

# ***NETHERLANDS HELSINKI COMMITTEE***

## **ANNUAL REPORT 2003**

This report was compiled by Niels van der Meulen  
English Revision by Peter Morris  
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P.O. Box 93132  
2509 AC  
The Hague  
The Netherlands  
Telephone: +31 (0)70 3926700  
Fax: +31 (0)70 3926550  
E-mail: [office@nhc.nl](mailto:office@nhc.nl)  
[www.nhc.nl](http://www.nhc.nl)



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## INTRODUCTION

For the Netherlands Helsinki Committee the year 2003 was exceptional. This was mainly due to the Netherlands OSCE Chairmanship-in-Office. The Netherlands, represented by its Minister for Foreign Affairs, Jaap de Hoop Scheffer, held this office for the first time in the history of the OSCE. In the past the NHC had lobbied to obtain the chairmanship for the Netherlands. Now that this had, in fact, occurred the NHC wished to contribute toward making the Netherlands' chairmanship a success for the Helsinki process. The NHC was therefore active in organising a number of activities.

One of the priorities of the Netherlands Chairmanship was trafficking. This included trafficking in drugs and small arms. However, its main focus was on trafficking in human beings, a problem throughout the OSCE region. As a result of the Netherlands' chairmanship activities, the OSCE Permanent Council adopted an Action Plan on July 24<sup>th</sup> 2003 which was, subsequently, approved on December 2<sup>nd</sup> by the 11<sup>th</sup> Ministerial Council in Maastricht. The Action Plan deals with trafficking in human beings and designates a Special Representative to counteract this crime. The Council also approved an action plan concerning the Roma and Sinti. (Previously, on October 20<sup>th</sup> 2003 the NHC had organised a round-table conference on 'new minorities' in which the latter two communities were also discussed).

Furthermore, the Netherlands Chairmanship-in-Office focused on the so-called 'frozen conflicts' in Moldova, Nagorno-Karabach, Abkhazia and South Ossetia. Unfortunately, none of these conflicts were resolved. Nevertheless, in some instances work was accomplished which may serve as elements for future solutions. The NHC organised a round-table conference on the conflicts in the Caucasus, with as its title: *Abkhazia, Nagorno-Karabakh and Chechnya: Challenges in the Caucasus for the Netherlands OSCE Chairmanship-in-Office*.

A further contribution by the NHC to the Chairmanship was the organisation in The Hague of a Seminar on *Human Rights and Terrorism*. This event took place on the 18<sup>th</sup> of September 2003 in the historic *Ridderzaal* (Hall of Knights) at The Hague. The seminar focused on tension between the protection of human rights and the combating of terrorism. The seminar was concluded by statements by the chairman, Prof. Pieter Kooijmans, a judge at the International Court of Justice, by the NHC and by the personal representative of the OSCE Chairman-in-Office, Ambassador Daan Everts. The NHC also published a reflection of the seminar's speeches and debates, supplemented with summaries.

Parallel to the OSCE Ministerial Council in Maastricht, the NHC – in co-operation with the International Helsinki Federation for Human Rights – organised an NGO conference on human rights in the OSCE region. During this meeting, representatives of several NGOs throughout the OSCE region presented and discussed their opinions on issues such as impunity in the OSCE area, religious freedom, the struggle against terrorism and trafficking in human beings. The NHC and IHF published the findings of this NGO conference in a brochure entitled *The OSCE challenged*.

In October 2003 the Council of Ministers of the European Union decided in Copenhagen that ten new countries would become members of the European Union on May 1<sup>st</sup>, 2004. For these new EU members the road towards accession was and still is not always easy. We therefore compliment them with the fundamental changes in their society towards democracy, respect for human rights and the rule of law that they have achieved in the last 15 years. On the other hand, the accession process will not terminate on May 1<sup>st</sup>, 2004. The European Commission and others, including the Dutch Parliament, still noted important shortcomings in the adoption and implementation of the *acquis communautaire* by new members states. Issues such as combating corruption, equal treatment of men and women, and the strengthening of administrative and judicial capacity will continue to require their attention as well as the attention of other national governments, the European Commission and the NHC. We will continue our efforts, within the context of our means and abilities, to support the new member states as well as the countries that will become members of the EU in a later phase, in effectively implementing the fundamental values of our societies: respect for human rights, respect for the rule of law and democracy.

In 2003 the NHC continued its activities relating to the EU enlargement. Many of our projects, of which several are presented in this report, contributed to the achievement of the EU accession criteria by the candidate countries.

Our work would not have been possible without the support of many people and organisations. The Minister for Foreign Affairs, as the Chairman-in-Office of the OSCE, and the OSCE Task Force gave us their support in order to enable us to function to a substantial extent as an NGO within the OSCE framework.

Our local partners in Central and Eastern Europe not only benefited from our projects, but also contributed to their results. The support and co-operation from governmental bodies was essential in this respect. In 2003 the NHC concluded projects with local partners of long duration, such as the Czech Union of Judges (since 1995) and the Magistrates Training Centre in Bulgaria (since 2000). We highly appreciate the trust which these organisations have placed in the NHC.

Our experts – judges, prosecutors, prison staff, police staff, university teaching staff, probation staff, human rights activists, experts on minority rights and anti-discrimination, organisational development experts and experts in teaching methods – were essential for the success of the NHC projects. Their knowledge and skills, their commitment and their enthusiasm greatly contributed to the high level of our activities.

The donors to our projects and programmes provided our partners and us with the necessary financial resources. Their co-operation and flexibility made it possible to adapt our activities to the changing circumstances.

Jan-Herman van Roijen  
*Chairman of the Netherlands Helsinki Committee*

## **1. BACKGROUND AND OBJECTIVES**

In 1975, thirty-five states from East and West gathered in Helsinki, Finland, for the Conference on Security and Co-operation in Europe. These states included the Soviet Union and all the European countries (except Albania), as well as Canada and the United States. The Conference concluded with the adoption of the politically and morally binding Helsinki Final Act, which, at that time, was the only international agreement that attempted to link peace and security with respect for human rights.

Since the original conference, a series of expert meetings and follow-up conferences have further defined the human rights provisions, and the OSCE has developed its own institutional frameworks and human rights mechanisms.

In the 1991 Charter of Paris for a New Europe, the Heads of State and Government participating in the Conference on Security and Co-operation in Europe declared that 'Ours is a time for fulfilling the hopes and expectations our peoples have cherished for decades: steadfast commitment to democracy based on human rights and fundamental freedoms; prosperity through economic liberty and social justice; and equal security for all our countries'. Since then the participating states in the OSCE have striven to fulfil these hopes and expectations. With its comprehensive approach to security the OSCE has become an important international organisation to ensure the basic values of democracy, human rights, the rule of law and security in Europe. The organisation has been increasingly active in order to achieve its goals. It has, among other things, played an important role in post-conflict peace-building in Bosnia-Herzegovina and Kosovo. Furthermore, its High Commissioner on National Minorities has been, and still is, an important instrument for conflict prevention. Finally, the OSCE has also played an important role in further arms reduction in Europe.

