Registration of complaints about discrimination in the Netherlands and in Germany

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European Commission

Registration of complaints about discrimination in the Netherlands and in Germany

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THE FOLLOWING ORGANISATIONS HAVE CONTRIBUTED TO THIS REPORT:

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Art.1 Noord Oost Gelderland
Dutch Complaints Bureau for Discrimination on the Internet (Meldpunt Discriminatie Internet, MDI)
Equal Treatment Commission (Commissie Gelijke Behandeling, CGB)
ERCOMER, University Utrecht
ITS, Radboud University Nijmegen
National Expertise Centre Discrimination of the Public Prosecution Service
(Landelijk Expertise Centrum Discriminatie, LECD-PPS)
National Expertise Centre Diversity of the police (Landelijk ExpertiseCentrum Diversiteit, LECD-police)

Germany:
The Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes, ADS)
The Berlin State Body for Equal Treatment – Against Discrimination (Landesstelle für
Gleichbehandlung - gegen Diskriminierung, LADS)
The anti-discrimination association Germany (Antidiskriminierungsverband Deutschland, advd)

The information contained in this publication does not necessarily reflect the position or opinion of these organisations.

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1 Introduction

Promoting equal treatment and the fight against discrimination are important principles in Europe. In 2000, two EU Directives on equal treatment were adopted: the Racial Equality Directive and the Employment Equality Directive.[1] All EU Member States have implemented legislation that prohibits discrimination in line with these EU equality directives.

It is of importance to monitor the situation regarding discrimination in the various Member States. Monitoring can serve various purposes. Data are necessary to guide and support anti-discrimination activities and policies, and can be used for raising awareness. There are several sources that can generate data and information on discrimination and equality, including national official statistics, justice system data, complaints filed with (non-governmental) organisations and results from various types of research.

Each EU Member State has its own anti-discrimination infrastructure and data collection mechanisms, most of which are still being developed. Quite often, there is no comprehensive overview of which data exist, which data should be collected in relation to equality and discrimination and how these data can be gathered.[2]

This report focuses on data concerning complaints about discrimination that people have filed. Complaints data can be generated by organisations that handle discrimination complaints, such as the police, the Public Prosecution Service (PPS), courts, equality bodies, ombudsmen or non-governmental organisations that provide services to victims of discrimination.[3] The way a body or organisation collects data largely depends on their tasks and aims and on the (national) legal framework within which they operate. For the purpose of this report the term 'complaints data' is used when discussing the data that are collected by all organisations in a generic manner. Next to actual complaints, the collected data may be 'notifications', 'reports' with the police or 'petitions for an opinion' of the Dutch Equal Treatment Commission.

Registration serves to keep track of the administrative and procedural processes within an organisation. It is a tool for better case handling by saving and keeping the information on a specific case up-to-date. Moreover, the registration of the number and nature of complaints can lead to useful information about the performance of the organisation, like whether the intended target groups are actually using the services provided by the organisation.

As stated before, registration and analysis of complaints data are also important for keeping an eye on the phenomenon of discrimination in society. The current study focuses on registration of complaints data as an instrument for monitoring discrimination. Complaints data show which groups of people report experienced discrimination and they provide information on the nature of these incidents. When data are available over multiple years, they may indicate trends.[4]

This report outlines the anti-discrimination infrastructure for complaints registration of two EU Member States: the Netherlands and Germany. It includes data collection mechanisms that target various grounds of discrimination and that operate on a nation-wide or on a regional basis. The registration procedures of judicial bodies[5] and other types of organisations that handle complaints about discrimination are described in detail for both Germany and the Netherlands. The existing structures for collecting, recording, analysing and reporting on discrimination data will be presented.

By providing a set of possible 'blueprints' for the registration of discrimination complaints, this report seeks to offer guidance to those organisations in EU Member States that want to set up or improve their registration systems. In addition, the report can be supportive to researchers, civil servants, NGOs or others who make use of complaints data on discrimination published in the Netherlands and Germany. It aims to provide these readers with a better understanding both of the registration procedures employed by the various organisations and of the type of data that is recorded and published.

The following chapter describes how information on data collection methods was gathered for this report (Chapter 2). The subsequent chapter outlines the legal framework in the Netherlands and in Germany and thus presents the national context for the registration of discrimination complaints (Chapter 3). Chapter 4 provides an overview of institutions and organisations in the two countries that register discrimination complaints. The procedures concerning the processing of complaints of each organisation that is included in this study are explained in Chapter 5, as well as the type of information each organisation receives and what is registered. Chapter 6 describes the measures taken by each of the organisations to ensure good and consistent registration of complaints. In the final chapter, information is provided on the publication of complaints data and the classifications that are used (Chapter 7). The report concludes with a comparison of terminology and classifications used by each of the organisations.

Notes *Chapter 1*

1 Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ('Racial Equality Directive') and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive').

2 European Commission (2007).

3 See also European Commission (2007).

4 It should be noted that for monitoring discrimination, complaints data by themselves do not suffice. See also Dinsbach, W. and Van Bon, S. (2012) Measuring and monitoring discrimination: information sources and research methods, Rotterdam, Art.1.

5 In this report, judicial bodies are understood to be institutions which are authorised to make a legal assessment or to give a verdict in a case, for example courts, the Public Prosecution Service and the Dutch Equal Treatment Commission.

2 Method and sources of information

2

This report outlines the procedures, applied by organisations in the Netherlands and Germany, to record complaints that people file about discrimination. For the Netherlands, data collection by the police, the Public Prosecution Service (PPS), the Equal Treatment Commission (CGB), the network of anti-discrimination agencies (ADVs) and data collection by the Dutch Complaints Bureau for Discrimination on the Internet (MDI) was included in this study. Dutch district courts do not systematically register the cases they handle. German labour courts are involved in data collection, and are incorporated in this study. Contrary to the Netherlands, the German PPS does not record or publish data on discrimination. For Germany, this study deals with data collection by the police, in addition to data generated by the Federal Anti-Discrimination Agency (ADS), the Berlin State Body for Equal Treatment - Against Discrimination (LADS), and the anti-discrimination association Germany (advd).[6]

In order to get a picture of the formal procedures and daily practices of registration, several sources of information were consulted. These sources include the official publications of the organisations. For example, the annual overviews on complaints data can contain information on data collection methods, either in the introduction, an annex or in the accompanying letter. Furthermore, internal (not publicly available) documents of the organisations, such as protocols, checklists and data collecting sheets, have been studied. Organisations were requested to provide any available documents that are being used internally to systematically record complaints. In addition, to shed light on registration routines, a questionnaire was designed and sent to the organisations that contributed to this report. This questionnaire-based survey was complemented by a series of semi-structured qualitative interviews with representatives of the organisations. These interviews took place in 2010 and 2011.[7]

Gathering information on the existing registration procedures proved to be challenging for several reasons. Firstly, at the time of writing, several registration systems were being updated or adjusted. Secondly, most organisations lacked written registration procedures that bundled all information. By analysing documents and through interviews with the management and employees who record the data, registration procedures were reconstructed as much as possible. The recording of complaints data was often carried out by other persons than those analysing and summarizing the data. Therefore, the available sources on the procedures for compiling and analysing the data were also consulted. Thirdly, individual members of some networks of anti-discrimination NGOs applied different instruments for data collection, used differing protocols and/or had different interpretations of how to use the shared registration system. The registration systems were not synchronized yet, or user registration training was not yet provided for throughout the network.

In sum, due to ongoing developments and different interpretations of registration methods, other individual views may exist on the methods in use than the ones incorporated in this report; by means of interviewing representatives and analysing existing documents, this study aims to describe current registration methods as completely as possible.

Notes *Chapter 2*

6 Paragraph 4.7 contains more detailed information about the institutions, organisations and networks that are included in this study.

7 The results of the interviews in Germany were also presented in an earlier publication of the efms; Peucker, M. and Lechner, C. (2010).

3 Legal framework

Collection, analysis and publication of complaints data can serve several purposes. For example, monitoring the phenomenon of discrimination for the purpose of awareness raising or designing policy. Complaints data can also be useful in individual legal cases, especially in relation to proving discrimination.[8] Furthermore, judicial data (generated by the Public Prosecution Service (PPS) and Equal Treatment Commission (Commissie Gelijke Behandeling: CGB) in the Netherlands and by the labour courts in Germany) can be informative. These data are a useful source of information for evaluating the enforcement of anti-discrimination law. Therefore, it is necessary for judicial registration systems to generate data on discrimination grounds, social areas and on forms of discrimination covered by national and European law.

Knowledge of the national legal context is pivotal to better understanding organisations that register discrimination complaints and their working methods (see the Chapters 4 - 7). This chapter summarises the Dutch and German legal anti-discrimination framework.[9]

3.1 ANTI-DISCRIMINATION LEGISLATION IN THE NETHERLANDS

Article 1 of the Constitution of the Netherlands
Article 1 of the Constitution reads: "All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or gender or on any other grounds whatsoever shall not be permitted."

The words 'any ground whatsoever' indicate that any characteristic that proves to be ground for discrimination, falls within the scope of this article. The Constitution is a law that regulates the relation government-citizen. The stipulations of the Constitution are, however, increasingly being invoked by individuals for the regulation of relations between people. The principle of Article 1 is incorporated in Dutch laws and regulations, to which people can appeal in court.

Equal Treatment Act (Algemene Wet Gelijke Behandeling, AWGB)
In 1994, the Dutch Equal Treatment Act (Algemene wet gelijke behandeling: AWGB) came into force.[10] The AWGB protects individuals against discrimination on the grounds of religion, belief, political opinion, race, gender, nationality, sexual orientation or civil status. The Act constitutes the core of Dutch

equal treatment legislation.[11] Several other Dutch equal treatment acts preceded the AWGB, the 1975 Equal Pay Act being the first.
The AWGB prohibits discrimination in several social areas: employment, education and the provision of goods and services in both the private and public sector. The AWGB forbids direct and indirect discrimination. Direct discrimination is unequal treatment based on one of the grounds of discrimination. Indirect discrimination occurs when a requirement seems neutral, but indirectly leads to discrimination on one of the grounds of discrimination. Direct discrimination is (almost) always unlawful. Indirect discrimination is only allowed when it can be objectively justified.[12] The Equal Treatment Commission (Commissie Gelijke Behandeling: CGB) was established as an enforcement institution. The jurisdiction of the CGB is regulated in the AWGB.

In 2008, the European Commission criticised the Netherlands for not accurately implementing the EU equality Directives in national legislation. One of the objections concerned the exceptions for institutions with religious affiliations which are formulated too broadly in the AWGB.[13] In 2010, the Cabinet sent a law proposal to Parliament, proposing to delete the so-called 'single fact construction' (enkele feit constructie) from the AWGB, although 'preserving the fundamental rights'.[14]

Criminal Code

Ratification in 1971 of the International Convention on the Elimination of All Forms of Racial Discrimination[15] obliged the Netherlands to adopt laws to combat racial discrimination. That same year, the treaty was implemented in the Dutch Criminal Code. In ensuing years, additional legal discrimination grounds were added.

There are several articles in the Criminal Code that prohibit discrimination on racial and other grounds, such as sexual orientation, disability, gender, religion and belief.[16] Discrimination is prohibited when it is expressed as an insult (article 137c[17]), when it incites hatred / discrimination or violence (article 137d), when disclosed in public (article 137e) or if one is acting within the capacity of a profession (article 137g[18] and 429quater). In 2009, article 137h was added, according to which a person can be dismissed from their office/profession as an additional punishment, if they commit a crime as described in article 137c-137g while practising their profession.[19]

The Dutch Criminal Code determines the maximum sanctions in case of a violation of the non-discrimination articles. Since 2002, the maximum sanction is doubled if there is a case of discrimination committed by a group or when the discrimination takes place habitually or as a profession.[20]
General criminal offences (commune delicten), for instance assault or violence, can contain discriminatory elements.[21] The Dutch Criminal Code does not contain explicit provisions on discriminatory violence or discriminatory vandalism as such, but the discriminatory aspect of the offence and/or the motive of the (alleged) perpetrator must be considered in court. In cases where such general crimes are

committed, and there is a substantial basis to assume that there is a discriminatory element to the said crimes, the public prosecutor will take into account the requirement of the Discrimination Instruction (Aanwijzing Discriminatie).[22] This Instruction is dealt with in the following paragraph.

Discrimination Instruction (Aanwijzing Discriminatie)

The Discrimination Instruction, issued by the Public Prosecution Service and entered into force in 2007, is part of the legal anti-discrimination framework.[23] This instruction, which deals with the handling of cases of discrimination, is an important guideline for the Dutch police and public prosecutors. It takes into account that general criminal offences, for instance assault, arson and vandalism, can contain discriminatory elements. One of the stipulations in the instruction obliges the police to consider all notifications (meldingen) and reports (aangiften) of discrimination. The police and the Public Prosecution Service are required to register both discriminatory incidents and general criminal offences that contain a discriminatory element (commune delicten met discriminatoir aspect).

The Instruction also allows public prosecutors to propose harsher sentences when a suspect of a general criminal offence had discriminatory motives. Since September 2009, public prosecutors were allowed to request a sentence increase of 50%. Since May 2011, they can demand a 100% increase of the sentence for an offence with a discriminatory motive or background.[24]

The Municipal Anti-Discrimination Facilities Act (Wet Gemeentelijke Antidiscriminatievoorzieningen, ADV Act)

In 2009, the Municipal Anti-Discrimination Facilities Act (ADV Act)[25] entered into force. This Act obliges municipalities to establish a facility that will enable citizens to file a complaint and receive assistance when they experience discrimination.[26] See Chapter 4, paragraph 4.5.1.1.

3.2 ANTI-DISCRIMINATION LEGISLATION IN GERMANY

Article 3 GG of the Constitution

The constitutional article 3 GG prohibits differential treatment due to one's gender, descent, race, language, home or origin, faith, religion or belief; moreover it prohibits discrimination on the grounds of disability. This is the central constitutional article that explicitly bans discrimination. Despite this prominent status of the principle of non-discrimination in the German Constitution, the effect and scope of this article in practice is limited, as the Constitution refers primarily to the relationship between the state and its people and is only, if at all, indirectly applicable to the relationship between its citizens (e.g. in civil or labour law). This severe legal deficit in the protection against discrimination ceased in August 2006, when the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz:

AGG) entered into force, implementing the EU directives 2000/43, 2000/78 and two other gender equality directives.

General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG)

The AGG constitutes the core piece of legislation of Germany's current anti-discrimination framework. Section 3 AGG contains a definition of direct and indirect discrimination as well as of (sexual) harassment and instruction to discriminate in accordance with the requirements enshrined in the EU equality directives, including directives 2000/43 and 2000/78. In the sphere of labour law, the grounds of discrimination listed in the AGG are: race[27], ethnic origin, gender, age, disability, sexual identity, religion or belief (article 2 AGG). In the sphere of civil law, discrimination on the same grounds is outlawed, with the exception of discrimination due to someone's belief; this ground is exempted in the realm of civil law (article 19 (1) AGG).

In prohibiting discrimination on any of these grounds in both employment and civil law related areas (e.g. housing, access to goods and services), the AGG exceeds the minimum protection requirements set by the EU equality directives. However, the AGG also contains several regulations that deliberately limit the scope of the legal protection against discrimination. Article 9(1) AGG, for example, allows churches and church-affiliated organisations far-reaching rights to unequal treatment on the grounds of religion, if, for example, a vacant position requires a religious affiliation.

Another problematic limitation is that, according to article 2(4) AGG, discriminatory dismissal is explicitly not covered by the AGG; instead the AGG refers here to the more general Law against Unfair Dismissal (Kündigungsschutzgesetz). Moreover, the AGG contains a provision (article 19(3) AGG) that limits the protection against housing discrimination (regardless of the specific grounds of discrimination, but in practice it seems to be relevant to migrants and ethnic minorities). According to article 19(3) AGG, 'in the case of rental of housing, a difference of treatment shall not be deemed to be discrimination where they (sic.) serve to create and maintain stable social structures regarding inhabitants and balanced settlement structures, as well as balanced economic, social and cultural conditions.' This exemption has been criticised by several authoritative independent sources (the UN Committee on the Elimination of Racial Discrimination (CERD), the European Commission against Racism and Intolerance of the Council of Europe (ECRI) and the UN Special Rapporteur on Contemporary Forms of Racism).[28]

The AGG does not prohibit discrimination on the grounds of nationality or residence status/title. The German Industrial Relations Act (Betriebsverfassungsgesetz: BetrVG) (and related acts pertaining to public services) is the only piece of legislation in Germany that contains an explicit reference to unequal treatment based on nationality. It is noteworthy, though, that the BetrVG does not directly ban discrimination, but solely obliges the employer and the 'works council' to take (preventive or other) measures against discrimination at the workplace.[29]

Criminal Code

In Germany, discrimination in the field of employment, housing or any other public or private realm is not subject to any Criminal Code provision. Moreover, the Criminal Code also does not contain any provisions that refer explicitly to racist or hate crime, – neither as a separate type of offence sui generis, nor in conjunction with another 'regular' offence. Thus, the German criminal code has relevance to offences committed with racist or other group-focussed prejudice-based motives in the same way as to any other crime.

Section 46 (2) of the Criminal Code (Strafgesetzbuch: StGB) lists the 'perpetrator's motives' as one among several factors to be considered when a sentence is determined in court, though without an explicit reference to racist or other prejudice-related motives. Hence, racist motives can, but do not have to, be considered by the judge. Data on the use of this section in the context of racist hate crimes are not available. There is, however, anecdotal evidence that judges are more susceptible to considering a racist motive in cases of (attempted) homicide, than in less severe crimes (e.g. bodily harm). International bodies, such as the UN (CERD and the Special Rapporteur on Racism) and ECRI have criticised this judicial practice on various occasions (e.g. UN 2010, ECRI 2009). Germany's Criminal Code does not explicitly mention racist motives as an aggravating factor to be considered by the court when determining the sentence.

In contrast to the incomplete provisions on hate crime, the German Criminal Code does contain comprehensive stipulations that ban hate speech. Section 130 StGB, on incitements to hatred, prohibits expression and actions directed against national, racial, ethnic or religious groups or individual members of these groups; this section was recently amended and enhanced in order to comply with the minimum requirements laid out by the Framework Decision 2008/913/JHA and the CoE Additional Protocol to the Council of Europe Convention on Cybercrime.[30]

Neither the Criminal Code, nor any other German law, contains explicit provisions on hate crime. However, the police may apply the category of hate crime, when they register an offence as a sub-category of politically motivated crimes within the Criminal Police Reporting system KPMD-PMK. As a consequence, hate crimes are only recorded as such if the police assume a political motivation. Since everyday racism (outside the spectrum of political motivation) does not fall within this category, hate crimes very often remain undocumented. According to the official definition, politically motivated criminal acts are recorded as hate crimes 'if taking into consideration the circumstances of the act and the attitude of the perpetrator(s), indicators occur which imply that the crime was directed against a person because of his/her political attitude, nationality, ethnicity, race, skin colour, religion, belief, origin, sexual orientation, disability, outward appearance or social status'; an act is also classified as hate crime if it is directed – in a similar motivational context – against 'an institution or an object'.[31] As the KPMD-PMK statistics differentiate between extreme right-wing and extreme left-wing crimes, as well as politically motivated crimes committed by foreigners, hate crimes are (at least internally) classified

according to these categories. The vast majority of hate crimes are recorded in the category of politically motivated right-wing crimes.

Notes *Chapter 3*

8 Complaints data and statistical data can, in some cases, serve as additional proof in CGB cases, for example in CGB opinions 2008-97, 2009-76, 2009-101.

9 In addition to the legislation described in this chapter, there are several laws and provisions in specific social areas, such as the Dutch Media Act (Mediawet) and Labour Act (Arbowet).

10 The full text of the Act in English can be found on the website of the Equal Treatment Commission: www.cgb.nl/english/legislation/equal_treatment_act.

11 Netherlands, Equal Treatment Commission (2011a).

12 See Article 1 AWGB.

13 European Commission (2008).

14 For more information, see the Equal Treatment Commission website www.cgb.nl.

15 See: www2.ohchr.org/english/law/cerd.htm.

16 Disability has been added to the list of grounds in 2006.

17 With the exception of the discrimination ground gender.

18 Exclusively for the ground race.

19 Netherlands, Bulletin of Acts and Decrees of the Kingdom of the Netherlands (2009a).

20 E.g. see article 137c paragraph 2 of the Dutch Criminal Code.

21 In an international context, one can compare these crimes to so-called 'hate crime' or 'hate speech'. The Dutch translations of the English terms 'hate crime' (haatmisdrijf) or 'hate speech' (haatspraak) are hardly used. In the Netherlands these crimes are usually referred to as 'discrimination'. Most hate speech offences will be charged with one of the articles 137c-e Criminal Code, although hate speech can also be considered a general offence (for instance insult or threat).

22 Netherlands, Public Prosecution Service (2007, 2011).

23 Ibid.

24 Ibid.

25 Netherlands, Bulletin of Acts and Decrees of the Kingdom of the Netherlands (2009b).

26 Article 1, in conjunction with article 2 of the Municipal Antidiscrimination Facilities Act. Furthermore, an anti-discrimination facility is responsible for registering the notifications and complaints it receives.

27 Due to the problematic connotation of the term 'race', which may suggest the existence of different biological human races, many anti-discrimination organisations, including the German equality body ADS, have stopped using the term and speak of 'racist discrimination' instead of discrimination on the grounds of race.

28 CERD (2008); ECRI (2009); General Assembly/Human Rights Council (2010).

29 §75 BetrVG obliges the employer and the works council to ensure that in their company discrimination against persons does not occur, be it due to their 'race or ethnic origin, their descent or other origin, their nationality, religion or belief, their disability, age or their political or union activities or attitude, their sex or sexual identity'.

30 Germany, Bundesrat (2010).

31 Germany, Bundestag (2009).

4 Anti-discrimination infrastructure

Anyone who experienced discrimination can notify the management or board of the (branch) organisation concerned. A number of (branch)organisations, like schools, enterprises, labour unions, health care institutions and sports clubs, have internal procedures for complaints handling. Branch organisations are usually specialised in issues and problems that arise in their specific social domain as, for example, in Germany where the statutory Consumer Protection Bureau has experience with problems arising from access to goods and services. However, most organisations or branches are insufficiently aware of the specifics of discrimination, of the relevant legislation or they may not be specialised in anti-discrimination counselling. The extent to which they are specialised in recording or handling discrimination complaints varies.

People in the Netherlands or Germany who have experienced or witnessed discrimination have an opportunity to also report this to various external (governmental) institutions and organisations. They can inform the police or a judicial body. Furthermore, they can contact a specialised antidiscrimination organisation or another NGO, that can provide information and advice and offer practical or emotional support, including mediation between parties or assistance in taking legal action.[32] The majority of the organisations mentioned will record the notifications and complaints they receive. There are also interest groups and (general) support agencies that will offer expert support to the public in general or to specific target groups, such as people with a disability, women or immigrants. Some of these interest groups and support agencies lack expertise in specific anti-discrimination support. Up to now, only a few of them systematically register discrimination complaints.

While cooperation still needs to be improved, a number of institutions and organisations handling complaints of discrimination do work together. In some instances or at a certain stage of the counselling procedure, organisations may refer complainants to other organisations or institutions deemed more suitable to deal with the specific complaint or case. This might for example be the police, a lawyer or an organisation specialised in the specific discrimination ground concerned. People are generally referred to whichever organisation most tailored to the type of complaint or most suitable to provide the requested service. When legal steps are appropriate or subsequently intended, complainants or cases are referred to an institute that can start legal procedures. For example, in the Netherlands the police can submit a prosecutable report of discrimination to the Public Prosecutor, or an NGO can forward a case to the Equal Treatment Commission for a legal opinion.

In this chapter, a selection of Dutch and German (governmental) institutions and organisations collecting data on discrimination complaints, more or less systematically, will be presented. These are the police, the Public Prosecution Service, district courts, equality bodies and specialised anti-discrimination organisations. Among other details the tasks, organisational procedures and (legal) basis of these institutions and organisations will be described.

4.1 THE POLICE

As discrimination is a criminal offence in the Netherlands, the Dutch police handle and register complaints of discrimination. In Germany however, this is not the case. The German police does register cases of hate crimes.

4.1.1 THE NETHERLANDS

In the Netherlands, discriminatory behaviour can constitute a criminal offence. Therefore, reports (aangiften) and notifications (meldingen) of discrimination can be filed with the regional police.[33] The police have to handle and register all reported incidents concerning discrimination. Following the Discrimination Instruction of 2007 (revised in 2011), they also have to be aware of possible discriminatory elements in general offences (commune delicten) that are reported.[34]

People can turn directly to the police when they have experienced discrimination. It also occurs that an organisation to which they appealed for advice refers them to the police. For example, complainants may be referred to the police by an anti-discrimination agency (ADV), by the Equal Treatment Commission (CGB) or, on rare occasions, by the Dutch Complaints Bureau for the Internet (MDI), if these organisations consider the complaint at hand to be a police matter. Conversely, a police officer who believes that someone reporting a discriminatory incident could benefit from the support of an ADV, might point this out to that person. Note that the Discrimination Instruction would still require the police officer to handle and register the notification or report. When a case clearly concerns equal treatment law (for instance an incident of discrimination on grounds of age), the police are likely to refer the complainant to the CGB which, formally, has to be verified with the public prosecutor first.[35]
When confronted with online discrimination, people can also report this to the police. Under the Discrimination Instruction, the police will not refer a complainant to the MDI, but handle complaints of online discrimination themselves.

As mentioned above, all reports or notifications filed with the police are, in principle, registered. Reports, unlike notifications, can be followed, in consultation with the public prosecutor, by a criminal investigation. The Discrimination Instruction stipulates that all reports of discrimination have to be recorded in a police report. Reports of discrimination should always result in a criminal law outcome,

unless a report does not concern a criminal offence and is, in consultation with the public prosecutor, termed a notification in retrospect.[36]

Notifications of discrimination are only registered, they are not forwarded to the Public Prosecution Service (PPS). If certain conditions are met (there is a suspect; the crime is prosecutable[37]), reports of discrimination are transferred to the PPS when the police have finalised their criminal investigation.

Police officers can also be targets of discrimination. Police officers might experience name calling of a racist or homophobic nature. These incidents may be registered by the police as a report or notification of discrimination.

There is also a flow of cases from the Public Prosecutor to the police. This concerns situations where the Public Prosecutor initiates an investigation or a citizen files a complaint directly with the Public Prosecutor. The Public Prosecutor then usually instructs the police to conduct an investigation. The report is registered in the police registration system.

4.1.2 GERMANY

The German police do not record cases of discrimination, as discrimination is not included in the German Criminal Code. They do register cases of alleged hate speech and hate crime that are politically motivated. In some instances, these may overlap with phenomena of discrimination, depending on the definition used.

4.2 THE PUBLIC PROSECUTION SERVICE

Unlike the Dutch PPS, the German PPS does not record discrimination cases. This is explained in the following paragraphs.

4.2.1 THE NETHERLANDS

Since discrimination is explicitly prohibited by the Dutch Criminal Code, the Dutch PPS deals with those specific cases of discrimination as well as with general crimes containing a discriminatory aspect (commune delicten met discriminatoir aspect) that have been handled by the police and are considered eligible for prosecution.
Citizens or organisations that combat discrimination can also file reports of discrimination directly with the PPS. The Dutch Complaints Bureau for Discrimination on the Internet (MDI), for instance, files its reports of moderators who are unwilling to remove an online discriminatory posting, directly with the PPS, instead of with the police (see paragraph 4.5.1.2). Furthermore, the public prosecutor can take

the initiative to hold an inquiry into a possible case of discrimination. In these situations, where incidents are not initially reported with the police, the public prosecutor will involve the police to conduct an investigation into the matter.[38]

Cases handled by the public prosecutor can lead to a decision not to prosecute, for instance when there is insufficient evidence. A case can also be finalised through a transaction (discharge of liability to conviction by payment of a penalty), or the PPS can impose a fine or community service.[39] When neither a decision not to prosecute, nor a transaction, a PPS fine, or community service is appropriate, the public prosecutor can take a case to court.[40]

4.2.2 GERMANY

As mentioned above, German public prosecutors do not register cases of discrimination; this is primarily due to the fact that the AGG does not have any relevance to the realm of criminal law and that the German Criminal Code (Strafgesetzbuch, StGB) does not contain any explicit provisions outlawing discrimination. Offences subject to the Criminal Code that have some overlap with manifestations of discrimination (e.g. hate speech, hate crime related offences) may be processed by the Public Prosecutor, and can lead to (criminal) court proceedings.

Statistics on politically motivated crimes, which are registered by the German public prosecutors, are published very rarely (if at all, solely at the request of the Parliament).

4.3 DISTRICT COURTS

4.3.1 THE NETHERLANDS

In the Netherlands, district court verdicts are not systematically disclosed. The courts produce reports of all pronounced verdicts. A selection of these verdicts is published on www.rechtspraak.nl, the official website of the Dutch Judiciary and the Supreme Court of the Netherlands. The verdict database can be searched by, for example, entering a key word (such as discrimination). Unpublished verdicts can be accessed by filing an information request with a district court.

4.3.2 GERMANY

Very few German labour courts register cases of discrimination separate from the other court cases. Those courts that do, do not have a systematic registration method. In most cases, the number of procedures dealing with matters of discrimination on the basis of the General Equal Treatment Act is registered. More detailed information on the cases is usually not provided.

4.4 EQUALITY BODY

European legislation requires Member States to set up an equality body. There are no specific guidelines for Member States on how these bodies should operate. Across the European Union, equality bodies have been established. They combat discrimination in the areas covered by the EU Equal Treatment Directives.[41] These bodies function as independent organisations that provide assistance to victims of discrimination, they monitor and report on discrimination issues, and they promote equality. In 1994, the Dutch Equal Treatment Law entered into force, which included the establishment of the Equal Treatment Commission (Commissie Gelijke Behandeling, CGB) that is responsible for the enforcement of the law. The CGB is the equality body in the Netherlands. In 2006, the equality body in Germany, the Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes, ADS) was set up.

Both bodies provide information and legal advice on equal treatment law. In the Netherlands, official hearings take place at the CGB. During these hearings, both the complainant and the defendant are heard by CGB members. The CGB will formally pronounce their legal opinion on the case, based on the information provided, which will be made public without the personal details of the people or organisations involved. Although the CGB-opinion is non-binding, judges need to take this opinion into account once the complainant takes the case to court. CGB-opinions can be of great value in court procedures instigated by a victim of unequal treatment.[42]

4.4.1 THE NETHERLANDS

In the Netherlands, the CGB was established to ensure enforcement of the Equal Treatment Law (AWBG) (see Chapter 3, paragraph 3.1). The CGB has a semi-judicial function; it can offer its opinion about the legitimacy or unlawfulness of conduct, practices or regulations. Tasks of the CGB are (1) ensuring enforcement of the standards of equal treatment, (2) raising awareness about the standards of equal treatment and (3) contributing to the development of the equal treatment standards.[43] The CGB can provide advice to ministers, departments of the ministry, the legislator and civil society organisations. In addition, it can conduct investigations of its own into specific situations where discrimination appears to be structural.[44] When the CGB will be incorporated into the newly founded National Human Rights Institute (College voor de Rechten van de Mens), mid-2012, its tasks will remain unchanged.[45]

Individuals who feel they have been subject to unequal treatment can file a petition for an opinion of the CGB. The CGB is authorised to provide its opinion on matters involving the discrimination grounds and social areas enshrined in the Equal Treatment Law (in legal terms this is referred to as CGB jurisdiction).[46] The CGB cannot enforce its decision by imposing sanctions on the individuals or institutions concerned. After having received a CGB-opinion on a case, it is possible to take further legal action and go to court. A petition concerning a situation or incident that does not fall within the CGB jurisdiction, will not result in an opinion by the CGB.[47]

Persons requesting an opinion from the CGB may be referred to the police when the matter at hand is within the scope of the Criminal Code rather than the Equal Treatment Law. Likewise, the police will refer complainants to the CGB when their complaint concerns a possible violation of Equal Treatment Law. Petitions for an opinion with regard to public authorities performing their public tasks (as opposed to public authorities in their capacity as employers) are referred to the National Ombudsman. The CGB will refer petitioners with a discrimination case that falls outside the legal scope of the Equal Treatment Law or the Criminal Code to an anti-discrimination agency (see paragraph 4.5.1.1). Conversely, anti-discrimination agencies can refer complainants to the CGB and they can remain involved by providing (legal) assistance to the complainant during the CGB procedure.

4.4.2 GERMANY

The Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes, ADS) is Germany's first nationwide statutory anti-discrimination body. It was set up in 2006 as the official equality body, based on the General Equal Treatment Act (AGG). According to the AGG, the ADS carries out its tasks independently and is only subject to national law (AGG articles 26, 27). Despite its formal affiliation with the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth[48], the agency considers itself an "independent focal point which anyone affected by discrimination can turn to".[49]
Providing assistance to people who have experienced discrimination is one of the ADS' main tasks. Yet, the ADS is neither authorised to provide legal support within any legal procedure[50] nor to take legal action, independently or on behalf of the individual victim of discrimination. Thus, its support activities are limited to counselling and providing assistance, advice and information on discrimination and related issues.[51] In terms of its advice and support activities, the ADS is mandated, among other things (article 27 (2) AGG), to

- provide information concerning claims and possible legal action based on legal provisions;
- provide protection against discrimination;
- arrange for advice to be provided by another authority (such as other anti-discrimination agencies, counselling agencies or lawyers for special concerns);
- seek to achieve an out-of-court settlement between the involved parties.

Moreover, it is engaged in awareness raising activities (e.g. conferences, publications, PR), carries out its own research and commissions studies on various aspects of discrimination. The ADS has to cooperate with the Federal Commissioners for the Issues of People with a Disability and the Federal Commissioners for Migration, Integration and Refugees. Formally, the ADS "shall pass immediately on the case of the person who lodged a discrimination-related complaint" (with their prior approval) if the case falls within the responsibility of one of the Commissioners. In practice this referral does not, however, seem to happen very often.

At the federal level, the ADS is the only anti-discrimination body in Germany that systematically registers and documents discrimination-related queries and contacts (not necessarily cases of discrimination). According to the ADS, the documentation of discrimination queries serves two purposes: firstly, it helps optimise the counselling procedure at the level of the individual case and it contributes to further development and improvement of the counselling procedure in general. Secondly, discrimination-related queries are documented, registered and published in order to make the problem of unequal treatment in society visible and to uncover current developments in the field of discrimination. In addition, the documentation reflects the counselling activities of the ADS and thus emphasises the importance of its work.

As required by the General Equal Treatment Act (AGG), the ADS provides unbiased support to everyone who has experienced racist discrimination or discrimination on the grounds of their ethnic origin, gender, religion or belief, disability, age or sexual orientation. The ADS pursues a horizontal (as opposed to a target group-specific) approach, i.e. discrimination on any of the grounds listed in the AGG is treated as equally severe. There is no hierarchy of discrimination grounds, and the specific nature of each case is considered. The ADS emphasises this horizontal approach and considers it important because a horizontal, cross-target group approach is most suitable for responding effectively to multiple discrimination (e.g. ethnic origin and gender).
The ADS has underlined that "the reasons for discrimination are not always clearly distinguishable from one another".[52] This observation is pivotal in the daily counselling work of the ADS, which pays particular attention to - often concealed - multiple discrimination. According to the ADS, "the fact that the focus is on overlapping areas does not mean that the specific characteristics attributed to forms and experiences of discrimination against different groups or affected individuals are no longer clearly perceived".[53] Instead, the horizontal approach has to be regarded "as a supplement and not as a substitute for necessary target-group-oriented anti-discrimination work".[54]
Realising that the ADS alone would not be able to provide sufficiently accessible and expert support for victims of discrimination across Germany, the ADS started to tackle the problem of Germany's weak support infrastructure for victims of discrimination who seek advice and assistance. In early 2011, the ADS launched the Campaign for a Society free from Discrimination (Offensive diskriminierungsfreie Gesellschaft), which seeks to establish a nationwide cooperation with partners at the state level as well as with the local and regional anti-discrimination counselling organisations.[55]

4.5 SPECIALISED ANTI-DISCRIMINATION ORGANISATIONS AND NETWORKS

In the Netherlands, specialised anti-discrimination agencies (ADVs) operate at the regional level and they are part of national networks (see paragraph 4.5.1.1).[56] This set-up of regionally operating organisations that form part of a national network is comparable to the anti-discrimination association (advd) in Germany (see paragraph 4.5.2.1). However, whereas in the Netherlands all municipalities are

required to provide their citizens with access to an anti-discrimination facility, there is no national government policy underlying the infrastructure of specialised anti-discrimination organisations in Germany.

