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Re Labour Market Discrimination Implementation Plan 2018 – 2021

Equal opportunity on the labour market and equal treatment in equivalent situations: this is not at all a given fact for everyone living in the Netherlands. And that is unacceptable. Therefore, the Cabinet wants to act vigorously to eradicate discrimination in general and labour market discrimination specifically. On 19 June of this year, I sent your chamber a letter outlining the Labour Market Discrimination Action Plan 2018-2021,¹ also on behalf of the Minister of Social Affairs and Employment (SZW), the Minister of the Interior and Kingdom Relations (BZK), and the Minister of Education, Culture and Science (OCW). That document announced in the government programme as the sequel to the Labour Market Action Plan (2014),² describes the Cabinet's strategies for counteracting discrimination in the coming years. I now am sending you the implementation plan, which forms the further elaboration of those main outlines contained in the previous letter, also on behalf of the Minister of SZW, the Minister of BZK, and the Minister of OCW.

Our society demands that all Dutch citizens participate in the labour market in the long-term. We demand this of everyone, regardless of sex, age, background, sexual orientation or disability. In return, we therefore have to provide a fair labour market and offer people equal opportunities. We need a labour market without discrimination in the recruitment and selection phase, and equal treatment in the workplace. It is particularly evident that Dutch citizens with a migration background and older members of society experience discrimination on the labour market.³ Sometimes people are intentionally excluded from job opportunities, and this must be dealt with rigorously. Much more often, however, businesses and organisations are searching for the person they think is the best candidate for the job and exclude other candidates due to unconscious prejudices. The effect is the same in both cases. Labour market discrimination is a persistent problem with an enormous cultural impact both on the individual people who are hit by it and on the social cohesion of society as a whole.

Labour market discrimination must thus be dealt with rigorously. I am undertaking this, as stated in my letter outlining the main points of the action plan, by stimulating an inclusive labour market. I want to increase knowledge about, and raise awareness of, the impact of discrimination, exclusion and unequal chances on the labour market, and to facilitate the

¹ Parliamentary Papers II, 2017-2018, 29 544, no. 834.

² Parliamentary Papers II, 2013-2014, 29 544, no. 523.

³ 'Experience of discrimination in the Netherlands' ('Ervaren discriminatie in Nederland'), SCP, January 2014.

relevant parties – employers, personnel officers and works council members – to take action faster, more often and more effectively. I will also be working to achieve these goals by putting the subject more widely on the agenda in consultation meetings and information campaigns, as well as by developing innovative new instruments. In addition, I will be investing in monitoring by Inspectorate SZW in order to prevent and counteract prejudicial treatment on the labour market, as an effective means of combatting this form of discrimination.

In order to give further substance to the current implementation plan various parties have been consulted, such as employers, personnel officers, the Human Rights Board, researchers, the temporary placement sector and the Foundation for Labour. A total strategy for fighting labour market discrimination requires the concerted efforts of all the parties who together shape our labour market.

In order to further specify the efforts of Inspectorate SZW, research has been done into the nature of the underlying problems behind labour market discrimination and the ways in which it can be effectively eliminated by such parties as employers, personnel officers and the government.⁴ These investigations have been carried out by the TNO, Movisie, the Social and Cultural Planning Office (SCP), and researchers from the Inspectorate SZW. The results of this research demonstrate that labour market discrimination often takes place due to unconscious prejudices directed against certain groups in society to which individual applicants belong. There are also instances when an economic judgment is made that is influenced by stereotyped ideas about the functionality of certain groups, for example the idea that older workers are less flexible than younger workers. Reducing the influence of (unconscious) prejudices and stereotyped ways of thinking in the choices made during the selection process can therefore have a tremendous positive impact.

The use of a structured, systematic policy or standardised procedure in recruitment and selection stimulates self-aware behaviour and well thought through choices instead of automatic, unconscious behaviour in which prejudgement plays a greater role. In order to stimulate and support organisations to get active with this, I have announced a programme within the pillar knowledge and awareness in which public awareness campaigns, meetings and sharing positive examples and useful instruments will be deployed in order to create a greater awareness among employers, personnel officers and works council members. The above-mentioned research also demonstrates that setting and publicizing a clear social standard, both within sectors and companies and more widely in society, really works. There is a clear standard in the Netherlands: everyone has the right to equal opportunities on the labour market and equal treatment in equivalent situations. There is good reason that Article 1 of the Dutch Constitution states that no form of discrimination will be tolerated. Recruitment and selection procedures need to be transparent and objective, but more than anything else they need to be fair. Activities directed at a more inclusive labour market that increase knowledge and awareness, plus the strengthening of Inspectorate SZW, empower this standard.