Since 1993 the signatories have formed themselves into an organisation, now known as the Organization for Security and Co-operation in Europe (OSCE). The OSCE today has 55 participating states.

### **1.1. Helsinki Committees**

On May 12<sup>th</sup>, 1976, Dr Yuri F. Orlov announced the formation of the Moscow Helsinki Group. The eleven founders of the group sought to uphold the responsibility of the USSR to implement the Helsinki commitments. They set up their watchdog organisation based on the provision in the Helsinki Final Act, Principle VII, which establishes the rights of individuals to know and act upon their rights and duties. In the wake of their appeal to concerned citizens in other countries, new citizens' groups were established elsewhere both inside and outside the Soviet Union and the Warsaw Pact nations. In January 1977, Charta 77 was founded in Czechoslovakia, and in September 1979, the Helsinki Watch Group was founded in Poland. Although their governments persecuted all these groups, they continued their activities. In 1982 the Moscow Helsinki Group was forced to disband; however, its pioneering efforts had inspired others to draw attention to violations of human rights. Groups were formed in Western European countries, in Canada, and in the United States.

The Netherlands Helsinki Committee (NHC) was founded in 1987. In the early years of the NHC, Professor Max van der Stoep was involved with the organisation as a member of the Committee and as the chairman of the Executive Board. Due to his appointment as the High Commissioner on National Minorities of the OSCE, Mr Van der Stoep resigned at the end of 1992. He continued his involvement as the Honorary Chairman.

In the early years the NHC activities were focused on monitoring the Helsinki process in the Netherlands and in other European countries. The activities were mainly of an academic nature, such as reports and conferences in the field of the OSCE process in order to determine and communicate the point of view of the NHC. After the fundamental changes in Eastern Europe, the variety of NHC activities increased. In addition to providing assistance to the Helsinki Committees, the NHC assists other human rights organisations and professional groups, such as organisations representing judges and prison staff, for instance by providing training programmes. This kind of assistance and co-operation has become the greater part of the NHC's work. Nowadays, the academic part of the NHC's work is reflected in its quarterly bulletin, the *Helsinki Monitor*. The NHC also organises, on a regular basis, round-table conferences and seminars on the Helsinki process. In 2002, 2003 and 2004 the NHC organised a number of conferences and published books in the context of the Netherlands Chairmanship-in-Office of the OSCE. With this development and the increase in projects, the number of staff members has expanded. In 2003 the NHC secretariat had twelve staff members.

## **1.2. The International Helsinki Federation for Human Rights**

The International Helsinki Federation for Human Rights is a self-governing group of non-governmental, non-profit organisations, which act to protect human rights throughout Europe, North America, and the Central Asian republics formed on the territories of the former Soviet Union. A primary specific goal is to monitor compliance with the human rights provisions of the Helsinki Final Act and its follow-up documents. Its secretariat, based in Vienna, commonly referred to as 'the IHF', supports and liaises between thirty-nine member 'Helsinki committees' and associated human rights groups, and represents them at the international political level.

The IHF also has direct links with individuals and groups supporting human rights in countries where no Helsinki committees exist. In addition to gathering and analysing information on human rights conditions in OSCE participating states, the IHF acts as a clearing-house for this information disseminating it to governments, intergovernmental organisations, the press and the public at large. The IHF is even-handed in its criticism of human rights violations with respect to the political systems of states in which these abuses occur.

The IHF is active in all OSCE participating states, and has been playing a leading role in speaking up for the victims of violence arising from the situation in e.g. Kosovo, the former Yugoslavia, Chechnya and Central Asia. Particularly since 1989, the IHF



has also been active in promoting and supporting human rights in formerly totalitarian countries by organising education projects, seminars, and international projects. Helsinki committees and other local human rights organisations have implemented many of these projects and events.

The annual meeting of the IHF took place in Vienna in November 2003. The IHF Recognition Award 2003 was awarded to the Memorial Office in Nazran and (in absentia) to the journalist Cathy Fitzpatrick. Guest speakers during the meeting included Harm Hazewinkel, on behalf of the Netherlands Chairmanship-in-Office, and Christian Strohal, director of ODIHR in Warsaw. The deteriorating human rights situation in Central Asia and the Caucasus (including Chechnya) was given high priority. An election commission was chosen (including Jos Kösters, director of the NHC), to organise the election of the president of the IHF and the members of the Executive Committee in the future. The commission will be in charge of preparing the elections in 2004 and should also make a proposal for the selection and recruitment procedure. The Human Rights Center of Azerbaijan (HRCA) was unanimously granted full membership at the IHF. The Mental Disability Advocacy Centre was unanimously granted the status of co-operating organisation at the IHF. On behalf of the NHC Jos Kösters and Jan ter Laak took part in this meeting.

### **1.3. Objectives of the Netherlands Helsinki Committee**

According to its statutes of 2000 the objectives of the Netherlands Helsinki Committee are:

1. Promoting the international and social legal order in order to facilitate the complete realisation of human rights; and
2. Strengthening and supporting the activities of international and national governmental and non-governmental organisations (NGOs) which promote the objectives mentioned under 1, including the OSCE and the IHF, focusing on conflict prevention and the promotion of human rights, the rule of law and democracy.

The NHC is a non-governmental organisation.



## 2. ACTIVITIES

### 2.1. Research

The OSCE is the only pan-European security organisation that covers the Euro-Atlantic region. At the heart of this region lies the Caucasus. In 2003 the Netherlands OSCE Chairmanship-in-Office was dedicated to contributing to finding solutions to the conflicts in the region. Therefore the NHC and the Interchurch Peace Council (IKV) organised a Roundtable Conference on the 28<sup>th</sup> of April. The conference focused on three of the most persistent conflicts in the Caucasus. Some argue that the mentioned conflicts have become 'frozen' or 'deadlocked'. However, the organisers of the conference are of the opinion that these conflicts can and must not be forgotten. Hundreds of thousands of refugees and the many casualties each day demand a continuous effort to find a solution to the situation. Traditionally, the Caucasus region has been and continues to be on the OSCE agenda.

Frans Timmermans, a member of the Labour Party (PvdA) in the Second Chamber of Parliament, chaired the conference. The speakers from the Caucasus were: Julia Kharashvili of IDP Women Association from Georgia; Arzu Abdulla of the Helsinki Citizens' Assembly from Azerbaijan, Karen Ogandjanyan, Human Rights Defender from Nagorno-Karabagh and Aslan Doukaev, a journalist from Chechnya and working for Radio Free Europe/Radio Liberty's North Caucasus Service. The speakers from Western Europe included: Mient Jan Faber, secretary-general of the IKV, Jonathan Cohen of Conciliation Resources and Egbert Wesselink of Pax Christi, the Netherlands. Jan Herman van Roijen, chairman of the NHC concluded the conference. He announced that the NHC had constituted a working group to study all the interventions made within the context of the panel and the interventions from the floor and to prepare recommendations for the Netherlands' OSCE Task Force. According to him, the most important conclusions of the conference were: the need for a stimulus to stage a breakthrough in the current status quo of the conflicts and for a larger role for civil society. Furthermore, the OSCE should promote discussion and dialogue between the conflicting parties.