The Dutch ADVs do not target one specific group, but cover several grounds of discrimination. Likewise, the Berlin State Body for Equal Treatment – Against Discrimination (LADS) consists of specialised anti-discrimination organisations that cover all grounds of discrimination (see paragraph 4.5.2.2). Currently, this LADS network in the State of Berlin is the only well-developed state-wide network of specialised anti-discrimination organisations in Germany.

In the Netherlands there is a specialised anti-discrimination organisation for discrimination on the internet: the Dutch Complaints Bureau for Discrimination on the Internet (MDI) (see paragraph 4.5.1.2).[57] The MDI works at the national level. As they deal only with online discrimination, the MDI has no physical front office for the public, but is merely accessible through the internet.

The tasks, organisational structure and procedures of these organisations are described in the following paragraphs.

4.5.1 THE NETHERLANDS

4.5.1.1 Anti-discrimination agencies (antidiscriminatievoorzieningen, ADVs)

In the Netherlands, there is an extensive network of provincial or regional anti-discrimination agencies (ADVs) that offer information, advice and support to people who feel discriminated against or who are seeking information on discrimination. In addition, ADVs provide information on the prevention of discrimination in schools and companies. Some of them organise (public) awareness campaigns and offer training to specific target groups, for example courses about anti-discrimination law or about instruments and measures that lead to or promote equal treatment.

In 2009, the Act Municipal Anti-Discrimination Facilities (ADV Act) came into force, obliging all Dutch municipalities to realise facilities for its citizens so they can obtain independent advice, file complaints and report instances of discrimination. It is mandatory for the municipalities to register complaints and to annually report these to the Minister of the Interior and Kingdom Relations.[58]

According to the ADV Act, municipalities have two mandatory tasks: (i) providing support and independent advice to citizens and (ii) registration of discrimination complaints. In addition to these two tasks, some municipalities also fund the additional tasks of providing information, prevention activities and projects targeted at particular groups.

In 2010, a year after the ADV Act was introduced, 97% of the municipalities had complied with its requirements, which meant that 99% of all Dutch citizens had access to an anti-discrimination facility (compared to around 43% of Dutch citizens in 2005).[59] Following the ADV Act, most municipalities have entrusted a regional ADV with the legal duties.

In 2010, the Dutch Expertise Centre Discrimination Art.1 and Utrecht University published a national report on the ADV complaints registration (data of 2009), in cooperation with representatives of the ADV network.[60]

In 2010 and 2011 changes took place in the organisation of anti-discrimination agencies. More larger, regionally operating ADVs were formed. Moreover, two new branch organisations have been established: the National Branch Organisation Anti-discrimination Agencies (Landelijke Brancheorganisatie Antidiscriminatiebureaus, LBA) and the Partner Anti-discrimination Agencies Netherlands (Samenwerkende Antidiscriminatiebureaus Nederland, SAN). As a result of these developments, no national report on the registered complaints was published in 2011.[61] Therefore, for the purpose of this study, the registration by the ADVs in 2009 is discussed.

People who feel discriminated against can contact an ADV by phone, email, by visiting an agency or by filling in an online form on either the website of a specific ADV or on the national website www.discriminatie.nl (see Chapter 5, paragraph 5.1.4). Complainants are also referred to the ADVs by other civil organisations, such as neighbourhood mediation and social services.

The police can refer complainants to an ADV, notably when there is no relation to the Criminal Code, or when a police office thinks a complainant may benefit from the support an ADV can offer. Similarly, when someone petitions the Equal Treatment Commission (CGB) for an opinion, or requests information, the CGB can refer that person to an ADV for support, if their request or petition does not fall within the mandate of the CGB. Conversely, an ADV can refer a complainant to the police or the CGB if they think that a complaint should be assessed by a legal institution. Particular to the way of working of ADVs is that they, if a complainant should desire this, can support or counsel him or her in going to the police or the CGB. Alternatively (and more frequently), an ADV can mediate between a complainant and the accused party or can simply listen to someone's story. The ADV will always put the interests of the complainant first; he or she decides what steps are (not) to be taken.

Most ADVs will refer a complaint about online discrimination to the Dutch Complaints Bureau for Discrimination on the Internet (MDI), although some do handle internet cases. The MDI will refer a complaint that does not concern the internet to an ADV (or to the police or the CGB). An ADV will refer a complainant who does not have a discrimination case, to a more appropriate organisation or point out where to find relevant information.

ADVs generally register all notifications, complaints and requests for information they receive.[62] Some ADVs, however, only register notifications and complaints if certain minimum information is provided. For instance, some ADVs only record those situations in their registration system where the complainant provided at the least details on the discrimination ground and on his or her place of residence.

4.5.1.2 Dutch Complaints Bureau for Discrimination on the Internet (Meldpunt Discriminatie Internet, MDI)

In the Netherlands there is a specialised anti-discrimination organisation for discrimination on the internet: the Dutch Complaints Bureau for Discrimination on the Internet (MDI).[63] Since 1996, people who encounter a discriminatory expression online can report this at the MDI.[64] The MDI aims to remove expressions that it considers to be possibly criminal according to Dutch law. If a website moderator is unwilling to comply with a request for removal of an expression, the MDI can file a complaint with the Public Prosecution Service.

Other anti-discrimination organisations mostly refer complainants to the specialised MDI when their complaint concerns a discriminatory online expression. The MDI refers every complaint without an online discrimination element to an appropriate organisation. Complaints concerning discrimination in 'real life' are referred to anti-discrimination agencies or, in some cases, the police. Complaints about private discriminatory emails or other online expressions aimed at a specific individual are referred to the police. As these are not public, they do not fall within the scope of Article 137c-137g of the Criminal Code but might relate to the Articles on insult (eenvoudige belediging) or defamation (laster).[65]

In 2002, the MDI was the co-founder of an international network of organisations dealing with online discrimination: the International Network Against CyberHate (INACH).[66] The network currently has 18 members who cooperate in fighting online discrimination in an international context. This report focuses on the MDI registration system, although further references to the INACH network and its registration system are made.

4.5.2 GERMANY

There are a few anti-discrimination bodies - some of them civil society organisations, others governmental and municipal bodies - specialised in supporting victims of discrimination in Germany. The majority of these organisations focus on specific target groups or particular grounds of discrimination. However, since the General Equal Treatment Act came into effect in 2006, the number of offices and organisations with a horizontal approach (i.e. covering all grounds of discrimination) has increased.[67] Anti-discrimination organisations also play an increasingly important role in registering and documenting complaints about discrimination.

Within this emerging anti-discrimination landscape in Germany, there is a positive trend towards a more systematic and standardised registration of discrimination complaints.[68] Another tendency is that counselling centres, especially those with a horizontal approach and those dealing with the issue of ethnic discrimination and sexual identity/orientation, have been active in establishing nation-wide networks in order to enhance and harmonise their data registration and counselling procedures (see paragraph 4.5.2.1 and 4.6.2).

4.5.2.1 Anti-Discrimination Association Germany (Antidiskriminierungsverband Deutschland: advd)

The Anti-Discrimination Association Germany (advd) is an umbrella association, founded in 2007 by several non-governmental anti-discrimination organisations. Most organisations are specialised in providing support for victims of discrimination. The general objective of the advd is to establish a culture of non-discrimination in Germany. To work towards this goal, the advd acts as an activist and lobby group and it actively engages in the public and political debate on discrimination. Core aims of the advd are empowering and supporting people who have experienced discrimination and exposing and redressing mechanisms of structural discrimination.

The following organisations are founding members of the advd. They are located in Berlin, North Rhine-Westphalia (NRW), Hamburg, Saxony and Lower Saxony.[69]

- ADB Cologne - Anti-Discrimination Office Cologne/ Public against Violence (ADB Köln – AntiDiskriminierungsBüro Köln/ Öffentlichkeit gegen Gewalt)
- Anti-Discrimination Office Saxony (Antidiskriminierungsbüro Sachsen)
- Anti-Discrimination Office Aachen/ Educational Centre Aachen (Antidiskriminierungsbüro Aachen/ Pädagogisches Zentrum Aachen)
- Anti-Racism Information Centre, ARIC-NRW (Anti-Rassismus Informations-Centrum, ARIC-NRW)
- basis & woge (Hamburg) (basis & woge (Hamburg))
- Association against Ethnic Discrimination in the Federal Republic of Germany (BDB - Bund gegen ethnische Diskriminierung in der Bundesrepublik Deutschland)
- IBIS - Intercultural Office / Anti-Discrimination Office (IBIS - interkulturelle Arbeitsstelle e.V./ Antidiskriminierungsstelle)
- Initiative Black People in Germany ISD-association (Initiative Schwarze Menschen in Deutschland ISD-Bund)
- Institute for Migration and Racism Research Hamburg (iMiR - Institut für Migrations- und Rassismusforschung Hamburg))
- Turkish Union in Berlin-Brandenburg (Türkischer Bund in Berlin-Brandenburg -TBB)

The advd aims to increase the number of member organisations continuously. Recently, three well-established organisations, that are active in the field of non-discrimination, joined the advd; the Planerladen Dortmund (NRW), Opferperspektive (Brandenburg) and LesMigraS (Berlin).

The advd member organisations provide specialised anti-discrimination counselling based on jointly developed standards. Being an umbrella organisation, the advd itself does not register discrimination complaints. Instead, discrimination complaints have been registered by its member organisations since 2009.[70] In addition to their jointly developed counselling procedures since 2010, discrimination complaints have also been registered and documented in a standardised way by all member organisations.

The General Equal Treatment Act (AGG) and the Universal Declaration of Human Rights[71] are the basis for the advd's work. The advd's understanding of unequal treatment and discrimination reaches beyond the minimum requirement and legal scope of the AGG or the relevant EU regulations. The advd considers discrimination not only as individual misbehaviour or maltreatment, but also as a structural phenomenon of exclusion. A core principle of the consultation work of the advd is the conviction that discrimination is an individual as well as a structural phenomenon with formal and informal manifestations.[72]

The advd stresses the application of a horizontal approach, highlighting that all types of discrimination are equally prohibited and must thus be equally addressed (without neglecting the particularities of each individual case). As a matter of principle, which is laid down in the advd counselling standards, the advd and most of its member organisations take the possible occurrence of multiple discrimination into account. Although most of the member organisations embrace a target-group specific approach - with most of the member organisations specialised in ethnic discrimination - other (potential) grounds of discrimination are taken into consideration during the counselling process.

The advd member organisations jointly developed common principles for the counselling procedure. These principles are publicly available:

- A key principle of anti-discrimination counselling is that privacy has to be guaranteed.
- Furthermore, when reconstructing the discriminatory incident, the victim's perspective has been used as a primary source.[73] This means that the perspective of the person(s) affected is taken into account, at every step of the consultation process.
- Anti-discrimination counselling shall ensure independence from state institutions, parties, etc.
- The advd and its member organisations emphasise low-threshold access, by providing counselling in different languages and services being offered in close proximity to where the complainants live. Access to counselling should also not be hampered by technical, institutional or any other barriers.
- Anti-discrimination counselling requires cooperation of stakeholders on a local, regional and supra-regional level, as well as multidisciplinary cooperation between organisations that are specialised in certain target groups.

4.5.2.2 The Berliner Landesstelle für Gleichbehandlung – gegen Diskriminierung (Berlin State Body for Equal Treatment – Against Discrimination, LADS)

The Berliner Landesstelle für Gleichbehandlung – gegen Diskriminierung (Berlin State Body for Equal Treatment – Against Discrimination, LADS) is a statutory anti-discrimination body at the state level, established in April 2007 by the Berlin Senate Administration for Integration, Labour and Social Affairs.

The LADS addresses all grounds of discrimination (covered by the AGG) and, in doing so, pursues a deliberately horizontal approach in its work. Its general objectives are to promote a culture of non-discrimination and diversity in Berlin and to encourage and assist people to claim their right to equal treatment. To pursue these aims, the LADS carries out the following tasks[74]:

- Awareness raising for the right and obligation to equal treatment and non-discrimination, focussed on the society in general, but also more specifically, business, public administration and policymakers;
- Initiating and supporting preventive measures (e.g. further training, producing information material);
- Enhancing and coordinating a network of adequate counselling and self-help options;
- Supporting public administration in implementing the AGG;
- Engaging in the policy-making process aimed at countering structural discrimination;
- Improving the data registration on incidents of discrimination in Berlin.

Regarding the collection and documentation of incidents of discrimination, it is important to mention that the LADS itself does not engage in the practical work of anti-discrimination counselling. Hence, incidents of discrimination are generally not recorded and registered by the LADS directly. However, after its inception in 2007, the LADS set up and coordinated a Berlin-wide network of organisations that have the capacity to provide professional anti-discrimination counselling. Since January 2008, the LADS has successfully set up a state-wide network of civil society and governmental organisations that offer specialised anti-discrimination counselling and that document complaints of discrimination in a standardised fashion. The LADS has stressed from the beginning, that this network is open to other organisations and has encouraged and invited any relevant Berlin-based organisations to join, provided they are willing to apply the same methods of documenting cases of discrimination.[75] Since the summer 2011, this network consisted of the following Berlin-based organisations. Most organisations are specialised in supporting particular target groups (e.g. migrants/ethnic minorities, gays, lesbians, people with a disability, women).[76]

- Anti-Discrimination Network Berlin of the Turkish Union Berlin-Brandenburg (Antidiskriminierungsnetzwerk Berlin (ADNB) des Türkischen Bund Berlin-Brandenburg)
- Association for anti-discriminatory and educational work in the Federal Republic of Germany (Bund für Antidiskriminierungs- und Bildungsarbeit in der BRD)
- Anti-Discrimination Office Berlin (Antidiskriminierungsbüro Berlin)
- Parents counselling parents (Eltern beraten Eltern)

- State Association for self-help (Landesvereinigung Selbsthilfe)
- Counselling for Gays Berlin (Schwulenberatung Berlin)
- Sunday Club (Sonntagsclub)
- Counselling for Lesbians Berlin (Lesbenberatung Berlin/LesMigras)
- Lesbian and Gay Association Germany (LSVD, regional association of the federal state of Berlin) (Lesben- und Schwulenverband Deutschland (LSVD, Landesverband Berlin))
- Berlin Senate Department for Economy, Technology and Women (Berliner Senatsverwaltung für Wirtschaft, Technologie und Frauen)

This network has two interrelated purposes: providing high-standard expert counselling for people who have experienced discrimination; and, simultaneously, contributing to a systematic and harmonised data collection method of discrimination in Berlin.

As a standardised approach to the collection and documentation of incidents of discrimination is vital, the LADS has developed - in cooperation with the participating organisations - the LADS-IT Documentation System. This registration system ensures that each network organisation systematically records and documents incidents of discrimination in a harmonised way. It has been successfully applied by an increasing number of participating counselling organisations since 2008. According to Peucker and Lechner (2010), the anti-discrimination counselling network, coordinated by the LADS, currently constitutes the most advanced approach to systematically document incidents of discrimination (although it covers only one federal city state, namely Berlin).[77]

4.6 OMBUDSMAN, HUMAN RIGHTS ORGANISATIONS, INTEREST GROUPS AND OTHER ORGANISATIONS

In addition to the organisations described in above, there are other organisations that register notifications or complaints of discrimination within a particular discrimination ground or social area. The following paragraphs deal with several such organisations in the Netherlands and in Germany. In Germany networks of interest groups registering discrimination complaints exist at state level, especially in North Rhine-Westphalia and Berlin. However, an efficient infrastructure of organisations that offer anti-discrimination counselling is missing in most regions (see paragraph 4.6.2).

4.6.1 THE NETHERLANDS

Dutch citizens who experience problems with the government can file a complaint at the National Ombudsman.[78] This is only possible after they have failed to settle the matter together with the administrative authority concerned. When appropriate, the National Ombudsman responds to a problem or complaint by launching an investigation. The National Ombudsman occasionally receives

complaints concerning incidents of unequal treatment by the government. However, these complaints are not reported separately in the annual report of the National Ombudsman.

Several interest groups register discrimination complaints of their target group: the Centre for Information and Documentation Israel (CIDI)[79], COC[80], and recently, the Transgender Network the Netherlands (TNN)[81] and the Chronic Disease and Handicap Council (CG-raad)[82]. Since 1983, CIDI publishes annual reports on the complaints they receive. Up until 2011, the other organisations have not (yet) published information on their complaints data.

4.6.2 GERMANY

A statutory committee within the German Bundestag (Petitionsausschuss) is in charge of receiving, processing and responding to requests or complaints from anyone in Germany. While some of these complaints and queries may be related to discrimination experiences, the statistics do not allow for identifying such cases.

In addition to this general (and unspecific) complaint mechanism, there is an abundance of governmental and non-governmental organisations and bodies that provide support and counselling for particular target-groups, which are potentially affected by discrimination (people with disabilities, women, etc.). Some of these organisations have a context-specific focus, for instance on employment (e.g. works councils, trade unions, internal anti-discrimination office within companies), housing (e.g. Mieterbund) or access to goods and services (e.g. consumer protection organisations, Verbraucherschutzzentrale). Other civil society organisations and federal, state or municipal bodies and departments are points of contact and support for certain groups that may be affected by discrimination (e.g. people with disabilities, gays and lesbians, ethnic minorities and migrants, women). However, among these diverse organisations and bodies, there is only a very small (though growing) minority that explicitly focuses on non-discrimination, and that is able to provide comprehensive help to victims of discrimination.

Although they are not further discussed in this study, due to their primarily target-group specific approach, the coordination office of the Anti-Violence-Work for Lesbians and Gays in North Rhine-Westphalia (NRW) and the NRW-based network of anti-discrimination and anti-racism offices are both worth briefly mentioning, as they have extensive experience in supporting victims of discrimination and documenting cases of discrimination.

The coordination office of the Anti-Violence-Work for Lesbians and Gays in NRW (Landeskoordination der Anti-Gewalt-Arbeit für Lesben und Schwule in NRW) has established and coordinated, since 2003, a state-wide network of independently operating civil society institutions, specialised in supporting and empowering gays and lesbians. This network currently comprises about 16 independent offices and

organisations. The support for victims of discrimination (based on their sexual orientation) is an important, but not the only support activity offered by the organisations involved. Complaints are registered and documented by all organisations of the network on the basis of shared questionnaires. Currently, the documentation system of the coordination office is being converted into an online-based registration.

Another example of good practice is the NRW-wide network of anti-discrimination offices (NRW-weites Netzwerk von Antidiskriminierungsbüros), that mainly focusses on countering ethnic discrimination and racism. The network consists of five professionally and independently operating civil society institutions, each of them specialised in different activities. The five institutions offer individual counselling for those who have experienced discrimination and racism. Complaints regarding discrimination are documented in a standardised fashion, using documentation software called "ARIC D-Dok".[83] The staff of the NRW network organisations have been trained, not only in the technical use of the software, but also in how to categorise complaints of discrimination.

The five organisations involved also established a website that offers the possibility of anonymously reporting a case of discrimination. These anonymously reported cases of discrimination are evaluated separately from those registered in the course of individual counselling. Thus far the network has not published joint statistics of registered cases of discrimination. Only one of the member organisations, namely the ADB Köln, released an annual brochure with data on registered complaints and background material, including individual case studies of discrimination.[84]

4.7 INSTITUTIONS, ORGANISATIONS AND NETWORKS INCLUDED IN THIS REPORT

This report deals with the infrastructure of institutions, organisations and networks handling and registering reports and complaints of discrimination, in the Netherlands and in Germany. It focuses on those institutions, organisations and networks that address all (legal) discrimination grounds in their activities (constituting a 'horizontal approach') and not just one or two grounds; and that have (substantial) practical experience with standardised data collection.

In the Netherlands the following institutions, organisations and networks are included in this study:

1. The police
2. The Public Prosecution Service (PPS)
3. The Equal Treatment Commission (CGB)
4. The Network of anti-discrimination agencies (ADVs)
5. The Dutch Complaints Bureau for Discrimination on the Internet (MDI)

In order to compare the Dutch and the German situation, the lack of data collection by the German PPS should be noted. Subsequently, the data collection mechanisms deployed by the German labour courts and the German police is briefly described.

1. The police
2. The Public Prosecution Service
3. The Labour courts

In addition, the following German anti-discrimination institutions and networks were included:

4. The Federal Anti-Discrimination Agency, ADS, Germany's first statutory equality and anti-discrimination body at the federal level
5. The Berlin State Body for Equal Treatment – Against Discrimination, LADS, which is a statutory anti-discrimination body at the state level and includes a state-wide network of mainly civil society organisations that offer specialised anti-discrimination counselling.
6. The anti-discrimination association Germany, advd, which comprises of several non-governmental specialised anti-discrimination (support) organisations active at the state or local level.

See Annex A for a schematic overview of all included Dutch and German organisations and some of their main characteristics.

4.8 NATIONAL COORDINATION

The Netherlands has no official national coordinating body for the registration and analysis of all available complaints data. In previous years reports have been published which combined data from various sources such as the Monitor Racism and Extremism (Monitor Racisme en Extremisme[85]) and the Monitor Racial Discrimination (Monitor Rassendiscriminatie[86]).

The infrastructure of the anti-discrimination organisations in Germany is dispersed. Although there are several organisations that register and document discrimination complaints, this is not done in a standardised and comprehensive way across the country; there is no central body that collects and/or analyses data on discrimination complaints recorded by the different organisations.

Notes *Chapter 4*

32 For legal action, people can also hire a lawyer to start a civil procedure.
33 Notifications of discrimination are registered only; reports are handled and registered.
34 Netherlands, Public Prosecution Service (2007, 2011) (see also Chapter 3, paragraph 3.1.4).
35 Netherlands, Public Prosecution Service (2007, 2011).
36 Ibid. According to the basic principle of the Discrimination Instruction, there is no room for mediation if and when discrimination is reported, barring exceptional circumstances. However, in practice, police officers can intervene in a situation where a report of discrimination has been filed.

37 The Public Prosecution Service is involved at an early stage to help assess whether or not an incident should be investigated by the police and/or whether a file is ready to be transferred to the Public Prosecutor Service.

38 There is also a flow of complaints/incidents from the Public Prosecutor to the police. This concerns situations where the Public Prosecutor initiates an investigation or a citizen files a complaint directly with the Public Prosecutor. The Public Prosecutor then usually instructs the police to conduct an investigation. The complaint is registered in the police system BVH.

39 The difference between a transaction and a PPS fine or community service, is that if a transaction is not paid, a hearing will automatically be planned, whereas a PPS fine or community service will only end in court if a suspect appeals it within a certain time frame.

40 Netherlands, Public Prosecution Service (2011a).

41 For a list of Equality bodies across Europe, see the website of Equinet www.equineteurope.org/361.html.

42 Netherlands, Equal Treatment Commission (2011b).

43 Netherlands, Equal Treatment Commission (2009), p. 7.

44 www.cgb.nl.

45 Netherlands, Equal Treatment Commission (2011c).

46 For an overview of the relevant discrimination grounds and social areas see www.cgb.nl.

47 Netherlands, Equal Treatment Commission (2011d).

48 The ADS has a separate budget within the general budget plan of the Federal Ministry. Its funding derives directly from the federal budget. The ADS decides independently "upon the initiatives for which it will extend its available funds in keeping with valid budget law", Equinet, (2011).

49 Germany, Land Office for Equal Treatment - Against Discrimination (2011).

50 It is expected by some people who turn to the ADS that the agency may represent them in legal proceedings or change the law to their advantage. However, since there is no legal basis for such action, the ADS can solely offer primary counselling, Equinet (2011).

51 Bambal (2009).

52 Germany, Land Office for Equal Treatment - Against Discrimination (2011).

53 Ibid.

54 Ibid.

55 The regional governments Berlin and Hamburg have both joined this evolving network and Brandenburg has officially declared its willingness to work towards this aim. This ambitious and long-term aim of the ADS might be jeopardized, however, as the ADS is currently facing severe annual funding cuts (the third time in a row) and restrictions of its independence and autonomy in deciding how to use its annual budget.

56 In 2011 there were two branch organisations; the National Branch Organisation of Anti-discrimination Agencies (LBA) and the Cooperating Anti-discrimination Agencies Netherlands (SAN).

57 Website: www.meldpunt.nl.

58 Netherlands, Bulletin of Acts and Decrees of the Kingdom of the Netherlands (2009b).

59 Pröpper, I., Struik, P., Van Oosterhout, M. and Den Dunnen, S. (2010).

60 Dinsbach, W., Van Bon, S. and Coenders, M. (2010).

61 At the time of writing, November 2011, the LBA did publish the data of its members: National Branch Organisation of Antidiscrimination Agencies (2011).

62 The difference between reports and complaints is that complaints, unlike reports, are followed by an action of the ADV.

63 Website: www.meldpunt.nl.

64 An expression can involve all sorts of online material, such as texts, images and video's.

65 Respectively Article 266 and 262 of the Dutch Criminal Code.

66 www.inach.net.

67 In addition to three government agencies that operate at the federal or state level, a number of non-governmental organisations have established anti-discrimination offices or have begun to broaden their support and counselling work to pursue a horizontal approach. At the municipal level, the horizontal approach is becoming increasingly common, though this applies primarily to larger cities. The horizontal approach has generally been on the rise in recent years, even if its impact is minor compared to approaches targeting specific groups.

68 Peucker, M. and Lechner, C. (2010).

69 Some of them are also members of other anti-discrimination networks, for instance the Türkischer Bund in Berlin-Brandenburg - TBB, which is involved in the advd as well as in the LADS coordinated counselling network in Berlin.

70 While some of the member organisations (e.g. ARIC-NRW) have been registering and documenting discrimination complaints for almost a decade, other advd member organisations started to register discrimination complaints only in recent years.

71 See the website of the Office of the United Nations High Commissioner for Human Rights (OHCHR) www.ohchr.org/en/udhr/pages/introduction.aspx.

72 Landeszentrum für Zuwanderung NRW (2003).

73 The ADVD avoid the term 'victim' ("Opfer").

74 See: www.berlin.de/lb/ads.

75 Germany, Land Office for Equal Treatment – Against Discrimination (2010).

76 All these listed organisations register discrimination complaints; many more organisations are involved in meetings and other activities organised by the LADS.

77 Peucker, M. and Lechner, C. (2010).

78 www.nationaleombudsman.nl.

79 CIDI aims to protect the right to peace and safety of Israel and the Jewish people.

80 COC is a national association of 23 local associations promoting emancipation and integration of gay people.

81 TNN is committed to promote a gender diverse society, emancipation of transgenders and the fight against discrimination.

82 The CG-raad promotes equal opportunities for people with a disability or chronic disease.

83 This software was developed on the basis of the computer-based registration system used by the former Dutch National Bureau Against Racial Discrimination (LBR, now Art. 1). This registration system was also the precursor of ADBase, see Chapter 5, paragraph 5.1.4.

84 Available at: www.aric-nrw.de/nrwgegendiskriminierung/de/docs/archiv_start.html.

85 Anne Frank Foundation and University Leiden, (1997 up to and including 2010).

86 In 2005 and 2009 by the Anne Frank Foundation, Art.1 and University Leiden.

5 Ways of handling complaints and procedures for recording and processing data

Organisations and institutions handling complaints of discrimination can be accessed through various communication channels, i.e. by phone, by e-mail, through online forms and, in some cases, through face-to-face contact. Complaints are handled in different ways by each organisation. A number of organisations use standardised surveys to obtain information from complainants, whereas others request complainants to provide information in a simple online form. Some organisations offer a legal assessment of a complaint, others do not.
Citizens can contact many of the organisations if they want to request information on discrimination or how to deal with a particular form of discrimination. Information requests may be registered, in a separate registration system or combined with the complaints registration.

Complaints of discrimination filed with an organisation concern certain situations that are considered to be discriminatory. Organisations will register these situations, for which various descriptions are used, such as 'incidents with a discriminatory character', or 'discriminatory expressions' on the internet. Situations may also be referred to as 'cases'.

Apart from information requests, the registrations of the various organisations can be distinguished into the following types:

1. Notification (melding / Meldung) = A situation of (alleged) discrimination that has been submitted, but for which no complaints handling or follow-up involving the complainant has been carried out.
2. Complaint (klacht / Beschwerde) = A situation of (alleged) discrimination that has been submitted for which complaints handling or follow-up involving the complainant has been carried out.
3. Police report (politieaangifte / Polizei Anzeige) = A situation of (alleged) discrimination that has been submitted to the police and that has subsequently been handled according to regular report procedures of the police.
4. Offence (strafbaar feit / Straftat) = A fact of (alleged) discrimination in a case submitted to the Public Prosecution Service (PPS) for which a Criminal Code article may be applicable (e.g. in the Netherlands the articles 137c-g and 429quater).
5. Petition for an opinion (verzoek om een oordeel) = A situation of (alleged) discrimination that has been submitted to the Dutch Equal Treatment Commission (CGB) for a legal opinion.

Throughout the current report the term 'complaints' is also used generically and in those cases refers to multiple or all of the above types.

This chapter outlines how each organisation receives and handles complaints and how these are registered. The methods of registration of complaints will be specified for each organisation. The chapter concludes with a description of one of the registrations systems, i.e. the Art.1 registration system, used by a number of anti-discrimination agencies (ADVs) in the Netherlands, detailing how and what information can be entered in this specific registration system.[87]

5.1 THE NETHERLANDS

5.1.1 THE POLICE

People who feel discriminated against and people who know of a discriminatory incident can report the incident (aangifte doen) at the police station, or with a police officer on-site. Alternatively, they can report an incident through the website www.hatecrimes.nl. It also occurs that the police are notified of an incident but no report is filed, for instance when someone encounters a swastika spraypainted somewhere in public space and simply wants to inform the police about this. The police will record these notifications (meldingen).

Reports and notifications of discrimination are (like reports and notifications of any other crime), registered regionally, and they will be classified as an incident with a discriminatory character by a police officer in the registration system Basisvoorziening Handhaving (BVH).[88] Police officers can also register incidents where they themselves feel discriminated against or incidents they have witnessed.[89]

BVH requires police officers to enter a 'social class' (maatschappelijke klasse) for each report or notification they register.[90] The nature of the incident, as well as the discrimination ground, can be described in a text field. If there is a discriminatory element to another type of offence (commuun delict met discriminatoir aspect), for instance threatening behaviour, accompanied by discriminating remarks about a person's sexual identity, both the social class code for discrimination and the other offence can be entered.

Some police regions have added 'project codes' to BVH, which are used to refer to different discrimination grounds. Besides recording a report or notification as discrimination (by selecting the appropriate social class code) police officers can specify the discrimination ground by selecting the relevant project code. Police officers in regions that do not work with these project codes referring to discrimination grounds, can describe the discrimination ground in a text field.

In each police region a police officer specialised in discrimination (usually a so-called 'taakaccenthouder discriminatie') periodically runs a query in BVH. By means of this query, the 'discrimination' police officer collects all incidents registered in his/her police region that involve discrimination, be it a case of specific discrimination or a regular criminal offence with a discriminatory element (commuun delict met discriminatoir aspect).[91]

The National Expertise Centre Diversity (Landelijk Expertise Centrum Diversiteit, LECD-police) is an expertise centre of the police that focuses on diversity issues. The LECD-police was established as a temporary expertise centre in 2001.[92] It is to be evaluated in 2013, in order to decide which LECD tasks require prolongation and need to be transferred to mainstream institutions in 2014.[93]
In 2009, the LECD-police issued a list of 38 keywords, which could be used by all police regions as a query in BVH to gather all reported incidents of discrimination. This list was based on queries which were already being used by the 'discrimination' police officers.

The incidents retrieved with the query in BVH are copied (manually in most regions) by the 'discrimination' police officer in a regional case overview (zaaksoverzicht). To this end the LECD-police has provided all 'discrimination' police officers with a standard Excel template. Multiple reports or notifications concerning one incident are reduced to one case in the case overview.[94]

When copying cases into the case overview, the 'discrimination' police officer obtains relevant information from the comment field in BVH and from the files attached to a case (such as the police report, the hearing of the accused and the hearing of witnesses). The officer then writes a description of the case in the case overview and includes which discrimination ground is relevant to the case.[95]

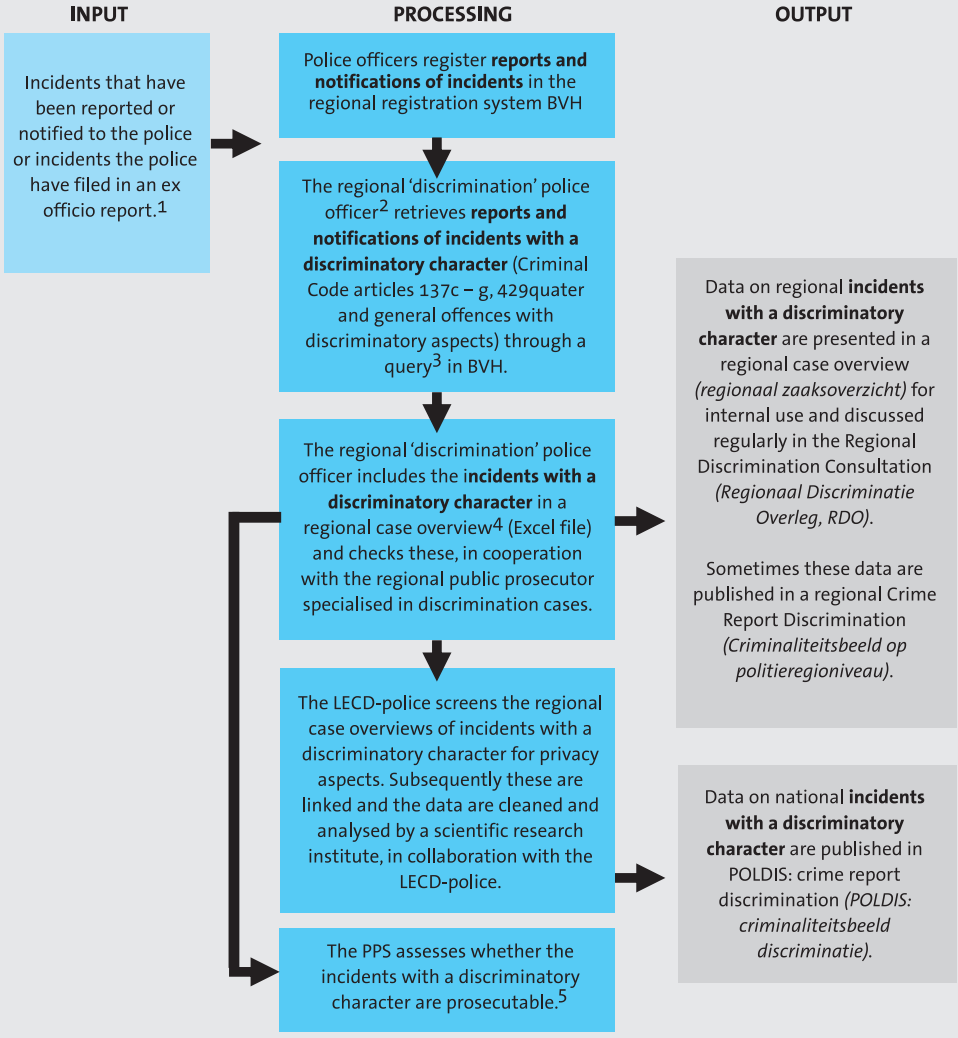
The regional case overviews are discussed periodically in a so-called Regional Discrimination Consultation (Regionaal Discriminatie Overleg, RDO) during which the 'discrimination' police officer discusses cases with the district public prosecutor and the regional anti-discrimination agency (ADV). The information in the case overview is amended by the 'discrimination' police officer for instance when the public prosecutor finds a case discussed at the RDO to not be liable to punishment.

The regional case overviews serve a second purpose: they provide data for the annual publication on reports and notifications of discrimination filed with the police (POLDIS report, see 7.1.1). The regional 'discrimination' police officers send their regional case overviews to the LECD-police once a year.
The LECD-police checks the documents for privacy sensitive information and subsequently a scientific research institute joins, cleans and analyses the data from the case overviews. Researchers use the description of a case in the comment field in the case overviews and code this.

Since 2008, the LECD-police annually publishes the data, in cooperation with the portfolio holder discrimination in the Board of Police Commissioners, in the report POLDIS: Crime report discrimination (POLDIS: Criminaliteitsbeeld discriminatie).[96] See Chapter 7, paragraph 7.1.1 for more information on POLDIS.

Data on regional discriminatory incidents are also published annually, by an increasing number of police regions, in a 'crime (analysis) report' (Criminaliteitsbeeld/Criminaliteitsbeeldanalyse).[97]
Graphic 5.1 illustrates how notifications and reports of incidents of a discriminatory character are received at the police, how these are registered and published.

