Set of guidelines for the collection, registration, processing and reporting of
discrimination complaints, as applied to the Dutch situation

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This publication is supported by the European Union Programme for Employment and Social Solidarity - PROGRESS (2007-2013).

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1. INTRODUCTION

Discrimination is a complicated phenomenon that manifests itself in a number of ways. In order to obtain a good overall picture of the issue, various sources should be consulted. In addition to official national statistics and results from various types of research, there are also data about discrimination complaints that have been filed with organisations, including non-governmental organisations. Various organisations collect complaints data, e.g. the police, the Openbaar Ministerie (OM) [the Public Prosecution Service], courts of law, an equality organisation, such as the Commissie Gelijkbehandeling (CGB) [Equal Treatment Commission] and non-governmental organisations that provide services for victims of discrimination. These organisations are collectively called ‘complaints bodies’ in this publication.

This document offers a set of guidelines for complaints bodies for the registration of discrimination complaints, using the Dutch situation as the starting point. The guidelines are based on desk research including a study of the literature on complaints registration, registration systems and the corresponding protocols and publications of complaints figures. This set of guidelines also draws on the results of expert meetings with researchers and representatives of the following organisations in the Netherlands: the police, the OM, the CGB, the networks of antidiscrimination bureaus (ADBs) and the Meldpunt Discriminatie Internet (MDI) [Dutch Complaints Bureau for Discrimination on the Internet]. In addition, researchers from the European Forum for Migration Studies (EFMS), experts in the field of discrimination complaints registration in Germany, have contributed the building blocks for this report based on issues occurring in Germany. The German situation is, however, not included in this report.

The Dutch situation serves as an example for this set of guidelines. Organisations that receive and register discrimination complaints use various methods. These have regularly been the subject of discussion in the Netherlands in recent years and have been adapted several times. The guidelines will not be useable willy-nilly in every other EU country or apply to every registering party. This will depend, among other things, on the existing antidiscrimination legislation in a country, the responsibilities and missions of an organisation and the objectives of reports containing complaints data. The recommendations are not directed at a specific party, but composed in a more general way. This set of guidelines indicates which characteristics and aspects of a discrimination complaint may be relevant and worth recording. In addition, the set of guidelines points to a number of items which play a role in the collection, registration, processing and reporting of discrimination complaints.

Chapter 2 discusses guidelines for collecting discrimination complaints and specifically for the initial registration of complaints. Chapter 3 is about updating the registration and about the possible evaluation of the complaints received. The subject of the classification of complaints into categories is discussed in Chapter 4. This is about the categorisation of complaints into: grounds for discrimination (section 4.1), form (4.2), area to which the complaint relates (4.3) and the characteristics of the parties concerned (4.4), respectively. In addition, an organisation may record in the registration systems how the complaint is handled; points to consider when

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1 See also Dinsbach, W. & Van Bon, S. (2012), Information and data on discrimination: research methods and available information sources in the Netherlands, Rotterdam: Art.1.
3 The recommendations in this report do not necessarily reflect the position or opinion of these organisations.
4 Claudia Lechner and Mario Peucker of the EFMS in Bamberg (Germany) studied the registration of discrimination complaints in Germany. They also contributed to the Art.1 project ‘Effectively monitoring discrimination’ with an analysis of the German situation. See: Van Bon, S., Dinsbach, W., Lechner, C. & Peucker, M. (2011), The registration of complaints about discrimination in the Netherlands and Germany, Rotterdam: Art.1
5 N.B. During the writing of this report, there were developments in the current methods of registration used in various organisations in the Netherlands.
classifying a complaint according to the type of complaints handling and the outcome are also dealt with (4.5). Finally, the chapter briefly describes the guidelines for the registration of possible victimisation (4.6). Chapter 5 discusses guidelines for analysing the collected data and for the presentation of the complaints data. The various phases (collecting discrimination complaints, registration and updating files and presenting data) are interlinked. Some guidelines which apply to a certain phase are therefore also applicable to another (earlier or later) phase in the process.

Note for the reader:
This set of guidelines is part of a wider project on monitoring discrimination.6 The registration of discrimination complaints in the Netherlands and Germany is described in detail in another report that may offer relevant contextual information to the reader of this set of guidelines.7

For the sake of readability, the following collective terms are used in this set of guidelines:

- **Complaints** =
  Besides actual complaints, also notifications, reports to the police, cases at the OM and requests to the CGB for an opinion.

- **Complainant** =
  A person who files a complaint, makes a notification of a complaint, reports this to the police or submits a request to the CGB for an opinion.

- **Complaints body / organisation** =
  Organisations that handle discrimination complaints, e.g. the police, the OM, courts of law, an equality body, such as the CGB in the Netherlands, and non-governmental organisations that provide services to victims of discrimination.8

- **Complaints handler / staff member** =
  A complaints handler means any staff member of an organisation who handles a complaint/notification/police report/petition and attends to its registration.

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6Art.1 project, supported by the community programme for employment and solidarity - PROGRESS (2007-2013) of the European Union.


2. COLLECTING DISCRIMINATION COMPLAINTS & THE INITIAL REGISTRATION

It is important, for the monitoring of discrimination, that an organisation or network collects data in a careful, uniform and systematic manner. This requires sufficient time and money. The important subjects set out in these guidelines are aimed at procuring a registration that is as precise and as complete as possible, irrespective of the available funds.

2.1 The setting up and introduction of a registration system

User friendly

The correct entry of data into the system can make or break a good complaints registration. If organisations do not systematically and securely collect data, they will eventually be unable to produce any reliable complaints reports. A registration system should be as user-friendly as possible to be conducive to an effective and consistent registration. This demands an efficient implementation process.

Before becoming operational, registration systems need to be tested by the users during a trial period. Based on this, organisations can introduce improvements to the contents, structure and functionalities of the system. In addition, a written manual must be on hand, and organisations should instruct and train new users to use the registration system correctly. Thorough training and/or a manual will promote an unambiguous and uniform registration.

Support at every level

The usefulness and necessity of registering discrimination complaints must be widely endorsed within an organisation or network, before introducing a system. A registration system works better when both the management and operational staff recognise its advantages. Support at all levels motivates staff members to implement the registration correctly, thereby preventing incomplete or inaccurate files. Although the obligation to register may be imposed by a higher authority, by the government for instance, registration in itself should not be an objective.

In order to create support for complaints registration, the attention given to this should equate to the importance of registration for the organisation concerned. Organisations will therefore have to decide, on the basis of their priorities and a cost-benefit analysis, how much time, money and energy they can and want to spend on collecting and analysing discrimination complaints. This analysis could consist, among other things, of a needs survey carried out among the users of the complaints reports. In the case of an external client, it is essential to confer with them about the time and costs which this meticulous registration and reporting will entail. The registration system must then meet the required investment in time and results.

An organisation should clearly communicate in-house the importance of registration. The collected data give an overview of the incoming complaints; by using this information, the organisation will be able to monitor its own work and/or adapt its services. It is likely that feedback from this to the operational staff, and the visible use of the collected data, will motivate the staff to carefully record and update the files. In addition, by making it known publically what has happened to the submitted complaints it will encourage other people who experience discrimination to come forward.

Acceptable burden for complainants

In determining the method and the elements of the registration, it is strongly recommended to take into account the burden on the complainant. It can be hard for victims to talk about an experience of discrimination. Moreover, questions about personal data (e.g. ethnic background) can be sensitive. The information must always be provided on a voluntary basis and questioning should not cause a loss of faith in
the organisation and/or complaints handler. In addition a staff member should fully inform the complainant about the objectives of the registration.

Registration is usually part of the complaints handling, on the one hand for administrative purposes (to maintain records of a specific case), on the other to obtain information about the whole collection of incoming complaints. A registration methodology must be in line with the protocol for handling complaints, in which providing a good service is paramount. It is advisable when victims are telling their story, not to burden them immediately with lots of background questions. Preferably, the staff member should not ask questions about sensitive personal characteristics, or about specific details of the situation, until after the story has been told, for instance, in a second interview or in writing.

**Need for details and background information**

An investigation into the internal and external need for information (the objectives of registration) is important for setting up a registration system. The collection of data should deliver useable information; the organisation will have to weigh up the costs (in the broadest sense, including the time and work of the staff members) against the returns. The possible need for detailed information and lots of (background) data should be seen in the light of the feasibility and user-friendliness of an extensive registration method. Moreover it is necessary to consider whether complaints registration is the appropriate instrument to fulfil a specific need for information. Additional (qualitative) research is possibly a better way to answer certain questions.

**Adaptations to the system**

In the course of time, new ideas arise about complaints registration, which make it desirable or even a necessity to update the registration system. It may concern changes to the contents, for instance, due to new legislation on discrimination, or additions to include specific situations which had not been registered before. It may also be desirable to improve the structure of the system. It is advisable not to make major changes to a registration system too frequently. Another set-up, new terminology or added categories affect the method of registration. A comparison with previous years or periods could then become a problem. While taking heed of these comments, organisations should certainly go ahead with introducing really essential improvements to a system.

A (temporary) alternative to system adaptations could be to come to *ad hoc* agreements within an organisation or network about the method of input and to record and communicate these agreements properly. It is advisable to draw up a list every two years, for instance, with desired adaptations and to check to what extent a change in the system itself is really necessary and urgent.
2.2 Basic principles in the complaints registration and the intake

Operational definition of discrimination

Discrimination is a wide-ranging social phenomenon. The literature contains a great variety of definitions and there are differing theories about discrimination. Besides the legal definitions in rules and regulations, the phenomenon of discrimination is also described in the social sciences. The way in which discrimination is defined has effects on the manner of data collection and analysis.

Most complaints bodies take national or international antidiscrimination legislation as the starting point for their tasks and aims, and consequently for collecting complaints and the choice of definitions. Therefore the police, the OM and the MDI are based on the Penal Code and the CGB is based on equal treatment legislation, including the Algemene wet gelijke behandeling (AWGB) [The Equal Treatment Act]. In addition to national legislation, the EU directives or international human rights conventions can serve as the starting point. These laws and rules differ from each other in scope as regards specific discrimination grounds, forms or areas.

It is useful to make a list of the various descriptions, to determine which definition is useable for the data collection and which forms of discrimination are to be distinguished. For instance, there may be people who experience animosity in society towards their group. This perception does not have to mean that they have complaints about concrete situations in which they have personally suffered discrimination. It is therefore important when collecting complaints to define the notion of discrimination clearly and to describe the criteria unambiguously. This may mean a clarification and specification of a more global (legal) definition. It is advisable to use this work description (operational definition) as a starting point for the data collection and, for the purposes of a univocal registration to describe which situations do or do not come under ‘discrimination’.

Party who presents the situation

The notification of situations may come from various parties. It is important to make a distinction between these parties in the data collection and registration. The victim personally, a witness or an intermediary (mediator or organisation) may submit the situation to the organisation. Additionally, an organisation could request an opinion from the CGB about its own actions.

Which party submits a situation may also ensue from the supply chain approach. For instance, the cases received by the OM originate from the police, with a few exceptions. The registering organisations themselves may also notice situations and collect information about this. For instance, the police may gather information about a discriminatory graffiti text without having received a report about this.

When designing the data collection, an organisation may decide to collect complaints from specific parties and not from others. In addition, the organisation may decide to include anonymous complaints, or not to do so. In any case, it is important during the intake to register which party has notified or submitted a situation.

Discriminated party

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As mentioned above, the complainant is not always the actual victim of the reported incident. It is advisable to specify the party who is said to have experienced discrimination. A distinction can be made between 'him/herself personally', 'family', 'another individual', 'own group' or 'another group'.

**Guidelines for categorisation:**

- **COMPLAINANT/ CONTRIBUTOR**
  suggestions for subcategories: Victim himself/herself, Witness, Intermediary (e.g. family, friend, acquaintance), Interest group, Police, MDI, ADB, Anonymous

- **TARGET(S)**
  suggestions for subcategories: Individual (i.e. aimed at the person), Specific community (i.e. aimed at the group, such as the complainant’s own group to which he/she considers they belong), Specific organisation

**Unit of registration**

Various registration units are possible. Registrations and quantities can be about the number of unique incidents\(^\text{11}\), the number of unique notifications and/or the number of unique persons who have reported a situation. For instance, in its annual report the MDI presents, not only the number of notifications about online discrimination, but also the number of unique expressions which these notifications were about. In fact, several notifications may have been received about a single expression. The OM reports on the number of criminal acts, because one case may contain a number of discrimination offences. And an issue that has been submitted to the CGB may also result in more than one operative part. It also happens that one person reports on several situations.

**Possible registration units:**

- **PER INCIDENT**
  If there are several notifications about the same incident, then one incident is registered.

- **PER COMPLAINT/NOTIFICATION**
  If there are five notifications about the same incident, then five notifications are registered.

- **PER COMPLAINANT**
  If an individual person reports more than one situation, then one complainant is registered.

- **PER TARGET**
  If a church is daubed several times, then one target is registered.

- **PER DISCRIMINATION OFFENCE/OPERATIVE PART PROHIBITED DISCRIMINATION**
  If a case contains two discrimination offences or operative parts, then two discrimination offences or operative parts are registered.

Both the registration unit of ‘unique notifications/complaints’ and the registration unit of ‘unique incidents’ are relevant for monitoring. If available, it is advisable to report on both the number of notifications and the number of notified situations (incidents).

**Requests for information**

In addition to complaints about a situation, ADBs, the police, the MDI and the CGB also receive requests for information. These enquiries may be about legislation, hypothetical cases of discrimination and advice about tackling discrimination or promoting equal treatment. It is advisable to keep a registration of (general) requests for information separate from the registration of specific incidents of discrimination experienced. Although requests for information are not really the domain of complaints registrations, the enquiries from citizens and organisations could be of interest for obtaining a picture of what is going on in society. Keeping records about the volume and nature of requests for information, and the characteristics of the applicants, can

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\(^{11}\) In an incident involving a number of persons, times and locations, it can be difficult to determine what counts as a unique incident. A clear description of the chosen criteria for ‘a unique incident’ and univocality in registration is required.
also provide valuable information. The users of the registration system will have to make a clear distinction between the registration of discrimination complaints about concrete situations and (general) enquiries about information on discrimination without the notification of a concrete incident.