The working group of the NHC made recommendations concerning the Netherlands Chairmanship. In July the report of the working group, *The Netherlands Chairmanship and the Caucasus Region; Recommendations of the Caucasus working group of the Netherlands Helsinki Committee*, was completed. The report has been widely dispersed in OSCE circles, mainly during the OSCE Parliamentary Assembly that was held in Rotterdam from 5 to 8 July. The recommendations of the working group can also be found on the NHC website.

On the 20<sup>th</sup> of October the NHC held a round-table conference entitled '*New Minorities*': *Inclusion and Equality*. The starting point of this conference was the opinion of the NHC that many challenges with regard to human rights, the rule of law and democracy are not unique to the Eastern part of Europe or to Central Asia. These challenges, sometimes in a different form and at a different level, also play a role "West of Vienna". This is particularly true for the challenge of dealing with so-called 'new minorities' in Western states and societies. According to many, the integration of 'new minorities' is believed to have failed. In some countries 'new minorities' are confronted with xenophobic reactions to their presence as well as discrimination.

There is no pan-European political debate on this issue, let alone a European approach to face the challenge of dealing with newly arrived groups. At the international level, the debate on 'new minorities' is primarily restricted to the field of international law. Within this field, the discussion so far always concerns the question whether the 'traditional' regime of the rights of persons belonging to national minorities could and should be extended to cover also the 'new minorities'. A second delicate discussion, at least as far as the Netherlands is concerned, has been the debate on the ratification of the Council of Europe Framework Convention for the Protection of National Minorities.

The main objective of the NHC round-table conference was to contribute to these discussions by inviting the High Commissioner on National Minorities, Rolf Ekéus, and Alan Philips, the independent expert of the Advisory Committee of the Framework Convention for the Protection of National Minorities, to present their views on the above-mentioned issues. Furthermore, three Dutch experts were invited: Kristin Henrard, Jenny Goldschmidt and Ed van Thijn. The conference was chaired by John Packer, Director of the Office of the High Commissioner on National Minorities. The NHC published all the texts of the conference together with a summary of the debate and relevant articles in: *'New Minorities': Inclusion and Equality* (ISBN 90-807745-2-9).



*From left to right: Kristin Henrard, Jenny Goldschmidt, Ed van Thijn,  
John Packer, Rolf Ekéus and Alan Philips.  
Photo: Marco van der Krogt.*

On the 18<sup>th</sup> of September the NHC organised a seminar concerning *Human Rights and Terrorism* in The Hague's historic *Ridderzaal* (Hall of Knights). Prof. Peter Kooijmans, a judge at the International Court of Justice and the former Minister for Foreign Affairs of the Netherlands, chaired the meeting. The co-chair of the seminar was Helle Degn, former chairwoman of the Parliamentary Assembly of the OSCE and former Minister of Development Co-operation in Denmark. The Keynote speakers were Abdullahi Ahmed An-Na'im (Emory University, USA); Viet D. Dinh (Georgetown University Center); Mark L. Entine (Moscow Institute of European Law); Tom Malinowski (Human Rights Watch); Bertrand Ramcharan (UN Acting High Commissioner for Human Rights); and Elisabeth Rehn (Stability Pact for South-Eastern Europe).



*The seminar in the Hall of Knights.*

The OSCE Chairman-in-Office, the Netherlands Minister for Foreign Affairs, Jaap de Hoop Scheffer delivered the introductory speech. The seminar consisted of three sessions. Each of these sessions were introduced by two speakers, followed by a plenary debate. These debates were vivid and sometimes even had a passionate character. At the end of each session keynote speakers commented on the plenary discussion.

During the lunch recess the participants debated informally on a few policy dilemmas concerning the topic of the seminar. Paul de Waart prepared and presented these dilemmas. The vividness of the seminar was also increased by the fact that



government representatives and NGO representatives entered into the discussion on equal terms.

The previous evening, the Mayor of The Hague, together with the Ministry of Foreign Affairs and the NHC, had invited all 220 participants to a reception at the *Societeit De Witte* in the seaside resort of Scheveningen. Mayor Wim Deetman of The Hague and Ambassador Daan Everts delivered words of welcome. Jan-Herman van Roijen, chairman of the NHC, presented the declaration of the NHC entitled *A resolvable conflict* during the reception.

The speeches at the seminar, the reports of the discussions, the conclusions and the preparatory documents are published altogether in the book entitled *Human Rights and Terrorism. Seminar in the Hall of Knights, The Hague, The Netherlands September 17–18, 2003* (ISBN 90-807745-3-7). During the parallel NGO Meeting in Maastricht on the 1st of December the chairman of the NHC presented the first copy of the book to Minister Jaap de Hoop Scheffer.

For the organisation of the seminar and the publication of the book, the NHC worked together with BBO: Wil van Dalen (organisation) and Karen Mol (publicity).

## 2.2. Monitoring

In co-operation with the International Helsinki Federation and the Helsinki Committees the NHC undertakes missions to countries and regions in Europe where conflicts occur and violations of human rights take place. The findings of these missions are published in several international publications and distributed to, for example, national delegations of the OSCE participating states.

As a continuation of the programme of the IHF on the human rights situation in Chechnya, a fact-finding mission was dispatched to Moscow, the Republic of Ingushetia and the Republic of Chechnya during the period 11 to 20 July 2003. The delegation consisted of Aage Borchgrevink of the Norwegian Helsinki Committee, Krassimir Kanev of the Bulgarian Helsinki Committee, Jan ter Laak of the Netherlands Helsinki Committee, Aleksandr Lyboslavski of the Moscow Helsinki Group and Vladimir Weissman of the IHF. The five-member mission spent four days in Ingushetia and visited Grosny on 15 July. The IHF mission team observed that Chechnya remains a lawless zone, where violence and human rights abuses are perpetrated by a wide range of state and non-state actors. The material collected by the IHF team indicated that the level of grave human rights abuses - such as forced disappearances, killings, torture, illegal detention, indiscriminate attacks on populated areas and the persecution of human rights defenders - for the summer of 2003 was higher than in the months preceding the 22 March Referendum. The mission presented the research results on a press conference in Moscow on the 18<sup>th</sup> of July and also in a report entitled *Still in a State of Terror: Chechnya after the referendum*, available at [www.ihf-hr.org](http://www.ihf-hr.org).

Each year the NHC contributes to the IHF Annual Report<sup>1</sup> by submitting a report on the compliance of the Netherlands with the OSCE standards. This report is compiled on the basis of research carried out by organisations, amongst which are human rights organisations, in the Netherlands. This year, the subjects included in the contribution were: anti-terrorism; national and ethnic minorities; asylum seekers and immigrants; trafficking in human beings and prostitution; the right to education; women's rights; and the rights of the child.<sup>2</sup>

### 2.3. Publicity

In order to promote the OSCE and the Helsinki process the NHC has undertaken various activities.

