



Mid term Report on Effective Implementation of Disability Rights

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Table of contents

1. Mechanism for Disability Rights
2. Act on Anti-Discrimination based on Disability



Table of contents

1. Mechanism for Disability Rights
2. Act on Anti-Discrimination based on Disability



Mechanism for Disability Rights in Netherlands

Netherlands Institute for Human Rights

(College voor de Rechten van de Mens)

Mechanism for Disability Rights in Netherlands



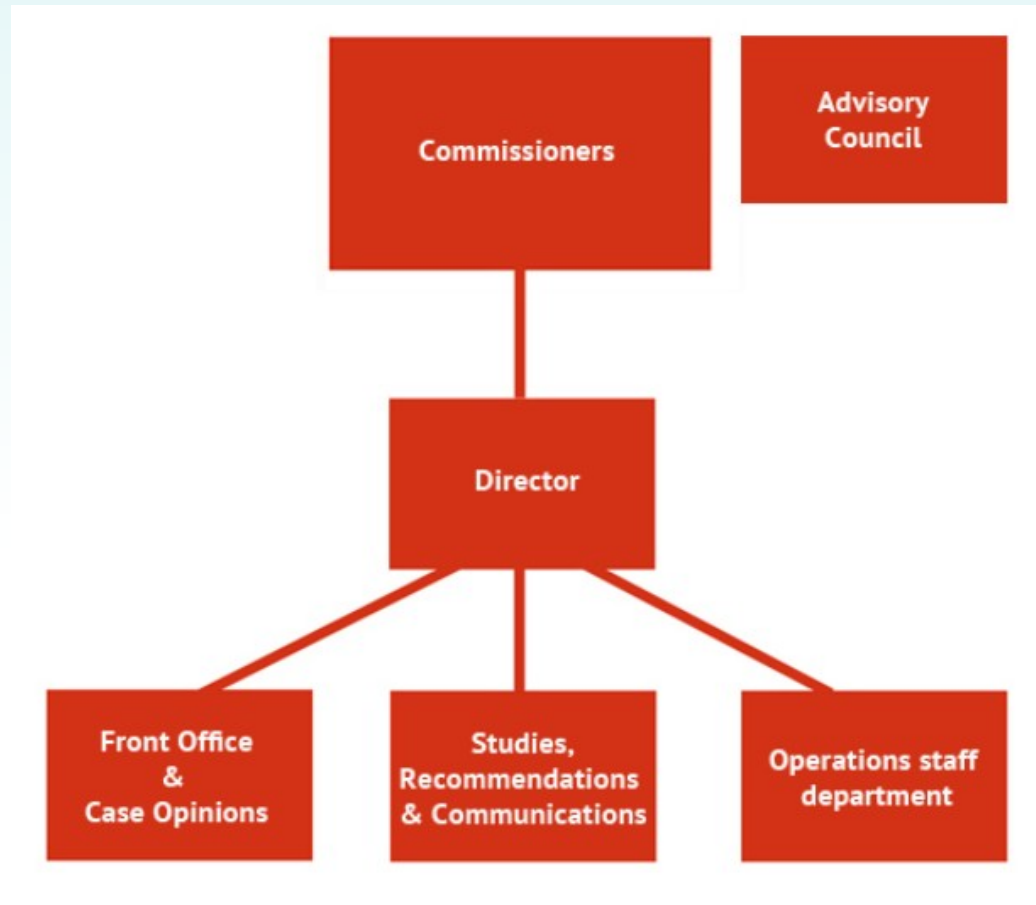
Act on Netherlands Institute for Human Rights

Article 30

Article 12 of the Equal Treatment of Disabled and Chronically Ill People Act will read as follows:

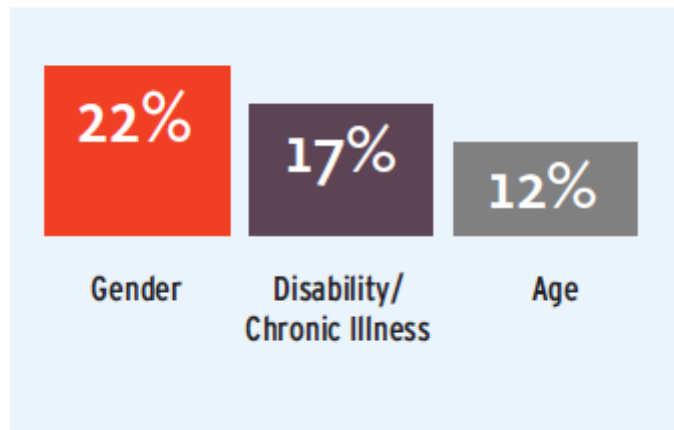
The Institute referred to in section 1 of the Netherlands Institute for Human Rights Act may investigate whether discrimination as referred to in this Act has taken or is taking place and whether section 2 of this Act is being infringed.