**Limited information is known**

It may happen that very little information is provided when a notification or complaint is filed. In many cases, not all the details are known about a situation. A summary of discrimination complaints usually requires information about the grounds, form and area on which the complaints are based. It is advisable to find out at least two of these characteristics of a complaint or notification. If only one characteristic is known, the organisation may decide not to include the complaint in the annual report.

Given that a complaint about discrimination may be a sensitive matter to the perpetrators and/or victims, a complainant may not always want to reveal his/her identity. At times, with some notifications there is little or no information known about the complainant or only an email address. Some organisations offer the possibility to file complaints without a name and surname (anonymously). Other organisations do not record such complaints. It is necessary to be clear about recording or not recording anonymous complaints and about what the criteria are for considering a notification to be ‘anonymous’. (Is a complainant, for instance, still anonymous when their email address is known?) It is advisable when reporting on the total number of complaints, to indicate the proportion of anonymous complaints.
3. **UPDATING THE COMPLAINTS REGISTRATION & THE EVALUATION PROCESS**

After a complaint file has been created, staff members can add more information in the course of the handling process. Details or new information about the nature of the situation could become known, for instance after a conversation with the accused party. An organisation itself could also evaluate a complaint and assign a label. The organisation can then include this in the registration system. And there is a difference between evaluating whether legislation is applicable or not and a formal legal assessment by a competent authority (such as CGB or the court).

**Situation perspective**

A single situation could be interpreted by those involved in various ways. Victims, perpetrators and witnesses may have different stories about what exactly happened and why. The staff members who record the complaint might also have their own impression about the reason for the incident. Consequently, a situation could be interpreted as discrimination from one perspective but not from another. In addition, a legal perspective of a situation may differ from the social reality in which the victim has or has not experienced discrimination (see also Interlude).

It is advisable to indicate from whose perspective a situation has been qualified and categorised. In the intake this will usually be the perspective of the complainant: what happened in his/her opinion, on which grounds of discrimination, which form and in which area did the discrimination occur? If the complaints body staff members evaluate the situation themselves afterwards or have it evaluated by a competent authority, then it is advisable to explain this evaluation process: who or which organisation has evaluated the situation and has determined that the situation (presumably) did or did not concern discrimination and which criteria have been applied?

**Several perspectives on the notified situation. The situation from the perspective of:**

- Complainant / Victim
- Complaints body staff member
- Complaints body staff member and the complainant / victim jointly
- (Alleged) perpetrator(s)
- Witnesses / onlookers
- Competent authority (e.g. the court, CGB, or a European organisation)

At the intake it is advisable to take the perspective of the complainant as the starting point. After all, a discrimination complaint concerns the complaint of someone who has experienced that discrimination and who at the intake describes what happened as s/he saw it. The staff member, who handles the complaint, may discuss the situation together with the complainant and, for instance, establish in joint agreement which discrimination grounds, form or area is applicable. It may be that the grounds, form or area which the complainant indicates (probably) does not have any protection under existing antidiscrimination legislation. Since no full and formal legal assessment procedure will take place during the intake, it is advisable to record the situation as described by the complainant (with additions or adjustments in consultation with the staff member). The staff member can add an official legal opinion to the complaint file at a later stage.

It is advisable that the data of the initial registration, in which the perspective of the complainant is key, should be retained in the registration system and to add to it the results of any evaluation of the complaint or notification. A file could then, for instance, contain three different points of view: firstly the story of the complainant, secondly the initial evaluation by the complaints body as to whether the legislation is possibly applicable or not (and whether the notified situation is suitable for a case, or not) and thirdly, the outcome of a
legal assessment by a competent authority. All three points of view have their own value. The data from the initial registration indicate what is going on among citizens in society and which situations they consider to be discrimination.

**Perspective of the (alleged) perpetrator**

In a number of cases, the complaints body will contact the party that has been accused of discrimination. This may be a part of the formal standard procedure, for instance, of the CGB, the police or the OM. Alleged perpetrators of discrimination are not always aware, or do not always want to admit that they discriminate. They will usually have a different interpretation of the notified situation than that of the complainant. If available, the staff member can add information to the complaint file about the perspective of the alleged perpetrators.

An interesting phenomenon in this context is 'customer discrimination': employers may discriminate against a group because they suspect that employing personnel from that group would cause them to lose customers. The alleged perpetrator puts forward as an argument, a discriminating attitude of his/her customers. Discrimination in this case is motivated from the perspective of a need to adapt to the prejudices and stereotypical perceptions which one’s customers (are said to) have. Research has shown that some temporary employment agencies comply with the requirement of their clients (employers) not to put forward any immigrants for a job.12

**Evaluation by a staff member whether legislation is applicable**

Most complaints bodies evaluate incoming situations as to whether (certain) antidiscrimination legislation is applicable or not (in the Netherlands, for instance, Article 1 of the Constitution, Articles 137c to g and 429quater in the Penal Code, the equal treatment legislation including AWGB13, in addition to EU legislation or international human rights conventions). Organisations may have legal expertise available to make such an evaluation. Sometimes, staff members also make an estimate based on practical experience.

The MDI check to what extent an expression on the internet would probably be criminal or not according to Dutch criminal law. The ADBs can evaluate situations and advise complainants whether legal action is possible in their situation. The police, who are obliged to record every notification and report about discrimination, evaluate in consultation with the OM which cases are liable to prosecution. Competent authorities, such as the OM and the CGB, evaluate an incoming police report (OM) or petition for an opinion (CGB) to see to what extent the notified situation relates to the legislation and is suitable for a case. The initial evaluation determines the further handling of a case and whether this will be formally assessed against the equal treatment legislation by either the CGB or brought before the criminal court by the OM (see also 'Legal assessment by competent authority').

The staff member can add the results of an evaluation to the complaints registration. It is advisable to clearly formulate how the organisation evaluates whether or not a complaint could be related to a law or rule. How will the evaluation process proceed, who in the organisation has the responsibility for evaluation (Is that someone with legal expertise or not?) and which criteria does the organisation apply? For instance, at the CGB it is associated with a description of the pre-selection by the Legal Office. In addition, it must be transparent

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13 In addition to the AWGB, equal treatment legislation consists of the Wet gelijke behandeling op grond van leeftijd bij de arbeid (WGBL) [Equal Treatment in Employment (Age Discrimination) Act], Wet gelijke behandeling op grond van handicap of chronische ziekte (WGBh/cz) [Equal Treatment (Disability and Chronic Illness) Act ], Wet onderscheid bepaalde en onbepaalde tijd (WOBOT) [Equal Treatment (Definite and Indefinite Period Employment Contract) Act], Wet onderscheid arbeidsduur (WOA) [Equal Treatment (Working Hours) Act], Wet gelijke behandeling van mannen en vrouwen (WGBl/v) [Equal Treatment of Men and Women Act], and a number of articles in the Burgerlijk Wetboek [Netherlands Civil Code].
how the organisation includes this initial evaluation in the further handling and how it is processed in the registration. Therefore, it is advisable to give a clear explanation in the complaints reports about the criteria of the police and the OM for starting criminal proceedings after a report has been made to the police (there must, for instance, be a suspect and sufficient evidence). This makes the data processing procedure understandable to the readers of reports and also explains the numerical differences between statistical reports from the police and those of the OM.

**Legal assessment by competent authority**

If a competent authority has legally assessed the case, the judgement or decision as to whether the law has been broken or not, can be added to the file by the staff member. The legal assessment, by the court or CGB for instance, shows whether there is demonstrable discrimination in the legal sense in the case concerned. It is advisable to record in the file by which authority and against which legislation the situation has been assessed and what the outcome is.

Following up a case in a legal procedure (possibly with an appeal) and recording the data in the file will produce interesting information. This does require a careful processing and exchange of information, in which the protection of personal data of those involved must be continually guaranteed.

**Guidelines for categorisation:**

- **COMPETENT AUTHORITY**  
  suggestions for subcategories: Criminal court, Civil court/sub-district court, Administrative court, CGB, The European Court of Justice, The European Court of Human Rights, Supreme Court (of the Netherlands)

- **ASSESSED AGAINST LEGISLATION/ARTICLE**  
  suggestions for subcategories: AWGB (specific article), Penal Code (specific article) and European/International Convention (specific convention and article)

*N.B.*  
_Taking legal action may also form part of the handling of a complaint, and a legal assessment can therefore be ‘a type of complaint handling’, see 4.5._
INTERLUDE
legal assessment versus social realities

The intention of the accused party and legal assessment

In addition to intentional discrimination, the discrimination of a group can also occur subconsciously or unwittingly. There is, for instance, a debate as to whether slanging matches in which someone makes references to certain minority groups should be regarded as discrimination. For instance, ‘homo’ and ‘Jew’ are regularly used as swear words. There are people who do not have the direct intention to discriminate, but rather to insult. They could just as easily be using another swear word. It does happen that those involved or bystanders still see this as discrimination and make a notification. This has similarities with graffiti, e.g. the drawing of swastikas. This can be seen as discrimination, but may possibly stem from unruliness and not from an anti-Semitic ideology.

In assessing a situation according to the law, the intentions of the alleged perpetrator do not always count. For instance when assessing cases of possible indirect discrimination, the CGB looks at the effects of the application of what are seemingly neutral rules. If the application of a rule disproportionately prejudices a certain protected group and this rule is not objectively justified, the legal opinion is that this is a matter of indirect discrimination. In connection with possible objective justification, the reason for applying the rules concerned is questioned. The fact that an organisation and its staff members did not mean any harm, or did not have the intention to make a distinction on discriminatory grounds, does not count if it appears that the established rule unfairly disadvantages a group and this, as it were, has a discriminating effect. There are also rules which apply to everyone but when special treatment is offered to a certain group constitute a form of indirect discrimination. Even if the intention is ‘to treat everyone equally’, the effect of the rule may be that a specific group experiences an unfair and disproportionate disadvantage, and in this way it is therefore to be qualified as discrimination.

In criminal cases, the intentions of the perpetrator are not decisive for the court’s judgement. A statement may cause criminal discrimination, even if the person making the statement claims that he did not have the intention of discriminating.

On the other hand, when there is no convincing evidence and the legal opinion is that discrimination does not play any demonstrable part, in reality it may well be that the accused did have discriminatory motives. In other words, because someone conceals the discriminating motivation in such a way for his or her deed, the discriminating elements present cannot be legally proven.

Interpretation of the complainant and legal assessment

The interpretation of a complainant may vary from the outcome of the legal assessment or the evaluation of the organisation which records the complaint. People who use the possibility to file a complaint do not always know which situations do, or do not, come under (legally forbidden) discrimination. People are not always aware of the details of the legislation or they interpret these in their own way. People could report situations that are thought to be discriminating, but which do not come under the protection of antidiscrimination legislation. Moreover there are situations in which it is not immediately apparent whether it is about discrimination or not.

In daily practice, observation and reality become intertwined. Just as there are various definitions of discrimination, there are also various interpretations of certain grounds of discrimination. For instance, it can be unclear what is meant by discrimination on the grounds of philosophy of life or mental health disability/illness. Definition is important for legal assessment and scientific research. When recording discrimination complaints, an organisation must use a work description (operational definition). For instance, at the intake the complainant’s interpretation can be the starting point; a complaint about discrimination due to a philosophy of life means that the person experiences discrimination on the grounds of a philosophy of life (and not that the indicated grounds also actually comes under the legal term of philosophy of life, see section 4.4).

If someone experiences discrimination, s/he may take it to be true. The perception of an (alleged) victim is relevant in discrimination, because discrimination experiences will nevertheless have an impact on victims, even when a legal assessment or evaluation shows that there was no question of discrimination. These perceptions and their impact will determine the reactions of victims to (future) situations. The interpretations of complainants are therefore of importance to be able to indicate the social phenomenon of discrimination and its effects.
4. CATEGORISATION OF COMPLAINTS

The collecting of discrimination complaints takes place in systems especially arranged for this (at the CGB, MDI and ADBs) and also in more general systems where discrimination complaints are retrieved at a later stage by means of a “query” (at the police and the OM). Registration can be performed in many ways, varying from a free description of the situation to the use of a structured system with closed questions and predetermined optional answers. Registration could also be a combination of methods.

Each method of registration has its advantages and limitations. For instance, the method where the staff member already categorises the complaints at input, can quickly provide a ready-made statistical report, with, for example, the figures in terms of grounds, form and area. The disadvantage of working with previously established categories may be that the categorisation of a complaint will not do full justice to the real (complicated) situation and context of a story. In a system with predetermined questions and optional answers there is also the risk that the staff member does not register certain aspects which were important in the situation concerned (see also Chapter 5, under the heading ‘Clarity and preventing a loss of information’).

The qualification and categorisation of complaints can take place during the phase of data collection and registration, or after the data processing phase. In any case, some kind of categorisation is appropriate for the production of a list of figures or to make a summary of the complaints received. This chapter, which discusses the classification of complaints, is in principle based on a registration system with predefined categories.

Operational definitions of categories implemented

To work with previously defined categories means that agreement must be reached about their interpretation. It is therefore advisable to clearly define all the categories implemented. Legal terms, such as ‘race’, need explaining. It is advisable to indicate all terms and categories employed, and to explain them to the people who input or analyse data. This prevents users of a system from interpreting and categorising similar complaints in different ways. To this end, the organisation could develop a training course or manual with explanations and examples.

The researchers should also cite these operational definitions in the summaries or statistical reports, so that it is clear to the reader what the summary or figures refer to. This also applies to the work description of discrimination on which the registration method is based.

Use of subcategories

It is advisable to register all available and known information as much as possible. The complaint is further specified by using subcategories in a registration system so that no information will be lost. Staff members should therefore consistently complete the subcategories in the system. In addition to the relevance of gaining insight into the details of the complaints, the recording of subcategories prevents people from applying their own (incorrect) meaning to the main categories when they read the final report. A system with numerous (sub)categories may be at odds with the user-friendliness of the system in daily practice (see section 2.1 about the setting up and introduction of a registration system).

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14 A ‘query’ is a search function in a database that will implement a certain action, e.g. to find a word or combination of words.


16 In considering the extent of (sub) categorisation with predefined categories, it is advisable to check whether certain complaints can perhaps be retrieved in the data analysis phase with the aid of document research.
Open field for explanation

As mentioned above, discrimination is a wide-ranging and sometimes complicated phenomenon. It is therefore advisable, when using a registration system with pre-coded optional answers, to have the opportunity to explain in detail the grounds, form or area. It could be that a specific situation cannot be incorporated in one of the predefined categories.