Every three months the NHC publishes the *Helsinki Monitor* in co-operation with the International Helsinki Federation and Brill. On 1 January 2003 Brill took over the publication of this quarterly from Kluwer Law International. *Helsinki Monitor* is an English-language quarterly on the work of the OSCE and the field of its operations. The aim of the quarterly is to report on OSCE developments and to provide thorough background information on the OSCE process. Subscribers to the *Helsinki Monitor* are individuals in the professional field, human rights NGOs, policy makers in the OSCE field, journalists, representatives of the academic world, as well as readers interested in security, co-operation and human rights in Europe.

In 2003 the *Helsinki Monitor* published a thematic issue entitled *Central Asia: Aspects on security and stability*. This special edition of the *Helsinki Monitor* set out to explore many of the key issues that face the governments and peoples of Central Asia, and also to help to inform the international community about certain developments in the region. Two specially invited editors contributed to this issue, Mr. Neil Melvin, Senior Adviser to the HCNM and Mr. Edmund Herzig, Senior Lecturer in Persian Studies at the Department of Middle Eastern Studies at the University of Manchester. The editors identified a set of key issues, many of which are interconnected and that affect security and stability in the region, such as the geopolitics of the region; good governance, democracy and human rights; the economy, ecology and governments; religion and politics; co-operation for security; and relations within and beyond the region. A variety of authors with distinctive views, both from within the region and from outside commented on these issues, among whom were Martha Brill Olcott, Anara Tabyshalieva, Yaacov Ro'i, Stephen Blank, Neil MacFarlane, Valentine Borisovich Bogatyrev, Annette Bohr, Bess Brown, Jean Lemierre and Wilhelm Hönck. Apart from this special issue three regular issues were published with articles on e.g. *OSCE and Russia: Old bridges, new divisions* by Vyacheslav Nikonov; *The effectiveness of OSCE missions* by Martina Huber; *Declaration on the fight against terrorism and the protection of human rights – a resolvable conflict* by Ige Dekker; *Coming closer to a solution in*

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<sup>1</sup> [www.ihf-hr.org](http://www.ihf-hr.org).

<sup>2</sup> The contribution to the IHF Annual Report 2004 (events of 2003) has been added to this annual report as appendix III (p. 61-74).

*Moldova?* by Claus Neukich; and *The Netherlands OSCE Chairmanship and the Caucasus region* by Edwin Bakker.

Another publication was based on the seminar on the 18<sup>th</sup> of September. *Human Rights and Terrorism. Seminar in the Hall of Knights, The Hague, The Netherlands September 17–18, 2003* (ISBN 90-807745-3-7) includes all the texts of the seminar's speeches and debates, supplemented by concise summaries and a reference to relevant documents. The publication was made possible by a financial contribution from the Netherlands OSCE Chairmanship.

Based on the round-table conference on the 20<sup>th</sup> of October the NHC published the book *'New Minorities': Inclusion and Equality* (ISBN 90-807745-2-9). This book includes the speeches by the key speakers and an overview of the conclusions. The publication was made possible by a financial contribution from the Netherlands Ministry of Foreign Affairs.

The NHC kept several newspapers informed with regard to the OSCE, which resulted in the publication of various articles.<sup>3</sup> On its webpage ([www.nhc.nl](http://www.nhc.nl)) the NHC promotes itself and provides information on its current activities, various publications and on organisations such as the OSCE and the IHF.

## 2.4. Lobbying

The NHC undertakes a number of lobbying activities. Firstly, the NHC organises round-table discussions and conferences on important issues related to the OSCE and its work. Secondly, the NHC supports local partners in their media and lobbying activities.

In 2003 the Netherlands Helsinki Committee organised an NGO Meeting in parallel to the OSCE Ministerial Council in Maastricht on the 1<sup>st</sup> and 2<sup>nd</sup> of December. This was the first time in the history of the OSCE that an NGO Conference on Human Rights in the OSCE Region was held in parallel to the Ministerial Council. The NGO Conference took place in Maastricht in the same building as the Ministerial Meeting. The NHC organised the conference on behalf of the IHF. The central themes were: Religious Freedom and the Struggle against Terrorism, Trafficking in Human Beings, Impunity in the OSCE Area and Full and Equal Rights for Roma and Sinti. Jaap de Hoop Scheffer, Chairman-in-Office of the OSCE, addressed the conference and was presented in the book on the Human Rights and Terrorism seminar. Other keynote speakers included: Ludmilla Alekseyeva, president of the IHF; Eliza Moussaeva, head of the Memorial office in Nazran, Russian Federation; Krassimir Kanev, Chair of the Bulgarian Helsinki Committee and Anna Korvinus, Netherlands National Rapporteur on Trafficking in Human Beings. Prof. Cees Flinterman, Director of the Netherlands Institute for Human Rights and member of the NHC, chaired the conference. All texts

<sup>3</sup> *De Volkskrant* 'Nederland heeft een Superman nodig', 13 January 2003; *Elsevier* 'Geslaagde balanceer-act', 29 November 2003.



concerning the conference were published in a book entitled *The OSCE challenged* (ISBN 90-807745-4-5) in February 2004.

In addition to the seminars and the conferences mentioned above the NHC took the initiative to organise a meeting between international NGOs and the OSCE Chairmanship. This meeting took place in Vienna on 12 May 2003. At this meeting representatives of the OSCE Chairmanship-in-Office, Amnesty International, Human Rights Watch, International Crisis Group, IHF, Minority Rights Group, NHC, Norwegian Helsinki Committee and Open Society Institute took part. Jan ter Laak, the Senior Advisor, represented the NHC. Both sides stated that this kind of meeting should become common within the OSCE.

The human rights situation in the Russian Federation was an important objective of several NHC activities in 2003. Together with the Moscow Helsinki Group, the International Helsinki Federation and many others the NHC monitored this situation. The partners were responsible for monitoring and compiling the reports. The task of the NHC was to promote the monitoring reports in "the West". International organisations, governmental organisations, NGOs, the media and politicians were informed. Anna Stunova represented the NHC on this mission. The lobbying activities are extensively described below.

On 23 January the conference entitled *Invisible Children* took place in Brussels at the premises of the European Parliament. The NGO Save the Children organised the conference. Different NGOs, members of the European Parliament and the Netherlands Minister for Development Co-operation were present and were thus contacted by the NHC representative. This provided an excellent opportunity for lobbying.

On 27-30 January a working visit to the Council of Europe in Strasbourg took place. This working visit was a joint effort on the part of the Netherlands Helsinki Committee and the International Helsinki Federation for Human Rights. The executive director Aaron Rhodes and the deputy director Brigitte Dufour represented the IHF. The already existing relationships between the NHC and some representatives of the Council of Europe have been strengthened (for instance with the Human Rights Co-operation and Awareness Division, known from previous visits), while new contacts have been developed (for instance with the Commissioner for Human Rights).

A study visit to Strasbourg took place in the framework of another project on September 15-19. However, this opportunity was used to distribute information to several Directorates of the Council of Europe and the European Court of Human Rights.

