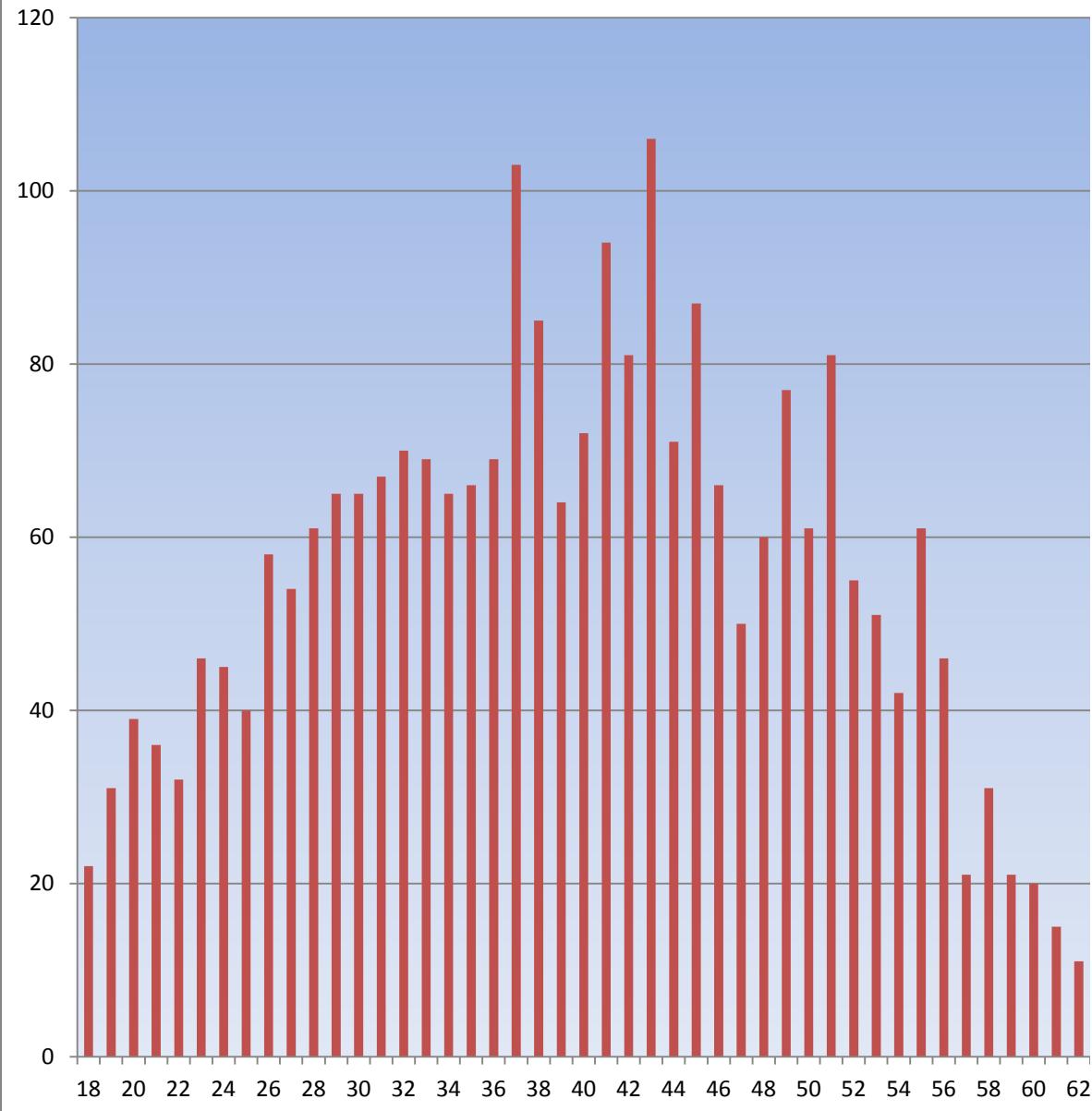
Cursus	Aantal
Banktimmeren	15
Bartender	12
Basic Life Support	26
Boekhouden	30
Bouwtimmeren	4
Computer Advance	143
Computer Beginners	107
Computer Technician	12
Duits	8
Empresario Prepara	7
Engels	175
F&B Cost Control	9
Fijntimmeren	16
Food Sanitation	9
Horticultura	4
Industria Turistica	4
Inleiding Arbeidsrecht	87
Internet Gevorderd	5
Klein Vaarbewijs	173
Manicure/Pedicure	7
Marketing	29
Naaien	10
Nederlands	150
Papiamento	144
Permaculture	18
Portugees	51
Sportmassage	51
Supervisory Techniques	11
Waiter	22
Totaal	1339

Cursus indeling voor leeftijd groep 40 en ouder



Totaal Aantal Cursisten

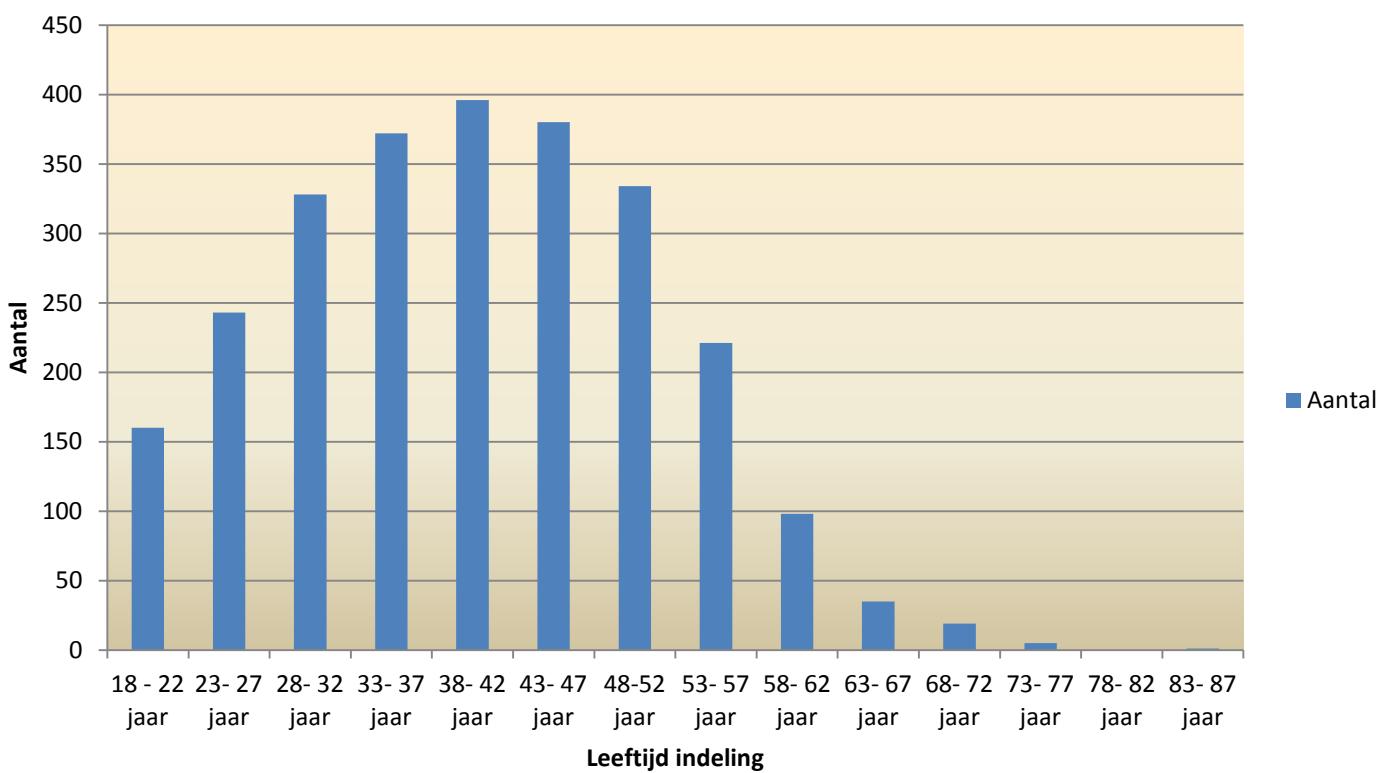
Aantal Cursisten per leeftijd voor he



Leeftijd indeling Cursisten voor het jaar 2012

Leeftijd indeling	Aantal
18 - 22 jaar	160
23- 27 jaar	243
28- 32 jaar	328
33- 37 jaar	372
38- 42 jaar	396
43- 47 jaar	380
48-52 jaar	334
53- 57 jaar	221
58- 62 jaar	98
63- 67 jaar	35
68- 72 jaar	19
73- 77 jaar	5
78- 82 jaar	0
83- 87 jaar	1