⁴ The partial investigations by Movisie and TNO can be found here: 'Dealing with discrimination in recruitment and selection: what works? A close-up look at six approaches' ('Discriminatie in werving en selectie aanpakken: wat werkt? Zes typen aanpakken onder de loep'), Movisie, 2018. <https://www.movisie.nl/discriminatie/wervingselectie>; 'The risk of discrimination in recruitment and selection. The current state of affairs and trends' ('Risico's voor discriminatie bij werving en selectie. Huidige gang van zaken en trends') TNO, 2018. <http://publications.tno.nl/publication/34627249/puJbur/TNO-2018-R11806.pdf>. The Social and Cultural Planning Office (SCP) has collected and disseminated insights from various studies into labour market discrimination. These studies may be found under the heading 'discriminatie' at <https://www.scp.nl/Onderwerpen>.

There are three pillars supporting the Labour Market Discrimination Action Plan:⁵

1. Monitoring and enforcement
2. Investigation and instruments
3. Knowledge and awareness

The implementation plan explains how the Labour Market Discrimination Action Plan 2018-2021 will be put into effect; it forms the framework for the Cabinet's efforts in preventing and counteracting labour market discrimination in the coming years.

Implementation of pillar 1: Monitoring and enforcement

Survey of the role of Inspectorate SZW in labour market discrimination strategy

In the letter to Parliament 'Approach to labour market discrimination in the temporary placement sector',⁶ I announced that the Labour Market Discrimination Action Plan would be a further survey of the effective enforcement role Inspectorate SZW can play in structuring oversight of organisations in order to prevent and combat discrimination in the recruitment and selection phase. Based on the results of this survey, I have decided to enlarge the powers of Inspectorate SZW to make monitoring and enforcement of whether employers have a recruitment and selection policy with sufficient safeguards to prevent and counteract discrimination of applicants possible. A legislative amendment is being prepared which will allow Inspectorate SZW to monitor and enforce standards on employers' existing policies for recruitment and selection. An amendment to the Working Conditions Act (Arbowet) would, at this time, seem to be the most advised course. This is in line with the current monitoring duties of Inspectorate SZW, and is complementary to them in the area of employees' psychosocial workload (PSA), whereby there will also be an evaluation of the policy and implementation in practice. Employers are required to have a policy in place in order to prevent and limit workload stress. Inspectorate SZW already carries out inspections into such policies and has powers of administrative law enforcement at its disposal, if necessary. Inspectorate SZW does not act in response to individual notifications on this issue.

Labour market discrimination

Labour market discrimination occurs in different phases: at the time of recruitment and selection, at the commencement of employment, but also during the employment relationship and upon termination of employment. Inspectorate SZW's labour discrimination team monitors all possible grounds of discrimination and unequal treatment in the workplace. In 2017, the team carried out 350 inspections and review inspections.

Increasingly frequently, third-party service providers are deployed by employers, such as temporary placement agencies and recruitment agencies. In addition, recruitment and selection processes are being automated more and more, which means that such processes or portions of them are conducted without human input. Moreover, employers are now more often directing their recruitment efforts toward a specific group of candidates whom they

⁵ The outline of the Labour Market Discrimination Action Plan 2018-2021 discusses why these three pillars were chosen.

⁶ Parliamentary Papers II, 2017-2018, 29 544, no. 822.

find interesting, for example those who are approached using a CV database. These developments may exacerbate exclusion and discrimination on the labour market, because not everyone has equal access to job vacancies and therefore will not have an equal opportunity. Here, too, there may be a possible role for Inspectorate SZW in the future. At the moment, I can therefore see how Inspectorate SZW could, in conjunction with monitoring employers' recruitment and selection policies, also monitor third parties who provide services in recruitment and selection procedures, including temporary placement agencies.⁷ The results will be incorporated into the proposed legislative amendment.

Instruments

In the Netherlands, a range of organisations are involved in the strategy against, and provision of information about, labour market discrimination, including the National Network of Anti-Discrimination Services (ADV) and the Human Rights Board, where individuals can report their experiences of discrimination on the labour market or can request an assessment of their experiences. Any decision about whether there is a case of illegal treatment of an individual is for a court or the Board to make. Inspectorate SZW makes arrangements with the relevant organisations (including ADV, UWV and the Board) about how each party's information, knowledge and expertise on this subject can be utilised in order to attain an optimal deployment of Inspectorate SZW's capacity.