Apart from the explanation about the grounds, form or area, it is good to offer an opportunity to explain the general situation (in further detail). Such qualitative information can be useful for a better interpretation of the situation. The open field for an explanation offers space for recording the complicated and unexpected aspects of an incident. The researchers will, if required, be able to analyse these aspects later on by means of qualitative file analysis. Exploratory research can deliver interesting and relevant insights into a specific form or about the dynamics of the discrimination phenomenon. A precondition is that the system is arranged in such a way that the staff member clearly specifies what an explanation refers to. In this way, subsequent searches for this information can be conducted more efficiently.

The following is a discussion about a number of specific categories and subcategories for indicating the discrimination grounds, the form and the area to which the complaint refers (sections 4.1 to 4.3). Then the categorisation of information about those involved in a complaint or notification is dealt with (section 4.4) and also the type of complaint handling (section 4.5). Information about the complaint handling is not relevant for recording incidents, but it is relevant for analysing the possible way of dealing with discrimination incidents.

4.1 Grounds for discrimination

Sensitive and controversial terms

Some commonly used words and legal terms can be sensitive. The degree of sensitivity varies from one person to another. The terms which are sensitive vary from country to country. In the Netherlands, examples of sensitive terms are ‘elderly’, ‘handicapped’, ‘race’ and ‘illegal’, as well as the often used divide between ‘autochthoonous’ and ‘allochthoonous’. However, these terms are common in daily use. People can find the use of such terms to be hurtful, even when there is no malice. There have therefore been complaints about a discriminatory expression or act in which the perpetrator has used one of these terms. A complaints body may on principle choose to avoid sensitive terms in the registration and/or reporting of complaints. It may, however, be necessary to use the emotionally charged terms to describe the complaint. Apart from the harmful character of some terms, information about the grounds for discrimination may also be sensitive for other reasons. It may be that a complainant finds it difficult to make a personal characteristic known by stating the grounds for discrimination, such as sexual orientation or religion, and prefers not to reveal this. A person may have problems with the characteristic or be afraid that the characteristic will become known by registering the complaint.

In the registration and exchange of data about sensitive characteristics, such as someone’s sexual orientation, political persuasion or ethnic origin, the organisation should take into account legislation in the field of personal data protection. It is advisable, in the registration and in reports, to take into account the sensitivity of terminology and to provide these with an explanation.

Ethnic origin

The classification into categories/groups and the use of certain terms may be practical for research or operations in the legal field, or is considered to be so. Nevertheless, some critics reject this classification on principle by arguing that it will preserve the use of these (discriminatory) terms and the classification of people into categories/groups.

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For the sake of convenience, a registration system of discrimination on the grounds of ethnic origin can have subcategories predefined to correspond with the main minority groups in a country. Furthermore, members of a majority group in society could also feel discriminated against because of their origin. For instance, Dutch complaints bodies also receive complaints from indigenous Dutch persons about discrimination on the grounds of their origin. It is advisable to add a category to the sub-categorisation of origin/nationality in order to register complaints from the majority group in a country.

Guidelines for categorisation:

- **ETHNIC ORIGIN**
  
  suggestions for subcategories (the main minority groups in a country can be the basis for this):
  
  Moroccan, Turkish, Surinamese, Antillean/Aruban, Roma/Sinti, Jewish\(^ {18} \), Indigenous/Dutch, Allochthonous/foreign, Asian

  *N.B. The grounds for discrimination can also be about a presumed ethnic origin, e.g. An Iranian is insulted as a ‘lousy Moroccan’. In this case the supposed ethnic origin (‘Moroccan’) is registered as a ground for discrimination. If necessary, the staff member can record ‘Iranian’ as a background characteristic of the complainant (see section 4.4).*

- **TRAILER PARK RESIDENTS**

- **ANTI-SEMITISM**

  Labelling a complaint as anti-Semitism can be based on the perspective of the complainant (in other words, if the complainant qualifies the situation as anti-Semitism) or on the basis of predetermined criteria of the complaints body (i.e. the criteria on which the organisation will qualify the complaint as anti-Semitism, or not. See also chapter 3).

  *N.B.*
  
  Reach an agreement about the method of registration of categories which may overlap. The ‘anti-Semitism’ category may overlap with the ‘Jewish ethnic origin’ category. The ‘trailer park residents’ category may overlap with the ‘Roma/Sinti ethnic origin’ category.

Nationality and residence status

The ground of nationality is included in the AWGB, but not in criminal law. This has led to the registration of this ground by the ADBs and the CGB, while the police, OM and MDI do not do so. Countries make the distinction in their government policy and legislation between people with the country’s own (Dutch) nationality and people who do not (yet) possess this (Dutch) nationality. Such cases, in which Dutch regulations provide advantages solely for people with the Dutch nationality, may be experienced by the complainant as discrimination against people with a non-Dutch nationality. Also the EU makes a distinction in its legislation between people with one of the EU nationalities and those with a nationality from outside the EU.

There are different opinions about when it is correct or incorrect in a certain situation to make a distinction on the basis of nationality, which in the latter case is therefore a question of discrimination due to nationality. Furthermore, a person’s ethnic origin often corresponds with their nationality. As a consequence, the grounds of ‘ethnic origin’ and ‘nationality’ are difficult to separate and (alleged) victims and perpetrators sometimes mix-up the two grounds. Also the use of words causes confusion. There are complaints in which the complainants state that they have experienced discrimination due to ‘national origin’. These cases may possibly come under the category of ‘race’, for instance when a Dutchman of Turkish origin files a complaint about discrimination due to his country of origin. The legal term ‘race’ covers national or ethnic extraction, origin and skin colour.\(^ {19} \)

\(^{18}\) ‘Jewish’ refers to the nation or community to which someone belongs, therefore in an ethnic sense. The adjective ‘Jewish’ (‘joods’ in Dutch normally spelt with a lower case) can also be used in the context of the Jewish faith.

\(^{19}\) The term ‘race’ in the AWGB should, in accordance with the definition in the International Convention on the Elimination of All Forms of Racial Discrimination (IVRD) and according to established case law of the Hoge Raad (HR) [Netherlands Supreme Court], be broadly interpreted and also incorporates: skin colour, origin, national or ethnic extraction (Parliamentary Documents II 1990/91, 22 014, No. 3, p. 13 and established case law of the HR since 15 June 1976). In criminal law, ‘race’ should be explained according to the New York Convention of 7 March 1966 regarding the elimination of all forms of racial discrimination. In addition, a description requires links to be made with various characteristics which can be of a physical, ethnic, geographical, cultural,
All things considered, it is not always clear when it is a matter of discrimination on the grounds of nationality. In many cases, it is about not possessing the correct documents. People are excluded, for instance, from certain commercial services or have to fulfil additional requirements because they do not have Dutch nationality.

Situations also occur in which people are treated unequally because of their residence status. Regardless of whether the national legislation allows such differences, people can feel this to be discrimination. People can experience unequal treatment because they are in an application procedure for asylum or for a work permit, or in connection with family and marriage migration. It might also be about people whose asylum application procedure is finally exhausted or immigrants who for whatever reason do not possess valid residence permits and are then discriminated against on that basis. This group is also called ‘undocumented migrants’.

It is advisable for registration purposes, to clearly establish in advance which situations are discrimination on the grounds of nationality and which on the grounds of national extraction (and therefore come under race or ethnic origin). Complaints handlers should continue to probe when a complainant indicates experiencing discrimination on the basis of national extraction or nationality. Based on the available information, the staff member and the complainant can make a joint decision to classify the complaint under nationality or ethnic origin, or both.

It is then relevant to specify nationality or ethnic origin in further detail. Complaints handlers can ask which ethnic origin or nationality is the basis for the discrimination experienced. They can also (alternatively) ask what the nationality of the complainant is and note this down as a background characteristic of the victim (see section 4.4). Then on the basis of the specification of grounds or background characteristic, researchers in the data analysis phase will be able to record, for instance, the complaints about discrimination of Central and Eastern European (CEE) people.

On the grounds of nationality, there is some difference between discrimination due to the status in the application procedure and discrimination due to the non-possession of valid residence documents. It is advisable to register notifications and complaints about these (sub) grounds separately from each other, as much as possible. This will provide a good picture about people’s discrimination problems because of their nationality (such as CEE nationalities), people’s problems because of their status in the application procedure (e.g. asylum-seekers, economic migrants and family and marriage migrants) and the discrimination problems of migrants without documents. To be able to make a clear distinction, complaints handlers will have to continue to ask questions until the precise reason why someone has experienced discrimination becomes more evident. To this end, besides a category of ‘nationality’, the registration system should contain a category of ‘residence status’ with two subcategories of ‘without valid documents’ and ‘status in application procedure’.

Guidelines for categorisation:
- **NATIONALITY/PASSPORT**
  suggestions for subcategories (the largest minority groups in a country can be the basis for this): Moroccan, Turkish, Surinamese, Antillean/Aruban, Dutch, European, Asian
- **RESIDENCE STATUS** suggestions for subcategories: Status in application procedure (with the addition ‘i.e. ….’), Without valid documents

Skin colour

historical or religious nature (HR 13 June 2000, NJ 2000, 513). In the jurisprudence (HR 1 July 1986, NJ 1987, 217) a distinction according to ethnic origin, also means national origin (Cleiren & Nijboer 2008, (T&C Sr), Art. 137f, note 8).

20 From the human rights perspective, it applies that rights apply everywhere and always, to everyone, irrespective of their legal residence status.

21 It is advisable to determine someone’s origin on the basis of their own statements.
The visible, outward appearance of skin colour can be the reason for someone to experience discrimination. The legal term ‘race’ covers skin colour, as well as origin and national or ethnic extraction. Staff members can therefore record complaints about discrimination due to skin colour under the category of ‘race’ or ‘ethnic origin’. It is advisable to add a separate subcategory of ‘skin colour’, to allow researchers to easily retrieve discrimination complaints about this from a system in the data analysis phase.

**Guidelines for categorisation:**

- **SKIN COLOUR**
  - suggestions for subcategories: White, Black, Coloured

**Broader social phenomena**

People may have complaints about situations in which they have experienced racism, xenophobia, anti-Semitism, Islamophobia, sexism or homophobia. There is a debate about the precise meaning of these terms and the overlap with discrimination. In any case, the above-mentioned terms are related to value judgements, and feelings of hate, fear and/or aversion to a group. The terms also refer to broader social phenomena, usually with historical components, which possibly underlie the situations reported. These types of situations can be registered in several ways. Organisations could work with predefined categories, e.g. anti-Semitism and homophobia. Staff members can also register these situations, in consultation with the complainant, under specific grounds for discrimination such as religion, ethnic origin, sex or sexual orientation, where the staff member describes in an information field that the complainant uses a certain term in relating his or her experience, and for instance speaks of ‘Islamophobia’ or ‘sexism’.

It is advisable at the intake to record which ground (or social phenomenon) is at issue according to the complainant. At a later stage, during the evaluation by the organisation itself, or in the phase of data analysis, the researchers can label the complaints and notifications according to the criteria, for example, as sexism or Islamophobia (see also section 4.2 and Chapter 5).

**Sex and transgender**

‘Transgender’ is an umbrella term for persons whose gender identity and/or expression differ from their biological sex. This term incorporates a variety of gender-diverse people, including transsexual men, transsexual women, cross-dressers and many others who do not (solely) identify themselves as a man or woman. Transgenders come under the common term LGBT (Lesbian, Gay, Bisexual and Transgender), but not everyone is in agreement about placing transgenders in this group. Transgenders might in fact experience problems because of their gender identity, irrespective of their sexual orientation. Transgenders are protected by law in the Netherlands against discrimination on the grounds of sex. This applies in both the equal treatment legislation and in the Penal Code, with the exception of Article 137c and g.

There are complaints about discrimination on the grounds of being (supposedly) transgender, in which the victim is not treated as a fully valid man, woman or human being. It is advisable to include ‘transgender’ as a subcategory of the sex discrimination grounds besides the subcategories of ‘man’ and ‘woman’. This makes the complaints about discrimination due to being transgender more visible. If the complainant (also) indicates experiencing discrimination on the basis of sexual orientation, the staff member can (also) register this latter ground.

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22 Definition used by Transgender Netwerk Nederland, see: http://transgendernetwerk.org/transgender/woordenlijst/. There are some people to whom the term ‘transgender’ would apply according to this definition, yet they are unable to agree with this term, see http://transgendernetwerk.nl/transgender/.

23 For ‘transsexuality’ see Court of Appeal Leeuwarden, 13.01.1995, Dutch case law 1995, 243 and, for instance, CGB opinion 1998-12 and CGB opinion 2000-73. For transvestism see CGB opinion 2007-201.

24 If necessary a separate subcategory for complaints about discrimination due to transvestism can be added.
When registering the sex of the complainant (see section 4.4), it is also advisable to offer the ‘transgender’ category in addition to ‘man’ and ‘woman’. Be fully aware that a question about sex is possibly a sensitive matter for transgenders. When analysing the complaints data, there will be the possibility to retrieve the complaints of all transgenders from the system on the basis of the background characteristic of sex. Therefore, in addition to the complaints about sex discrimination, the complaints from transgenders about discrimination due to sexual orientation will become visible.

Guidelines for categorisation:

- **SEX**
  - suggestions for subcategories: Man, Woman, Transgender and Others, i.e. ....

**Sexual orientation**

The AWGB and the Penal Code protect against discrimination on the grounds of heterosexual or homosexual orientation. Discrimination based on bisexual orientation is also within the scope of the AWGB. In the OM’s opinion too, discrimination on the grounds of bisexuality is criminal, even if it is not mentioned in the Discrimination Manual of the LECD-OM. Discrimination on the grounds of other sexual preferences (e.g. treating someone differently because of his or her paedophilia) is not prohibited by law.

The annual reports of most complaints bodies do not usually indicate which sexual orientation complaints about discrimination are concerned with these grounds. It appears that organisations do not always use the subcategories in a system to further specify the ‘sexual orientation’ grounds, for instance in the ADBs less than half the cases in 2009 had a completed subcategory.

It is recommended that ‘sexual orientation’ be used as the main category with ‘homosexual orientation’, ‘heterosexual orientation’ and ‘bisexual orientation’ as subcategories. For a good overview, for instance of complaints about discrimination due to bisexuality, the staff members should consistently complete the subcategories.