Graphic 5.1 Registration of incidents with a discriminatory character by the Dutch police



1. Incidents can also enter the system through the Public Prosecution Service (PPS), when the PPS initiates an ex officio investigation or when a citizen reports the crime directly with the PPS. The police will then start an investigation and will compile a police report. The Dutch Complaints Bureau for Discrimination on the Internet (MDI) also reports the crime directly with the PPS.
   Another venue to report the crime is the site www.hatecrimes.nl. These reports are sent to the LECD-police, who refers them to the regional police. The LECD-police will also check if the reports are being processed.
2. A police officer in the regional police force who is specialised in discrimination *(taakaccenthouder discriminatie)*.
3. A national query has been developed by LECD-police. However, this query is not used in all police regions. In some police regions, the query is applied regularly (for instance every week) and data are added to the case overview each time. In other regions, the query is run only once a year.
4. Two or more reports or notifications of the same incident are included in the case overview as one report/notification (incident).
5. Potentially prosecutable incidents with a discriminatory character (cases) are sent to the PPS.

5.1.2 THE PUBLIC PROSECUTION SERVICE

Regional police reports (aangiften) concerning incidents of a discriminatory character that are considered prosecutable[98] are sent to the district Public Prosecution Service (PPS). The PPS can also conduct an investigation of its own initiative. Moreover, citizens can file a report directly with the PPS. In the latter two situations, the public prosecutor usually has the police investigate a matter which (like reports filed directly with the police) results in a police report that is sent back to the PPS.

The district public prosecutors use the registration system COMPAS or the newer system named GPS, that is supposed to gradually replace COMPAS. In COMPAS all reports that are forwarded by the police are recorded. This is not the case for GPS: reports that are rejected immediately on receipt by the PPS are not registered in GPS. GPS is already in use in all PPS districts but at present not all types of cases are registered in the new system yet.[99]

The public prosecutor assesses whether a case is prosecutable and includes the relevant articles from the Criminal Code in the records in the registration system. Possibly relevant articles may already have been listed by the police in their report. A police report can cover multiple offences, for which different articles from the Criminal Code may be applicable. These offences are all registered.

Information from the subsequent phases of the legal process is added to the records in the registration system; e.g. the prosecution case of the public prosecutor and, when cases end up in court, the verdict and sanction.

Police reports concerning discrimination or incidents with a discriminatory element that are sent to the PPS will, like any other crime, be registered in COMPAS or GPS and assessed by the public prosecutor. Police reports on incidents of discrimination will list one or more of the articles 137c-g and 429quater of the Criminal Code. However, when the main offence described in a police report is something other than discrimination, but there is a discriminatory element to the matter (for instance somebody has been assaulted apparently because of their sexual identity; 'commuun delict met discriminatoir aspect'), no discrimination articles from the Criminal Code will be included.

Within the PPS, the National Expertise Centre Discrimination (Landelijk Expertise Centrum Discriminatie, LECD-PPS) has been established to optimise the law enforcement with regard to discrimination.[100] Reporting on the nature and number of discrimination cases is one of the tasks of the expertise centre. The national office of the PPS (Parket-Generaal, PAG) carries out a query annually in order to retrieve all discrimination offences (discriminatiefeiten) from COMPAS and GPS. Every time one of the discrimination articles in the Criminal Code (article 137c – g or 429quater) has been added to a case in the registration systems, this will count as one discrimination offence.[101] A case can contain multiple offences. The results of the query are delivered to the LECD-PPS.

It is currently impossible for the LECD-PPS to retrieve data from GPS and COMPAS on general offences with a discriminatory element (commune delicten met discriminatoir aspect). This is because there is no charge with a discrimination article in the Criminal Code and, at present, for the retrieval of data on discrimination only the discrimination articles are searched in the registration systems.

Once cases are retrieved from the databases, the LECD-PPS then requests additional information on these cases from district prosecutors specialised in discrimination. These prosecutors register the information they gather from the corresponding case files by using a classification system called Discrimination Registration Code (DRC). The DRC supplies the LECD-PPS with information on the nature of the registered discrimination offences: discrimination ground, background of the suspect and how and where the offence took place. Data from both COMPAS/GPS and the DRC are included in the report Figures in focus (Cijfers in beeld). See Chapter 7, paragraph 7.1.2 for more information on this report.

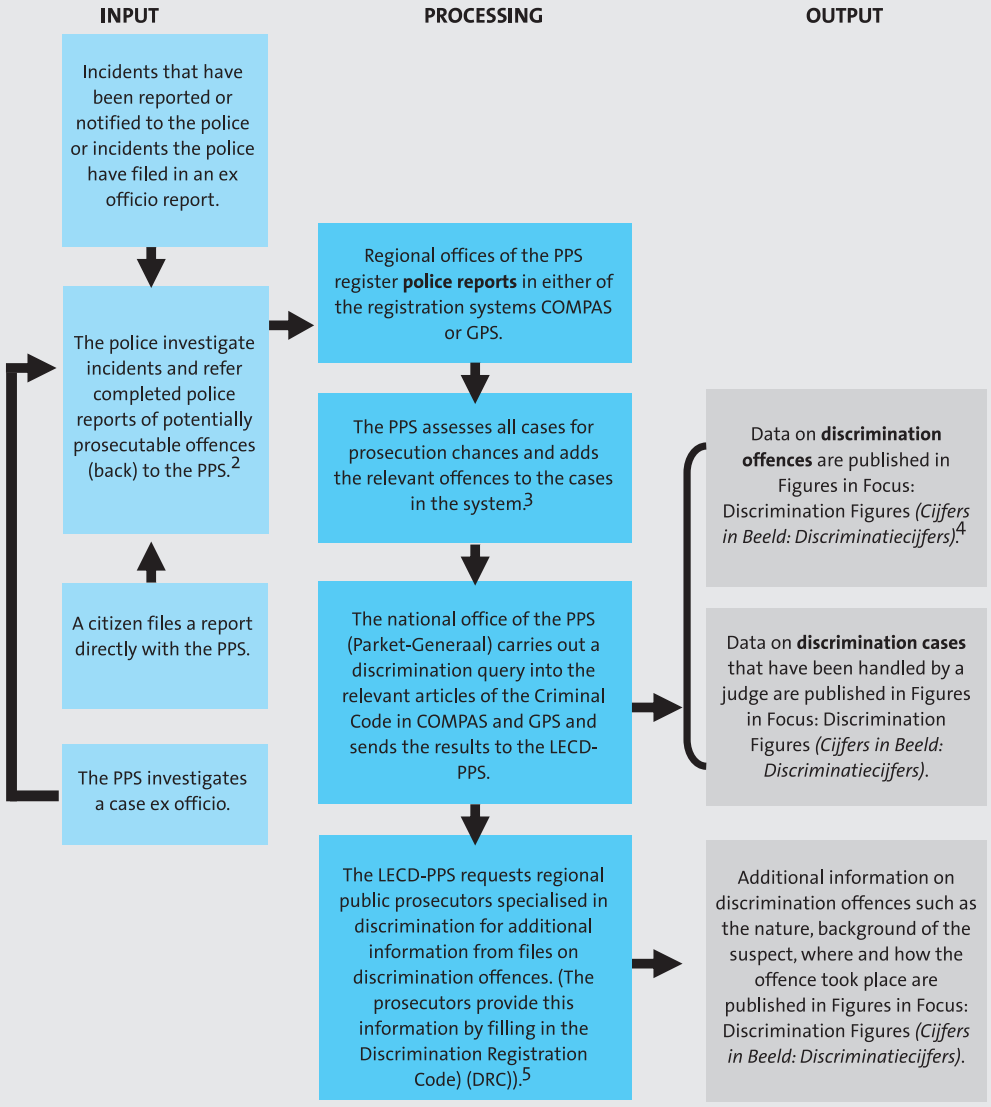
When comparing the data on incidents with a discriminatory character registered by the police and discrimination offences registered by the PPS, the numbers do not correspond. The number of incidents registered by the police is considerably higher than the number of discriminatory offences registered by the PPS (in 2009 the PPS claimed to have received nearly 7% of the incidents with a discriminatory character registered by the police; in 2008 this was 10%). There are several reasons for this difference. Firstly, the police have to register every report or notification of citizens who have experienced or witnessed discrimination, while not all cases are prosecutable. The reports might be forwarded, while the notifications recorded by the police never make it to the PPS. In addition, in a later stage of the legal process, many reports do not concern a criminal offence, or they cannot be prosecuted because the perpetrator is unknown or there might be insufficient evidence. The police do not forward these reports to the PPS and therefore they are not registered by the PPS.[102] Secondly, unlike the police, the PPS currently does not publish registered general offences with a discriminatory aspect (commune delicten met discriminatoir aspect), as these are not retrieved from the PPS registration systems by means of the query (which retrieves specific discrimination offences only). Thirdly, as mentioned before, cases that are rejected by the PPS immediately on receipt are not registered in GPS (in the former registration system COMPAS all received reports were registered).

Graphic 5.2 illustrates how police reports are received at the PPS, what data are registered and, subsequently, presented.

5.1.3 EQUAL TREATMENT COMMISSION (COMMISSIE GELIJKE BEHANDELING, CGB)

The CGB receives and registers both requests for information and petitions for an opinion. People requesting information, by phone or email, may have all sorts of questions about the Equal Treatment Law or CGB procedures. These requests are handled by the Legal Help Desk and registered, anonymously, in a registration system called JSR.

Graphic 5.2 Registration of discrimination offences[1] and cases by the Dutch Public Prosecution Service (PPS)



1. Specific discrimination offences: the articles on discrimination as laid down in the Dutch Criminal Code (article 137c, d, e, f, g, and article 429quater). As yet, the PPS does not report on general offences with discriminatory aspects.
2. The public prosecutor advises the police as to the possibility of prosecuting a certain offence, already before a police report is sent to the PPS.
3. A police report which has been entered in COMPAS/GPS can be referred to as a case. A case may consist of multiple offences.
4 The report Figures in Focus is not published but sent to stakeholders.
5. See explanation of the DRC in the text.

Individuals or organisations consulting the Legal Help Desk may be advised to request a CGB opinion; others may be advised not to do so if, for instance, better (non-legal) solutions to the problem might be available or if the case clearly falls outside the scope of the Equal Treatment Law. In the latter situation, staff members of the Legal Help Desk will refer a person to an organisation better equipped to address the problem at hand.

Petitions for an opinion of the CGB are in some cases filed by post, but mostly by means of an online web form.[103] This form contains open questions pertaining to the case: 'What happened?', 'When did the problem occur?', 'Have you complained to the person or organisation involved?' and 'What was their reaction?'. People filing a petition can tick a box for the relevant discrimination ground and leave their name and address as well as details on the organisation where the problem occurred. There is no format available for petitions by post, so these can contain any information considered relevant by the petitioner.

The registration system Filenet is used to record and to keep track of a petition in the CGB-process. When the CGB receives a petition, administrative staff will register the personal data of the petitioner in Filenet. The petitions are then handled by legal experts of the Legal Bureau.[104] They enter other relevant data from the web forms or letters into Filenet, such as the discrimination ground, social area and a brief description of the situation or incident. Additional information may be gained from sessions with the petitioner and the opposing party(/ies). Details of the case handling process are recorded in Filenet, like the date of the hearing and invitations sent to the petitioner and accused party. The legal experts keep a file (dossier) which is attached to the registration of the petition.

The Legal Bureau informs the petitioner whether the CGB is authorised to investigate the case. If so, the CGB will hear both the petitioner and the person or organisation accused of unequal treatment. When the investigation is finalised, a hearing will follow. The petitioner and the accused party can each bring an expert. Within eight weeks after the hearing they receive a written CGB opinion, which states whether the equal treatment law has been violated. The CGB's opinions are not legally enforceable. However, in practice, its opinions are usually complied with.

Not all petitions result in an opinion (this ranged from 33%-48% in the years 2006-2010).[105] Petitions are regularly withdrawn, for instance when the parties involved have reached a settlement. This can happen before, during or after the hearing and is considered a positive result. The CGB can also decide to close a case, for example because the petitioner is unavailable for further information or is referred to a different organisation. Furthermore, the CGB can find a case to be evidently unfounded. This can be because the CGB is not authorised to give its opinion on a matter, for instance when a social area is involved that is not covered by the Equal Treatment Law.[106] Since 2005, petitioners and accused parties may also be referred to an external mediator.[107]

Although individuals or organisations can file a petition for a CGB opinion directly, without first consulting the Legal Helpdesk, the Helpdesk does filter out a number of cases that are ineligible for a CGB opinion. These do not enter the procedure as a petition for an opinion and will not be registered in Filenet.[108]

When a case is closed and the accompanying file is completed, more detailed information is gathered from the file and then registered in an online registration system called MWM2. The data published in the CGB Annual Report (Commissie Gelijke Behandeling Jaarverslag) mainly come from this registration system. The report contains only a few data from the Filenet registration system, i.e. the discrimination ground and social area as registered on receipt of the petition. See Chapter 7, paragraph 7.1.3 for more information on the CGB Annual Report.

The systems for information requests (JSR) and those for petitions (Filenet and MWM2) are not connected. As a number of information requests will result in a petition for an opinion, it is possible that the same case has been entered into the JSR system and in Filenet. It is, however, not known which information requests are indeed followed by a request for an opinion.

Graphic 5.3 illustrates how requests for information and petitions for an opinion are received at the CGB, registered and published.

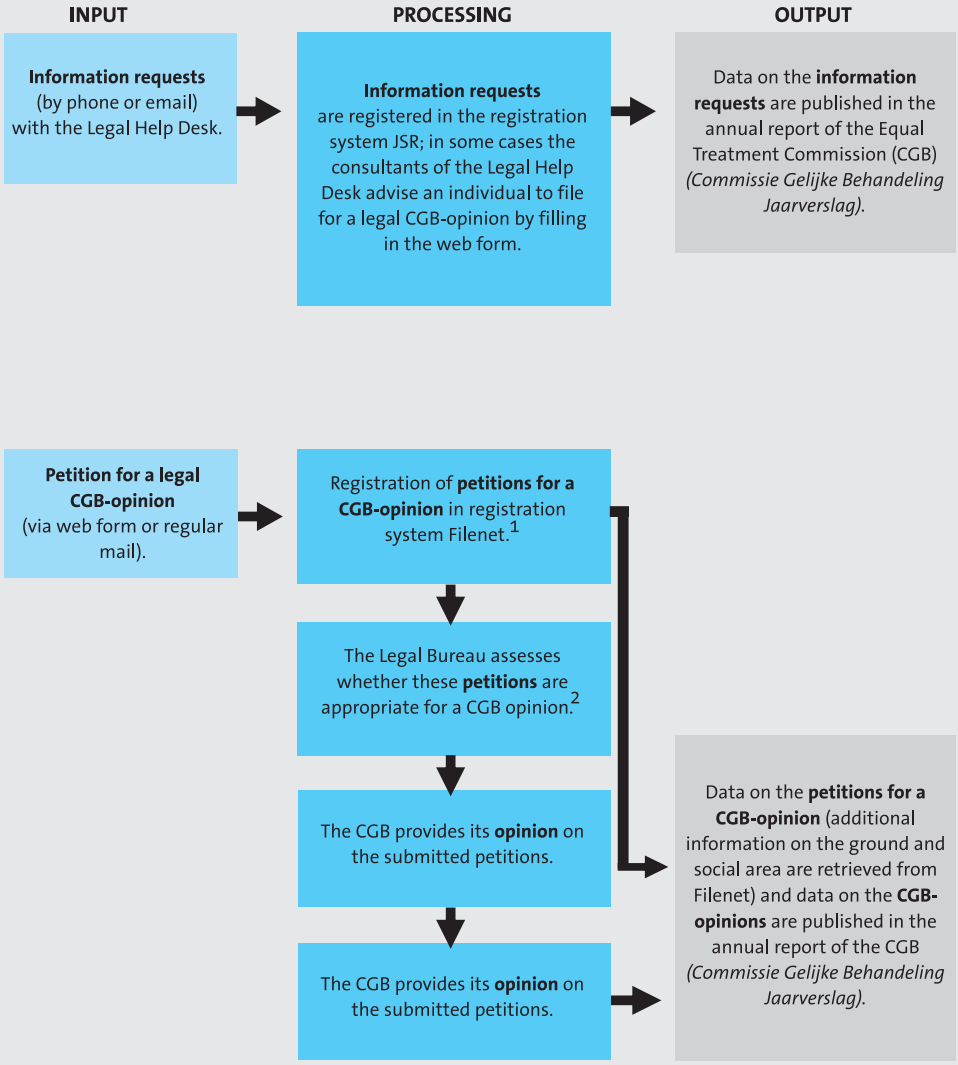
5.1.4 NETWORK OF ANTI-DISCRIMINATION AGENCIES (ADVS)

The anti-discrimination agencies (ADVs) in the Netherlands are joint in a network, although they operate autonomously. There are some small differences in the way these ADVs work. Therefore, the procedure described in the following paragraph is not uniform for all ADVs. The ADVs in the Netherlands aim to realise uniform registration of complaints in the future.

People who feel discriminated against on any ground or who have witnessed discrimination can file a complaint at an ADV by phone, e-mail, post, face-to-face or, if available, via an online form on the website of the ADV. Alternatively, they can file a complaint through the central website www.discriminatie.nl[109] or call a central phone number, to find an ADV in their vicinity. It also occurs that an ADV is notified of an incident, but no complaint procedure follows. This can be because a person may want an ADV to know of a certain incident but does not want to be involved in a complaint procedure.

All notifications and complaints are registered, unless they seem irrelevant. When complaints or notifications contain too little information (no place of residence and/or no discrimination ground is known, for instance), the complainant will be contacted for additional details. If this is not possible, the complaint or notification will not be recorded in the registration system. Registrations are updated throughout the handling process.

Graphic 5.3 Registration of information requests, petitions and opinions by the Equal Treatment Commission (CGB)



1. Filenet is mainly used for procedural purposes.
2. Legal experts at the Legal Bureau handle complaints and assist parties during the process of obtaining a CGB opinion (if the case is suitable to be dealt with in this way).

Information requests are generally registered as such in the complaints registration system. For the national report on complaints, these information requests are filtered out of the registration system.[110]

The ADVs use different registration methods. A couple of relatively small ADVs make use of Word or Excel to file complaints, while the vast majority of ADVs use systems that were especially designed for recording discrimination complaints. Most ADVs employ the Art.1 system, only a few use the older ADBase system. At the end of this chapter, a detailed description is included of the Art.1 registration system. The registration method of the ADVs and the corresponding systems have been regularly discussed, updated and renewed in the past few years. At the time of writing this report a new system was being designed. As of 2012, most ADVs will use this system.

Although generally ADVs handle and register complaints only, some of them also actively engage in searching for instances of discrimination, for example by screening job advertisements or by performing field tests in clubs and cafés. The results of these searches are recorded in the complaints registration system. In the Art.1 system, it is possible to indicate whether a 'complaint' is in fact the product of a screening by an ADV. This is not the case in the older ADBase registration system.

In 2007-2010, the complaints data of most of the then active ADVs were joined, processed and analysed by the Dutch Expertise Centre Discrimination Art.1 and Utrecht University and published in the report Core Figures (Kerncijfers).[111] See Chapter 7, paragraph 7.1.4 for more information on this report.

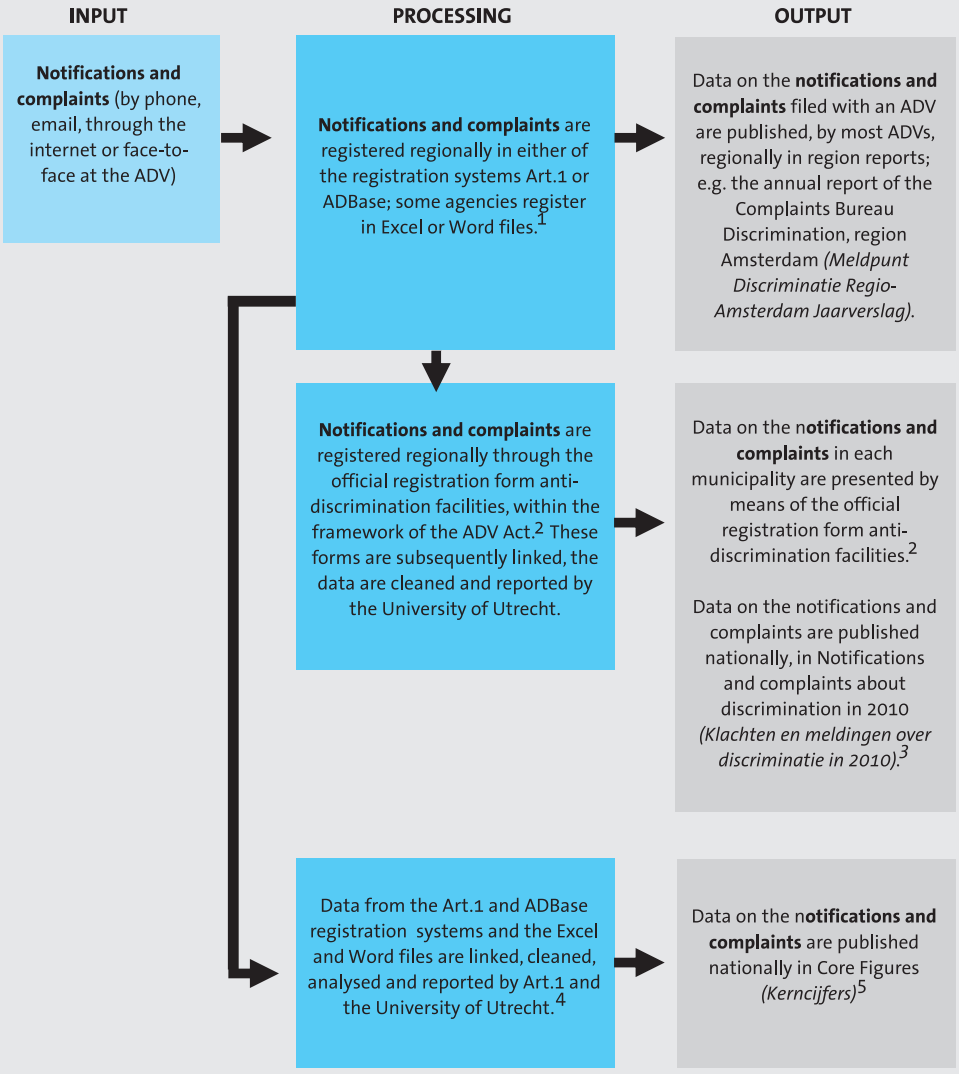
As of 2011, following the ADV Act, all municipalities are required to report notifications and complaints of discrimination annually to the Ministry of the Interior and Kingdom Relations (see Chapter 4, paragraph 4.5.1.1). To realise comparability, the minister issued a concise registration form, which provides an overview of the frequency and nature of notifications and complaints, i.e. discrimination ground, type of discrimination, sector and handling of complaints.[112] This registration per municipality is mostly carried out by ADVs.

Graphic 5.4 illustrates how notifications and complaints are received at the ADVs, registered and published.

5.1.5 DUTCH COMPLAINTS BUREAU FOR DISCRIMINATION ON THE INTERNET (MDI)[113]

When someone encounters a discriminatory expression on the internet, for instance texts, images or videos, they can notify the Dutch Complaints Bureau for Discrimination on the Internet (MDI) of this. This can be done by sending an email to the organisation.[114] The sender receives an auto-reply which contains information on the procedure. Some emails the MDI receives do not concern discrimination, for instance notifications of online child porn. Therefore the auto-reply provides a list of possible alternative organisations the sender might better turn to. People who notify the MDI of matters unrelated

Graphic 5.4 Registration of notifications and complaints by anti-discrimination agencies (ADVs)



1. ADVs clean their data for the purpose of their regional report and for transferral to Art.1.
2. Netherlands, Government Gazette (Staatscourant) (2010a).
3. Notifications and complaints about discrimination in 2010: national overview of notifications and complaints registered by municipal anti-discrimination facilities *(Klachten en meldingen over discriminatie in 2010. Landelijk overzicht van klachten en meldingen geregistreerd door gemeentelijke antidiscriminatievoorzieningen)*
4. This was the case until 2010 (until the figures over 2009).
5. Core Figures: National overview of discrimination complaints registered with anti-discrimination organisations and complaints bureaus in the Netherlands *(Kerncijfers: Landelijk overzicht van discriminatieklachten geregistreerd bij antidiscriminatiebureaus en meldpunten in Nederland)*.There was no national report published over 2011 (on the figures of 2010).

to online discrimination also receive a personal email referring them to an organisation better suitable.

The MDI checks whether an expression they were notified of is still online and is aimed at an audience in the Netherlands.[115] MDI staff, who all have a legal background, assess whether the expression might be criminal.[116] This assessment is based on the Dutch Criminal Code and related jurisprudence. If the MDI cannot find an expression online, the person who notified them will be approached by email and requested to provide more accurate information as to the URL and the exact expression concerned. When the MDI assessment leads to the conclusion that the reported expression is not criminal, the person who notified them will receive an email informing him or her that the MDI will not take any action.

The MDI aims to have expressions they consider to be discriminatory by law removed from the internet and requests moderators to do so.[117] The person who notified them of a discriminatory expression will be informed by email when a request for removal is sent and again when the expression has been removed. If a moderator fails to comply with a request for removal, the MDI may decide to start a legal procedure and report the discriminatory expression with the Public Prosecutor. The person who notified the MDI of the expression is informed about this step.

All notifications received by the MDI are automatically registered in the MDI registration system (MDI Meldingssysteem). The number of entries that are not a notification, such as spam or information requests, is reported and included in the total number of notifications in the MDI annual report but these are excluded from further data analysis. The same applies to notifications that are referred to a different organisation. Registrations concerning notifications about online discrimination are updated throughout the procedure.

The MDI registration system served as a basis for designing a simplified registration system for the International Network Against Cyberhate (INACH). This system is now being used by seven members of the INACH network, enabling them to register the notifications they receive. Several other INACH members have their own registration systems.

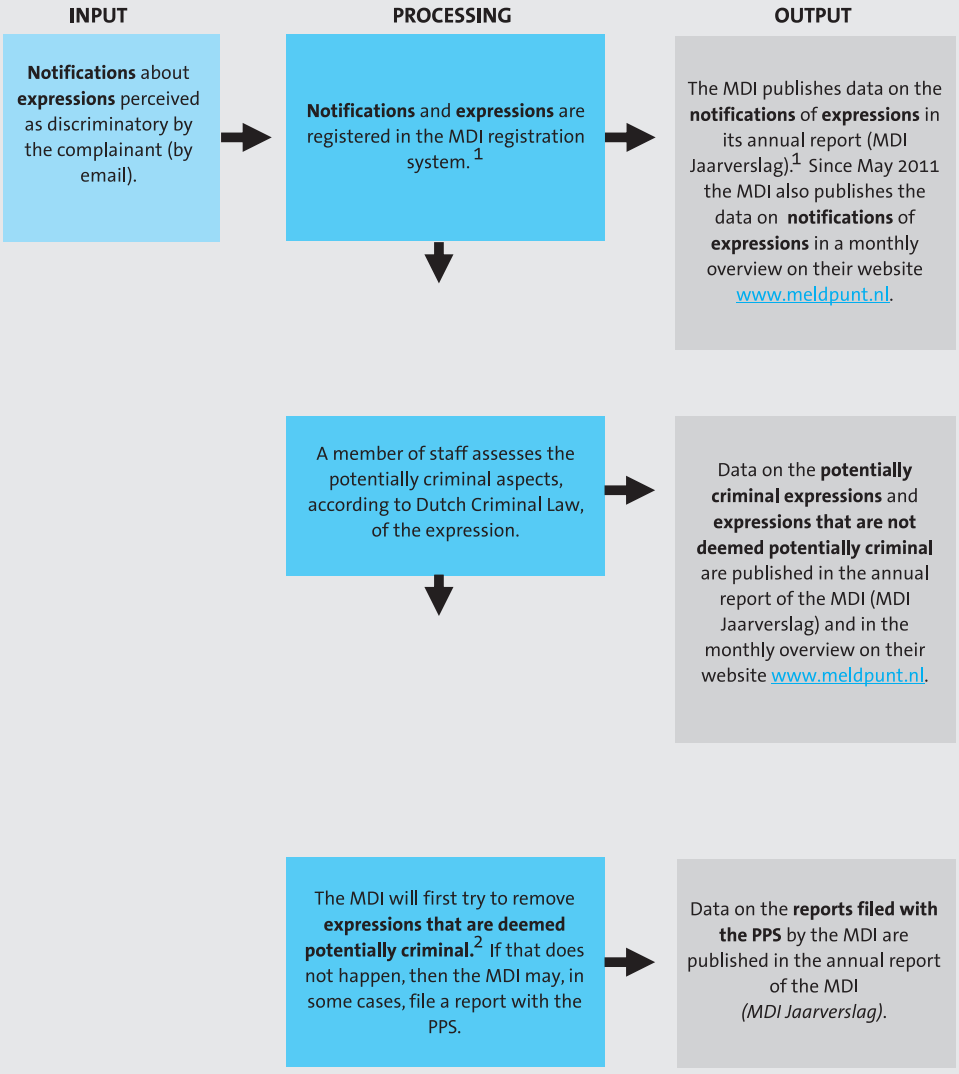
Graphic 5.5 illustrates how notifications of discriminatory online expressions are received at the MDI, registered and published.

5.2 GERMANY

5.2.1 THE POLICE

As mentioned before, the German police do not register incidents of discrimination because the German criminal code (Strafgesetzbuch, StGB) does not contain any explicit provisions on discrimination. Individual articles banning certain unlawful actions, such as insult or coercion, may in some cases be

Graphic 5.5 Registration of notifications and expressions by the Dutch Complaints Bureau for Discrimination on the Internet (MDI)



1. More than one notification can be filed about one expression and one notification can refer to multiple expressions.
2. The MDI will only handle cases that are relevant to the Netherlands. When they encounter online expressions that apply to other countries, the MDI will cooperate with members of the INACH network in the respective countries in order to remove the expressions (www.inach.net). Notifications of expressions that do not relate to the Netherlands, will be sent on to an INACH-partner. The MDI does deal with notifications of expressions that relate to the Netherlands, but that are hosted on a foreign server. In some cases, help might be enlisted of an INACH-partner in their respective country.

related to discriminatory behaviour but are too broad and unspecific to serve as a suitable source of information on discrimination. The same holds true for article 130 StGB prohibiting incitement to hatred, which is the only provision in the German Criminal Code that contains explicit reference to relevant group characteristics, such as national and ethnic origin or religion.
The registration of crimes by the police is based on the informed assessment of the police at the end of the police investigations upon submission of the case to the Public Prosecutor.[118] The crime statistics (Polizeiliche Kriminalstatistik, PKS) are published by the Federal Ministry of the Interior annually; they do not contain any relevant information on incidents of discrimination.

In addition to these general crime statistics, the police register politically motivated crimes, in a separate registration system, differentiating between right-wing and left-wing crimes and politically motivated crimes committed by foreigners (see Annex C). Hate crimes are recorded as a subcategory of politically motivated crimes. According to the official definition, politically motivated criminal acts are considered hate crimes 'if taking into consideration the circumstances of the act and the attitude of the perpetrator(s), indicators occur which imply that the crime was directed against a person because of his/her political attitude, nationality, ethnicity, race, skin colour, religion, belief, origin, sexual orientation, disability, outward appearance or social status'; an act is also classified as hate crime if it is directed – in a similar motivational context – against 'an institution or an object'.[119]

The initial assessment of a politically motivated crime – and hence as a potential hate crime – is made by the police officer who first registers the crimes after having considered the specific circumstances of the incident.[120] These special crime statistics on politically motivated hate crimes are broken down into 'xenophobic' and 'anti-Semitic' motivated hate crimes, within the category of politically motivated right-wing crimes. Recently these hate crimes are categorised as left-wing motivated crimes or crimes committed by foreigners.[121] Police data on other types of hate crimes (e.g. homophobic or directed at people with a disability) are available within the law enforcement authorities, but they are very rarely made public.

5.2.2 THE PUBLIC PROSECUTION SERVICE

As described in the previous chapter (see Chapter 4, paragraph 4.2.2), the German Public Prosecution Service does not register any incidents of discrimination as these do not constitute a criminal offence. Data on politically motivated crimes are registered for internal purposes and are very rarely published.

5.2.3 GERMAN LABOUR COURTS

The official statistics on court proceedings (Gerichtsverfahrensstatistiken), published regularly by the Federal Statistical Office DESTATIS, do not contain any discrimination data. This is first and foremost due to the fact that the courts in Germany do not systematically register cases of discrimination as no

separate registration categories for discrimination-related proceedings exist.[122] If a court deals with cases of (alleged) discrimination, this information is not recorded in the official statistical system, but 'disappears' in more general categories such as 'dismissal'. This deficiency applies to all types of courts in Germany, including labour courts, and to all federal states.

A labour court, where proceedings related to the AGG have been registered systematically for a longer period of time, is currently the state labour court Berlin-Brandenburg. Since 2007, all labour courts in Berlin and Brandenburg have registered court proceedings according to the AGG as a separate category within their administrative documentation. Based on an analysis of these court documentations, annual statistics on the number of AGG-related proceedings have been generated. Since 2008, the available data have also been differentiated based on the grounds of discrimination. According to the (former) head of the state labour court, there is no guarantee, however, that these annual figures are entirely accurate.[123]

Since the introduction of the General Equal Treatment Act (AGG) in August 2006, several state labour courts have tried to count proceedings related to AGG provisions that were brought before the individual labour courts in their respective states. However, almost all these registration attempts have either been only of a temporary nature and have thus been terminated after a certain period of time, and/or have not been based on a systematic registration system, but solely on the recollection of the individual judges (like in Saxony and Saxony-Anhalt). The available data for the five labour courts and one state labour court in Saxony, for instance, were made public within the context of an official inquiry in state parliament. The official response to the inquiry presented data on discrimination related court proceedings broken down by grounds of discrimination and outcome of the proceedings.

Two other state labour courts have systematically – but only temporarily – recorded all proceedings within their jurisdiction that were related to AGG regulations. In Baden-Württemberg, the court cases that dealt with incidents of labour discrimination (as defined by the AGG) were monitored and recorded over an eight-month period, starting immediately after the AGG took effect in August 2006. The recorded proceedings were published in a press release of the State Ministry of Justice, broken down by grounds of discrimination as well as area in which the incident occurred (i.e. application, workplace and dismissal).

The State Ministry of Justice in Rhineland Palatine requested all labour courts in the state to record court cases related to the AGG in a standardised and systematic manner between October 2007 and September 2008 and again between October 2008 and September 2009. The annual figures, broken down by grounds of discrimination and the outcome of the proceedings (only for the first annual figures 2007/08), were published in a press release of the State Ministry of Justice. This special registration and analysis was not continued after September 2009, because the small number of cases would not justify the extra time spent on their separate registration.[124]

5.2.4 THE FEDERAL ANTI-DISCRIMINATION AGENCY (ADS)

In general, the ADS addresses the public through its internet portal[125] "in order to make the agency better known as a counselling option for people affected by discrimination".[126] The website is accessible in English, and basic information on the ADS and the AGG is offered in French, Spanish, Polish, Russian, Turkish and Arabic. The ADS website is designed to be as 'barrier-free' (i.e. accessible for persons with disabilities) as possible. For instance, audio reader-optimised PDF-documents of the AGG and the brochure 'A Guide to the General Act on Equal Treatment' are provided as a special service for the visually impaired. The ADS also added some content in an "easy-to-read" modus for those who find the information on the standard website challenging to understand.

The ADS staff comprises of 22 employees working in one of three departments. The counselling team, which consists of seven legal experts, can be contacted by anyone who seeks either general AGG, or discrimination-related information or anyone who requests assistance in a discrimination case. This initial contact can be established by phone or in writing (a letter, a fax or via email). Furthermore, a personal meeting with one of the ADS counselling team can be arranged. Another way of contacting the ADS and/or reporting an incident of discrimination is by sending a discrimination complaint via an electronic contact form available (only in German) on the ADS website.[127]

The queries and complaints are handled by one of the legal experts of the counselling team. He or she may provide a legal assessment of the case, offer information on legal claims, outline the appropriate venues for taking legal action, and – if requested by the complainant – seek to reach an amicable settlement of the conflict, or arrange for advice to be provided by other experts.

The ADS also accepts reports of discrimination from people who do not wish to obtain any further information or counselling; it also registers anonymous reports received via telephone, email or though the online form. In addition to complainants who are personally affected, third parties who have witnessed an incident of discrimination can also report this to the ADS.