In addition to this joint effort, Inspectorate SZW is looking into the possibilities of using analysis techniques to search out signals and patterns on the internet and in social media, in order to get a better picture of the experience of discrimination during job application procedures; from such information at-risk sectors can be identified. Moreover, organisations will be supported by sector-specific communications when finalising an acceptable recruitment and selection policy. Finally, practical experiences of job applicants will help to make targeted choices in structuring our monitoring programme. Data will be collected with the aid of organised focus groups including people who have just recently applied for jobs.

The deployment of mystery guests and mystery calls by Inspectorate SZW in its monitoring of labour market discrimination has been studied in the survey, as requested in the motion by Özütok (GroenLinks) and Gijs van Dijk (PvdA).⁸ The possibility of using different types of anonymous checks is already part of the existing range of monitoring instruments at Inspectorate SZW's disposal right now, but under strict pre-conditions. A reluctance in deploying such measures is also certainly needed. When this method is used it must in any case be in proportion to the need and provocation must be avoided. With regard to labour market discrimination, Inspectorate SZW will monitor whether employers have recruitment and selection policies in place, but not individual cases: the use of mystery calls and mystery guests by Inspectorate SZW is insufficiently effective for this purpose. The temporary placement sector itself carries out mystery call investigations by independent parties as part of its strategy for tackling labour market discrimination, and has the intention of continuing to do this periodically.

⁷ The focus of Inspectorate SZW will thus be on the policy currently in operation in order to prevent and limit discrimination in service provision and the offered systems in use.

⁸ In accordance with the motion by Özütok/Gijs van Dijk, Parliamentary Papers II, 2017-2018, 29 544, no. 823.

In answer to the question posed by Mr Van Weyenberg (D66) during the debate about discrimination in the temporary placement sector, I pledged my willingness to see if it is possible to include the inspection data on labour discrimination in the investigation into making inspection data public, which is taking place within the framework of the evaluation of the Anti-Sham Constructions Act (WAS).⁹ This investigation will look at the Working Hours Act and the Working Conditions Act, in addition to those laws for which data have already been made public: the Foreign Nationals (Employment) Act, the Placement of Personnel by Intermediaries Act, and the Minimum Wage and Minimum Holiday Allowance Act. The results of this investigation will partially determine the question of whether public disclosure should also be extended in the case of those two laws. The investigation will examine, among other things, what the expected effect will be of public disclosure of inspection data in the area of psycho-social workload (PSA), under which heading discrimination in the workplace also falls. As a complement to this, the effects of public disclosure of (possible, future) inspection data in the area of labour market discrimination will be examined. Given the explicit request that inspection data on labour market discrimination be publicly disclosed, separate from other information falling under the Working Conditions Act, I will be examining whether this has already been taken into account in the legislative amendment for expanding the powers of Inspectorate SZW, based on the investigation which will be appearing before the end of this year. The evaluation of the WAS legislation will be sent to the Lower House before the summer of 2019.

The survey also examined whether a duty to report discriminating requests issued to temporary placement agencies could contribute to more targeted investigations by the Inspectorate SZW into labour market discrimination.¹⁰ My intention is to further investigate how an obligation for setting up a reporting centre for discriminatory assignment requests, which requires minimal supervision, could be made part of a policy against discrimination carried out by mediating third parties, including placement agencies. Such a centre could potentially be linked up with an internal reporting centre, which could perhaps also be organised at the sector level with the possibility of sending any message on to the Board. I will be using the experiences with the reporting centre within the temporary placement sector set up by the ABU as an example of this type of reporting centre. In addition, the possibility exists of reporting discriminatory requests to the ADVs, the Board, the police and Inspectorate SZW, which always treats complaints or reports by a labour union or participation body.

MPs Gijs van Dijk (PvdA) and Özütok (GroenLinks) have asked me to enter into discussions with the temporary placement sector regarding the possibility of extending the SNA certification with an anti-discrimination provision.¹¹ These discussions have not yet been concluded. The SNA regulation does state that an enterprise's certification can be suspended if they do not comply with the current equal treatment legislation and this has been determined by a judicial decision. Monitoring of labour market discrimination (or the presence of a policy dedicated to removing discrimination), however, does not fit the nature of the checks (financial audits) which SNA usually conducts of certified enterprises. On the other hand, the SNA wants to contribute to combatting labour market discrimination. In any

⁹ Debate on discrimination in temporary placement agencies, 22 May 2016.

¹⁰ Motion by MPs Van Weyenberg/Peters, Parliamentary Papers II, 2017-2018, 29 544, no. 824.