If complaints are received about discrimination on the grounds of another kind of sexuality, then the staff member should consistently place this in the ‘other’ subcategory or in a main category of ‘other grounds’. When reporting about discrimination on the grounds of sexual orientation, researchers only have to add together the three subcategories of ‘homosexual’, ‘heterosexual’ and ‘bisexual orientation’.

Guidelines for categorisation:

- **SEXUAL ORIENTATION**
  - suggestions for subcategories: Homosexual (man), Lesbian, Heterosexual, Bisexual

**Disability or chronic illness**

In registering sensitive personal data, informed consent and voluntary collaboration is the principle. See legislation concerning personal data protection.


The CGB and the MDI use the ‘sexual orientation’ category as grounds, without subcategories. The OM speaks of ‘homosexual orientation’ and does not use any subcategories. The police use the ‘sexual preference’ category with subcategories of ‘homosexuality’ and ‘heterosexuality’. The ADBs use ‘homosexuality’, ‘heterosexuality’, ‘bisexuality’ and ‘other’ as subcategories of ‘sexual orientation’.

People with a drawback such as a physical disability or chronic illness may experience discrimination. Someone could also experience discrimination due to an intellectual limitation or a mental health disability or illness. Even if a mental health problem is not usually immediately visible, knowledge of this may lead to the different treatment of the person concerned. It is relevant in the sub-categorisation to make a distinction as to whether the discrimination complaint is concerned with a physical disability/illness or a mental health disability/illness. Not everyone will immediately regard a limitation, such as short-sightedness, as a disability which can be discriminated against. There are both wider and narrower definitions of what does or does not come under a mental health disability/illness. Whether a situation is in breach of the equal treatment legislation depends on its characteristics. In cases of unequal treatment experienced, CGB will check which distinction has been made between people with and people without a limitation and whether there are other interests at stake. The gravity of the incident, the seriousness of the unequal treatment, also helps determine whether this is indeed discrimination on the grounds of disability. It is also a point whether it is possible to carry out an effective adjustment which can be reasonably expected of a school or employer, for instance. It is advisable for registration that, at the intake of the complaints, all the complaints about discrimination due to disability/chronic illness are registered, even if there is a discussion as to whether everyone really considers the disability concerned, such as wearing spectacles for near-sightedness, to be a disability. The complaints body can subsequently make its own evaluation of the situation and estimate whether this has a relevant legal basis. The staff member can make a note of this evaluation in the complaints file (see Chapter 3). If a legal assessment follows, the opinion on whether it is a matter of discrimination on the grounds of disability can be added to the file concerned.

Guidelines for categorisation:
- DISABILITY/CHRONIC ILLNESS
  suggestions for subcategories: Physical, Intellectual limitation/Mental health, Physical and intellectual limitation/mental health disability

Religion and philosophy of life

It is not always clear when someone’s belief is considered a religion or a philosophy of life. The Discrimination Manual of the LECD-OM states that a philosophy of life is about fundamental views about life in all its facets, in other words about principles on which a person organises his or her life. Humanism and atheism come under this classification, but a political persuasion does not. According to the CGB, both a religion and philosophy of life should be about an existential communal belief, i.e. a more or less consistent system of ideas, concerning fundamental convictions about human existence. It is also necessary that these convictions are not only individual but also a communally held belief. A religion is furthermore a belief about life in which a supreme being is the key element, while a philosophy of life lacks a supreme being.

It is advisable in the case of a complaint on the grounds of philosophy of life or religion, to check with the complainant about which philosophy of life or religion is concerned in his or her opinion. A starting point at the intake is the interpretation of the complainant and his or her description of the situation. It is advisable to make a distinction between the grounds of philosophy of life and religion, in so far as that can be deduced from the description of the situation. Discrimination complaints due to a political persuasion or social views should not be recorded by the staff members on the grounds of the philosophy of life, but in consultation with the complainant, under political persuasion or on other grounds.

30 See e.g. FRA (2012). Choice and control: the right to independent living - Experiences of persons with intellectual disabilities and persons with mental health problems in nine EU Member States, Vienna: Fundamental Rights Agency.
31 Landelijk JurisprudentieNummer (LJN) [Dutch Law Reports No.]: AF8921, also see Handboek Discriminatie [Discrimination Manual], p. 98.
33 See CGB 23 February 2005, 2005-28, consideration 5.5.
The staff member can then further specify the grounds of religion by using subcategories. The classification and terminology of subcategories can be based on the well-known world religions (Islam, Judaism, Buddhism, Hinduism and Christianity) or may be derived from a list of the most common religions in a country (e.g. Catholicism and Protestantism in the Netherlands).

It is also advisable to add the option of ‘not religious’ as a subcategory. This may relate to people who are not religious at all and/or do not follow a specific (world) religion. It may also relate to people who had previously been religious and/or belonged to a religious community, but no longer do so. The staff member can specify this further in the explanation.

The stated religion/philosophy of life in which someone has experienced discrimination does not have to correspond to the philosophy of life which the person has or with the religion to which the person adheres. The complaints body can ask about the philosophy of life or religion of a complainant. The staff member can then register the stated religion or philosophy of life as a background characteristic (see section 4.4).

Guidelines for categorisation:

- **RELIGION**
  - suggestions for subcategories (the well-known world religions or the most common religions in a country can be the starting point): Islam, Catholicism, Protestantism (Dutch Reformed/Reformed), Judaism, Buddhism, Hinduism, Non-religious
- **PHILOSOPHY OF LIFE**

**Age**

In classifying complaints about discrimination on the grounds of age, it is advisable to specify the complaints in further detail. It is relevant to know whether the complainant has experienced discrimination because the person was found to be ‘too old’ or in fact ‘too young’.

Guidelines for categorisation:

- **AGE**
  - suggestions for subcategories: Too young, Too old

**Political persuasion**

It is advisable to further specify complaints about discrimination due to political persuasion. It could be that the discrimination experienced is directed at a specific political party or at a more general political movement. Subcategorisation can be based on the largest political parties in a country. The labelling of a complaint as discrimination due to an extreme right or extreme left political persuasion can be based on the perspective of the complainant (at the intake). The complaints body can at a later date also qualify the complaint in terms of criteria and classify it under the discrimination grounds of an extreme right or extreme left political persuasion.

Guidelines for categorisation:

- **POLITICAL PERSUASION**
  - suggestions for subcategories (the largest political parties in a country can be the basis for this): CDA, VVD, PvdA, SP, GroenLinks, PVV, D66, Christenunie, SGP, Partij voor de Dieren, Other (more general) political persuasion or movement (e.g. extreme right/fascism/extreme left)

**Employment contract and length of service**

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34 Informed consent and voluntary collaboration are essential in registering sensitive personal data. See legislation concerning personal data protection.
Employees may experience discrimination because they have a part-time job and not a full-time job. It can also be the case that the employer makes a distinction between employees in permanent employment and those with a temporary contract. When classifying discrimination due to the type of employment contract, it is advisable to distinguish between these two forms, i.e. complaints about differences based on permanent or temporary appointments (‘permanent versus temporary employment contracts’) and complaints about differences due to working hours (‘full time versus part time’). People may also have complaints about differences between employees who have been in service for a long time and employees who have been in service for a relatively short time. The AWGB does not provide protection for the latter, unless it coincides with the type of contract, as people who have not been long in service often have a temporary contract, or coincides with the age grounds, because employees with a relatively longer service are sometimes older (then the WOBOT and the WGBL, respectively, may be applicable).

Guidelines for categorisation:
- EMPLOYMENT CONTRACT
  suggestions for subcategories: Permanent/temporary
- EMPLOYMENT CONTRACT WORKING HOURS
  suggestions for subcategories: Full time/part time
- LENGTH OF SERVICE (EMPLOYED PERIOD)
  suggestions for subcategories: Too short, Too long

Multiple discrimination

Sometimes, people may experience discrimination in a situation on more than one ground simultaneously (multiple discrimination). It could be about discrimination on two grounds which operate separately from each other. The discrimination on the one ground can be added to the discrimination on the other ground, creating a situation of compound discrimination. A woman, for instance, may experience discrimination on the grounds of a disability and, in addition, discrimination on the grounds of being a woman.

With discrimination on a number of grounds it may also be about an ‘intersectional discrimination’. This concerns situations in which the combination of two or more grounds has resulted in a (prohibited) distinction. This creates specific forms of discrimination.\(^{35}\) For instance, homosexual Christians could experience forms of discrimination which other (non-Christian) homosexuals or (heterosexual) Christians do not encounter.

It is advisable to set up the registration systems to make it possible to register more than one ground. The system can have a technical option to automatically label these cases multiple discrimination. The number of complaints can then be presented in a statistical report for certain (frequent) combinations of grounds.

There are several ways to retrieve complaints data from the registration system in order to check whether certain subgroups experience specific forms of discrimination. It could be that the complainant only indicates one ground as the cause of discrimination, while intersectional discrimination is possibly occurring. Take for instance the discrimination grounds of the Catholic faith. By selecting certain background characteristics of the victim, e.g. sex=woman, all the complaints and notifications are retrieved of women experiencing discrimination due to the Catholic faith. Using a file analysis, a researcher can then check whether the sex has possibly played a role in the situation complained of.\(^{36}\) The organisation can also run a file analysis on the files where more than one grounds has been indicated, to check whether there is a possible case of intersectional or compound discrimination.

A precondition for file analysis is that the complaint has been adequately described in an information field and possibly contains information which shows whether there has been an interaction between two or more discrimination grounds. However, it is questionable whether it is feasible to obtain good qualitative

\(^{35}\) See Makkonen, T. (2002) *Multiple, compound and intersectional discrimination: bringing the experiences of the most marginalized to the fore*, Turku (Finland): Institute for Human Rights Åbo Akademi University.

\(^{36}\) Also called the ‘gender dimension’ or ‘gender aspect’. 
information about intersectional discrimination from the complaints files. This not only demands an extra effort from people who register these complaints, but also the question about whether it is compound or intersectional discrimination is a complex matter.

Other discrimination grounds (not covered by law)

The tasks and aims of the various complaints bodies are based on, or the result of, national and/or international legislation. Specific national legislation is focused on a restrictive list of grounds, forms and/or areas. As mentioned above, citizens are not always aware of the details of this legislation or have their own interpretation for them.

The problem of discrimination often crops up in common parlance. There are various definitions in circulation and people have a wide variety of opinions about whether something is discriminatory or not. There are cases which concern discrimination but which are not recognised as such by the victim. On the other hand, there are situations that are felt to be discriminating, but which do not come under the protection of antidiscrimination legislation. The recognition of discrimination, or the idea that one recognises discrimination, plays a role in the decision to file a complaint. There are complaints in which the complainant indicates a non-legal discrimination ground which in his or her opinion is protected.

It is advisable to include complaints in the registration system that are about non-protected grounds, forms or areas and to put them under the category “Others, i.e. ..’. Researchers can analyse these complaints further at a later stage. This is interesting in the context of observing new, not (yet) protected grounds, forms or areas. The results of such an analysis could show that there is still a task (for the organisation) to explain specific sections of national law more clearly.

If a legal associate estimates that the situation or ground does not come under a section of the law, but has not (yet) been assessed by a competent authority, then it is advisable to classify the complaint as ‘probably no legal basis’. The addition of ‘probably’ is to prevent complaints that have not (yet) been legally assessed from being rejected in advance, possibly wrongly, as ‘non legal’. In their reports, the competent authorities can classify the ultimate legal opinions or judgements on the grounds, forms or areas as ‘legal’ or ‘non legal’.

Mismatch of discrimination grounds and background characteristic

It sometimes happens that the group to which the victim belongs (background characteristic) is not the same as the group which is referred to in the notified situation (discrimination grounds). For example, two men file a discrimination complaint because they have been threatened in the street due to their supposed homosexual orientation, whereas in fact they are heterosexual. Another example is that someone is verbally abused by being called a ‘lousy Moroccan’, whereas the person in question is of Iranian origin. It makes no difference in such cases if the complainant is not actually homosexual or Moroccan when deciding whether to record the complaint or not.

An unusual type of a mismatch between the discrimination grounds notified and the background characteristic of the complainant is the situation in which a discriminating word is shouted at someone and this is also a common term of abuse. For instance, police officers are often called ‘homo’, even when they are heterosexual. In such cases it is dubious whether the person who shouted at the officer had the intention to discriminate against a group of homosexuals or if s/he used the word ‘homo’ as a random term of abuse to insult the officer. Even if the officer is not a homosexual himself, he can still file a discrimination complaint about such an

37 If the organisation wants to use the ‘non legal’ qualification it needs to explain that this is their own estimate and not a judgement or opinion of a competent authority.

38 For the classification of this type of situation (see Chapter 4), it is advisable, in the first instance, to tick the subcategory of ‘homosexual’ under ‘sexual orientation’, and in the second case the subcategory of ‘Moroccan’ under ‘race/ethnic origin’. If the complaints body registers the ethnic origin as the background characteristic of the victim (based on his/her own statement), it can be indicated there that the complainant originates from Iran.
incident. It is advisable to register this kind of complaint as ‘homo discrimination’ with a note (in the information field or by ticking a subcategory) that there was a slanging match in which the aim was presumably to insult rather than to discriminate against.\textsuperscript{39} If it becomes known from contact with those involved that the intentions were of having a slanging match, then the staff member can add such information to the file.\textsuperscript{40} The fact that the target was a police officer is also relevant. It is advisable to register this (i.e. position /job /profession of the victim = police officer) as a background characteristic of the person involved (see section 4.4).

**Discrimination by association**

People can also experience discrimination because they are in contact with, or have a particular relationship with someone from a potential victim group. The group or group characteristic (and thus the grounds for discrimination) is then not applicable to the victim himself/herself, but to the person with whom s/he is associated. An example is when a man is discriminated against because he is married to a Chinese woman or when a caregiver is discriminated against because he is a carer for homosexuals.

The grounds for discrimination are related to a feature of a particular person (e.g. the Chinese origin or the homosexual orientation), but someone else is experiencing the negative treatment because s/he is associated with that person. In addition to ‘discrimination by association’ there is also ‘transferred discrimination’.\textsuperscript{41} It is advisable to register these cases in a separate category. For example, by providing the possibility in the system of reporting in an information field that it is about the feature of a contact/relation, thereby indicating what sort of a contact/relation is involved, e.g. ‘partner’, ‘family member’, ‘friend’, ‘colleague’, ‘fellow staff member’, or ‘client/patient’.