Leeftijd indeling Cursisten voor het jaar 2012



Overzicht Cursisten 2013

Overzicht Cursisten 2013

Voor het jaar 2013 heeft een totaal van 1558 personen een cursus met succes afgerond, (diploma of verklaring).

Van de bovengenoemde totaal tellen we een totaal van 184 personen tussen de leeftijd van 18 – 24 jaar, dit is 11.8% van de totale cursisten.

Deze groep had enorme belangstelling voor deze cursussen, namelijk:

- 1) Klein vaarbewijs
- 2) Engels
- 3) Computer Technician

Voor de groep van 40-plussers tellen we een totaal van 690 personen, dit is 44% van de totale cursisten.

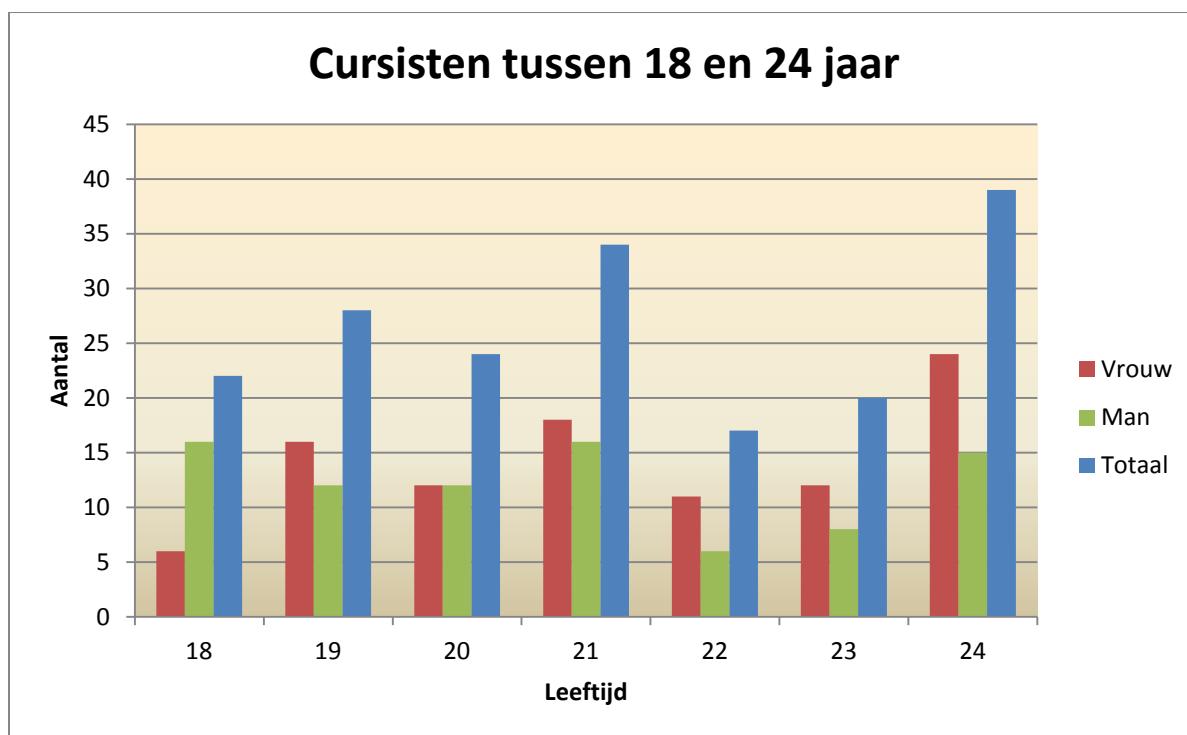
De drie cursussen met de meeste belangstelling voor deze groep zijn:

- 1) Engels
- 2) Nederlands
- 3) Klein vaarbewijs

De overgrote meerderheid van de groep, is de groep tussen de 31 en de 45 jaar.

Cursisten tussen 18 en 24 jaar voor het jaar 2013

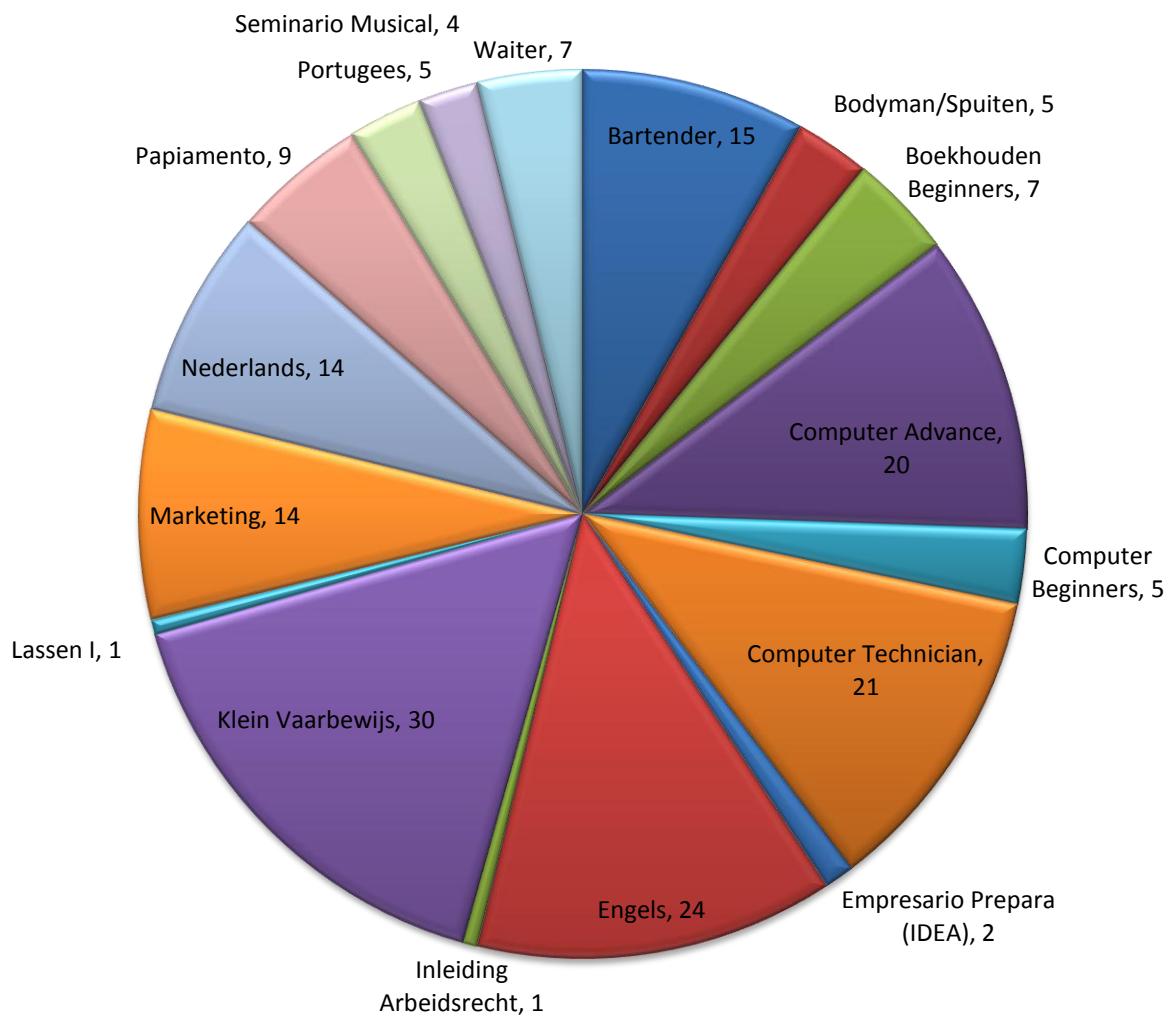
Jaar	Totaal	Vrouw	Man
1995 (18jr)	22	6	16
1994 (19 jr)	28	16	12
1993 (20jr)	24	12	12
1992 (21jr)	34	18	16
1991 (22jr)	17	11	6
1990 (23jr)	20	12	8
1989 (24jr)	39	24	15
<hr/>			
Totaal	184	99	85