¹¹ Motion by MPs Gijs van Dijk/ Özütok, Parliamentary Papers II, 2017-2018, 29 544, no. 830.

case, SNA is prepared to communicate actively with certified enterprises on the importance of combatting labour market discrimination and developing an adequate policy to that end. When the discussions with the temporary placement sector have been concluded, your chamber will be fully informed on the issue.

Self-regulation in the temporary placement sector

The Federation of Temporary Placement Enterprises (ABU) and the Federation of Intermediary and Temporary Placement Enterprises of the Netherlands (NBBU) are currently occupied with implementation of programmes to counteract discrimination within the sector. The motive for this was an episode of the television programme Radar aired in January of this year, which made it evident that nearly half of the discriminatory requests made to local branches of temporary placement agencies were complied with. Your chamber has already been informed about the intended activities within the sector as set out in the letter 'Labour Market discrimination strategy for the temporary placement sector'. Since that time, a variety of activities sponsored by this programme have been launched:

- In October the campaign 'Working along with it? Say no' ('Werk jij mee? Zeg nee' www.werkjijmeezegnee.nl) was launched by the ABU. Part of this campaign is a reporting centre for discriminatory requests.
- The ABU and NBBU have both initiated a new membership requirement which prescribes that members have to follow an active anti-discrimination policy, which is subject to monitoring by independent third parties.
- Both professional federations are having mystery calls placed to their own members.

Continuous consultation between the Ministry of SZW and the sector is being carried out in order to monitor the progress and results of these forms of self-regulation.

Capacity and allocation of funds

In order to give solid and long-term substance to Inspectorate SZW's new role in the area of recruitment and selection, I am reserving extra financial means for monitoring labour market discrimination. This will amount to 1 million euros in extra funds. In addition, because of the importance that Cabinet has placed on preventing discrimination, I will be structurally increasing the budget for Inspectorate SZW with an extra 0.5 million euro from the departmental enforcement budget. Furthermore, in 2019 and 2020 I will be adding another 1 million euros extra from the current SZW enforcement budget for communications.

During the preparations for the necessary legislative amendments, Inspectorate SZW will be carrying out exploratory inspections of employers and intermediaries geared to increasing the information position. Moreover, Inspectorate SZW will continue to monitor whether employers are following a policy in order to prevent and limit the psycho-social workload (PSA), which includes discrimination in the workplace.

Actions supporting the monitoring and enforcement pillar

- By means of an intended modification of the Working Conditions Act (Arbowet), Inspectorate SZW will be authorised to monitor whether employers have a recruitment and selection policy in place, with the goal of preventing and eliminating discrimination.
- We will be investigating how Inspectorate SZW can be authorised to effectively monitor policies against discrimination in order to prevent and counteract discrimination in the service provision of third parties who are hired in by (potential) employers for recruitment and selection, including temporary placement agencies, assessment agencies, and on-line platforms such as job vacancy websites.

- In anticipation of the above-mentioned legal authorisation regarding enforcement, in 2019 Inspectorate SZW will carry out exploratory inspections of employers and intermediaries. These inspections will be directed at obtaining greater insight into the practice of recruitment and selection and at enlarging awareness within businesses with regard to combatting discrimination in recruitment and selection procedures. The monitoring of discrimination in the workplace, including discrimination against pregnant mothers, will be continued.
- In order to give substance to Inspectorate SZW's new role in the area of recruitment and selection, 1 million euros in extra funding will be invested. In addition, I am structurally increasing the Inspectorate's budget with an extra 0.5 million euros taken from the departmental enforcement budget. As an additional measure, in 2019 and 2020 another 1 million euros in extra funding from the SZW's current enforcement budget will be employed for communications.

Implementation of pillar 2: Investigation and instruments

In the recent past I have had investigations carried out into how labour market discrimination can be effectively reduced within businesses, sectors and society at large. These insights will be used in shaping awareness activities and designing the Inspectorate SZW's strategies. As a complement to this, pilot projects will be developed in conjunction with the programme Further Integration into the Labour Market (VIA), which can be used to test new interventions in recruitment and selection procedures for companies who want to cooperate in these innovations. The intended interventions have a low threshold and are easy to apply in ordinary recruitment and selection procedures. The results will be primarily but not exclusively used to counteract discrimination against Dutch citizens with a migration background. Where necessary, I will be having follow-up investigations carried out so that the interventions are relevant for all grounds of discrimination. Further information about the pilot projects and the VIA programme will be incorporated into the progress report of the VIA, which will be sent to your chamber in the middle of November.