### 4.2 Form of discrimination

Knowledge of the nature of the situations that occur is relevant for making a plan of approach to counter discrimination. Discrimination is a wide-ranging and multifaceted phenomenon. Insight into the ways in which a particular discrimination phenomenon manifests itself provides indications for designing specific projects and policy. Discrimination has many forms of expression, such as violence, threat, destruction and daubing. It can also occur in the form of written or spoken expressions or in the form of treatment, such as harassing, bullying, gossiping and intimidating. In addition, acts or rules can be, or turn out to be discriminatory for a particular group. Discrimination can also be manifested by the omission of acts whereby a group or someone from a group is disadvantaged. The discrimination articles in Dutch Criminal Law also make inciting to discrimination, the spreading of discriminatory comments and giving support to discriminatory activities punishable by law.

Various forms of discrimination can take place at the same time. Since information about the features and aspects of problems of discrimination can provide valuable indications for setting up anti-discriminatory initiatives, it is important to register as many data as possible about the form to which the discrimination complaint is related.

**Application of rules**

There are cases in which a direct distinction is made between groups on the basis of a group feature, such as skin colour. In addition to a direct distinction, the AWGB also prohibits indirect distinction. Indirect distinction includes ostensibly neutral acts or rules that harm particular (groups of) people structurally and to a greater

\begin{footnotesize}
\textsuperscript{39} In the annual report it is advisable (see Chapter 5) to present such complaints separately from other complaints about homosexual discrimination, or in any case to indicate how many of the total number of complaints about homosexual discrimination are concerned with swearing at police officers.

\textsuperscript{40} For the structural approach to a complaint (with respect to a perpetrator), it is important to know what the real intentions of the alleged perpetrator were and to what extent discrimination of a group played a role.

\textsuperscript{41} There are various interpretations of the concept ‘discrimination by association’. The range of the concept is thus diverse and sometimes also includes cases in which one is instructed to make a distinction.
\end{footnotesize}
degree than other groups. An example of this is when a job requirement is a good mastery of the Dutch language, while for that particular job it is not necessary. This will primarily affect migrant groups. However, if the distinction has been objectively justified, because the language requirement is relevant for the function (e.g. the position of secretary), the distinction is permitted. Discrimination can therefore be manifested in regulations, policy and certain (specific) practices and intentionally or unintentionally can exclude groups or treat them unfairly.

It is not always easy to establish which acts or rules in a particular situation add to this effect and which do not. The CGB tests whether there is any indirect discrimination. In certain cases, there is definitely discrimination, but there are also relatively complex and ambiguous situations in which the legal assessment whether the rule has been applied correctly or incorrectly is complicated.

It is advisable to record the ‘application of rules’ as a category under forms of discrimination in the complaints register. In the intake, it is appropriate to record which acts or rules are discriminatory according to the complainant. In an open information field, the member of staff can specify the rule concerned. If a judicial evaluation subsequently takes place, this information can be added to the file.

**Discriminatory treatment**

There are various manifestations of discriminatory treatment, such as bullying, pranks, insults, exclusion, (sexual) intimidation, malicious gossip and excluding. In daily practice, these forms can occur concurrently and are often also difficult to distinguish one from another. Moreover, the concepts overlap to some extent: making a joke about someone can appear insulting or someone can be excluded through bullying. Nevertheless, it is advisable to make a distinction between these various forms in the registration system. To submit a complaint under a specific form, for example under bullying can be on the basis of the perspective of the complainant (in other words, if the complainant himself/herself uses the word ‘bullying’ to describe the incident) or the staff member/researcher can qualify the complaints retrospectively as ‘bullying’ on the basis of previously determined criteria.

**Context**

In the judicial review of a discrimination complaint, the context in which the statement was made also plays a role. In a legal connotation, the context can even remove the insulting character of a remark. Consider, for example, remarks made in public debate or statements made in artistic expression. The (alleged) perpetrator may also have made statements in the framework of his/her religious belief. In registering a complaint, it is interesting, where possible, to make a brief report of the context.

**Guidelines for categorisation:**

- CONTEXT
  - suggestions for subcategories: in public debate, as artistic expression, in the framework of religious belief.

**Means of communication**

With discriminatory expressions, it is relevant to further specify the manner and channel of communication. For example, is the expression verbal, written or visual? People can express themselves in a discriminatory manner via various channels of communication. An expression can be made face to face, via the telephone or via internet. Discrimination in a text or picture can take place via a letter, text message, email or on the internet (e.g. on a forum). Insight into which channel is used for communication can be relevant for an effective approach to the problem.

**Guidelines for categorising:**

- MANNER OF COMMUNICATION
  - suggestions for subcategories: Verbal, Written, Pictorial, Daubing, Video, Sound recording
- CHANNEL OF COMMUNICATION
  - suggestions for subcategories: National postal service, Telephone, Text message, Internet forum, Email, Chat rooms, Social media network (e.g. Facebook)

**Daubing on specific objects**
‘Daubing’ implies destruction of an object. There are mild forms (minor daubing in a public toilet) and more serious and large-scale cases (graffiti on a war memorial). Daubing on specific objects involves daubing on a specific target, for example a swastika on a synagogue. Since the perception of both actions is usually different, it is advisable to register target daubing separately. In terms of criminal law, graffiti on a war memorial is the same as painting a swastika in a public toilet; both are classified as vandalism. In addition, depending on the significance of the daubing, it can also be antidiscrimination, according to article 137c or 137d (Dutch penal law) or simply an insult. The target can have the effect that another meaning should be given to the daubing.

Collective terms for violence

With incidents of violence there can be a diversity of situations. In view of this extensive range, it is a good idea when registering incidents to describe precisely what form of violence was involved. If necessary, the researcher can use the broad umbrella term ‘violence’ in the phase of data processing and reporting, provided that it is clearly indicated what sort of incidents have been included under violence. Thus, in the Anne Frank Foundation Monitor Racisme en Extremisme (Monitor of Racism and Extremism), in the main category of ‘violence’ the following forms are listed: daubing on specific objects, threats, bomb alert, confrontation, vandalism, arson, maltreatment, bomb attack and manslaughter.

A violent confrontation may be spontaneous or, equally, it may be organised street violence. There are then several parties involved, groups of young people for example, who come to blows at school or on evenings out. It is often difficult to distinguish between perpetrators and victims, because it is a case of a series of actions and reactions (often in quick succession). When registering this, it is pertinent to indicate whether it is an actual executed deed or an attempt at that deed. If necessary, with vandalism and arson, the staff member can note whether it was private property or not.

Receiving instructions to discriminate

It sometimes happens that a person receives instructions from someone else to make a distinction between groups and to exclude certain groups. For example, there are known situations in which an employer requests an employment agency not to send any candidates of a particular ethnic origin. Employees of an employment agency may report this. It is advisable to register this specific form of discrimination in a separate category.

Forms of discrimination

As described previously, discrimination can be manifested in many different ways. It is advisable to register as accurately as possible the form to which the discrimination complaint refers. In order not to lose any information, when registering it is advisable to take more specific categories rather than broad umbrella categories.

Guidelines for categorising

42 Ibid.

43 See Rodrigues, P.R. and Van Donselaar J.(eds.)(2010) Monitor Racisme & Extremisme: negende rapportage, [Monitor of Racism and Extremism: ninth report] Amsterdam: Anne Frank Foundation/University of Leiden. In this connection, violence included the following: behaviour in which one party deliberately harms the other party, or threatens to do so, and in which this behaviour is primarily focused on physically attacking objects and/or persons. With reference to this the following can be understood to mean racist violence: the form of violence in which the victims or targets have been selected because of their ethnic, racial, ethnic-religious, cultural or national origin. The reader is referred to a more extensive study, F.J. Buijs & J. van Donselaar, Extreem rechts: annhag, geweld en onderzoek, [Extreme right: following, violence and research], Leiden: Leiden Institute for Social Science Research 1994, pp55-64.

44 Ibid.


46 A number of the categories named refer to a discrimination article in Dutch penal law (Steun verlenen aan discriminerende activiteiten [Offering support to discriminatory activities] – 137f Sr, Verspreiden van discriminerende uitlatingen [Spreading of
Discrimination can take place overtly, whereby there is explicit reference to a group or group characteristic. There are thus cases in which it is clear that someone is being unfavourably treated because of his or her race, origin or faith. An example is when a doorman at a catering establishment in the presence of witnesses shows a guest the door and so sends out the message that 'blacks' are not allowed in. There are also more subtle or covert forms of discrimination, in which there is no overt reference to the group or to a group's characteristic. When registering, it is advisable to record literally any verbal or written discriminatory expressions of the presumed perpetrator(s) in which there is a reference to the characteristic of a group or groups. In the analysis phase, the researcher can retrospectively combine the information in this area with other data, such as characteristics of victim and perpetrator and information about the area and the context. Analysis of this can provide more insight into where, when and how overtly discriminatory statements occur in the incidents reported.

Registering the specific expression
Broader social phenomena of discrimination, such as anti-Semitism, may be comprised of diverse situations in which the phenomenon is manifested. There may be a debate about whether or not a particular situation is a manifestation of the phenomenon. Thus there are various views about situations which may or may not denote anti-Semitism. For some time now, there has been widespread disagreement as to whether criticism of the existence of Israel and its political policy is a form of anti-Semitism or not. Such critical expressions could be a cloaked form of discrimination against Jews. 49

Quite apart from the discussion as to whether such criticism is an expression of anti-Semitism or not, people can experience it as such and file a complaint about it (see also section 4.1 and Chapter 5). It is advisable to record all complaints that were experienced as anti-Semitism and in doing so to specify clearly and precisely to what the complaint related. In other words, the recommendation is to not only to note that the complaint concerned an (alleged) anti-Semitic remark, but also to indicate specifically what the remark was about. On the basis of the information available at the intake, with complaints about anti-Semitic statements it is in any case advisable to make a distinction between criticism of Jews as a group, criticism of the existence of Israel and criticism of Israeli government policy.

Complaints may also be filed about swastikas for example. Although the swastika is a symbol for Nazism, from a number of situations in fact it has turned out that the defacement has not always stemmed from anti-Semitism. The significance of swastikas sometimes turns out to have shifted to a more general nationalistic and/or racist mentality. In a number of cases, it emerges from the personal dissatisfaction or recalcitrance of the perpetrator. In any case, a complainant can experience a swastika as anti-Semitism and report it as such.

NB. Provide the possibility of ticking several options, since more individual forms can avoid combined forms. Moreover, the distinction between certain forms is sometimes not entirely clear (for example, making jokes can also be bullying)

Overt and subtle discrimination

Suggestions for categories: Application of rules/criteria, Offering support for discriminatory activities47, Insulting, Bullying, Intimidating48, Snubbing, Making remarks/jokes, Putting at a disadvantage/excluding, Demonstrations/meetings, Spreading discriminatory remarks, Urging discrimination, Receiving instructions in order to discriminate, Manslaughter/murder, Physical maltreatment, Violent forms of group confrontation, Vandalism, Arson, Daubing/defacement, (subcategory: Daubing on specific objects or not, subcategory: right extremist signs or other signs), Bomb attack, Bomb alert, Threats.

47 For example, financially supporting a racist organisation.

48 Sexual intimidation is a specific form of intimidation that can be further specified in the information field.

A complaints body may or may not label a complaint as anti-Semitism on the basis of the above criteria. The staff member can add this judgement to the complaints file. It is advisable in all cases when presenting complaints about anti-Semitism, to indicate to what sort of situations the complaints are related and to subdivide these according to form. With the presentation of the complaints figures there should be an explanation with the criteria employed and a description of the phenomenon.

4.3 Social area and location

It is relevant to know in which field the complaint took place, such as at work, in a restaurant, in government offices or at school. The staff member can further specify the area by noting the exact location, for example, indicating the sector or the type or by registering to which specific domain within the area the complaint was related.

Physical location or social area
Most complaints bodies record the spot where a reported situation took place. This can be a specific location (such as a synagogue or Gay cruising area) or a more abstract social area (such as education, catering or work). The choice of registering a specific location or area is linked with the responsibilities and objectives of the complaints organisation. For the police, for example, it is important to know on which specific locations they should focus their attention, but for the national government it is relevant to know in which social area the discrimination took place, so that the ministry responsible can develop appropriate policy measures.

Types and sectors
In so far as time and funds available for registration allow, it is advisable to further specify a social area. For example, it might be sectors of the labour market (such as construction, financial sector, government and the agricultural sector), the type of education (such as primary education, secondary education and higher education) or the sort of catering establishment (such as restaurant, disco, hotel and café).

Domains
It is advisable in any case to make a distinction between complaints over access to an area and complaints about discrimination actually in the area itself. It is of great importance to gain insight into the extent to which particular groups have little or no access to a certain area. Since the right to care, education and housing, for example, is the same for everyone, it is relevant to monitor complaints of discrimination about access to these facilities.

Often, information about the domains in an area is sketchily reported. It is advisable to collect more data and to report exactly which domain a complaint refers to. This applies for example to the labour market. There may be complaints about discrimination in recruitment and selection, on the shop floor, regarding the conditions of labour, in promotion and in dismissal. Insight into the domains is important in setting up a focused approach and in developing policy measures.

Border regions
There may be border regions between various areas, for example if work experience is involved: this can just as easily be considered to be in the area of the labour market as in the area of education. It is advisable to register complaints relating to work experience in the field of the labour market, according to legal precedent of the CGB. In all cases, it is important that there is total clarity about the chosen method of registration among the complaints handlers.

Discrimination in the media

Experiences of discrimination in the media may be related to the comments of particular persons in a medium and/or the manner in which that medium delivered the report.\(^{50}\) It may be unclear when a complaint is

\(^{50}\) A person can experience the manner of reporting as discrimination. For example, this may be due to the use of language or terminology employed, to the design of an article/report, to providing a platform for particular speakers or to the selection of particular news items.
applicable in the area of media. For example, with a complaint about a statement of a politician in the media, the staff member can enter it either under ‘public/political debate’ or under ‘media’. In principle, the media are ‘merely’ the conveyors of information and it is more relevant to know who or which organisation made the discriminatory statement. On the other hand, in the context of dealing with discrimination, it may be interesting to know in which area the comments were made. In that case, for example, policy measures can be focused on the parties in the media.  