Organization

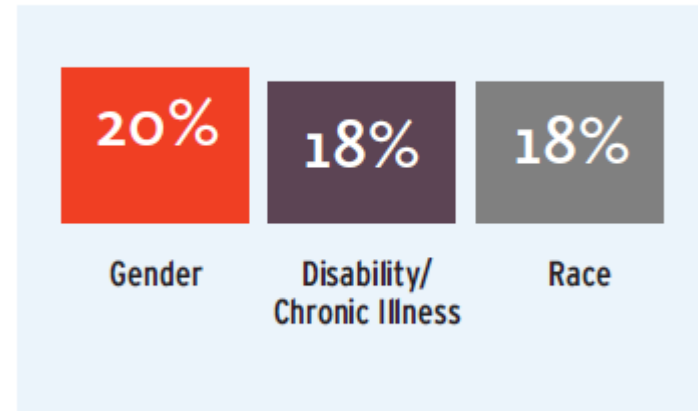


Major Activities

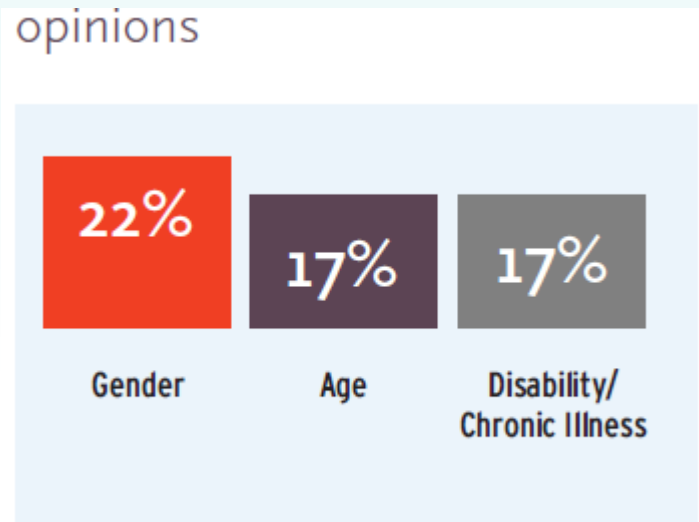
questions about equal treatment



requests



Major Activities



Major Opinions

◆ Employment

ABN AMRO Bank NV discriminates against a woman in a wheelchair in the rejection of an internship because of amenities cost such as lift and toilet.

◆ Education

It is a prohibited discrimination based on disability for Wageningen University to reject software program Kurzweil during exam against a student with dyslexia.

◆ Public Transportation

It is a prohibited discrimination for a bus driver not to provide help for wheelchair users in getting on and off a bus.



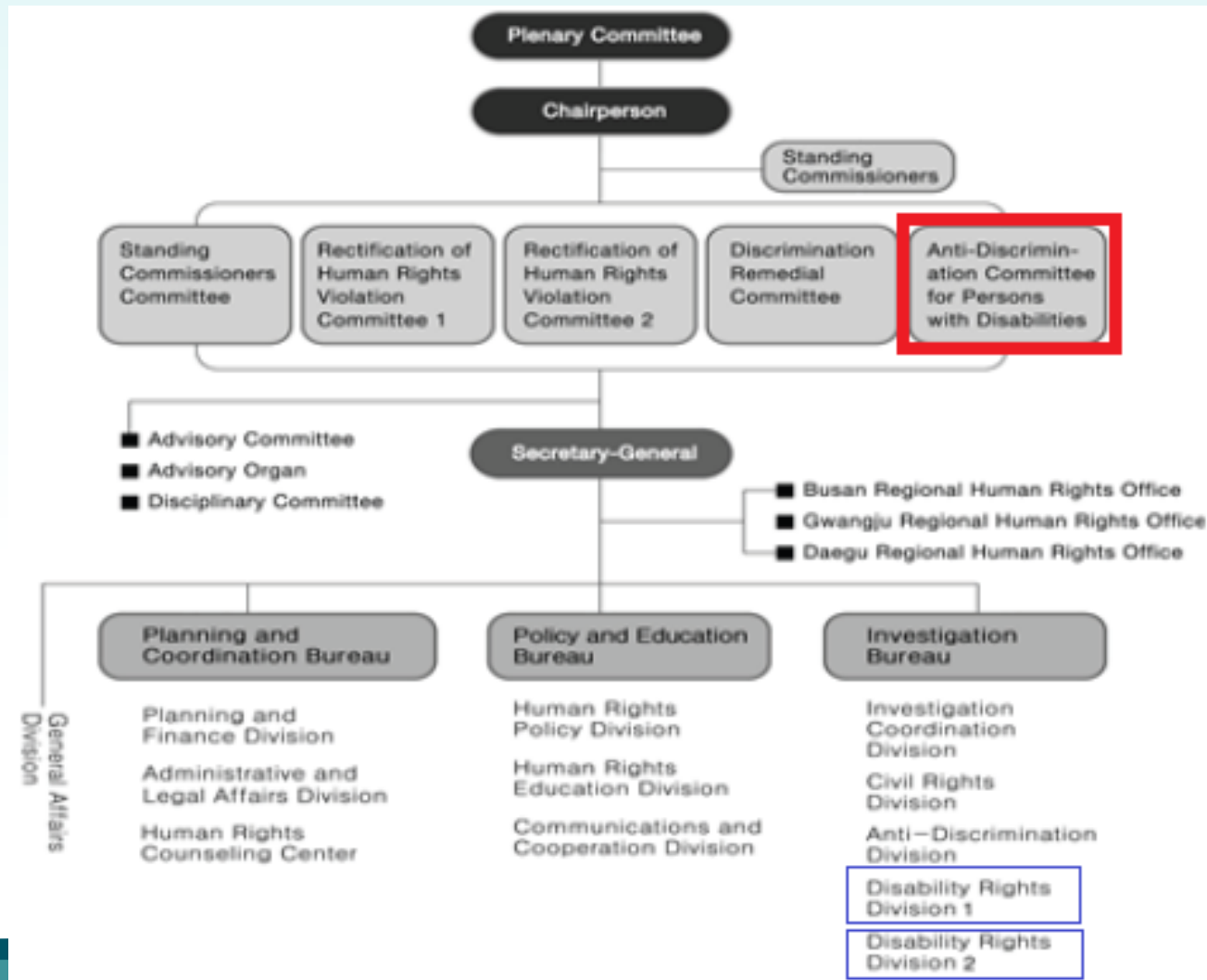
Mechanism for Disability Rights in Korea