In order to support businesses in creating and shaping a recruitment and selection policy with special attention to eliminating labour market discrimination, the available scientific research will be brought together for what is called a 'state of research' compilation, which can also serve as a guideline for the Inspectorate SZW's efforts. I will be developing a self-inspection tool based on this research which businesses can use to investigate whether they have sufficient measures in place to eliminate as much as possible discrimination against candidates during recruitment and selection procedures.

It is also important to gain further insights into the development and deployment of automated systems and algorithms used in recruitment and selection procedures in order to, in the future, be able to act effectively against these possible forms of labour market discrimination. Orientation consultations have already been conducted with experts on this topic. It is clear that the influence of automation on the recruitment and selection process is increasing. I am having research carried out into how this development stands in relation to the risk of discrimination and exclusion, and what software designers responsible for such systems and algorithms, users, and government agencies need to be forearmed in

any eventual case. The findings will be used to see if and how Inspectorate SZW can maintain effective oversight of automated systems and algorithms in recruitment and selection processes through employers and third parties hired by them for this purpose.

Actions supporting the investigation and instruments pillar

- In 2019 and 2020, in collaboration with the VIA programme, low-threshold instruments and interventions will be investigated which can be used to make the recruitment and selection procedure discrimination-free as much as possible. These instruments and interventions will be tested using pilot projects in companies who want to contribute to this form of innovation. The findings will be further developed as needed so that they will be applicable to all grounds of discrimination and can be shared with employers, employees and personnel officers.
- The state of research on recruitment and selection methods and policies which, to the extent possible, eliminate discrimination will be further developed based on the investigations already carried out. This review forms the foundation for extending the monitoring authority of Inspectorate SZW in the area of discrimination in recruitment and selection policies and for developing a self-inspection tool for businesses, which will be actively shared with employers, personnel officers and works council members.
- In 2019, research will be carried out into the current and future influence of automated forms of recruitment and selection, and the use of algorithms too, in order to see what kind of impact they are having on the labour market and labour market discrimination.

Implementation of pillar 3: Knowledge and awareness

As announced in the action plan, I am setting up a multi-year programme directed at a broad cultural shift in recruitment and selection, which also empowers diversity in the workplace. This programme has two objectives:

- Putting it on the agenda: increasing awareness of the impact of unconscious prejudices in recruitment and selection and the advantages of diversity in HR policy among employers and personnel officers; collecting and sharing positive examples and knowledge in dialogue with employers and social partners.
- Stimulating innovation: employers and personnel officers make use of the best available (scientific) knowledge and practical experience and know how they can effectively apply these two things. Works council members too are involved in this, given the important task they have in stimulating good employer practices.

Good, positive examples, publicising and reinforcing the social standard, and offering sufficient perspective for taking action, will help organisations to actively get to work on the issue of diversity. Therefore, through the continuing on-line publicity campaign 'How does the Netherlands work?' ('Hoe Werkt Nederland?'), I am starting with dissemination of positive examples from companies who have successfully invested in diversity and

inclusivity.¹² In conjunction with the Foundation's programme Diversity in Business, and making use of the Diversity Charter, I am building to expand a network of frontrunners who want to publicise the importance of diversity and inclusivity in the labour market within their own sector or industry. A robust social standard works as a catalyst for other companies and organisations who have not yet taken the necessary steps in the areas of recruitment and selection and an inclusive workplace.

When it comes to the communications campaigns, I am also exploring the possibility of tailoring the message and information to the specific sectors and industries, as indicated in the example above with regard to the ABU's campaign 'Working along with it? Say no'. I am supporting the approach to action taken by organisations, personnel officers and works council members by widely sharing knowledge and instruments, and by organising consultation meetings where the parties involved can enter into dialogue with one another. Your chamber asked me to give attention to the obstacles faced by older women in seeking to participate in the employment process and to propose measures to eradicate these,¹³ and to devise separate plans against discrimination based on multiple, combined grounds.¹⁴ In the strategy for tackling labour market discrimination, I am also directing my energies at stimulating broad diversity and inclusivity in the workplace, without a special approach for subjected target groups. The goal is to prevent exclusion and discrimination by offering equal opportunities for every person in our highly diverse society. This does not mean that no attention will be paid to experiences of specific groups who, also based on combined grounds, may encounter discrimination. When the concern is the labour market position of these specific groups, reducing specific prejudices against them, and stimulating their chances, certain specific programmes have indeed been initiated to these ends, such as the VIA programme, the Ministry of SZW's 'Perspective for Over 50s', and the Ministry of OCW's Emancipation Document.¹⁵ The Cabinet wants to stimulate more people with an employment disability to find employment: more than half of those with an employment disability are waiting at the side-lines. I am striving for an inclusive labour market in which people with and people without an employment impairment are able to participate according