In principle, all reported cases of discrimination, regardless of how and by whom the complaint has been lodged, are registered by the ADS as 'contacts' within one single documentation system. Even simple queries that are not related to a discriminatory incident, like information requests about the AGG or related issues are registered within this system. While the documentation system allows for an ex post identification of different types of queries and complaints (e.g. with or without counselling, report by third party or victim of discrimination), the published data on 'contacts' do not clearly differentiate between general information-seeking queries and advice-seeking complaints. Hence, the official statistics refer generally to contacts and queries (also broken down by those that are related to specific grounds of discrimination), but do not specify the number of discrimination complaints or discrimination cases; even those contacts referring to certain grounds may not always be complaints about experienced discrimination (although many - or even most - of them assumedly are).

All these queries, contacts and complaints recorded by the Federal Anti-Discrimination Agency are registered electronically with a software programme called „Sharepoint" (introduced in 2008). When registering a query or complaint, the complainants' subjective perspective on the incident in question is emphasised. Thus, the basis of the registration is the information provided by the complainant, be it the information provided on the contact form (see Annex C) or during the counselling session. All cases that are perceived as discriminatory by the affected person or third parties are documented. This also applies to incidents in which the complainant feels discriminated against due to several characteristics (e.g. disability and ethnic origin); this is registered accordingly as a case of multiple discrimination on the respective grounds. In terms of data protection, all sensitive personal data, such as the complainant's sexual identity, ethnic origin or religion are based on the self-assessment of the affected person, and are not determined by the ADS counselling staff. Although the registration draws primarily on the views and information presented by the complainant, the ADS counselling staff make legal interpretations of certain aspects of the individual case, which are then also included in the registration system (e.g. determining whether the case is related to labour law or civil law).

Although the published data do not clearly differentiate between queries and cases of discrimination, it is possible to identify internally whether the individual query referred to a case of discrimination or an information-seeking query.

Legal experts at the ADS have developed the criteria for the registration of each individual case and they follow the legal provisions of the AGG. Specific training measures on how to categorise individual cases within the registration system have not been offered to the ADS legal experts; only some basic common guidelines exist. The actual registration of the individual case or query in the electronic Sharepoint database is carried out by administrative staff at the ADS.

The criteria used are currently being reviewed and revised with the aim to strike the right balance between in-depth and accurate information gathering, efficient data registration and efficient counselling. Currently, for instance, it is not possible to obtain any information about the outcome of the counselling process or the follow-up activities (e.g. legal action taken). If a complainant reports an incident more than once, it is often difficult to determine whether the case has already been registered or not, which may lead to double-counts.

5.2.5 THE BERLIN STATE BODY FOR EQUAL TREATMENT – AGAINST DISCRIMINATION (LADS)

The LADS does not receive and process complaints of discrimination; when people who feel discriminated against contact the LADS, the state body generally refers them to the most suitable partner-organisation for further counselling.

Everyone who seeks support and assistance, or who wants to report an incident of discrimination can turn to any of the counselling organisations of the Berlin-wide anti-discrimination network, established and coordinated by the LADS. The first contact can be established in accordance with the general practices of the individual organisation, most commonly via email or by phoning or showing up in person during office hours. The concrete way in which the discrimination-related queries, complaints or reports are handled in the daily counselling practices also depends on the specific approaches of the individual organisations.[128] In terms of documenting these incidents of discrimination, however, all organisations follow a common standardised mechanism.

Each organisation records every individual incident in the jointly used LADS-IT Documentation System, which has been made available by the LADS to every participating network organisation.
The documentation system consists of three interrelated elements, two MS EXCEL and one MS WORD documents.[129]

- A text document in MS WORD format for the detailed, anonymous documentation of each individual complaint and incident; this document does not contain any pre-defined categories or text boxes, but can be edited freely, for example when subsequent counselling sessions lead to a new assessment of the incident. This file is thus far not used for statistical purposes, but only to assist the counselling process. In the future, however, qualitative analysis of anonymous case studies will be conducted. The text document is linked with the Excel file for statistical documentation and is transferred to the LADS.
- A file for the statistical documentation in MS EXCEL format, which contains every registered incident. (see Annex C for an overview of categories) Every column of the EXCEL document refers to one incident and the content can be updated or revised if needed. This file is the core element of the complaint documentation system and contains data for each discrimination case.
- A file to provide an overview of the counselling in MS EXCEL format that is used for internal administration reasons only. As it contains personal data on the complainant, this file remains strictly with the individual counselling organisations and is not shared with the LADS.

The first EXCEL document is the main tool for the joint registration system, as it contains anonymised data on each reported incident of discrimination. This information can be updated and changed during the lengthy process of counselling until the case is formally closed when it complies with the category 'outcome'.

Each of the network organisations sends their complaints data, registered with the LADS IT Documentation System, twice a year to the LADS. The LADS acts as the central body that systematically collects, processes and collectively analyses the data recorded by the individual organisations. The submitted data do not allow for any identification of the individual complainant; moreover the network organisations themselves also remain anonymous in this process, i.e. the LADS cannot identify which data have been submitted by which partner organisation.[130]

5.2.6 THE ANTI-DISCRIMINATION ASSOCIATION GERMANY (ADVD)

As an umbrella organisation, the advd does not register discrimination complaints. Instead, discrimination complaints have been registered by its member organisations since 2009.[131] In 2010, an electronic documentation software was set up to register and document in a harmonised way all discrimination complaints received by the individual member organisation.[132] The former registration system "ARIC D-Dok", which was developed by ARIC-NRW, one of the member organisations of the advd, was replaced by the online tool GRAFSTAT.[133] Yet, whereas the technical components were totally replaced, the content, such as the categories and subcategories, remained almost the same. The content is based on the categories and subcategories developed and used by ARIC-NRW in close cooperation with the National Expertise Centre Discrimination, Art. 1. The ADB Köln – AntiDiskriminierungsBüro Köln/ Öffentlichkeit gegen Gewalt e.V. and ARIC-NRW jointly adapted these categories and subcategories and took over most of the content.

ARIC-NRW is responsible for technical issues and provides content-related support with regard to the documentation of discrimination cases. ARIC-NRW is also the central point of contact. Individual advd member organisations send their registered discrimination complaints to ARIC-NRW once a year. Although the advd does not claim to produce data that adequately reflect discrimination in quantitative terms and in a statistically reliable way, its data are well-suited to shed light on the problem of discrimination and to demonstrate the prevalence of every-day discrimination.

The counselling of the advd member organisations is based on jointly developed standards. According to this benchmark paper the consulting process should cover the following steps and components[134]:

- first contact with the counselling centre; first interview
- clarification of claimant's expectations and aims
- case analysis and further clarification
- information on possibilities of support and intervention
- explanation and execution of the intervention agreed upon
- cooperation with other offices in order to redress the discrimination

The registration begins with a victim of discrimination seeking assistance of one of the advd member organisations, in a case of experienced discrimination. The first step is to establish the basic facts of the case in the course of a personal interview. To register discrimination complaints the member organisations use the electronic documentation software GRAFSTAT. The discrimination complaints are registered by the individual counsellor.
In this process of data registration, sensitive personal data (e.g. on ethnic origin) are recorded strictly on the basis of the self-assessment of the affected person. Furthermore, the grounds for discrimination are not determined by the counsellor but by the affected persons themselves.
While the advd member organisations register discrimination cases, they also document inquiries that do not necessarily relate to a specific incident of (alleged) discrimination. The documentation system,

however, allows for a differentiation between cases recorded within the context of counselling and those recorded solely on the basis of an inquiry.

Once a year, the complaint data, registered with the online tool GRAFSTAT, are forwarded via e-mail to ARIC-NRW, which systematically collects and jointly analyses the data, recorded by the individual member organisation. The individual complainants remain anonymous, as there are no personal data recorded and submitted by the individual organisation. Information on the gender of an individual person that sought counselling is included in these statistics that are sent to ARIC-NRW. In contrast to the LADS' central data collection and documentation system, it is possible to determine which data were submitted by which member organisation (although this information is not made publicly available). By using keyword searches, cases can be matched to the individual organisation.
The discrimination cases are analysed statistically according to the standardised categories of the AGG, with the online tool GRAFSTAT once a year. The main categories are grounds of discrimination, area of discrimination and type of discrimination.

5.3 DATA PROTECTION

Procedures of handling individual complaints and the registration of complaints data are subject to data protection legislation. Next to the Data Protection Directive of the European Commission (Directive 95/46/EC), there is the Personal Data Protection Act (Wet Bescherming Persoonsgegevens) in the Netherlands, and the Data Protection Acts of the Federal States and the Federal Data Protection Act (Bundesdatenschutzgesetz) in Germany.

All data that can provide information about an identifiable natural person are personal data. When documenting complaints of discrimination, the registering institution records personal data, quite often particularly sensitive personal data, such as ethnic origin, political opinion, religious convictions, membership of a trade union, health or sex life.

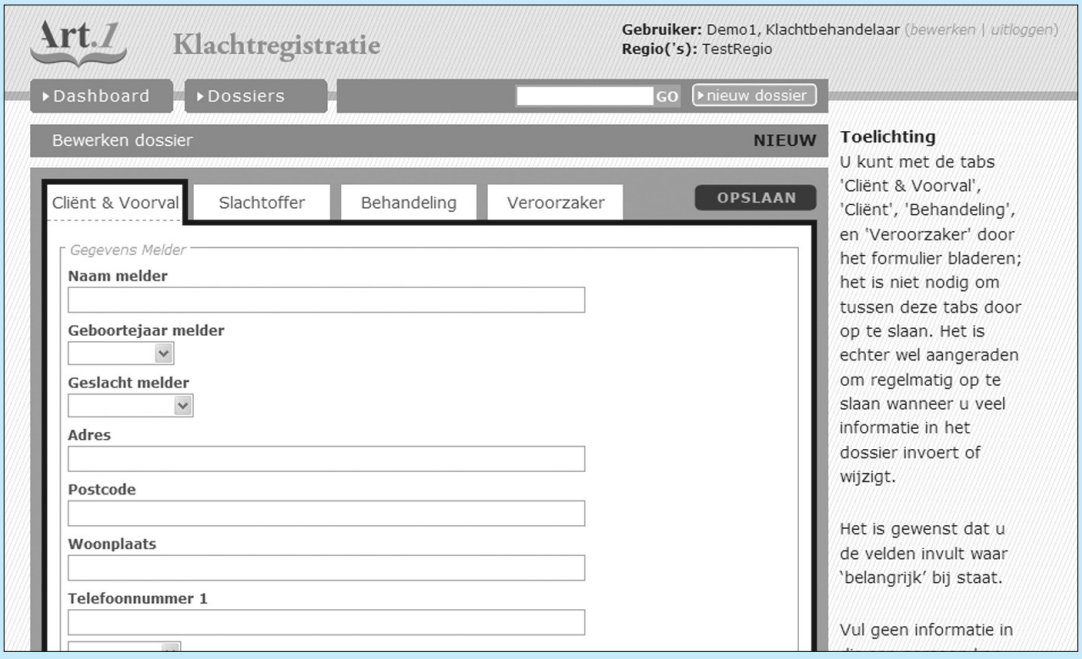
The data protection acts provide rules for processing personal data. Sensitive personal data are subject to special restrictions. In accordance with the legal requirements, a number of basic principles need to be fulfilled when registering, processing and forwarding complaints data.[135] For example, in order to minimise the risk of unnecessary processing of personal data, the only information that is considered absolutely necessary should be recorded. This applies to the process of registering, as well as forwarding data to third parties (e.g. authorities) or sending evaluated data on to a central organisation. Furthermore, the complainant has to agree explicitly with the registration and processing of his or her personal data. The complainant has to be informed as transparently as possible which data are recorded, what happens with them and why they are being registered. The anonymisation of data is essential when processing non-aggregated individual data of the person seeking advice, as well as when personal data are collected for statistical purposes.

Example of a registration system for discrimination complaints: Art.1 registration system

The Art.1 registration system is accessible online to ADV counsellors[136] who can log on to the system by entering a username and password. Each ADV using the system has its own database within the Art.1 system which contains all their files.[137] The Art.1 registration system allows counsellors to add new files and to view or edit current files. Closed files cannot be altered.
Each file in the system contains four sections of information: 1) Client and incident, 2) Victim, 3) Strategy and 4) Instigator. These sections are presented as tabs (see Figure 5.1, where the tab ´Client and incident´ is active).

1. Client and incident
The tab Client and Incident (Cliënt en voorval) contains basic contact information for the person reporting the complaint (the client) as well as information on the reported incident. Figure 5.1 presents part of the content provided in tab ´Client and incident´.
Within the tab Client and Incident the ADV counsellor can enter the client's name (Naam melder) in a text box. Year of birth (Geboortejaar melder) and gender (Geslacht melder) can be selected from drop-down lists. Home address (Adres, Postcode, Woonplaats), telephone number (Telefoonnummer) and email address can be filled in in text boxes. The counsellor can register in which way the client prefers to be contacted (for example preferably by email) as well as how they came to know of the ADV (for instance through the internet).

Figure 5.1 ***Tab Client and Incident (Cliënt en voorval)***



The client who reports an incident is not necessarily the victim of the incident. The ADV counsellor therefore also enters in the Art.1 system whether the client is the 'Victim', a 'Witness' of the incident, a 'Spokesperson', an 'ADV employee' or 'Another'/'Unknown' type of client. If the client is not the victim, then contact information for both client and victim is registered.

Some ADVs do not only register regular complaints by clients who contact them but also complaints that have been received and registered by other organisations such as the regional police force. Moreover, some ADVs will include in their registration system the results from their own screenings of, for instance, job advertisements. From a drop-down list the counsellor can therefore select whether the incident was reported by way of a regular complaint, whether it was encountered by an ADV employee during a screening by the ADV or whether the incident was copied from police or municipal registration systems. Other options are 'Other' and 'Unknown'. Multiple options can be selected here.

Besides information on the client, this tab details the incident which is reported. To start with, the incident can be briefly described in a text area. Date, time and location of the incident are entered in separate text boxes. The ADV counsellor can indicate whether the complaint concerns one single incident or happened more frequently by selecting one of these options from a drop-down list. The frequency of an incident might also be unknown, which is a third option in this list.

The nature of the incident is further specified by selecting from drop-down lists the:
- Discrimination ground such as 'Race/Ethnic origin', 'Gender', 'Religion' or 'Sexual orientation';
- Type of discrimination for example 'Hostile treatment', 'Assault' or 'Threat';
- Social area where the incident took place for instance 'Labour market', 'Neighbourhood/district', or 'Public space/domain'.

A number of categories for discrimination grounds have subcategories which can be selected from drop-down lists that appear when a ground is chosen, for instance 'Sexual orientation', which offers the options of 'Heterosexual', 'Homosexual', 'Bisexual', 'Unknown' and 'Other'. Other categories for discrimination grounds, such as 'Disability/chronic disease' allow the counsellor to give a specifation in a text field.

Most types of discrimination can be further defined in the system. 'Contentious treatment', for example, can be specified by means of selecting from a drop-down list an option such as 'Access denied' or 'Denied a service'.

Social area categories also have subcategories. 'Labour market', for example, has the subcategories 'Recruitment and selection', 'Mediation', 'Workplace', 'Working conditions', 'Promotion/moving up', 'Outflow/potential dismissal', 'Other' and 'Unknown'.

If the social area 'Education' is selected, this can be further specified by means of two drop-down lists. First, the ADV counsellor can indicate whether the educational organisation involved has a certain religious foundation (for instance 'Catholic' or 'Islamic'), or whether it is public or private in nature. Secondly, the type of education can be selected (such as 'Primary education' or 'Secondary education').

If the client has an idea as to what may have been the motivation of the alleged instigator for discriminating, this can be explained in a text field.

2. The victim

For the tab 'Victim' (Slachtoffer) (see Figure 5.2).

ADV counsellors may ask their clients what their ethnic origin (Etnische herkomst) is or the victim's in case they are different persons. The ethnic origin indicated by the client can be selected from a drop-down list, for instance 'The Netherlands', 'Turkey', 'North America' or the option 'Unknown'. When a certain broadly defined ethnic origin (such as 'Other, Asia') is selected, a new text box appears which allows the counsellor to specify the ethnic origin mentioned by the client (for instance 'Palestinian').

It is possible to provide extra information on the selected ethnic origin in a text box (Toelichting etnische herkomst).

The educational level (Opleidingsniveau) of the client can be selected from a drop-down list. This list contains, among others, 'Uneducated', 'Vocational education' or 'Other'.

Another drop-down list provides predefined options for the consequences the incident entailed for the victim (Ervaring gevolgen voor slachtoffer), such as 'Emotional consequences' or 'Physical injury'. Multiple options can be selected. In addition, the ADV counsellor may perceive certain consequences for the victim, which might differ from the consequences mentioned by the victim; these are registered separately (Gevolgen voor slachtoffer waargenomen door klachtbehandelaar), the predefined options being the same as in the list for consequences indicated by the victim.

The victim is asked to specify the emotional or behavioural consequences of the incident by selecting one or more predefined options such as 'Sad, down', 'Scared', 'Aggression' or 'Denial'. As with the first question on consequences, the ADV counsellor can also indicate the emotional or behavioural consequences he or she perceives in the client by selecting an option in a separate drop-down list

.

Figure 5.2 ***Tab Victim (Slachtoffer)***

3. Strategy (Behandeling)[138]

The tab Strategy is mainly an instrument for ADV counsellors to keep track of the handling process of individual complaints. It allows for the registration of what can be done or has been done to help the victim and to add further legal actions. The ADV counsellor can indicate the possible strategy or strategies by selecting one or more options from a drop-down list. These options include 'Generation of media attention', 'Empowerment', 'Mediation', 'Referral to a related institution' and 'Provision of moral support'. The client's expectations as to the actions to be taken can be entered in a text field. The strategy that is actually chosen is registered separately again with the possibility of multiple options. This choice is motivated in a text box.

The Strategy tab is where an ADV counsellor can register if a client might be referred to another organisation if that organisation seemed to be more suitable considering the nature of a certain complaint. The names of the organisations or individuals a client might be referred to can be registered, with a motivation in a text box below each possible referral. If a client indeed is referred to another organisation or individual, this will be registered in the system as well. Multiple organisations and individuals can be entered.

When a file is closed the ADV counsellor will register several specifications of the handling and the closing of the file (see Figure 5.3). First of all the closing date (Datum afsluiting) is entered. The reasons for closing a file (Redenen afsluiting) can be chosen from a drop-down list (multiple options possible). These include 'No contact with client anymore', 'No discrimination', 'Client does not wish to continue' and 'Complaints procedure finished'.

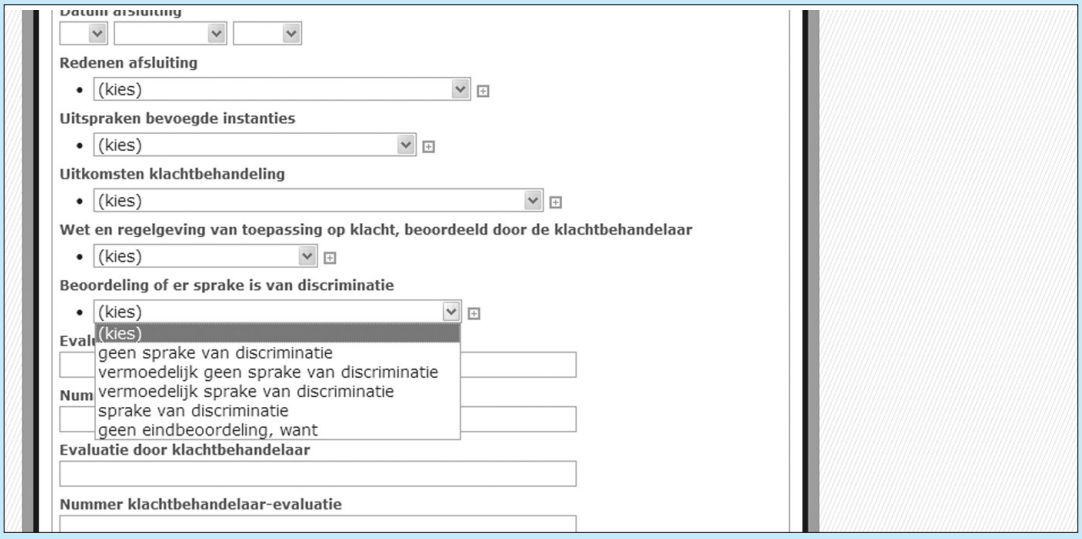
If, in the case under consideration a verdict has been given by an authorised institution, this can be indicated by selecting the institution from a drop-down list (Uitspraken bevoegde instanties), for instance 'Opinion Equal Treatment Commission' or 'Verdict by a court'.

The results of the ADV procedure are also recorded (Uitkomsten klachtbehandeling). Possible results are 'Misunderstanding resolved', 'Mediation taken place', 'Disciplinary measure', 'Verdict by authorised institution', 'Apology instigator' or 'No solution found'. Multiple results can be selected.

Although an ADV counsellor is usually not a legal expert, he or she will assess whether a complaint legally concerns discrimination (Beoordeling of er sprake is van discriminatie). From a drop-down list he or she can select such options as 'No discrimination' (geen sprake van discriminatie), 'Probably no discrimination' (vermoedelijk geen sprake van discriminatie) and 'Discrimination' (sprake van discriminatie). The legal article that may be relevant according to the assessment of the ADV counsellor can also be selected from a drop-down list with predefined options (Wet en regelgeving van toepassing op klacht, beoordeeld door klachtbehandelaar). The options include the discrimination articles in the Criminal Code, equal treatment law and international conventions.

The evaluation of the procedure and its outcome by both the client and the ADV counsellor can be entered in separate text boxes (Evaluatie door client and Evaluatie door klachtbehandelaar). This information can be used by ADVs as an instrument for self-evaluation of handling procedures by an ADV. Finally, for 'closing the case' one or more options are selected from a drop-down list. These options include 'Closed after solution/verdict' and 'Client does not wish further actions in the case'.

Figure 5.3 Tab Strategy (Behandeling)



4. Instigator (Veroorzaker)[139]

In the Instigator tab (see Figure 5.4) available information on the instigator is recorded. The client is asked about the instigator, although he or she is often unable to provide detailed information concerning the instigator.

The ADV counsellor will inquire of the client whether the instigator is an 'Individual', 'Group' or 'Organisation/company', which can be selected from a drop-down list (Veroorzaker betreft een). The type of instigator may also be 'Unknown/unclear'.

Instigator is an individual

The Instigator tab contains a separate section for each type of instigator. If an individual is concerned, name, address and contact information can be entered in the system as well as age (Leeftijd) and gender. The ethnic origin of the instigator, as indicated by the client, can be selected from a drop-down list with predefined options containing the largest ethnic groups in the Netherlands as well as 'Other' and 'Unknown'. In a text area additional characteristics of the instigator can be registered, such as how the instigator is related to the victim. For example, that the instigator was a colleague of the victim.

Instigator is a group

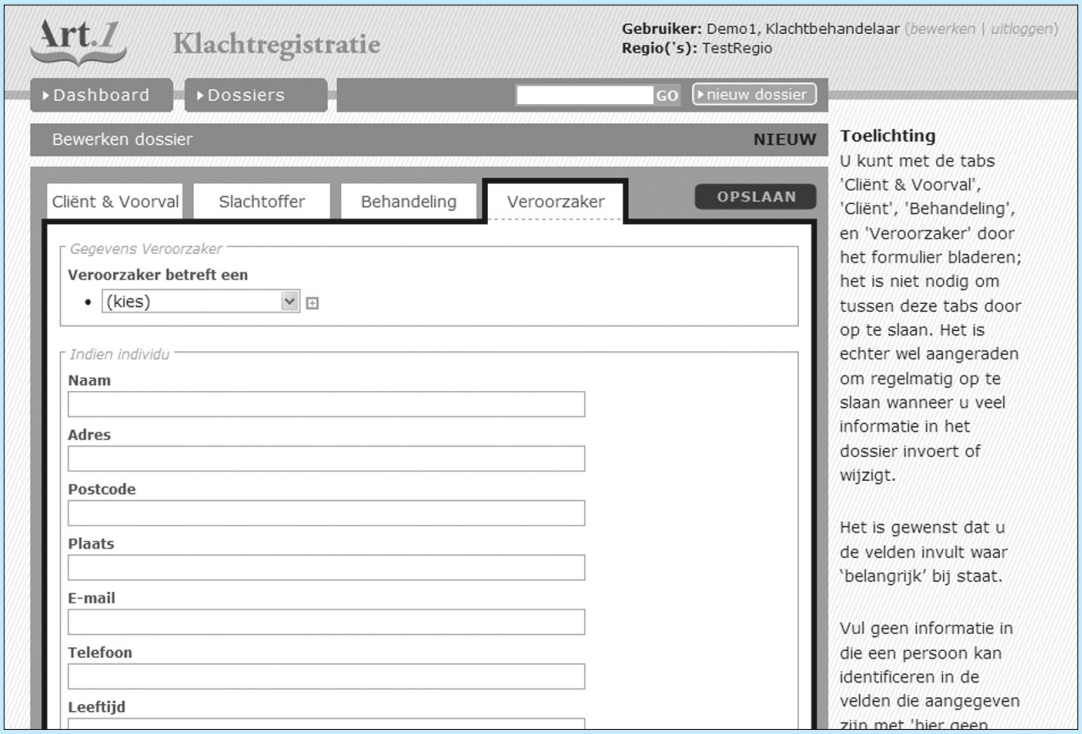
If the instigator is a group name, address and contact information for a group representative can be entered as well as age, gender and ethnic origin as indicated by the client. Additional characteristics of the group representative can be recorded in a text area. Next, this information can also be added for two individual group members. The section on 'group' is concluded with a text area where additional information on the group can be entered.

Instigator is an organisation or company

If the instigator is an organisation or company, name, address and general contact information can be entered. Next, the ADV counsellor can specify who the instigator is in a drop-down list offering options such as: 'Manager', 'Personnel officer', '(Immediate) colleague' or 'Client/patient'. In another drop-down list the counsellor can select the type of organisation involved. The list includes 'Non-profit organisation', 'Franchise', '(Semi-)governmental institution' and 'Multinational'. Name, address and contact information for a representative of the organisation can be registered. As other people may be involved in the incident, name, address and contact information for a maximum of four other people can be put down. For each of them the counsellor can indicate in what way they were involved in the incident. Options in the drop-down list include 'Witness', 'Confidential intermediary', 'Colleague' or 'Client/patient'.

Finally, additional information on the people involved can be entered in a text field.

Figure 5.4 Tab Instigator (Veroorzaker)



The information on a file in each of the tabs is kept up to date by an ADV counsellor during the handling process of the ADV, until the file is closed.

All data (or a selection) can be exported from the Art.1 system and opened in a statistical computer programme in order to be processed, analysed and reported.

87 In order to illustrate the, in some cases, complicated processes whereby data are collected, processed and published, a schematic presentation of these processes is included for the Dutch organisations.

88 Since 2008, the Dutch police register incidents with a discriminatory character (prior to 2008 this was also done but not systematically; moreover, the discriminatory character of an incident could not always be recognised in the registration system).In 2009 BVH was activated.

89 De Wit, W. and Sombekke, E. (2011).

90 'Social class' indicates the type of crime, which can be registered in BVH by means of a code. For instance, when registering reports and notifications concerning an incident of discrimination in BVH, the social class F50 should be entered.

91 De Wit, W. and Sombekke, E. (2011).

92 Netherlands, Government Gazette (2001).

93 Netherlands, Government Gazette (2010).

94 See: Netherlands, Public Prosecution Service (2007, 2011).

95 De Wit, W. and Sombekke, E. (2011).

96 Ibid.

97 The Discrimination Instruction requires all police regions to annually produce a 'crime report' of incidents with a discriminatory character. Statistics of the district Public Prosecutor, local authorities and the regional anti-discrimination agency should be included in this report. See: Netherlands, Public Prosecution Service (2007, 2011). In 2011 not all police regions have been able to comply with this requirement.

98 Under the Discrimination Instruction (see Chapter 3, paragraph 3.1.4), the police have to consult a public prosecutor (usually the assistant prosecutor or clerk to the public prosecutor, who is stationed at the police office) on each report of discrimination which is not clearly unprosecutable, in order to determine whether a complaint of discrimination is prosecutable.

99 Relatively complicated cases which, for instance, require an additional investigation or involvement of an expert, will be registered in COMPAS, whereas cases which are relatively uncomplicated will be recorded in GPS.

100 Netherlands, Public Prosecution Service - National Expertise Centre Discrimination (LECD-PPS) (2010).

101 Ibid.

102 Ibid.

103 www.cgb.nl/klachtenformulier.

104 Legal experts at the Legal Bureau handle complaints and assist parties during the process of obtaining a CGB opinion (if the case is suitable to be dealt with in this way).

105 Netherlands, Equal Treatment Commission (2009).

106 For example: an Iranian person is told to "go back to their own country" in the street; although the CGB is authorised to handle petitions concerning the discrimination ground nationality, anything that does not involve work, goods and services or education falls outside the scope of CGB jurisdiction.

107 Netherlands, Equal Treatment Commission (2011c).

108 Ibid.

109 www.discriminatie.nl/meld-discriminatie/klachtenformulier.

110 Regional ADV-reports usually do include information on (the number of) information requests that were received.

111 All Core figures reports can be downloaded at: www.art1.nl/artikel/10029-Kerncijfers_jaaroverzicht_discriminatieklachten.

112 Netherlands, Government Gazette (Staatscourant) (2010a).

113 Whereas the MDI uses the English term 'complaints' when communicating in English about its activities, in this report the Dutch word 'melding' is translated as 'notification', since people who contact the MDI are not or hardly involved in the follow-up. See also the introduction of Chapter 5.

114 meldpunt@meldpunt.nl.

115 Only websites aimed at an audience in the Netherlands fall within the scope of the Dutch Criminal Code.

116 Discriminatory expressions on the internet are forbidden by law in the same way as in 'real life'. Individuals posting discriminatory expressions online as well as moderators/website owners who fail to remove such expressions can be prosecuted. cf. www.meldpunt.nl and Van der Linden-Smith, M. (2008).

117 In 2010, the MDI sent 608 requests for removal of an expression; 520 expressions were subsequently taken offline. Dutch Complaints Bureau for Discrimination on the Internet (2011a).

118 Germany, Federal Ministery of the Interior (2011a), pp. 3-4.

119 Germany, Bundestag (2009).

120 While the general crime statistics PKS reflect the final assessment made by the police before it refers the incident to the Public Prosecutor, the statistics on political motivated crimes are based on the initial assessment of the offence.

121 Germany, Federal Government (2010); Germany, Federal Government Commissioner for Migration, Refugees and Integration (2010), p. 409.

122 The applied categories for the registration of court proceedings are largely harmonised across all federal states.

123 Peucker, M. and Lechner, C. (2010).

124 Ibid..

125 www.antidiskriminierungsstelle.de.

126 Equinet (2011).

127 See: www.antidiskriminierungsstelle.de/SharedDocs/FAQs/DE/5_Wie_Verbindung.html?nn=2059592.

128 The LADS recently held a training event to further qualify organisations who offer anti-discrimination counselling in accordance with the ADVD standards.

129 Germany, Land Office for Equal Treatment – Against Discrimination (2010).

130 Peucker, M. and Lechner, C. (2010).

131 While some of the member organisations (e.g. ARIC-NRW) have been registering and documenting discrimination complaints for almost a decade, other ADVD member organisations have started to register discrimination complaints in recent years.

132 As many member organisations of the advd are also members of other associations, they often register discrimination complaints with two different registration systems (such as the registration forms provided by the LADS, ARIC NRW or advd).

133 This online tool has already been used by the ADB Köln before 2010.

134 advd (2009).

135 For Germany see also Peucker, M. and Lechner, C. (2010).

136 An ADV counsellor is an ADV employee who assists clients/victims and who registers complaints and notifications.

137 Some ADVs do not only register regular complaints but also complaints registered by other organisations such as the police and/or the results from their own screenings of, for instance, job advertisements. These are then included as a file in the Art.1 registration system.

138 The information on the strategy is not included in the annual national report Core figures of the ADVs.

139 The information on the instigator is not used in the annual report Core figures of the ADV's.

6 Implementation and maintenance of registration systems

After a registration system is designed and tested, the system is implemented in practice. The registration system will have to be introduced and explained to the people who will work with it and they will have to be trained in how to use the system. Instructions can be written or communicated orally. When the system is activated and used, it also needs to be maintained. Maintenance of registration systems can involve several activities, like adding new users, checking and cleaning up entered data, making back-ups etc. It might also be necessary to modify the set-up of the registration system, based on user experience or current insights into registration of discrimination complaints. Modifications and updates of systems might also relate to requests, for instance by public authorities or civil society, to monitor specific discrimination phenomena or certain aspects of discrimination complaints that were not recorded before in the system.

This chapter describes how the organisations involved in this report, in the Netherlands and Germany have implemented their registration system. It also provides information on how the systems are maintained. See Chapter 5 for a description of the ways of handling complaints and procedures for recording and processing data by each of the organisations included in this study.

6.1 THE NETHERLANDS

6.1.1 THE POLICE

Registration System Basisvoorziening Handhaving (BVH)

All police officers have been trained to use the registration system BVH for registering reports and notifications of crimes during their police training. The training course does not include specific instructions on the registration of discriminatory incidents. In some police regions, police staff are trained to identify possible discriminatory elements when citizens report an incident. They are instructed how to investigate and register this type of incidents.

There are instructions on the procedure regarding a report or notification of discrimination on the Police Knowledge Net (PolitieKennisNet, PKN), the national knowledge and information portal of the police.[140]

Maintenance of BVH is continuous. Changes to the system are made twice a year. Representatives of the users prioritise the changes to be made.[141]

After the BVH system was implemented in 2009, the issue was raised in Parliament that BVH may not be sufficiently user-friendly and therefore take up too much time of police officers.[142] The Court of Audit (Algemene Rekenkamer) confirmed this, when it was instructed by the Minister of Security and Justice to investigate ICT in the police with a focus on BVH.[143]

On September 19th 2011, the Minister of Security and Justice presented a 'Programme of Attack' (Aanvalsprogramma Informatievoorziening Politie 2011-2014) for the information services of the police.[144] Part of this programme is the aim to improve BVH and other elements of the police information systems, in accordance with the daily practice of police officers. In the long run, BHV will be replaced with a new integrated system. In the meantime, the National Expertise Centre Diversity of the Dutch police (LECD-police) will improve registration and analysis of reports and notifications of incidents with a discriminatory character in the current version of BVH.

Case overviews

The LECD-police offers training courses for officers specialised in discrimination cases (taakaccenthouders discriminatie) (hereafter the 'discrimination' police officers). Instructions on how to improve the registration of discrimination in their police region are part of the training course. All 'discrimination' police officers copy incidents with a discriminatory character that were retrieved from BVH in a special case overview. The training also focuses on how to use this case overview.

LECD-police organises meetings for all 'discrimination' officers once or twice a year. This meeting is supposed to encourage an exchange of work experiences and to provide a platform to exchange information on new developments. The last meeting in 2011 was dedicated to the case overview.

In addition, LECD-police has organised general training sessions for police officers to address issues such as 'what is discrimination' and the legal framework of discrimination.

Planned improvements

LECD-police is currently executing an action plan for the improvement of the annual national POLDIS-report on reports and notifications of discrimination. The action plan includes a short-term and long-term approach. The long-term approach (which is expected to be realised, at the earliest, at the end of 2012) consists of making improvements to BVH regarding the registration of reports and notifications of incidents with a discriminatory character.
Modifications, realised in 2011, include the improvement of the uniform case overview. The LECD-police has also developed a manual for the modified case overview[145] and will organise instruction sessions for the 'discrimination' officers to accompany the introduction of the new case overview at the beginning of 2012.

A new training course for 'discrimination' officers will also be developed, early in 2012, which in part will be aimed at increasing awareness of good and uniform registration of reports and notifications of discrimination. Instructions on how to use the new case overview will be included.

6.1.2 The Public Prosecution Service

The National Expertise Centre Discrimination of the Public Prosecution Service (LECD-PPS) provides public prosecutors specialised in discrimination with an instruction document, on how to fill in the Discrimination Registration Code (DRC).

The LECD-PPS aims to check and improve the quality of registration in the DRC. The public prosecutors filling in the DRC are requested to explain their reasons for selecting certain codes for a discrimination offence. The LECD-PPS checks and might alter a code entered in the DCR by the public prosecutors, if they deem another code more appropriate, based on the explanation provided. The LECD-PPS can also be involved in a case as an advisor, which means their knowledge of the case allows them to assess if the public prosecutor has entered the right codes. In some cases, the LECD verifies whether offences have been correctly coded, by checking the corresponding files that are accessible in GPS. If deemed necessary, the LECD-PPS will request public prosecutors for additional information in a case.

