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**SECOND REPORT SUBMITTED BY THE NETHERLANDS  
PURSUANT TO ARTICLE 25, PARAGRAPH 2  
OF THE FRAMEWORK CONVENTION FOR  
THE PROTECTION OF NATIONAL MINORITIES**

Received on 19 September 2012

# **Second report from the Netherlands**

**Under Article 25, paragraph 2, of the  
Framework Convention for the Protection of  
National Minorities  
(Strasbourg, 1 February 1995)**

**September 2012**

## Introduction

The Framework Convention for the Protection of National Minorities came into force as a Council of Europe convention on 1 February 1998<sup>1</sup>. As a result of this convention, the Netherlands has bound itself to agreements that protect the position of Frisians as a national minority. Member states that sign and ratify this convention undertake to promote the full and active equality of people belonging to a national minority in all economic, social and cultural spheres. The circumstances whereby they are able to express, preserve and develop their culture and identity must also be guaranteed. In 2004, the Dutch parliament approved the government proposal that the Framework Convention should contain an expressly protective effect with regard to the Frisian language. Previously, on 2 May 1996, the Netherlands had already ratified the European Charter for Regional or Minority Languages. This convention is also of importance to policy with respect to Frisians, their language and culture.

On 16 February 2005, the Netherlands ratified Council of Europe's Framework Convention for the Protection of National Minorities, subsequently coming into force in the Netherlands on 1 June 2005. In approving the legislative proposal for ratification of this convention, the government and parliament reached agreement that the Framework Convention would apply only to the Frisians in the Netherlands.

Thus, under the terms of the Framework Convention, it is solely the Frisians who are recognised as a national minority within the meaning of the Framework Convention, making the Frisians the only official minority in the Netherlands. Moreover, the Dutch government declared that it took the premise that the protection provided by paragraph 3 in Article 10, despite editorial differences, did not depart from that provided by paragraph 2 in Article 5 and by paragraph 3, under a and under e, in Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Within the context of the obligations under the convention, the Netherlands is bound to report periodically to the Council of Europe concerning the implementation of the Framework Convention.

This second report under Article 25, paragraph 2, of the Framework Convention will discuss in specific terms the questions posed by the advisory committee for reports by the member states. This second report will also include within it a response to the resolution and the Council of Europe's response to the first report.

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<sup>1</sup> Bulletin of Treaties of the Kingdom of the Netherlands 1995, no. 197

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## Demographic data for the province of Fryslân

### Introduction

The official position of the Frisian language as a second state language has been strengthened, notably in the latter half of the twentieth century. This went a considerable way towards fulfilling the wishes of the Province of Fryslân by providing a statutory basis for the policy to be pursued for the Frisian language wherever the Province's own regulatory powers were either insufficient or had not been so designated. Within the context of the ratification of the Framework Convention, and as previously explained, the Netherlands declared the convention to apply to the Frisian people in the Netherlands. As a result, Frisians are the sole official minority in the Netherlands. The Frisians are the only people to speak Frisian in the Netherlands. Frisian is a living language in the territory of the present Province of Fryslân and has been in active use since antiquity. Frisians constitute a numerical minority in relation to the rest of the country's population.

### Population structure and development in the Province of Fryslân

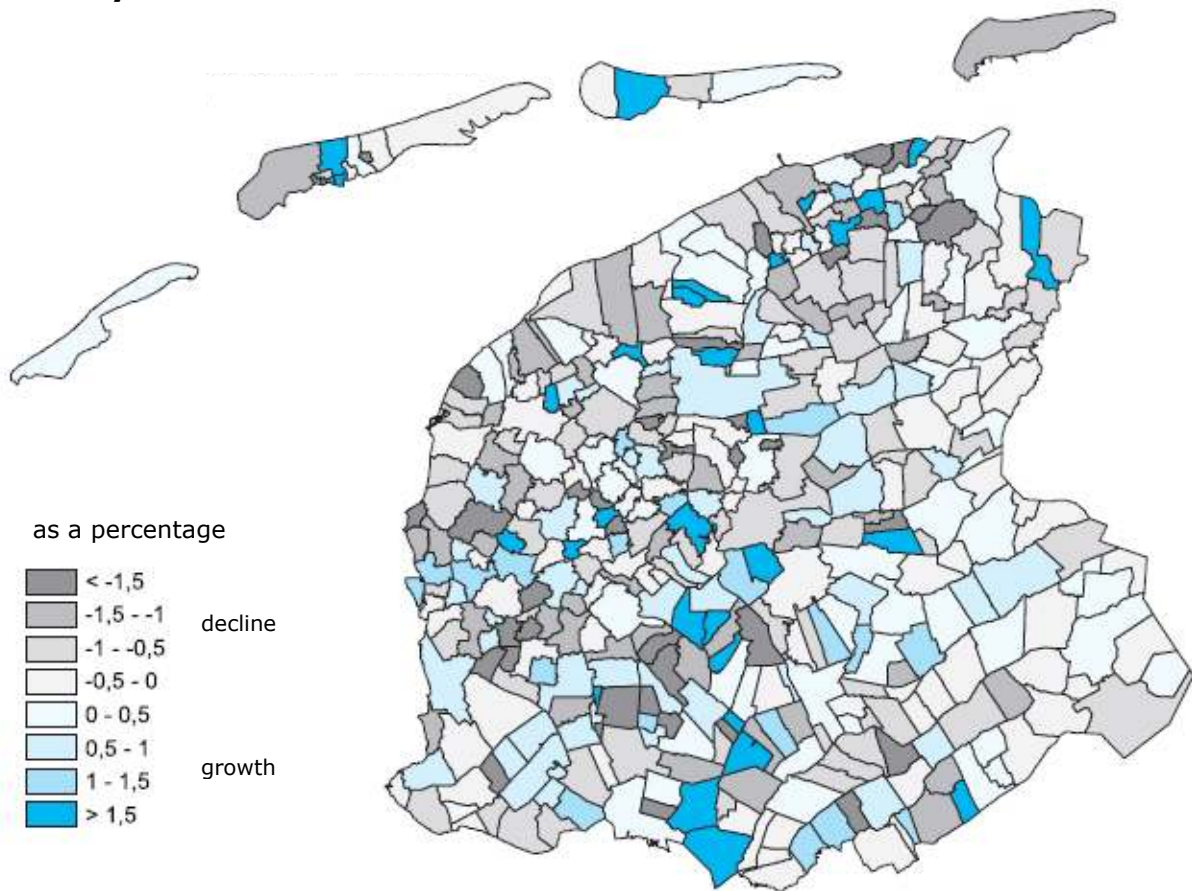
The following tables and diagrams show a picture of the population structure and its development in the Province of Fryslân. Migration figures have also been included in these statistics as well as the number of relocations to and away from the Province of Fryslân.

<b>Population structure of Fryslân according to age<sup>2</sup></b>	
Age	Population figure
Total	647,282
0-19 years old	156,908
20-29 years old	72,237
30-39 years old	76,030
40-49 years old	98,199
50-64 years old	134,298
65-79 years old	81,541
80 years old and above	28,069

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<sup>2</sup> Fryslân in figures 2010, Province of Fryslân

## Average annual population growth/decline



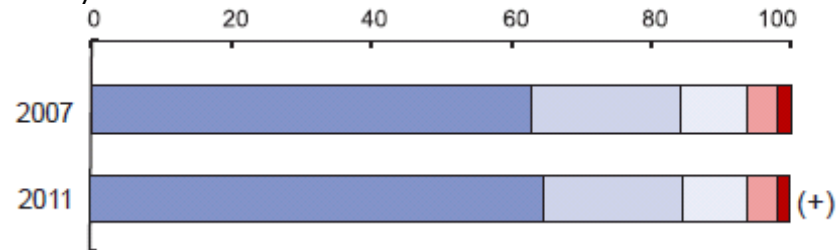
Population <sup>3</sup>	Fryslân					Netherlands	% in Fryslân
	2006	2007	2008	2009	2010	2010	2010
No. of inhabitants	642,230	642,209	643,189	644,811	646,305	16,574,989	3.9%
Live births	7,233	7,059	7,026	7,109	6,997	183,866	3.8%
Deaths	5,923	5,448	5,574	5,624	5,584	135,895	4.1%
Natural growth	1,310	1,611	1,452	1,485	1,413	47,971	2.9%
Immigration	2,256	2,742	3,671	3,542	3,424	149,762	2.3%
Emigration incl. Adm. Corr.	3,155	2,204	2,608	2,002	2,251	117,743	1.9%
Migration growth (international)	-899	538	1,063	1,522	1,173	32,019	3.7%
Arrivals from other provinces	10,813	10,253	10,567	9,264	not yet known	n/a	-
Departures to other provinces	11,349	11,471	11,555	10,802	not yet known	n/a	-
Migration growth (national)	-536	-1,218	-988	-1,538	-1,611	n/a	-
Migration growth (national and international)	-1,435	-680	75	-16	-438	32,019	-

<sup>3</sup> Fryslân in figures 2010, Province of Fryslân

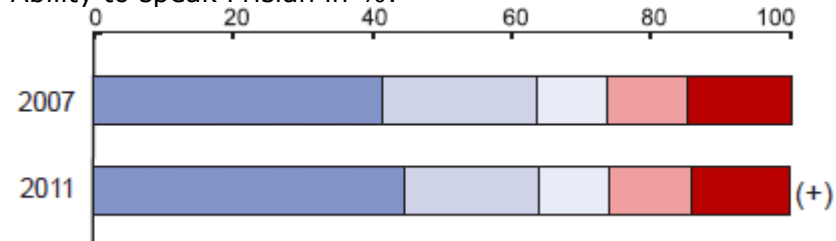
## Command of the Frisian language<sup>4</sup>

The Province of Fryslân compiles a linguistic atlas once every five years. The Frisian linguistic atlas provides an overview of the level of command and use of the Frisian language among the inhabitants of the province of Friesland. To date, linguistic atlases have been published in 2007 and 2011. There follows below a concise overview concerning the command of Frisian in Fryslân in 2007 en 2011 taken from the Frisian Linguistic Atlas of 2011.