¹² <https://www.facebook.com/HoeWerktNederland/>

¹³ Motion by Geluk-Poortvliet, Parliamentary Papers II, 2017-2018, 30 420, no. 279. In the collective letter from OCW attention is also given to the labour market position of older women. Employment participation is lower for older women than for younger women. This may partly be a question of generational differences. The net employment participation for women aged 60 to 65 rose from 14.2% to 43.2% between 2003 and 2016. We therefore have reason to be optimistic. The 'Perspective for over 50s' action plan by the Ministry of SZW is an important step to improving the labour market position and the image of those over 50 (men and women). This action plan presents the collective approach sponsored by Cabinet and social partners in order to improve the labour market perspective of those over 50. The key to this approach is providing support to those over 50 in finding a new job, making employees more flexible when it comes to the labour market, and employers less reticent in hiring workers over 50.

¹⁴ Motion submitted by MPs Özütok and Van den Hul during the plenary debate Labour Participation of Younger Women on 19 April 2018.

¹⁵ Parliamentary Papers II, 2017-2018, 30 420, no. 270.

to their own potential, preferably by working for a regular employer, and if that is not possible, in a protected environment. In collaboration with employers, municipalities, UWV and clients, I have set a broad offensive in motion for simplifying the process whereby people with an employment disability gain access to more job options. This broad offensive has also been initiated as a contribution to substantiating the UN Convention on the Rights of Persons with Disabilities.

The programme will kick-off in the spring of 2019 with a joint meeting of a broad range of players, where the Minister of SZW and myself will be joined by companies and organisations who are already active in the area of recruitment and selection of diversity and in the creation of an inclusive culture of work. I want to initiate objectives and actions in order to expand membership in this group and to put the importance of countering labour market discrimination on the agenda for a broad range of employers. An overarching publicity campaign about the importance of an inclusive labour market will be started up in the period 2019-2021. The focal point is stimulating discrimination-free recruitment and selection procedures, in addition to putting the impact of unconscious prejudices during these procedures solidly on the agenda. Within the overarching campaign I will be asking for continued attention to be focused on discrimination against pregnant women and on wage structures.

Under the ESF programme, client managers will be encouraged to share inspiring examples and working methods with each other in the coming two years. Additionally, training courses and know-how will be made available so that municipal employees who offer guidance to people looking for work on the job market can get to work themselves on the issues of equal opportunities and non-discrimination. A targeted subject which will also be given special attention here is dealing with unconscious prejudices of employers.

Willingness to report

In conjunction with what has been stated above, I will be actively communicating concerning the rights of those who have been confronted by labour market discrimination, including older citizens, Dutch people with a migration background, and pregnant women, and on the subject of the importance of reporting discrimination on the labour market. This is extremely important because discrimination should not go unpunished and victims should never be given the feeling that it is just part of the ordinary course of things. The decision of whether there has been a case of prohibited differentiation in any concrete situation is up to the courts or the Human Rights Board. The Board's judgments are not binding, but are published on their website and in most cases are complied with. Moreover, civil courts attached a great deal of importance to the Board's judgments.

Equal pay and pay discrimination

In the Netherlands we still have to deal with the difference in wages between men and women, which is referred to as the wage gap. Below in this section you will find the actual figures on this gap. I want to activate women, as well as employers and also works councils, to further reduce wage differences and thus eliminate the wage gap between women and men in the Netherlands. One part of reducing wage differences is striving for greater transparency. The result of charting the differences will be a contribution to greater awareness among businesses, organisations and employees, and getting the discussion going on the topic among organisations and on the societal level. It must, however, be admitted that this is not a sufficient guarantee that wage differences are practically

being eliminated (with concrete measures). The Cabinet is awaiting submission of the proposed legislative initiative 'Equal pay for women and men' by MPs Ploumen (PvdA), Özütok (GroenLinks), Jasper van Dijk (SP) and Van Brenk (50Plus), and will thereafter be determining its position. In anticipation of this, I am committed to sharing and more frequently applying good practices about how the discussion on this topic can be put into higher gear and which measures work best, in conjunction with businesses, organisations and the Foundation.

The Foundation wants to actively inform its supporters about the underlying reasons for wage discrimination and offer them handles for getting to work on the problem. They are doing this by updating the instrument 'Checklist for equal pay' ('Checklist gelijke beloning') for a variety of target groups such as labour organisations (both large and small), works councils and workers. A major role is reserved particularly for works councils based on their powers under the Works Councils Act for putting the problem on the agenda and dealing with it inside their own organisations.