In addition, the LECD-PPS keeps records of decisions that are taken concerning the registration of certain offences which were complicated to register, in order to ensure consistent registration of similar offences.

As was mentioned in Chapter 5, paragraph 5.1.2, the LECD-PPS does not, at present, retrieve from its databases those crimes that do not have a reference to a discrimination article in the Criminal Code but that do contain a discriminatory element. The new system GPS, which has not yet been fully implemented, will in principle allow for retrieval of these general offences (commune delicten) with a discriminatory character. Obtaining additional information about these cases (such as the discrimination ground) through the DCR will lead to a considerable amount of extra work for the public prosecutors specialised in discrimination. It is therefore not yet clear if reporting on the nature of these crimes will be feasible in the near future.

6.1.3 Equal Treatment Commission

When the system Filenet was implemented in 2009, training was provided for the legal experts who register cases in the system. New users have since received a one-on-one instruction on how registration should be done. There is no protocol for registration. The legal experts discuss potential irregularities or problems in entries that might arise.

There is a manual available that explains how to register in the MWM2 system, providing technical instructions on how to fill out all sections in the system. A CGB researcher regularly executes a sample check of the information recorded in MWM2.
Filenet is primarily a system for recording procedural information on the handling of petitions for an opinion, although the CGB also uses it for data registration. In the future, the CGB aims to have only one system for data registration. Either Filenet or MWM2 will be developed for that purpose.

6.1.4 Network of anti-discrimination agencies (ADVs)

A registration protocol was developed for the registration system used by a number of ADVs (ADBase). This protocol aims to ensure that employees of ADVs who register complaints, classify an incident in the right category. Some cases are multi-faceted or complex, and cannot easily be classified. Over the years it was apparent that guidelines were needed for the classification of incidents and the interpretation of categories. The protocol entails, for example, an instruction to register a complaint consisting of multiple incidents as one complaint in the system.[146] The protocol also contains an explanation of the different categories.

A technical manual was developed for the Art.1 registration system, describing the structure of the system. There is no national registration protocol for this system. Several ADVs have developed, or are in the process of developing, their own protocol for the Art.1 system. Additionally, ADVs have internal procedures for maintaining and improving the quality of their registration, for example internal consultations to enable unambiguous registration of complicated complaints. Some ADVs have a staff member who checks the data that are entered into the system. ADVs also communicate about registration issues among each other, either in formal intervision groups or informally by phone or previously on the former Art.1 intranet. Up to the end of 2011, the Dutch Expertise Centre Discrimination Art.1 provided technical assistance to ADVs using the Art.1 system.[147]

The National Branch Organisation Antidiscrimination Agencies (LBA) compiled a manual for ADVs to assist them in completing the official registration form, issued by the Ministry of the Interior and Kingdom Relations within the framework of the ADV Act, which municipalities are legally required to fill in. Included in the manual is the interpretation of some of the categories of the registration form.[148] In addition, a technical instruction on how to export the requested information from the Art.1 system was sent out by one of the ADVs.

6.1.5 Dutch Complaints Bureau for Discrimination on the Internet (MDI)

The MDI has a system that is designed in a user-friendly and self-explanatory way. New staff members receive a one-on-one instruction before using the system. There is no official written manual for the MDI registration system.

Members of the International Network Against CyberHate (INACH) use a registration system which is a simplified version of the MDI registration system. New users of the INACH registration system receive a training course, which contains technical and legal instructions on how the system works. Furthermore, there is an annual workshop in Mainz (Germany), where INACH members discuss the registration system. The German network partner (Jugendschutz) is the contact point for questions about the system.

The INACH members use a mailing list to exchange information, for example on discriminatory expressions that surface in different countries, or to seek advice from members on how to handle a specific case.

6.2 GERMANY

6.2.1 THE POLICE

Police officers are trained to make an assessment as to whether an offence falls within the category of politically motivated crimes or, more specifically, of hate crimes, and to register the crime accordingly. Whether these training measures sufficiently equip all police officers with the skills and sensitivity necessary to accurately assess and record possible hate crimes seems questionable.[149]

6.2.2 THE PUBLIC PROSECUTOR / LABOUR COURTS

The German Public Prosecution Service does not record cases of discrimination as such forms of misbehaviour are not subject to Criminal Code in Germany.

The courts - more specifically the labour courts - do not systematically register discrimination-related court proceedings – with only very limited exceptions. The President of the State Labour Court Berlin-Brandenburg has instructed the labour courts in Berlin and Brandenburg to separately record all court proceedings, related to the AGG. Guidelines on what and how to record these cases have been circulated.

6.2.3 THE FEDERAL ANTI-DISCRIMINATION AGENCY, ADS

Specific training for the ADS staff on how to register cases of, or complaints about discrimination has not been provided. As the criteria for the assessment and registration of each reported incident are based on the complainant's account and subjective assessment, it is not considered necessary to provide additional training. While an official manual on a standardised procedure to register complaints is not available, there are some general guidelines that are followed when cases are documented.

6.2.4 THE BERLIN STATE BODY FOR EQUAL TREATMENT – AGAINST DISCRIMINATION, LADS

A computer-based documentation system has been developed to ensure a technically straightforward and time-efficient way of recording incidents of discrimination within the context of LADS' counselling work. The LADS-IT Documentation System has experienced a pilot phase (which ended at the end of 2011). The LADS plans to hold discussions on all the difficulties that have occurred during the pilot phase, with the end goal of establishing a modified long-term documentation system. The structure of the documentation system, however, will remain unchanged.

The member organisations of the LADS follow common guidelines to document incidents of discrimination. These guidelines have been developed by the LADS in cooperation with the participating network organisations, so the most relevant information about the individual case of discrimination can be elicited during the counselling sessions. The content and structure of these common guidelines are based on the requirements of the documentation system (see Annex C for an overview of categories).

In addition to providing documentation tools for the joint, systematic registration, the LADS has also organised training workshops on how to use the LADS-IT Documentation System properly. To this end, the LADS has compiled a detailed handbook that explains the practical use of the LADS-IT Documentation System. Moreover, regular network meetings with and between the partner organisations have been held to encourage an intensive exchange of experiences and information; sometimes external experts are invited to provide additional input on specific issues (e.g. concerning data security).[150]

The LADS' initiative to cooperate with local NGOs and to establish a joint registration system has been well received by the participating organisations. Moreover, the communication and collaboration between the partner organisations and the LADS has been substantially enhanced over the past few years. One of the main points of criticism raised by some organisations is the extra work that ensues from the documentation for the LADS; this applies in particular to those organisations that have had their own registration and documentation system in place and are now required to use different systems simultaneously (e.g. Lesbenberatung Berlin, ADNB).

6.2.5 THE ANTI-DISCRIMINATION ASSOCIATION GERMANY, ADVD

All the advd member organisations have received a brief introduction to the technical use of the ARIC-NRW software. While no special training on the technical aspects of the documentation was offered, workshops on the issue of counselling have been held dealing with issues such as the classification of complaints of discrimination with regard to their content, as well as the issue of documentation and registration.

ARIC-NRW is responsible for the technical issues and provides content-related support with regard to the documentation of discrimination cases. ARIC-NRW is also the central point of contact. Individual advd member organisations send their registered discrimination complaints to ARIC-NRW once a year.

6.3 REGISTRATION OF DISCRIMINATION COMPLAINTS: COSTS AND BENEFITS

Registration can serve many purposes. The overview of the number and nature of complaints and how they were handled is useful for monitoring discrimination and good administration leads to efficient case handling in the daily practice. Another advantage of registration is attaining insight into procedural processes and organisational performance. Registration can also be aimed at existing obligations to deliver reports to governmental institutions or to funders.

High quality registration and systematic documentation require a considerable amount of time and effort. In most cases, the registration task is additional to other more practical job activities, such as supporting the complainants and/or handling cases. These practical job activities are sometimes viewed as more relevant to someone's job or to the organisational mission as a whole. Most of the goals of registration are often not directly tangible and relevant to those people involved in the registration. Not only the time investment of employees but also the amount and kind of information that one can reasonably request from a complainant are points of contention.

Many organisations in Germany and the Netherlands face organisational and financial obstacles, resulting from the additional workload and expenses of the documentation of discrimination complaints. Lack of financial resources indirectly affects the sustainability of registration systems. Considerations of the time and money to invest in complaints registration are always a matter of waying costs and benefits, by each organisation, of that registration.

Organisations and their employees need to see the use and the advantages of their registration efforts. This is essential to proper implementation of a registration system and to ensure that it is reliable.

Notes *Chapter 6*

140 Information on PolitieKennisNet is not publicly accessible.
141 Netherlands, House of Representatives (2010a).
142 Netherlands, House of Representatives (2010b).
143 Netherlands, Court of Audit (Algemene Rekenkamer) (2011).
144 Netherlands, Dutch Police, Landelijk CIO-office (2011).
145 National Expertise Centre Diversity of the Dutch Police (LECD-police) (Landelijk Expertisecentrum Diversiteit, LECD-politie) (2011) Gebruikershandleiding zaaksoverzicht, Apeldoorn, LECD-politie.
146 Schriemer, R. (2005).
147 This is not the case in 2012 due to changes in the field of ADVs.
148 National Branch Organisation of Anti-Discrimination Agencies (LBA) (2010).
149 Peucker, M. (2006).
150 Germany, Land Office for Equal Treatment – Against Discrimination (2010), p. 36-39.

7 Publication of complaints data

All organisations analysed in this study, publish their data, usually in an annual report. Table 7.1 provides an overview of the reports published in 2010/2011.

It is important that organisations publish their complaints data, so that governmental institutions, civil society, welfare organisations, (individual) professionals or whomever fights, or has to deal with discrimination, can make use of the information. Not all information that is entered in registration systems will be made public. Organisations select specific information about the complaints received and subsequently compile a report. The selection of information and the way of presenting the information depends on the objective(s) of publishing the complaints data and on the various target groups of the publication. For example, lawyers might need detailed information on case law and on legal assessments of complaints, while health care professionals might be interested in the number of complaints in their sector. In addition to monitoring discrimination, some target groups might be interested in the employed methods of case handling or in the performance of the institute concerned.

In this chapter, the publications of complaints data by the different organisations in the Netherlands and Germany are described. As mentioned before, publishing these data is important in terms of monitoring situations of discrimination. An overview of the way they classify incidents in their respective publications is provided in Annex B (Dutch organisations) and Annex C (German organisations). In the following paragraphs, the classification systems applied in the publications of every organisation are summarized. The chapter concludes with a comparison of these classification systems.[159]

7.1 THE NETHERLANDS

7.1.1 THE DUTCH POLICE

The POLDIS Crime report discrimination (POLDIS, Criminaliteitsbeeld discriminatie) is published annually by the National Expertise Centre Diversity of the Dutch police (LECD-police). It provides an overview of the number and nature of incidents with a discriminatory character submitted and registered within the Dutch police regions.[160] POLDIS 2010 is the third national overview of the LECD-police.[161] All presented data are compared to data from the two previous years.

Table 7.2 contains an overview of the type of data in the POLDIS annual report, the way these data are collected and analysed and how the registration system was implemented and improved.

Table 7.1 ***Complaints data reports in the Netherlands and Germany***

Country	Organisation	Report
The Netherlands	anti-discrimination agencies (antidiscriminatiebureaus en meldpunten; ADVs)	Core figures 2009: Overview of discrimination complaints registered by anti-discrimination agencies in the Netherlands (Kerncijfers 2009: Landelijk overzicht van discriminatieklachten geregistreerd bij antidiscriminatiebureaus en meldpunten in Nederland)[151], henceforth referred to as Core figures.
The Netherlands	Equal Treatment Commission (Commissie Gelijke Behandeling; CGB)	Equal Treatment Commission Annual Report 2010 (Commissie Gelijke Behandeling Jaarverslag 2010)[152], henceforth referred to as CGB annual report.
The Netherlands	National Expertise Centre Discrimination of the Public Prosecution Service: LECD-PPS (Landelijk Expertisecentrum Discriminatie van het OM; LECD-OM)	Figures in focus: Discrimination figures 2009, Overview of discrimination data of the Public Prosecution Service 2005-2009 (Cijfers in beeld: Discriminatiecijfers 2009, Overzicht discriminatiecijfers Openbaar Ministerie 2005-2009)[153], henceforth referred to as Figures in focus.
The Netherlands	National Expertise Centre Diversity of the Dutch Police: LECD-police (Landelijk Expertisecentrum Diversiteit van de politie; LECD-politie)	POLDIS 2010 : Crime report discrimination (POLDIS 2010: Criminaliteitsbeeld discriminatie)[154], henceforth referred to as POLDIS.
The Netherlands	The Dutch Complaints Bureau for Discrimination on the Internet (Meldpunt Discriminatie Internet; MDI)	Dutch Complaints Bureau for Discrimination on the Internet Annual Report 2010 (MDI Jaarverslag, 2010)[155], henceforth referred to as MDI Annual Report.
Germany	Federal Anti-Discrimination Agency (Antidiskriminierungsstelle des Bundes, ADS)	Official report submitted to German Bundestag (Parliament) 2010 (Gemeinsamer Bericht der ADS und der in ihrem Zuständigkeitsbereich betroffenen Beauftragten der Bundesregierung und des Deutschen Bundestages).[156]
Germany	Berlin State Body for Equal Treatment – Against Discrimination (Berliner Landesstelle für Gleichbehandlung – gegen Diskriminierung, LADS)	Annual activity report of the LADS, 2010 (Tätigkeitsbericht "Drei Jahre LADS", 2010).[157]
Germany	Anti-Discrimination Association Germany (Antidiskriminierungsverband Deutschland, advd)	Press release on discrimination complaints, registered by the advd member organisations (August 2010) (Vier Jahre Allgemeines Gleichbehandlungsgesetz (AGG): Antidiskriminierungsverband Deutschland fordert Nationalen Aktionsplan gegen Diskriminierung!)[158]

Table 7.2 ***Overview of Dutch police data collection and report***

Type of organisation	Governmental
Type of data	Incidents with a discriminatory character: * Reports and notifications of incidents filed by victims * Incidents observed by the police (as a witness or as a victim)
(Legal) basis for the registration system	Dutch Criminal Code (137c – 137g; 429quater)
Data collection	Citizens can report an incident or notify the police. These reports and notifications are registered in registration system BVH. Discrimination related reports and notifications are extracted from BVH in each police region through a query. These reports are subsequently collected in a case overview in an Excel file automatically or manually by a 'discrimination' police officer (taakaccenthouder discriminatie). LECD has issued a national standard case overview.
Data analysis	The LECD-police screens regional police case overviews for privacy issues. A scientific research institute then joins and processes the data.
Implementation	The LECD-police is currently working to improve the quality of the registration of incidents with a discriminatory character. Measures include a modified standard case overview issued at the end of 2011 (containing, for instance, a different categorisation), an investigation into the possible use of ICT applications, improved instructions for 'discrimination' police officers and awareness raising activities among both 'discrimination' and other police officers. The LECD-police has issued written instructions on the registration of incidents in the modified case overview. 'Work Instructions Discrimination' is a document available on the national Police Knowledge Net (Politie Kennis Net), which contains instructions on registration of reports/notifications of discrimination or reports/notifications of incidents that contain a discriminatory element in BVH. Some police regions have organised their own training of police officers to teach them to deal with and register discriminatory incidents.
Report	Annually since 2008; National report. Title: POLDIS 2010: Crime report discrimination (POLDIS 2010, Criminaliteitsbeeld discriminatie).

Classification and presentation in the report

The POLDIS report presents an overview of the total number of incidents with a discriminatory character that were registered in each of the regions that forwarded their data to the LECD-police. The classification system used for the POLDIS report is based on the articles in the Dutch Criminal Code that prohibit discrimination.[162] It includes the discrimination grounds which are described in the Criminal Code.

In the POLDIS report, incidents are classified according to the relevant discrimination ground. The following discrimination grounds are included: 'Sexual preference', 'Ethnic origin', 'Anti-Semitism', 'Religion/belief', 'Gender', 'Political persuasion' and 'Disability'. There is also a category 'Other grounds'. 'Ethnic origin' would, in legal terms, fall within the discrimination ground race.[163] 'Anti-Semitism' can either be considered discrimination on grounds of race or religion, from a legal point of view.[164] The discrimination ground 'Political persuasion' is included in Article 1 of the Dutch the Constitution, but it is not covered by the Criminal Code (see Chapter 3, paragraph 3.1). One incident can involve one or more discrimination grounds.[165] In the POLDIS report the discrimination grounds 'Anti-Semitism', 'Ethnic origin', 'Homosexuality'[166] and 'Religion/belief' are presented per region.

The POLDIS report also deals with the numbers of reported incidents with a discriminatory character, classified based on the way of discrimination, for example 'Threat' or 'Assault'. Incidents can apply to more than one category.

The data are also classified according to the location where the incidents took place, such as 'Catering industry/festival/clubs, pubs', 'On the street' and 'In school (surroundings) or school-related'. The POLDIS report provides information on the people involved in the reported incidents. For example, the incidents have been disaggregated by gender of both the victims and the suspects, insofar as this information was available and registered in the police regions.
The incidents of discrimination against police officers are also presented separately. These are classified according to the relevant discrimination ground.

See Annex B for an overview of the terminology and the (sub)categorisations of the registration system of the police in Dutch and the corresponding translations in English.

7.1.2 THE DUTCH PUBLIC PROSECUTION SERVICE (PPS)

The report Figures in Focus (Cijfers in Beeld) is issued annually by the National Expertise Centre Discrimination of the Public Prosecution Service (LECD-PPS). In the report, an overview is provided of the number, nature and processing of discriminatory offences registered at the PPS.[167] The data in the report were gathered over a period of five years.

Table 7.3 is an overview of the type of data reported on in Figures in Focus, the way these data were collected and analysed and how the registration system was implemented and improved.

Classification and presentation in the report

The report Figures in Focus presents the number of discrimination offences that have been registered in each of the Public Prosecution Service's regional offices. Discrimination offences are based on the

Table 7.3 ***Overview of Dutch Public Prosecution Service (PPS) data collection and report***

Type of organisation	Governmental
Type of data	Discrimination offences, and discrimination cases that were handled by the court
(Legal) basis for the registration system	Dutch Criminal Code (137c – 137g; 429quater)
Data collection	The police send finalised police reports that are considered prosecutable to the Public Prosecution Service (PPS). A secretary or administrative member of staff at the office of the PPS enters data from these reports into either of the PPS registration systems COMPAS or GPS. In addition, reports filed directly with the PPS and cases the PPS investigates of its own initiative (and that are deemed prosecutable) are registered in COMPAS/GPS. Subsequently, these cases are investigated by the police who send their reports of these cases back to the PPS. Additional information is then added to the initial PPS registration of the case in COMPAS/GPS. Every year, the national office of the PPS carries out a discrimination query in COMPAS and GPS. All cases that involve one or more of the articles on discrimination in the Criminal Code, are thus retrieved and all discrimination offences (discriminatiefeiten) are listed.[168] Regional public prosecutors who are specialised in discrimination are requested to provide additional information on the retrieved discrimination facts, concerning the nature of these offences (by means of the Discrimination Registration Code (DRC), a classification system).
Data analysis	LECD-PPS combines data from COMPAS, GPS and the DRC, analyses discrimination offences and cases and produces the annual report.
Implementation	There is a general manual for COMPAS and GPS (not specifically for discrimination). Public prosecutors specialised in discrimination receive an explanation as to how to fill in the Discrimination Registration Code (DRC).
Report	Annually since 2000. Dispersed among stakeholders, but not made publicly available. Title: Figures in focus: Discrimination figures 2009, Overview of discrimination data of the Public Prosecution Service 2005-2009 (Cijfers in beeld: Discriminatiecijfers 2009, Overzicht discriminatiecijfers Openbaar Ministerie 2005-2009).

discrimination articles in the Criminal Code (article 137c – g and 429quater). Every time someone is charged with one of these articles, this counts as one offence.[169]

The categories used in the Discrimination Registration Code (DRC) registration system were defined in line with the discrimination articles in the Criminal Code. In addition, jurisprudence is a point of reference for terminology as is the legislative history of the discrimination articles.[170]

The Criminal Code lists the grounds that prohibit discrimination. Hence, similar to the POLDIS report, LECD-PPS uses categories for discrimination grounds that are based on the Criminal Code. They also report on discrimination on other (non-legal) grounds and unknown grounds.

Figures in Focus also provides information on where the registered discrimination offences took place, such as 'Work', 'Sport' or 'Internet' as well as the discrimination grounds that were involved, for instance 'Race' or 'Gender'. Before 2005, the LECD-PPS registration system, and their report, contained the category 'Multiple grounds'. As of 2005, this category no longer exists. Instead it is possible to enter multiple options for discrimination ground with a maximum of three grounds.[171] Furthermore, information is included on how registered discrimination offences were committed, for instance 'Verbally' or 'Image'.

Figures in Focus provides information on the background of suspects of the registered discrimination offences. Suspects can be classified into diverse categories, such as 'Extreme right', 'Turkish/Moroccan individual' or 'By police investigator'. To gain some understanding of the number of cases on discrimination involving a (alleged) perpetrator of a specific ethnic group, the discrimination grounds are reported separately for suspects in the categories 'White individual' and 'Turkish/Moroccan individual'. Suspects are also classified according to age group and gender.

In order to gain more insight into the nature of the discrimination offences, the background of suspects is mentioned with regard to each discrimination ground. For example, you can establish how many anti-Semitic offences were committed by an 'Extreme right' suspect. The same applies to the location where the offences were committed and for the manner in which these offences were committed.

Figures in Focus details the number of handled offences by each Public Prosecution Service's Office as well as how these were handled. This can be a 'Summons', 'Transaction', or a '(Conditional) decision not to prosecute'. In addition, the report details information on the court settlement, (which can entail, for instance, a 'Verdict' or a 'Non-punitive order'), including the nature of verdicts, punishments and measures that were imposed.

See Annex B for an overview of the terminology and the (sub)categorisations of the registration system of the public prosecutor in Dutch and in English.

7.1.3 THE EQUAL TREATMENT COMMISSION

The Equal Treatment Commission (CGB) annually reports the number and nature of petitions for an opinion and of information requests the CGB received. Furthermore, in the Annual Report (CGB jaarverslag) these data are compared to previous years (dating back two previous years).[172]
See table 7.4 for an overview of the type of data included in the CGB Annual Report, the way these data were collected and analysed and how the registration system was implemented and improved.

Table 7.4 ***Overview of Equal Treatment Commission (CGB) data collection and report***

Type of organisation	Independent governing body
Type of data	1. Requests for information by individuals or organisations 2. Petitions of victims for a CGB opinion and petitions for an opinion by organisations who want to have their own policy/practice assessed
(Legal) basis for the registration system	Dutch Equal Treatment Act (AWGB)
Data collection	1. Requests for information * Intake by Legal Help Desk (by phone) * Requests by post or email These requests are recorded in registration system JSR. 2. Petitions for an opinion * Standardised survey through a web form * Petitions by post * Additional information is obtained from petitioner and accused party * Sometimes an investigation is conducted Petitions are registered by staff of the Legal Bureau in the registration system Filenet to keep track of the process. When a case is closed and the file completed, a detailed petition is registered in another registration system, called MWM2, using information from the file. The registration systems for petitions and information requests are not connected.
Data analysis	A CGB researcher analyses petitions for an opinion and requests for information.
Implementation	Filenet: * One-off training when the systems were introduced * New registering staff are trained one-on-one * Entries are checked; legal experts discuss corrections MWM2: * A manual is available providing technical instructions on how to fill out all sections in the system * A CGB researcher regularly checks samples of the recorded information
Report	Annually since 1994 Title: Equal Treatment Commission Annual Report 2010 (Commissie Gelijke Behandeling Jaarverslag 2010)

Classification and presentation in the report

The annual report of the CGB presents the number of information requests they receive, as well as the number of petitions for a CGB opinion. The annual report contains information on the discrimination ground and social area of the information requests and petitions for a CGB opinion.

The terminology and definitions of the grounds and social areas are based on the Equal Treatment Act. The CGB Annual Report provides information on the number of petitions that were filed and the particular relevant discrimination ground, for instance 'Race', 'Gender' or 'Disability/chronic disease'. In addition to the discrimination grounds as defined in the Equal Treatment Act, the CGB reports on requests for an opinion that concern a discrimination ground that falls outside the scope of the act ('No CGB-ground'), or an 'Unknown ground'.

It is possible to register several discrimination grounds in the CGB registration systems. This enables registration of multiple discrimination.[173] It is, however, not reported which combination of grounds occur.

The social areas that the petitions related to, such as 'Labour', 'Access to goods and services' and 'Education' are reported. Since petitions filed with the CGB usually concern matters in the field of employment, education or goods and services, the accused parties can be sub-divided as to the sector in which they operate, for instance 'Commercial services' or 'Non-commercial services', each with a number of subcategories.[174] Filed petitions that concerned a social area outside of the legal scope of the CGB are also reported, in the category 'No social area'.

The discrimination ground and/or social area as mentioned when a petition is filed can change during the process. When a petition for an opinion is filed, the relevant discrimination ground and social area as indicated by the sender are registered, for example the discrimination ground race. During the course of the CGB-procedure, it can become apparent that the reported complaint of unequal treatment involves a different discrimination ground, for example gender. If the petitioner so agrees, the CGB will consider the case on the discrimination ground gender. When the case is closed, the discrimination ground gender will be registered as the exit discrimination ground. Both the discrimination ground at the beginning and at the end of the process are reported.

The CGB report also provides information on the nature of cases where the CGB gave a legal opinion. Opinions are, for example, classified by discrimination ground and social area. In the CGB Annual Report 2010, the CGB opinions are also presented in a contingency table of discrimination ground and social area. This visualises the number of cases for each ground per social area (for example: the number of cases of racial discrimination on the labour market) that were subject to an opinion of the CGB. Regarding the requests for information, the capacity of the requester is reported, such as 'Private persons', 'Lawyers' or 'Employment agencies'. For people petitioning an opinion the CGB registers and reports whether they are a private or legal person. Petitioners that are a private person are classified by gender. Furthermore, the sectors in which the accused parties operate are presented in the CGB annual report for the petitions that were handled.

The CGB reports on how it handled petitions, for instance by issuing an 'Opinion' or enabling 'Successful mediation'.[175] The ways of handling are presented for the different discrimination grounds, which sheds light on which types of handling occur most frequently for petitions concerning specific discrimination grounds. Petitioners that are a private person are classified by the type of legal assistance they received (if any) during the procedure (for instance from a 'Lawyer', 'ADV' or ' Representative'). It is also reported whether or not the accused parties were legally represented.

Concerning information requests, the report describes how these were received. The advice which requesters receive from the Helpdesk is described in an open text field and is not reported.[176]
The follow-up of opinions is included, for instance 'Individual measure' or 'Structural measure'.

See Annex B for an overview of the terminology and the (sub)categorisations of the annual report of the CGB in Dutch and in English.

7.1.4 THE DUTCH NETWORK OF ANTI-DISCRIMINATION AGENCIES (ADVS)

In 2010, as in previous years, the registered complaints of nearly all anti-discrimination agencies ADVs) were joined, cleaned, analysed and reported in the annual report Core Figures (Kerncijfers) by the Dutch Expertise Centre Discrimination Art.1[177] and Utrecht University.[178]

The annual report Core Figures presents the reported incidents and complaints of discrimination filed with the ADVs. Core Figures provides an overview of the nature of the discrimination complaints as registered by the ADVs. In order to identify possible trends over the years, Core Figures 2009 includes data from 2005-2009.

An overview is presented in table 7.5 of the type of data in the annual report, the way these data are collected and analysed and how the registration system was implemented, including the quality of the registration process.

Classification and presentation in the report

Both ADBase and the Art.1 registration system have been developed with an eye to the Equal Treatment Act and the discrimination articles in the Criminal Code (see Chapter 3, paragraph 3.1). In the Art.1 registration system more characteristics of an incident can be registered than in ADBase. There are additional subcategories which allow for more detailed information on incidents. Moreover, the Art.1 registration system contains the option of registering multiple discrimination grounds, social areas, types of discrimination, complainant characteristics, etc., for one complaint. ADBase only allows the selection of one option in every category.

Table 7.5 ***Overview of data collection and reports of anti-discrimination agencies***

Type of organisation	Civil society; subsidised by local or provincial governments who receive funds from the national government for the purpose of countering discrimination
Type of data	Complaints and notifications of victims or witnesses
(Legal) basis for the registration system	Dutch Criminal Code Equal Treatment Act The Municipal Anti-Discrimination Facilities Act; ADV Act (Wet Gemeentelijke antidiscriminatievoorzieningen, ADV-wet)
Data collection	1. Complaints and notifications are filed with: - the national phone number or national web form which are automatically redirected to the ADV in the postal code area of complainant (www.discriminatie.nl) - the regional ADV (directly, by phone, email, ADV-website or face-to-face) 2. Requests for information are submitted with: - the national phone number or national web form which are automatically redirected to the ADV in the postal code area of complainant (www.discriminatie.nl) - the regional ADV (directly, by phone, email, ADV-website or face-to-face) 3. Some ADVs screen newspapers for discriminatory requirements in vacancy ads and/or conduct field tests for discrimination. All complaints and notifications are registered regionally in one of several registration systems (ADBase, Art.1, a few agencies use Excel or Word files). Following a complaint or notification and its initial registration, there will usually be an intake session with a staff member during which additional information is gathered and registered.
Data analysis	The Dutch Expertise Centre Discrimination Art.1 and Utrecht University researchers combine the regional registrations, and then process and analyse the data.
Implementation	* Registration Guidelines ADBase (2005) (Registratierichtlijnen ADBase) * New registering staff are trained internally by individual ADVs
Report	By Art.1 and Utrecht University since 2005 (complaints in 2004). Title: Core Figures 2009: Overview of discrimination complaints registered by anti-discrimination agencies in the Netherlands (Kerncijfers 2009: Landelijk overzicht van discriminatieklachten geregistreerd bij antidiscriminatiebureaus en meldpunten in Nederland).

The report Core Figures provides the total number of complaints and notifications received by all ADVs in the Netherlands. In 2009, the Ministry of the Interior and Kingdom Relations launched a campaign to encourage the public to file their discrimination complaints with the ADVs. In the Core Figures

report, the number of complaints and notifications received by ADVs are first presented for each month in 2009, in order to compare the number of complaints and notifications that were registered during the period that the campaign was running, with that in other months. The purpose is to clarify what effect the campaign may have had on the number of complaints and notifications. The total number of complaints and notifications registered by ADVs in 2009 is also reported per ADV.

Next, the number of complaints and notifications for all discrimination grounds (for instance 'Sexual orientation' or 'Civil status') is presented, including the period that the above mentioned government campaign was running.

All registered complaints that pertain to the discrimination ground 'Race' are classified according to the ethnic group of the complainant, so as to determine how many complaints were filed by people with different ethnic backgrounds.[179] ADVs register all grounds on the basis of which a complainant indicates to have been discriminated against. The combination of discrimination grounds are mentioned, for example 'Race' + 'Religion' or 'Gender' + 'Age'.[180] The discrimination grounds are also reported for each ADV separately, to provide insight as to the region where a certain discrimination ground was recorded most. In addition to the legal discrimination grounds, the ADVs register complaints on all other (non-legal) grounds that may apply to situations or incidents where people experienced discrimination.

Complaints registered by the ADVs are also classified according to the type of discrimination, such as 'Contentious treatment' or 'Violence'. Multiple discrimination types may be registered per complaint. Furthermore, the number of complaints for different types of discrimination is specified for each of the discrimination grounds. This clarifies whether people with a certain background file relatively more complaints about a specific type of discrimination. It shows, for example, how many complaints for gender discrimination concerned contentious treatment.

Incidents that are reported as discrimination can take place for instance at work, on the street or in a gym. The complaints that were filed with the ADVs are classified by the relevant social area. Multiple social areas can be registered under one complaint. The social areas are combined in a contingency table with the discrimination grounds, allowing insight into how the number of complaints for each of the discrimination grounds is spread out over the different social areas. For example, it made clear how many complaints for discrimination in housing on grounds of religion were registered by the ADVs. See Annex B for an overview of the terminology and the (sub)categorisations of the annual report of the ADVs.

The report Core Figures also provides background information on discrimination complaints and on the reporting of these complaints data. In the introduction, the terms discrimination and discrimination complaints are defined. The registration method employed by ADVs is also described. Furthermore, in

one of the Annexes it is explained that people who experience discrimination often do not report this with an ADV or elsewhere. Different factors are identified, which may influence someone's decision to either report or not report an incident. For instance, people need to be familiar with the existence of anti-discrimination laws and with the possibility of filing a discrimination complaint with an ADV. Furthermore, concrete examples of the incidents are included throughout the report.

In addition to the national report Core Figures, the ADVs present their complaints data in other publications. ADVs publish annual reports which include data on the complaints they received in their own geographical area of activity. Some ADVs cooperate with the regional police force, Public Prosecution Service and municipalities to publish a report that presents regional data on discrimination complaints from these organisations and institutions.[181] Complaints data are also collected and reported based on the ADV Act, which obliges municipalities to report the number of complaints filed locally to the Ministry of the Interior and Kingdom Relations. To this end, a registration format provided by the Ministry is used.[182] At the national level, these registrations per municipality in 2010, are joined and analysed by researchers from Utrecht University.[183]

7.1.5 Dutch Complaints Bureau for Discrimination on the Internet (MDI)

The Dutch Complaints Bureau for Discrimination on the Internet (MDI) aims to prevent and combat discriminatory expressions on Dutch Internet sites. The core activity of the MDI is to handle notifications of discriminatory expressions on the Internet.[184] The MDI Annual Report elaborates on the nature and number of online expressions which were reported in the previous year and on how the MDI dealt with these expressions. It also contains information on registered notifications from previous years (dating back to four previous years).

See table 7.6 for an overview of the type of data reported on in the MDI annual report, the way these data are collected and analysed and how the registration system was implemented and is maintained, including the quality of the registration process.

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Classification and presentation in the report

The first chapter in the MDI Annual Report deals with the total number of all notifications received by the MDI in a certain year, as well as the total number of reported discriminatory expressions on the internet. Terminology and definitions of the grounds used in the annual report of the MDI are based on the Criminal Code.[185]

The MDI distinguishes between the number of notifications that were rightfully addressed to the MDI, the number of 'notifications' they received that are irrelevant (spam, hacking), and complaints that should be addressed to another organisation. The latter category would apply to, for example, cases of

Table 7.6 ***Overview of MDI data collection and report***

Type of organisation	Civil society; subsidised by the national government
Type of data	(Notifications of) discriminatory expressions on the internet.
(Legal) basis for the registration system	Dutch Criminal Code (137c – 137g; 429quater).
Data collection	Notifications by email. Notifications that include the relevant expression and its exact location are registered in MDI registration system (MDI Meldingssysteem).
Data analysis	An MDI researcher composes tables of notifications and expressions. Expressions are classified, by the MDI, as potentially criminal or not potentially criminal.
Implementation	* No written guidelines or instructions exist for using the MDI registration system. * New MDI employees are instructed one on one on using the MDI registration system.
Report	Annually since 2001. Title: Dutch Complaints Bureau for Discrimination on the Internet Annual Report 2010 (MDI Jaarverslag, 2010) Monthly since May 2011 on www.meldpunt.nl: MDI overview

discrimination not related to the internet or notifications of online child porn. The reported online expressions are classified according to the discrimination ground they refer to, for example 'Discrimination of Turks' or 'Sexual orientation'.

The MDI Annual Report contains information on where discriminatory expressions are encountered, i.e. on which type of medium or location. The categories are specific to online discrimination and include 'Websites', 'Video' and 'Web and discussion forums'.

The annual report contains minimal information on the people who reported expressions.[186] It provides information on whether the notification was sent by 'Individuals/companies/organisations', a 'Registration point or ADB'[187] or 'Other representatives'.

The MDI reports on its assessment of the expressions. These expressions can be considered potentially criminal or potentially not criminal by the MDI. Expressions can be unavailable for assessment, for instance when an expression has been removed, or not relevant to the MDI to handle (such as notifications of online child pornography).

The MDI report also contains information on how notifications of online discriminatory expressions were handled. This includes 'Request [for removal]: directed at poster [of the expression] or owner' and 'No request: referred to MDI [similar organisation] abroad'. The results of requests for removal are also presented, which includes the number of requests the MDI sent where the addressee complied with the request. Additionally, the MDI presents the number of reports they filed with the Public Prosecution Service in case of moderators who are unwilling to comply with a request for removal of the expression, and how these were handled. Developments in previous cases that the MDI took to the Public Prosecution Service are also included.