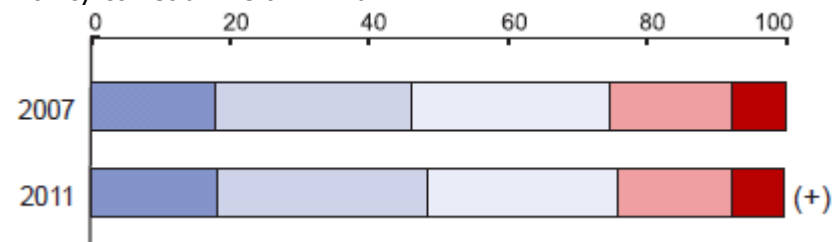
Ability to understand Frisian in %:



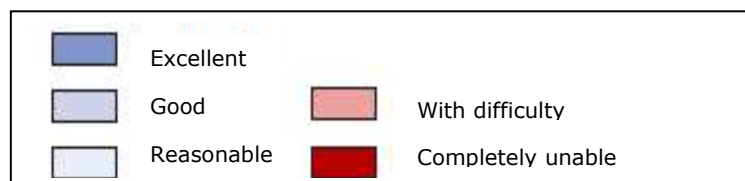
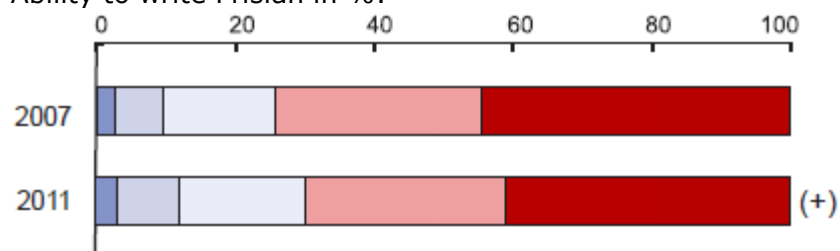
Ability to speak Frisian in %:



Ability to read Frisian in %:



Ability to write Frisian in %:



<sup>4</sup> Province of Fryslân, Quick Scan of the Frisian Language, Leeuwarden 2011

## **ANSWERS TO THE ADVISORY COMMITTEE'S QUESTIONNAIRE**

The Advisory Committee has requested further information to be supplied concerning the following points:

### **Efforts have been made to state information concerning the Framework Convention in respect of the protection of national minorities and concerning dialogues that have been instigated with potentially interested parties within the scope of the Framework Convention.**

The Advisory Body for Matters Pertaining to Frisian Language Policy (COF) was set up in 1998 as an advisory body to the Minister of the Interior and Kingdom Relations pursuant to Article 7.4 of the European Charter for Regional or Minority Languages. The COF makes recommendations concerning the wishes and needs of the population of the province of Fryslân concerning the position and promotion of the Frisian language in the province. Since 2009, the COF has also been responsible for the Framework Convention and advises the Minister of the Interior and Kingdom Relations on matters of compliance with the Framework Convention.

Furthermore, the COF has released an annual report this year for the first time. In its annual report, the COF outlines the activities that have been implemented in 2011. The COF also compiled reports in previous years, but these were for internal use and were never published. One of the objectives of the COF's annual report is to focus more attention on the European Charter for Regional or Minority Languages and on the Framework Convention for the Protection of National Minorities.

### **Measures taken to combat racism, incitement of hatred and intolerance, including by means of the internet**

All citizens in the Netherlands are protected by law against discrimination. The provisions in Article 1 of the Constitution<sup>5</sup> prohibit discrimination. Article 6 of the Constitution<sup>6</sup> guarantees everyone's freedom of religion and belief, *without prejudice to their responsibility under the law*. The government does not permit any type of discrimination, whether this be in relation to race, religion, belief, sex, sexual orientation or on any other grounds whatsoever. Discrimination runs counter to the concept of citizenship: it affects people to the very core, is an obstruction to involvement in society and impedes people from participating and investing in the community.

The Netherlands has an Equal Treatment Commission (CGB). The CGB is an autonomous, national commission that monitors compliance with the Equal Treatment Act. The objective of this equality legislation is to enable people to participate fully in Dutch society regardless of their personal characteristics, such as origin, belief, sex or age. The contribution made by the commission in this regard is in making legal decisions based on

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<sup>5</sup> All people in the Netherlands will be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex, or on any other grounds whatsoever will not be permitted.

<sup>6</sup> 1. Everyone will have the right to profess freely his religion or belief, either individually or in community with others, without prejudice to his responsibility under the law.

2. Rules concerning the exercise of this right other than in buildings and enclosed places may be laid down by Act of Parliament for the protection of health, in the interest of traffic and to combat or prevent disorders.



individual complaints. It also makes recommendations and provides advice. It has its own investigative powers in the event of its attention being drawn to systematic discrimination.

The decision was taken recently to found a national human rights institute/board of human rights. This body monitors equal treatment between men and women. This board is to fulfil the role of watchdog in the field of human rights in the Netherlands. The CGB's duties will transfer by law to the Board of Human Rights. The Board of Human Rights will be opening its doors in October 2012.<sup>7</sup>

The House of Representatives is updated regularly concerning developments on fighting discrimination. From the autumn of 2012 onwards, an annual discrimination letter will be sent to Parliament in which the Dutch government will report on developments in combatting discrimination and on specific action being taken to reduce discrimination.

### **Details of funds available to the various anti-discrimination organisations enabling them to operate effectively**

In the Netherlands there are no funds available to the various anti-discrimination organisations.

### **Measures taken to foster a climate of mutual understanding between the majority population and ethnic minorities, particularly in relation to the balance between the protection of Dutch identity and that of minorities in Dutch society**

The fundamentals that determine social life in the Netherlands have developed over the course of time and constitute aspects of identification which are shared by many of the Dutch and cannot be surrendered. This relates not only to the achievements and core values upon which the Dutch constitutional state is founded, but also relates to rather more historically or culturally determined aspects of identification, such as the Dutch language, national monuments or structural features, or the unwritten manners and codes of conduct that have evolved over the course of history and that come to the fore depending on the situation.

Respect for the historic and cultural aspects of identification by both the majority population as well as the ethnic minorities is felt to be desirable. It is felt reasonable to ask immigrants to acquire the skills necessary for participation in Dutch society and to contribute according to ability to its development. This requires not only a command of the Dutch language or supporting oneself through income obtained from employment, but also respect for and the sharing of the core values of the Dutch constitutional state: freedom, responsibility, equality, tolerance and solidarity. These core values derive from respect for the dignity and equality of all people. Sharing these core values is of no less importance to cohesion and harmony in society than is knowledge of the language and customs.

This does not mean that the goal of integration is one of assimilation or a uniform identity. Room for diversity and multiformity is among the achievements of Dutch society to have found their way into the Constitution. Individual freedom to live according to one's own judgment within commonly defined boundaries is a great good. Consequently,

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<sup>7</sup> Parliamentary documents 2010-2011, 32 467. The Senate adopted legislation concerning the foundation of the Board of Human Rights on 22 November 2011.

people electing to build a life for themselves in the Netherlands are not asked to surrender their identities or beliefs, but they are asked to integrate. The nature of integration is that a person's own future and identity is seen as bound up with the future and identity of the community of which that person is a part.

In the past, central government made specific grants available for the purpose of promoting intercultural dialogue. Even now, initiatives are still being developed in this area within civil society, whether co-financed by local authorities or otherwise. Central government is focussing more attention on the promotion of citizenship and those things that unify us all instead of emphasising the idea of the differences between the majority population and ethnic minorities. It should also be noted in this regard that in many Dutch city neighbourhoods one can no longer speak of the balance between the majority population and ethnic minorities, or else this does not coincide with the distinction between the recipient society and people with an immigrant background.

### **Measures taken to augment the consultation of minorities, including the process for reaching an institutional dialogue at national level with the Roma and Sinti**

On the basis of the Consultation Policy (Ethnic Minorities) Act (WOM; Bulletin of Acts and Decrees 1997, 335) structured consultation is taking place with ethnic minority organisations that have been admitted to the National Ethnic Minorities Consultative Committee (LOM) based on the representational criteria laid down in the WOM. To be admitted to the LOM as an ethnic minority group the minority group concerned must number no less than 50,000 members. The total number of Roma and Sinti does not reach this figure and, therefore, they have not been admitted to the LOM. In the Dutch government's Integration Vision, which was published on 16 June 2011 (see attachment, page 12), the Cabinet of Ministers announced that the WOM was to be repealed. A support base exists in parliament for this proposal to repeal structured consultation, even though the dialogue has to be continued. Depending on parliamentary proceedings concerning the legislative proposal to repeal the WOM, this means that with effect from 1 January 2013 there will no longer be any structural consultations between the minister charged with integration policy and established dialogue partners on behalf of ethnic minorities. The government will be continuing dialogue with society – and thus also with ethnic minorities – but it will be subject to flexibility and conducted with alternating dialogue partners.

### **Participation of this group in public affairs, including at the local level, for the purpose of conducting talks about – in particular – the socio-economic and educational situation of the Roma and Sinti**

The Netherlands Institute for Sinti and Roma (NISR) focusses on improving the social position of Sinti and Roma in the Netherlands. The NISR is working on this mission by creating a situation of mutual acceptance between Dutch society and the Sinti and Roma such that they are in a position to participate constructively in the process of improving their social circumstances.

A conference organised by the NISR was held on 28 November 2011. The conference objective was to give invited guests the opportunity to contribute towards Sinti and Roma policy. This is why the NISR had invited politicians, policy makers, municipalities, welfare bodies and people from the Sinti and Roma community.

There were four workshops at which the participants – including the Roma and Sinti – entered into discussion with one another: education, employment, healthcare and housing. The conference was opened by the director-general Mark Frequin of the Ministry of the Interior and Kingdom Relations. It was agreed at the end of this conference, prior to the conference conclusions being sent to the department, that they were to be discussed first with the Roma and Sinti community.

The department has not yet been supplied with the conclusions from this conference. In the interim it has become clear that the NISR is to be disbanded and deleted from the trade register as of 1 October 2012.<sup>8</sup> The reason for its discontinuance is a lack of response from the target group as a result of which it was not possible to achieve the objectives.

A motion<sup>9</sup> was passed in the House of Representatives in which the government is being asked to enter into talks with the National Ethnic Minorities Consultative Committee and the umbrella organisations affiliated with it concerning the plans made by them to safeguard the networks and expertise of the organisations concerned and to implement them in a new form for the purpose of citizenship and integration in Dutch society and to give them the opportunity to prepare properly for the new future.

**Which (financial) measures have been taken to guarantee the retention of the broadcasting organisation Omrop Fryslân such that it can fulfil its duties effectively?**

The Dutch government has announced integration of television transmissions by the regional broadcasting organisations within one of the national television networks via what is referred to as a 'window programme'. Naturally, this intention also has consequences for Omrop Fryslân, which broadcasts chiefly in Frisian. Following this, it has been decided to set up a committee in relation to Omrop Fryslân that will be assigned with providing recommendations about safeguarding the convention agreements on the Frisian language in the media when integrating the national and regional broadcasting organisation. Members of the committee are independent experts in the field of the Frisian language and media.

The recommendations will be ready on 1 January 2013. The recommendations will be issued within the specific framework. Thus it has been agreed in advance that Omrop Fryslân will continue to exist as an independent organisation. Any integration of the national and regional broadcasting organisations will not have any consequences on the duties of the regional broadcaster Omrop Fryslân in Friesland. Express provision will also be made for the duties and position of Omrop Fryslân in the Media Act. Finally, existing budgetary frameworks will be maintained.

