



**Kingdom of the Netherlands**

## *Answers questionnaire HCHR 2011/02/04*

Reference: Ageing/2011/CM/JS/is

### **1. Please provide information on the current situation of the human rights of older persons, including particular challenges and threats that may prevent the full realization of their rights.**

Article 1 of the Constitution of the Netherlands

"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."

Dutch equal treatment legislation stipulates that unequal treatment is unlawful in specific fields and on a limited number of grounds.

The Act Municipal Antidiscrimination Provision from 2009 offers a easily accessible assistance on local level for everybody who has complaints about discrimination or equal treatment.

See also: [http://www.minbuza.nl/en/Key\\_Topics/Human\\_Rights/Dutch\\_Human\\_Rights\\_Policy](http://www.minbuza.nl/en/Key_Topics/Human_Rights/Dutch_Human_Rights_Policy)

### **2. Please provide information on existing legislation, policies and programs to protect and promote the human rights of older persons.**

a. Existing legislation

1) See <http://www.cgb.nl/english/legislation>

2) The Netherlands is bound by the requirement of equal treatment contained in article 26 of the ICCPR, which is enshrined in article 1 of the Dutch Constitution and elaborated in the Equal Treatment Act. The 12th Protocol to the ECHR makes no difference to national legislation or to the government's existing commitments. The Protocol does mean that it is possible to submit an application to the European Court of Human Rights citing discrimination on one of the grounds specified. A judgment by the Court of Human Rights is binding and must always be followed.

b. Policies

Dutch policy aims to create equal opportunities and to encourage people to seize such opportunities and so to overcome disadvantages.

c. Programmes

1) See

<http://www.art1.nl/artikel/73-English>

2) The Complaints Office Discrimination on Internet (MDI) judges reports about discrimination within the Dutch part of internet. If a reported manifestation of discrimination is liable to punishment according to the MDI, the complaints office will first send a request to remove that manifestation or expression. In exceptional cases the complaints office will directly report the

manifestation as a crime at the police. To report an incident of discrimination at the internet one can send an Email to the MDI.

**3. Please provide information on existing legislation, policies and programmes to address discrimination against older persons, including measures to address multiple discrimination (e.g. discrimination based on age and gender).**

a. Existing legislation

On 1 May 2004 the Equal Treatment in Employment (Age Discrimination) Act (*Wet gelijke behandeling op grond van leeftijd*) came into force. The Act addresses the fight against age discrimination and is intended to set up a general framework for equal treatment in employment and occupation.

This Act bans age discrimination in employment, occupation and vocational training. Discrimination on grounds of age is only permitted if setting an age limit can be objectively justified. The ban on age discrimination applies to all areas of employment, from recruitment and selection and job placement to conditions of employment and terminating an employment relationship. It also applies to vocational training, vocational guidance, careers advice and membership of employers' organizations and trade unions or professional or occupational associations. The Act specifies that the Equal Treatment Commission (*Commissie Gelijke Behandeling*) is to monitor the ban on age discrimination and can initiate an investigation when a complaint is made. If a distinction on the grounds of age is made in advertising a vacancy, the reasons for doing so must be stated clearly. It is only possible to specify an age limit if it can be objectively justified. The Act also contains provisions on protection against victimization (not only for employees, but also for witnesses) and against dismissal on grounds of age. Any conditions that are in breach of the Act are invalid. Finally, the Act bans harassment and instructing others to discriminate.

b. Programmes

The Ministry for Social Affairs and Employment also provided a grant for the 'Vacatures voor alle leeftijden' ('Vacancies for all ages') project, run by the LEEFTijd Expertise Centre and the Equal Treatment Commission. The project aimed to combat unjustified age discrimination in job advertising. Where a justifiable age limit applies to a particular post, the employer must give the reasons for this in the vacancy. A checklist to this end was developed during the project.

**4. Please provide information on existing legislation, policies or programmes to address violence and abuse against older persons in the private and public spheres.**

a. Existing legislation

By introducing a separate law, the Government intends to create ways of imposing temporary restraining orders for perpetrators of domestic violence in situations where there is an acute threat to victims and/or any children. This new piece of legislation, will allow mayors to impose a ten-day restraining order. In practice, they will authorize an executive police officer to use this power. The court can test the order within three days after its commencement date. After the ten days, the mayor may decide to extend the order by another four weeks. The restraining order from entering a house may also apply for child abuse cases. The people involved will receive professional help during the ten-day restraining order. The preparations for the entry into force of the act started a long time ago. The [www.huisverbod.nl](http://www.huisverbod.nl) website contains all the information on the restraining order (in Dutch).

b. Policies

The government will promote equal opportunities. Violent crimes with a discriminatory background or motive should be punished more severely. The Public Prosecution Service will take this into account when demanding sentences.

In 2006-2007, a campaign to stop elderly abuse distributed a leaflet entitled 'You only have see it once to believe it'. The number of Dutch municipalities that have a contact point for information and referral concerning abuse of the elderly increased from 31% (150 municipalities) to 94% (416 municipalities) during the campaign period. One third of all municipalities now have professional help networks and there are agreements with cooperating organizations on combating elder abuse.

The government is currently looking into ways of incorporating the results of the campaign in their policy.

See more on

[http://www.huiselijkgeweld.nl/doc/english/domestic\\_violence\\_minjus\\_8840\\_tcm35-14187.pdf](http://www.huiselijkgeweld.nl/doc/english/domestic_violence_minjus_8840_tcm35-14187.pdf)

c. Programmes

The government will take extra measures to combat abuse of the elderly, including a compulsory certificate of good conduct for paid carers. In addition, guidelines will be issued on elder abuse, the Stop Elder Abuse project will continue and a duty to report elder abuse will be introduced.