See Annex B for an overview of the terminology and the (sub)categorisations of the annual report of the MDI (in Dutch and in English).

The MDI Annual Report describes the developments the MDI perceives in online discrimination, for example in the number of reported expressions on interactive websites vs. non-interactive websites. In addition, the handling of notifications by the MDI is explained. The MDI report also presents all other activities of the MDI. Throughout the report, examples of reported discriminatory expressions are included.

As of May 2011, the MDI issues a monthly online report of notifications received in the previous month, which contains information on the nature of the reported expressions and on how the notifications were handled.[188]

7.2 GERMANY

7.2.1 The German police

Monthly police statistics on politically motivated right-wing (i.e. extreme right-wing) crimes are made publicly available by the federal government within the scope of a monthly parliamentary inquiry. These preliminary statistics on extreme right-wing crimes also comprise data on the sub-category of hate crimes and of those extreme right-wing crimes that are deemed to be xenophobic. Every three months, preliminary police statistics on politically motivated right-wing crimes with an (allegedly) anti-Semitic background are published, also in response to the monthly parliamentary inquiry. Once a year, the Federal Ministry of the Interior publishes a press release containing the final statistics on politically motivated extreme right-wing crimes.

See Annex C for an overview of the terminology and the (sub)categorisations used by the police and published in the annual press release of the Federal Ministry of the Interior (in German and in English).

7.2.2 The German Public Prosecution Service/ Labour courts

Statistics on labour court proceedings within the legal framework of the AGG currently only exist in Berlin-Brandenburg. These data have not been published, although they have been made available to external stakeholders or interested third parties (e.g. research).

See Annex C for the terminology and the (sub)categorisations used by the Berlin-Brandenburg labour courts (in German and in English).

7.2.3 The Federal Anti-Discrimination Agency, ADS

The German equality body, the Antidiskriminierungsstelle des Bundes, ADS, is the only nationwide statutory anti-discrimination body in Germany. Based on article 24 AGG, the ADS has to submit a report to the German Bundestag every four years. The report includes an overview on the occurrence of discrimination (including statistics on complaints received) and recommendations on how to prevent and redress discrimination. The first of these reports, presented in Parliament in December 2010, dealt with the issue of multiple discrimination.
The analysed data recorded within ADS' counselling work are published as aggregated statistics within this report. These publicly available and cumulative (instead of annual) statistics on discrimination list queries to, and contacts made with, the ADS and do not specifically refer to cases of discrimination. In addition, the ADS share the analysed data with selected third parties (e.g. media, research) upon request. As the issue of data protection is important to the ADS, personal data are only used within the institution.

Table 7.7 presents an overview of the type of data in the ADS registration system, the way these data are collected and analysed and how the registration system was implemented, including the quality of the registration process.

Classification in the report

The ADS uses the terminology and definition of the AGG. Thus, the definition of discrimination, that forms the basis for the counselling work of the ADS, is based on the AGG. This applies to the concepts and areas of discrimination as well as to the different grounds of discrimination. However, the queries processed by the ADS are not always AGG-related.

The ADS focuses on all AGG grounds of discrimination; discrimination on grounds of 'race' or ethnic origin, gender, religion or belief, disability, age or sexual identity.

It is noteworthy that while the term race is included in the AGG, the ADS deliberately avoids using this term, "denying all theories that try to prove the existence of different human races".[189]

Table 7.7 ***Overview of ADS data collection and report***

Type of organisation	Governmental, Federal level
Type of data	Complaints of discriminatory incidents and requests for information filed by victims or witnesses.
(Legal) basis for the registration system	General Equal Treatment Act (AGG)
Data collection	The ADS can be either called, or a letter, e-mail or fax can be sent. Furthermore, a personal meeting with a counsellor can be arranged. Another way of contacting the ADS is by sending a discrimination complaint via an electronic contact format: for most of the categories, pre-defined answers are provided, while for some categories a qualitative description is required. Queries and complaints are handled by one of the lawyers of the counselling team. Only if a person arranged a personal meeting, the complaint or request is recorded by the lawyer. The ADS accepts reports of discrimination without a request for counselling.
Data analysis	All discrimination-related requests and contacts which are followed by a consultation ap pointment, are registered. These are recorded and analysed electronically with a software programme called "Sharepoint".
Implementation	No written guidelines or instructions exist for using the ADS registration system. No training is provided for new ADS employees on using the MDI registration system; they are instructed one on one.
Report	Once every four years, the ADS is obliged to submit a report to the German Bundestag, the first of which was presented in 2010. Title: Joint report submitted by the Federal Anti-Discrimination Agency and the respectively competent Commissioners of the German Federal Government and the German Bundestag (Gemeinsamer Bericht der ADS und der in ihrem Zuständigkeitsbereich betroffenen Beauf tragten der Bundesregierung und des Deutschen Bundestages)

Not only the terminology and definition, the categories used for registering and documenting queries are also based on the AGG. However, as it is possible to provide a qualitative description, for instance, in response to the question "why a person feels discriminated", the registration file takes into account

that not all queries are actually AGG-related. See Annex C for an overview of the terminology and the (sub)categorisations used in the contact form of the ADS (in German and in English).[190]

The ADS statistics that are made publicly available are broken down only by the grounds of discrimination. They do not contain a further breakdown by social areas. Moreover, only cumulative statistics, and no annual statistics are available, which makes it difficult to analyse certain developments over time.

As the ADS pays particular attention to the phenomena of multiple discrimination, it explicitly registers complaints and requests for information related to discrimination that pertain to more than one ground; the complainant has the possibility to give multiple answers with regard to the grounds of discrimination. This is reflected in the ADS statistics, which provide a detailed breakdown of the various combinations of different grounds of discrimination.
The possible gender dimension of a discrimination complaint is also taken into account in the registration method. A person reporting a discriminatory act in the online registration document has to include information on the victim's gender (see Annex C) independently of what he/she reports to be the "reason/grounds the discriminatory act referred to".

The discrimination queries are analysed in two ways:

On the one hand, anonymous cases studies of selected discrimination complaints are compiled and made public, e.g. in the ADS Newsletter[191], which is published regularly. Recently, the ADS also published a handbook with anonymous case studies.

Discrimination queries are also analysed quantitatively, according to standardised categories with the software programme "Sharepoint". According to the ADS, these categories encompass four dimensions: personal details (gender, age), grounds of discrimination, area of discrimination and type of discrimination.

The ADS is currently revising its categorisation system.

7.2.4 The Berlin State Body for Equal Treatment – Against Discrimination (Berliner Landesstelle für Gleichbehandlung – gegen Diskriminierung, LADS)

The collectively analysed complaint data, collected through the state-wide anti-discrimination network, are published as aggregated statistics by the LADS within its annual activity report. The report also contains comprehensive background information on various anti-discrimination activities and measures in Berlin. Up until the summer of 2011, such complaint statistics were published once in the annual activity report in 2010, which covered the discrimination-related complaints recorded in 2008 and 2009, based on the discrimination complaints registered by seven organisations.

In addition to these joint complaint statistics, individual network organisations, such as the specialised Antidiskriminierungsnetzwerk Berlin (ADNB-TBB), have published separate statistics on discrimination-related complaints that they registered in the course of their anti-discrimination counselling.

Classification in the report

Given that the LADS' work and mandate are based primarily on the AGG, the concepts and terminologies used by the LADS are related to the terminology and definition of the AGG. However, the LADS employs a broader concept of discrimination that exceeds the scope of the AGG (e.g. by including 'Structural discrimination' and 'Physical violence'). As a consequence, the documentation system, used to record incidents of discrimination also encompasses categories (types, grounds and social areas) of discrimination that are not necessarily subject to the legal definition of discrimination as enshrined in the AGG. This broader operationalisation of discrimination relates to the fact that the counselling work is carried out by independent non-governmental organisations, which often deploy a broader, less legalistic understanding of discrimination.

Although the individual network organisations apply divergent approaches in their daily anti-discrimination counselling and support work, they all use the same registration system. See Annex C for an overview of the terminology and the (sub)categorisations used in the registration system of the LADS (in German and in English).[192]

'Multiple discrimination' cannot be registered directly, but is entered automatically if more than one of the boxes, specifying the grounds of discrimination, are selected.[193]
As mentioned above, the documentation system of the LADS is currently in its pilot phase; the items and categories may be subject to modifications in a future documentation system. The ground 'Sexual identity', for example, will be replaced by 'Sexual orientation', as the latter also includes the subcategories of 'Intergender' and 'Transgender'.

Table 7.8 presents an overview of the type of data in the annual report, the way these data are collected and analysed and how the registration system was implemented, including the quality of the registration process.

7.2.5 The Anti-Discrimination Association Germany (Antidiskriminierungsverband Deutschland, advd)

In August 2010, the advd published joint statistics of member organisations on registered discrimination for the first time in a brief press release. The data concerned registered discrimination complaints of the member organisations in 2009. However, the statistics only show the percentage of grounds of discrimination as well as the area of discrimination of all registered discrimination complaints; no absolute numbers of complaints or cases are given.

Table 7.8 ***Overview of LADS data collection and report***

Type of organisation	Governmental, statutory anti-discrimination body at the state level[194]
Type of data	Incidents or complaints of discrimination - quantitative data - qualitative data (anonymous cases studies)
(Legal) basis for the registration system	- General Equal Treatment Act (AGG) - a broader concept of discrimination is used that exceeds the scope of the AGG (e.g. by including structural discrimination and physical abuse)
Data collection	- a state-wide network of civil society and governmental organisations that offer specialised anti-discrimination counselling, document incidents or complaints of discrimination; the LADS does not register itself - The LADS developed the LADS-IT Documentation System, which ensures that each network organisation systematically records and documents incidents of discrimination in a h armonised way - The network organisations transfer their data anonymously and biannually to the LADS
Data analysis	The LADS systematically collects the individual statistics of each partner organisation and analyses them collectively. The joint statistics are made publicly available - quantitative analysis - not possible to establish which data have been submitted by which partner organisation - published as aggregated statistics
Implementation	The LADS trains the network organisations on how to use the standardised PC-based documentation system and also offers expert advice on particularly difficult legal issues that may arise during the counselling work of the network organisations
Report	Thus far only once, in 2011 Title: Annual activity report of the LADS, 2010 (Tätigkeitsbericht "Drei Jahre LADS") Covers complaints recorded in 2008 and 2009

Several advd member organisations (e.g. ADB Cologne, ADB Saxony, Basis & Woge, ADNB-TBB) have published their own differentiated statistics on recorded cases of discrimination; the ADNB-TBB also participates in the LADS coordinated network in Berlin and sends its complaint data to the LADS that publishes joint discrimination complaint statistics.

The General Equal Treatment Act (AGG) and the Universal Declaration of Human Rights constitute the basis of the advd's work. The definition of discrimination used by the advd goes beyond the requirement of the EU equality directives or the AGG. The advd defines discrimination, according to the International Convention on the Elimination of All Forms of Racial Discrimination (1966):

"any distinction, exclusion, restriction or preference, based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."[195]

It includes unequal treatment based on ethnic origin, skin colour, nationality, gender, sexual identity, language, religion, marital status, disability or age.[196] As mentioned above, the advd emphasises the multidimensional character of discrimination, i.e. discrimination on a combination of various grounds.

In addition, the advd draws attention to the fact that in practice, discrimination often takes on more subtle forms than defined within the AGG (e.g. bag search). Furthermore, not only individual, but also structural discrimination (such as discriminatory regulations and laws, institutional discrimination in the school system) and criminal offences (such as racist insult or physical violence) are considered.

Thus, the advd pursues a broader operationalisation of discrimination. This may be attributed to the fact that the counselling work is carried out by non-governmental organisations, which often deploy a less legalistic understanding of discrimination (similar to the LADS network). The content of the questionnaire for the counselling and registration procedure is based on the categories and subcategories of the registration system ARIC-D-DOK, initially developed by the Dutch National Bureau Against Racial Discrimination (LBR, now Art. 1). ARIC-NRW adapted the categories and subcategories in cooperation with the ADB Köln – AntiDiskriminierungsBüro Köln/ Öffentlichkeit gegen Gewalt e.V.; the content remained, however, largely unaltered.[197]

Table 7.9 presents an overview of the type of data in the advd registration system, the way these data are collected and analysed and how the registration system was implemented, including the quality of the registration process.
See Annex C for an overview of the terminology and the (sub)categorisations used in the registration system of the advd (in German and in English).

7.3 CLASSIFICATION AND TERMINOLOGY: DIFFERENCES BETWEEN ORGANISATIONS

The organisations included in this study apply different methods of recording and reporting complaints data. The terminology that is used and classification of the complaints often differ substantially. Differences can be partially attributed to divergent organisational mandates or they can be the result of principal (management) views and decisions on terminology, classification and presentation. Some of the differences in terminology or in classification between the organisations are trivial.[198] Besides these minor differences between the annual reports, a number of differences are salient and fundamental. These are described in this paragraph.

Table 7.9 ***Overview of advd data collection and report***

Type of organisation	Civil society; umbrella association comprised of several non-governmental organisations specialised in anti-discrimination
Type of data	- Incidents or complaints of discrimination
(Legal) basis for the registration system	- (German) General Equal Treatment Act (AGG) - Universal Declaration of Human Rights The categories and subcategories were developed and used by ARIC-NRW in close cooperation with the Dutch National Bureau Against Racial Discrimination (LBR, now Art. 1).
Data collection	- Counsellors register incidents or complaints during the counselling procedure in the various partner organisations - data are transmitted annually to ARIC-NRW via email
Data analysis	ARIC-NRW combines, cleans and analyses the data Once a year, discrimination complaints are quantitatively analysed with the online tool Grafstat, according to standardised categories, which are based on the AGG
Implementation	The member organisations of the advd network received a brief introduction into the technical use of the software. While no special training on technical issues was offered, workshops are provided on the issue of counselling in general, including the classification of complaints of discrimination with regard to their content as well as on the issue of documentation and registration.
Report	In August 2010, the advd published joint statistics on registered discrimination in a brief press release for the first time. Title: Four years General Equal Treatment Act (AGG): the German anti-discrimination association requires a National Actionplan against discrimination! (Vier Jahre Allgemeines Gleichbehandlungsgesetz (AGG): Antidiskriminierungsverband Deutschland fordert Nationalen Aktionsplan gegen Diskriminierung!)

7.3.1 DISCRIMINATION GROUNDS

All organisations provide information concerning the grounds on which complainants experienced discrimination. The (sub)categorisation of incidents within the discrimination ground varies across organisations, as well as the names used to indicate a certain category.

The categories the different organisations use for discrimination grounds are presented together in Annex D for the Dutch organisations and in Annex E for the German organisations.

Race

Except for the police, all Dutch organisations use 'Race' as a category, referring to the wording in both

the Criminal Code and the Equal Treatment Act. Although the German AGG also prohibits discrimination on grounds of race, the German organisations do not use this term,with the exception of the labour courts in Berlin-Brandenburg. As a matter of principle, the Federal Anti-Discrimination Agency (ADS) and the Anti-Discrimination Association Germany (advd) explicitly avoid using the term, since they oppose the underlying suggestion that different human races would exist (see paragraph 7.2.3). Instead, these organisations use 'Ethnic origin'. In addition, advd uses the category 'Skin colour' in their registration system. The Dutch ADVs mention in the their reports that there are well-founded objections against categorising humans into races.

Ethnic origin

All organisations register 'Ethnic origin' as a discrimination ground. The Dutch Equal Treatment Commission (CGB), includes complaints concerning ethnic discrimination in the category 'Race', for which they do not use subcategories; the Dutch Complaints Bureau for Discrimination on the Internet (MDI) does not employ the term 'Ethnic origin' but has subcategories regarding ethnic origin under 'Race'. The German organisations apply the category 'Ethnic origin', but do not use any subcategories. Related characteristics, such as 'Skin colour', are used as a separate main category by some German organisations.

Subcategories of 'Race' and 'Ethnic origin'

Complaints or cases concerning racial discrimination can be subdivided by the ethnic group that experienced the discriminatory incident. This information about the involved ethnic groups can be collected through either checking whether the discriminatory act or expression referred explicitly to a specific group (or was experienced as such) or by establishing the ethnic background of the (alleged) victim. This last collection method can also be considered a background characteristic of the alleged victim. The National Expertise Centre Diversity of the Dutch police (LECD-police), the ADVs, the MDI and the National Expertise Centre Discrimination of the Dutch Public Prosecution Service (LECD-PPS) use subcategories for either 'Race' or 'Ethnic origin' to further specify the ethnic group that experienced the discriminatory incident. The subcategories used to specify the discrimination ground 'Ethnic origin', refer to the largest ethnic groups in the Netherlands (i.e. 'Surinamese', 'Moroccan', 'Turkish', 'Antillean'). LECD-police, ADVs and the MDI also have a subcategory 'Autochthonous'. This word is used in the Netherlands to refer to people that are of Dutch origin as opposed to ''Allochthonous', which refers to people of foreign origin. The LECD-PPS and MDI reports include a subcategory 'Roma/Sinti'.

Migrants

Discrimination based on ethnic origin is mostly targeted either at national minorities or at migrants and their descendants. Manifestations of discrimination can be directed towards one specific origin or

might be directed towards migrants and their descendants in general. As a subcategory of 'Race', the MDI recorded complaints concerning 'Asylum seekers/refugees/illegal aliens[199]'.[200]

The reason for discriminatory treatment in the receiving country of people who migrated might be their residence status. The advd has a main category 'Residence status'. (See Annexes D and E for all subcategories concerning ethnic origin.)

Skin Colour

Several Dutch organisations (LECD-police, LECD-PPS, MDI, ADVs) register 'Skin colour', as a subcategory of either 'Race' or 'Ethnic origin'. The Berlin State Body for Equal Treatment – Against Discrimination (LADS) and the advd use 'Skin colour' as a main category. The LECD-PPS uses the most extensive subcategories for 'Skin colour': 'Negroids', 'Coloured (non-negroids)' and 'Whites'.[201] The LECD-police use the subcategories 'White skin colour' and 'Dark (non-white) skin colour'.[202] The MDI has no category 'Skin colour' but does use the category 'Anti-black racism or afrophobia'.

Trailer park residents

The group of trailer park residents in the Netherlands can encounter discrimination. This group can be (descendants of) Roma and Sinti, but this is not always the case. The ADVs are the only ones who use the category 'Trailer park residents' ('Woonwagenbewoners') as a subcategory of 'Race'. In a 1997 opinion, the CGB concluded that the term 'Race' can in principle include a group of persons who, from generation to generation, manifest themselves as trailer park residents and who consider themselves a separate population group with a distinct culture. This is reinforced by the reality that trailer park residents are confronted with prejudice and unequal treatment, based on their group membership.[203]

Anti-Semitism

With the exception of the CGB, all Dutch organisations use the category 'Anti-Semitism'. The ADVs consider it important to monitor the phenomenon of anti-Semitism. There is no unambiguous definition of the term anti-Semitism.[204] The 2009 POLDIS report of the LECD-police presented discrimination cases on the ground of 'Being Jewish' as a subcategory of 'Religion'. In the 2010 report, a main category 'Anti-Semitism' was introduced because, it was argued, being Jewish can also be an ethnic characteristic.[205] This is also the reason mentioned in the Figures in Focus report of the LECD-PPS; they add that it is not always clear whether an anti-Semitic incident concerns the ethnic or religious aspect of being Jewish.[206] The German organisations do not have a separate category 'Anti-Semitism', with the exception of the police who register 'Politically Motivated Crimes (PMC) right-wing crimes, anti-Semitic background/propaganda offences' and 'Politically Motivated Crimes (PMC) right-wing crimes, anti-Semitic background/violent crimes'.[207] In comparison to the German police, the category 'Anti-Semitism' used

by ADVs, LECD-police, LECD-PPS and MDI is broader and can also contain anti-Semitic crimes that do not take place in the right-wing sphere.

Grounds mentioned in legislation

As mentioned before, the existence of certain categories in reports on discrimination complaints generally follows from the legal framework within which the organisations operate. The ADVs and the CGB have based their registration systems on the Dutch equal treatment laws, and as a consequence, they include discrimination grounds that are enshrined in these laws: 'Nationality', 'Age', 'Chronic disease', 'Hours of employment', 'Labour contract', 'Civil status' and 'Political persuasion'. The Dutch MDI, PPS and police that base their categorisation on the Criminal Code do not use these categories, with the exception of 'Age' included by the MDI and of 'Political persuasion' in the police report. 'Age', which is a discrimination ground covered by the AGG, is used as a category by all German organisations, except for the German police. The LADS is unique among all organisations in further specifying this ground by reporting on the subcategories 'Too old', 'Too young' and 'Other'. 'Nationality', 'Chronic disease/disorder' and 'Marital status', which are not included in the AGG, are only used by the advd.

For all German organisations, bar the police, the AGG is a main point of reference. This entails the inclusion in their registration systems of the categories 'Race[208]', 'Ethnic origin', 'Gender', 'Age', 'Disability', 'Sexual identity', 'Religion or belief'. The LADS, however, broadened its scope to include additional grounds (for instance 'Social status'), types of discrimination (such as 'Structural discrimination') and social areas (such as 'Immediate social/private life') which are not covered by the AGG. The advd also includes additional grounds in addition to those protected by the AGG, such as 'Language' and 'Children, desire to have children, pregnancy'.

Sexual orientation

The discrimination ground 'Sexual orientation' is registered by nearly all organisations. In some cases subcategories are added to further specify the sexual orientation. In 2010, the Dutch LECD-police added the subcategories 'Heterosexuality' and 'Homosexuality'. The ADVs use these too and have complemented them with 'Bisexuality' and 'Other'. The LADS uses 'Heterosexual', 'Bisexual', 'Lesbian' and 'Gay'.

Transgenders

The advd does not use the term 'Sexual identity' but has combined 'Gay, lesbian, bisexual and transgender identity' as a discrimination ground.[209] As for transgenders, the LADS has integrated 'Transgender' as a specification of the discrimination ground 'Gender', which contains the subcategories 'Male', 'Female', 'Transgender/intergender'. The LECD-police is the only other organisation which has subcate-

gories for 'Gender' in their report: 'Being a man', 'Being a woman', 'Transsexuality', 'Transvestism', 'Other or not specified'.

Disability and chronic disease

All organisations have a category 'Disability'. The ADVs and CGB have combined this category with 'Chronic disease'. The advd uses separate categories for 'Disability' and 'Chronic disease/disorder'.

Religion

'Religion' is a category within the registration system of all organisations. It is either combined in one single category with 'Belief', or in other systems 'Religion' and 'Belief' are separate categories. The definition of politically motivated hate crimes, used by the German police, includes crimes directed against persons because of their religion. LADS, ADVs, LECD-PPS, LECD-police and MDI use subcategories for 'Religion'. These can consist of the main world religions (LADS), the main national religions (ADVs, LECD-police) or the dual 'Islam' and 'Other religion or world view' (LECD-PPS, MDI). In addition to the subcategories defining which religion is involved, the LECD-police is the only organisation to include the subcategory 'Not religious'.

Unknown or other grounds

There are cases that involve grounds that were not predefined in a registration system. Also, information on the discrimination ground is not always available or it might not be clear which discrimination ground is applicable. The ADVs and the CGB have included a category 'Unknown discrimination ground'. Unlike the ADS, and the German police, the LADS, the advd have a category 'Other'. The labour courts have a category 'Not specified' and use 'Miscellaneous reasons'.

Multiple grounds

Although most registration systems allow for several discrimination grounds to be identified for one incident or complaint, the CGB and the LADS as well as the ADS are the only organisations that use a separate category 'Multiple discrimination'. In the LADS registration system this is entered automatically when more than one ground is applicable.

Association with a victim

The advd also takes into account that a complainant may feel discriminated against, because he/she was in contact with a victim of discrimination; a specific category is used to cover such cases ('You were discriminated against because you are in contact with one of the persons affected').

7.3.2 LOCATION, PLACE AND SOCIAL AREA

The organisations included in this study, except for the German police and the German labour courts, collect information on the location of the discrimination complaints. The categories the different organisations use for location or social area are presented together in Annex D (Dutch organisations) and Annex E (German organisations). The advd is most specific in recording complaints according to the social area, with a wide array of categories, each containing subcategories. So far, the advd has not published complaint statistics broken down by social area.

Locations

Some organisations, like the LECD-police and LECD-PPS, describe the location. These organisations use categories such as 'Residential environment', 'School/educational institution', 'On the street', 'Sport' and 'Catering industry/festival/clubs/pubs'. The LECD-police uses a number of distinct physical locations, such as 'Church', 'Mosque', 'Asylum seekers' centre/shelter' or 'Gay cruising area'.

Social areas

The CGB, ADVs, LADS, advd and ADS, rather than refer to locations, indicate the social areas within which the reported incidents of discrimination occurred.[210] This involves categories such as 'Labour market', 'Goods and services', 'Housing', 'Education' and 'Health care'. There are differences between the organisations as to the categories they have chosen to work with. For example, the ADVs classify incidents in health care among 'Collective services', the CGB classifies health care as 'Goods and services', while the LADS uses the main category 'Health care' in their system.

Social areas mentioned in legislation

As with discrimination grounds, the social areas or locations that are reported can, for some organisations, derive from the legal basis of the organisations. The CGB, for instance, has separate categories only for those social areas that fall within the scope of the Dutch Equal Treatment Act. The ADVs have also included the social areas mentioned in the Equal Treatment Act, and have specified these, such as 'Housing', and 'Catering industry/amusement', which are specifications of 'Goods and services' (the latter is not used as a category by the ADVs). Furthermore, the ADVs use additional social areas (for instance 'Public space/domain' and 'Public/political opinion') that fall outside the scope of the CGB. The registration system of ADS, advd and LADS cover the social areas mentioned in the AGG (e.g. 'Labour market', 'Access to goods and services', 'Housing' etc.), but each organisation has specified these categories and uses additional ones.

The discrimination articles in the Dutch Criminal Code do not mention specific locations or social areas. Therefore, it does not limit the police and LECD-PPS in the locations they register.

Subcategories of labour

All organisations reporting on social areas use a category 'Labour'/'Labour market'/'work'/'employment' and, with the exception of the ADS, have added subcategories. LADS distinguishes between the private and public sector and employers affiliated with the churches. Discrimination complaints can relate to different situations or stages within working life. Therefore, CGB, ADVs and advd have subcategories to indicate those situations/stages, such as 'Recruitment and selection', 'Workplace', 'Termination of labour contract' and 'Working conditions'. The advd distinguishes between 'Employment agency/Job Centre' and 'Private employment agency'. See Annexes D and E for the categories and terms used by each of these organisations.

Subcategories of goods & services

'(Access to) goods and services' is a category used by the CGB and advd. The advd has a set of subcategories for this social area, such as 'Financial services' and 'Retail sector'.

Media & public opinion

The advd uses the main category 'Media'. Complaints in this category may concern, for instance, opinions expressed in public and political debates. The ADVs use the main category 'Public/political opinion' in addition to 'Media/advertising'.

Government

Complaints can involve discrimination by national (government) authorities. LADS, ADS and advd all include a category 'Public authorities and administrative bodies'/'Authorities/administrative offices'/'Public authorities'. The advd also uses subcategories. The Dutch organisations do not use this category. The ADVs do have a category 'Police/Public Prosecution Service/Immigration Office' and 'Collective provisions', and LECD-PPS registers offences allegedly committed 'By a police investigator'.

Internet

The MDI focuses on discrimination complaints in one single area: the internet. The different set of categories they use is the logical result of its type of business and mission; having online discriminatory expressions removed from the internet. The MDI reports on expressions per medium/location, which entails categories such as 'Websites', 'Web and discussion forums' and 'Video'.

Interpretation of seemingly similar categories

As mentioned before, sometimes it is unclear what the distinction is between certain types of social

area or location, for instance 'Neighbourhood' (used by advd, LADS, ADVs), 'Residential environment' (LECD-PPS and LECD-politie) and 'Public space' (ADVs, LADS, advd) and 'On the street' (LECD-PPS and LECD-politie).

Multiple social areas

The CGB is the only organisation that reports on 'Multiple social areas'. When a case concerns the main category 'Labour', it is possible that the complainant was confronted with (alleged) discrimination in more than one situation at work or in working life. For example, the complainant felt discriminated against in the area of 'Working conditions' and also in the phase of 'Termination of the labour contract'. 'Multiple social areas' thus relates to the fact that the CGB uses subcategories for 'Labour'.

7.3.3 TYPES OF DISCRIMINATION

Complaints can be subdivided according to the nature of the reported incident. Different perspectives and starting points result in distinct categorisations when it comes to specifying the nature. For example, a distinction can be made between direct and indirect forms of discrimination, between incidental and structural discrimination or between verbal discrimination and discrimination in writing.

Most organisations describe the type of discrimination to which the complaint relates. The German labour courts, the CGB and the MDI do not. The German police report distinguishes only between 'Right-wing extremist crimes with a xenophobe/anti-Semitic background' that are violent and those that are not violent (e.g. propaganda offence). In Annex D (Dutch organisations) and Annex E (German organisations) the categories used for type of discrimination by different organisations are presented together.

The LADS follows the AGG by using the discrimination types 'Direct discrimination' and 'Indirect discrimination', 'Harassment', 'Sexual harassment' and 'Instruction to discriminate' and has supplemented this with 'Threat', 'Physical violence', 'Refusal of adequate access' and 'Structural discrimination'.
The advd has specified the types of discrimination in the AGG and has added other types, because the organisation, as mentioned in paragraph 7.2.5, views discrimination as a more subtle phenomenon than the definitions in the AGG allow for. To some extent similar to the the LADS, the advd has added the category 'Discriminatory legislation (e.g. social welfare law for asylum seekers, law on citizenship)' and criminal offences such as 'Threat, hostility, coercion'.

The ADS contact form does not include any categories on the type of discrimination.
The categories of the type of discrimination used by the Dutch LECD-police, LECD-PPS and the ADVs are very different from those used by the German organisations, and from each other. The LECD-PPS report Figures in Focus does not mention 'types' of discrimination but 'how' discrimination offences were committed and uses, for instance, 'Verbally', 'In writing' and 'Daubing', whereas the ADVs categories

include 'Contentious treatment', 'Threat', and 'Violence' with subcategories such as 'Assault' and 'Arson'. The LECD-police use, among other things, 'Insult', 'Right-wing extremist signs/texts', 'Assault' and 'Bullying'. See Annex D for the categories and exact terms for type of discrimination used by each of the Dutch organisations and Annex E for those used by the German organisations.

7.3.4 CHARACTERISTICS OF THE ALLEGED VICTIMS/PERPETRATORS

Most organisations provide information, when applicable and available, about the characteristics of the alleged victims and/or perpetrators. The LECD-police reports on the gender of both victims and suspects. ADVs report the ethnic background of complainants.[211] This is used in a table in the report on the number of complaints on grounds of race, skin colour or ethnic origin for each ethnic group. The LECD-PPS does not register or report on the characteristics of victims; they do provide information on suspects, such as 'Age', 'Gender' and their ethnic background, ideological or political persuasion, or their religion (see Annex B for all categories used by LECD-PPS for information on the suspect). The CGB reports on the gender of petitioners. Concerning characteristics of accused parties, the CGB reports on the sector within which the accused company or organisation operates. The MDI does not report (or register) any characteristics of complainants except for whether they are 'Individuals/companies/organisations', a 'Registration point or ADB', or 'Other representative'.

The LADS provides aggregated statistics on the gender of complainants. The advd includes 'Gender' and 'Age' in its categories. For the ADS, 'Gender', 'Age' and 'Nationality' are reported as background characteristics of complainants.

7.3.5 CONTINGENCY TABLES

Complaints data can be classified in several ways, for example by discrimination ground, social area and type of discrimination. Various contingency tables with these data are presented in the annual reports. For example, the CGB[212] and the ADVs include a contingency table of Discrimination Ground by Social Area. This table provides an insight into the number of complaints per ground, in each social area. The ADV report also contains a contingency table on the Type of Discrimination by Discrimination Ground.

The LECD-PPS annual report includes the contingency tables on Discrimination Ground by Background Suspect; Discrimination Ground by Location where incidents took place and Discrimination Ground by How/In what way Incidents took place. These are presented separately for each discrimination ground.

7.3.6 TYPE OF PROCESSING BY THE ORGANISATION

Some organisations provide additional information on how complaints were handled. The CGB, LECD-

PPS, MDI and LADS provide information on the handling of complaints and reports, while the LECD-police, ADVs[213], the German police and the labour courts of Berlin-Brandenburg do not. The advd registers how complaints have been handled, but this has not (yet) been reported. The various categories on complaint handling are related to the tasks and working methods of each organisation, therefore they differ.

The LECD-PPS, for instance, reports on both the case handling by the Public Prosecution Service (with categories such as 'Summons', 'Transaction' and 'Decision not to prosecute') and by the courts (which includes 'Verdict' and 'Non-punitive order'.
The MDI report contains categories of handling complaints that relate to the organisation requesting website moderators to remove discriminatory expressions, such as 'No request: complainant takes action' and 'Request: directed at poster or owner'. Information is provided on how addressees complied with MDI requests.
The LADS reports on the counseling activities that were carried out, for instance 'Counselling', 'Letter of complaint/request for a reply' and 'Mediation'.
The CGB uses categories concerning the type of handling such as 'Opinion', 'Successful mediation' and 'Withdrawn after settlement'. The CGB provides information on whether petitioners received legal assistance during the proceedings. There is also information on whether or not the accused parties were legally represented.

The categories the different organisations use for complaints handling are presented together in Annex D (Dutch organisations) and Annex E (German organisations).

7.3.7 OTHER INFORMATION

In some annual reports, complaints data are combined with information on organisational activities (CGB, MDI, LADS, ADS). The LECD-PPS, LECD-police, ADVs and (for periods in the past) the labour courts publish their complaints data separately.

The CGB report consists of three parts, the first is a reflection on events in the particular year, the second chapter contains complaints data and includes information on advisory reports the CGB published, on research and projects of the CGB and organisational information. In the third part, developments concerning CGB-related matters are presented.

The MDI report contains information on their activities, other than complaints data and complaint handling.
The LADS integrate statistics on the complaints recorded by their member organisations, with information on selected aspects of discrimination. In addition, the report includes a description of the main activities of the LADS, such as publications, events and projects.

Next to statistics on the complaints received, the official ADS report offers an overview of ADS' activities and achievements. In addition, the ADS offer recommendations on how to avoid and redress discrimination.

151 Dinsbach, W., Van Bon, S. and Coenders, M. (2010).
152 Netherlands, Equal Treatment Commission (2011c).
153 Netherlands, Public Prosecution Service - National Expertise Centre Discrimination (LECD-PPS) (2010). This report is not publicly available but distributed to stakeholders only.
154 De Wit, W. and Sombekke, E. (2011).
155 Dutch Complaints Bureau for Discrimination on the Internet (2011a).
156 Germany, Federal Anti-Discrimination Agency (ADS) (2010a).
157 Germany, Berlin State Body for Equal Treatment – Against Discrimination (LADS) (2010).
158 Anti-Discrimination Association Germany (advd) (2010).
159 Since most German organisations publish only a small part of the information they collect, the classification they use to record complaints will be described. These are included in Annex C. Note that Annex C contains the classification of the ADS as used in the ADS contact form, whereas additional categories are described in the text in paragraph 7.2.3.
160 De Wit, W. and Sombekke, E. (2011).
161 The 'Monitor Racism & Extremism' of the University of Leiden and the Anne Frank Foundation, has reported on police records for several years.
162 137c-g and 429quater Dutch Criminal Code.
163 Netherlands, Public Prosecution Service - National Expertise Centre Discrimination (LECD-PPS) (2006).
164 Ibid.
165 It is not reported how discrimination grounds converge.
166 The discrimination grounds presented per region include the category 'homosexuality' instead of 'sexual preference.
167 Netherlands, Public Prosecution Service-National Expertise Centre Discrimination (2010), p. 6.
168 Every time a discrimination article from the Criminal Code (137c-g and 429quater) is noted in COMPAS/GPS, this counts as one discrimination offence.
169 Netherlands, Public Prosecution Service-National Expertise Centre Discrimination (2010), p. 8.
170 The discrimination articles in the Criminal Code were developed following the Convention on the Elimination of All Forms of Racial Discrimination. This convention and founding documents can also be helpful in the interpretation of the discrimination articles. Finally, the demand in society for information on incidents of discrimination can be a reason for LECD-OM to add, remove or alter categories in its registration systems.
171 It is not reported how discrimination grounds converge.
172 Netherlands, Equal Treatment Commission (2011c).
173 European Union Agency for Fundamental Rights (FRA) (2011) p. 6.
174 The categories, such as sector or socio-demographic characteristics have been chosen in accordance with those used by the Central Bureau for Statistics.
175 This is done for the petitions that were handled in the presented year, and not for the total number of petitions that were filed in that year.
176 No classification in pre-defined categories.
177 The Dutch Expertise Centre Discrimination Art.1 provides research and advice to governments, organisations and individuals on preventing and combating discrimination. see www.art1.nl.
178 Dinsbach, W., Van Bon, S. and Coenders, M. (2010).
179 ADVs ask complainants which ethnic group they consider themselves to belong to (self-definition).
180 Only for combinations which were reported at least 5 times at any of the ADV's.
181 These are the so-called 'crime (analysis) report' (Criminaliteitsbeeld/Criminaliteitsbeeldanalyse), which the police are obliged to produce by the Discrimination Instruction (See Chapter 3, paragraph 3.1.4).
182 Netherlands, Government Gazette (2010a).
183 Coenders, M. (2011).