Cursus indeling voor leeftijd groep 18 t/m 24 jaar

Cursus	Aantal
Bartender	15
Bodyman/Spuiten	5
Boekhouden Beginners	7
Computer Advance	20
Computer Beginners	5
Computer Technician	21
Empresario Prepara (IDEA)	2
Engels	24
Inleiding Arbeidsrecht	1
Klein Vaarbewijs	30
Lassen I	1
Marketing	14
Nederlands	14
Papiamento	9
Portugees	5
Seminario Musical	4
Waiter	7
Totaal	184

Cursus indeling voor leeftijd groep 18 t/m 24 jaar



40 jaar en ouder

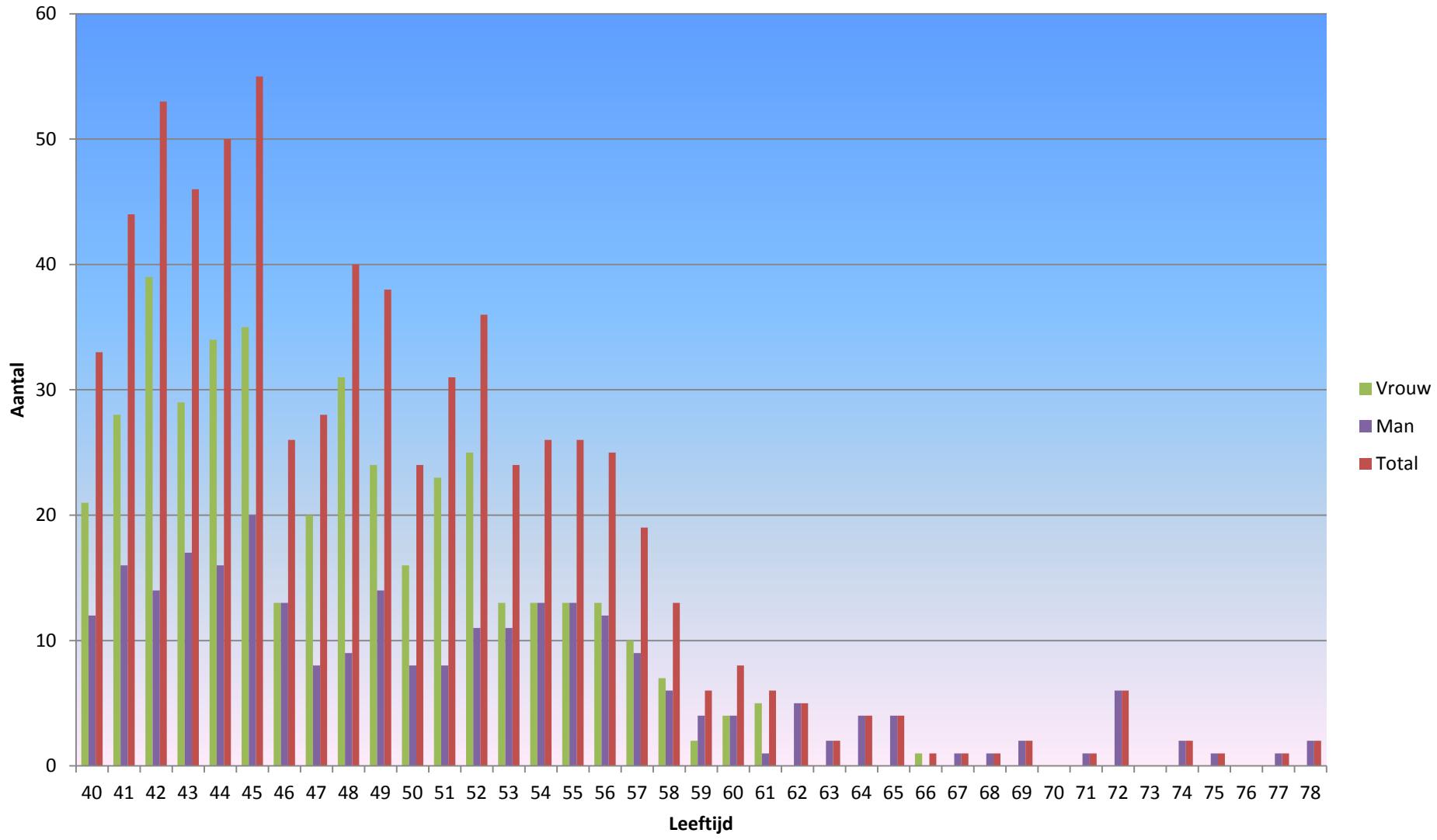
Cursisten boven de veertig jaar voor het jaar 2013

Leeftijd	Total	Vrouw	Man
40	33	21	12
41	44	28	16
42	53	39	14
43	46	29	17
44	50	34	16
45	55	35	20
46	26	13	13
47	28	20	8
48	40	31	9
49	38	24	14
50	24	16	8
51	31	23	8
52	36	25	11
53	24	13	11
54	26	13	13
55	26	13	13
56	25	13	12
57	19	10	9
58	13	7	6
59	6	2	4
60	8	4	4
61	6	5	1
62	5	0	5
63	2	0	2
64	4	0	4
65	4	0	4
66	1	1	0
67	1	0	1
68	1	0	1
69	2	0	2
70	0	0	0
71	1	0	1
72	6	0	6
73	0	0	0
74	2	0	2

