

EXAMPLES OF GOOD PRACTICE IN THE FIELD OF PROTECTION AND PROMOTION OF HUMAN RIGHTS

In response to the invitation by the Commissioner for Human Rights

Example from the Netherlands

Municipal Anti-discrimination Services

1. DESCRIPTION OF THE PROJECT

The Dutch government sees the right to equal treatment as a basic principle of the rule of law. The right to equality is enshrined in the Dutch Constitution and elaborated in specific legislation such as the Equal Treatment Act. Protection against discrimination is also a key aim of government policy, in the interests of safeguarding social cohesion. The government favours a broad approach to antidiscrimination, combining prevention and enforcement. The Municipal Anti-discrimination Services Act, which entered into force in 2009, provides that individuals who feel that they have been discriminated against can seek independent assistance in the handling of their complaint. The Act requires every municipality to provide its inhabitants with access to a readily available anti-discrimination service. It also provides for a nationwide network of local anti-discrimination services for the protection of all individuals from discrimination. The Netherlands is the first country in Europe to regulate such anti-discrimination services by law.

Municipalities have a key role in the Act – they are responsible for providing individuals with access to independent anti-discrimination services for registering and handling their complaints. Municipalities must guarantee this independence when providing access. For their two statutory tasks, complaint handling and registration, 6 million euros is available annually through the general grant payable from the Municipalities Fund. This amount is apportioned according to size of population. Through the provision of an independent anti-discrimination service, municipalities share responsibility for the protection of universal human rights at local level.

The Municipal Anti-discrimination Services Act does not lay down how municipalities should organise an anti-discrimination service, but municipalities must do so in a way that guarantees the independence of the services provided. This means that complaints cannot be handled within the municipal organisation and the anti-discrimination service cannot fall under the local authority.

The registration of complaints offers both local and national authorities insight into the prevalence and nature of discrimination. Accurate information is a requisite for effective national anti-discrimination policies and measures. The information can also be used by, for instance, the regional police and Public Prosecution Service in developing a joint local strategy for tackling discrimination, particularly with a view to linking preventive municipal measures and administrative sanctions with possible penalties under the criminal law.

To mark the Act's entry into force, a six-week national information campaign ran in 2009 to raise awareness about discrimination and increase people's willingness to report it. The target was to achieve a twofold increase in the number of discrimination complaints registered compared to the

same period in 2008. Data provided by the anti-discrimination agencies, bureaus and services show that the campaign was a success, as the number of complaints registered increased threefold.

The Dutch government remains committed to raising awareness of discrimination. The national anti-discrimination campaign was repeated in August and September 2010 because of its previous success. The campaign, which had the tagline 'Do you have to leave yourself at home when you go out?', again succeeded in increasing willingness to report discrimination.

The Dutch anti-discrimination framework comprises more than the nationwide network of local anti-discrimination bureaus. People can also take their complaints to the Equal Treatment Commission, the National Ombudsman, local ombudsmen or the local police.

In addition, protection against human rights violations will be further strengthened by the establishment of the National Institute on Human Rights in 2012.

2. HUMAN RIGHTS ISSUES AT STAKE

Article 1 of the Dutch Constitution states:

'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.'

The right to equal treatment and freedom from discrimination is enshrined in the Dutch Constitution because these are necessary conditions for safeguarding the rule of law and social cohesion. The right to equal treatment is a cornerstone of relations between individuals in our society and between individuals and government. That is why anti-discrimination should always be a priority for all – central government, local authorities and individuals.

The Dutch government is actively involved in combating discrimination. The aim is a society in which people are free to be themselves and which is characterised by mutual understanding and respect.

3. IMPACT ASSESSMENT AND EVALUATION

In September 2010, a year after the Municipal Anti-discrimination Services Act came into effect, a study was conducted to obtain extensive quantitative information concerning the implementation of the Act, in anticipation of the legal review to be conducted in 2012.¹ Specifically, the study aimed to find out how many municipalities provide access to anti-discrimination services and how these services are organised. The study's findings are summarised below.

In 2010, most municipalities (97%) responded positively to the requirement to provide access to an anti-discrimination service, so that 99% of people in the Netherlands now have access to such a service in or through their municipalities. By comparison, in 2005 there were 38 antidiscrimination bureaus (ADBs) with overall coverage of about 43% (7 million inhabitants). By increasing coverage by 56%, local authorities and ADBs have achieved a remarkable feat. Nearly all municipalities (99%) have made arrangements with a regional or provincial antidiscrimination service. Antidiscrimination services have a low threshold, enabling people to report complaints by post, e-mail or phone, or in person. The services offer complementary activities such as information and education in 40% of municipalities.

Most municipalities (76%) that provide access to antidiscrimination services spend €0.372 per inhabitant per year on implementing their statutory anti-discrimination tasks. This is proportionate to the general grant that central government pays to the Municipalities Fund for carrying out these tasks.

¹ The study was carried out by Partners+Pröpper, October 2010.

Where complementary activities are carried out, these are often (53%) financed from the budget for the two statutory tasks, particularly activities concerning public information. The remaining 47% of municipalities provide additional funding for complementary activities. Most municipalities (86%) expect to make the same amount of funding available for the statutory and complementary anti-discrimination activities in 2011.

In 42% of municipalities, administrative responsibility for anti-discrimination tasks is delegated to a welfare/community/care section. Executive responsibility, by contrast, more often resides with the member of the executive responsible for public order and security (31%), followed by the member for social affairs/welfare/care/community (29%).

The Municipal Anti-discrimination Services Act will be subject to a full evaluation in 2012. The evaluation may lead to recommendations aimed at improving the efficiency and effectiveness of the Act and of its implementation by municipalities.

4. CONCLUSIONS FOR SIMILAR PROJECTS ELSEWHERE

As stated above, the Municipal Anti-discrimination Services Act will be subject to a full evaluation in 2012. The evaluation will also make recommendations for improvement. The Act must be effective and its implementation by municipalities feasible. The study conducted in 2010 revealed numerous differences between municipalities as regards the provision and organisation of antidiscrimination services. It is important, however, that municipalities have the ability to take account of local circumstances, not only in the interests of municipal autonomy but also because it enables the development of tailor-made approaches to address specific local situations. In this regard, we offer the following suggestions for similar projects:

1. Give municipalities scope to address their local situation. This is important not only in the interests of municipal autonomy but also requires the local authorities to have a good understanding of their community which in turn ensures the best possible implementation of the Act.
2. Legislation is not a guarantee for success. The Act will only have its intended effect if the main parties involved, i.e. local authorities and anti-discrimination services, take their share of responsibility. Local authorities are closer to individuals and their daily lives. As the coordinating party, municipalities must work together with the Public Prosecution Service, the police and the anti-discrimination service to flesh out local anti-discrimination policy.
3. Cooperation between national and local government is of the utmost importance. In the Netherlands there are regular consultations between national and local authorities on a joint approach to discrimination. Provincial or regional consultations also offer opportunities for the parties involved – local authorities, police and the public prosecution service – to discuss issues. These consultations promote cooperation and identification of discrimination, and also lead to new ideas based on best practices.
4. Raise awareness of the issue. The public information campaigns about discrimination in 2009 and 2010 were successful in this aim. People became more aware of discrimination, which in turn can lead to an open dialogue about it. Without awareness and dialogue, problems like discrimination cannot be tackled effectively.

5. CONTACTS

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