184 Dutch Complaints Bureau for Discrimination on the Internet (2011a), p. 9.

185 With the exception of 'age', which is included in the equal treatment law but not the Criminal Code.

186 This is mainly because the MDI does not provide individual services to clients. It does not support or represent anybody but is solely involved in having discriminatory online material removed from the internet. The MDI does not consider it important to gather more information on the people who notify them of discriminatory online expressions.

187 Anti-discrimination agency, in the current report the term ADV is used.

188 Dutch Complaints Bureau for Discrimination on the Internet (2011b).

189 See: www.antidiskriminierungsstelle.de/DE/Home/home_node.html.

190 The categories in the ADS registration system are currently under revision and not available for his research.

191 The newsletter is primarily intended to provide information for organisations, institutions and counselling offices involved in the fight against discrimination, as well as for interested members of the public. Available at: www.antidiskriminierungsstelle.de/ADS/Service/Newsletter/abonnement.html.

192 These are not all published.

193 The mechanism that an incident is automatically categorised as multiple discrimination seems generally practical; however, it may lead to an overestimation of the phenomenon of multiple discrimination if, for example, a case of discrimination is registered as an incident of discrimination both on the grounds of ethnic origin and a person's skin colour.

194 The basic approach of the LADS is to make use of the already existing organisational infrastructure in Berlin and to set up a network of various non-governmental organisations that are active in the area of anti-discrimination and/or specialised in counselling for certain groups possibly affected by discrimination.

195 International Convention on the Elimination of All Forms of Racial Discrimination (1966), available at: www2.ohchr.org/english/law/cerd.htm.

196 Like the ADS, the ADVD also avoids use of the term 'race'.

197 ARIC D-Dok has been replaced with the online tool GRAFSTAT. The content, such as the categories and subcategories, remained largely unchanged.

198 Note that the differences between German organisations and Dutch organisations in terminology can also be related to differences between the German and Dutch language and/or arising from translation into English.

199 'Illegal aliens' is the literal translation of the Dutch word 'illegalen' as used by the MDI for registration of notifications. The word 'illegalen' is used in (online) discriminatory expressions to indicate the group of people in the Netherlands who do not have valid legal documents to reside in the Netherlands. Many (civil society) organisations prefer to indicate this group as 'undocumented migrants' (ongedocumenteerden), considering the basic principle that no human being can be illegal.

200 See the annual report on 2009, Dutch Complaints Bureau for Discrimination on the Internet (2010). Note that this category was not included in the 2010 report, Dutch Complaints Bureau for Discrimination on the Internet (2011a).

201 The LECD-OM acknowledges that the term 'negroid' is controversial but uses it for lack of adequate alternatives for defining the intended groups. See: Netherlands, Public Prosecution Service - National Expertise Centre Discrimination (LECD-PPS) (2010), p 21.

202 The category 'skin colour' was introduced in the POLDIS report on 2010, De Wit, W. and Sombekke, E. (2011).

203 CGB opinion 1997-120, consideration 4.3.

204 Dinsbach, W., Van Bon, S. and Coenders, M. (2010) p 10-11.

205 De Wit, W. and Sombekke, E. (2011).

206 Netherlands, Public Prosecution Service - National Expertise Centre Discrimination (LECD-PPS) (2010) p. 21.

207 The other categories concerning discrimination that the German police use: 'politically motivated crimes/right-wing/xenophobic background' and 'violent politically motivated crimes/right-wing/xenophobic background'.

208 As mentioned above, this term is not used by any of the organisations except for the labour courts in Berlin-Brandenburg, but the content of this category is likely to be covered by 'ethnic origin' and (in some organisations) 'skin colour'.

209 In an international context the term LGBT is used to indicate the group of Lesbian, Gay, Bisexual, and Transgender people. The term LGBT is not agreeable to everyone. Some argue that transgender/transsexual issues are not the same as those of lesbian, gay, and bisexual people, with the argument that transgender/transsexuality have to do with gender identity or a person's understanding of being or not being male and/or female irrespective of their sexual orientation.

210 ADS and ADVD have so far not reported on social area but do register this in their registration systems.

211 When a complaint is registered, the complainant is asked what ethnic group he or she belongs to (self-identification).

212 For CGB opinions, not requests for an opinion.

213 The report of complaints that ADVs have to supply to municipalities who have contracted them in order to comply with the ADV Act (see Chapter 5, paragraph 5.1.4) does include a category 'type of handling', which is registered in the Art.1 registration system but not reported in the national ADV report Core Figures. See also Annex B and D.

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ANNEXES

ANNEX A OVERVIEW ORGANISATIONS

NETHERLANDS

ORGANISATION	ADVs	CGB	LECD-POLICE	LECD-PPS	MDI
(SEMI-) GOVERNMENTAL or CIVIL SOCIETY	Civil society	Independent governing body	Governmental	Governmental	Civil society
FOUNDING / EXISTENCE BASED ON LEGISLATION / GOVERNMENTAL POLICIES	ADV Act 2009	EU-level > racial equality directive 2000/43/EC National level > AWGB 1994	Implementation decision National Expertise Centre Diversity 2001 (Instellingsbesluit Landelijk Expertisecentrum Diversiteit 2001) Discrimination Instruction 2007	Law on the Organisation of the Judiciary, section 4 (Wet op de rechterlijke organisatie, hoofdstuk 4) Discrimination Instruction 2007	-
GOVERNMENTAL FINANCIAL AID	Local government, with funds from the national government (Ministry of Security and Justice)	National government (Ministry of Security and Justice)	National government (Ministry of Security and Justice)	PPS (Ministry of Security and Justice)	National government (Ministry of Security and Justice and Ministry of the Interior and Kingdom Relations)
ORGANISATIONAL STRUCTURE	Independent agencies cooperating in networks/branch organisations	Independent public body	National advisory body of the police, part of the Police Academy Advisory role for the portfolio administrator discrimination within the Board of Police Commissioners	Internal advisory centre of the PPS headed by public prosecutor specialised in discrimination (discriminatie officier)	Independent agency
OPERATING LEVEL(S) (regional, local, national)	Regional (national report)	National	Regional (national report)	National	National
FOCUS (multiple / general or specific social areas, discrimination grounds, types of discrimination)	General focus	Focus on the discrimination grounds, social areas and types of discrimination as mentioned in the Dutch Equal Treatment Law	Focus on discrimination grounds, types of discrimination as mentioned in the anti-discrimination articles in the Dutch Criminal Code	Focus on discrimination grounds, types of discrimination as mentioned in the anti-discrimination articles in the Dutch Criminal Code	Focus on discrimination grounds, types of discrimination as mentioned in the anti-discrimination articles in the Dutch Criminal Code
LEGAL BASIS FOR FOCUS (types/grounds/ social areas)	Dutch Criminal Code (article 137c – g and 429quater) + Equal Treatment Law (AWGB)	Dutch Equal Treatment Law (AWGB)	Dutch Criminal Code (article 137c – g and 429quater)	Dutch Criminal Code (article 137c – g and 429quater)	Dutch Criminal Code (article 137c – g and 429quater)
JURIDISPRUDENCE (BINDING OR NON-BINDING)	No	Yes, non-binding	No	Yes, binding (i.e. from jurisdictional bodies; no jurisprudence from the LECD-PPS itself)	No
INDIVIDUAL INFORMATION and/or COMPLAINTS HANDLING SERVICES	Information, advice, support in legal procedures, mediation, feedback on action taken	Information, advice, legal procedure (opinion), mediation, feedback on action taken	Feedback on action taken (during police investigation. If complaint was filed directly with PPS, then the PPS provides feedback to complainant during police investigation)	Feedback on action taken (from the moment a case is filed with the PPS)	Information, feedback on action taken

GERMANY

ORGANISATION	ADS	ADVD	LADS
(SEMI-) GOVERNMENTAL or CIVIL SOCIETY	Governmental	Civil society	Governmental
FOUNDING / EXISTENCE BASED ON LEGISLATION / GOVERNMENTAL POLICIES	EU-level > racial equality directive 2000/43/EC National level > AGG 2006	-	Official anti-discrimination body at the state level established on the basis of a decree of the Berlin Senate Administration for Integration, Labour and Social Affairs
GOVERNMENTAL FINANCIAL AID	National government	Member organisations are financed by donations or voluntary fees; some are also co-financed by their respective cities	State government Berlin; some of the LADS member organisations are financially supported partly by the LADS
ORGANISATIONAL STRUCTURE	National statutory anti-discrimination body	Umbrella association of several non-governmental organisations specialised in anti-discrimination	Statutory anti-discrimination body at the state level and coordinator of the network of specialised (mainly non-governmental) anti-discrimination bodies in Berlin
OPERATING LEVEL(S) (regional, local, national)	National	Local/regional (member organisations operating in different states, regions or cities)	Regional (at state level: Berlin)
FOCUS (multiple / general or specific social areas, discrimination grounds, types of discrimination)	All grounds of discrimination that are defined in the General Act on Equal Treatment (AGG); multiple discrimination	All complaints of perceived discrimination, all grounds; each organisation has its own focus; traditionally specialised in redress of ethnic discrimination	All incidents or complaints of perceived discrimination, all grounds, multiple discrimination
LEGAL BASIS FOR FOCUS (types/grounds/ social areas)	General Equal Treatment Act (AGG)	General Equal Treatment Act (AGG) Universal Declaration of Human Rights	General Equal Treatment Act (AGG) A broader concept of discrimination is used, which exceeds the scope of the AGG (e.g. by including structural discrimination and physical abuse)
JURIDISPRUDENCE (BINDING OR NON-BINDING)	No	No	No
INDIVIDUAL INFORMATION and/or COMPLAINTS HANDLING SERVICES	Counselling and providing assistance, advice and information on discrimination and discrimination related issues	The ADVD itself does not handle complaints of discrimination; instead it refers persons contacting the ADVD to the most suitable member organisations, for further counselling	The LADS itself usually does not handle complaints of discrimination; if people who feel discriminated against contact the LADS, they are generally referred to the most suitable partner organisations for further counselling

ANNEX B

CATEGORIES USED IN REPORTS ON DISCRIMINATION COMPLAINTS (PER ORGANISATION), NETHERLANDS

1. The National Expertise Centre Diversity of the Dutch Police (LECD-police)
Classification of incidents with a discriminatory character in POLDIS 2010

English translation	*Dutch (original language)*
Discrimination grounds	**Discriminatiegronden**
Sexual preference	Seksuele voorkeur
• homosexuality	• homoseksualiteit
• heterosexuality	• heteroseksualiteit
Ethnic origin	Herkomst/etniciteit
• being autochthonous	• autochtoon zijn
• being western allochthonous	• westers allochtoon zijn
• being Turkish	• Turks zijn
• being Surinamese	• Surinaams zijn
• being Moroccan	• Marokkaans zijn
• being Antillean	• Antilliaans zijn
• white skin colour	• blanke huidskleur
• dark (non-white) skin colour	• donkere (niet blanke) huidskleur
• Roma/Sinti	• Roma/Sinti
• other or not specified	• anders of niet gespecificeerd
Anti-Semitism	Antisemitisme
Religion/belief	Religie/levensovertuiging
• non-religious	• niet-religieus
• Islamic	• islamitisch
• Christian	• christelijk
• other or not specified	• anders of niet gespecificeerd
Gender	Sekse
• being a man	• man zijn
• being a woman	• vrouw zijn

- transsexuality
- transvestism
- other or not specified

Political persuasion
- fascism or right-wing extremism
- other or not specified

Disability
- physical
- mental
- physical and mental
- other or not specified

Other grounds

- transseksualiteit
- travestie
- anders of niet gespecificeerd

Politieke overtuiging
- fascisme of rechts extremisme
- anders of niet gespecificeerd

Handicap
- lichamelijk
- verstandelijk
- lichamelijk en verstandelijk
- anders of niet gespecificeerd

Overige gronden

Ways of discrimination	**Wijze van discriminatie**
Threat	Bedreiging
Insult	Belediging
Assault	Mishandeling
Overt violence	Openlijk geweld
Destruction	Vernieling
Daubing/defacing	Bekladden/bekrassen
Right-wing extremist signs/texts	Rechts extremistische tekens/teksten
Bullying	Pesten
Denying access	Weigeren van toegang
Burglary	Inbraak
Robbery	Beroving
Other/unknown	Overig/onbekend

Location	**Locatie**
Catering industry/festival/clubs, pubs	Horeca/festival/uitgaan
Gay cruising area	Homo ontmoetingsplaats (HOP)
Residential environment or relational sphere	Woonomgeving of relatiesfeer
In school (surroundings) or school-related	School (omgeving) of schoolgerelateerd

Buildings (other), business park	Gebouwen (overig), bedrijfsterrein
Shop/shopping centre	Winkel/winkelcentrum
Church	Kerk
Mosque	Moskee
Synagogue	Synagoge
In public	Openbaar
On the street	Op straat
Public transport including stops and station	Openbaar vervoer incl haltes en station
Sports complex/during exercise	Sportcomplex/tijdens sportbeoefening
Asylum seekers' centre/shelter	Asielzoekerscentrum/opvanghuis
Youth meeting place	Jeugd ontmoetingsplek (JOP)
Unknown/other	Niet bekend/overig

Gender suspect	**Geslacht verdachte**
Unknown	Onbekend
Man	Man
Woman	Vrouw
Mixed	Gemengd
Gender of the victim	Geslacht slachtoffer
Unknown	Onbekend
Man	Man
Woman	Vrouw
Mixed	Gemengd

2. The National Expertise Centre Discrimination of the Public Prosecution Service (LECD-PPS) Classification of discrimination offences and cases in Figures in focus 2009 (Cijfers in Beeld 2009)

English translation	*Dutch (original language)*
Discrimination ground (discrimination offences)	**Discriminatiegrond (discriminatiefeiten)**
Race	Ras
• skin colour	• huidskleur
- *negroids*	- *negroiden*
- *coloured (non-negroids)*	- *gekleurden (niet-negroiden)*
- *whites*	- *blanken*

- national or ethnic origin
  - *Surinamese/Antilleans*
  - *Turks/Moroccans*
  - *Roma/Sinti*
  - *allochthonous people/foreigners*
  - *other national or ethnic descent*

Anti-Semitism
Religion/belief
- Islam
- other religion/belief

Homosexual orientation
Gender
Disability
Other grounds
Unknown

- nationale of etnische afstamming
  - *Surinamers/Antilianen*
  - *Turken/Marokkanen*
  - *Roma/Sinti*
  - *allochtonen/buitenlanders*
  - *overige nationale of etnische afstamming*

Antisemitisme
Godsdienst/levensovertuiging
- Islam
- overige godsdienst/levensovertuiging

Homoseksuele gerichtheid
Geslacht
Handicap
Overige gronden
Onbekend

Influx and handling of discrimination offences by PPS per article of the law	**Instroom en OM-afdoening discriminatiefeiten per wetsartikel**
137c	137c
137d	137d
137e	137e
137f	137f
137g	137g
429quater	429quater

How? (discrimination offences)	**Hoe? (discriminatiefeiten)**
Verbally	Mondeling
In writing	Schriftelijk
Image	Afbeelding
Daubing	Bekladding
Concurrence with (the threat of) violence against a person	Samenloop met (bedreiging met) geweld tegen persoon
Other	Overige
Unknown	Onbekend

Where? (discrimination offences)	Waar? (discriminatiefeiten)
Against a police investigator	Tegen opsporingsambtenaar
Work	Werk
School/educational institution	School/onderwijsinstelling
Sport	Sport
Catering industry, denial of access at the door	Horeca- uitsluiting aan deur
Catering industry - general	Horeca- algemeen
Residential environment	Woonomgeving
Street/public place	Straat/openbare gelegenheid
Internet	Internet
Press/media	Pers/media
Other	Overig
Unknown	Onbekend

Suspect (discrimination offences)	Verdachte (discriminatiefeiten)
Extreme right	Extreemrechts
Religion/belief	Godsdienst/levensovertuiging
Political persuasion	Politieke overtuiging
By police investigator	Door opsporingsambtenaar
Surinamese/Antillean individual	Particulier Surinaams/Antilliaans
Turkish/Moroccan individual	Particulier Turks/Marokkaans
Other non-white individual	Overige niet-blanke particulier
White individual	Blanke particulier
Individual (ethnic origin unknown)	Particulier (etnische achtergrond onbekend)
Other	Overige
Unknown	Onbekend
Age	Leeftijd
Gender	Geslacht

Type of PPS-handling (discrimination offences)	Soort OM-afdoening (discriminatiefeiten)
Summons	Dagvaarden
Transaction	Transactie
Conditional decision not to prosecute/conditional dismissal	Voorwaardelijk sepot
Decision not to prosecute	Sepot

Type of court settlement of discrimination cases	Soort afdoening discriminatiezaken rechter
Verdict	Veroordeling
Acquittal	Vrijspraak
Summons invalid	Dagvaarding nietig
The public prosecutor is inadmissible	OM niet ontvankelijk
Discharge from prosecution	Ontslag van rechtsvervolging
Non-punitive order	Schuldigverklaring zonder oplegging van straf
Referral to another forum	Verwijzing naar ander forum
Unknown	Onbekend

Imposed measure/sentence (cases)	Opgelegde maatregel/straf (zaken)
Fine	Geldboete
Imprisonment	Gevangenisstraf
Juvenile detention	Jeugddetentie
Community service	Werkstraf
Training order	Leerstraf
Partial inadmissibility of the aggrieved party	Gedeeltelijk/niet-ontvankelijkverklaring van de benadeelde partij
Detention	Vervangende hechtenis
Non-punitive order	Schuldigverklaring zonder oplegging van straf of maatregel
Discharge from all prosecution	Ontslag van alle rechtsvervolging
Other	Overig

3. The Equal Treatment Commission (CGB)

Classification of petitions for a CGB opinion and of opinions in the CGB Annual Report 2010

English translation	*Dutch (original language)*
Discrimination ground (petitions for an opinion)	**Discriminatiegrond (verzoeken om een oordeel)**
Gender	Geslacht
- of which pregnancy	*- waarvan zwangerschap*
Race	Ras
Nationality	Nationaliteit

Religion	Godsdienst
Sexual orientation	Seksuele gerichtheid
Civil status	Burgerlijke staat
Political persuasion	Politieke overtuiging
Belief	Levensovertuiging
Hours of employment	Arbeidsduur
Tenured/temporary contracts	Vaste/tijdelijke contracten
Disability/chronic disease	Handicap/chronische ziekte
Age	Leeftijd
No CGB-ground	Geen CGB-grond
Multiple grounds	Meerdere gronden

Social area (petitions for an opinion)	**Terrein (verzoeken om een oordeel)**
Labour	Arbeid
Access to goods and services	Toegang tot goederen en diensten
Education	Onderwijs
Social security	Sociale zekerheid
No CGB social area	Geen CGB-terrein
Liberal professions	Vrije beroepen

Social area (opinions)	**Terrein (oordelen)**
Labour	Arbeid
• labour - recruitment and selection	• arbeid - werving en selectie
• labour - appointment	• arbeid - aanstelling
• labour - termination of labour contract	• arbeid - beëindiging arbeidsrelatie
• labour - working conditions	• arbeid - arbeidsvoorwaarden
• labour - other	• arbeid - overig
Goods and services	Goederen en diensten
Other	Overig
Multiple social areas	Meerdere terreinen
No social area	Geen terrein

Characteristics petitioners (processed petitions)	Kenmerken verzoekers (afgehandelde verzoeken)
Gender	Geslacht
• men	• mannen
• women	• vrouwen
• transgender	• transgender
• unknown	• onbekend
Legal assistance	Rechtsbijstand
• yes, lawyer	• ja, advocaat
• yes, legal aid	• ja, rechtsbijstand
• yes, ADB[214]	• ja, ADB
• yes, trade unions	• ja, werknemersorganisatie
• yes, representative	• ja, belangenbehartiger
• yes, other	• ja, overig
• no	• nee
• unknown	• onbekend

Sector accused party (petitions)	Sector verweerder (verzoeken)
Agriculture and fishery	Landbouw en visserij
Industry and construction industry	Industrie en bouwnijverheid
Commercial services	Commerciële dienstverlening
• trade	• handel
• catering industry	• horeca
• transport and communication	• vervoer en communicatie
• financial institutions	• financiële instellingen
• business services	• zakelijke dienstverlening
Non-commercial services	Niet-commerciële dienstverlening
• public administration	• openbaar bestuur
• subsidised education	• gesubsidieerd onderwijs
• healthcare and welfare sector	• gezondheidszorg en welzijnsector
• culture	• cultuur
• other non-commercial services	• overige niet-commerciële dienstverlening
Other	Overig
Unknown	Onbekend

Type of processing (petitions for an opinion)	Type afdoening (verzoeken om oordeel)
Opinion (including opinion on own performance))	Oordeel (inclusief oordeel eigen handelen)
Successful mediation	Geslaagde mediation
Evidently unfounded	Kennelijk ongegrond
Withdrawn after settlement	Ingetrokken na schikking
Withdrawn, other	Ingetrokken, overig
Closed	Gesloten

Reasons for evidently unfounded cases (petitions for an opinion)	Redenen kennelijk ongegrond zaken (verzoeken om oordeel)
No CGB-ground	Geen CGB-grond
One-sided governmental actions	Eenzijdig overheidshandelen
No/wrong social area	Geen/verkeerd terrein
Insufficiently substantiated complaints	Klachten onvoldoende geconcretiseerd
No interest	Geen belang
Other	Overig

The CGB Annual Report also contains information on (legal) representation of accused parties, the content of opinions (for instance opinions with at least one judgement on prohibited discrimination/incompatibility with the law), the follow-up of opinions (such as an individual or structural measures taken by the accused party) and the type of measures taken (such as rectification/apologies, compensation).

4. The anti-discrimination agencies (ADVs)

Classification of notifications and complaints[215] in Core figures 2009 (Kerncijfers)

English translation	*Dutch (original language)*
Discrimination ground	**Discriminatiegrond**
Race	Ras
• race/ethnic origin	• ras/etniciteit/afkomst
- autochthonous	- autochtoon
- allochthonous	- allochtoon
- Turkish	- Turks
- Moroccan	- Marokkaans
- Surinamese	- Surinaams

- Antillean/Aruban
- other Europe
- other Africa
- Asia
- other
-unknown

- skin colour
- trailer park residents

Anti-Semitism
Nationality
Disability/chronic disease
Age
Sexual orientation
Gender
Hours of employment
Labour contract full-time/part-time
Civil status
Religion

- Islamic
- Roman-Catholic
- Dutch Reformed
- Reformed
- Jewish
- other religion
- unknown

Belief
Political persuasion
Other (non-legal) grounds
Unknown

Multiple grounds
Race and religion
Race and gender
Race and nationality
Race and disability/chronic disease
Race and sexual orientation
Race and age
Gender and religion
Gender and age

- Antilliaans/ Arubaans
- overig Europa
- overig Afrika
- Azië
- overig
- onbekend

- huidskleur
- woonwagenbewoners

Antisemitisme
Nationaliteit
Handicap/chronische ziekte
Leeftijd
Seksuele gerichtheid
Geslacht
Arbeidsduur
Arbeidscontract full/parttime
Burgerlijke staat
Godsdienst

- Islamitisch
- Rooms-Katholiek
- Nederlands-Hervormd
- Gereformeerd
- Joods
- andere godsdienst
- onbekend

Levensovertuiging
Politieke gezindheid
Overige (niet-wettelijke) gronden
Onbekend

Meerdere gronden
Ras en godsdienst
Ras en geslacht
Ras en nationaliteit
Ras en handicap / chronische ziekte
Ras en seksuele gerichtheid
Ras en leeftijd
Geslacht en godsdienst
Geslacht en leeftijd

Type of discrimination	Vorm van discriminatie
Contentious treatment	Omstreden behandeling
Hostile treatment	Vijandige Bejegening
Violence	Geweld
• assault	• mishandeling
• violent group confrontation	• gewelddadige groepsconfrontatie
• vandalism	• vernieling
• arson	• brandstichting
• daubing on specific objects	• doelbekladding
• other or unknown violent expressions	• overig of onbekende gewelddadige uitingen
Threat	Bedreiging
Other	Overig
Unknown	Onbekend

Social area	Maatschappelijk terrein
Labour market	Arbeidsmarkt
• recruitment and selection	• werving en selectie
• mediation	• bemiddeling
• workplace	• werkvloer
• working conditions	• arbeidsvoorwaarden
• promotion/moving up	• promotie/doorstroom
• outflow/potential dismissal	• uitstroom/ontslagdreiging
• other	• overig
• unknown	• onbekend
Neighbourhood/district	Buurt/wijk
Collective provisions	Collectieve voorzieningen
Collective services	Collectieve dienstverlening
Catering industry/amusement	Horeca/amusement
Housing	Huisvesting
Media/advertising	Media/reclame
Education	Onderwijs
Police/Public Prosecution Service/Immigration Office	Politie/OM/vreemdelingendienst
Private sphere	Privésfeer
Public/political opinion	Publieke/politieke opinie
Sport/recreation	Sport/recreatie
Public space/domain	Openbare ruimte/publiek domein

Other	Overige
Unknown/ n/a	Onbekend/n.v.t.

Characteristics of persons involved	**Kenmerken betrokkenen**
Ethnic group	Etnische groep
• autochthonous	• autochtoon
• allochthonous	• allochtoon
• Turkish	• Turks
• Moroccan	• Marokkaans
• Surinamese	• Surinaams
• Antillean/Aruban	• Antilliaans/ Arubaans
• other Europe	• overig Europa
• other Africa	• overig Afrika
• Asia	• Azië
• other	• overig
• unknown	• onbekend

5. Municipal anti-discrimination facilities (mostly ADVs)

Classification of notifications and complaints[216] in the report Complaints and Notifications of Discrimination in 2010[217]

English translation	*Dutch (original language)*
Legal ground	**Wettelijke grond**
Race	Ras
Anti-Semitism	Antisemitisme
Nationality	Nationaliteit
Disability/chronic disease	Handicap/chronische ziekte
Age	Leeftijd
Sexual orientation	Seksuele gerichtheid
Gender	Geslacht
Hours of employment	Arbeidsduur
Labour contract tenured/temporary	Arbeidscontract vast/tijdelijk
Civil status	Burgerlijke staat
Religion	Godsdienst

Belief	Levensovertuiging
Political persuasion	Politieke gezindheid
Other (non-legal) grounds	Overige (niet-wettelijke) gronden
Unknown	Onbekend

Social area	**Maatschappelijk terrein**
Labour market	Arbeidsmarkt
Neighbourhood/ district	Buurt/wijk
Collective provisions	Collectieve voorzieningen
Commercial services	Commerciële dienstverleningen
Catering industry/amusement	Horeca/amusement
Housing	Huisvesting
Media/advertising	Media en reclame
Education	Onderwijs
Police/Public Prosecution Service Immigration service	Politie/OM/Vreemdelingendienst
Private sphere	Privésfeer
Public/political opinion	Publieke/politieke opinie
Sport/recreation	Sport/recreatie
Public space/domain	Openbare ruimte/publiek domein
Other	Overig
Unknown/ n/a	Onbekend/n.v.t.

Type	**Aard**
Contentious treatment	Omstreden behandeling
Hostile treatment	Vijandige bejegening
Violence	Geweld
Threat	Bedreiging
Other	Overig
Unknown	Onbekend

Complaints handling	**Klachtbehandeling**
Registration	Registratie

Advice/information	Advies/informatie
Influencing policy	Beïnvloeding beleid
Mediation	Bemiddeling
Assistance in procedures	Bijstaan in procedures
Referral	Doorverwijzing
Own investigation ADV	Eigen onderzoek ADV
Other	Overig

6. The Dutch Complaints Bureau for Discrimination on the Internet (MDI)

Classification of notifications and discriminatory expressions in the MDI Annual Report

English translation	*Dutch (original language)*
Discrimination grounds (expressions)	**Discriminatiegronden (uitingen)**
Discrimination on grounds of race	Discriminatie op grond van ras[218]
• discrimination of Roma/Sinti	• discriminatie van Roma/Sinti
• discrimination of Asians	• discriminatie van Aziaten
• discrimination of autochthonous Dutch people	• discriminatie van autochtone Nederlanders
• 'anti-black racism' or Afrophobia	• 'anti-zwart racisme' of Afrofobie
• discrimination of Moroccans	• discriminatie van Marokkanen
• discrimination of Turks	• discriminatie van Turken
• other ethnic origin	• overige afkomst
Anti-Semitism	Antisemitisme
• anti-Semitism	• antisemitisme
• of which Holocaust denial	• waarvan Holocaustontkenning
Discrimination on grounds of religion/belief	Discriminatie op grond van religie /levensovertuiging
• Islam	• Islam
• other religion or belief	• andere religie of levensovertuiging
Discrimination on other grounds	Discriminatie op andere gronden
• gender	• geslacht
• disability	• handicap
• sexual orientation	• seksuele gerichtheid
• age	• leeftijd

Assessment of expressions	Beoordeling van de uitingen
Criminal expressions under article 137c-g of the Dutch Criminal Code	Strafbare uitingen ex 137 c t/m g Sr
No exact location received/not verifiable	Geen exacte locatie ontvangen/niet toetsbaar
No exact expression received/not verifiable	Geen exacte uiting ontvangen/niet toetsbaar
Not accessible on the internet (anymore)/ not verifiable	Niet (meer) aanwezig op internet/niet toetsbaar
Tendentious	Tendentieus
Not criminal	Niet strafbaar
Child porn or otherwise not applicable	Kinderporno of anders n.v.t.

Expression per medium/location	Uitingen per medium/locatie
Websites	Websites
Web and discussion forums	Web- en discussieforums
Weblogs	Weblogs
Video	Video
Email and spam	Email en spam
MP3 or other audio files (via Napster, Kazaa or other P2P network or web page)	MP3's of andere geluidsfiles (via Napster, Kazaa of ander P2P netwerk of webpagina)
Other (Usenet news groups, chatboxes, Internet Relay Chat)	Overige (Usenet nieuwsgroepen, chatboxen, Internet Relay Chat)

Processing (expressions)[219]	Afhandeling (uitingen)
No request[220]: action by third party	Geen verzoek: stappen door derden
No request: complainant takes action	Geen verzoek: melder onderneemt zelf stappen
No request: referred to MDI abroad	Geen verzoek: doorverwezen naar MDI buitenland
No request: email (spam)	Geen verzoek: e-mail (spam)
No request: location abroad	Geen verzoek: locatie in buitenland
No request: already removed	Geen verzoek: reeds verwijderd
Request: to provider abroad	Verzoek: aan buitenlandse provider
Request: to Dutch provider	Verzoek: aan Nederlandse provider
Request: directed at poster or owner	Verzoek: rechtstreeks aan plaatser of eigenaar
Added to existing complaint file	Bijgevoegd in bestaand aangiftedossier
No request, expressions very extreme, report filed immediately[221]	Geen verzoek, uitingen bijzonder extreem, direct aangifte gedaan
Intended for a police report	Bestemd voor aangifte

Sender[222] (notifications)	Afzender (meldingen)
Individuals, companies, organisations	Individuen, bedrijven, organisaties
Registration point or ADB[223]	Meldpunt of ADB
Other representatives	Andere belangenbehartigers

The MDI annual report also contains information on the compliance with requests for removals from the MDI.