75	1	0	1
76	0	0	0
77	1	0	1
78	2	0	2

Total	690	419	271
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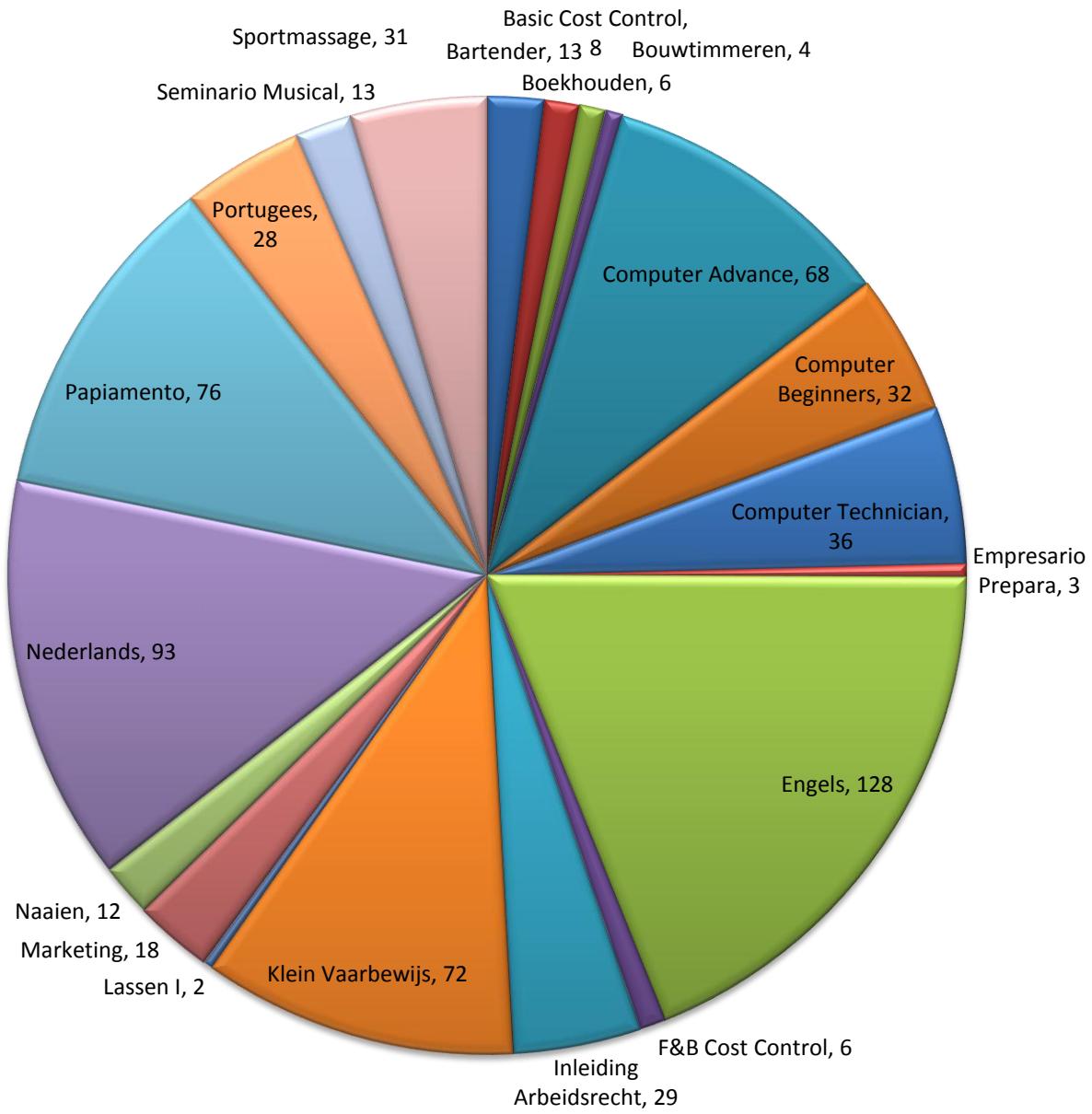
Cursisten boven de veertig jaar voor het jaar 2013



Cursus indeling voor leeftijd groep 40 en ouder

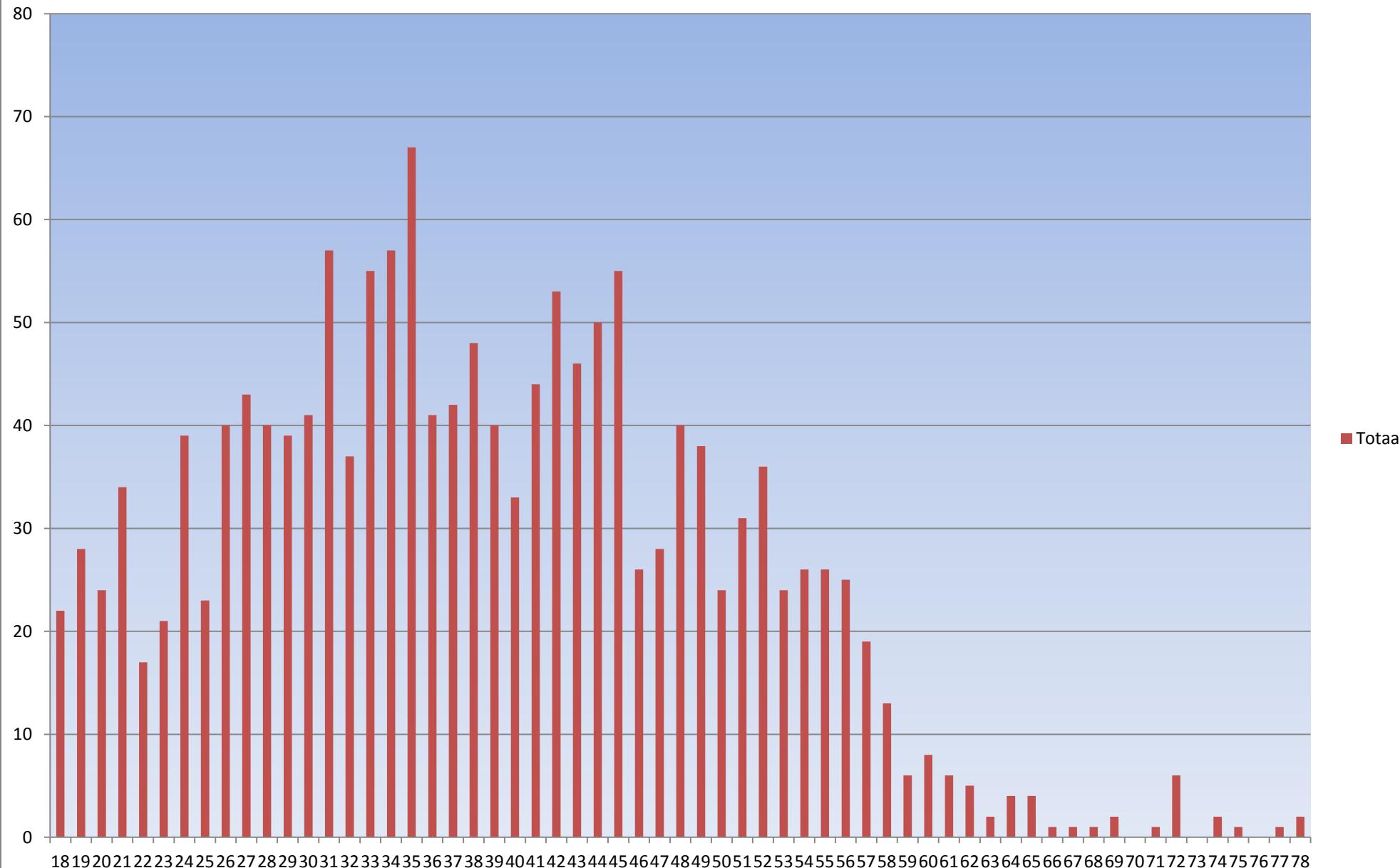
Cursus	Aantal
Banktimmeren	8
Bartender	13
Basic Cost Control	8
Boekhouden	6
Bouwtimmeren	4
Computer Advance	68
Computer Beginners	32
Computer Technician	36
Empresario Prepara	3
Engels	128
F&B Cost Control	6
Inleiding Arbeidsrecht	29
Klein Vaarbewijs	72
Lassen I	2
Marketing	18
Naaien	12
Nederlands	93
Papiamento	76
Portugees	28
Seminario Musical	13
Sportmassage	31
Waiter	4
Totaal	690