A number of Frisian-language programmes will be broadcast on the public network. Omrop Fryslân has a separate budget that will be spent via the Netherlands Broadcasting Foundation (Nederlandse Omroep Stichting: NOS) on programmes from Omrop Fryslân that are transmitted on the national channel Nederland 2 (€1.6 million per annum). The

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<sup>8</sup> <http://www.nisr.nl/het-nisr-in-liquidatie/>

<sup>9</sup> Parliamentary documents 2011/12, no. 33000-VII no. 83

Minister of Education, Culture and Science will not be making cutbacks from this budget, despite the budget for the national public broadcasting organisation being cut by approximately 20%. The direct contribution of OCW to Omrop Fryslân will be maintained (approximately €50,000 per annum).

## **Which measures have been taken to develop and promote the Frisian language?**

### **1) *Frisian translation of treaties and conventions***

The Lisbon Treaty made it possible for European treaties and conventions to be published in official minority languages as well. Some Spanish regions have already put this into practice. In response to this, a Frisian version was compiled of the consolidated versions of the Treaty on the European Union (Maastricht Treaty) and the Treaty on the Functioning of the European Union (formerly the Treaty of Rome). A certified copy of these translations has been filed among the Council's records.

### **2) *Legislation in respect of the use of the Frisian language by administrative bodies and judicial authorities.***

By means of legislation, the Dutch government has resolved to strengthen the opportunities for using Frisian in judicial and legal matters and in administrative matters. The aim of this legislation is to guarantee to everyone in the province of Fryslân the right to use their own language, be it Dutch or Frisian, in the courts and when in contact with administrative bodies, thereby safeguarding the equal position of Frisian and Dutch in the province. The proposed legislation contains a general provision that underlines the position of Frisian as a second official language. The introduction of a Frisian Language Council is also a component of this Act of Parliament. Furthermore, this legislative proposal contains supplementary provisions in respect of the swearing of oaths and making of affirmations in the Frisian language, especially in relation to judicial and legal matters.

The General Administrative Law Act stipulates that anyone can use the Frisian language in dealings with administrative bodies insofar as these are located in the province of Fryslân. However, administrative bodies can request use of the Dutch language on the grounds that the use of the Frisian language would result in a disproportionate burden on administrative operations. By and large, a provision stating that the use of Frisian might result in a disproportionate burden on administrative operations is not in accord with the Cabinet of Ministers' aspirations for an equal position regarding Frisian and Dutch within the province of Fryslân. For that reason, this exceptional provision will be deleted from the legislative proposal. It is of great importance for everyone having dealings with administrative bodies in the province of Fryslân to be able to avail themselves of either Dutch or Frisian.

By means of adapting existing provisions, it will be made possible to bring the regulations in line with the Dutch government's stance that the Frisian language merits an equivalent position alongside Dutch within the province of Fryslân.

Current legislation contains a number of unnecessarily restrictive elements concerning the use of the Frisian language in judicial and legal proceedings. One example that is resolved in the legislative proposal is that it is up to the judge to decide, should he/she consider it desirable, that the assistance of an interpreter should be granted at a court session provided that, in the opinion of the judge, this does not cause unnecessary delay to the judicial process as a result. These restrictions will be removed in the proposed legislation and the text has been adapted in a manner that fits better with the plan to achieve equality of the Frisian and Dutch languages in the province of Fryslân.

### **3) *Setting up the Advisory Body for Matters Pertaining to Frisian Language Policy***

The legislative proposal elects to set up a Body for the Frisian Language. The Advisory Body for Matters Pertaining to Frisian Language Policy was set up in 1998 as an advisory body to the Minister of the Interior pursuant to Article 7, paragraph 4, of the European Charter for Regional or Minority Languages. In accordance with the Decree Establishing an Advisory Body for Matters Pertaining to Frisian Language Policy 2010<sup>10</sup>, this advisory body is responsible for making recommendations to the Minister of the Interior and Kingdom Relations concerning the implementation of the Frisian Language and Culture Administrative Agreement between central government and the Province of Fryslân. In addition, the Advisory Body for Matters Pertaining to Frisian Language Policy can also report on all matters relating to Frisian. The proposal is to extend these responsibilities to include making recommendations about the administrative agreements to the Provincial Executive of the Province of Fryslân and reporting to all administrative bodies and judicial authorities insofar as these are either located in the province of Fryslân or else include the province of Fryslân within their territory, such as the Education Inspectorate.

### **4) *Frisian Language and Culture Administrative Agreement***

In 1981, the then ministers of the Interior and Justice set up the Frisian Language Commission which was responsible for making recommendations concerning the place of the Frisian language in administrative matters. These recommendations were published in 1985. The first Frisian Language and Culture Administrative Agreement ultimately arose from this in 1989. The first Frisian Language and Culture Administrative Agreement was signed on 4 July 1989. By this means, central government and the Province of Fryslân jointly established their goals in respect of the Frisian language and culture. Both central government and the province were of the view that it was desirable to preserve and promote the Frisian language and culture, as well as to offer citizens the opportunity to be able to express themselves freely within the province of Fryslân either in the Frisian or Dutch language. The Frisian Language and Culture Administrative Agreement was revised in 1993 and 2001. The preservation and future development of a living heritage of language and culture is not possible without bringing about and maintaining the appropriate and necessary conditions to that end – in conjunction with other policy areas. The administrative agreement sets out agreements in relation to education, media, judicial authorities, administrative authorities,

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<sup>10</sup> Bulletin of Acts and Decrees 2010, no. 2161

culture, social and economic life, and cross-border exchanges. At present, work is in progress on a new Frisian Language and Culture Administrative Agreement.

#### **5) Efforts concerning Frisian in education**

Central government and the province have made strenuous efforts over the past few years to improve the quality of education in the subject of Frisian in Fryslân. In addition to the figure of almost €1 million that the province receives annually to reinforce the Frisian language, teachers are also making use of the teachers' grant to improve their skills in Frisian. For the period 2010-2012, the Ministry of Education, Culture and Science has also placed an additional €100,000 annually at the disposal of Frisian colleges of higher education for the instruction of teachers in the subject of Frisian. Among other things, Fryslân itself has focussed attention on developing a method that meets with the key objectives for Frisian (Studio F). Together with the field, the Province of Fryslân is presently working on the establishment and certification of trilingual schools at which Frisian, Dutch and English will be used as languages of instruction. At the moment, Fryslân has 42 schools certified as trilingual. According to the inspectorate, these schools set aside approximately two to three times as many hours for the subject of Frisian as non-trilingual schools. Performance figures for Frisian are better than average without performance in other subjects suffering as a consequence. The cost of this type of education is higher than for standard schools.

#### **6) Increasing the focus on Frisian among teachers in Fryslân**

There are still few teachers who are competent to teach the subject of Frisian. As a result of this, various initiatives have been and are being developed to encourage teachers to focus attention on Frisian.

- 1.** Having a partner in the Frisian educational field organise special teacher days the focus of which is a results-based approach to work for the subject of Frisian. Teachers learn together in their own specific school situation how to hold a conversation about the results from teaching and possible action for improvement;
- 2.** Greater focus on Frisian via the teachers' website [www.leraar24.nl](http://www.leraar24.nl). Information on the subject of Frisian can be made accessible by this means to a large(r) group of teachers.
- 3.** The options for the subject of Frisian will be explored in the as yet undeveloped professional register for teachers. Teachers will be able to list themselves in the professional register as competent and authorised tutors, including any supplementary competences. The parties concerned will be requested to ensure that teachers are able to record their skills and competence for Frisian as well. When compiling the programme of action for education, aiming for a results-based approach to work, there will also be a focus on these specific challenges which face Frisian schools.

**Which measures have been taken to permit the use of the Frisian language being promoted by representatives of central government in the province of Fryslân?**

Administrative bodies with registered offices in the province of Fryslân that do not come under central government can impose rules concerning the use of the Frisian language in written documents, this being stipulated in Section 2:9 of the General Administrative Law Act. That section furnishes Frisian administrative bodies and the ministers concerned with the regulatory power to set rules at their discretion concerning the use of the Frisian language in the documents emanating from themselves. The intention of this section is to offer all administrative bodies in Fryslân the opportunity to conduct their own policy in relation to the choice of language in written administrative matters. Central government has a pamphlet that it employs entitled "government translation policy".

**Has progress been made in respect of decentralising central government powers to local government, and what have been the consequences?**

In addition to the quality of Frisian teaching, there is also the question concerning the decentralisation of policy for the Frisian language from central government to Fryslân. This debate emerges from the report by the Ladders Committee<sup>11</sup> in which the case for such decentralisation is argued. The Hoekstra steering committee was subsequently assigned to ascertain how the policy for Frisian could be decentralised to Fryslân. The steering committee's inquiry concerning the Frisian language focussed entirely on the key objectives of education and concluded that decentralisation was legally possible. The principle whereby a province in which Frisian functions as an official language alongside Dutch should have a voice regarding policy in relation to that language is supported by the Dutch government. At present, the Ministry of Education, Culture and Science (OCW) is working on a legislative proposal that will place the power to amend key objectives for Frisian in the hands of the province of Fryslân. For the present, the Education Inspectorate will also be reporting in parallel about the subject of Frisian to the Minister of OCW and for informational purposes to the Province of Fryslân. The Minister of OCW and, ultimately, parliament will remain responsible for the quality of education. The principle of the partial exemption from providing the teaching of Frisian will also be introduced and such that greater differentiation in exemptions can ensure that Frisian education better suits the school situation and school population.

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<sup>11</sup> Report by the Joint Committee for Provincial Decentralisation Proposals: "Ruimte, regie en rekenschap" (*Freedom, governance and rendering account*)

## MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

### Article 3

1. Every person belonging to a national minority will have the right freely to choose to be treated or not to be treated as such and no disadvantage will result from this choice or from the exercise of the rights which are connected to that choice.
2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present Framework Convention individually as well as in community with others.

### In respect of Article 3

**1. The Advisory Committee *finds* that the position taken by the authorities with regard to the personal scope of application of the Framework Convention leads in practice to the exclusion of certain groups, notably the Roma and the Sinti. It *considers* that the Netherlands should reconsider its approach to the scope of application of the Framework Convention. In this context, it should establish an institutionalised dialogue with the groups concerned.**

The Dutch approach towards conducting a dialogue with society is currently undergoing some fundamental transformations. This change in consultation is due to the fact that Dutch society is changing rapidly. The diverse and heterogeneous nature of society requires a new approach to conducting a dialogue with many different kinds of people from different ethnic and socio-economic backgrounds.