The NHC co-organised a visit to Brussels by a team of eminent human rights defenders involved in the North Caucasus region on 3 and 4 December. The group met representatives of the European Commission, the European Parliament, the Belgian Foreign Ministry and the Belgian Parliament. It discussed first-hand information on the human rights situation in Chechnya, including the ongoing lack of a meaningful accountability process; the lack of access and transparency; the pressure on internally displaced persons in Ingushetia to return to Chechnya; and the situation of Chechen refugees in Azerbaijan and Georgia.

The human rights situation in Russia is becoming (more widely) known among representatives of the authorities, politics, the media and local and international organisations, both in the Netherlands and in the other EU member states. As for international forums, it is obvious that the relevant directorates of the *Council of Europe* are very well informed not only concerning the human rights situation in the Russian Federation in general, but also concerning the monitoring work being carried out by the *Moscow Helsinki Group* with its local partners in the regions as presented in the publications. Also Euro-parliamentarians are well aware of the situation and are interested in receiving further information. In this respect, the results of the lobbying activities are becoming visible.

Apart from human rights in the Russian Federation in 2003 the NHC lobbied with regard to topics such as: the ratification of the Framework Convention with a broad definition of the term *minority*, the increase in charges for a residence permit, government attention to trafficking in human beings and the appointment of new OSCE Representative on Freedom of the Media.

## **2.5. Technical assistance**

Building democracy and respect for the rule of law is a continuing complex and long-term process for which knowledge of and compliance with international obligations are important. In the post-communist countries this part of the transition process continues to require active support. Relevant expertise is available in Western as well as in Central and Eastern Europe. Experts in the fields of human rights and the rule of law can facilitate the transition process by sharing their knowledge, skills and experiences with their colleagues and experts in other countries. At this moment in time most of the countries of Central and Eastern Europe have ratified international human rights conventions and have adopted democratic constitutions. The practical implementation of the standards and norms of these conventions and of democracy is now the main priority. Respect for human rights, the rule of law and democracy is also a key element in the process of enlarging the European Union. At the Copenhagen summit in 1993 the European Union member states elaborated the European Union membership criteria, which the Candidate Countries need to meet before accession to the EU. One of the criteria is the achievement of stability in institutions which guarantee democracy, respect for the rule of law and human rights, and respect for and the protection of minorities. The European Commission reports annually on the progress made by the countries in question. In this context human rights education for all kinds of professional groups, the strengthening of the rule of law and of democracy are relevant and important.

The main target groups of the NHC projects are professional groups which have to apply international legal standards regarding human rights, democracy and the rule of law. These professional groups include: human rights activists and lawyers, judges and prosecutors, legal staff of Ministries, police officers, prison staff and probation staff. For these target groups the NHC organises a wide range of co-operative technical assistance programmes concerning:

- Strengthening the role and independence of the judiciary;
- Professionalisation of prison systems, the probation service and the police; and
- Assistance to human rights movement.

#### ***2.5.1. Strengthening the role and independence of the judiciary***

A fundamental feature of the rule of law is an impartial and independent judiciary. The NHC aims to strengthen the position of the judiciary in Central and Eastern European countries by promoting international co-operation among judges and prosecutors, and amongst international organisations representing these professional groups. The NHC also supports train-the-trainer activities in order to improve the educational potential of the judiciary and to enhance their level of professionalism. Furthermore, the NHC stimulates debate between judges and prosecutors and assists organisations representing judges and/or prosecutors.

#### ***Reinforcement of the Rule of Law***

As part of the process of accession to the European Union, the candidate countries have to comply with the so-called Copenhagen criteria, which state that “membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities”.

The general objective of the Horizontal Phare Project *Reinforcement of the Rule of Law* – which was concluded in 2003 – has been to assist the ten Central and East European candidate countries in effectively transposing and implementing the Copenhagen criteria, in particular the principle of the rule of law in the functioning of their judicial systems.

The project aimed to assist the candidate countries in identifying and formulating recommendations indicating concrete measures in terms of legislation, institutional change, procedures, practices and training which are needed to strengthen the rule of law in a number of key areas related to the functioning of the judicial system. Furthermore, it aimed to implement capacity building activities, emanating from these recommendations and to increase awareness concerning the political commitment to the rule of law among relevant professional groups.

The focus was on four areas: the independence of the judiciary, the status and role of the public prosecutor, court procedures and the execution of judgements, and the safety of victims, judges, prosecutors, defence lawyers and jurors.

The project was implemented by a consortium of organisations led by the Center for International Legal Co-operation (CILC).

The first part of the project ran from December 2000 until June 2002. By means of desk research and expert missions, an assessment was made of the state of play in the field of the rule of law in the ten candidate countries. On the basis of these assessments, gaps and needs analyses were drafted, in combination with recommendations for capacity building activities to address these gaps and needs.

In 2003, the capacity building activities that were developed during the second half of 2002 were implemented. In total, about 20 activities were organised by the consortium. The NHC implemented the following activities:

- Training of Estonian prosecutors in leading preliminary proceedings and in adversarial court procedures (4 training seminars in Estonia and a study visit to the Netherlands);
- Access to justice and legal aid in Hungary (workshop);
- Workload management in the county courts in Romania (workshop).

As a result of a new Criminal Procedure Code, the role of the prosecutor in the Estonian criminal procedure has changed. Therefore, the Estonian authorities requested the project to provide training in leading preliminary proceedings and in the role of a prosecutor in adversarial court procedures. Dutch experts from the prosecutor's office in Groningen informed their Estonian colleagues about the principle and practice of the prosecutor being in charge of the pre-trial investigation in the Dutch legal system. Two Swedish prosecutors offered training in the role of the prosecutor in adversarial court procedures. In addition, a study visit to the Netherlands was organised during which the Estonian prosecutors could see how the Dutch prosecution service and the police co-operate during pre-trial investigations.



*Delegation of Estonian prosecutors in front of a courthouse in the Netherlands.*

The legal aid system in Hungary is in a process of reform. The workshop on access to justice and legal aid in Hungary was aimed at raising awareness amongst the members of the Hungarian legal professions concerning the issue of access to justice and legal

aid in Hungary. During the workshop, representatives of these professions and civil servants from the Ministry of Justice exchanged information and experiences with each other and with a Dutch expert from the Legal Aid Board.

One of the main problems of the Romanian judiciary is the heavy workload of the Romanian judges. In the framework of the rule of law project, a survey was conducted amongst the presidents of the county courts on workload management. The survey was conducted by the Centre for Legal Resources in Bucharest. The results served as a basis for a workshop on workload management.

The workshop aimed to inform the Romanian judiciary and the Ministry of Justice about various issues related to workload management, in order to support the introduction of a system of workload management in Romania, in line with EU standards.

The workshop was conducted by Romanian experts, as well as an expert from the Dutch Council for the Administration of Justice and the chairman of the sub-district court in Amsterdam. Their presentations provided the participants – presidents of the county courts in Romania – with new perspectives of dealing with workload management and court management in general. Special attention was given to financial issues and IT facilities. At the conclusion of the workshop, a list of recommendations was drafted.