National Human Rights Commission of Korea

National Human Rights Commission of Korea



Organization



Major Activities

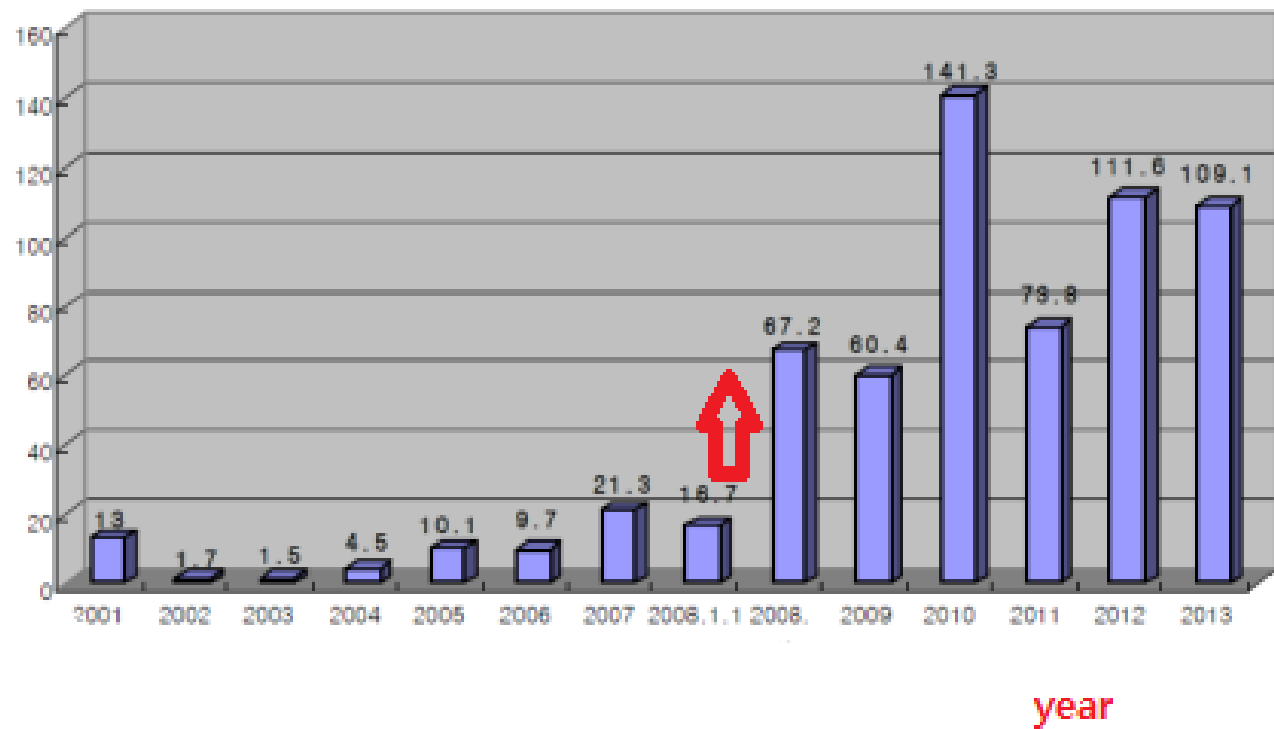
[Table 2-3-5] Complaints on Discrimination by Reason

(Unit: case, %)