The government is working towards a more flexible form of dialogue. This means that all kinds of parties are encouraged to deliver input. For that reason the legal and structural consultation process in which 8 ethnic minority organisations were consulted is coming to an end.

The Dutch government will maintain its dialogue on integration issues with society in order to receive signals from various groups in society, to create support for its policy-lines and to stimulate society to participate in setting the agenda. For this purpose, the Minister of Integration is investing in a network of relationships with relevant groups and key figures. To promote an effective dialogue and to create mutual understanding, thematic meetings will be organised at a regional level.

**2. The Advisory Committee *finds* that the Netherlands does not collect information on the ethnic affiliation of persons through population censuses but that information on the ethnic composition of the population, although not based on the self-identification of the person concerned, is available through the matching of information contained in various administrative registers. It *finds* that interest was expressed by Frisian representatives in collecting data on persons identifying themselves as Frisians and it *considers* that this should be further discussed with those who support collecting such data.**



In principle, it is forbidden in the Netherlands to process private personal data such as ethnicity. In May 2011, the Cabinet of Ministers conveyed to the House of Representatives its stance in relation to ethnic registration<sup>12</sup>. The guiding principle in this is that citizens should be able to depend on their personal data being handled with care. This means that the information which is recorded and what happens to it should be matters of transparency. It also means that the misuse of such information should be prevented.

The Dutch government considers the current legal framework in respect of the registration of ethnicity to be sufficient for both the protection of personal privacy and for an effective government policy in areas such as healthcare, social work, fighting crime and dealing with antisocial behaviour. Consequently, the law will not be amended in order to extend the options regarding ethnic registration.

Some exceptions to this prohibition concerning ethnic registration are possible. These exceptions are as follows:

- The person in question has expressly granted consent or has disclosed the data personally;
- Processing the data is necessary:
  - within the context of judicial proceedings;
  - in order to comply with obligations governed by international law;
  - in consideration of a substantial public interest and that this is provided for in law or else the Dutch Data Protection Authority (CBP) has granted an exemption.

Considering this last point, freedom is given to record private personal data, such as ethnicity, if this occurs within the context of policy specifically intended to reduce existing linguistic underachievement. Finally, the processing of private personal data is permitted for academic or statistical purposes provided that this serves a substantial public interest.

The Dutch Data Protection Authority (CBP) monitors compliance with the Data Protection Act. This CBP is an independent body that, in the event of violations, can enforce the cessation of processing private personal data (e.g. by imposing a penalty).

Thus, in principle, it is forbidden to process private personal data, such as ethnicity, in the Netherlands. No distinction is made according to groups within the statutory framework, and thus the prohibition of such processing applies to all people resident in the Netherlands. Consequently, there are no specific regulations or measures in force with regard to processing the private personal data of the Roma.

The specific registration of Roma and Sinti does not occur in the Netherlands. Roma and Sinti people are not registered as such in the Municipal Personal Records Database, because that database records only a person's place of birth and that of their parents. This applies equally to the Frisian minority. The fact that more information can be supplied on them owes itself to the circumstance that the Frisian minority is linked to a specific territorial area (the province of Fryslân).

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<sup>12</sup> Parliamentary documents II 2010/11, 31 268, no. 45 (Annual Memorandum on Integration Policy 2007–2011)

#### Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority will be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they will take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 will not be considered to be an act of discrimination.

#### **In respect of Article 4**

**3. The Advisory Committee *finds* that the Netherlands has a well-developed legal and institutional framework to combat discrimination. It *considers* that the authorities should pursue their efforts in this field, which includes ensuring that adequate funds are made available to the various anti-discrimination bodies that have been set up in order that they function effectively.**

The Dutch government considers the fight against discrimination to be of great importance<sup>13</sup>. In a democratic constitutional state everyone's human dignity must be defended without personal distinctions. Any discriminatory action or treatment should be strongly opposed. With regard to this, one injustice can never cancel out another such instance. Article 1 of the Constitution illustrates an important principle of the Dutch constitutional state: "All persons in the Netherlands will be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex, or on any other grounds whatsoever, will not be permitted".

#### Local campaign

Discrimination often manifests itself in people's immediate social environment, such as in the district or neighbourhood where a person lives. The Municipal Antidiscrimination Services Act (ADV Act) came into force in 2009. This Act of Parliament ensures that any citizen is able to get easily accessible help in his or her own social environment in order either to report (an allegation of) discrimination or to receive help and advice from an ADV. The ADVs notify the municipalities annually about locally registered complaints of discrimination. Thanks to the ADV Act, municipalities have points of contact for their directive role in the local campaign to fight and prevent discrimination. On the basis of this role, municipalities, together with the Public Prosecutions Department, the police and the ADVs, are able to formulate local antidiscrimination policy.

#### *Regional Discrimination Consultation (RDO)*

A prime example of this collaboration between the Public Prosecutions Department, the police and the antidiscrimination services (ADV) occurs within regional discrimination consultations (RDOs). This is where regional case overviews from the police and reports from the antidiscrimination bureaus are discussed and assessed for punishability under the chairmanship of the public prosecutor for discrimination. In addition to discussing these cases of discrimination, a strategic consultation is also held concerning discernible

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<sup>13</sup> Parliamentary documents II 2009/10, 32 123-VII, no. 74

trends and developments in respect of discrimination on the basis of which it is possible to formulate local policy and put in place targeted resources.

#### Propagating the core values of a democratic constitutional state

The local fight against discrimination begins not only on the streets but also in community centres, youth centres and in schools. In that connection, the Dutch government attaches importance to propagating the core values of the democratic constitutional state and providing information about the dangers of discrimination. The core values of a democratic constitutional state that the Dutch government is propagating include freedom, equality and solidarity. To give an example, this is focussed upon within the activities of the Action Plan for Polarisation and Radicalisation 2007-2011.<sup>14</sup>

During the period 2007-2011, central government invested a total in excess of €10.7 million in the local component of the Action Plan.<sup>15</sup> This resulted in 78 projects. By and large, in terms of knowledge and expertise, the overall outcome was that the envisaged catch-up process had been accomplished in what were then new policy areas. There is a national network of experts and a range of assistance and other tools available, all of which offer support to municipalities in pursuing their chosen approach. In addition, specific products have been developed for the purposes of professional groups.

#### *The importance of submitting reports and statements*

In order to combat discrimination effectively, it is necessary for citizens to submit statements to the police relating to instances of discrimination and, at the least, to report such instances to, for example, an ADV or police counsellor, interest groups or the Equal Treatment Commission (CGB). The government considers reports and statements of discrimination to be highly important. Citizens can get help from an ADV in an easily accessible manner in order to report an instance of discrimination or to receive help and advice. Pursuant to the Discrimination Directive from the Procurators General Executive, the police should take down statements of discrimination at all times. Submitting such reports and statements makes it possible to commence the process of criminal proceedings against the perpetrator. Additionally, this gives the (local) authorities a better picture of the nature and scale of the problem, and, where necessary, enables them to formulate a targeted approach. Should it appear that there are many reports or complaints of discrimination in a particular district, street or at a particular school, the police, municipality and antidiscrimination service can then take action against it in collaboration with, for example, the school in question.

#### *Improved communications concerning progress with and the handling of complaints*

One significant reason why statements are not made and why reports are not filed is a lack of confidence that something will genuinely be done about the statement. Treating the victim correctly and a strong base of information are components of the Criminal Proceedings (Strengthening the Position of Victims) Act which came into force on 1 January 2011. This Act of Parliament also contains the obligation to report to victims concerning progress in the case against the suspect. This also entails notification about the decision to drop investigation or the submission of a statement against the suspect.

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<sup>14</sup> Appendix to Parliamentary Document II, 2006/07, 29754 no. 103 (Action Plan for Polarisation and Radicalisation 2007-2011)

<sup>15</sup> Appendix to Parliamentary Document II, 2011/12, 29754 no. 213 (Final Report on Polarisation and Radicalisation 2007-2011)

### *Broadening opportunities for making statements*

The Minister of Security and Justice is focussing attention on broadening the opportunities for making statements remotely or via the internet. A pilot project for making statements by virtual means is currently in progress among the Rotterdam-Rijnmond Police Force. Victims can make a statement by means of statement-taking rooms especially equipped for the purpose and using a webcam and 3D screen with police officers who are not physically present. In the future, it will become possible to make a statement via the internet for more offences. The possibilities afforded by 'tele-interviewing' (video conferencing) are also available in relation to making statements.

### *National roll-out of hate crimes campaign*

The police has updated the website [www.hatecrimes.nl](http://www.hatecrimes.nl) in order to make it more user-friendly. Through the further roll-out of the hate crimes campaign at a national level, the Minister of Security and Justice is encouraging the willingness of victims of discrimination and of crimes with a background of discrimination to make their statements.

### *Internet*

The internet is a medium that is evolving fast and gaining ground, especially among the young. Owing to its anonymity and limited control (options), the internet can act as a place of refuge where discriminatory statements (and other criminal activities) can be exercised which would be noticed more quickly in the 'offline world'. The government also attaches great importance to fighting discrimination on the internet. It is important for there to be a reporting station where internet users are able to report discriminatory material that they come across on the internet. Consequently, central government is focussing its attention on this matter.

### *Registration and assessment*

Alongside reporting or making statements about discrimination, it is important to have unequivocal registration of it for a proper assessment of the problem of discrimination, also in terms of its monitoring. This relate not only to individual registrations from, for example, the Public Prosecutions Department (OM), the police and the ADVs, but also to proper coordination between these organisations concerning the manner of registration and exchanging data about discrimination. An examination is given below of the various measures for improving the registration of discrimination, as well as the Voordewind motion<sup>16</sup> concerning the registration of anti-Semitism by the police and judicial authorities.

### *Improvement and coordination of registrations*

Since 2008, the police has had the uniform regional case overview at its disposal within which each police region is able to register its discrimination incidents. The data is entered into the case overview using the new national police registration system (Basic Enforcement Facility: BVH), in which distinctions are made between, for example, the various grounds for discrimination, such as anti-Semitism and homosexual orientation. This concerns both discrimination as an independent offence (referred to as a pure case of discrimination) as well as general criminal offences (such as assault or vandalism) with

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<sup>16</sup> Parliamentary Documents II, 2009/10, no. 32123 V.

discrimination as the motive. Within the new police registration system, the police are able to input the code for discrimination for general criminal offences with a discriminatory motive. A national query (search request using key words) has been developed in order to retrieve discrimination incidents held on the police registration system. The regional case overviews come under regular discussion in the Regional Discrimination Consultation (RDO) in accordance with the Discrimination Directive from the Procurators General. Each year, the police draws up a national picture of discrimination-related crime, referred to as Poldis<sup>17</sup>, and this is based on the regional case overviews. This focuses on the various grounds for discrimination.