Cursus indeling voor leeftijd groep 40 en ouder



Totaal Aantal Cursisten

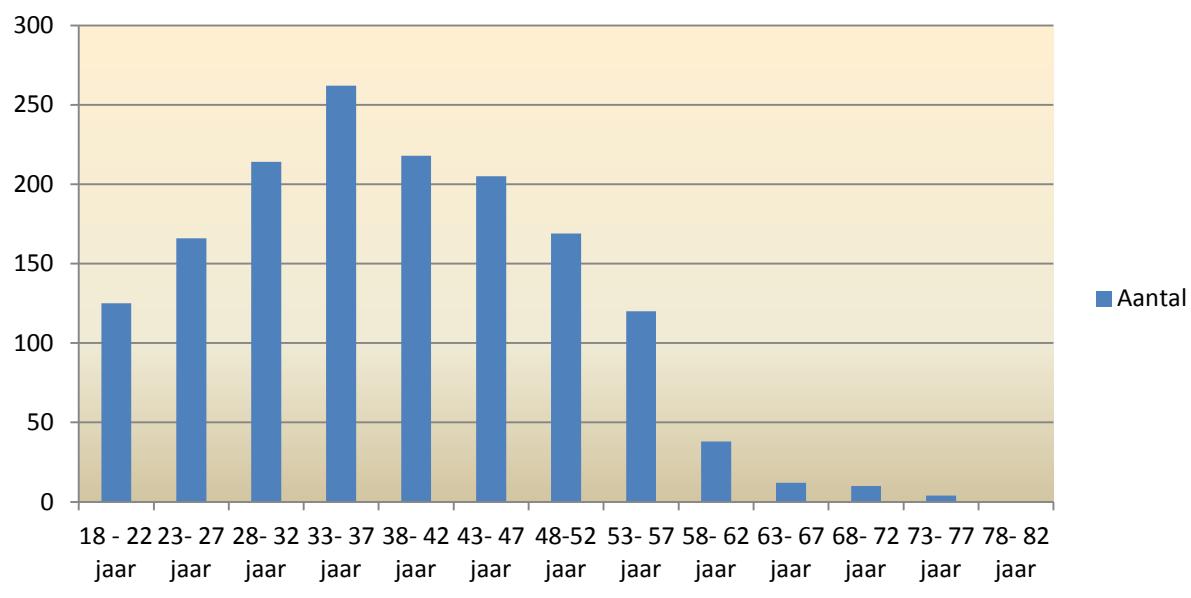
Aantal Cursisten per leeftijd voor het jaar 2013



Leeftijd indeling Cursisten voor het jaar 2013

Leeftijd indeling	Aantal
18 - 22 jaar	125
23- 27 jaar	166
28- 32 jaar	214
33- 37 jaar	262
38- 42 jaar	218
43- 47 jaar	205
48-52 jaar	169
53- 57 jaar	120
58- 62 jaar	38
63- 67 jaar	12
68- 72 jaar	10
73- 77 jaar	4
78- 82 jaar	0

Leeftijd indeling Cursisten voor het jaar 2013



Overzicht Cursisten 2014

Overzicht Cursisten 2014

Voor het jaar 2014 heeft een totaal van 1315 personen een cursus met succes afgerond, (diploma of verklaring).

Van de bovengenoemde totaal tellen we een totaal van 165 personen tussen de leeftijd van 18 – 24 jaar, dit is 12.5% van de totale cursisten.

Deze groep had enorme belangstelling voor deze cursussen, namelijk:

- 1) Klein vaarbewijs
- 2) Engels
- 3) Computer Technician

De groep van 40-plussers heeft een aandeel van 44% van de totale cursisten.

De drie cursussen met de meeste belangstelling voor deze groep zijn:

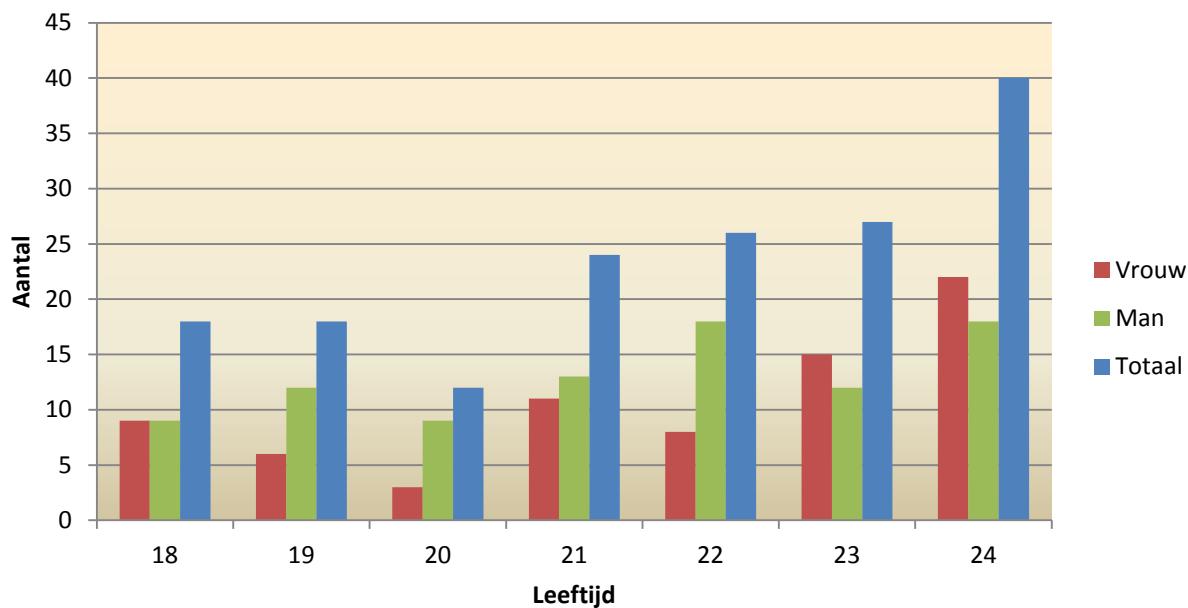
- 1) Engels
- 2) Papiamento
- 3) Klein vaarbewijs

De overgrote meerderheid van de groep, is de groep tussen de 30 en de 50 jaar.

Cursisten tussen 18 en 24 jaar voor het jaar 2014

Jaar	Totaal	Vrouw	Man
1996 (18jr)	18	9	9
1995 (19 jr)	18	6	12
1994 (20jr)	12	3	9
1993 (21jr)	24	11	13
1992 (22jr)	26	8	18
1991 (23jr)	27	15	12
1990 (24jr)	40	22	18
Totaal	165	74	91