It is advisable to make a distinction between complaints about the manner in which a report is made by the media and complaints about discriminatory remarks by certain persons in the media. There may also be complaints that fall into the grey area between these two categories. Another overlap may be between the fields of media and internet. Nowadays, items from television, radio and the written press can also be found on the internet. This blurs the distinction between these areas.

**Discrimination on the internet**

As with other media, people can use the internet in order to make discriminatory comments. In this sense, the internet is a means of communication. It can also be considered as a location in which discrimination has taken place. Regardless of whether internet is actually a means or an area, in many respects online discrimination is a relevant phenomenon that requires separate monitoring.

Discrimination on the internet has a number of characteristic features that influence both the spreading and the combatting of discriminatory statements via this medium. The high degree of anonymity and the worldwide range make the internet an eminently suitable platform from which to send unpleasant and hurtful messages into the world without any damage to one’s reputation. Because of a lack of face-to-face contact, prevailing social barriers lose their force. In general, interactions on the internet have no direct influence on offline social life.

Furthermore, hidden behind a pseudonym, people are inclined to express themselves more directly, more emotionally and more unrestrainedly about personal or controversial topics. Anonymity on the internet may thus lead to people making discriminatory remarks more readily than in offline life. Internet has even been described as an ‘ideal’ medium for spreading hate and inciting violence.

In any case, it is advisable to indicate whether the complaint was related to a form of expression on the internet. If this is known, with complaints about online discrimination, the staff member can indicate to what extent the (alleged) perpetrator behaved anonymously or to what extent s/he is a known person. With complaints about the internet related to a specific social area, such as complaints about age discrimination in online advertisements, the staff member can classify them under the relevant area (labour market) with an annotation that it is related to a situation of online discrimination.

**Social areas and locations**

As described above, discrimination can occur in various areas and in actual locations. It is relevant to describe the area as specifically as possible and thus an abundance of answer options is necessary. It can be instructive to gather data about which sector or about to which specific domain a complaint explicitly refers to. On the

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51 Any counting of (alleged) discrimination by the media is somewhat limited or can be (apparently) in conflict with journalistic liberty and freedom of the press.


53 See www.sociosite.org.

basis of the requirement of particular information, the organisation can determine what further details about the area are relevant. Depending on the requirement for information, subcategories of an area may relate to a specification of the actual location, the sector or the type, or a specification of the domain. In order to avoid losing information, it is advisable to fill in the subcategories consistently if they are known.

**Guidelines for categorisation**

- **EMPLOYMENT**
  suggestions for subcategories according to domain: Recruitment and selection, Employment agency, Shop floor, Employment conditions, Promotion/transfer, Dismissal (threat)/redundancy
- **EDUCATION**
  suggestions for subcategories according to type: Public education (primary, secondary, higher), Education based on religious principles (primary, secondary, higher),
- **CATERING/NIGHTLIFE/ENTERTAINMENT**
  suggestions for subcategories according to type: Hotel, Restaurant, Café, Disco, Festival
- **TRANSPORT**
  suggestions for subcategories according to type: Public, Private
- **COMMERCIAL FINANCIAL SECTOR**
- **COMMERCIAL BUSINESS SECTOR**
- **CULTURAL SECTOR**
- **HEALTH CARE AND WELFARE**
- **SOCIAL SECURITY**
  suggestions for subcategories: National insurance, Employees’ insurance
- **PUBLIC ADMINISTRATION/GOVERNMENT**
  suggestions for subcategories: Central government, Province, Municipality.
- **INDUSTRY AND CONSTRUCTION INDUSTRY**
- **AGRICULTURE AND FISHERIES**
- **HOUSING ENVIRONMENT**
  suggestions for subcategories: Neighbourhood/district, Asylum-seekers Centre/shelter
- **ACCOMMODATION**
  suggestions for subcategories according to domain: Access to the housing market
- **SPORT**
  the most well-known sports worldwide or the most common sports in a country can be the starting point for the subcategories.
- **PUBLIC SPACE**
  suggestions for subcategories: On the street, Shops (shopping area), Gay cruising area, Young people’s meeting place
- **RELIGIOUS BUILDING**
  suggestions for subcategories according to type: Church, Mosque, Synagogue, Temple
- **POLICE AND JUSTICE**
  suggestions for subcategories according to sector: Police, OM, Customs, Prison
- **ALIENS DEPARTMENT**
- **PUBLIC/POLITICAL DEBATE**
  suggestions for subcategories according to type: During meeting, On TV, On the radio, In the written press, On the internet
- **EDITING/JOURNALISM (METHOD OF REPORTING/SELECTION OF SUBJECTS)**
  suggestions for subcategories according to type: TV, Radio, Written press, Internet
- **ADVERTISEMENT**
- **PRIVATE SPHERE/RELATIONAL SPHERE**

**NB:** some of the categories named above could also be part of an umbrella main category ‘Goods and Services’, whereby the named categories would then become subcategories.

**NB:** In designing a classification system it is difficult to define mutually exclusive categories: some areas are partial areas of others (for example, discrimination in the field of social security is also present in a certain sense
in the area of the government). In addition, a discrimination complaint can cover several areas or the area may be unclear. That is why it is a good idea to offer the opportunity of choosing more than one area.

4.4 Characteristics of those involved

The staff member can register various characteristics of the victims and the (alleged) perpetrators. However, information about those involved is not always available or classified at the complaints bodies. There may be various reasons for this, such as the focus of the organisations in question, for example focus on the victim (services for the victim) or on the possible perpetrator (proceedings against the perpetrator). It is pertinent to have information about the group of people who have filed a complaint, so that the organisation can improve services for them. In order to develop preventive measures, it is also important to know who the (alleged) perpetrators are. One example is that if it appears from the characteristics of those involved that there are complaints coming in about employment agencies, then a preventive approach can focus on this potential group of perpetrators. It is advisable to delineate the background characteristics of alleged victims and perpetrators as clearly as possible. Personal characteristics such as age, sex, ethnic origin and religion of both victim and perpetrator are significant.

On the basis of a background characteristic, researchers, when analysing the complaints data, can for example select all the complaints from a particular group, for example from all Muslims (background characteristic religion = Islam). Thus, a selection can be made both of all complaints on the grounds of the Islamic faith (discrimination grounds religion = Islam) and also of all complaints from complainants who stated Islam as their religion. Such a selection can be interesting in analysing complaints from Muslims because of other grounds than religion, for example complaints about discrimination on the grounds of sex or sexual orientation (see multiple discrimination).

Sensitive characteristics and means of identification of those involved

Registering sensitive personal characteristics already came up for discussion in dealing with the registration of grounds for discrimination. It may be that the complainant finds it uncomfortable making a characteristic known, such as sexual orientation or religion, and prefers to withhold that. Some people may have personal problems with the characteristic or may be afraid that through the registration the characteristic will become known. Matters of privacy may be at issue during the registration and exchange of data about sensitive characteristics, such as a person’s sexual orientation, political persuasion or ethnic origin. Data protection legislation prescribes that those involved may not be identifiable. It is recommended, at registration, to ask victims and perpetrators for personal details on a voluntary basis and to safeguard their privacy by means of ‘informed consent’ (i.e. giving permission after being fully informed about the objectives of the registration and of any possible distribution of data to third parties).

Characteristics of the complainant/the victim

During the intake, on a voluntary basis and with ‘informed consent’ complainants may make known personal characteristics. As far as age is concerned, it is advisable not to ask for the date of birth in connection with the possible means of identifying the complainant; it is important privacy is guaranteed. Information about ethnic origin can best be obtained on the basis of self-reporting: to which ethnic group does the complainant consider himself/herself to belong?

With victims who have come to tell their story, it is advisable not to overload them with questions. Questions about personal characteristics can be very delicate. It is preferable for the staff member to ask these after the first interview, for example at second meeting or in writing.

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55 When registering sensitive personal data informed consent and voluntary collaboration is the starting point. See legislation concerning personal data protection.
In addition to biographical details, the organisation can also register other details about the victim. There are cases in which people have been confronted with discrimination in their job, in carrying out their work, such as police officers and ambulance crews. It is important to note available information about a person’s job, profession or office.

**Guidelines for categorisation:**

- **SEX**
  
  - suggestions for subcategories: Man, Woman, Transgender

- **AGE**
  
  - .... years

- **ETHNIC ORIGIN**
  
  - suggestions for subcategories (here, the largest minority groups in a country can be the starting point): Moroccan, Turkish, Surinamese, Antillean/Aruban, Roma/Sinti, Jewish, Dutch, European, Asiatic

- **RELIGION**
  
  - suggestions for subcategories (here the most well-known world religions or the most common religions in a country can be the starting point): Islam, Catholicism, Protestantism (Dutch Reformed/Reformed), Judaism, Buddhism, Hinduism, Non-religious

- **PHILOSOPHY OF LIFE**

- **POLITICAL PERSUASION**
  
  - suggestions for subcategories (here the largest political parties in a country can be the starting point): CDA, VVD, PvdA, SP, Groen Links, PVV, D66, Chistenunie, SGP, Partij voor de Dieren, Other (more general) political persuasion or movements (for example, extreme right/fascism/extreme left)

- **OCCUPATION/PROFESSION/OFFICE**
  
  - suggestions for subcategories: Police officer, Official/government official, Politician, Health care provider/Ambulance staff member, Executive/manager (of the alleged perpetrators/victims), Teacher, Student

**Characteristics of the alleged perpetrator(s)**

Collecting data about the (alleged) perpetrator is important. For specific preventive projects, for example, it is good to know what the profile is of the (alleged) perpetrator(s), such as sex, age and origin. In the course of hearing the other party, staff members can check these data. If there is no contact with the perpetrator, the organisation can collect data about the (alleged) perpetrator on the basis of the report submitted by the complainant or on the basis of witnesses or other evidence. If necessary, the complainant can draw up a profile of the accused party.

In addition to biographical details, staff members can also collect other information about the accused party. For example, it is relevant to know whether the discrimination complaint refers to a one-man action or a group action. The staff member can also ask the complainant whether s/he already knew the alleged perpetrator and if so, what is or was the relationship between them (such as boss-employee or health care provider – patient). That is relevant because, among other things, a dependency relationship between victim and perpetrator often plays a role in the wishes and possibilities of dealing with a situation.

If the alleged perpetrator holds a public office, that is also interesting to register. It has transpired that people are even more upset when they experience discrimination by representatives of the government, as it causes a feeling of powerlessness/impotence and it undermines their trust in the state of law. When registering the area in which the discrimination complaint is applicable, the staff member can also note that in this information the complaint refers to government services, (see section 4.3).

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56 Collecting and registering detailed data can provide valuable information for the development of a plan of approach. For example, it is relevant whether, according to the complainant, a reported situation was occasional or whether it involved constantly recurring situations. In addition, an organisation can keep an account as to whether similar complaints have been received about the same alleged perpetrator. The organisation can also monitor whether there are more often complaints about the same sort of discrimination in a particular area or grounds, which could point to structural discrimination.

Guidelines for categorisation:
The same categories as with the complainant/victim, with the following additions:
- KNOWN/UNKNOWN
  suggestions for subcategories: Known to the victim, Unknown to the victim
- GROUP CONNECTION
  suggestions for subcategories: Individual, In a group

Complex cases

A situation can be so complex that it is difficult to classify. It is essential to make agreements within the organisation or network about how to deal with the registration of new and complex cases. It could be done, for example, by having a forum on intranet or regular consultations in which decisions are made. All staff members should be aware of the final decisions about the manner of registration. Uniformity in classifying new cases is crucial in data collection.

4.5 Type of complaint management and the result

In the registration system, an organisation often records how it deals with a complaint. Collecting information about complaint management is an extra undertaking, in addition to collecting data about the situations for monitoring complaints about discrimination. Although it is not important for the purpose of monitoring, this additional information about dealing with reported situations is interesting for the purpose of improving the provision of services or for justification to possible subsidy providers.

Whether or how the complaint management is classified varies according to the organisation. The differences are related to the role, responsibilities, objectives and service package of an organisation. Whereas legally competent bodies generally exclusively concentrate on checking complaints according to the law, there are also complaints bodies, such as ADBs, which focus on supporting the complainants. For example, ADBs register ‘mediation’ and ‘influencing policy’. The MDI, on the other hand, notes ‘request to the Dutch provider’ (to remove a discriminatory remark from the internet) or ‘request directly to placer’ when registering complaints. The CGB makes use of categories such as ‘opinion’, ‘mediation’ and ‘evidently unfounded’. In addition to dealing with the requests from the victims’ side, the CGB offers organisations the possibility of requesting an opinion about their own dealings. The OM uses phrases such as ‘verdict’, ‘acquittal’ and ‘summons invalid’, when it is a question of completion of matters by a court of law.

General guidelines are not possible for the classification of complaint management, since the complaint management of an organisation is based on the specific responsibility and the specific management options of an organisation. In addition, the collection of data depends on the possibility (or impossibility) of access to information.

Complaint management by ADB services

ADBs provide various services for those involved. 58 Subcategories of support and intervention include ‘legal advice’, ‘moral/emotional support’, ‘seeking publicity’, ‘mediation’, ‘influencing policy’ or ‘taking legal action’. The legal action can then be further specified under civil law (AWGB), criminal law or other legislation.

Guidelines for categorisation:

58 In this respect, there may be a difference between the wishes and objectives of the complainant on the one hand and the support provided and interventions undertaken on the other hand. Insight into the expectations of complainants is interesting for the evaluation of the complaint management procedures. In the context of realistic expectations about the possibilities and results also it is necessary to have insight into the wishes of the complainant and expectation of management. These points, however, lie outside the scope of this report.
• REGISTRATION NOTIFICATION
  suggestions for subcategories: Legal, Effective reaction (to such situations)
• ADVICE/INFORMATION
  suggestions for subcategories: Legal, Effective reaction (to such situations)
• INFLUENCING POLICY
  suggestions for subcategories: Organisation level, Sector/Departmental level, Government level
• MAKING CONTACT WITH PARTY INVOLVED
  suggestions for subcategories: (Alleged) perpetrator, Management/administration
• MEDIATION (I.E. BETWEEN COMPLAINANT AND PARTY INVOLVED)
• ASSISTANCE IN PROCEDURES
• TAKING LEGAL ACTION
  suggestions for subcategories: Criminal court, Civil court, Administrative court, CGB
• REFERRAL
  suggestions for subcategories: Police, CGB, Interest group, (Neighbourhood) mediation/mediator, psychological assistance,
• SEEKING PUBLICITY
• OWN ENQUIRY/DOING RESEARCH

Result of the complaint management

In addition, the staff member can also add information to the file about the result of complaint management. This may be the outcome of a strategy at an individual level, such as a successful mediation. It is to be recommended, insofar as it is applicable, to note whether, as a result of the complaint, structural measures have also been introduced to prevent similar situations in the future. As a consequence of a complaint or several complaints about such situations, the organisation can launch a collective strategy, such as generating media attention or aiming at policy adaptations.