### *Monitoring*

Central government monitors the discrimination situation in the Netherlands both to keep developments in discriminatory activity in the Netherlands in focus and also to enable the development and execution of targeted policy. On central government orders, a limited amount of discrimination monitoring is implemented periodically in relation to different grounds (e.g. racial discrimination) and in various areas (e.g. the labour market). The effective registration of discrimination incidents is a precondition for intrinsically good monitoring. Since the data from complaints, reports and statements do not of themselves tell the whole story about actual or experienced discrimination and the causes of its increase and decline, monitoring consists mostly of investigating experiences and literature searches. Its objective is to obtain a more complete picture of the nature and extent of discrimination in view of the fact that reports or statements are not given in all instances of discriminatory experiences, such as with hate crimes and violence with a homophobic or anti-Semitic character. Central government will be continuing to monitor developments relating to discrimination in the Netherlands.

### *Investigation*

The decision to deploy targeted investigational resources is made at the local level based on local knowledge. The RDOs play an important role in this. The deployment of alternative methods of investigation is also a local matter, provided that they fall within the statutory options.

### *Prosecution: greater stringency in demanded sentences*

The Council of Ministers has been striving for harsher punishments in relation to violent crimes with a background of discrimination and/or with a discriminatory motive. As a result, the Public Prosecutions Department will be taking this into account in respect of demanded sentences. The Discrimination Directive determines that demanded sentences must be harsher for discrimination offences and for general criminal offences involving a discriminatory facet and that the grounds for such sentences will be given in the public prosecutor's closing speech. Following an evaluation of prosecution policy, demanded sentences were made more stringent by a factor of +50% as of September 2009. It emerged from consultations between the Ministry of Security and Justice and the Procurators-General Executive that a further general increase in stringency would lead to an imbalance within the prosecution guidelines system. For that reason, the Minister of Security and Justice has decided to follow the Investigations Directive (2003A002), which also employs within it a category of 'serious assault'. These relate to a significant infringement of physical integrity, a significant infringement of ownership, a clear

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<sup>17</sup> Wit, W. de & Sombekke, E. (2011). *Poldis 2010: Picture of discrimination-related crime*. Nijmegen/Apeldoorn: ITS / Police Academy.

infringement of personal integrity, an extreme *modus operandi*, etc. In this regard, the Minister of Security and Justice has elected for a differentiated factor of stringency for demanded sentences by further increasing the stringency factor for demanded sentences in respect of those offences that involve serious assault. Thus, in addition to sentences where the current demand is for greater stringency by a factor of +50%, there has been the inclusion of a second increase in stringency for demanded sentences by a factor of +100%. This will be demanded with grounds in respect of general criminal offences that involve a background of discrimination and which relate to serious assault. By electing for this variant, the demanded sentence subject to additional stringency will apply to those offences for which it is actually intended. As a result, this variant does justice to the diversity of the criminal cases to be assessed by the Public Prosecutor. The amended Discrimination Directive came into force as of 1 May 2011.<sup>18</sup>

Article 5:

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties will refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and will protect these persons from any action aimed at such assimilation.

**In respect of Article 5**

**95. The Advisory Committee *finds* that there is presently a shared responsibility between the province of Fryslân and central authorities regarding support for the Frisian language and culture and *considers* that current discussions on the increased decentralisation of competences in this field should ensure that appropriate resources are allocated to the provincial authorities to carry out their tasks.**

Article 6

1. The Parties will encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

**In respect of Article 6**

**4 The Advisory Committee *finds* that the Netherlands has a long tradition of tolerance and openness to the cultures of others but considers that**

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<sup>18</sup> Parliamentary Documents 2010/11, 30950 no. 34

**international and national events in the early years of the 21<sup>st</sup> century, which led to policies focussing on the protection of Dutch national identity, have resulted in an increased stigmatisation of minority communities, in particular people belonging to Muslim communities. It *considers* that the overall tone of public discourse in the Netherlands and the new integration policy, with its particular focus on the preservation of the Dutch identity, are not conducive to the creation of a climate of mutual understanding between the majority population and ethnic minorities.**

Integration refers to integration within Dutch society: a society such as has arisen through the application, efforts, expectations and convictions of its preceding generations, on the foundations of which it will also develop in the future thanks to the application, efforts, expectations and convictions of all those wishing to make Dutch society their enduring home. Alongside all of the social change and cultural evolution that undeniably also exists, society is founded on a fundamental continuity of values, views, institutions and customs which constitute the dominant culture in Dutch society and which co-determine the way in which it can be identified. It has been embodied in legislation and in social and economic life. This does not imply a closed society or culture. Owing to its location, economy, culture and traditions, the Netherlands is an open society. That is also one of the characteristic values of Dutch society. Dutch society in all of its diversity is a society within which those who settle in the Netherlands have to learn to live, adapt and fit in. The core values and freedoms on which the Dutch constitutional state is based constitute the basis for the climate of freedom and responsibility as advocated by this government.

Religious freedom has traditionally been an important component of this climate of freedom and responsibility. That freedom includes all religions and beliefs, including Islam. This is notwithstanding that the government is aware of how Islam, which as the faith of many immigrants has become over a short space of time one of the more widespread religions in the Netherlands, has raised concerns among sections of the population because of its different traditions, views and its association with violence and radicalism elsewhere in the world as well as in the Netherlands. In their view, it could be putting pressure on the achievements of a democratic constitutional state. The government recognises the existence of these concerns and sees it as its duty to remove them where possible because they threaten the cohesion of society; but not through repudiating religious freedom in respect of Islam or a fundamental distrust towards that religion. However, religious freedom may not afford any protection to radicalisation and behaviour that is antidemocratic or conflicts fundamentally with the basis of Dutch society. The Muslim community itself and Islamic leaders also have a duty in this matter to make it clear that radicalisation and are not inherent to Islam, in part by distancing themselves from such views and behaviour. The democratic constitutional state is and remains the sole criterion for Dutch society.<sup>19</sup>

**5. The Advisory Committee *finds* that the Roma and Sinti have been excluded from the national consultation structure (the National Ethnic Minority Consultative Committee (LOM)) on the grounds that they do not meet the established criteria to be represented in this body. The Advisory Committee**

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<sup>19</sup> Parliamentary Document II, 2010-11, 32824 no. 1 (Integration Vision "*Integratie, binding en burgerschap*" [Integration, bonding and citizenship])

**considers that the authorities should demonstrate an open and flexible approach to the criteria set and should have direct dialogue at national level with the Roma and Sinti to discuss their concerns and interests.**

**7. The Advisory Committee finds that there is no comprehensive policy at present that would address the multiple causes of Roma and Sinti marginalisation in the Netherlands in a number of fields including housing, education and registration, and it considers that the authorities should elaborate such a policy in consultation with the Roma and Sinti organisations.**

On 24 June 2011, the EU member states agreed in the European Council that each member state would draft a National Strategy or a set of general policy measures to promote the social inclusion of the Roma. The Dutch government has also acted on this agreement by means of a letter to the House of Representatives.<sup>20</sup>

The government considers it important to call people to account for their individual responsibility as citizens and not for their origins. The underlying principle in the Integration Memorandum is that "it is not where one comes from but where one is going that counts". Calling people to account for their origins does not do justice to the individual differences between citizens and their relations with other citizens and society as a whole. Experience also teaches us that measures aimed at specific ethnic groups lock people within those groups and emphasise the dividing lines between them. As a result, they stand at odds with the goal for collective citizenship. This explains why integration is no longer to be realised by means of specific policy aimed at separate groups but is to be achieved instead through general measures that take the premise of responsibility on the part of the parties concerned. Termination of a specific policy aimed at specific communities or facilitating organisations created on an ethnic basis also comes under this new vision.

Each member state is taking measures to promote the integration of the Roma according to the national situation. Estimates of the number of Roma in the Netherlands vary from a few thousand<sup>21</sup> to 40,000<sup>22</sup>. This means that no more than 0.24% of the Dutch population is of Roma descent. Exact figures are unavailable concerning the number of Roma in the Netherlands. Crucial themes for improving the position of the Roma in the Netherlands are combatting school absenteeism, educational underachievement and unemployment. It appears from municipal data and estimates that a large number of Roma children do not attend school or do so sporadically. Long-term school absenteeism is a regular feature owing to all manner of circumstances within families and periods of temporary residence abroad. Many children drop out after primary school. One factor to play a part in this is that Roma girls often marry young with this raising the question of their being married off in some cases. These girls frequently become young mothers as well. Furthermore, parents do not always feel that it is necessary for their children to attend school to learn to read and write. It would also seem that relatively few Roma children have a rounded education. This is also reflected in low participation rates within the standard labour market. In addition, municipalities experience problems in terms of

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<sup>20</sup> Parliamentary Document II, 2011-12, 21501-20 no. 599 (Dutch contribution for the purposes of the social inclusion of the Roma)

<sup>21</sup> Annual Integration Report 2009, Social and Cultural Planning Office

<sup>22</sup> This is the figure employed by the Council of Europe



criminality and antisocial behaviour. This concerns such matters as begging, shoplifting, pickpocketing and residential nuisance.

#### Role of central government

The Dutch government acknowledges the problems experienced in relation to the Roma and is choosing to solve these problems by some generic means. One of the first principles is that integration is not a responsibility of government but of those who settle here permanently. A second principle is that 'it is not where one comes from but where one is going that counts'. Integration is brought about when people work towards it and are put in a position to integrate. By means of normal policy in the fields of the labour market, education and housing, all citizens must be in a position to effect their own independent existence according to ability. The Netherlands does not have any policy that specifically targets groups such as the Roma; instead, all policy must work with equal effectiveness for all groups in society. The Netherlands Institute for Sinti and Roma (NISR) has indicated that a customised approach needs to be taken within generic policy such that the policy also provides the solutions for which it has been designed. The Dutch government is making efforts for generic institutions to be accessible and effective for groups with a particular ethnic and/or cultural background, including the Roma.

#### Role of municipalities

Municipalities are primarily responsible for dealing with the problems of the local Roma community. The Dutch government does acknowledge in this regard the urgency and gravity of the problems with the Roma. Municipalities are being encouraged to implement effectively the measures and tool set already at their disposal and to tackle the problems that have been signalled with sections of the Roma community. The role of the Roma themselves is of especial importance in this respect. The Roma community has pointed to the importance of contact with the Roma at the local level.

In that connection, it is also important to note that the normal tool set be implemented when tackling instances of criminal behaviour or behaviour overstepping moral standards. To that end, a programme is being put in place aimed at combatting criminality in general and fighting the Roma's own exploitation of Roma children. The new influx of Roma from other EU countries will be involved in this. With regard to the campaign, close collaboration will be taking place between the organisations involved, such as the municipalities, police, central government, the Public Prosecutions Department, juvenile welfare and the Child Care and Protection Board. It is important to note in this regard that this does not concern policy targeted against the Roma but, instead, concerns policy that targets the fight against crime. The campaign may result in part in safeguarding Roma children's rights, such as the right to education.