Good example: AEGON

Insurance company Aegon is working together with labour federations FNV, CNV and De Unie to create a new collective labour agreement (CLA) containing explicit agreements about equal pay for men and women. This is the first CLA that contains agreements of such a kind. Aegon is undertaking research, to be carried out before February 2019, into the current situation regarding pay for men and women within the organisation. Depending on the findings, follow-up steps will be taken directed at giving women and men equal pay for equal work.

Source: Negotiation Results AEGON-CAO and AEGON Social Plan, AEGON 2018-2020.

At the same time, with a grant from the Ministry of OCW, Women Inc. will be activating women and employers to get to work on the issue of equal pay for equal work through a variety of activities. In collaboration with experts and stakeholders, Women Inc. will also be investigating how different parties can be empowered to implement improvements. This programme started in 2018 and will continue in 2019.

Wage differences between women and men occur due to a complex mix of factors. One important factor that helps explain the wage gap between men and women can be traced back to the still unequal distribution of care-giver tasks between men and women, which holds women back from participation in the labour market. Cabinet is stimulating the participation of women in paid labour in a variety of ways, and as a corollary, a more equal distribution of work and care-giver tasks between men and women. As examples I would like to mention the extension of paternity leave and the information campaign on work and caregiving starting in 2019, which calls on social partners, employers and employees to enter into discussion on the subject of how to combine work and caregiving.

Annexed to this implementation plan I am sending you the study commissioned by the Ministry of SZW and carried out by Statistics Netherlands (CBS) into wage differences between men and women in government and the business world. The biannual Statistics Netherlands monitor has been conducted four times since 2010 under the title 'Equal pay for equal work?' ('Gelijk loon voor gelijk werk?'), and from this year will be entitled 'Monitor of wage differences between men and women' ('Monitor loonverschillen tussen mannen en vrouwen'). The most recent study focuses on the wage differences in 2016 and developments in comparison with previous years. The results of questionnaires are used in determining wage differences, which means we have to take account of a margin of uncertainty regarding the results.

The uncorrected wage difference between men and women in 2016 came to 19% in business and 8% in government; in 2014 the figures were 20% and 10% respectively. When certain background factors are taken into account which are strongly linked to wages, such as age, term of service and level of education, the wage difference in 2016 in business comes to 7% and in government to 5%; this is referred to as the corrected wage difference. The corrected wage difference for 2016, for both business and government, is the same as it was in 2014. According to Statistics Netherlands, however, this does not automatically mean that we are no longer closing the wage gap. Statistics Netherlands states that in order to determine this there must be a divergent wage gap over multiple years.

This study has been carried out four times before by Statistics Netherlands, as already stated. In order to determine what the trend is, Statistics Netherlands has made an estimation based on five corrected wage differences for the years 2008, 2010, 2012, 2014 and 2016. They concluded that, based on this estimate, and given the data currently available, there is a steady decrease in the corrected wage difference for both government and business over the years studied. It must be added, however, that the decrease in the period 2014-2016 is disappointing.

A recent Statistics Netherlands study seems to indicate that there is still a wage difference between women and men. On the whole, this is caused by various background factors, including the type of job involved, such as whether it is part-time or full-time, its professional level, and whether or not it is managerial, since such factors often correlate closely with the different positions of men and women in the labour market. This form of inequality has received attention in the Cabinet's emancipation policy, under the coordination of the Minister of OCW. Your chamber has been informed about this policy in the Emancipation Document, the letter regarding women in managerial positions,¹⁶ and the letter about various groups of women on the labour market.¹⁷

Statistics Netherlands says that the remaining 'unexplained wage difference between women and men' (the corrected pay difference) gives a tentative indication of the existence of unequal pay for equivalent work. Important in this regard is that Statistics Netherlands states that, based on this study, it is impossible to say to what extent there is any actual indication of wage discrimination in which women are usually paid less for equal work. Wage discrimination also mostly occurs unconsciously and unintentionally. In many cases,

¹⁶ Parliamentary Papers II, 2017-2018, 30 420, no. 263.