Unfortunately, the planned activity regarding access to justice in Poland had to be cancelled. Moreover, a number of candidate countries requested assistance to improve relations between the media and the legal institutions. However, these activities, which were developed and were intended to be implemented by the NHC, were not approved by the European Commission since it considered this topic not to fit within the proper notion of the rule of law.

To round up the overall project activities, concluding visits to the beneficiaries of the project (the Ministries of Justice of the candidate countries) were organised. During these visits, the results of the capacity building phase were compared with the recommendations that were formulated earlier.

The NHC representative, Ineke van de Meene, participated in the visits to Estonia, Lithuania, Romania, the Czech Republic and Hungary.

The overall picture that arose from these concluding visits is that the awareness concerning and the political commitment to the rule of law among the leading responsible persons and institutions in the candidate countries has increased during the course of this project. There seems to be a determination to continue with the reforms in the field of the rule of law. In particular, the report on the first part of the project (which contains the assessments of the state of affairs, the gaps and needs analyses and the recommendations for improvements) appears to be greatly valued in the candidate countries, as it is characterised as a kind of checklist of relevant issues to work on in the field of judicial reform.

The key expert of the project, Mr Paul Broekhoven, drafted an extensive final report on the project. This report was presented to the European Commission in August 2003. The report will be published on CD-rom and distributed amongst the

beneficiaries of the project, the Ministries of Justice, as well as other decision makers involved in the field of the rule of law. It is hoped and expected that this will ensure a continuous impact of the results of the project.

*Other projects in the field of strengthening the role and independence of the judiciary:*

- *Assistance to the judiciary in Bulgaria: Continuing training in EU legislation and practice*
- *Strengthening the legal culture in Croatia: Improving relations between the judiciary and the media*
- *Strengthening the Czech Union of Judges*
- *Strengthening the training capacity of the National Institute of Magistrates in Romania*
- *Assistance in strengthening the independence and functioning of the Romanian judiciary system*

### ***2.5.2. Professionalisation of prison systems, the probation service and the police***

The NHC has wide experience in implementing projects to provide guidance and advice to prison staff concerning the practical implementation of international and European norms and standards. The NHC facilitates co-operation and twinning relationships between prison institutions in the Netherlands and those in countries in Central and Eastern Europe. These relationships result in training courses, seminars and working visits, which are organised in order to provide knowledge and skills concerning the treatment of inmates and the management of prisons.

#### *Integrating human rights, respect for and the protection of minorities and integrity in the training programme of the Czech police and in the Czech police organisation*

Policing is – as in any society – one of the most complex and most difficult jobs in the Czech Republic. The police are given a certain degree of professional autonomy, both at the organisational and at the individual level. At the same time the police must comply with national and international legal standards as well as with social standards. They are, on the one hand, the guardians of human rights and liberties. On the other hand, they have the legal powers to limit these rights under specified conditions. The principles of human rights, respect for and protection of minorities and the rule of law in a democratic society have established a completely new role and new tasks for the police and other law enforcement agencies in the Czech Republic.

A key characteristic of police work in a modern society is professionalism. A professional working attitude implies respect for human rights, respect for minorities,

high moral awareness, a willingness to be open concerning choices that have been made, to be transparent and to be accountable. Professionalism goes hand in hand with demonstrating responsibility. Professionalism also means that one not only knows the legal framework for certain acts, but that one also knows how to act in a professional way. For example, when interviewing a suspect, it is one thing to know the legal rules concerning this task, it is quite another to be able to conduct a professional interview of a suspect while retaining respect for human rights. Professionalism is an important element of a police officer's daily work, including such tasks as crime prevention, detection of crime, maintenance of public order, use of force and firearms, arrest and detention. Corruption is a clear example of unprofessional police behaviour. Another is discriminating behaviour by police officers towards members of the public and/or towards their colleagues.

In the Comprehensive Monitoring Report (October 2003) on the Czech Republic's Preparations for Membership the European Commission stated that "(i)n May 2003 the (Czech) government approved its annual report on the fulfilment of its national programme on combating corruption, which concluded that corruption is still widespread. The report (of the Czech government) notes that corruption usually takes the form of abuse of power or acceptance of bribes. The report sees little progress in the results of anti-corruption measures and highlights the fact that corruption still continues to affect the proper functioning of the state administration, the police (especially the aliens police and the traffic police) (...). Consequently, the government decided to intensify its effort with the planned introduction of several new measures. The merger of two police services to form the Service for Criminal Police and Investigation represented a significant step forward. (...)."

As a key institution in society, responsible for safeguarding the rights and freedoms of individuals, the police must develop their attitude, skills, knowledge and competence to respond professionally to the challenges of their new role in a democratic society. The police must be professionally trained so that they can perform their tasks in compliance with the requirements of national and international human rights standards and minority rights standards and, simultaneously, to observe all ethical standards of conduct. In other words, in order to improve their professional performance, police officers need education in the field of human rights and minority rights, a high moral awareness, a willingness to be open concerning choices that have been made, to be transparent and to be accountable.

In the Czech Republic human rights education, including respect for and protection of minorities, has not been given any attention in police professional training in the past. At present it is included in the basic training curriculum at police training colleges as an inter-disciplinary science. It forms a part of nearly all special training subjects, yet mostly on a theoretical level. Too little attention is still paid to complex analysis of particular rights in relation to policing and to case studies. There is also a serious lack of good teaching materials that reflect the special needs of professional training, a lack of other teaching/learning sources and an absence of the system of teacher training for human rights issues. The activities in this field have so far been organised mostly on an occasional basis (ad hoc seminars, lecturing) with low effectiveness. However useful and important these activities are, the work remains scattered.

The project *Integrating human rights, respect for and the protection of minorities and integrity in the training programme of the Czech police and in the Czech police organisation* is the first attempt to solve the particular problems in the Czech Republic in a comprehensive way. The project started in November 2002 and will continue till March 2005. The role of the police in human rights protection and promotion entails high demands on the quality of professional education, not only during initial and in-service training, but also during work performance. Due to the fact that the Czech Republic does not yet have a uniform well developed system of in-service professional education, it is difficult to transfer procedures and materials already used in basic training.

The long-term objective of the project is the implementation, in practice, of national and international standards regarding human rights, the protection of minorities and integrity by police officers and the police organisation in the Czech Republic.

As a result of the project new training modules on human rights, respect for and protection of minorities and integrity for the initial and for the continuous training of police staff will be developed. Furthermore, training staff at the Czech police schools and the Field Centres will be trained in order to contribute to the development of new training courses and to implement them.

The project aims to increase the knowledge of and support for the results of the project (such as the training modules; knowledge, skills and attitude obtained by the graduates of police training courses) among the relevant actors in the Czech police organisation (especially the key senior officers responsible for the graduates of the initial and continuous training, police management and other bodies such as the Ministry of the Interior, the Police Presidium and the Police Academy).