The aim of the Dutch campaign is to tackle the exploitation of Roma children and to prevent it in the future, this being through collaboration between the municipalities, police, central government and other organisations of importance to a comprehensive chain-approach. Where instances of criminality arise, this is to be tackled using an integrated approach. Key concepts in this respect are enforcement, creating deterrents and erecting barriers.

Assistance can be obtained in the event of discrimination against the Roma. Thanks to the Antidiscrimination Services Act (ADV) any citizen can have easy access to assistance in their own social environment to report (alleged instances of) discrimination or to

receive help and advice from an ADV. In the Netherlands each citizen is protected by law against discrimination. The wording of Article 1 of the Constitution prohibits discrimination. Discrimination runs counter to the concept of citizenship.

For the purpose of supporting municipalities, central government funds a platform of municipalities inhabited, in particular, by the Roma who were admitted to the Netherlands as a result of the General Pardon Scheme in 1978. This Platform was set up in 2009. The platform's objective includes the promotion of inter-municipal cooperation and coordination, and the exchange of issues, expertise and experience.

#### The focus of generic policy on four themes

A description follows below of the policy measures in the fields of education, work, health and housing that serve to benefit vulnerable groups in our society, including the Roma among these. This relates above all to general measures applicable within generic policy.

#### *Education*

Education is compulsory for children in the Netherlands from the age of five. Municipalities are responsible for enforcing compulsory education and employ a compulsory education officer for that purpose. Parents are primarily responsible for compliance with the Compulsory Education Act. Should it appear that (Roma) children are systematically evading compulsory education, the compulsory education officer will then make the utmost effort to get such children to attend school nevertheless, taking legal steps if necessary. As an ultimate recourse, the compulsory education officer may impose a fine and even a custodial sentence on the parents should the children persist in their non-attendance of school. In 2010, for the purposes of encouraging school attendance among this target group, the previous government placed €0.6 million at the disposal of the Roma Municipalities Platform under the Association of Netherlands Municipalities (VNG). Using that money, these municipalities financed projects to encourage the school attendance of Roma children, particularly that of girls. The expertise and experience acquired through these projects is being shared by the VNG among other municipalities with comparable issues thereby laying the foundations for effectively combatting school absenteeism among the Roma.

The Educational Arrears Policy applies to children who are underachieving in their primary school education. Municipalities receive €260 million from the government for this purpose. Using these resources, municipalities must provide preschool education, must set up preparatory classes and summer schools, and may organise other activities in terms of eradicating linguistic underachievement. Pupils who are underachieving (seriously) in their language skills are offered additional language classes. The programme at summer schools, which can be attended during the school holidays, also focusses on improving Dutch language skills. Over the next few years an additional €100 million will be invested once again in preschool education, preparatory classes and summer schools. Each year, a sum of approximately €400 million is available for children whose parents have had a (very) low level of education. In general, these resources are used by schools to engage additional staff, enabling schools to reduce class sizes and thus allowing (linguistically) underachieving pupils to receive extra attention. Secondary education schools receive additional funding for staff if more than a certain percentage of students throughout a two-year period come from what is termed a 'poverty-problem accumulation area'. Using this funding, schools are able to counteract students dropping out of school and more intensively supervise individual students, thus improving their

school performance. Parents are at liberty to choose a school for their children in the Netherlands. There are no distinctions in terms of ethnicity in that regard. Consequently, there is no question of schools attended only by Roma children.

### *Work*

It can be stated with regard to employment that the Netherlands has various measures designed to help people find work. It matters very much to the Dutch government that nobody is left on the side-lines. Naturally, this also applies with regard to the Roma. A customised approach is being provided to individuals seeking work in order to encourage their participation in employment. This means implementing standard measures that take into account the competences and skills of job seekers and the obstacles standing in their way. There is an examination of the tools and processes which can be employed to get someone into paid work in the fastest and most long-term manner possible. Thus this applies equally to job seekers with a Roma background as it does to other job seekers. Municipalities and the Employed Persons Insurance Schemes Agency (UWV) have access to a broad range of tools and facilities that offer support to people in finding employment, such as wage-cost subsidies, job coaching, workplace adaptations, training and programmes. The situation in the Netherlands is principally one where people take responsibility into their own hands when claiming social security benefits. People are expected to play an active role in their reintegration within the labour market. For people in a situation of unemployment or work-related disability, it is without a doubt important to remove any obstacles in order to get back into work. In support of this, the government is preparing a legislative proposal aimed at the resumption of work. People able to work must work. This applies to everyone alike, whether male or female, young or old, or from the indigenous or ethnic minority population. Included in the legislative proposal is the provision that a municipality can attach an obligation to a person's right to social security requiring him or her to complete a Dutch-language course. It is important that a command of the language should not be an obstacle to finding and resuming work. Anyone whose behaviour or clothing poses a hindrance to their actual chances of re-engagement in work runs the risk of their benefit being reduced, withdrawn or refused pursuant to the Work and Social Assistance Act (WWB). Moreover, the basic rule applicable to migrants from other EU countries who do not possess a permanent entitlement to residency in the Netherlands is that an EU citizen, just like any other, must be able to provide for him/herself should he or she wish to reside in the Netherlands for longer than three months. EU citizens who do not (or no longer) fulfil the residency conditions will have to return to their country of origin.

### *Health*

All citizens must be able to rely on high-quality healthcare and support: delivered promptly, properly, safely and respectfully. This is primarily the responsibility of health insurers, healthcare providers, citizens, the private sector and government. Public health is chiefly the government's responsibility. If the action taken by government is important, then it is the municipalities which make the first move in many cases. Under the present system, the freedom exists to take the diversity of the population into account where relevant. This makes it possible to provide the best response to the needs of specific groups, including among these the Roma. The underlying principle is one of people's personal responsibilities. The Health Insurance Act exists for people in need of curative healthcare. Everyone who is a resident of the Netherlands or who pays income tax is eligible for healthcare and must take out a health insurance policy. People with health insurance will receive full or partial reimbursement for the cost of medically essential

healthcare. The underwriting duty ensures that nobody is excluded on the basis of their state of health or financial means. This also applies to the Roma.

People lacking health insurance must pay for the cost of medical care themselves. In the Netherlands, it is a generally acknowledged principle that healthcare providers are obliged on the grounds of their professional responsibility to supply medically essential healthcare regardless of whether or how the cost of that healthcare is to be recouped. In the Netherlands, the Exceptional Medical Expenses Compensation Act (AWBZ) exists for people who need long-term care owing to sickness or a handicap. All residents of the Netherlands, or people who pay income tax in the Netherlands, are automatically insured under the AWBZ. The Social Support Act (Wmo) provides that people in need of support in their daily lives receive the support they need from their municipality thus enabling everyone to be a part of society and to continue to live independently.

Various provisions exist for the support of families and juveniles. Almost all municipalities have a Centre for Families and Juveniles (CJG). All juveniles and parents can visit such a CJG for information or advice on and for support in relation to growing up healthily and safely. With regard to parenting and developmental problems, the Juvenile Welfare Agency is the appropriate body for providing guidance and/or for ensuring that suitable (health)care is made available. Where a situation exists that threatens the development of minors, the Advice and Reporting Centre for Child Abuse can perform an investigation after which the most serious cases are forwarded to the Children and Family Court Advisory Support Service, which then performs an investigation and, should it prove necessary, requests a child protection measure. Family counselling can be implemented should multiple problems exist within a family. Under the auspices of the municipalities, the bodies concerned will make arrangements about the coordination of assistance to families.

#### *Housing/accommodation*

Everyone legally resident in the Netherlands and eligible for public-sector rented accommodation owing to low income – including the Roma – has access to the public-sector rented accommodation market. Corporations are expressly charged with housing vulnerable groups and to that end have an extensive stock of rented accommodation. Insofar as municipalities are operating with Housing Regulations, for the purpose of the fair allocation of housing, it is the case that the systems employed in the Netherlands for allocating housing are 'blind' to the ethnic backgrounds of potential tenants. The criteria that generally play a role in the order of precedence when allocating housing are duration of residence, duration of registration, age (in the case of first-time tenants) and, on occasion, no criteria at all (in the event that allocation is performed by drawing lots). Research has shown these systems to be non-discriminatory. Consequently, this assures proper access to the (public-sector) housing market. As a result, the Roma have equal opportunities for finding good rented accommodation. A large proportion of the Roma residing in the Netherlands lives in houses. A small proportion estimated at 500 people lives, because of personal preference, in caravans.<sup>23</sup>

### **6. The Advisory Committee *finds* that Dutch legislation contains several provisions penalising incitement to hatred and discrimination and that specific instructions have been given to the Public Prosecutions Department to demand**

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<sup>23</sup> Annual Integration Report 2009, Social and Cultural Planning Office

**sentences that are more stringent in cases of racially motivated offences. It finds, nevertheless, that very few cases have been brought before the courts on such grounds and considers that the authorities should pursue their efforts to ensure that the police and Public Prosecutions Department better implement these provisions, including by improvements to the reporting and monitoring of hate crime.**

*The importance of submitting reports and statements*

In order to combat discrimination effectively, it is necessary for citizens to submit statements to the police relating to instances of discrimination and, at the least, to report such instances to, for example, an antidiscrimination service desk (ADV) or police counsellor, interest groups or the Equal Treatment Commission (CGB). The government considers reports and statements of discrimination to be highly important. Citizens can get help from an ADV in an easily accessible manner in order to report an instance of discrimination or to receive help and advice. Pursuant to the Discrimination Directive from the Procurators General Executive, the police should take down statements of discrimination at all times. Submitting such reports and statements makes it possible to commence the process of criminal proceedings against the perpetrator. Additionally, this gives the (local) authorities a better picture of the nature and scale of the problem, and, where necessary, enables them to formulate a targeted approach. Should it appear that there are many reports or complaints of discrimination in a particular district, street or at a particular school, the police, municipality and antidiscrimination service can then take action against it in collaboration with, for example, the school in question.

The government is continuing to make efforts at increasing people's willingness to submit reports and statements about discrimination.

*Improved communications concerning progress with and the handling of complaints*

One significant reason why statements are not made and why reports are not filed is a lack of confidence that something will genuinely be done about the statement. Treating the victim correctly and a strong base of information are components of the Criminal Proceedings (Strengthening the Position of Victims) Act which came into force on 1 January 2011. This Act of Parliament also contains the obligation to report to victims concerning progress in the case against the suspect. This also entails notification about the decision to drop investigation or the submission of a statement against the suspect.