¹⁷ Parliamentary Papers II, 2018-2019, 30 420, no. 295.

the wage differential is caused by the use of non-neutral pay criteria in determining salaries which, in practice, put women at a disadvantage.¹⁸ Based on studies by sector, the Board has identified a number of pitfalls which can, in practice, lead to unequal pay, and has developed tips for employers on how to avoid them.¹⁹

Discrimination against pregnant mothers

According to studies conducted by the Board, 43% of women on the labour market have experienced possible discrimination due to pregnancy or early maternity.²⁰ This phenomenon must be dealt with rigorously because it undermines the equal position of men and women on the labour market and puts women's careers at a disadvantage. Discrimination against pregnant women demands continuous vigilance for the explicit reason that the make-up of this group is constantly changing. In addition, it appears that many women do not recognise discrimination against pregnant women as such. I therefore attach great importance to continuous communications regarding the rights of pregnant women on the labour market and the opportunities they have to report abuses. In 2019 this will be conducted using the awareness raising action 'Baby and job' ('Baby en baan'), under the auspices of the Ministry of OCW. This awareness raising campaign, which started in January 2018, has already reached over 1.3 million women and is being extended. In addition, I will be working together with the valuable network created around the development of the Discrimination against Pregnant Women Action Plan (2017),²¹ which includes, among others, social partners, the Human Rights Board, the Royal Dutch Organisation of Midwives (KNOV), the Society of Pediatricians of the Netherlands (VJN), and the Municipal Health Service (GGD). These organisations devise their own activities, such as the well-known *GroeiGids* (GrowingGuide) and *GroeiGids* app, with full information for parents and parents-to-be regarding healthy growth and parenting of children for each stage of a child's life. In the app parents can check off which type of information they would like to receive push messages about so that they are helped with the relevant information at the right time. From next year the push messages will also be sorted by theme and parents can indicate which themes they would like to know more about. One of the themes will be the combination pregnancy/parenthood. In conjunction with the *GroeiGids*, we are investigating which information about (possible) maternity discrimination, among other things, could be turned into push messages.

I also find it quite important that it becomes more widely known and recognised that pregnancy or illness due to pregnancy may not be used as a reason for terminating employment. I will be putting this front and centre in the communications strategy on discrimination against pregnant mothers. The Labour Discrimination Team of Inspectorate SZW inquires at every company visit whether and how the theme of discrimination against pregnant mothers is present or could be present, and whether a policy or measures are in place or needed. In addition, I have entered into a discussion on this topic with the temporary placement sector in order to see how pregnant women who work through an agency can best have their rights reinforced. The sector has already actively given attention to the obligations of temporary placement enterprises in relation to their registrants; they are working on this in conjunction with the Board.

¹⁸ 'Sure of equal pay? Equal pay for men and women in insurance companies' ('Gelijke beloning verzekerd? Gelijke beloning van mannen en vrouwen bij verzekeringsorganisaties'), Human Rights Board, 2017.

¹⁹ mensenrechten.nl/nl/tips-voor-werkgevers.

²⁰ 'Feel better now? Follow-up study into discrimination against pregnant women and mothers with young children at work' ('Is het nu beter bevallen? Vervolgonderzoek naar discriminatie op het werk van zwangere vrouwen en moeders met jonge kinderen'), Human Rights Board, 2016.

²¹ Parliamentary Papers II, 2016-17, 29 544, no. 775.

Actions supporting the pillar knowledge and awareness

- Positive examples will be actively shared in order to reinforce the social standard.
- In February 2019 an initiation gathering will be organised with the frontrunners of businesses and organisations who are working on diversity and inclusion, in order to come up with a joint agenda.
- I will be starting a multi-year awareness raising programme with meetings and information campaigns about labour market discrimination and the impact of unconscious prejudices on recruitment and selection. The power of an inclusive and diverse workplace has been put front and centre in this programme.
- The awareness raising action 'Baby and job' will be extended in 2019. As a complement, a portion of the broader overarching programme dedicated to stimulating an inclusive labour market will be continuous attention to the nature of discrimination against pregnant mothers, the rights of pregnant employees, and the importance of reporting abuses.
- The Foundation will be publishing a new version of their checklist on equal pay for labour organisations (both large and small), works councils and employees, offering them specific handles so they can get to work on the problem.
- Women Inc., with funding from the Ministry of OCW, will be putting the topic of equal pay on the agenda more broadly for the attention of women, employers and other relevant parties.

Conclusion

In order to eradicate labour market discrimination in the Netherlands it is very important that we create a labour market where it is natural for employers to offer a place to a diversity of talent in the broadest sense of the word. Ours must become a labour market in which everyone has equal opportunities, regardless of sex, age, migration background, sexual orientation or disability. This demands continuous efforts and attention from all the parties involved who together shape our labour market on a daily basis, including government, employers, social partners and workers. The basis of this is innovation, stimulating cooperation and sharing knowledge, and hence this forms the core of the strategy against labour market discrimination for 2018-2021. I will be implementing these plans in the coming years with a staunch conviction and a great deal of personal involvement.

The State Secretary for Social Affairs
and Employment,

T. van Ark