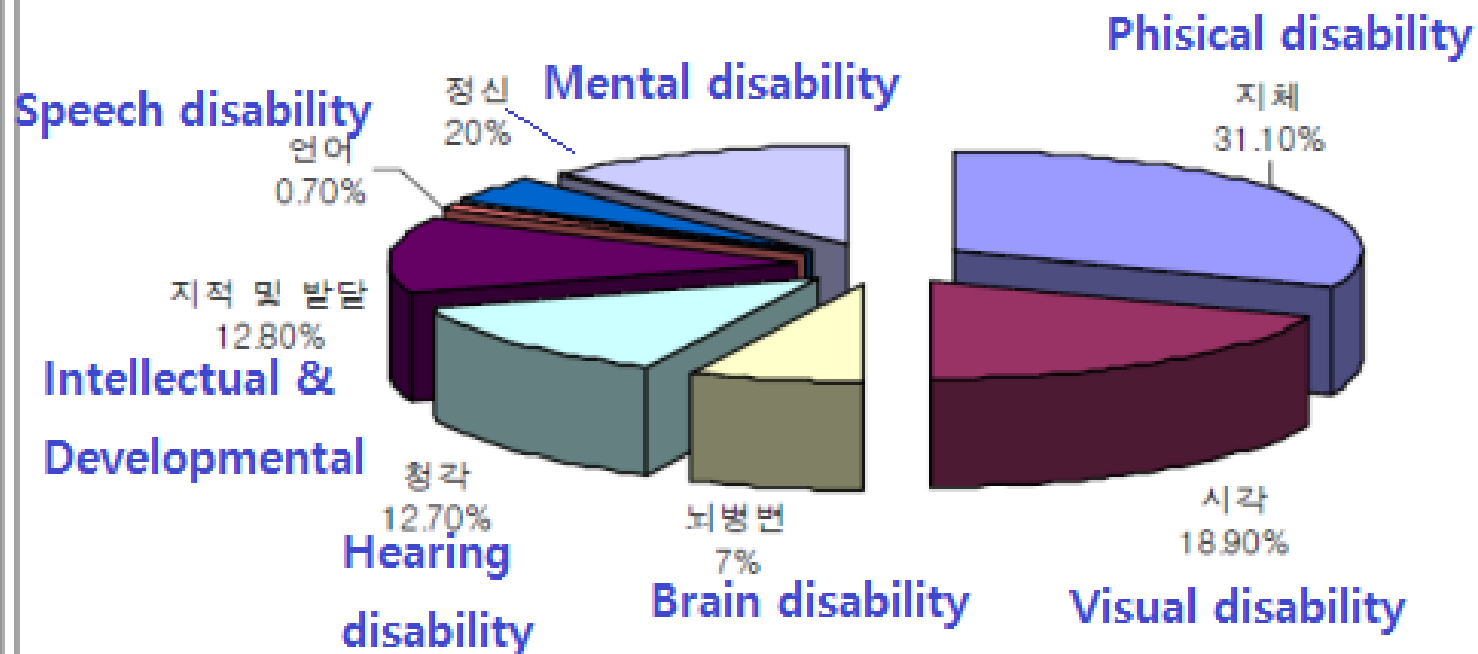
Year	Received	Gender	Pregnancy/Delivery	Marital Status	Family Status	Sexual Harassment	Sexual Orientation	Appearance	Religion	Disability	Age	Social Status	Place of Origin	Country of Origin	Ethnicity	Race	Skin Color	Ideology	Criminal Record	Educational Background	Medical History	Others
2013	2,492	63	18	5	24	241	8	31	11	1,309	141	145	13	35	—	18	1	4	19	124	39	243
2012	2,549	45	27	6	8	228	15	40	12	1,340	166	185	6	9	1	1	1	2	20	47	34	356
2011	1,803	35	19	5	17	216	3	19	10	886	146	127	10	27	1	4	—	1	17	52	30	178
2010	2,681	45	39	5	8	210	6	24	14	1,695	196	81	7	27	3	12	4	1	13	40	41	210
2009	1,685	83	17	7	14	166	2	23	14	725	138	91	5	16	3	22	—	3	10	77	39	230
2008	1,380	42	14	5	10	151	3	15	13	640	62	103	4	28	2	7	—	3	16	23	19	220