*Broadening opportunities for making statements*

The Dutch government is focussing attention on broadening the opportunities for making statements remotely or via the internet. A pilot project for making statements by virtual means is in use by the Rotterdam-Rijnmond Police Force. Victims can make a statement by means of statement-taking rooms especially equipped for the purpose and using a webcam and 3D screen with police officers who are not physically present. In the future, it will become possible to make a statement via the internet for more offences. The possibilities afforded by 'tele-interviewing' (video conferencing) are also available in relation to making statements.

**8. The Advisory Committee finds that concerns have been raised by attempts to take measures targeting specific ethnic groups (namely because of what was termed the Reference Index of Antilleans). It considers that any measures taken in future to address a situation of inequality fully respect the principles of**

**the Framework Convention, in particular the principle of non-discrimination and the principle of free expression of a person's affiliation to a minority.**

In 2008, the Council of Ministers decided not to set up a Reference Index of Antilleans<sup>24</sup>. It was decided to replace this with a Reference Index of At-Risk Young People (VIR). The VIR is a national digital system in which social workers can file reports about young people with problems up to the age of 23. This enables social workers to be made aware more quickly concerning whether a young person is also known to their colleagues. In such a case, they can discuss together the best approach to take in terms of providing assistance. Social workers in juvenile healthcare, education, juvenile welfare and the judicial system have use of the VIR system, for which they require municipal authorisation. The Advisory Committee's concerns have been addressed given that this system targets all at-risk young people and not specifically one minority or population group.

**9. The Advisory Committee *finds* that the practice of racial profiling by the police is still widely reported and *considers* that the authorities should monitor such practices with a view to detecting discriminatory implementation.**

The Racial Discrimination Monitoring for 2009<sup>25</sup> examined the phenomenon of *ethnic profiling*: the use of ethnic or religious characteristics to prevent or investigate criminal offences. Owing to the risk of discrimination, this technique needs to be applied subject to strict safeguards and great restraint. Drawing distinctions is an integral part of police work. Nevertheless, not all types of distinction are admissible. In recent years, there have increasingly been calls for the use of ethnic (and religious) profiles in relation to the prevention and investigation of criminal offences. In a study conducted in 2009 by the Open Society Institute (OSI) into *ethnic profiling* in a number of Western European countries<sup>26</sup>, this investigative technique is dismissed as being ineffective and damaging to relations between the police and ethnic minorities. The study also focussed attention on the Netherlands. A European study from 2009 by the EU institute the Fundamental Rights Agency (FRA) observed that it was the frequent experience of ethnic minorities that the police and judicial authorities made use of ethnic profiles, including in the Netherlands. Citizens were asked whether over the past twelve months they had been arrested by the police, Immigration and Naturalisation Office (IND) or Customs, where they had the feeling that their arrest had been connected with their ethnicity. Of the interviewees resident in the Netherlands who had a Turkish background, 27% responded to the question with a 'yes'. This figure was 39% for people with a Moroccan background.

*Compulsory proof of identification*

The Extended Compulsory Identification Act (WUID) has been in force since 1 January 2005. The desire to extend compulsory identification was prompted to a significant degree by the fear of terrorism following the attacks of 11 September 2001 on the United States. A specific reason needs to exist without that reason needing to rest on the suspicion of a criminal offence.

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<sup>24</sup> Parliamentary Documents II, 2008/09, 26283, no. 49

<sup>25</sup> Appendix to Parliamentary Documents II 2009-10, 30950 no. 18

<sup>26</sup> *Ethnic Profiling in the European Union: Pervasive, Ineffective, and Discriminatory*, the Open Society Institute, 2009

### *Police and judicial authorities*

At the time of bringing compulsory identification into being, the fear existed among many that it would be applied in a discriminatory fashion. The legislature has attempted to prevent this by providing additional instructions on when this power may be exercised. Only a few complaints have been encountered by police complaints commissions and the National Ombudsman concerning the execution in practice of compulsory identification. The number of complaints about it at the ADVs has also been extremely modest (5 in 2008). Consequently, it has been concluded in an evaluation of the WUID that the fears of many were unfounded and, moreover, that the police finds this legislation quite satisfactory.

### *Preventative (body) searching*

Preventive (body) searching has been possible since the amendment of the Municipalities Act and the Weapons and Ammunition Act (WWM) in 2002. To facilitate this, the municipal council must grant the mayor the power in a bye-law to designate an area as a 'safety-risk zone' in the event of a breach of the peace due to the presence of weapons. It is characteristic of preventative (body) searching that citizens can be subjected to a search without being suspected of having committed a criminal offence. The legislature takes the premise that everyone in the safety-risk zone must be searched (at random). An inventory was taken and an analysis carried out up until 1 September 2003 in ten municipalities where actual preventative (body) searching had been performed once or several times. The study took place in two large cities (Amsterdam and Rotterdam) and eight medium-sized municipalities. People subjected to a search but not arrested were asked to take part in an interview. Of this group, 79% said they were in support of preventive searches. On the other hand, 20% felt it was a breach of privacy. 24% of the people from ethnic minority backgrounds in Rotterdam disagreed (strongly) that preventive searching increased safety. They believed that they were more likely to undergo such a search than people from the indigenous population. 397 suspects were arrested during preventive search campaigns undertaken in Amsterdam, Heerlen, Haarlemmermeer, Maastricht, Tilburg and Utrecht. In Amsterdam, it emerged that more than 60% of the citizens interviewed were of the opinion that the police took a selective (biased) approach on the grounds of ethnicity, skin colour, sex and age. The requirement for searching either randomly or everyone appears to be difficult to put into operation. In practice, it would seem that potential suspects are the first to be searched and thereafter any other members of the public. Preferences based on empirical evidence or profiles can quickly become qualifying factors in this regard.

**10. The Advisory Committee *finds* that measures have been taken to fight ethnic segregation in schools. It also *finds* that the current private arrangements made for minority language teaching have prompted difficulties (following the abolition in 2004 of minority languages classes as part of the school curriculum), including in terms of supervision, and *considers* that the consequences of this abolition should be evaluated.**

In the period from 2008 to 2011, pilot projects were implemented in twelve municipalities as part of the policy to fight ethnic segregation in education. These pilot projects aimed to try out specific measures for combating such segregation in schools. The pilot projects were followed up by a monitoring study and were subsequently evaluated.

In the Netherlands, the twelve pilot projects were initiated for the purpose of ascertaining which tools were practicable at the local level in order to promote the number of mixed schools and counter segregation. An evaluation of this was undertaken by the Ministry of Education, Culture and Science. The report evaluated the following tools implemented by the pilot project municipalities:

- A central reporting system for students
- Information provided to parents
- Support for parent initiatives
- Promotion of schools in fellowship.

In 2004, the Dutch government abolished funding of Education in Living Ethnic Languages (OALT). The government's argument for this at the time was as follows:

*Input is needed from all the parties concerned in order to mobilise the unifying force in society, while retaining multiformity based on interdependence and respecting the fundamental values that characterise Dutch society. The foundations for this rest on a command of the Dutch language. With this in mind, the government will no longer be placing resources at the disposal of OALT. As a result, both the cultural education and linguistic support components of OALT will be cancelled. This intention has been prompted in part by the lack of hard empirical facts demonstrating the effect of education in one's native language on a command of the Dutch language. The Education Council wrote on the subject in its recommendations "Samen naar de Taalschool/Jointly Moving Forward towards the Language School" (Education Council, December 2001), stating that academic consensus was lacking on the issues surrounding education in one's native language and the best means of approach in that regard. The Social and Cultural Planning Office (SCP) also concluded in the epilogue to its report "Taal Lokaal: gemeentelijk beleid onderwijs in allochtone levende talen/Language Class: Municipal Policy for Education in Ethnic Living Languages" (SCP, June 2002) that hard empirical evidence was lacking for the promotion of a native language having a positive effect on acquisition of the second language. A part was also played in this by the implementation of the current OALT Act having proved problematic since coming into force in 1998; this has been partly as a result of the legislation's dual objective (cultural education and linguistic support).*

There have not been any subsequent evaluations in response to the abolition of funding for living ethnic languages. At present, the Dutch government has no plans to initiate such a study.



#### Article 9

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. Within the framework of their legal systems, the Parties will ensure that persons belonging to a national minority are not discriminated against in their access to the media.
2. Paragraph 1 will not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.
3. The Parties will not hinder the creation and use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they will ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.
4. In the framework of their legal systems, the Parties will adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

#### In respect of Article 9

**11. The Advisory Committee *finds* that Omrop Fryslân is the sole public broadcasting company to broadcast in Frisian and that it does not enjoy specific support from the national authorities to fulfil its tasks although this has been compensated by the provincial authorities' financial commitment. In this context, it *considers* that current discussions on decentralisation should ensure that adequate conditions, including financial ones, are maintained for Omrop Fryslân to fulfil its functions effectively.**

On 17 June 2011, the Dutch government decided in its ministerial policy to integrate the national and regional broadcasting companies and thus create one public broadcastign company with both national and regional tasks. The objective is to strengthen programming both in regional and national public broadcasting. Moreover, Omrop Fryslân will continue to exist as an independent organisation. The integration of the national and regional broadcasting companies will not have any impact on the duties of the regional Omrop Fryslân in Friesland. The Media Act makes express provision for the duties and position of Omrop Fryslân. Lastly, the existing budgetary frameworks will continue to be maintained.

Omrop Fryslân has a separate budget at its disposal which, via the Netherlands Broadcasting Foundation (NOS), is spent on programmes from Omrop Fryslân that are broadcast on the national channel Nederland 2 (€1.6 million per annum). The Minister of Education, Culture and Science (OCW) is not making cutbacks to this budget, despite the budget for national public broadcasting being cut by approximately 20%. The OCW's direct contribution to Omrop Fryslân will be maintained (approximately €50,000 per annum). Safeguarding the convention agreements referred to previously is an express priority.

Article 10:

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties will endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

**In respect of Article 10**

**12. The Advisory Committee *finds* that Dutch legislation provides for the use of Frisian in relations with administrative authorities and courts located in the Province of Fryslân. It *finds* that although the provincial authorities have had a positive and creative role in encouraging people to use Frisian within administrative and judicial bodies, Frisian is still used on a limited basis. It *considers* that achieving an increased use of Frisian would benefit from a proactive attitude by national authorities. The Advisory Committee also *considers* that the authorities should adopt the necessary regulations to allow the use of Frisian in relations with central government bodies represented in the province of Fryslân.**

The Dutch government has resolved by means of legislation to strengthen the opportunities for using Frisian in judicial and administrative matters. The objective of this legislation is to guarantee everyone in the province of Fryslân the right to use his/her own language, whether Dutch or Frisian, in the courts and in relations with administrative bodies and, as a result, to safeguard the equal positions of Frisian and Dutch in the province of Fryslân. The government has brought the legislative proposal before the House of Representatives for deliberation.