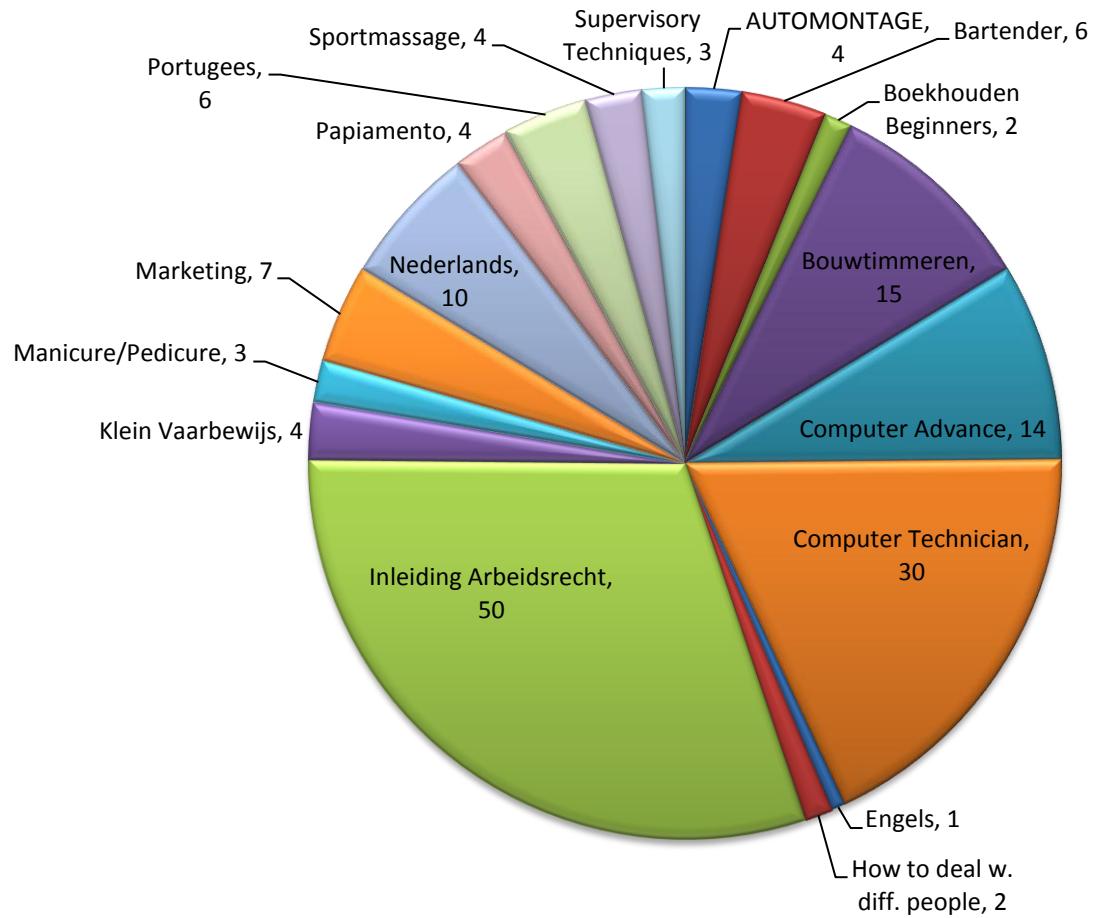
Cursisten tussen 18 en 24 jaar



Cursus indeling voor leeftijd groep 18 t/m 24 jaar

Cursus	Aantal
AUTOMONTAGE	1
Bartender	4
Boekhouden Beginners	6
Bouwtimmeren	2
Computer Advance	15
Computer Technician	14
Engels	30
How to deal w. diff. people	1
Inleiding Arbeidsrecht	2
Klein Vaarbewijs	50
Manicure/Pedicure	4
Marketing	3
Nederlands	7
Papiamento	10
Portugees	4
Sportmassage	6
Supervisory Techniques	4
Waiter	3
Motivation Workshop	2
Totaal	165

Cursus indeling voor leeftijd groep 18 t/m 24 jaar



40 jaar en ouder

Cursisten boven de veertig jaar voor het jaar 2014

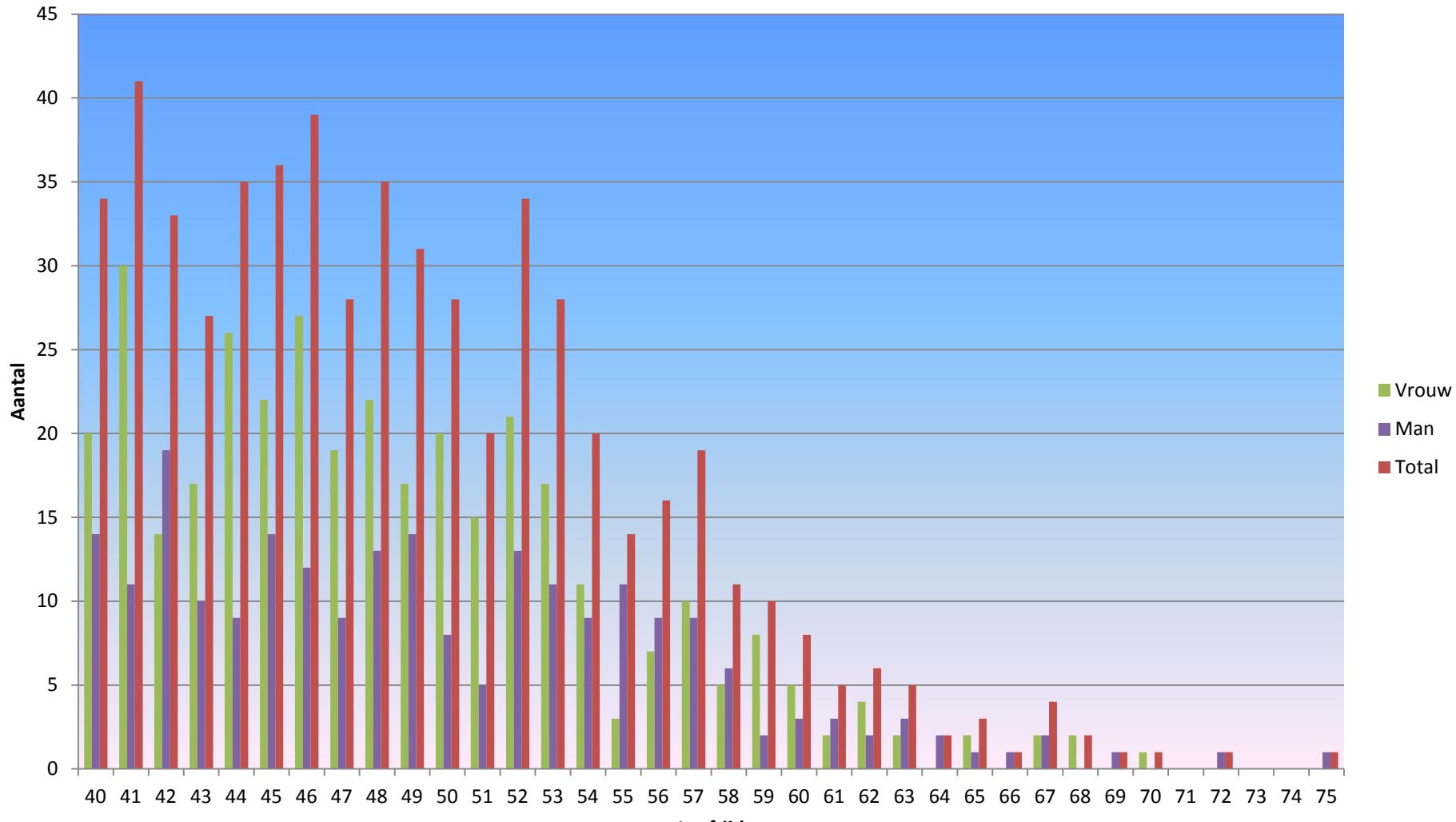
Leeftijd	Total	Vrouw	Man
40	34	20	14
41	41	30	11
42	33	14	19
43	27	17	10
44	35	26	9
45	36	22	14
46	39	27	12
47	28	19	9
48	35	22	13
49	31	17	14
50	28	20	8
51	20	15	5
52	34	21	13
53	28	17	11
54	20	11	9
55	14	3	11
56	16	7	9
57	19	10	9
58	11	5	6
59	10	8	2
60	8	5	3
61	5	2	3
62	6	4	2
63	5	2	3
64	2	0	2
65	3	2	1
66	1	0	1
67	4	2	2
68	2	2	0
69	1	0	1
70	1	1	0
71	0	0	0
72	1	0	1
73	0	0	0
74	0	0	0
75	1	0	1