Guidelines for categorisation:
  • INDIVIDUAL STRATEGY
    suggestions for subcategories: Successful mediation, Apology from the (alleged) perpetrator, Ultimately correct delivery of services or goods, Compensation
  • COLLECTIVE STRATEGY
    suggestions for subcategories: Adaptation of policy, Sensitising of politics/administration, Media attention, No result because...

Legal management by competent authorities

Some of the discrimination complaints end up at a legally competent authority, such as the CGB. These organisations attend to situations presented and check to what extent the situation is applicable to, and is available for, a legal verification with the anti-discrimination law and regulations.

Guidelines for categorisation:
  • COMPLETION BY OM
    suggestions for subcategories: Summons, Transaction, Conditional decision not to prosecute, Decision not to prosecute
  • COMPLETION OF REQUESTS FOR A CGB OPINION
    suggestions for subcategories: Opinion (with a subcategory: including opinion on one’s own performance), Mediation, Evidently groundless, Settlement (withdrawn), Withdrawn, Closed

Result of legal assessment

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59 Some people only want to report their story and have it registered with a relevant organisation and do not wish for any further handling of their complaint about discrimination.
If a legal assessment has taken place, the staff member can register the decision in the system. It is interesting to have insight into cases in which discrimination can be proved in a legal sense.

**Guidelines for categorisation:**

- **CRIMINAL COURT/CIVIL COURT/ADMINISTRATIVE COURT**
  suggestions for subcategories (particularly applicable to the criminal court\(^60\)): Verdict, Acquittal, Summons invalid, OM not admissible, Discharge from prosecution, Non-punitive order, Referral to another forum
- **CGB**
  suggestions for subcategories: One or more operative parts on prohibited distinction, Without an operative part on prohibited distinction.
- **EUROPEAN COURT OF JUSTICE**
  suggestions for subcategories: Prohibited discrimination, No prohibited discrimination
- **EUROPEAN COURT OF HUMAN RIGHTS**
  suggestions for subcategories: In violation of human rights, Not in violation of human rights

In addition, the OM registers the measure or punishment imposed, such as ‘fine’, ‘prison sentence’ or ‘community service’. The CGB makes recommendations in cases in which there has been violation of the law. The CGB then conducts a follow-up with the defendants, in which they make a distinction between individual measures and structural measures.

- **PUNISHMENT BY THE COURT**
  suggestions for subcategories: Fine, Prison sentence, Juvenile detention, Community service, Training order, Partial inadmissibility of the aggrieved party, Detention, No punishment (non-punitive order), Discharge from all prosecution, Expulsion from the profession\(^61\)
- **FOLLOW-UP RECOMMENDATIONS CGB**
  suggestions for categories: individual measures, structural measures.

**Tracking system**

The various complaints bodies refer complaints to one another. Thus, ADBs send complaints through to the CGB if the complainant requires a legal opinion and the situation is related to equal treatment legislation and is suitable for the legal route. The police send cases they consider to be appropriate for criminal prosecution to the OM according to a fixed procedure. The MDI usually sends a report of online discrimination directly to the OM.

For effective individual complaint management, it is important to be able to follow matters and to check how a particular complaint is proceeding. A systematic tracking system, in which data protection is essential, would be able to serve this practical goal. In any case, it is advisable to make good working agreements with one another, whether or not supported by an integral tracking system\(^62\)

In addition to following an individual case for the daily practice of complaint management, insight into a given route for monitoring the complaints management in general can also be of interest. It is particularly interesting to monitor legal routes: how many cases do the police sent through to the OM and of these cases, how many lead to criminal proceedings and ultimately to conviction?

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\(^{60}\) As possible subcategories for the civil court and administrative court the most customary outcomes in the corresponding fields of law can be used.

\(^{61}\) Expulsion from the profession may be an additional punishment for discrimination (article 137h Dutch Penal Code).

\(^{62}\) The throughput time of a case depends to some extent on the degree of complexity. Complicated cases can last for months or longer than a year, while simple cases can be dealt with within about three months. People do not always have a realistic picture of the throughput time.
In a similar manner, it could be registered how many complaints nationally are placed before the CGB by ADBs for an opinion and how many of these complaints lead to a hearing and ultimately to the opinion that the situation is in violation of the AWGB. The exchange of data that is necessary to gain such insight into the complaints’ routes can be realised by making a linkage between the systems of the various organisations. Any linkage between diverse systems requires coordination of the design (as regards content) and also demands commitment from the parties concerned. This can be difficult, because the parties have their own responsibilities, objectives and interests. Moreover, with an integrated system with linkage of data, legislation in the field of privacy should be taken into account. Although a linkage is practical in terms of following the throughput of individual cases, for the purpose of monitoring of discrimination it may be sufficient if the various organisations carefully record the complaints/cases that are coming in and being referred.

4.6 Victimisation

It is prohibited by law to put people at a disadvantage because they are complaining about discrimination. Yet it does happen that people who raise matters of discrimination experience extra problems because of it. A frequent occurrence is one in which the person filing a complaint is confronted with retaliatory measures by the person(s) about whom the complaint was made. For example, an employee who files a complaint against his boss may be faced with more or less subtle sanctions by this boss. Other forms of victimisation are also possible, such as rejection and snubbing of the complainant by third parties involved who feel affected by the complaint. In addition, there is the well-known mechanism of ‘blaming the victim’: the phenomenon that victims of abuse, when they report it, run the risk of having the blame laid at their door. It is advisable to keep an account in the complaints file of to what extent filing a complaint has led to victimisation.

Guidelines for categorisation:

- **VICTIMISATION**
  - suggestions for subcategories: (Retaliatory) measures by the (alleged) perpetrator, Rejection and snubbing by the (alleged) perpetrator, (Retaliatory) measures by third parties involved, Rejection and snubbing by the third parties involved.

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63 The privacy legislation is less of an obstacle for the exchange of data between police and the OM than for exchange between other organisations.

64 Persons who experience unfair treatment must be able to report this without being disadvantaged because of it. This principle is laid down in article 8a of the AWGB.

65 Genugten, M. van and Svensson J. (2010) Dubbel de dupe? Een studie naar de benadeling van werknemers die gelijke behandeling aan de orde stellen. [Victimised twice over? A study into the harm done to employees who bring up the question of equal treatment]. Enschede: University of Twente.

66 Ibid.

67 I.e. the negative consequences of submitting and making known a discrimination complaint.
5 THE DATA ANALYSIS & PRESENTATION OF THE COMPLAINTS DATA

The organisation can use the data in the registration systems to make a (qualitative) summary or a statistical overview. Some processing of the raw data is necessary for that.

Clarity and preventing a loss of information

As a rule, there is a need for a concise and succinct annual report of complaints that have come in. This may be important if the readers or the intended target group have little time or attention for information about discrimination complaints. A well-ordered table with figures may well offer a solution. The challenge is then to make a short overview including all necessary and relevant (background) information.

However, there are risks inherent when an account of the complaints data is too short and concise. The danger is that relevant (background) information and details are missing and/or that the reader himself/herself starts to interpret the complaints figures (possibly incorrectly) as a result of which the figures start to live a life of their own. What is needed for the report on discrimination complaints is an overview with adequate information and explanation about the complaints presented, without any loss of clarity. That is a challenge in the case of data about discrimination, because this usually concerns complex, multifaceted situations. It is quite possible that a concise summary of complaints data, for example in a table with figures, does not do justice to the complexity of the situations reported.

It partly depends on the objectives, whether a summary should be concise or, conversely, extensive. In order to get a particular discrimination phenomenon on the police agenda, a concise summary is probably useful. In order to set up policy measures in a discrimination phenomenon, on the other hand, extensive information is necessary about the context, the parties involved and backgrounds.

Information on the realisation of the report

It is advisable to explain to the reader which methods for data collection and analysis have been used. This is about defining the procedures with incoming complaints and in the classification. Furthermore, the report should include an explanation of the category names used and other terminology (see Chapter 3). It is important to explain what sorts of data are involved and which unit has been used. There are several analysis units. Registrations and scores can relate to the number of unique incidents, the number of unique reports and/or the number of unique persons that reported a situation (see Chapter 2). By giving an adequate explanation of the figures, the researcher can prevent any reader misinterpretation of the statistical report.

Transparent data collection and analysis

A researcher generally uses the data from the registration systems to make an overview in figures with the numbers involved. This provides insight into how many files or complaints per grounds for discrimination, form or area/location for discrimination have come in. The figures produced by complaints bodies are sometimes used in evaluating the functioning of the organisation or in justifying the usefulness and the existence of the organisation in general. The data proving that there are many complaints about discrimination would then indicate that is beneficial that there are bodies that deal with these complaints and register them. In addition, since complaints indicate a possible problem, a large number of complaints contribute to getting specific problems of discrimination on the political agenda.

In a certain sense, therefore, an organisation can benefit from having many registered complaints. In order to avoid the suggestion of possible intertwining of interests, it is essential to have transparent and meticulous methods of data collection and analysis. For this purpose, it is advisable to involve independent (external)
researchers, for example from a university in setting up a registration system and in analysing complaints data.\textsuperscript{68}

**Number of complaints and extent of discrimination**

The exact scale of discrimination cannot be established with any certainty. In order to get some sort of a picture, various sources can be combined to check whether the results point roughly in the same direction. There is often a misconception that the extent of the discrimination can be measured by the complaints figures. In the first place, it is usually the case and remains so that it is unknown to what extent a complaint relates to actual discrimination. In the second place, not all situations in which discrimination is experienced are reported. In a report, it is advisable to name the other possibilities of reporting as background information. That gives a picture of the national infrastructure and indicates that information about (specific) discrimination complaints can be found elsewhere.

The data of competent authorities provide information about situations in which discrimination has been demonstrated in a legal connotation. However, the figures on legally tested situations also do not provide any insight into the precise scale of discrimination. Only a small section of all situations end up with an organisation that is competent to make legal decisions. Moreover, a lack of adequate convincing evidence does not automatically mean that discrimination in reality did not play a role (see also Interlude in Chapter 3).

In this report, it is advisable to indicate clearly what the complaints figures mean, so that the reader does not draw an incorrect conclusion. In particular, it is important to explain just what a large or small number of complaints might mean. Increases and decreases in the number of registrations can be explained by diverse internal and external factors, such as a publicity campaign. In the report, the party for the reader should indicate to the reader which factors possible played a role in an increase or decrease.

**Supplementary survey**

Complaints are related to situations that people have experienced as discrimination. Not all discrimination experiences in the Netherlands end up at a registering organisation. In order to gain a picture of the scale of discriminatory experiences, a national survey could be carried out. This could include taking a representative sample and asking the question to what extent people felt they had had experienced an actual discriminatory incident in the past year. If they had, they were then asked in what form and in which area the discrimination took place. The results would show roughly the frequency of discrimination experiences. By repeating the survey periodically, one could gain insight into possible changes in society with the passage of time. For example, a five-yearly repeat of the same questions about discriminatory experiences would provide insight into the number of situations of discrimination experienced.

**Unit of time and monitoring period**

Complaints bodies usually present an annual report of their figures. It contains all the complaints and reports that have been registered during that year. However, the year of registration is not necessarily the same as the year in which the incident took place. Some people do not report one or more situations in which they experienced discrimination until years later. There may also be cases of discriminatory bullying, for example, in the neighbourhood or on the shop floor, which lasted for several years or is ongoing. In recording a particular year or a period, it is advisable to indicate to what this refers; usually this will be the year of receipt of the complaint and, if applicable, indicate that incidents may also have taken place previously. With numbers in the report it is also recommended to indicate clearly to which period or to which year the figures refer and to what extent they concern ongoing and/or closed cases.

**Trends in the number of complaints**

\textsuperscript{68} In order to process and analyse large data bases, knowledge of quantitative analysis techniques is necessary and mastery of statistical computer programs such as Excel and SPSS. Further examination of files requires knowledge and experience with qualitative data analysis.
In addition to interest shown (for example, by the police, the media and the work field) in the annual report with the number of registered complaints, interest is also often shown in any changes in the number of complaints compared to previous years. However, fluctuations in the annual number of complaints or files do not directly say anything about an increase or decrease of complaints in society.

In the first place, it is well known that not every situation in which discrimination is experienced is reported to an authority. Whether or not to report or submit a situation depends on the features of the incident and on personal factors; not everyone wants to take legal action and not every situation is suitable for a legal procedure.

In addition, environmental factors play a role in reporting behaviour. For example, a publicity campaign to stimulate willingness to report discrimination will lead to more complaints. Moreover, the capacity of a registering body, the expansion of the reporting possibilities or the improvement of working methods logistically can cause an increase in the number of complaints or files. In short, the annual number of complaints depends on reporting behaviour and that in turn is influenced by many personal and environmental factors.

In order to check whether there is a trend in the number of discrimination complaints, it is advisable to take a set period of five years or longer. Thus one can check whether there is a yearly change in the same direction (increasing or decreasing) or whether it is more a case of fluctuations. In comparing annual figures with those of the previous year, it is recommended to add, as background information, a description of the context of both years. This could include the complaints body or network itself (such as more capacity and expansion of reporting possibilities) any initiatives (such as a large-scale publicity campaign) or society (such as a drastic event). These may (partly) explain any increase or decrease.

Impact of an incident on the number of complaints

The work field, politics or the media can pose the question as to whether a particular incident (indirectly) led to an increase of discrimination complaints. In this respect, it is relevant to view the number of complaints per month separately. The researcher can then chart the months during or after the event. In that way, a check can be made to what extent the effects of an event are long-lasting or temporary.

In the past, for example, it was clear in the overview of ADBs that the murder of filmmaker, Theo van Gogh, in 2004 and political developments in Israel were connected with a temporary increase in the number of complaints about discrimination. In the course of time, the number of complaints stabilised once more.