The present coalition government launched a new program against elderly abuse at April 1th 2011. A letter was sent to parliament at March 30<sup>th</sup> 2011. The program will run from 2011 – 2014 with a budget of € 10 million. A plan of action of 10 points goes along with the program.

**5. Please provide information on existing legislation, policies and programmes addressing old age-sensitive services and facilities, such as those related to mobility, age-adequate design, long-term care, primary health care and adult and continuous education.**

a. Existing legislation

For primary care see <http://www.nivel.nl/pdf/HIT-rapport-Netherland.pdf>

And for long term care see "Host country report" at <http://www.peer-review-social-inclusion.eu/peer-reviews/2008/how-to-organise-affordable-sustainable-long-term-care-given-the-constraints-of-collective-versus-individual-arrangements-and-responsibilities>

b. Policies

The rights of patients, including those of elderly patients, will be broadened. Individual patients must be able to exercise their rights but, at the same time, there need to be guarantees that the fulfillment of individual rights will be reasonable and fair. This will be facilitated by new legislation on the rights of care service clients. In addition, there will be a specific framework act for residential care institutions setting out the concrete rights of residents, such as the right to a daily shower and to spend some time each day in the open air if they so wish.

c. Programmes

The government will strive to improve the quality of elderly care. Almost 1 billion Euros will be set aside for this. The standard care needs packages and associated training will become self-financing. This will give care institutions greater financial elbow room, which they can use to employ 12,000 extra staff for the routine care of our elderly and disabled. Investments will also be made in the quality of care and personnel.

**6. Please provide information on existing legislation, policies and programmes concerning social protection measures as well as right to social security with regard to older persons.**

a. Existing legislation

The General Old Age Pensions Act (AOW) is a basic pension for people aged 65 and over. In addition, the AOW grants a supplementary allowance to people entitled to an AOW pension whose respective partners are under the age of 65 and have only limited or no incomes. Everyone living legally in the Netherlands is insured by law under the AOW between the ages of 15 and 65. No distinction is maintained between men and women or the employed and unemployed. You are insured even if you do not live in the Netherlands but work in the country and, as a result, are subject to its wage tax.

b. Policies

See more in <http://english.szw.nl> and then for **Social assistance** (in the site) at [Benefits](#).

In addition to the basic state pension, the Minister of Social Affairs supports the pensions system that social partners have set up per industrial branch by issuing decisions that make the contributions to these pension funds obligatory.

As a result of this system over 90% of the workers in The Netherlands have a supplementary pension that can add up to 70% of the last or average career wage.

c. Programmes

**7. Please provide information on existing legislation, policies and programmes to systematically collect, update and analyze information disaggregated by age.**

[Elderly Policy Monitor 2008: Values on a grey scale](#)

Survey | 20 November 2008

At the request of VWS the Netherlands Institute for Social Research (SCP) examined the results of the policy on the elderly over the last two years and explored how the results of that policy might be periodically monitored in the future.

**8. Please provide information on existing legislation, policies and programmes to enhance participation and active engagement of older men and women in community, political and cultural life.**

a. Existing legislation

On 1 January 2007 the Social Support Act (Wet maatschappelijke ondersteuning, Wmo) came into force in all municipalities in the Netherlands.

Under the Act, the municipalities are now responsible for setting up social support. The introduction of the Wmo offers an opportunity to improve the service provision to citizens and clients.

The aim of the Social Support Act is participation of all citizens to all facets of the society, whether or not with help from friends, family or acquaintances; the perspective is a coherent policy in the field of the social support and related areas.

Municipalities now have the opportunity to develop a cohesive policy on social support, living and welfare along with other related matters.


The Wmo puts an end to various rules and regulations for handicapped people and the elderly.

b. Policies

To support municipalities with implementing the Social support act in general and volunteer policy in particular, a number of initiatives has been taken; one of these being the development of so-called core functions for family care and voluntary work.

See (for example):

[Core functions Local voluntary work support and Family care](#) Documentation | 20 November 2009 |

 pdf, 34 pag., 382 kB

c. Programmes

Implementation is at the municipal level.

**9. Please provide information on existing legislation, policies and programmes to ensure access to justice and judicial remedies for violations of the rights of older persons, including references to specific mandates of institutions such as national human rights institutions to address their rights.**

a. Existing legislation

See the answers on question nr. 1.

b. Policies

Anyone who feels he or she has been treated unequally, can request an opinion of the Dutch Equal Treatment Commission (CGB). When the CGB receives a petition for an opinion, it investigates whether the equal treatment law has been violated. The CGB can only investigate petitions on the grounds of differentiation described in the equal treatment laws.

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The CGB does not have to wait for petitions to be filed. It is also entitled to investigate on its own initiative in specific areas where systematic or persistent patterns of discrimination are suspected.

c. Programmes

The Dutch Equal Treatment Commission is an independent organization that was established in 1994 to promote and monitor compliance with this legislation. The Commission also gives advice and information about the standards that apply. Everyone in the Netherlands can ask the Commission for an opinion or advice about a specific situation concerning unequal treatment, free of charge.

The Act Municipal Antidiscrimination Provision from 2009 offers a easily accessible assistance on local level for everybody who has complaints about discrimination or equal treatment.