



Commissie **Gelijke** Behandeling

Discrimination? Seeking the Underlying Mechanisms

An investigation into systematic discrimination at The Hague University on the Equal Treatment Commission's own initiative

14 May 2009

1. Introduction

This is the report of the investigation into systematic discrimination at The Hague University (THU) on the initiative of the Equal Treatment Commission (CGB). The first chapter gives a description of the cause for, the objective of, and the approach to this investigation on the CGB's own initiative. Chapter 2 subsequently gives an outline of the most important results of the investigation into the situation at THU (see the Appendix for the complete report). Chapter 3 formulates the findings and conclusions of the CGB.

1.1. Cause

In this report, the CGB reports on an investigation on its own initiative into the systematic discrimination at THU. The cause for this investigation originated from several requests for an opinion from lecturers and students at THU, which had been submitted to the Commission in 2007, about alleged discriminatory treatment on the ground of race. In 2008, two requests – one of which originated from one lecturer who was attached to the department of *Maatschappelijke Werk en Dienstverlening (MWD)* [Social Work and Services] and one from a lecturer who worked for several Departments – resulted in an opinion in which the CGB concluded that THU discriminated illegally on the ground of race.

CGB's investigation into these two cases revealed numbers of facts and circumstances which caused the CGB to suspect that, in particular at the MWD department, but in all likelihood also across THU, systematic discrimination existed. This suspicion was particularly based on the statements of eight witnesses, reports of discussions, descriptions of organisation plans, organisational policy, and spontaneous applications from THU students and staff members to make a statement before the CGB without having been summoned to this effect. In addition to this, new requests received by the CGB and the signals about the reactions at THU in response to the opinions issued by the CGB provided indications that pointed in the same direction.

During the investigation, it was revealed that a previous investigation (M. Winter, 1999) had established that at one sub-department of the university (to which many of the requests for an opinion were related) a culture existed in which discriminatory jokes were made about women, homosexuals, and non-native Dutch people. The results of this investigation had, however, not been translated sufficiently into changes in the organisation.

Finally, the circumstance that a problematic relationship existed between – different groups of – non-native Dutch students and – different groups of – native Dutch students at the university (or at least within certain departments of the university) was also an indication for the suspicion that the problems had exceeded the individual level and no longer occurred incidentally. These circumstances pointed to a wide range of problems that has become deeply rooted in the culture of specific departments of THU. There were also indications that the attention paid to these problems by THU was apparently not effective.

1.2. Investigation on CGB's own initiative

It was precisely because the problems found had exceeded the individual, incidental level, and because the suspicion of *systematic* discrimination had been aroused, that the

Commission decided – after careful consideration – to conduct an investigation on its own initiative. An investigation on the CGB’s initiative is an instrument that is pre-eminently suitable to prove the existence of systematic discrimination and to obtain insight into the mechanisms underlying this discrimination. This would ensure that these mechanisms will be recognised, prevented, and combated more effectively in the future.

By means of this investigation on its own initiative, the Commission wanted to look for patterns that were possibly occurring at THU and for explanations or mechanisms that were helping to maintain these patterns. Making these patterns visible is after all the first step to being able to develop points of reference to prevent **discrimination**, although prevention is, of course, THU’s own responsibility.

Power

The Commission derives its power to conduct an investigation on its own initiative from Section 12 of the Dutch Equal Treatment Act:

‘The Commission may, on written request, investigate whether a situation of discrimination has occurred or is occurring as referred to in this Act, the [Dutch] Equal Opportunities (Public Service) Act, or Section 646 of Book 7 of the [Dutch] Civil Code, and issue its opinion on this. Furthermore, the Commission may, on its own initiative, investigate whether such discrimination is systematic, and issue its opinion on this.’

The Memorandum of Explanation states that, in its decision to conduct an investigation on its own initiative, the CGB must be guided by signals from society and/or any requests it has received. The investigation may not concern incidents; there must be a suspicion of systematic discrimination in a specific sector or line of business or at one specific company or institution. It will then be clear that **such investigations** must concern systematic forms of unequal treatment.

This is the first time that the Commission has used its power to investigate one organisation since this power was established in the middle of 2005.