Major Activities

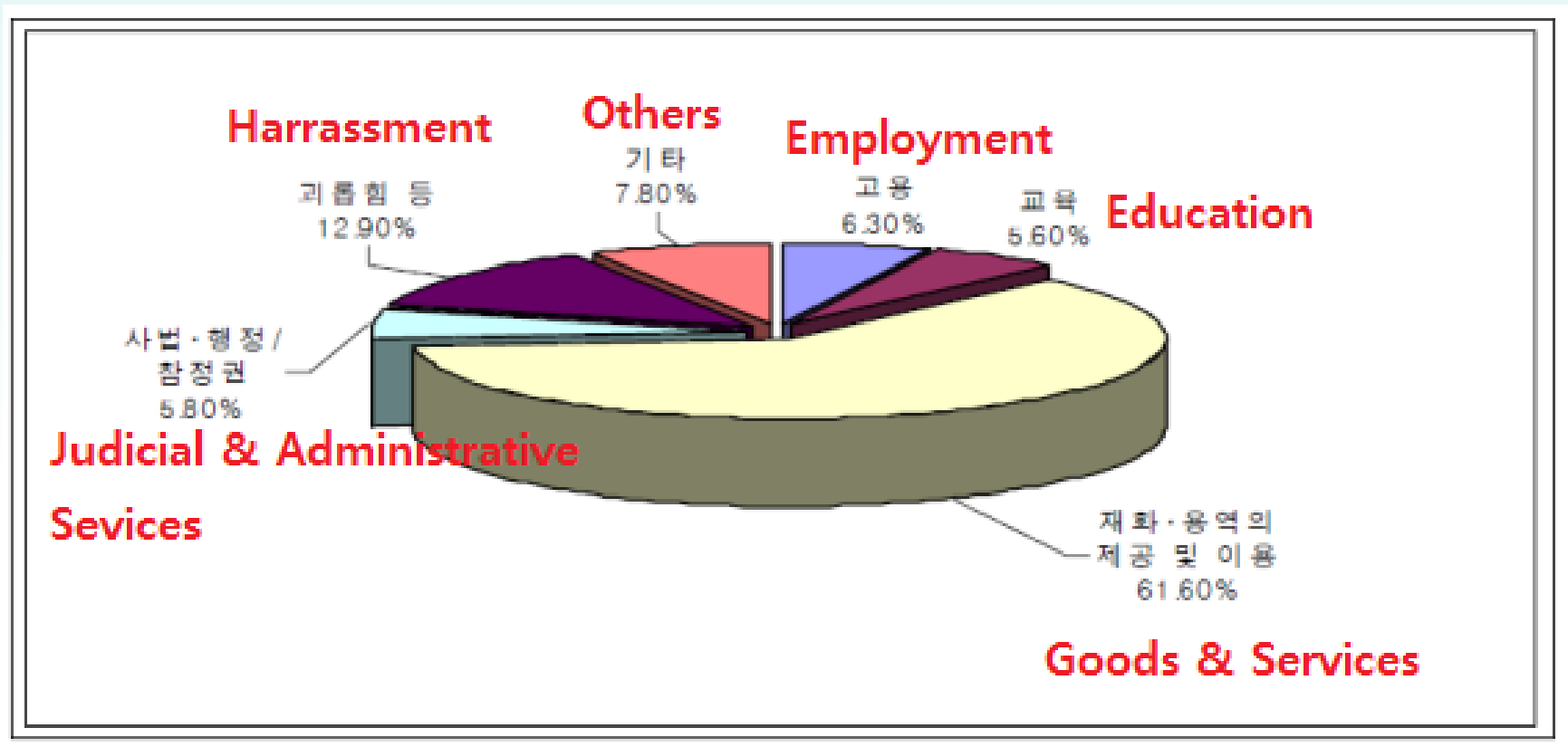
Case of Monthly
average



Complaints percentage by types of disability



Complaints percentage by scope



[Table 2-3-7] Complaints on Discrimination by Reason and Resolution in 2013

(Unit: case)

Category	Total	Mediation	Recommendation	Criminal Charges	Mutual Settlement	Rejected	Transferred	Dismissed	Suspended
Gender	56	—	2	—	—	35	—	19	—
Pregnancy/Delivery	21	—	1	—	1	16	—	3	—
Marital Status	3	—	—	—	—	3	—	—	—
Family Status	11	—	1	—	—	6	1	3	—
Sexual Harassment	245	2	9	—	23	164	—	40	7
Sexual Orientation	8	—	1	—	—	6	—	1	—
Appearance/Physical Conditions	30	—	—	—	—	22	—	8	—
Religion	7	—	1	—	—	5	—	1	—
Disabilities	1,563	—	28	1	79	755	1	699	—
Age	157	—	6	—	2	90	—	57	2
Social Status	179	—	19	—	2	114	—	40	4
Place of Origin	12	—	—	—	—	7	1	4	—
Country of Origin	27	—	—	—	1	23	—	3	—
Ethnicity	—	—	—	—	—	—	—	—	—
Race	18	—	—	—	—	16	—	2	—
Skin Color	—	—	—	—	—	—	—	—	—
Ideology/Political View	3	—	—	—	—	3	—	—	—
Criminal Record	22	—	—	—	—	18	1	3	—
Academic Background	130	—	4	—	—	110	1	13	2
Medical History	43	—	1	—	2	28	—	7	5
Others	323	—	29	—	1	210	6	76	1
Total	2,858	2	102	1	111	1,631	11	979	21

* Recommendation: Rectification or improvement of laws and regulations, institution, policies and practices; prevention of recurrence; or human rights education