Article 11:

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.
2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.
3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties will endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

**In respect of Article 11**

**13. The Advisory Committee *finds* that municipalities have some freedom with regard to displaying signs in Frisian. It *considers* that, when the conditions in Article 11 are met, municipalities should be encouraged to use the option that they possess to act accordingly with a view to reinforcing the position of Frisian in the province of Fryslân.**

Every municipality in the Netherlands has the right to determine the name or names to be displayed on place-name signs. In other words, this concerns the freedom of Frisian municipalities to choose to display a Frisian name instead of a Dutch one for the settlements and locations situated in their territory; however, the reverse is also possible. Since this relates to an autonomous municipal power, there is no policy on the part of central government to encourage the use of Frisian names. The municipalities have a free hand in this.

Article 12:

1. The Parties will, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties will *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.
3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

Article 13:

1. Within the framework of their education systems, the Parties will recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
2. The exercise of this right will not entail any financial obligation for the Parties.

Article 14:

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties will endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.
3. Paragraph 2 of this article will be implemented without prejudice to the learning of the official language or the teaching in this language.

#### **In respect of Articles 12-14**

**14. The Advisory Committee *finds* that the Frisian language is a compulsory subject in primary schools and at the first level of secondary education in Fryslân and *finds* that, in the absence of specific regulation, the definition of what constitutes an adequate amount of teaching in Frisian is subject to disagreement between the authorities and representatives of the Frisian minority. The Advisory Committee *considers* that the authorities should pay due attention to the demands expressed by the Frisian minority.**

**15. The Advisory Committee *finds* that a model of trilingual education (Dutch, Frisian and English) has been introduced at a number of primary schools and *considers* that the authorities should continue their support of trilingual schooling.**

At the moment, Fryslân has 42 schools certified as trilingual. Performance figures for Frisian are better than average without performance in other subjects suffering as a consequence. The Fryske Akademy has conducted an academic study<sup>27</sup> into the results from these trilingual schools from which it emerges that the other subjects, thus including Dutch as well, are not suffering as a result of the trilingual project. The reason

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<sup>27</sup> Beetsma, Danny, *Trilingual Primary Education in Europe. Inventory of the provisions for trilingual primary education in minority language communities of the European Union*. Mercator-Education/Fryske Akademy, Leeuwarden 2002.

for this is because the second or third language in trilingual education is at times not only a subject in its own right but also an express language of instruction. For example, history or geography are also taught in Frisian at trilingual schools. Furthermore, these schools make greater use of 'transference' in relation to language teaching: skills taught in one language, e.g. Dutch, are also applied to the other languages. This approach makes efficient use of teaching time, because skills need to be acquired only once.

The inspectorate observed in its report<sup>28</sup> that the school boards of trilingual primary schools are more systematic about collecting data on the language spoken at home than the school boards of other schools. These schools do more to ensure the quality of (the subject of) Frisian than other schools and more frequently succeed in coordinating the instruction and processing of subject material with students who have differing linguistic backgrounds.

Multilingual education requires distinct types of investment. In other words, it entails further teacher training, recruiting someone whose mother tongue is English (i.e. a native speaker) and additional teaching materials in the various languages. It is primarily about schools choosing for themselves what to do with the lump sum at their disposal, for which choices they bear personal responsibility. Based on a non-representative random survey, the additional costs would appear to be at around €10,000 per school per annum. The province receives an objective grant for Frisian from central government; part of this is spent on trilingual education. In addition, the province also invests in trilingual education out of its own provincial resources.

**16. The Advisory Committee *finds* that arrangements have been made for Frisian-language teacher training but that they are not sufficiently used and *considers* that the authorities should envisage further incentives for primary and secondary school teachers to use the arrangements made. Furthermore, it *finds* that teacher training in Frisian for pre-schools has not been regulated yet and it *considers* that the authorities should address this shortcoming.**

There is a shortfall in the number of teaching staff in primary and secondary schools. In view of the large number of teachers at primary schools without appropriate qualifications in Frisian (40% of the total number of teachers according to the Education Inspectorate), continued investment in providing post-graduate and continuing-education courses for Frisian is of great importance. This is the only means of reducing the high number of unqualified teachers. Investment is also being made in the quality of the subject of Frisian taught at primary schools. The number of unqualified teachers will be reduced through these investments and because of the quality agreement regarding the provision of post-graduate and continuing education courses for Frisian for teachers at primary and secondary schools. The high number of unqualified teaching staff and the Education Inspectorate's critical report in respect of the quality of the subject of Frisian in education indicate that continued investment in this matter is necessary. This is also recognised by the Dutch government.

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<sup>28</sup> Tussen wens en werkelijkheid [Between desirability and reality], *De kwaliteit van het vak Fries in het basisonderwijs en het voortgezet onderwijs in Fryslân* [The quality of the subject of Frisian at primary and secondary schools in Fryslân], Education Inspectorate, 2010

Article 15:

The Parties will create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

**In respect of Article 15**

**17. The Advisory Committee *finds* that advisory boards have been set up to advise central and provincial authorities on issues of interest to Frisians and that, overall, there is good cooperation between the authorities and these bodies. It *considers* that, in future, sufficient time should be given to these bodies in order to contribute effectively to the State Report under the Framework Convention.**

**18. The Advisory Committee *finds* that a steering committee with both State and Provincial representation has begun to work on a possible devolution of powers from central to local authorities in the field of the Frisian language and culture. It *considers* that the outcome of this work should further contribute to the preservation and development of the Frisian language and culture and that the respective competences at central and local levels should be clearly defined in legislation.**

The Advisory Body for Matters Pertaining to Frisian Language Policy (COF) was set up in 1998 as an advisory body to the Minister of the Interior and Kingdom Relations pursuant to Article 7, paragraph 4, of the European Charter for Regional or Minority Languages. In accordance with the Decree Establishing the Advisory Body for Matters Pertaining to Frisian Language Policy 2010<sup>29</sup>, this advisory body is responsible for making recommendations to the Minister of the Interior and Kingdom Relations concerning the Frisian Language and Culture Administrative Agreement between central government and the Province of Fryslân. In addition, the COF can also report on all matters relating to Frisian.

Included as a proposal in the Use of Frisian Act is the establishment of a new Body for the Frisian Language (in place of the COF) that would be assigned an expanded set of responsibilities. The proposal is to extend these responsibilities to include making recommendations to the Provincial Executive of the Province of Fryslân concerning the realisation and implementation of the Frisian Language and Culture Administrative Agreement. The proposal also entails the advisory body being able to report on requirements and wishes in respect of the Frisian language and culture to all administrative bodies and judicial authorities, insofar as they are located in the province of Fryslân or include the province of Fryslân within their territorial domain. Another extension concerns the duty of the COF to provide support when drafting regulations and policy plans.

The new Body for the Frisian Language will contribute towards Frisian being put on an equal footing with Dutch in practice as seen *mutatis mutandis* from the comparison with language legislation from other countries, such as the Welsh Language Act of 1993.

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<sup>29</sup> Bulletin of Acts and Decrees 2010, no. 2161

Under the Welsh Language Act 1993, the formal decision was taken to establish a Welsh Language Board, which would be empowered to make recommendations on Welsh language policy, placing it on a more equal footing with English. Thanks to this power, giving equal rights to both languages has actually got off the ground in practice.

**Article 16:**

The Parties will refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present Framework Convention.

**In respect of Article 16**

**19. The Advisory Committee *finds* that in parallel to plans for decentralisation, a redrawing of municipal boundaries is being discussed and it *considers* that effective consultations should be held with the people concerned.**

The “support base” is a key concept in relation to mergers of municipalities. The objective should always focus on achieving the largest possible support base for a proposal to redraw boundaries. However, by definition, a support base does not imply unanimity of standpoints. A solution that is not supported by all of the parties concerned can be decided upon only if preceded by an extremely meticulous procedure. The administrative support base for proposals to redraw boundaries on municipal initiatives is understood to mean the democratic legitimisation of such proposals based on decision-making in the municipal councils concerned. If these councils have drawn up recommendations for redrawn boundaries, this indicates an administrative support base for a proposal for redrawn boundaries.

Abolishing a municipality as an independent administrative entity is a major decision affecting all residents and the local community as a whole. For those reasons, municipal administrations are obliged by the government to have knowledge of and to examine the public base of support for a proposal to redraw boundaries; the way in which this is done is the primary responsibility of the municipal administration. To assess proposals for a merger of municipalities it is important that a local public base of support can be identified and, as a result, verified. The municipal administrations concerned are obliged by the government to conduct a representative study (or have one conducted on their behalf) on the public base of support for a proposal to redraw boundaries. This means that the municipal administration concerned must be transparent about whether a study on the public base of support has been involved in the decision-making process and, if so, the nature of that study.

Mergers of municipalities almost invariably has an impact on the policy of surrounding or neighbouring municipalities and on administrative relationships in the region. For that reason, it is important for surrounding and neighbouring municipalities to be in a position to advance their points of view in terms of the administrative 'desirability' of a proposed redrawing of boundaries. This approach can verify whether a sufficient administrative base of support exists regionally.<sup>30</sup>

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<sup>30</sup> Parliamentary Document II, 2010-11, 28750 no. 28, page 4

Article 18:

1. The Parties will endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.
2. Where relevant, the Parties will take measures to encourage transfrontier co-operation.

**In respect of Article 18**

**20. The Advisory Committee *finds* that there is good cooperation between organisations representing the Frisians living in the Netherlands and those representing the Frisians in Germany and Denmark and *finds* that interest was expressed by Frisian organisations to formalise such cooperation through the adoption of a treaty and it *considers* that the authorities should discuss the issue further with these organisations.**

Frisians enjoy a special position in Fryslân as a cultural and linguistic minority. Therefore, the parties feel it important for the special position of Fryslân in the Netherlands to be understood abroad as well. For that reason, proper information is indispensable. Moreover, it is important to be able to compare the situation for linguistic minorities elsewhere in Europe with that in Fryslân. However, within the context of the European Union, it is more important still for Fryslân to create its own distinct profile. Regions in the European Union with a regional or minority language are given the opportunity to establish contacts with one another. From Fryslân's point of view, out of the other regional linguistic minorities in Europe it is chiefly, albeit not exclusively, its relations with North Friesland and East Friesland (Germany) that are important. This will also be addressed in the Frisian Language and Culture Administrative Agreement that is to be concluded in 2012 between central government and the Province of Fryslân<sup>31</sup>.

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<sup>31</sup> Frisian Language and Culture Administrative Agreement 2001: <http://www.rijksoverheid.nl/documenten-en-publicaties/convenanten/2001/06/06/bestuursafpraak-friese-taal-en-cultuur.html>