Finally, a Czech Centre for Expertise on Police and Human Rights, Minorities Rights and Integrity (PTC Centre) will be established. The Centre will serve as a resource centre for the Czech police on the issues of human rights, respect for and protection of minorities and integrity. Its services will focus on the practical implementation of the relevant national and international standards.

The target groups of the project are: teachers and instructors at police training colleges and the teachers and instructors at the Regional Field Centres, police officers in basic professional training (obligatory professional training for all new police officers), police officers that take part in the in-service training; the Czech police organisation, especially the senior officers responsible for the graduates of the initial and continuous training, police management and other bodies such as the Ministry of the Interior, the Police Presidium and the Police Academy; and the Police Training College in Prague, which is responsible for the Czech Centre for Expertise on Human Rights and Integrity.

The NHC implements the project in co-operation with the Police Training College in Prague, the Czech Helsinki Committee (CHC), the Netherlands Centre for Police and Integrity Issues (NCPII), the 'Politie en Onderwijs Centrum' (LSOP) and the Netherlands Centre for International Police Co-operation (NCIPS). The Czech Ministry of the Interior and the Police Presidium of the Czech Republic support the project.



The Police Training College in Prague provides the core police training as well as some special courses within the police sector. The number of students is around 1600 each year. The PTC is the largest police school in the Czech Republic. There are

about 700-800 students in initial training each year, 250 students in secondary schools (civilian) and 600 taking part in language studies.

The Czech Helsinki Committee is a member organisation of the International Helsinki Federation and a non-governmental non-profit organisation focusing on human rights primarily in the Czech Republic. The CHC is a membership organisation with over 90 members from the legal, government and academic communities. The CHC has around thirty professional, mainly academically educated, staff members and a number of external collaborators.

The 'Politie en Onderwijs Centrum' (LSOP) is the education and knowledge centre for the Dutch police. The LSOP provides education, training and advice for the Dutch police. It trains over 30,000 (future) police officers each year. The LSOP collaborates with many other educational institutions, both in the Netherlands as well as internationally.

The objective of the Netherlands Centre for Police and Integrity Issues (NCPPI) is to generate expertise on Police and

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*Project logo*

Integrity Issues and to convey this expertise. It approaches integrity in its broad sense: all police misbehaviour (such as corruption and human rights issues) is included.

The Netherlands Centre for International Police Co-operation (NCIPS) is the organisation, which facilitates and represents the Dutch police in the field of non-operational police co-operation at the international level. NCIPS embodies the Ministry of the Interior and Kingdom Relations, the Ministry of Justice, the Regional Police services, the KLPD and the LSOP.

The project is implemented in the context of a long and close co-operation between the Netherlands and Czech police organisations. Since the beginning of the 1990s the Netherlands police and the National Police of the Czech Republic have worked together by exchanging knowledge and experiences in partnership programmes.

In April 2003 the preparatory phase of the project was finalised. A team of Dutch and Czech experts from the NCPPI, PTC and CHC made a preparatory study. This study included *inter alia* an inventory of all relevant norms concerning the police, human rights and integrity (international and Czech), the policy of the Czech police

authorities regarding human rights and integrity, and the practical implementation of the norms and policy (including professional training).

The result of the study was a basic document for implementing the project that includes all relevant facts. The study also provided recommendations and set priorities regarding the project activities (such as the content of the training-of-trainers and integration in the Czech police organisation).

The conclusions of the study were discussed with and approved by representatives of the management of the Czech police, the training institutions and the Ministry of the Interior. They decided that the following issues would form part of the training: first communication with citizens, communication skills, racism and hate crime, corruption, domestic violence and dealing with foreigners and stigmatised groups.

Based on these conclusions the NHC, NCPII, PTC and CHC developed the train-the-trainers programme. First, the NCPII and PTC selected a group of 15 participants for the training. Between September and December 2003 three sessions of actual training took place. Experts from the NCPII, the CHC and several Czech NGOs took part in the training. The team consisted of *inter alia*: Marianne van den Anker, Greet Elsinga and Natasha Tebbe (NCPII), Pavel Bilek (CHC) and Petra Vitousova (White Circle of Safety). The training included issues such as the legal framework for police and human rights, communication skills, ethnic minorities, police ethics, domestic violence, and quality management and leadership. In the didactical skills training the participants were trained in *inter alia* providing feedback to the participants in a training programme, developing role play and dilemma discussions.

Furthermore, the trainers gave the Czech participants the assignment to prepare four 'toolkits' (training modules) on: policing and human rights, communication with the Roma community, refugees, and racism and discrimination. Each of these toolkits consists of theoretical and factual information on the topic, examples of good and bad police behaviour and role play. The 'toolkits' were finalised and distributed among the police training institutions in the first quarter of 2004.

The PTC Centre prepared and implemented its working plan for 2003. Apart from the activities in the context of this project, its activities included participation by the Centre in relevant conferences and seminars, the production and distribution of leaflets and a web-site, the publication of articles in magazines, and the opening of the library. Furthermore, a delegation of two staff members from the Centre visited the Council of Europe in June 2003. Ann-Marie Orler, programme manager of the 'Police and Human Rights – Beyond 2000, programme of the Council of Europe developed the programme for this visit. The delegation met and spoke with representatives of the European Committee for the Prevention of Torture, the European Commission against Racism, the European Court of Human Rights and the Group of States against Corruption (GRECO).

Jos Kösters, the project leader of the NHC, visited the Czech Republic in March 2003 to discuss the progress of the project and the planning of relevant activities with the Czech counterparts, Jiří Zlamal, the director of the PTC and Ivana Dufkova, the Czech project leader. The project is financially supported by the Social

Transformation Programme Central and Eastern Europe (Matra) of the Netherlands Ministry of Foreign Affairs.

*Professionalisation of the Hungarian Penitentiary Service: co-operation between Hungarian and Netherlands Directorates for the Penitentiary*

After a process of legislative changes in the last decade, the Hungarian legal framework regarding the penal system is in harmony with international standards. The implementation of legal standards in practice poses problems for the National Prison Administration (HPA). In principle the situation in Hungarian prisons is relatively advanced. Nevertheless, there is a continuous need for improving the quality and scope of the work by the professionals working in the Hungarian prisons. It should be realised, though, that, in spite of the investments made in the penal system, money is still lacking. In Hungary, being a country in transition, the governmental financial regime is fairly restricted. This results in a lack of resources for all government departments. The HPA is not an exception to this rule. Presently Hungary has around 16,000 detainees, about 160 per 100,000 inhabitants. This is a relatively high ratio compared to the countries of the EU. Officially Hungary's prisons can accommodate about 11,000 detainees. This implies considerable overcrowding. All these factors together have consequences for the possibilities of the HPA to implement the necessary changes. In addition to changes in the physical conditions of prison buildings, the HPA also wants to devote more attention to the quality and training of its staff and the treatment of prisoners. The present project aims to contribute to the efforts made by the HPA in striving for further professionalisation.