Major Recommendations

- **Access to Financial Service**
Recommendation to Improve Accessibility of Persons with Disabilities to Financial Products and Services Offered by Banks
- **Judicial & Administrative Services**
Recommendation to offer accommodations for People with Hearing Impairment During the Judicial Procedure
- **Access to building**
Recommendation to offer accommodations in the Library for wheelchair users
- **Access to political rights**
Recommendation to offer accommodations to help the blind exercise their voting rights

Braille Voting Paper

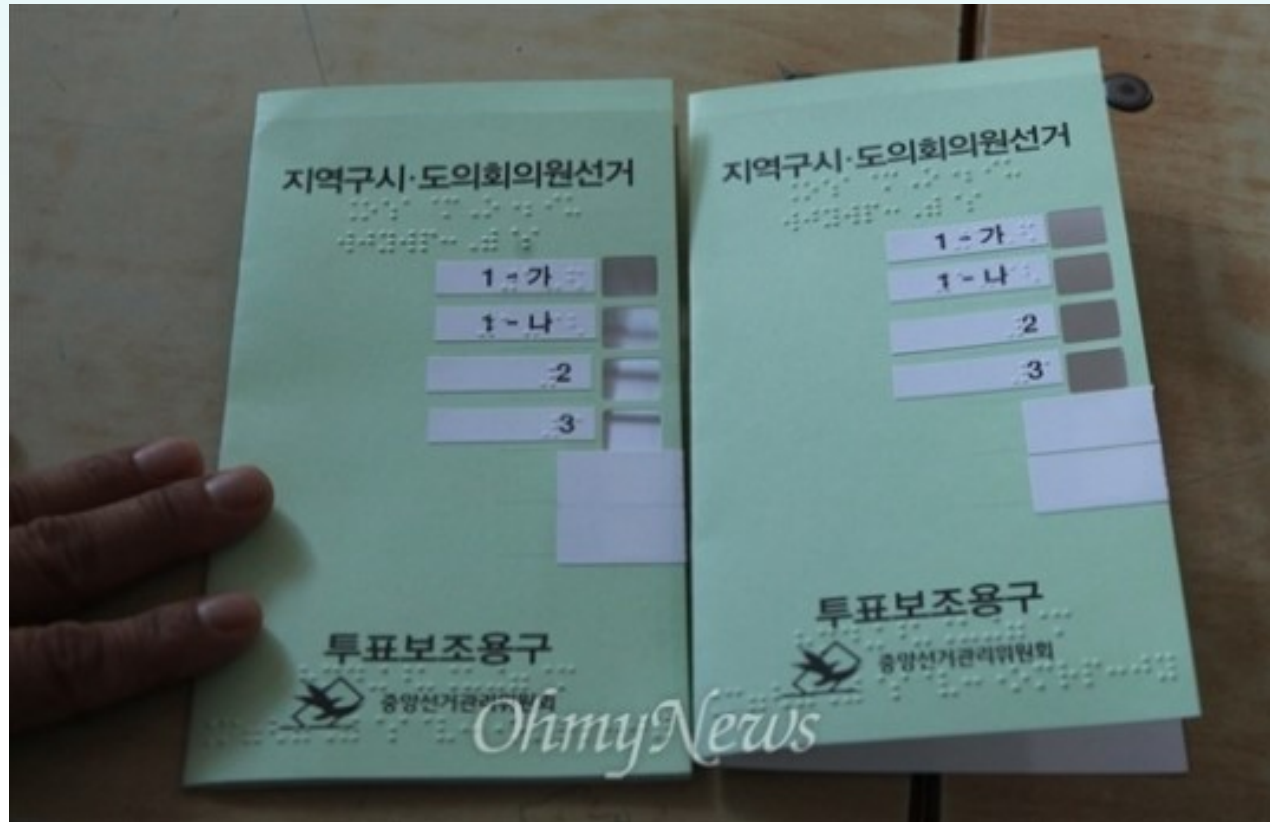




Table of contents

1. Mechanism for Disability Rights

2. Act on Anti-Discrimination based on Disability



Act on Anti-Discrimination based on Disability in Netherlands

- ❖ **Constitution**
- ❖ **Act on equal treatment on the grounds of disability or chronic illness**
- ❖ **Criminal code**
- ❖ **Building code**
- ❖ **Social Support Act**
- ❖ **Media Act**
- ❖ **Act on Reintegration of Labor Disabled**
- ❖ **Appropriate Education Act**

Act on equal treatment on the grounds of disability or chronic illness

3 Apr 2003 enacted
1 Jan 2005 enforced

Legal structure

6 Chapters, 15 Articles

- General Provisions
- Employment
- Education, Residence
- Public Transport
- Legal Protection
- Final Provisions

Legal structure

6 Chapters, 15 Articles

- General Provisions
- Employment
- Education, Residence
- Public Transport
- Legal Protection
- Final Provisions



