

Equal Treatment Commission
(Commissie gelijke behan-
deling)
The Netherlands

	Institutional Profile	
Basic Data	Name of institution	Equal Treatment Commission (Commissie gelijke behandeling)
	Contact details	Vrouwe Justitiaplein 1 PO Box 16001 3500 DA Utrecht Netherlands Tel: +31 30 223 4800 Fax: +31 30 223 4848 E-mail: cgb@support.nl www.cgb.nl
	Legal basis	The Equal Treatment Commission is an independent, professional organization. It was established by legislation via the Equal Treatment Act (AWGB), and has been in force since September 1994.
Purpose	Stated purpose and objectives	The Commission is a place where individuals may file complaints about unequal treatment. Its purpose is to combat discrimination. The commission is an independent quasi-judicial institution with two different tasks: <ul style="list-style-type: none"> - To investigate complaints and give decisions/advice. - To stimulate the structural implementation of equality legislation.

Board and staff	Appointment and composition of board	The Commission consists of nine members and twelve deputy members (including the chairperson and the vice-chair) who are appointed for a period of six years by the Minister of Justice in consultation with four other Ministers. Members can be reappointed immediately after the expiration of their terms.
	Conditions for appointment of board members	<p>The members of the Commission can only be dismissed after a procedure similar to that followed in the Judiciary. The chair and co-chair must fulfil the same requirements for appointment as a district court judge, and are appointed on a full-time basis. All are selected on the basis of their expertise and knowledge in the field of equality policy and anti-discrimination law.</p> <p>The Commission consists of nine commissioners and nine substitute commissioners (including the chairperson and the vice chair).</p> <p>The chair and the vice chair are full-time (4 or 5 days a week), and the members work between 24 and 32 hours a week. The substitute members only attend hearings or projects and do their reading and preparatory work at home.</p>
	Appointment and composition of staff	<p>The Commission consists of a staff of 36:</p> <ul style="list-style-type: none"> - Director - 2 PR officers - 2 policy officers - 1 documentation expert - 1 job assessment specialist (who investigates cases of unequal pay) - 2 personnel officers - 1 helpdesk expert - 3 investigation assistants - 13 juridical advisors - 1 judicial staff co-ordinator - 9 secretaries
	Use of external resources	<p>The Commission can request the assistance of civil servants designated by the competent ministers.</p> <p>The Commission also uses experts in the event of insufficient time or expertise, such as in cases where statistical analysis is necessary to establish indirect discrimination.</p>

Formal role	Does the body receive external instructions, guidelines or formal requests for its work?		The scope of the Commission is described in the Equal Treatment Act and some other acts (<i>Wet gelijke behandeling</i> and <i>het Burgerlijk Wetboek</i>).
	Formal role in any national political decision making process?		None, but in practice the Commission also acts as an advisory body in the field of equality law.
	Temporary/permanent body?		Permanent.
Limitations in scope	Grounds of discrimination covered		<p>The Commission covers discrimination based on religion, personal convictions and views, political orientation, race, gender, nationality, sexual preference, marital status and extent of employment (i.e. full-time or part-time work).</p> <p>The Commission does not cover age and disability. Legislation is in preparation for both areas, and when it is implemented the Commission will also cover those two grounds.</p>
	Limitations in scope of coverage	Contextual limitations in scope	<p>The Commission focuses on discrimination in working relationships, in the supply of goods and services, and in advice concerning educational or career opportunities.</p> <p>Not all cases involving discrimination can be considered by the Commission: The Commission has no remit in cases that involve the government or governmental organisations acting in a public capacity.</p>
		National/regional	National.
		Direct/indirect discrimination	The Commission covers both direct and indirect discrimination.
	Acting as a network-building institution		No.
	Organisation of campaigns		No.

Training and campaign activities	Training provision	Yes, the Commission frequently gives training to lawyers, judges, civil servants and NGOs.
Policy advisory roles	Policy advisory role	The Commission is requested to advise on new proposals for discrimination legislation from time to time.
	Other roles related to political decision making	The Commission is entitled to forward opinions to Ministers or relevant organisations and to make recommendations for the broader implementation of its opinions.
Assistance to victims of discrimination	Independent counselling to victims of discrimination	<p>Anybody who feels that she/he has been discriminated against may file a complaint to the Commission. Pressure groups such as anti-discrimination organisations, unions and representative advisory bodies may also file complaints to the Commission, either independently or on behalf of a plaintiff. In addition, employers or organisations may submit their own procedures to the Commission for checking.</p> <p>According to the 1998 annual report, the number of instances of information and advice given by the Commission was 2354. In 1998 the Commission also received 346 complaints, of which 167 were concluded with a decision.</p>
	Advice to victims of discrimination while ensuring anonymity	No.