Explanation of differences between grounds/areas

The presentation of figures in a (cross) tabulation can provide insight into the differences in the numbers per ground, area, form or a combination of these. The number of complaints filed depends on the reporting behaviour and the inclination of people to file a complaint. Thus, it usually emerges that there are relatively many complaints about discrimination because of ethnic origin, which is associated with the data that discrimination is usually primarily associated with the unfair treatment of ethnic minorities. The consequence is that people who feel discriminated against on the grounds of their origins conceive the idea relatively more quickly to file a discrimination complaint about it than people who have experienced discrimination on other grounds, for example, disability or age.

69 The focus is often on the number of complaints filed about a particular ground, form or area. Thus, a high number has less priority than a low number of complaints. In checking the bare figures, it should be taken into account what was or might be the severity (experienced) of the situations. For example, situations of personally directed violence and threats are usually more severe for the persons involved than a report of age discrimination in an advertisement.

70 An increase in complaints possibly also says something about the functioning of the organisation.

71 An incident could lead to discrimination complaints about that incident. For example, the Dutch majority population could feel discriminated against by the murder of film-maker, Theo van Gogh, or Muslims could file complaints about Geert Wilders’ film. An incident in which a specific group of perpetrators is involved, can also lead to discrimination of (groups of) people who are associated with that perpetrator group. An Israeli attack on Palestinian territory, for example, can lead to the discrimination of people with a Jewish background, because of the association with Israel. This could then result in an increase of the number of complaints from people with a Jewish background. In addition, the social climate can make people more aware of possible discrimination and/or can increase the willingness to report this. An increase in complaints is not necessarily closely linked with the increase of actual discrimination incidents. On the basis of the number of discrimination complaints it cannot be established to what extent there is a causal association between the event and an increase in discrimination.
Differences in figures between the social fields can partly be explained on the basis of ‘opportunity to experience discrimination’. Since people spend more time at work, relatively speaking, there is more chance of experiencing discrimination there than for example in the health care service. When interpreting the figures and making comparisons between grounds or areas, one should take into account factors such as reporting behaviour and ‘opportunity to experience discrimination’.

**Information about specific phenomena**

A number of discrimination phenomena have separate labels, such as anti-Semitism, homophobia, sexism and Islamophobia. There are various opinions about the characteristics of these phenomena, the terminology and the use of these terms in social debate issues. Quite apart from that, there are different ways of collecting data about these phenomena or of extracting them from the complaints figures at a later stage.

As specified in Chapter 4, staff members can note complaints about these phenomena at the intake if complainants themselves label them as such. In other words, if according to the complainant there is, for example, anti-Semitism in the situation reported, then the staff member can record the complaint as such in the intake.

In the data analysis phase, the researcher can also label complaints and reports as, for example, sexism or Islamophobia. Pre-established objective criteria will have to have been chosen for this (see also section 4.1 and 4.2), which will provide more insight for third parties into the assessment process. In the review with the annual report, it is necessary to indicate what the criteria are and/or on the basis of whose opinion the situation has been labelled as anti-Semitism, homophobia etc.

There are also complaints systems that do not have a separate category or appraisal for anti-Semitism, homophobia, sexism and/or Islamophobia. In that instance, there are two ways of extracting complaints figures about these phenomena from the registration system.

Firstly, the researcher can select the complaints and reports that are related to the discrimination grounds that are applicable, such as homosexuality (with homophobia) or the Islamic faith (with Islamophobia). In the case of anti-Semitism or Islamophobia, the researcher could also base the selection on the discrimination ground ‘ethnic origin’. The fact is that the grounds of religion and ethnic origin cannot always be seen as distinct from one another by the alleged perpetrator and/or the complainant. In order to bring Islamophobia to the surface, for example, the researcher can additionally select the complaints relating to discrimination due to Turkish or Moroccan origin.

As a second way of portraying one of the named discrimination phenomena, the researcher can select all complaints and reports of the victim group concerned (on the basis of the background characteristics of the complainant), regardless of the grounds of discrimination indicated. Thus, for example, the researcher can additionally select the complaints relating to discrimination due to Turkish or Moroccan origin.

In presenting the complaints figures under the denominator of discrimination phenomena such as anti-Semitism, it is advisable to indicate clearly which complaints data have been extracted from the registration system and/or on the basis of which the complaints have been (retrospectively) labelled.

**Collating and comparing data**

To present a national depiction of discrimination complaints, it is advisable to collate the data from the various organisations and thereby to provide an explanation of the registration methods, terms and definitions that these bodies have used. The methods for these registrations are generally diverse, as a result of which they

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72 Discrimination (personal discrimination experience or group discrimination experienced) or the social climate can result in people avoiding certain situations or places as coping mechanisms in order to avoid the risk of being discriminated against. Ultimately, such avoidance behaviour could result in fewer discrimination complaints being made.

73 These are the principal groups in the Netherlands for whom Islam is the dominant religion and who are generally associated with Islam.

74 It is also often necessary to promote uniformity of registration within an organisation/network. The people responsible for registration sometimes have different interpretations of the categories in a system. Sometimes, people in different regions have worked with other definitions for the query.
are not immediately comparable. Sources and data can only be compared with one another where possible, for example by checking whether the results are roughly pointing in the same direction. The data of the various sources complement one another. The type of information varies: complaints, reports, CGB petitions, CGB opinions, police reports, OM cases, discrimination offences etc. Assembling the data (in the sense of adding up the numbers) of the various organisations is not possible, due to the differences in uniformity of registration, basis assumptions, methods of complaints registration and categorising of complaints. The OM and the police take discrimination complaints from their own general system using a query, while the CGB, the MDI and the ADBs work with specialised registration systems with previously defined categories. The complaints bodies each work with their own vocabulary for the query, their own classification system, terminology and definition of the categories, based on their mission and responsibilities. In short, it is advisable to collate the available information and data for a fuller picture, but not to assemble it without forethought. The various types of sources and information complement one another. In any comparison of the data it is advisable to take into account the differences in definition, categorisation and methods of data collection.

**Supplementary qualitative file analysis**

The figures in a report often raise questions about further details of the situation reported: precisely what took place? In addition to a quantitative analysis of the database, a qualitative analysis is also advisable. Qualitative file analysis provides (more) insight into the exact nature and the background of an incident and the manner in which people react to an experience of discrimination. Furthermore, the researcher can extract information from a file about how the (alleged) perpetrator experienced a situation and how s/he dealt with it. It is interesting, for instance, to know whether the alleged perpetrator is aware of the discriminatory actions or expressions. It goes without saying that in most cases s/he will not admit to having deliberately discriminated, even though in reality that in fact was the case. Usually, the accused party has his/her own interpretation of the reported situation. In a complaints file the staff member can describe a possible counter argument. In addition to the available digital information, a qualitative file analysis can also relate to the paper documentation in the complaints files. A condition for file analysis is that files are kept up to date on paper or in a computer system and that complaints are adequately specified. By illustrating the numbers with a description of cases, the figures come to life, as it were. The complex phenomenon of discrimination is difficult to grasp in figures. A combination of quantitative data analysis and qualitative file analysis of the complaints submitted is to be recommended.

**Supplementary information sources**

In addition to the complaints data of the various authorities, one can also consult other sorts of sources to monitor discrimination problems in the Netherlands. One can think of research into possible prejudiced attitudes of people or of population statistics broken down into groups that show any possible underprivileged position. Collating available information will produce a fuller picture of what is going on in discrimination problems.

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6 SUMMARY: MAJOR GUIDELINES AND POINTS OF INTEREST FOR REGISTRATION

- One condition for a responsible annual overview of complaints statistics is that the data have been systematically and meticulously collected. Clear instructions with descriptions of work (operational definitions) are necessary, so that all staff members can fill in the data accurately, fully and in the same manner. It is advisable to set up the registration with the collaboration of researchers competent in methodology.

- A basis for registration is necessary at all levels within an organisation/network. A registration system functions better when both the management and those responsible for its implementation understand the benefit and necessity of the collection of data. Furthermore, it is advisable, when setting up the registration methodology to involve those inputting the data, in order to make this as user friendly and practicable as possible.

- Registration is not a goal in itself. In addition to administrative purposes for the actual organisation, the data collection is for the benefit of monitoring discrimination complaints in society. Staff members can register many data about a complaint. It is advisable to chart the need for information of internal and external users of data. The data collection can, where necessary, be coordinated with this need for information, so that the report contains relevant and useable information. In this coordination, the organisation will have to include not only the relevance but also the availability and the feasibility in practice of registering the desired data.

- Sometimes, instead of filing a complaint about a specific situation, people can contact an organisation in order to seek information or advice about discrimination in general. It is interesting to collect data about such exploratory questions, because it gives a picture of what are the questions prevalent in society. The registration of general exploratory questions should, however, be kept quite separately from the registration of complaints about specific situations.

- Discrimination is a social phenomenon. A situation in which discrimination is experienced can be interpreted in different ways by different people (who, what and why did the incident take place, and is there a question of discrimination?). The experiences of those involved usually vary. The registration of the diverse perspectives (for example, of the victim, perpetrator, bystander, intermediary, complaints handler) with a complaint is interesting. The organisation can also register a combined perspective on the situation, for example, that of the complaints handler in consultation with the complainant. The situation can be viewed from the legal perspective at the intake or the situation can be legally assessed. It is to be recommended to indicate the criteria clearly to the readers, including which/whose perspective underlies the recorded details about a situation.

- In the annual review, it is important to explain to the reader the realisation and significance of the data; moreover, it is about indicating the working definitions of the terms used, explaining the categorisation and clarifying the type of data and the collection and registration method. An adequate explanation avoids readers interpreting the information and figures incorrectly.

- There is often a demand for data about “factual discrimination”. The availability of figures on what is known as “factual discrimination” is very limited; there is numerical material about situations that

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77 That a particular sort of incident occurs often tells us nothing about its severity and consequences at individual or society level. The emphasis is often on the number of discrimination complaints filed about a particular ground, form or area. A ground, form or area about which a small number of complaints have been registered then has lower priority than a ground/form/area about which a large number of complaints has been registered. In judging from the bare figures, one should take stock of what was (or might be) the severity (experienced) of the situations and what is the personal and societal impact. For instance, situations of personally focused violence and threats are usually more serious for the people involved than a report of age discrimination in an advertisement.
have been legally assessed and in which discrimination has or has not been demonstrated (for example, in the annual reports of the CGB and the OM). Note that the tested situations, in which discrimination could not be demonstrated, might well in fact be situations of “factual discrimination”, even though there is not enough tangible evidence. In addition, complaints about “discrimination experienced” can also relate to situations in which discrimination actually played a role (i.e. not only in the experience of the victim), but not every situation of “discrimination experienced” will be submitted to a legal assessment.

- In registering and exchanging discrimination complaints and corresponding data about sensitive personal characteristics, such as someone’s sexual orientation, political persuasion or ethnic origin, there may be issues of privacy. Data protection legislation prescribes that personal data in this respect may not be rendered convertible. Victims and perpetrators may thus only be asked for personal details on a voluntary basis and they should be fully informed about the purpose of registration, the storage of data and about any possible exchange with other parties.

- It is advisable to organise registration systems in such a way that it is possible to register more than one ground for a complaint. A technical option in the system could be to label these cases automatically as ‘multiple discrimination’. Researchers can then in a statistical overview display the number of complaints for particular (frequently occurring) combinations of grounds.

- Discrimination can be countered with repressive (legal) means and through preventive measures. In order to prevent discrimination, information about potential perpetrators or groups of perpetrators is relevant. It is therefore advisable, where possible, to collect characteristics of the accused parties. Knowledge of the persons and organisations that are involved in the discrimination complaint can serve as input for designing preventive policy and for practical projects to prevent discrimination.

- Discrimination has many forms of expression. To deal with an actual case, information is necessary about the exact nature of an incident. The same applies to the structural approach to phenomena. To this end, staff members should specify forms such as ‘treatment’, ‘violence’ and ‘unequal treatment’. It is advisable to further define these broad collective terms in annual overviews, so that readers have more insight into the nature of similar situations reported. Staff members can also add communication method (e.g. verbal or written) and channels (e.g. by letter, test message, email or on the internet).

- The various complaints bodies refer complaints to one another. Thus, ADBs send some complaints to the CGB for a legal opinion. The police send cases to the OM that they consider warranting prosecution according to fixed procedure. It also happens that the MDI, usually directly to the OM, makes a report of online discrimination. For the purpose of monitoring discrimination it is advisable to record meticulously the inflow and referral /transfer of complaints. A tracking system that keeps individual cases up to date can also provide insight into the course of (legal) pathways of complaints management. Meticulous protection of data is essential with a tracking system.

- Not all situations in which discrimination is experienced are reported to a registering party. Increases and decreases in the number of registrations can be explained by various internal and external factors, such as a publicity campaign or improved registration. In reporting, the party for the reader should indicate which factors have possibly played a role in an increase or decrease. The volume of discriminatory experiences cannot be determined on the basis of complaints figures. In order to get a picture of the volume, a national survey could take place with a representative random sample. The results show approximately the frequency of discrimination experiences. A (five) yearly repeat of the same survey would give an idea of possible changes in the number of situations of discrimination experienced.

- The complex phenomenon of discrimination is difficult to grasp in figures. Usually, organisations make a numerical overview of the complaints that have been filed. The risk of a table with figures is that it does not do justice to the complexity of the reported situations. Qualitative file analysis gives (more)
insight into the exact nature and the background of an incident and in the manner in which people react to an experience of discrimination. In addition, the researcher can extract information from a file about how the (alleged) perpetrator experienced and dealt with a situation. A combination of quantitative data analysis and qualitative file analysis is recommended.

- The organisations register various types of information: complaints, reports, CGB petitions, CGB opinions, police reports, OM Cases, discrimination offences, etc. In order to get a picture of what is going on, a combination of the data from the various available information sources is necessary. None of these sources is in itself adequate to give a general picture of discrimination problems. In collating them, an explanation is needed about the registration methods and about the terms and definitions that the organisations have used. Because of the differences in types of information, definitions used and methods of registration, the data are not easily comparable. Sources and data can only be compared where possible, for example by checking whether the results are broadly pointing in the same direction. The data of various sources are complementary to one another. In order to monitor discrimination problems in the Netherlands, in addition to the complaints data of the diverse organisations, one could also consult other types of sources. For instance, an investigation into bigoted attitudes of people or population statistics broken down to reveal groups that might be in an underprivileged position. The collation of available information will produce a fuller picture of what is happening in problems of discrimination.