1.3. Objectives of the investigation on the CGB’s own initiative

With this investigation on its own initiative, the Commission’s aim was to assess whether or not systematic discrimination was occurring at THU, or within departments thereof, and to find the possible explanations for this discrimination. The following objectives had been defined for this investigation:

1. To obtain insight into the presence, nature, and scope of discrimination at THU – and in particular at the MWD Department – on the ground of ethnical origin. The main focus in this context was on analysing the mechanisms and patterns that caused people to be discriminated against, or to feel discriminated against.
2. To obtain insight into possible problem-solving strategies which can achieve a discrimination-free learning and working environment in the specific situation at THU, and which could also be applied more in general.

1.4. Approach adopted for the investigation on the CGB’s own initiative

With its decision to conduct an investigation at THU on its own initiative, the CGB realised that it was using a heavy instrument, as a result of which THU would – once again – be put in the spotlight.

Prior to the investigation on CGB's own initiative, the relationships the subject of discrimination had polarised considerably with respect to the subject of discrimination. The CGB consequently deemed it of great importance **to ensure** that the situation at THU would not destabilise or deteriorate as a result of the use of an investigation on its own initiative, but that the investigation could be used as a first step in a process in which the university aimed at preventing and combating systematic discrimination. At the start of the investigation, the CGB sought (and received) the co-operation of THU and endeavoured to safeguard this co-operation throughout the investigation. The intention to conduct an investigation on its own initiative was first of all discussed with THU's Executive Board.

It was agreed to have the situation at THU investigated by an independent investigation agency, to be selected by the CGB in consultation with THU's Executive Board. After a tendering procedure, the CGB finally decided to have the investigation conducted by De Beuk management consultancy. The investigation by De Beuk was monitored by a monitoring committee with an independent chairman, a representative from THU, and a representative from the CGB, in order to monitor the quality of the investigation.

De Beuk started its investigation in October 2008 and finished it in April 2009. The report of the investigation activities, the conclusion with respect to the terms of reference, and a number of recommendations related to these terms of reference made by the investigator were included in the report *Onderzoek naar discriminatie bij de HHS* [Investigation into Discrimination at THU] (De Beuk, 2009: see Appendix). THU's Executive Board reacted verbally and orally to the contents of the report before the Commission on 22 April 2009. In its reaction, the Executive Board indicated that it acknowledged the results of the investigation and endorsed the conclusions. In addition, it announced that it would include the recommendations expressed in the report in its plan of action for the next period.

On the basis of the results of the investigation in the De Beuk's final report and the reaction to this report by THU's Executive Board on 22 April, the CGB will draw its own conclusions in this report, and it will assess whether or not a situation of systematic discrimination existed at THU, or within departments thereof (see also in Chapter 3).

2. Investigation by De Beuk

This chapter contains the terms of the assignment for the investigation by De Beuk (Section 2.1) and outlines the main points of the results of the investigation by De Beuk. The complete report of the investigation can be read in the report *Onderzoek naar discriminatie bij de HHS* [Investigation into Discrimination at THU] (see Appendix). As indicated in Section 1.3, the Commission wanted to obtain insight into the presence, nature, and scope of discrimination as well as into the mechanisms and patterns that caused people to be discriminated against or to feel discriminated against. The conclusions have been broken down into several categories: the findings about the interpretation of the concept of discrimination, the nature and scope of discrimination, and the explanatory mechanisms found.

2.1. Terms of reference for the investigation assignment

For the investigation assignment to be carried out by De Beuk, the objectives of CGB's investigation on its own initiative were translated in the following questions for investigation:

1. Are there any mechanisms at THU which make it more likely for people to be put at a disadvantage, or to be discriminated against, on the ground of origin-related characteristics, or which cause people to feel disadvantaged or discriminated against, and if so, what are these mechanisms?
 - a. What do staff members and students consider the strong/weak points of the existing university culture?
 - b. What problems have been experienced by staff members and students in the area of treatment by colleagues, the management, and lecturers? How have they dealt with these problems?
 - c. What factors have caused these problems? Think of factors in the broader, social context, but also of factors that are more specifically linked to the institution.
2. Which solutions (more and less effective) are available for the mechanisms found?
 - a. Which solutions work and which do not work, why, and on which preconditions?
 - b. What new ideas and solutions could be suggested?

