



## NEWS REPORT

<b>Date:</b>	21 October 2011
<b>Expert:</b>	Rikki Holtmaat
<b>Title:</b>	Amendment to Equal Treatment Laws
<b>Country:</b>	The Netherlands
<b>Context</b>	
<b>Issue at stake:</b>	Inclusion of the Directive's definitions of direct and indirect discrimination and change of exception in the private sphere to comply with EU requirements
<b>Ground of discrimination:</b>	All grounds
<b>Source:</b>	Parliamentary Papers, document number 31832
<b>Field:</b>	All fields
<b>Legislative provisions:</b>	Article 1 GETA, DDA, ADA and ETA,

### Content

On 27 September, the Second Chamber of Parliament adopted the Amendment of the equal treatment laws (GETA, ETA, DDA and ADA and some provisions in the Civil Code) in order to bring the definitions of direct and indirect discrimination in these laws in line with the European Union's Directives. This change of the Dutch legislation was required by the European Commission, who maintained that the different wording of the definitions set out in the Dutch legislation provided less protection to victims of discrimination than what the EU Directives require.<sup>1</sup>

The government has always held that the latter was not the case,<sup>2</sup> but nevertheless has proposed this Amendment in 2008, in which the Directive's definitions are included word by word.<sup>3</sup> One difference between the language in the Directives and the Dutch legislation remains to exist. That is the usage of the word 'distinction' instead of the word 'discrimination'. It is proposed that this wording will be changed in the (long awaited) "Integration Act", in which all existing equal treatment laws will be integrated into one new law.

A second issue, included at the last moment in the Bill, concerns the exception for employment relations in the private sphere. The Commission, in the infringement procedure, held that the wording of this exception in the GETA was too wide and that in case of goods and services it unjustly also applied to discrimination on the round of race.

<sup>1</sup> Letter dated 31 January 2008 (no. 2006-2444), with reference to the infringement procedure of 18 December 2006, infringement No. 2006/2444.

<sup>2</sup> Letter from the Dutch Government to Mr. Spidla, dated 18 March, *Reactie Nederlandse regering op het met redenen omkleed advies van de Europese Commissie; ingebrekestelling nr. 2006/2444* (reaction to letter dated 31 January).

<sup>3</sup> See *Kamerstukken II*, 2008-2009, 31 832, nrs 1-3 and See *Kamerstukken II*, 2009-2010, 31 832, nr 4-8.



The exception clauses in the GETA now expressly state that it is only possible to rely on this exception when the aim is legitimate and when the means are appropriate and necessary. In addition, with respect to discrimination in the area of goods and services, the exception no longer applies to the ground of race.

The Bill has now been sent to the First Chamber (Senate) and it is expected that it will be adopted before the end of this year.

**Internet link source and additional information:**

**Address of the webpage:** the text of the Bill as it was adopted in the Second Chamber and was sent to the First Chamber is published on the official site of the Government (<https://zoek.officielebekendmakingen.nl/zoeken> ) Use search term: 31832 (last accessed on 21 October 2011).