Act on Anti-Discrimination based on Disability in Korea

- CONSTITUTION OF THE REPUBLIC OF KOREA
- ACT ON THE PROHIBITION OF DISCRIMINATION AGAINST DISABLED PERSONS, REMEDY AGAINST INFRINGEMENT OF THEIR RIGHTS
- ACT ON WELFARE OF PERSONS WITH DISABILITIES
- EMPLOYMENT PROMOTION AND VOCATIONAL REHABILITATION OF DISABLED PERSONS ACT
- ACT ON SPECIAL EDUCATION FOR THE DISABLED PERSONS
- ACT ON GUARANTEE OF PROMOTION OF CONVENIENCE OF PERSONS WITH DISABILITIES, THE AGED, PREGNANT WOMEN
- ACT ON PROMOTION OF THE TRANSPORTATION CONVENIENCE OF MOBILITY DISADVANTAGED PERSONS

ACT ON THE PROHIBITION OF DISCRIMINATION AGAINST DISABLED PERSONS, REMEDY AGAINST INFRINGEMENT OF THEIR RIGHTS

10 Apr 2007 enacted

11 Apr 2008 enforced

Legal structure

6 Chapters, 50 Articles

- General Provisions
- Unlawful Discrimination
- Women and Children with Disabilities
- Remedies
- Compensation for Damage
- Penalties

Scope of Unlawful Discrimination

- Employment
- Education
- Goods & Services
- Judicial & Administrative Services
- Home & Welfare facilities
- Harassment

Definition of Discrimination based on Disability in Netherlands

- **Direct Discrimination**
discrimination on the grounds of a real or alleged disability or chronic illness
- **Indirect Discrimination**
discrimination on the grounds of traits or behaviour

Definition of Discrimination based on Disability in Korea

1. Direct Discrimination

Treating persons with disabilities unfavorably through restriction, exclusion, segregation or denial based on disability without legitimate grounds

2. Indirect Discrimination

Applying disability-blind standards that cause persons with disabilities to be unfairly treated without legitimate grounds despite there are no unfavorable treatment, such as restriction, exclusion, segregation or denial

Definition of Discrimination based on Disability in Korea

3. Refusing to provide legitimate accommodation to persons with disabilities without rational reasons
4. advertisement that indicates or encourages the unfavorable treatment of persons with disabilities, such as restriction, exclusion, segregation or denial without rational reasons
5. Committing above mentioned acts against individuals representing or accompanying persons with disabilities for the purpose of offering assistance

Prohibition of Employment Discrimination in Netherlands

Article 4

Discrimination is prohibited in:

- a. offering a job and the treatment in filling a vacancy
- b. entering into and terminating an employment relationship
- c. the appointment as a civil servant and the termination of employment as a civil servant
- d. assistance with finding work
- e. terms of employment
- f. allowing people to attend education and training during and prior to an employment relationship
- g. promotion
- h. working conditions

Prohibition of Employment Discrimination in Korea

Article 10

An employer shall not discriminate against persons with disabilities in regards to **job application and hiring, wage and benefit plans, job training, placement, advancement or transfer, and retirement, resignation or layoff.**

Duty to Provide Legitimate accommodation for Employment

Installing or modifying equipment or devices

- Adjusting working hours for rehabilitation, treatment, etc
- Offering training opportunities or accommodation in training
- Modifying instruction manuals or reference materials
- Improving examination or evaluation procedures
- Installing and operating auxiliary devices, such as text reading or enlarging programs, paperless Braille handsets, magnifying readers, or print-to-voice converters, and placing available supporting staff, including qualified readers and sign language interpreters.

Prohibition of Education Discrimination in Netherlands

Article 5b

It is not allowed to make a distinction when granting access to, offering, administering tests and at the completion of education as referred to in the **Primary Education Act** and **Secondary Education Act**, to the extent not included in Article 6.

Article 6

Discrimination is prohibited in:

- a. granting access to and offering career planning and career choice information
- b. granting access to, offering, examining and concluding **education aimed at entry and performance in the labour market**

Prohibition of Education Discrimination in Korea

Article 13

1. Any education officer shall not reject the enrollment or support for enrollment of persons with disabilities or compel them to transfer to another school.
2. Any education officer shall not restrict, exclude or reject the participation of persons with disabilities in all within and outside school activities, including specific lessons, experiments, training, field trips and educational trips, by reason of their disabilities

Scope of Educational Institutions Prohibited from Discrimination

- Daycare facilities
- Elementary, Secondary, Higher school
- Vocational learning and training institutions
- Lifelong Education facilities

Duty to provide Legitimate Accommodation for Education

1. Renting and repairing transportation aids to ensure that persons with disabilities shall not be disadvantaged with respect to commuting to, as well as mobility and access within, educational institutions
2. Assigning teacher assistants if needed by persons with disabilities or their related persons
3. Renting magnifiers, hearing aids, height adjustable desks, and various alternative and supplementary communication tools, as well as assigning a guide dog or securing space for wheelchair access, to help eliminate any disadvantages for participating in learning based on disability

Duty to provide Legitimate Accommodation for Education

3. Providing communication tools and various disability aids necessary for educating persons with visual or hearing impairments, including sign language interpretation, voice-to-writing conversion (stenography), Braille materials, captions, large typeset materials, text reading or enlargement programs, hearing aids, paperless Braille units, and print-to-voice converters
4. Offering adequate teaching and evaluation methods through learning diagnosis in applying school curricula

Prohibition of Residence Discrimination in Netherlands

Article 6b

It is prohibited to make a distinction when :

- a. offering housing for occupation;
- b. concluding, performing, amending or terminating agreements concerning the leasing, buying or occupying of housing for personal use
- c. mediating with respect to an agreement as referred to at b
- d. drawing up, performing or amending regulations as referred to in Article 111, at d, of Book 5 of the Dutch Civil Code
- e. registering as person looking for a house.