The investigation by De Beuk focused on the question of the systematic occurrence of **discrimination**, so it was not focused on incidents and specific cases caused by conflict situations. An important part of the question of systematic occurrence of discrimination is the question whether the discrimination only existed at the MWD Department or whether it also existed at other departments of THU. It was therefore decided not to strictly limit the investigation to the MWD Department, but to also involve another Department for the sake of comparison. In this way, it was possible to distinguish the possible causes that are Department specific or institution wide. It was decided to select the *Commerciële Economie* ([Commercial Economics](CE) Department, which falls under the Academy of Marketing & Commerce. As regards staff composition (the proportion between non-native Dutch and native Dutch staff members), this Department is comparable to the MWD

Department, but had a different profile for the subject-matter of the investigation. THU's Executive Board was also of the opinion that no specific problems were occurring in the area of discrimination at the CE Department.

2.2. Results of the investigation

2.2.1 Conclusions about the concept of discrimination: There was a confusion of tongues

It was revealed that staff members and students at THU assigned different meanings to the term 'discrimination'. People interpreted the concept of discrimination differently, and consequently judged the same situation or remark differently: a broad interpretation versus a limited interpretation of the concept. The limited interpretation means that something is considered 'discrimination' if another person has been intentionally disadvantaged. The broader interpretation means that something is considered discrimination if the result of it is experienced as such. This applies irrespective of whether it was the intention to discriminate or disadvantage someone. This difference in interpretation resulted in the fact that at THU, the native Dutch staff members and students often felt falsely accused of something that, in general, they strongly denounce. The result was that they took the accusations seriously, and would do everything they could to refute the accusation. To non-native Dutch staff members and students, this meant that they did not receive any recognition for what they had perceived as discrimination, which only strengthened their perception of it. XXX

2.2.2 Conclusions about the nature and scope of discrimination: Discrimination exists at The Hague University

The investigation revealed that both non-native Dutch *and* native Dutch students, as well as lecturers, felt discriminated. In its investigation report, De Beuk concluded that there is not only a perception of discrimination but that discrimination is also actually occurring (although more frequently at MWD than at CE). Situations mentioned by non-native Dutch and native Dutch staff members and students in De Beuk's investigation report are the following:

- 'Jokes', offensive or patronising remarks are made about people with 'other' skin colours, religions or from 'other' origins; people are pigeon-holed and stereotyped: 'that is typically Turkish', 'girls with headscarves are oppressed', 'being pregnant (of students with a Muslim background) is most probably not their own choice', etc;
- People from the one ethnic group are given good jobs sooner than people from another ethnic group: vague application, appointment, and promotion procedures, as a result of which at least the impression was created that it was easier for native Dutch people to get a job, promotion or permanent appointment. There is no clear explanation about the reason for the differences in appointments, permanent appointments, and so on;
- Non-native Dutch people are depicted as the people with problems, as the people seeking help, or as the people causing trouble;
- The qualities of non-native Dutch lecturers and students are assessed as lower than those of native Dutch lecturers and students: people always apply to or approach native Dutch colleagues first, not suggestions by non-native

Dutch colleagues about changing teaching materials are not taken seriously, hesitations occur about which students may participate in a group, etc.;

- Complaints about discrimination are not taken seriously: several issues remained unsolved, complaints handling and conflict settlement are not well organised;
- In practice, the requirement of writing perfect Dutch was enforced in different ways, whereas the requirement itself was a source of tension;
- Instances where someone imposes their own religion or life style on somebody else. In particular the native Dutch people concerned also referred to this as 'reverse discrimination': the feeling or experience that you cannot speak freely about or refer to matters that constitute core values to 'you': equal relationships between men and women, right to freedoms of choice such as sexual orientation, and so on.

The investigation revealed that discrimination occurred more frequently and was experienced more frequently at the MWD Department than at the CE Department and that the degree in which this discrimination was experienced differed by group level, namely as follows:

- Students **experienced discrimination** more strongly than staff members;
- Non-native Dutch people **experienced this** more strongly than native Dutch people;
- Female students **experienced this** more strongly than male students; and
- Full-time students **experienced this** more strongly than part-time students.