579

351

228

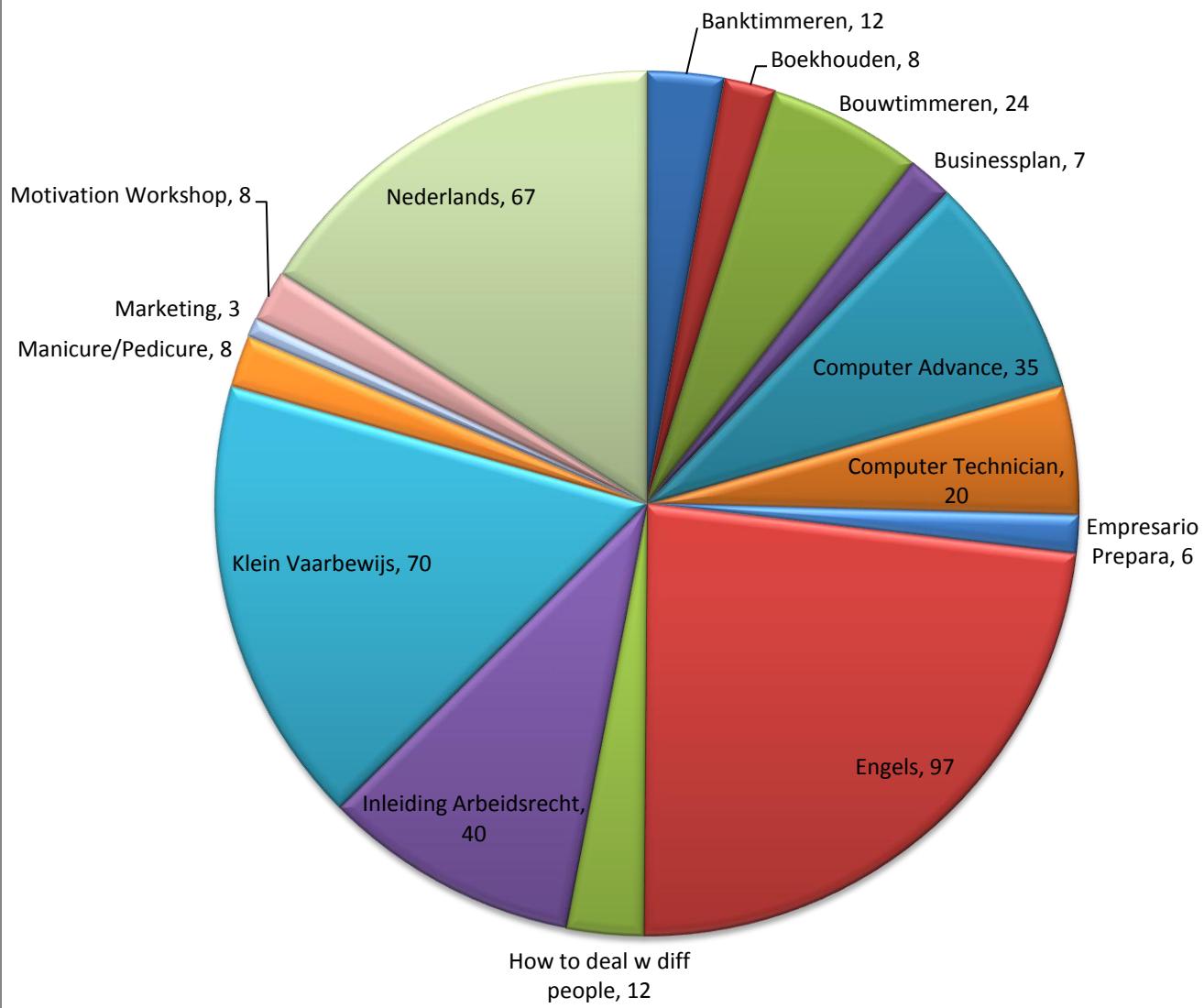
Cursisten boven de veertig jaar voor het jaar 2014



Cursus indeling voor leeftijd groep 40 en ouder

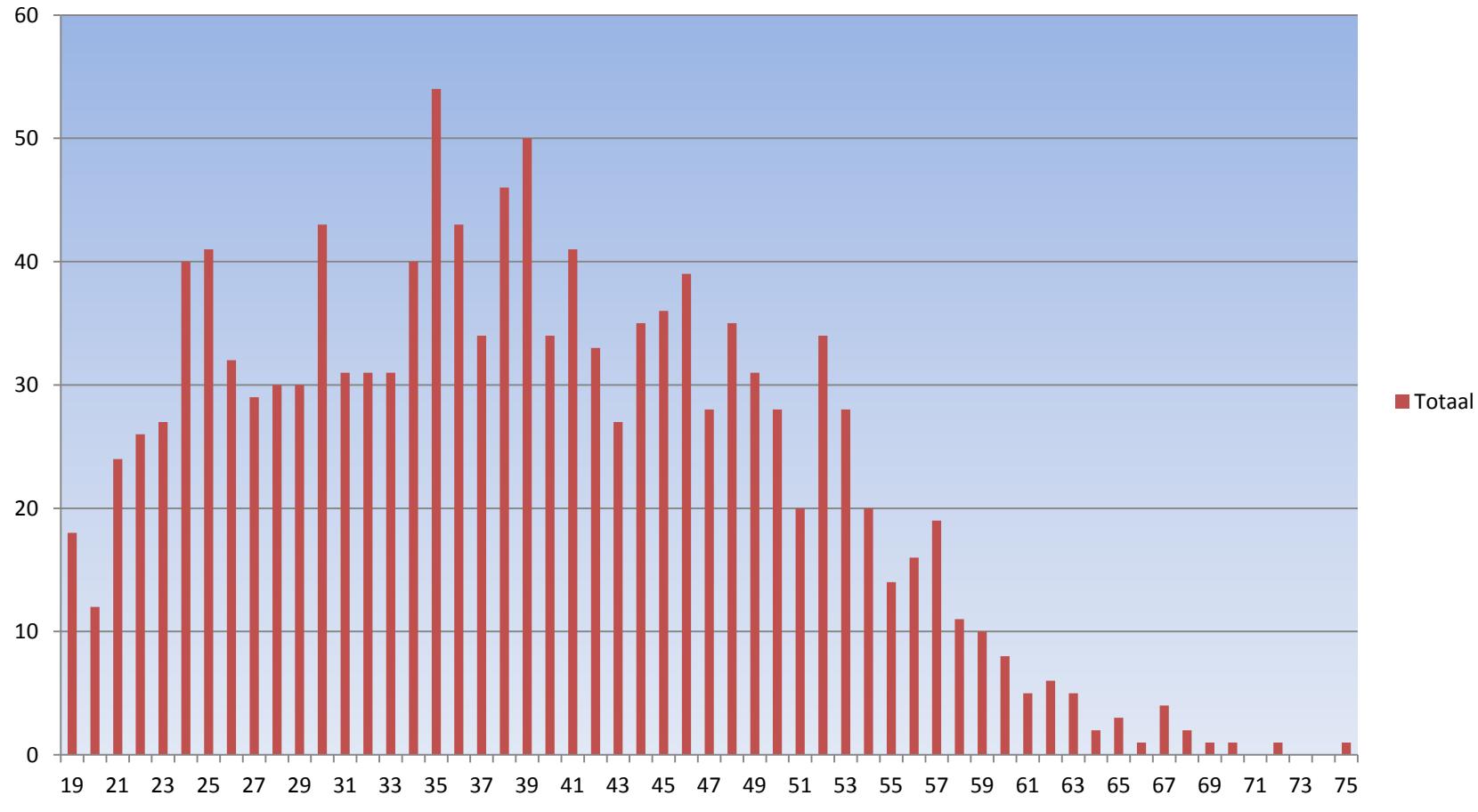
Cursus	Aantal
Banktimmeren	12
Boekhouden	8
Bouwtimmeren	24
Businessplan	7
Computer Advance	35
Computer Technician	20
Empresario Prepara	6
Engels	97
How to deal w diff people	12
Inleiding Arbeidsrecht	40
Klein Vaarbewijs	70
Manicure/Pedicure	8
Marketing	3
Motivation Workshop	8
Nederlands	67
Papiamento	75
Portugees	32
Sportmassage	24
Supervisory techniques	28
Waiter	3
Totaal	579