Prohibition of Residence Discrimination in Korea

Article 16

**Without any legitimate grounds,
an owner or manager of land or a building
shall not restrict, segregate, exclude or
reject persons with disabilities in relation
to the purchase, sale, lease, occupation or
use of such land or building.**

Prohibition of **Public Transportation** Discrimination in Netherlands

What is public transportation?

Prohibition of **Public Transportation** Discrimination in Netherlands

Article 7

passenger transport open to all in accordance with a timetable by bus, train, metro, tram or a vehicle propelled by means of a guide system

Prohibition of **Public Transportation** Discrimination in Netherlands

Article 8

Discrimination is prohibited in:

- a. granting the access to the buildings and infrastructure associated with the public transport which is required in order to travel;**
- b. offering public transport services and travel information;**
- c. concluding, executing or terminating contracts relating to public transport.**

Prohibition of **Public Transportation** Discrimination in Korea

What is public transport?

- **Bus**
- **Subway**
- **Train**
- **Airplane transporting passenger**
- **Ship transporting passenger**

Prohibition of Public Transportation Discrimination in Korea

Article 19

1. Transportation entrepreneurs and transportation administrative agencies shall not restrict, exclude, segregate or reject persons with disabilities from having access to and use of means of mobility and transportation.
2. Transportation entrepreneurs and transportation administrative agencies shall not deny persons with disabilities of the ride, admittance or use of guide dogs and auxiliary aids in using means of mobility and transportation.

Duty to provide Legitimate Accommodation for the use of public transportation

Transportation entrepreneurs and transportation administrative agencies shall provide legitimate accommodation(e.g. **Announcement, Text Information, Facilities for wheel chair access**, etc) necessary to allow persons with disabilities to equally use means Of mobility and transportation.

Low Floor Bus & Taxi for the disabled



Legal Protection

Legal Protection in Netherlands

Article 9

1. Termination of the employment relationship by the employer contrary to article 4 or because of the fact that the employee has invoked section 4 at law or otherwise is subject to annulment.
3. A legal action relating to the annulment will be barred after a period of six months following the day on which the employment relationship has ended.
4. The termination described in the first paragraph does not make the employer liable to pay damages.

Legal Protection in Netherlands

Article 12

Human Rights Institute can investigate whether discrimination is taking place or will take place as described in this Act and whether acts contrary to article 2 of this Act have taken place.

Criminal Code

Article 429quater

1. Any person who, in the exercise of an office, profession or business discriminates against persons because of their race, their religion, their belief, their gender or their sexual preference **shall be punished with imprisonment not exceeding two months or a fine of the third category** .
2. The same penalty shall be a person whose actions or omissions in the exercise of an office, profession or business, without reasonable cause, has the purpose or may have the effect with regard to persons with physical, psychological or mental handicap recognition, enjoyment or exercise, on an equal footing of human rights and fundamental freedoms in the political, economic, social or cultural fields or in other areas of social life, is being nullified or impaired.

Legal Protection in Korea

Article 39 (Investigation by authority)

Even if no complaint is filed as set forth in Article 38, the Commission may conduct an investigation if there is a sufficient ground to believe that a discriminatory act prohibited under this Act has been committed and that the substance of such act is grave.

Legal Protection in Korea

Article 44(remedial order)

if discriminator does not comply with such recommendation without any legitimate grounds, Minister of Justice may issue a remedial order.

Article 50 (Fines)

Any person failing to carry out a remedial order as finalized under Article 44 without any legitimate grounds shall be subject to a fine not exceeding KRW thirty million.

Legal Protection in Korea

Article 49 (Malicious Discriminatory Act)

1. If the court finds that a discriminatory act that is prohibited under this Act has committed and such act was malicious, the court may sentence the discriminator to an imprisonment of not more than three years or monetary penalty not exceeding KRW thirty million.
2. Malice as used in paragraph (1) shall be determined after considering all of the following:
 - a. Willfulness of the discriminatory act;
 - b. Continuation and repetition of the discriminatory act;
 - c. Retaliation against the victim of discrimination; and
 - d. Substance and extent of injury incurred from discrimination.

Legal Protection in Korea

Article 46 (Compensation for Damages)

Any person who injures others in violation of any provisions under this Act is liable to compensate for damages to the injured unless the discriminator proves that such act was not intentional or negligent.

Thank you