2.2.3 Mechanisms that influenced the occurrence and continuation of discrimination: Mechanisms were found at the levels of society, The Hague University, and the MWD Department.

The investigation revealed that in society, at THU in its entirety, and within the specific Departments, there were mechanisms that influenced the occurrence and continuation of discrimination and experiences of discrimination at THU.

Mechanisms in society

Mechanisms in society that appeared to have an influence are: (a) the intensification of the public debate; (b) the taboo on discrimination; and (c) changes in the student population.

- a. Both non-native Dutch and native Dutch people concerned are experiencing – to a greater or lesser extent – a negative effect from the intensification of positions and awareness around ethnicity and religion in the public debate. As a result of THU's active policy to recruit non-native Dutch students, and its location in the Laakkwartier district in The Hague, among other things, THU is actually a forerunner at the university in the area of diversity and in the area of furthering the interethnic and interreligious debate at the university. The negative effect of this is being felt in the interethnic climate and the mutual relationships during class. The degree in which this makes itself felt differs by organisational department;

- b. The taboo on discrimination in the Netherlands is translated into specific reaction patterns when the term 'discrimination' is used (denial, misunderstanding, trivialisation, and incidents), which makes it extremely difficult to deal with it adequately.
An added result was that it had become difficult to deal with this issue in a more relaxed way, or to discuss experiences of discrimination;
- c. The increasing diversity in the student population requires a painstaking search by lecturers to find the right match between a learning assignment and the mixed group. This can sometimes cause unexpected tension about subjects that were entirely neutral to a lecturer. This tension and the way in which this has had its bearing on the climate and pace in class, has increased the 'us/them' feelings. If a lecturer fails to act adequately on this problem, this can sometimes be experienced as discrimination by students, whereas the lecturer is given the feeling that a standard was forced upon him/her that was not his/her own.

The influence of policy and culture at The Hague University

At the THU level, the means have been made available for diversity in the form of manpower and money from the honest ambition to position the university well and to make it function in a multi-ethnic society.

The strong focus from the top on diversity has, however, not been accompanied by a clear implementation strategy. The result of this has been that the implementation of the objectives around diversity has become dependent on individuals who are willing to stand up for it. The discrepancy between what people on the shop floor are experiencing, and the optimistic message at the organisational level, has not increased the level of support, but has instead caused scepticism.

The influence of policy and culture at the MWD Department

Within the MWD Department, the dynamics are more intense than at the other Departments. This does not mean that discrimination does not exist or is not being experienced at the CE Department. Within MWD, the specific combination of normative subject matter, and a strong orientation on values and other issues by staff members and students, creates a culture in which issues are more likely to become personalised and the absence of management and unclear staff policy constitute an important basis for the occurrence of discrimination or experiences of discrimination.

This is nourished by the style of debate. MWD staff members debate on the basis of points of view and strong opinions, not by adopting an investigative attitude. This style is causing stagnation and a situation of 'going round in circles' in respect of intercultural issues. This also results in the fact that in class, the lecturers are at a loss as well: they cannot propagate a shared intercultural view of the profession. This in its turn leaves much room for discussion - usually fruitless - with students and among students, and it confirms an 'us/them' feeling on both sides, both among the staff members and among the students.

In addition to this, the staff members at the MWD Department appear to link the personal and professional issues more frequently. As a result of the normative subject matter of the Department, personal views on 'life issues' (such as education and relationships between men and women) can be – and are – sometimes interwoven in the lesson content. This has resulted in the fact that, during discussions on these issues, lecturers can be affected personally by views of students and that (non-native Dutch) students can or actually do interpret the subject matter as the lecturer's personal views, instead of something that is a generally accepted view. In addition, there are also

situations in which lecturers clearly show their surprise or disapproval about 'other' views of non-native Dutch students, or about those views as they *perceived* them within specific communities. Among MWD staff members, personal emotion in discussions about intercultural issues was observed as well.

