



Ms Věra Jourová
Vice-President
European Commission
Rue de la Loi 200
1049 Bruxelles

Re: Condemning Dutch Child Benefit Scandal

Brussels
1 February 2021

To: Vice-President Věra Jourová
Cc: Commissioner Helena Dalli, Commissioner Didier Reynders

Honourable Vice-President, Honourable Commissioners,

Anti-Racism and Diversity Intergroup (ARDI) exists to promote racial equality and counter racism. We are at the heart of the EU work for racial equality and against all discrimination based on racial or ethnic origin. Combatting structural racism is one of our top priorities. We are proud of our joint and constant search for the most constructive ways to prevent and fight against different forms of racism.

Last year was important concerning the anti-racism policy development. The European Parliament [resolution](#) of 19 June 2020 on the anti-racism protests following the death of George Floyd strongly condemned racism, white supremacy and recognised the importance of fighting against structural racism above all. ARDI cooperated on and welcomed an important initiative developed by the European Commission that followed few months later - [EU Anti-Racism Action Plan 2020-2025](#), and in particular the fact that for the first time, the EU addresses structural racism in the European Union through an EU-wide policy.

It is important that the EU implements the promised commitments now. EU authorities should therefore take a strong and decisive stand against institutional racism committed by the Dutch tax authority.¹ Injustice was done to at least 26,000 parents who were wrongly accused of fraudulently claiming childcare allowances. Families were pursued for fraud, ordered to repay thousands of euros in child support benefits and denied the right to appeal over several years from 2006. Numbers are likely to increase further as parents continue to report cases of unjustified accusations of fraud. It has been admitted by the tax authority that at least 11,000 parents were selected for an extensive inspection because of their ethnic origin or dual nationality. Cases were reported in which tax authority officials referred to parents as ‘little black people’ (‘zwartjes’) and ‘a nest of Antilleans’ (‘nest van Antillianen’).

Data on nationality was unlawfully used by the tax authority to draft general risk-classification models, placing parents with double nationalities under strict supervision without rightful justification.² An attorney defending

¹ More about the case at <https://www.volkskrant.nl/nieuws-achtergrond/autoriteit-persoonsgegevens-werkwijze-belastingdienst-discriminerend~bccddca1/>, <https://nos.nl/artikel/2340965-toezichthouder-werkwijze-belastingdienst-discriminerend-en-onrechtmatig.html>, <https://fd.nl/economie-politiek/1351323/toezichthouder-belastingdienst-overtrad-privacywet>

² https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/onderzoek_belastingdienst_kinderopvangtoeslag.pdf

some of the families explained this targeted approach as “ethnic profiling by bureaucrats who picked out their foreign-looking names”.³ Similar cases are known in which Dutch public administrations have used risk-classification models based on nationality to detect fraud.

The Dutch Government has apologised and prepared an initial and preliminary 30,000 euros per family for compensation. After a parliamentary report, which concluded that “fundamental principles of the rule of law had been violated”, the Government resigned⁴. Despite the resigning of the Dutch Government, no clear prosecution has followed for the institutional racism that was an element of its policy over the last two decades.

Equal treatment and non-discrimination is one of the core values of the EU and enshrined in its Treaties, for instance in TUE Article 2, TFUE Article 10, 18, 19, 67(3) and the EU Charter of Fundamental Rights Article 20 and 21, where it states that any discrimination on grounds of nationality and ethnic origin shall be prohibited. Furthermore, the Racial Equality Directive has shaped the legal protection against discrimination on the grounds of racial or ethnic origin in the EU for over two decades. It prohibits direct and indirect discrimination on the grounds of racial or ethnic origin in the areas of employment and occupation, education, social protection including healthcare, social advantage, and access to and supply of goods and services available to the public. Now that the Commission has presented an ambitious Anti-racism Action Plan that commits both to fully using the potential of existing EU legislation and to monitor and report on the correct implementation of the Racial Equality Directive, it is of utmost importance to react swiftly and start an investigation.

We would like to ask the Commission the following questions:

1. Is the Commission of the opinion that the practices of the Dutch institutions are in conflict with existing EU legislation and the Directives on non-discrimination and equal treatment?
2. Can the Commission investigate potential violation of EU legislation, in this case discrimination based on ethnic origin and/or dual nationality in the field of social protection or social advantages?
3. Is the commission willing to investigate to which extent the Netherlands has transposed the Racial Equality Directive correctly? Is the Commission willing to follow this up by legislative proposals on potential shortcomings?
4. The Anti-Racism Action Plan also mentions that profiling that results in discrimination on the basis of special categories of personal data, such as data revealing racial and ethnic origin, is illegal. Will the Commission evaluate whether The Netherlands implemented the General Data Protection Regulation correctly?
5. Will the European Commission start an evaluation on whether the potential violation of EU legislation should lead to an infringement procedure in accordance to Article 258 of TFEU?

We are convinced that Europe needs racism and xenophobia to be combatted, so racialised communities are not no longer prevented from making the most of their potential. Racism and xenophobia are incompatible with the values of the EU and must be condemned within our institutions, by using maximum potential of existing legislative tools.

We look forward to your response.

Yours sincerely,
MEP Samira Rafaela, ARDI Co-President

Co-signed by civil society organisations:
S.P.E.A.K.
Controle Alt Delete
DeGoedeZaak

³ <https://www.volkskrant.nl/nieuws-achtergrond/alle-gedupeerde-ouders-in-toeslagenaffaire-kinderopvang-krijgen-30-duizend-euro-compensatie~b00d7c5c/>, <https://www.nrc.nl/nieuws/2020/12/22/30-000-euro-compensatie-voor-gedupeerde-ouders-toeslagenaffaire-a4024935>

⁴ <https://www.theguardian.com/world/2021/jan/14/dutch-government-faces-collapse-over-child-benefits-scandal>