Cursus indeling voor leeftijd groep 40 en ouder



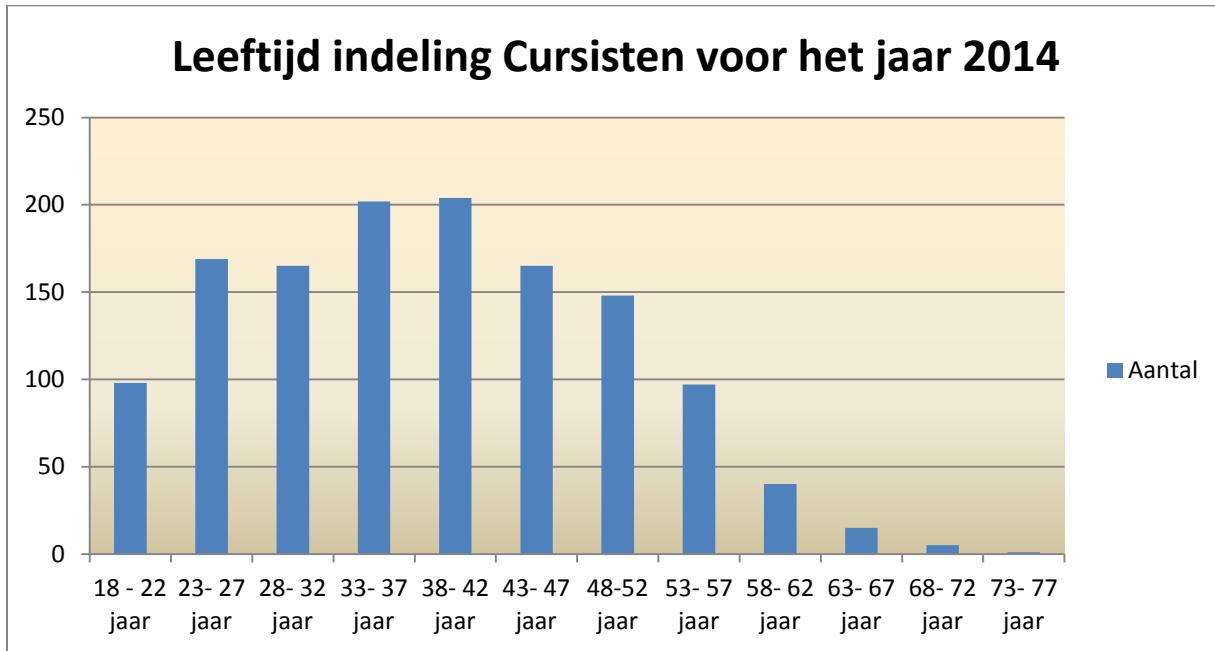
Totaal Aantal Cursisten

Aantal Cursisten per leeftijd voor het jaar 2014



Leeftijd indeling Cursisten voor het jaar 2014

Leeftijd indeling	Aantal
18 - 22 jaar	98
23- 27 jaar	169
28- 32 jaar	165
33- 37 jaar	202
38- 42 jaar	204
43- 47 jaar	165
48-52 jaar	148
53- 57 jaar	97
58- 62 jaar	40
63- 67 jaar	15
68- 72 jaar	5
73- 77 jaar	1



ANNEX 2

Titel XVII

Misdrijven tegen de persoonlijke vrijheid

Artikel 2:239

1. Als schuldig aan mensenhandel wordt met gevangenisstraf van ten hoogste acht jaren of geldboete van de vijfde categorie gestraft:

- a. hij die een ander door dwang, geweld of een andere feitelijkheid of door dreiging met geweld of een andere feitelijkheid, door afpersing, fraude, misleiding dan wel door misbruik van uit feitelijke verhoudingen voortvloeiend overwicht, door misbruik van een kwetsbare positie of door het geven of ontvangen van betalingen of voordelen om de instemming van een persoon te verkrijgen, die zeggenschap over die ander heeft, werft, vervoert, overbrengt, huisvest of opneemt, met het oogmerk van uitbuiting van die ander of de verwijdering van diens organen;
- b. hij die een ander werft, vervoert, overbrengt, huisvest of opneemt, met het oogmerk van uitbuiting van die ander of de verwijdering van diens organen, terwijl die ander de leeftijd van achttien jaren nog niet heeft bereikt;
- c. hij die een ander aanwerft, meeneemt of ontvoert met het oogmerk die ander in een ander land ertoe te brengen zich beschikbaar te stellen tot het verrichten van seksuele handelingen met of voor een derde tegen betaling;
- d. hij die een ander met een van de in onderdeel a genoemde middelen dwingt of beweegt zich beschikbaar te stellen tot het verrichten van arbeid of diensten of zijn organen beschikbaar te stellen dan wel onder de in onderdeel a genoemde omstandigheden enige handeling onderneemt waarvan hij weet of redelijkerwijs moet vermoeden dat die ander zich daardoor beschikbaar stelt tot het verrichten van arbeid of diensten of zijn organen beschikbaar stelt;
- e. hij die een ander ertoe brengt zich beschikbaar te stellen tot het verrichten van seksuele handelingen met of voor een derde tegen betaling of zijn organen tegen betaling beschikbaar te stellen, dan wel ten aanzien van een ander enige handeling onderneemt, waarvan hij weet of redelijkerwijs moet vermoeden dat die ander zich daardoor beschikbaar stelt tot het verrichten van die handelingen of zijn organen tegen betaling beschikbaar stelt, terwijl die ander de leeftijd van achttien jaren nog niet heeft bereikt;
- f. hij die opzettelijk voordeel trekt uit de uitbuiting van een ander;
- g. hij die opzettelijk voordeel trekt uit de verwijdering van organen van een ander, terwijl hij weet of redelijkerwijs moet vermoeden dat diens organen onder de in onderdeel a bedoelde omstandigheden zijn verwijderd;
- h. hij die opzettelijk voordeel trekt uit seksuele handelingen van een ander met of voor een derde tegen betaling of de verwijdering van diens organen tegen betaling, terwijl die ander de leeftijd van achttien jaren nog niet heeft bereikt;
- i. hij die een ander met een van de in onderdeel a genoemde middelen dwingt dan wel beweegt hem te bevoordelen uit de opbrengst van diens seksuele handelingen met of voor een derde of van de verwijdering van diens organen.

2. Uitbuiting omvat ten minste uitbuiting van een ander in de prostitutie, andere vormen van seksuele uitbuiting, gedwongen of verplichte arbeid of diensten, slavernij en met slavernij of dienstbaarheid te vergelijken praktijken.

3. De schuldige wordt gestraft met gevangenisstraf van ten hoogste twaalf jaren of geldboete van de vijfde categorie, indien:

- a. de feiten, omschreven in het eerste lid, worden gepleegd door twee of meer verenigde personen;
- b. de persoon ten aanzien van wie de in het eerste lid omschreven feiten worden gepleegd, de leeftijd van zestien jaren nog niet heeft bereikt.

4. Indien een van de in het eerste lid omschreven feiten zwaar lichamelijk letsel ten gevolge heeft of daarvan levensgevaar voor een ander te duchten is, kan gevangenisstraf van ten hoogste vijftien jaren of geldboete van de vijfde categorie worden opgelegd.

5. Indien een van de in het eerste lid omschreven feiten de dood ten gevolge heeft, kan gevangenisstraf van ten hoogste achttien jaren of geldboete van de vijfde categorie worden opgelegd.