In addition, at the MWD Department – and for that matter also at the CE Department – specific professional and regular attention to **the question of** how staff members can deal with intercultural issues and difficult discussions in class was lacking. The absence of management, **as well as** the leeway taken by staff members to deal with 'the rules of the game' and the procedures at their own discretion, creates room for discrimination and the perception of discrimination.

Finally, the lack of clarity around **the process of** entering into or changing working relations has paved the way to situations of discrimination or perceived discrimination, even if only because suspicions continue to exist, and nobody has refuted these with facts, as a result of which the discussion is once again not dealt with.

3. CGB's Findings and Conclusions

CGB's investigation on its own initiative must enable the CGB, as described in Chapter 1, to assess whether or not a situation of systematic discrimination is present at THU, or within departments thereof, and to find the possible explanations for this discrimination. On the basis of its statutory power (Section 12 of the Dutch Equal Treatment Act), the CGB will discuss in this chapter whether or not a situation of systematic discrimination does exist **at THU**.

In order to be able to establish this, the CGB used the results of De Beuk's investigation into the presence, nature and scope of discrimination at THU – and in particular at the "MWD" Department – on the ground of ethnical origin. The CGB has also used the insights resulting from De Beuk's investigation about the mechanisms and patterns that have constituted the basis of the cause and continuation of the discrimination, as this will make it possible to determine problem-solving strategies which can achieve a discrimination-free learning and working environment in the specific situation at THU, and which could also be applied more in general.

The CGB has established that THU did not contest – nor did it refute – the results of the investigation by De Beuk. The investigation was conducted on the principle of hearing both sides of the argument. During the meeting with the CGB on 22 April 2009, THU not only indicated that it acknowledged the results of the investigation by De Beuk, but that it also fully endorses the conclusions. The investigation and conclusions made by De Beuk are consequently the basis of CGB's own findings and conclusions.

In order to be able to assess whether or not a situation of systematic discrimination was occurring **at THU**, the CGB will first discuss the ground(s) of discrimination that is/are under discussion here. It will subsequently assess whether or not – and if so, what form of – discrimination is occurring (whether systematically or not), what explanations there are, and what possibilities there are to deal with it.

3.1. Ground: Ethnic origin in combination with religion

As already referred to above, CGB's investigation focused on discrimination on the ground of ethnic origin.

Legally, ethnic origin falls under the concept of race, which concept is interpreted by the Commission in accordance with the definition included in the International Convention on the Elimination of All Forms of Racial Discrimination and in accordance with established case law of the Supreme Court of the Netherlands. It also includes: skin colour, origin, and national or ethnic descent.¹

Many examples in De Beuk's investigation report revealed that at The Hague University (or at least within departments thereof) a situation of discrimination (or perceived discrimination) exists, which has to do with religion and religious expressions of, in particular, Islamic students. Religion, religious expressions and behaviours fall under the concept of religion. In accordance with the right to freedom of religion safeguarded by the Dutch Constitution and the human rights treaties, the concept of religion must be interpreted broadly. The concept does not only extend to honouring religious conviction, but also to being able to behave accordingly.² The latter aspect of the freedom of religion, also referred to as 'freedom of action', is intended, among other things, to enable the people concerned to arrange their lives in accordance with religious rules and regulations, and to also give shape to this in the social situations and living environment in other respects. In keeping with this, the Equal Treatment Act also provides protection

¹ *Parliamentary Papers II*, 1990-91, 22 014, no. 3, p. 13 and established case law of the Supreme Court of the Netherlands since HR 15 June 1976, NJ 1976, 551, with commentary from Van Veen.

² *Parliamentary Papers II* 1990/91, 22 014, no. 5, pp. 39-40; compare *Parliamentary Papers II* 1975/76, 13 872, no. 3, p. 29.

for behaviours that, also in view of the meaning of religious rules and regulations, give direct expression to a religious conviction.

Now that in THU's practice both grounds are linked to each other, as referred to above, in such an inextricable degree that it is hardly possible to consider the two grounds separately, the CGB will focus its opinion on the grounds of race and religion.