<p>Legal advice and assistance to victims of discrimination</p>	<p>The Commission is a complaints body. It receives complaints, investigates them and arrives at opinions and recommendations. Its decisions are not legally binding, but the parties involvedinvolved usually heed its advice. The procedure at the Commission is free of charge.</p> <p>In 2000 the Commission received 193 complaints, 86 based on sex, 54 on race/nationality, 20 on religion, 1 on personal beliefs, 7 on sexual preference, 13 on marital status, 1 on political conviction and 11 on working hours.</p>
<p>Conflict resolution or mediation mechanism in cases of discrimination</p>	<p>It is not specifically stated that the Commission may carry out mediation, but it is not prohibited either. Therefore this depends on the Commission itself. There have been a few cases of conciliation.</p>
<p>Taking cases to court / making legal representation at the request of victims of discrimination</p>	<p>No.</p>
<p>Taking cases to court / making legal representations on own initiative</p>	<p>The Commission can carry out investigations on its own initiative. The Commission can also take legal action in order to obtain a court ruling that conduct contrary to the relevant equal treatment regulations is unlawful, that it should be prohibited or that the consequences of such conduct should be rectified. This power is one of the most controversial aspects of the Equal Treatment Act. The reason for giving this power to the Commission was to provide some comfort for the absence of enforceability of the Commission's rulings. The Commission has yet to take a case to court.</p> <p>Of the 190 opinions handed down by the Commission in 2000, 64 concerned sex, 68 race/nationality, 11 religion, 18 sexual preference, 11 marital status, 1 political convictions and 17 working hours.</p>

<p>Conducting formal investigations of possible discrimination</p>	<p>Yes. When the Commission receives a complaint the Commission will question the complainant and the “other party”. The Commission can also make “third parties” give information about the case. The Commission can also hear witnesses. Once it has collected enough information it closes the investigation and holds a hearing, and after this it makes its decision.</p> <p>The Commission can start an investigation on its own initiative, but to do so it must have evidence of discrimination in a certain organisation or a more general area of society. The Commission has carried out a couple of investigations of this kind.</p> <p>For instance, the Commission has investigated collective agreements to see if part-time employees were excluded from agreements made with senior staff concerning the receipt of redundancy pay.</p> <p>The Commission has also investigated practices relating to <i>in vitro</i> fertilisation. Some clinics have only permitted couples consisting of a man and a woman to receive such treatment. The Commission investigated in order to see if homosexual couples or single persons were being discriminated against. The Commission gave its decision and obtained a response from the relevant minister.</p> <p>The Dutch Equal Treatment Commission has a formal right to demand relevant information from the parties concerned. In principle the parties are obliged to provide this.</p>
<p>Privileged access to information</p>	<p>Yes, it is compulsory to provide information to the Commission if requested. Refusal to give it is considered a criminal offence.</p>

<p>Making formal decisions in cases of discrimination</p>	<p>Yes, see above. The decisions taken by the Commission are not legally binding, but the decisions are usually accepted and carried out.</p> <p>The plaintiff files a complaint with the Commission. The Commission collects information from both parties. When sufficient information has been gathered the Commission holds a public hearing where both parties can state their points of view. Sometimes the Commission asks additional questions. In some cases the Commission visits organisations to obtain information, for example in cases concerning unequal pay. Either one or three Commissioners participate in the hearing, depending on the complexity of the case. At times there is no hearing, and in such cases the chair of the Commission makes a decision.</p> <p>The Commission holds more than 150 hearings a year. In 2001 year 150 judgements were given. In most cases a hearing is held, and sometimes two hearings are held in one case. The Commission receives more complaints than this, but some cannot be taken up, such as complaints relating to discrimination on the grounds of age or disability. Other exclusions are cases which do not concern working conditions or goods and services, e.g. if someone complains about being insulted in the street.</p> <p>If there is manifestly no ground for complaint or for bringing the case to the Commission, the Commission writes a letter to the plaintiff, but until now this has not been recorded as a decision. The Commission has now begun registering these letters as decisions in order to make its workload more visible.</p>
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Surveys and reports	Compiling and disseminating existing information	<p>The Commission maintains a database containing all its decisions on its website.</p> <p>The Commission publishes its own judgements and annual reports, both on the website and in paper format. The most important decisions are printed in full, others are described in summary form. The Commission also publishes the remarks of other lawyers who comment on decisions.</p> <p>The Commission also gives lectures about its work to employers' organisations, unions, judges etc.</p>
	Conducting general and independent surveys concerning discrimination	No.
	Publishing independent reports and making recommendations on any issue relating to discrimination	<p>The Commission publishes press releases on some of its decisions. Furthermore, the public has access to all the annual reports, newsletters, press releases and folder material on the Commission's website.</p> <p>The Commission published an evaluation of the Equal Treatment Act after five years of its existence.</p>
Horizontal co-operation Networking and contacts to stakeholder groups	Activities promoting co-operation between actors working in different areas of anti-discrimination	The Commission belongs to UN and European networks for national human rights. It takes part in European projects such as one concerning transnational co-operation between organisations dealing with discrimination, and organises and takes part in seminars.
	Formalised and non-formalised co-operation with other organisations of stakeholders or citizens	None
	Other stakeholders represented in the formal structure of the institution	None
Financial resources	Budget	<p>The Commission is financed through five ministries.</p> <p>In 2001 the budget for all its activities was circa 1.8 million Euros.</p>

	Annual allocation in the fiscal budget or other fixed annual allocation	Fiscal budget.
	Project-based grants	Sometimes.
	Self-generated financial resources	None.
Other re- marks	Other important characteristics particular to the institution	The Commission will be expanded with an expert centre on equality law to promote the CEDAW Convention against all forms of discrimination against women in the Netherlands.