ANNEX C

CATEGORIES USED IN REGISTRATION SYSTEMS FOR DISCRIMINATION COMPLAINTS (PER ORGANISATION)[224], GERMANY

1. The Federal Anti-Discrimination Agency (ADS). Classification used in the ADS contact form[225]

English translation	*German translation (original language)*
Establishment of contact	**Kontaktaufname**
I would like counselling	Ich wünsche Beratung
I would like to have the case registered only	Ich will den Vorgang lediglich zur Kenntnis geben
Who was affected?	**Wer ist betroffen?**
Me	Ich
Someone else	Eine andere Person
Other open questions	**Andere offene Fragen**
When did it happen? (open question)	Wann ist es passiert? (offene Frage)
I feel discriminated, because... (open question)	Ich fühle mich diskriminiert, weil.. (offene Frage)
Grounds for discrimination	**Diskriminierungsmerkmale**
Ethnic origin	Ethnische Herkunft
Gender	Geschlecht
Religion	Religion
Belief	Weltanschauung
Disability	Behinderung
Age	Alter
Sexual identity	Sexuelle Identität

Area of discrimination	Bereich der Diskriminierung
Employment (e.g. application, promotion, during work, etc.)	Arbeit (z.B. Bewerbung, Beförderung, berufliche Tätigkeit, u.a.)
Private insurance (e.g. private liability, private healthcare, others, but not public social insurance)	Private Versicherungen (z.B. Haftpflicht, private Krankenversicherung u.a., nicht aber gesetzliche Sozialversicherung)
Rental agreements for housing	Mietverträge über Wohnraum
Everyday life, leisure time (e.g. disco, restaurant, gym, cinema, sauna, travel, etc.)	Alltag, Freizeit (z.B. Diskothek, Restaurant, Fitnessclub, Kino, Sauna, Reise, u.a.,)
Authorities/administrative offices	Behörden oder Ämter
Other	Sonstige

Personal details	Persönliche Details
Gender	Geschlecht
• female	• weiblich
• male	• männlich
• transsexual	• transsexuell
• intersexual	• intersexuell
Age	Alter
Nationality	Staatsangehörigkeit

2. The Berlin State Body for Equal Treatment – Against Discrimination (LADS)
Classification used in the LADS registration system (not all published)

English translation	*German translation (original language)*
Basic information on the incident	**Grunddaten**
What?	Was?
Where?	Wo?
When?	Wann?
Way of first contact: e-mail, letter, in person, by phone	Erstkontakt: Email, Brief, persönlich, telefonisch
Number of persons affected	Anzahl der betroffenen Personen

Characteristics of affected person(s)	Eigenschaften der betroffenen Person
Gender	Geschlecht
• male	• männlich
• female	• weiblich
• other	• andere
• no information	• keine Angaben

Ground of discrimination	Diskriminierungsmerkmal
Age	Alter
• too young	• zu jung
• too old	• zu alt
• other	• sonstiges
Disability	Behinderung
Ethnic origin	Ethnische Herkunft
Gender	Geschlecht
• male	• männlich
• female	• weiblich
• transgender	• transgeschlechtlich
• intergender	• intergeschlechtlich
Skin colour	Hautfarbe
Religion/belief	Religion/Weltanschauung
• Buddhist	• buddhistisch
• Protestant	• evangelisch
• Hindu	• hinduistisch
• Jewish	• jüdisch
• Catholic	• katholisch
• Muslim	• muslimisch
• others	• sonstige
• specific belief	• best. Weltanschauung
Sexual identity	Sexuelle Identität
• lesbian	• lesbisch
• gay	• schwul
• bisexual	• bisexuell
• heterosexual	• heterosexuell
Other	Sonstige
Social status	Sozialer Status
Multiple discrimination (is ticked automatically if more than one box is ticked)	Mehrfachdiskriminierung

Societal area of discrimination	Beschwerde betrifft folgenden Bereich
Labour market: private business, public sector, welfare organisations (or 'other', which is then described without pre-defined categories)	Arbeitsmarkt
• employers affiliated with the church	• kirchliche Arbeitgebende
• welfare organisations	• freie Träger
• public service: job centre/employment agency, public corporations, police, other	• öffentlicher Bereich: Jobcenter/ Arbeitsagentur, Körperschaften, Polizei, sonstiges
• private sector: recruitment agency, service sector, manufacturing industry	• Privatwirtschaft: Arbeitsvermittlung, Dienstleistung, produzierende
Services and goods	Dienstleistungen/ Güter
• Private sector - disco - retail - gym - restaurant/hotel/bank - internet cafe - cultural entertainment sector - personal transport - private education provider - private medical service - private care provider - private social services - private insurance - housing market - transport services - other	• Privatwirtschaflicher Bereich - Disco - Einzelhandel - Fitnesscenter - Gaststätte/Hotel/Geldinstitut - Internetgeschäft - Kultur/Unterhaltungssektor - Personenbeförderung - ÖPNV - Priv med Dienstleitung - Priv pfleg Dienstleistung - Priv. soz. Dienstleistung - Private Versicherung - Wohnungsmarkt - Transportdienstleistung - andere
• Public sector - employment agency - job centre - police - law court (legal institutions) - child and youth services - public school - public vocational training	• Öffentlicher Bereich - Arbeitsagentur - Jobcenter - Polizei - Justiz - Kinder/Jugendhilfe - Staatliche Schule - Staatliche Ausbildung

- public academic institution	- Staatliche FH/HS
- public health service	- Öffentliches Gesundheitswesen
- psychological or medical statement/certificate	- Medizinische/psychische Gutachten
- public transportation	- Öffentl. ÖPNV
- other	- Sonstige
Other	Andere
• neighbourhood	• Nachbarschaft
• public space	• Öffentlicher Raum
• immediate social/private life	• Sozialer Nahraum

Social area of discrimination as used in the LADS report[226]	**Beschwerde betrifft folgenden Bereich (verwendet im LADS Bericht)**
Public authorities	Öffentliche Behörde
School, education	Schule, Bildungsbereich
Police	Polizei
Private sector	Privatwirtschaft
Disco/club, bar, gym	Disco, Bar, Fitnessclub
Business/employment	Geschäftsleben
Public space	Öffentlicher Raum
Immediate social/private life	Sozialer Nahraum
Healthcare sector	Gesundheitswesen
Housing market	Wohnungsmarkt
Public transport	ÖPNV
Others	Sonstige

Type of discrimination	**Form der Diskriminierung**
Direct discrimination	Mittelbare Diskriminierung
Indirect discrimination	Unmittelbare Diskriminierung
Sexual harassment	Sexuelle Belästigung
Harassment and bullying (mobbing)	Belästigung/Mobbing
Instructions to discriminate	Anweisung zur Diskriminierung
Threat	Bedrohung
Physical violence	Körperliche Gewalt
Refusal of adequate access	Verweigerung eines angemessenen Zugangs
Structural discrimination	Strukturelle Diskriminierung

Other	Sonstiges

Relevant legal basis	**Gesetzliche Grundlage**
AGG	AGG
None	Keine
Not to be determined	Nicht zuzuordnen
Public law	Öffentliches Recht
School law	Schulrecht
Criminal law	Strafrecht
Social security law	Sozialrecht
Others	Sonstige

Categorisation as a case of discrimination and witnesses	**Diskriminierungsfall? Zeugen?**
Yes	Ja
• with witnesses	• mit Zeugen
• without witness	• ohne Zeugen
No	Nein
• with witness	• mit Zeugen
• without witness	• ohne Zeugen
Cannot be determined	Nicht entscheidbar
• with witness	• mit Zeugen
• without witness	• ohne Zeugen

Main counselling activities provided	**Bearbeitungsschwerpunkte**
Counselling	Beratung
Letter of complaint/request for a reply	Beschwerdebrief/Stellungnahme einholen
Police contact	Polizei hinzugezogen
Mediation	Konfliktvermittlung
Public relation work	Öffentlichkeitsarbeit
Legal measures	Rechtsweg angetreten
Referral to other organisation	Weiterleitung
Other	sonstiges

Result of a case	**Vorfallsausgang**
Legal support • no • yes, before counseling • yes, after counselling • unknown	Juristischer Beistand • nein • ja, vor Beratung • ja, nach Beratung • unbekannt
Withdrawal, agreement, no agreement, open	Abbrecher, Einigung, keine Einigung, offen
Legal complaint filed before counselling, legal complaint filed after counselling, legal compliant dropped, legal action taken before counselling, legal action taken after counselling, legal action withdrawn, case dropped, case pursued, case won, case lost, result of case unknown	Anzeigenerstattung vor Beratung, Anzeigenerstattung nach Beratung, Anzeige zurückgenommen, Klageerhebung vor Beratung Klageerhebung nach Beratung, Klageverzicht, Verfahren abgebrochen, Verfahren angestrebt Verfahren gewonnen, Verfahren verloren, Verfahrensergebnis unbekannt

3. The anti-discrimination association Germany (advd)

Classification used in the advd registration system of (not all published)

English translation	*German translation (original language)*
Information about client	**Informationen über die Person**
Who is subject to discrimination? • me, personally • family • organisation/company • another person or another group • other	Wer ist von der Diskriminierung betroffen? • ich selbst • Familie • Organisation/Unternehmen • eine andere Person/ eine andere Gruppe • sonstiges
Age of affected person	Alter der/des Betroffenen
Gender • Male • Female • Transgender (transman-woman)	Geschlecht • männlich • weiblich • transgender (transmännlich/weiblich)

- Intersexual

Where did the incident take place?
(state/town/as appropriate district)

- intersexuell

Wo ist der Vorfall passiert?
(Bundesland/Ort/ggf. Stadtteil)

Grounds for discrimination	**Diskriminierungsmerkmal (Warum wurden sie diskriminiert?)**
Ethnic origin	Ethnische Herkunft
Outward appearance	Äußere Erscheinung
Skin colour	Hautfarbe
Language	Sprache
Nationality	Nationalität
Residence status	Aufenthaltsstatus
Gender	Geschlecht
Children/desire to have children, pregnancy	Kinder, Kinderwunsch, Schwangerschaft
Gay, lesbian, bisexual, transgender identity	Schwul, lesbisch, bisexuell, Transgender
Marital status	Familienstand
Age	Lebensalter
Disability	Behinderung
Chronic disease/disorder	Chronische Krankheit/Störung
Religion/belief	Religion/Weltanschauung
Other	Sonstiges
You were discriminated against because you are in contact with one of the persons affected	Sie wurden diskriminiert, weil Sie zu einem Betroffenen Kontakt haben

Where were you discriminated against?	**Wo wurden Sie diskriminiert?**
Employment	Arbeit
• workplace	• Arbeitsplatz
• job search	• Arbeitssuche
• employment agency/job centre	• Arbeitsagentur/ARGE/Jobcenter
• private employment agency	• private Arbeitsvermittlung
• other	• sonstiges
Housing	Wohnen
• house hunting	• Wohnungssuche
• tenancy	• Mietverhältnis
• neighbourhood	• Nachbarschaft

- other

Public authorities and administrative bodies
- social services department
- regulatory agency
- civil registry office
- immigration office
- housing office
- diplomatic mission
- other

Education/further education
- public school
- private school
- institution of higher education
- provider of adult education
- other

Police

Legal system

Health care
- health insurance/care insurance
- health care system (hospital/doctor's surgery/ pharmacy)

Goods and services
- financial services
- insurance
- retail sector
- other services (repair services, mobile telephone providers, postal services)
- catering industry, entertainment business (e.g. discotheques, restaurants, concerts)
- leisure time and sports
- other

Public transportation

Social services

Media

Public space

Personal environment (family, friends, work)

- sonstiges

Behörden und Ämter
- Sozialamt
- Ordnungsamt
- Standesamt
- Ausländerbehörde
- Wohnungsamt
- Diplomatische Vertretung
- sonstiges

Bildung/Weiterbildung
- staatliche Schule
- private Schule
- Hochschule
- Weiterbildungsträger
- sonstiges

Polizei

Justiz

Gesundheit
- Krankenversicherung/Pflegeversicherung
- Gesundheitswesen (Krankenhaus/Arztpraxis/ Apotheke)

Güter und Dienstleistungen
- Finanzdienstleistungen
- Versicherungen
- Einzelhandel
- sonstige Dienstverleistungen (z.B. Reparatur-dienste, Mobilfunkanbieter, Post-, Briefservice)
- Gaststätten, Unterhaltungsgewerbe (z.B. Discos, Restaurants, Konzerte)
- Freizeit und Sport
- sonstiges

Öffentliche Verkehrsmittel

Soziale Dienste

Medien

Öffentlicher Raum

Persönlicher Nahbereich Familie, Freunde, Verein

Other	Sonstiges

Type of discrimination	**Wie wurden Sie diskriminiert?**
Inappropriate treatment	Unangemessene Behandlung
Structural barriers	Strukturelle Barrieren
Harassment	Belästigung
Sexual harassment	Sexuelle Belästigung
Bullying	Mobbing
Insulting	Beleidigung
Addressing on first name basis, inappropriate questions, comments, jokes	"Duzen", unangemesse Fragen, Kommentare, Scherze
Access to employment (job advertisement, application process)	Zugang zur Erwerbstätigkeit (Stellenausschreibung, Bewerbungsverfahren)
Contract design	Vertragsgestaltung
Occupational promotion	Beruflicher Aufstieg
Disadvantage/less favourable treatment in an administrative procedure	Benachteiligung/Schlechterstellung bei einem Verwaltungsakt
Refusal of an administrative procedure	Ablehnung eines Verwaltungsaktes
Disadvantage/less favourable treatment in civil contracts (e.g. less favourable terms in cell-phone contract, higher rent)	Benachteiligung/Schlechterstellung bei zivilrechtlichen Verträgen (Schlechtere Konditionen bei Handyvertrag, höher Miete)
Refusal of goods/services (e.g. contracts of sale, access to discotheques, membership in a club and gym)	Verweigerung von Gütern/Dienstleistungen (z.B Kaufverträge, Zutritt zu Discos, Vereinsmitgliedschaft und Fitnesstudios)
Disadvantage because of a complaint or the support of a complaint (victimisation)	Benachteiligung wegen einer Beschwerde oder Unterstützung einer Beschwerde (Viktimisierung)
Discriminatory legislation (e.g. social welfare law for asylum seekers, law on citizenship)	Benachteiligende Gesetzgebung (z.B. Asylbewerberleistungsgesetz, Staatsangehörigkeitsrecht)
Threat, hostility, coercion	Bedrohung, Anfeindung, Nötigung
Physical violence	Körperliche Gewalt
Damage of property, arson	Beschädigung von Eigentum, Brandstiftung
Other	Sonstiges

Open field for input description	**Offenes Eingabefeld zur Beschreibung**
Where did the incident occur? In which way did discrimination take place? Who discriminated?	Wo ist der Vorfall passiert? Wie wurde diskriminiert? Wer hat diskriminiert?
To what feature was/is discrimination linked to?	An welches Merkmal knüpft die Diskriminierung?

Contact	Kontakt
Recommendation by another person	Empfehlungen durch andere Person
Internet	Internet
Flyer	Flyer
Event	Veranstaltung
Other associations/organisations	Andere Vereine/Organisationen
Press/ media	Presse/ Medien
Other	Sonstiges

Assessment according to the German General Equal Treatment Act (AGG)	AGG Einschätzung
Direct discrimination	Unmittelbare Benachteiligung
Indirect discrimination	Mittelbare Benachteiligung
Harassment	Belästigung
Sexual harassment	Sexuelle Belästigung
Victimisation	Viktimisierung
Instruction to discriminate	Anweisung zur Diskriminierung
No discrimination according to AGG	Keine Diskriminierung nach AGG
Expiration of appropriate time-limit	Frist abgelaufen
Possibly discrimination according to EU-guideline	Möglicherweise Diskriminierung nach EU-Richtlinie
Other	Sonstiges

Aims of the person seeking advice	Ziele des/ der Ratsuchenden
Report/registration	Meldung
Talking about the experience of discrimination	Sprechen über Diskriminierungserfahrung
Further clarification of the facts	Sachverhaltsaufklärung
Information	Information
Assistance in finding the right organisation to help deal with the issue	Weitervermittlung
Gaining legal information	Rechtliche Information
Active intervention by consultant	Aktives Einschreiten der BeraterIn
Dialogue with and apology by discriminator	Gespräch mit und Entschuldigung von Diskriminierenden
Obtaining a statement by defendant	Einholung einer Stellungsnahme des

	Beschuldigten
Eliminating discrimination/obtaining the denied/deficient service	Beseitigung der Diskriminierung/Bereitstellung der Verweigerten/mangelhaften Leistung
Change of discriminatorystructure/attitude	Veränderung der diskriminierenden Struktur/ Einstellung
Other	Sonstiges

Intervention	**Intervention**
Documentation of complaint/ listening	Dokumentation der Beschwerde/ Zuhören
Moral/ emotional support	Moralische/ emotionale Unterstützung
Informing conversation/counselling interview	Informations- /Beratungsgespräch
Legal advice	Rechtsberatung
Assistance in finding the right organisation to help deal with the issue	Weitervermittlung
Own inquiry/research	Eigene Untersuchung/Recherche
Testing	Testing
Contacting defendant/superior	Kontaktaufnahme mit Beschuldigten/Vorgesetzten
Accompaniment in talks, hearings, negotiations/proceedings	Begleitung bei Gesprächen, Anhörungen, Verhandlungen
Receiving assistance according to AGG	Beistand nach AGG
Mediation (e.g. in a clarifying discussion)	Vermittlung (z.B. in ein Klärungsgespräch)
Legal remedy	Rechtsmittel
Public relations	Öffentlichkeitsarbeit
Exertion of influence through politics	Einflussnahme durch die Politik
Other	Sonstiges

Assistance in finding the right organisation to help deal with the issue	**Weitervermittlung**
Lawyer	Rechtsanwältin
Therapy	Therapie
Doctor	Arzt
Other counselling centre	Andere Beratungsstelle
Mediation	Mediation
Other	Sonstiges

Contacting the Defendant/Superior	Kontaktaufnahme mit Beschuldigten/Vorgesetzten
Phone call	Telefonat
Letter of complaint	Beschwerdebrief
Support in contacting	Unterstützung bei Kontaktaufnahme

Legal Means	Rechtsmittel
Letter of complaint according to AGG	Beschwerdebrief nach AGG
Lawsuit according to AGG	Klage nach AGG
Lawsuit without reference to AGG	Klage ohne AGG
Petition	Petition
Disciplinary procedure/disciplinary complaint	Disziplinarverfahren, /Dienstaufsichtsbeschwerde

Outcome of the case	Ausgang des Falles
Out-of-court proceedings	Außergerichtliches Verfahren
• successful settlement/conciliation	• erfolgreiche Schlichtung/Einigung
• apology by defendant	• Entschuldigung durch Beschuldigten
• provision of denied/deficient service/goods/ abolishment of discrimination	• Bereitstellung der verweigerten Leistung/ Güter/Beseitigung der Diskriminierung
• damages/compensation	• Schadensersatz/Entschädigung
• disciplinary action	• Disziplinarmaßnahme
• change of policy of the organisation/institution	• Politik der Organisation/Institution geändert
• sensitisation of politics/administration	• Sensibilisierung der Politik/Verwaltung
• media attention	• Beachtung in den Medien
• defendant disputes discrimination	• Beschuldigte bestreitet Diskriminierung
• other result	• sonstiges Ergebnis
Legal proceedings	Gerichtliches Verfahren
• dismissal of case	• Klageabweisung
• full grant of the claim	• voller Klagezuspruch
• partial grant of the claim	• teilweise Klagezuspruch
• settlement	• Vergleich
• withdrawal of complaint	• Klagerücknahme
• not yet concluded	• noch nicht abgeschlossen

• "Remark – large input field"	• Bemerkung- großes Textfeld"
No resolution	Keine Lösung
• structural problem	• strukturelles Problem
• matter/complaint withdrawn by client	• Anliegen/Beschwerde durch Betroffenen zurückgezogen
• contact discontinued	• Kontakt abgebrochen
• other	• Sonstiges
Other	Sonstiges
Duration of Counselling	Dauer der Beratung
Number of Contacts (conversations, phone calls, opposing party, other offices)	Anzahl der Kontakte (Gespräche, Telefonate mit Klienten, Gegenseite, andere Stellen)
Registration Office/Year of Report/Case Number	Meldestelle/Jahr der Meldung/Fallnummer

4. The German police

Classification used in the annual press release of the Federal Ministry of the Interior

English translation	*German translation (original language)*
Politically motivated crimes	**Politisch motivierte Straftaten**
Politically motivated crimes (PMC) - right-wing	Politisch motivierte Kriminalität (PMK) - rechts
• PMC right-wing, propaganda offences	• PMK-rechts, Propagandadelikte
• PMC right-wing, violent crimes	• PMK-recht, Gewaltkriminalität
Politically motivated crimes (PMC) - left-wing[227]	Politisch motivierte Kriminalität - links
Politically motivated crimes (PMC) - foreigner criminality[228]	Politisch motivierte Ausländerkriminalität
Politically motivated crimes (PMC) - right-wing by motivation and type of offence	**Subkategorien von politisch motivierte Kriminalität (PMK) - rechts**
PMC right-wing, xenophobic background	PMK rechts, fremdenfeindlicher Hintergrund
• PMC right-wing/ propaganda offences	• PMK rechts, fremdenfeindlicher Hintergrund, Propagandadelikte
• PMC rights-wing/violent crimes	• PMK rechts, fremdenfeindlicher Hintergrund,

(including number of people injured)

PMC right-wing crimes, anti-Semitic background

- PMC right-wing, anti-Semitic background/ propaganda offences
- PMC right-wing, anti-Semitic background/ violent crimes
- PMC right-wing, violent crimes with bodily harm

Gewalttaten

PMK rechts, antisemitischer Hintergrund

- PMK rechts, antisemitischer Hintergrund, Propagandadelikte
- PMK rechts, antisemitischer Hintergrund, Gewalttaten
- PMK rechts, Gewaltkriminalität mit Körperverletzung

Politically motivated crimes right-wing with an extremist background (right-wing extremist crimes)	**Politisch rechts motivierte Straftaten mit extremistischem Hintergrund (rechtsextremistische Straftaten)**
Violent crimes with right-wing extremist background	Gewalttaten mit rechtsextremistischem Hintergrund
• homicide	• Tötungsdelikte
• attempted homicide	• versuchte Tötungsdelikte
• bodily harm	• Körperverletzungen
• arson	• Brandstiftungen
• causing an explosion with the intent to injure or damage property	• Herbeiführen einer Sprengstoffexplosion
• contribution to rioting or civil disorder	• Landfriedensbruch
• dangerous disruption of rail, air, ship or road transport	• gefährliche Eingriffe in den Bahn-, Luft-, Schiffs- und Straßenverkehr
• unlawful deprivation of liberty	• Freiheitsberaubung
• robbery	• Raub
• extortion	• Erpressung
• resisting public authority	• Widerstandsdelikte
• sexual offences	• Sexualdelikte
Other non-violent right-wing extremist crimes	Sonstige Straftaten
• damage of property	• Sachbeschädigung
• threat/coercion	• Bedrohung/Nötigung
• propaganda offences	• Propagandadelikte
• desecration of cemeteries	• Störung der Totenruhe
• other crimes, mainly incitement of the people	• andere Straftaten, insbesondere Volksverhetzung

5. The labour courts of Berlin-Brandenburg

Classification used in report on court documentations (not published but available to external stakeholders or interested third parties (e.g. research)

English translation	*German translation (original language)*
grounds of discrimination	**Diskriminierungsmerkmale**
Age	Alter
Disability	Behinderung
Gender	Geschlecht
Race	Rasse
Religion	Religion
Belief	Weltanschauung
Ethnic origin	Ethnische Herkunft
Sexual identity	Sexuelle Identität
Not specified	Ohne nähere Angabe

ANNEX D

CATEGORIES USED IN REPORTS ON DISCRIMINATION COMPLAINTS (PER SECTION), NETHERLANDS

1. Categories used for discrimination grounds

LECD-police POLDIS 2010	LECD-PPS Figures in Focus 2009	CGB Annual report 2010	ADVs Core figures 2009	MDI Annual report 2010	Anti-discrimination facilities, Complaints and notifications of discrimination in 2010[229]
Ethnic origin • being autochthonous • being western allochthonous • being Turkish • being Surinamese • being Moroccan • being Antillean • white skin colour • dark (non-white) skin colour • Roma/Sinti • other or not specified	**Race** • skin colour - negroids - coloured (non-negroids) - whites • national or ethnic origin - Surinamese/ Antilleans - Turks/Moroccans - Roma/Sinti - allochthonous people/foreigners - other national or ethnic descent	**Race**	**Race** • ethnic origin - autochthonous - allochthonous - Turkish - Moroccan - Surinamese - Antillean/ Aruban - other Europe - other Africa - Asia - other - unknown • skin colour • trailer park resident	**Race** • Roma/Sinti • Asians • autochthonous Dutch people • 'anti-black racism' or Afrophobia • Moroccans • Turks • other ethnic origin	**Race**
		Nationality	**Nationality**		**Nationality**
Anti-Semitism	**Anti-Semitism**		**Anti-Semitism**	**Anti-Semitism** • anti-Semitism • of which Holocaust denial	**Anti-Semitism**
Disability • physical • mental • physical and mental • other or not specified	**Disability**	**Disability/chronic disease**	**Disability/chronic disease**	**Disability**	**Disability/chronic disease**
		Age	**Age**	**Age**	**Age**

LECD-police POLDIS 2010	LECD-PPS Figures in Focus 2009	CGB Annual report 2010	ADVs Core figures 2009	MDI Annual report 2010	Anti-discrimination facilities, Complaints and notifications of discrimination in 2010[229]
Sexual preference • homosexuality • heterosexuality	**Homosexual orientation**	**Sexual orientation**	**Sexual orientation**	**Sexual orientation**	**Sexual orientation**
Gender • being a man • being a woman • transsexuality • transvestism • other or not specified	**Gender**	**Gender** Of which pregnancy	**Gender**	**Gender**	**Gender**
		Hours of employment	**Hours of employment**		**Hours of employment**
		Tenured/temporary contracts			**Labour contract tenured/temporary**
			Labour contract full-time/part-time		
		Civil status	**Civil status**		**Civil status**
Religion/belief • non-religious • Islamic • Christian • other or not specified	**Religion/belief** • Islam • other religion/ belief	**Religion**	**Religion** • Islamic • Roman-Catholic • Dutch Reformed • Reformed • Jewish • other religion • unknown	**Religion/belief** • Islam • other religion/ belief	**Religion**
		Belief	**Belief**		**Belief**
Political persuasion • fascism or right-wing extremism • other or not specified					
	Unknown		**Unknown**		**Unknown**
Other goods	**Other goods**	**No CGB-ground**	**Other (non-legal) grounds**		**Other (non-legal) grounds**
		Muliple grounds	[230]		

2. Categories used for type of discrimination in Core figures 2009 and Complaints and notifications of discrimination in 2010

ADVs, Core figures 2009: **Type of discrimination**	**Anti-discrimination facilities, Complaints and notifications of discrimination in 2010:** **Type of discrimination**
Contentious treatment	Contentious treatment
Hostile treatment	Hostile treatment
Violence	Violence
• assault	
• violent group confrontation	
• vandalism	
• arson	
• daubing on specific objects	
• other or unknown violent expressions	
Threat	Threat
Other	Other
Unknown	Unknown

3. Categories used for type of discrimination in Figures in focus 2009 and POLDIS 2010

LECD-PPS, Core figures 2009: **How?**	**LECD-police, POLDIS 2010:** **Ways of discrimination**
Verbally	Threat
In writing	Insult
Image	Assault
Daubing	Overt violence
Concurrence with (the threat of) violence	Destruction
against a person	Daubing/defacing
Other	Right-wing extremist signs/texts
Unknown	Bullying
	Denying access
	Burglary
	Robbery
	Other/unknown

4. Categories used for social areas in Core figures 2009, the CGB Annual Report and Complaints and notifications of discrimination in 2010

ADVs, Core figures 2009: **Social area**	**CGB, Annual report 2010:** **Social area (petitions)**	**Anti-discrimination facilities, Complaints and notifications of discrimination:** **Social area**
Labour market	**Labour**	**Labour market**
• recruitment and selection	Access to goods and services	Neighbourhood/ district
• mediation	Education	Collective services
• workplace	Social security	Commercial services
• working conditions	No CGB social area	Catering industry/amusement
• promotion/moving up	Liberal professions	Housing
• outflow/potential dismissal		Media/advertising
• other		Education
• unknown		Police/Public Prosecution Service
Neighbourhood/district		Immigration service
Collective provisions		Private sphere
Collective services		Public/political opinion
Catering industry/amusement		Sport/recreation
Housing		Public space/domain
Media/advertising		Other
Education		Unknown/ n/a
Police/Public Prosecution		
Service/Immigration Office		
Private sphere		
Public/political opinion		
Sport/recreation		
Public space/domain		
Other		
Unknown/ n/a		

5. Categories used for location/social area in Figures in focus 2009 and POLDIS 2010

LECD-PPS, Core figures 2009: Where?	LECD-police, POLDIS 2010: Location
Against a police investigator	Catering industry/festival/clubs, pubs
Work	Gay cruising area
School/educational institution	Residential environment or relational sphere
Sport	In school (surroundings) or school-related
Catering industry, denial of access at the door	Buildings (other), business park
Catering industry - general	Shop/shopping centre
Residential environment	Church
Street/public place	Mosque
Internet	Synagogue
Press/media	In public
Other	On the street
Unknown	Public transport including stops and station
	Sports complex/during exercise
	Asylum seekers' centre/shelter
	Youth meeting place
	Unknown/other

6. Categories used for processing/handling of complaints in the CGB Annual Report and Complaints and notifications of discrimination in 2010

CGB, Annual report 2010: Type of processing	Anti-discrimination facilities, Complaints and notifications of discrimination: Complaints handling
Opinion (including opinion on own performance)	Registration
Successful mediation	Advice/information
Evidently unfounded	Influencing policy
Withdrawn after settlement	Mediation
Withdrawn, other	Assistance in procedures
Closed	Referral
	Own investigation ADV
	Other

7. Categories used for handling of discrimination offences and cases in Figures in focus 2009

LECD-PPS, Core figures 2009: Type of PPS handling of discrimination offences	**LECD-PPS, Core figures 2009: Type of court settlement of discrimination cases**
Summons	Verdict
Transaction	Acquittal
Conditional decision not to prosecute/ conditional dismissal	Summons invalid
Decision not to prosecute	The public prosecutor is inadmissible
	Discharge from prosecution
	Non-punitive order
	Referral to another forum
	Unknown

8. Categories used for processing of expressions in the MDI Annual Report 2010

MDI, Annual report 2010: Processing of expressions
No request[231]: action by third party
No request: complainant takes action
No request: referred to MDI abroad
No request: email (spam)
No request: location abroad
No request: already removed
Request: to provider abroad
Request: to Dutch provider
Request: directed at poster or owner
Added to existing complaint file
No request, expressions very extreme, report filed immediately[232]
Intended for a police report

ANNEX E

CATEGORIES USED IN REGISTRATION SYSTEMS FOR DISCRIMINATION COMPLAINTS (PER SECTION)[233] GERMANY

1. Categories used for discrimination grounds

LADS **registration system**	**ADS** **contact form**	**advd** **registration system**	**labour courts of Berlin-Brandenburg** report on court documentations[234]
Ethnic origin	**Ethnic origin**	**Ethnic origin**	**Ethnic origin**
			Race
Skin colour		**Skin colour**	
		Outward appearance	
		Nationality	
		Residence status	
Disability	**Disability**	**Disability**	**Disability**
		Chronic disease/disorder	
Age • too young • too old • other	**Age**	**Age**	**Age**
Sexual identity • lesbian • gay • bisexual • heterosexual	**Sexual identity**	**Gay, lesbian, bisexual, transgender identity**	**Sexual identity**
Gender • male • female • transgender • intergender	**Gender**	**Gender**	**Gender**

LADS **registration system**	**ADS** **contact form**	**advd** **registration system**	**labour courts of Berlin-Brandenburg** report on court documentations[234]
Religion/belief • Buddhist • Protestant • Hindu • Jewish • Catholic • Muslim • others • specific belief	**Religion**	**Religion/belief**	**Religion**
	Belief		**Belief**
Social status			
		Language	
		Marital Status	
		Children, desire to have children, pregnancy	
		You were discriminated against because you are in contact with one of the persons affected	
Other		**Other**	**Not specified**
Multiple discrimination (is ticked automatically if more than one box is ticked)			

2. Categories used for type of discrimination by LADS, advd and the German police

LADS registration system	**advd registration system**	**the German police press release**
Direct discrimination	Inappropriate treatment	Violent crimes with right-wing extremist background
Indirect discrimination	Structural barriers	• homicide
Sexual harassment	Harassment	• attempted homicide
Harassment and bullying (mobbing)	Sexual harassment	• bodily harm
Instructions to discriminate	Bullying	• arson
Threat	Insulting	• causing an explosion with the intent to injure or damage property
Physical violence	Addressing on first name basis, inappropriate questions, comments, jokes	• contribution to rioting or civil disorder
Refusal of adequate access	Access to employment (job advertisement, application process)	• dangerous disruption of rail, air, ship or road transport
Structural discrimination	Contract design	• unlawful deprivation of liberty
Other	Occupational promotion	• robbery
	Disadvantage/less favourable treatment in an administrative procedure	• extortion
	Refusal of an administrative procedure	• resisting public authority
	Disadvantage/less favourable treatment in civil contracts (e.g. less favourable terms in cell-phone contract, higher rent)	• sexual offences
	Refusal of goods/services (e.g. contracts of sale, access to discotheques, membership in a club and gym)	Other non-violent right-wing extremist crimes
	Disadvantage because of a complaint or the support of a complaint (victimisation)	• damage of property
	Discriminatory legislation (e.g. social welfare law for asylum seekers, law on citizenship)	• threat/coercion
	• Threat, hostility, coercion	• propaganda offences
	• Physical violence	• desecration of cemeteries
	• Damage of property, arson	• other crimes, mainly incitement of the people

3. Categories used for social areas in LADS registration system and Annual activity report 2010

LADS registration system	**LADS Annual activity report 2010**
Labour market: private business, public sector, welfare organisations (or 'other', which is then described without pre-defined categories) • employers affiliated with the church • welfare organisations • public service: job centre/ employment agency, public corporations, police, other • private sector: recruitment agency, service sector, manufacturing industry	Public authorities School, education Police Private sector Disco/club, bar, gym Business/employment Public space Immediate social/private life Healthcare sector Housing market Public transport Others
• Public sector - employment agency - job centre - police - law court (legal institutions) - child and youth services - public school - public vocational training - public academic institution - public health service - psychological or medical statement/certificate - public transportation - other	
Services and goods • Private sector - disco - retail - gym - restaurant/hotel/bank - internet cafe - cultural entertainment sector - personal transport - private education provider - private medical service - private care provider - private social services - private insurance - housing market - transport services - other	Other • neighbourhood • public space • immediate social/private life

4. Categories used for social areas in ADS contact form and advd registration system

ADS contact form	**advd registration system**	
Employment (e.g. application, promotion, during work, etc.) Private insurance (e.g. private liability, private healthcare, others, but not public social insurance) Rental agreements for housing Everyday life, leisure time (e.g. disco, restaurant, gym, cinema, sauna, travel, etc.) Authorities/administrative offices Other	Employment • workplace • job search • employment agency/ job centre • private employment agency • other Housing • house hunting • tenancy • neighbourhood • other Public authorities and administrative bodies • social services department • regulatory agency • civil registry office • immigration office • housing office • diplomatic mission • other Education/further education • public school • private school • institution of higher education • provider of adult education • other	Police Legal system Health care • health insurance/ care insurance • health care system (hospital/doctor's surgery, pharmacy) Goods and services • financial services • insurance • retail sector • other services (repair services, mobile telephone providers, postal services) • catering industry, entertainment business (e.g. discotheques, restaurants, concerts) • leisure time and sports • other Public transportation Social services Media Public space Personal environment (family, friends, work) Other

5. Categories used for handling of complaints in the LADS and advd registration systems

LADS registration system	**advd registration system**
Main counselling activities provided	**Intervention**
Counselling	Documentation of complaint/ listening
Letter of complaint/request for a reply	Moral/ emotional support
Police contact	Informing conversation/counselling interview
Mediation	Legal advice
Public relation work	Assistance in finding the right organisation to help deal with the issue (lawyer, therapy, doctor, other counselling centre, mediation, other)
Legal measures	Own inquiry/research
Referral to other organisation	Testing
Other	Contacting defendant/superior
	Accompaniment in talks, hearings, negotiations/proceedings
	Receiving assistance according to AGG
	Mediation (e.g. in a clarifying discussion)
	Legal remedy
	Public relations
	Exertion of influence through politics
	Other
Result of a case	**Legal means**
Legal support • no • yes, before counseling • yes, after counselling • unknown	Letter of complaint according to AGG
	Lawsuit according to AGG
	Lawsuit without reference to AGG
	Petition
	Disciplinary procedure/disciplinary complaint
Withdrawal, agreement, no agreement, open Legal complaint filed before counselling, legal complaint filed after counselling, legal compliant dropped, legal action taken before counselling, legal action taken after counselling, legal action withdrawn, case dropped, case pursued, case won, case lost, result of case unknown	

LADS registration system	advd registration system
	Outcome of the case Out-of-court proceedings • successful settlement/conciliation • apology by defendant • provision of denied/deficient service/goods/abolishment of discrimination • damages/compensation • disciplinary action • change of policy of the organisation/institution • sensitisation of politics/administration • media attention • defendant disputes discrimination • other result Legal proceedings • dismissal of case • full grant of the claim • partial grant of the claim • settlement • withdrawal of complaint • not yet concluded • "Remark – large input field" No resolution • structural problem • matter/complaint withdrawn by client • contact discontinued • other Other

214 This is referred to as an antidiscrimination agency (ADV) in this report.

215 Notifications and complaints are combined and not reported separately.

216 Notifications and complaints are combined and not reported separately.

217 The ADV Act obliges municipalities to annually report the notifications and complaints registered by the anti-discrimination facility appointed by the municipality (usually a regional ADV) to the Ministry of the Interior and Kingdom Relations. In order to standardise registration a concise registration form has been issued. The notifications and complaints reported through this registration form were first published in the report Complaints and notifications of discrimination in 2010. National overview of complaints and notifications registered by municipal anti-discrimination facilities. Coenders, M. (2011). (See also 5.1.4 and 7.1.4.)

218 The category 'Asylum seekers/refugees/illegal aliens' was included as a subcategory or 'Race' in reports of previous years but not in the report of 2010. 'Illegal aliens' is the literal translation of the Dutch word 'illegalen' as used by the MDI for registration of notifications. The word 'illegalen' is used in (online) discriminatory expressions to indicate the group of people in the Netherlands who do not have valid legal documents to reside in the Netherlands. As matter of principle many (civil society) organisations prefer to indicate this group as 'undocumented migrants' (ongedocumenteerden), since they start from the basic principle that no human being can be illegal.

219 Of expressions assessed to be possibly criminal according to the MDI.

220 No request for removal of an expression.

221 MDI files a complaint with the Public Prosecution Service.

222 Sender of the notification.

223 This is referred to as an antidiscrimination agency (ADV) in this report.

224 Several German organisations included in this study have published only a limited part of the information they collect. Therefore, for the German organisations, the classifications are presented which are used in their registration system (LADS, advd), an online contact form (ADS; as the ADS registration system is currently being revised, the classification used in that system was unavailable for this study), a press release of data (the police) and an unpublished report on court documentations (labour courts of Berlin-Brandenburg).

225 The categories in the ADS registration system are currently under revision and not available for his research. The ADS registration system contains and will contain many more categories than used in the contact form.

226 In the LADS-report the categories for social area in the registration system are regrouped as indicated here.

227 These do not involve discrimination/hate crime. Therefore no subcategories are provided for this category.

228 Ibid.

229 The ADV Act obliges municipalities to annually report the notifications and complaints registered by the anti-discrimination facility appointed by the municipality (usually a regional ADV) to the Ministry of the Interior and Kingdom Relations. In order to standardise registration a concise registration form has been issued. The notifications and complaints reported through this registration form were first published in the report Complaints and notifications of discrimination in 2010. National overview of complaints and notifications registered by municipal anti-discrimination facilities. Coenders, M. (2011). (See also 5.1.4 and 7.1.4.)

230 In Core figures there is no category Multiple grounds. However, multiple grounds can be registered for each complaint. In the report the most frequently occurring combinations of discrimination grounds are published.

231 No request for removal of an expression.

232 MDI files a complaint with the Public Prosecution Service.

233 Several German organisations included in this study have published only a limited part of the information they collect. Therefore, for the German organisations, the classifications are presented which are used in their registration system (LADS, advd), an online contact form (ADS; as the ADS registration system is currently being revised, the classification used in that system was unavailable for this study), a press release of data (the police) and an unpublished report on court documentations (labour courts of Berlin-Brandenburg).

234 These data have not been published, although they have been made available to external stakeholders or interested third parties (e.g. research).

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