3.2. The concept of discrimination (referred to in the Equal Treatment Act as 'prohibited distinction')

The investigation by De Beuk revealed that at THU the concept of discrimination is interpreted differently. As a result of this, the same situation or remark is interpreted differently. There is a broad interpretation and a limited interpretation of the concept. As emerged from the investigation, this difference could often be explained on the basis of ethnic origin. After a number of experiences and seeing what happened to other non-native Dutch colleagues, non-native Dutch people have adopted a broad interpretation, whereas native Dutch people have emphasised that something is considered discrimination if it is also *intended* as discrimination. The *intention* is important in this context, whereas non-native Dutch people regard the *effect* of the discrimination as decisive for the question of whether or not something is considered discrimination, independently of the intention (see the investigation report by De Beuk for more detailed information).

The question is: When is something considered discrimination?

The CGB will assess whether or not a situation of discrimination exists at the university on the basis of the Equal Treatment Act³, for this Act provides an assessment framework for assessing whether or not actions and/or behaviours give cause for or result in discrimination. This makes a situation discriminatory or not. The purpose of the Equal Treatment Act is to combat or prevent discrimination, among other things, on the ground of race, as a result of which people or groups of people are excluded from the working or learning environment. This Act consequently prohibits discrimination, in both direct and indirect form, on the ground of race and religion. The latter is the case if a neutral requirement is set, which, however, results in the fact that a specific group of people, in relation to one of the grounds of discrimination, is affected.

In order to be able to establish direct or indirect discrimination, the Equal Treatment Act provides that it is insufficient if there is only a perception of discrimination (i.e. only the effect of the discrimination is felt). It is also necessary to submit facts and circumstances that lead to a suspicion of discrimination. In this context it is, however, not important whether the person committing the discrimination also had the intention to discriminate. Behaviour with the intention to exclude or discriminate people or groups of people is, of course, most painful for the people concerned, but it is not essential to the assessment.

3.3. Systematic discrimination

For the purpose of its assessment, the CGB has established that De Beuk concluded in its investigation report that discrimination is occurring in the working and learning environment at both departments investigated. Although it emerged from De Beuk's investigation that, in addition to feelings, it was not possible to establish hard facts and circumstances in all (individual) cases on the basis of which the existence of discrimination could have been concluded with certainty, it was established that patterns of discrimination do occur. These patterns appear to be based on mechanisms at different levels. There are, for instance, interrelated and interacting mechanisms at the

³ Section 1 in conjunction with Section 5, opening words and first subsection (prohibition of discrimination in recruitment and selection, terms and conditions of employment and working conditions) and Section 7, first subsection, under (c) of the Equal Treatment Act (prohibition of discrimination in the learning environment).

level of society, at THU level, and at the level of the MWD Department, which cause a situation of systematic discrimination, in particular, at the MWD Department. These mechanisms, as emerged from De Beuk's investigation, are jointly contributing to the development of a 'breeding ground' which makes it possible for the experiences of discrimination to occur with some regularity at this department. As a result of this, these incidental experiences jointly have developed into patterns which give the discrimination a systematic nature.

On the basis of what has been established in the investigation report, the CGB can only conclude that there are mechanisms (mostly hidden) at the different levels at THU, which together make it possible that systematic discrimination (or the perception thereof) has occurred, and continues to exist.

This occurs, in particular, at the MWD Department, because here patterns were observed, in the discrimination that was established, which are caused by a combination of type of students and staff members, subject matter, culture, guiding principles, and policy. In the specific environment of the MWD Department, individual experiences have accumulated into a pattern of discrimination, against which the people concerned receive insufficient protection from the executive and administrative level of THU. In such an environment, individual experiences of discrimination have degenerated into a pattern which results in the fact that to the staff members and students, incidents are no longer incidents but a perceived conscious and systematic discrimination of groups. This combination of mechanisms is not occurring at the CE Department.

Finally, the Commission points out to THU that, although the investigation was exclusively aimed at the grounds of race and religion, the breeding ground described above could also easily give cause to discrimination (or the perception thereof) on other grounds, such as gender and sexual orientation.

Statutory duty of care of The Hague University to create a working and learning environment that is free of discrimination.

The above-mentioned mechanisms that, combined, can cause systematic discrimination, are partly outside and partly inside the sphere of THU's influence.

What statutory requirements must THU comply with?

The management of THU (the competent authority) had and has the statutory duty of care with respect to its staff members and the students to create a working and learning environment that is free of discrimination; it is also responsible for the actions of its staff members who exercise authority over others. This duty of care also includes the obligation to carefully investigate complaints about discriminatory treatment and, if necessary, to take appropriate measures.

The investigation by De Beuk revealed that THU should provide better protection to staff members and students against discrimination. By improving the implementation of its duty of care, THU will be able to prevent and combat discrimination (and the perception thereof) both at the institution's level and at the department's level.

Through a proper implementation of this duty of care, THU will essentially be able to ensure that the mechanisms described above do not influence each other in such a way that the breeding ground for systematic discrimination (and the perception thereof) continues to exist, for it emerged from De Beuk's investigation that THU did take its duty of care seriously, but that, so far, it has not succeeded in implementing this duty of care in a sufficiently effective manner. The executive staff of the organisation has not been able to ensure that the strong focus on diversity is accompanied by a clear implementation strategy, with explicit attention for non-discriminatory measures, nor has it implemented a similar focus on the awareness and skills of the executive and staff members (both native Dutch and non-native Dutch) in order to be able to deal properly with situations of discrimination in daily practice. This has resulted in the fact that incidents around discrimination have not been dealt with adequately, as a result of which the support from staff members and students for the management of THU, and its policy, has not come about. This does not only apply to non-native Dutch staff members and

lecturers, but also to part of the group of native Dutch staff members who feel abandoned by the management, because they are confronted with intercultural issues and tensions in respect of which THU has failed to develop a shared view and approach. In addition, the investigation showed that THU has not handled the complaints about discriminatory treatment in a sufficiently scrupulous manner.

3.4. Recommendations

The investigation by De Beuk shows that however complicated the situation is, there are still possible solutions for THU to use at the different levels. The investigation report formulates a number of starting points which THU can use to change and prevent the patterns that have developed around discrimination. These recommendations are formulated at the level of THU, at the level of the Academies and/or departments, and at the level of the MWD Department.

The Commission consequently orders THU's Executive Board to follow these recommendations, which may result in a strongly improved situation when implemented in combination. The CGB does, however, consider it of great importance that, at the institutional level, attention will at least be paid to the following:

1. *Implementation* of a diversity policy aimed at non-native Dutch people as well as native Dutch people;
2. Development of a non-discrimination policy to safeguard **the policy** that discrimination complaints will be investigated and handled carefully.

In this context, the Commission assumes that by the acknowledgement by THU of the findings of the investigation, opportunities have been created to reverse estrangement into conciliation. In addition to this, the results of the investigation provide starting points to the management and lecturers to **enable them to** strengthen each other in the professional focus on the educational profession.

THU's Executive Board has already indicated that it has adopted and incorporated all recommendations from the investigation report into its plan of action for the next period. This draft plan of action has already been made available to the Equal Treatment Commission. The decision by THU's Executive Board will be made in the summer of 2009.

3.5. Finger on the pulse (follow-up)

As usual in the case of assessments and recommendations, the CGB will request to be notified of the measures taken or to be taken on the basis of the notification of the conclusions of the investigation on its own initiative. In September 2009, it will request information from THU with regard to the decision about the plan of action and the final measures incorporated into it. The CGB will also request THU's Executive Board to inform it about the progress in the implementation of the measures for improvement. In this context, the CGB would like to note that it is aware of the fact that the improvement process, which was started by THU on the basis of this investigation, is rather a process of years than of months.

Broader interest; use of investigation results in the educational sector

As intended (see under 1.1), CGB's investigation yielded more than sufficient information; not only the parties concerned at THU can take advantage of this, but also the entire educational sector. The social and other causes of discrimination and the resulting patterns do not exclusively apply to THU, but could also occur in other organisations and/or educational institutions. The CGB is consequently of the opinion that the results of the investigation and the experiences of THU can be used as starting points by other organisations and/or educational institutions to identify which potential risk they are facing, with regard to discrimination. The investigation also provides starting points for measures to be taken to prevent discrimination incidents from becoming patterns,

and for realising how protective factors may be adopted into policy and culture. In the second half of 2009, the CGB will hold consultations with the broader educational sector to discuss the results and the measures to be taken.