The project aims to provide assistance to the further professionalisation of the Hungarian penal system, within the framework of existing and forthcoming policies, in such a way that policy and practice become interactive. In the context of this project the professionalisation focuses on three main fields:

- Assistance in the further formulation of HPA policy;
- Training (including training-of-trainers) for HPA staff;
- Twinning relations between Dutch and Hungarian prisons.

In all three fields, the main topics that are dealt with are:

- Daily programmes for detainees;
- Juvenile detainees;
- Drug trafficking and drug use among detainees.

Within the framework of this objective the project contains the following activities. In the first place, three seminars on policy development on the national and local level will be held. Secondly, a Train-the-Trainers Programme in best practices in prison management, concentrating on 3 topics (day programmes, juvenile detainees, drugs abuse and trafficking in prisons) will be organised. Thirdly, a twinning programme aimed at co-operation between Dutch and Hungarian penal institutions in the solution of operational problems at the prison level will be organised. The following prisons co-operate with one another: Breda – Budapest, Den Helder – Kecskemét, Krimpen – Állampuszta, Vught – Szeged, Zwaag – Ballasagyarmat, Zwolle – Eger. The project

runs from September 2001 until September 2004. Raymond Swennenhuis is the project manager on behalf of the NHC. Nicole Versteegen assists him.

In 2003 various activities took place. In the first place a policy seminar was held in May in Boxmeer. This policy seminar had the aim of reviewing the Hungarian policies in the light of the project achievements but it also had the additional function of an evaluation seminar for the project as a whole. The seminar evaluated and adjusted the train-the-trainer and best practices training activities. The participants came from Dutch and Hungarian prisons as well as from the Headquarters of the HPA and the Hungarian Training Institute. The participants worked in subgroups on various topics related to the main fields of the project (day programmes, juveniles and drugs). This resulted in the formulation of plans and ideas to be implemented during the project and subsequently. For instance, plans were made to incorporate the Best Practices Training in the regular training programmes of the Hungarian Training Institute.

In March and December various Best Practices training programmes took place in Hungary. The Hungarian trainers gave 6 training programmes in total on the three topics of the project (Day Programmes, Drugs and Juveniles). All the training programmes consisted of varied and different means of education; there were plenary and group sessions, brainstorming sessions and role-play. This is not always common in the Hungarian setting. The trainers implemented the training sessions very effectively and the trainees were also very positive about the exercise. There was much debate on the topics of the training. The evaluation was very positive. The results of the Best Practices training were that more than 70 Hungarian staff members were trained. Also the curriculum of the Best Practices Training Programmes in all topics were further tested and fine-tuned by the trainers. In addition, the 14 Hungarian trainers became further experienced in providing training under the supervision and guidance of Dutch colleagues from the participating prisons.

Finally, the six twinning relations continued. In most of the twinning relations there were many activities. In the twinning between the Juvenile institutions of Den Helder and Kecskemét mutual working visits took place in April and June. As a result the staff members acquired more knowledge and skills and the management of the Hungarian institution implemented a number of changes in the programme for juveniles, e.g. regarding the treatment and supervision of juveniles.

In the twinning relation between the prisons of Zwolle and Eger, the planned standard plus regime and the day programme were further elaborated. Among other things, free-time activities were increased and improved, the policy concerning sanctions was altered (sanctions as a last resort), and the treatment of and approach to prisoners was further improved. The results of the programme are positive and are appreciated by all partners.

*Phare Twinning Project: Improving prison conditions for better resocialisation of Juvenile Offenders in Hungary*

The Juvenile Institutions in Hungary are situated in three places: Tököl (near Budapest), Kecskemét (in the centre of the country) and Miskolc (Northeast Hungary). The establishment of a new institution in Pécs (Southwest Hungary) will help to fulfil the criteria according to which the inmates have to be placed as near as possible to their residence. The Hungarian Prison Authorities are working hard to diminish the problem of overcrowding by expanding its facilities and opening new prisons. In addition to the increase in the number of places, the Hungarian Prison Authorities also are developing the quality of their work. The aim is to adopt standards that are applied within the European Union, thereby improving the living conditions of juvenile inmates. The present juvenile institutions have to a certain extent special programmes such as education, further education and vocational training for the inmates. However, there is a strong need to further expand these activities and to invest in the quantity and quality of these programmes. In addition, there is a need for special education for prison staff who will be able to assist and supervise the juveniles. This should further enhance the resocialisation opportunities of juvenile delinquents. There is also a strong need to reinforce the existing system of classifying juvenile offenders. The present system is often unreliable, therefore a more efficient method needs to be introduced. The classification system should be used as a first step towards improving the entire system. The classification determines, as far as the prisoners are concerned, the content of their prison life. It is the basic step for programmes regarding training, work, guidance towards a life outside prison and aftercare.

As in many other countries, in Hungary many NGOs (social organisations, different churches, foundations and other organisations) provide assistance in the resocialisation process through supporting activities for prisoners. There are already several contacts between the prison system and NGOs on different levels, aiming to improve aftercare facilities for prisoners, but mostly these contacts have been built on an ad hoc basis, there has so far been no general strategy for contacting NGOs and, to date, the effectiveness and utility of these co-operation schemes have also not been measured. Therefore there is a need to evaluate the already existing contacts and to detect the possibilities of progress in this field.

The Hungarian Prison Authorities and the Dutch Prison Authorities co-operate in a Phare Twinning Project to tackle the issues as mentioned above. A Pre-Accession Advisor from the Dutch Prison Authorities, Theo van Maanen, coordinates the implementation of the project, whereas Raymond Swennenhuis of the NHC is responsible for the day to day project management and supports the project leader, Giancarlo Fornaro. The European Commission is funding the activities.

The objective of the project is threefold. In the first place, the aim is to develop a new classification system and to train staff in the implementation of that system. Secondly, the project aims to set up a programme of resocialisation for juvenile offenders. This programme will largely consist of training courses. Finally, the project seeks to improve co-operation with NGOs working in the field of resocialisation of juveniles.

The project has various activities. Regarding the classification of juvenile offenders, the project, in the first place, assesses the existing methods and practice regarding the classification of juveniles. Moreover, various meetings take place between Hungarian and Dutch experts on developing materials and a manual for Hungarian staff to implement new classification techniques. In addition, training schemes take place to teach staff members to practically use the materials and methods. All of this will be tested in a pilot phase.

Regarding the resocialisation of juvenile offenders, the partners develop a number of training programmes for juveniles in order to prepare them for their release. Additionally, the staff in Hungary are to be trained in providing these training schemes. A series of training programmes will take place as well as their evaluation.

Finally, a conference is to be organised with NGOs on co-operation between the Hungarian Prison Authorities and non-governmental organisations concerning their common activities in resocialisation of juvenile offenders.

The project runs for one year until April 2004. Up until the end of 2003, important results have already been attained. With regard to the classification of juveniles, the assessment missions have provided an overview of existing ideas, experiments and pilot projects; an overview of wants and needs; conclusions and recommendations with the aim being to develop a transparent, efficient and effective classification system, including a feasibility study of the Central Inspection and Rehabilitation Institute (CIRI). The experts have developed a basic classification method including a manual with instructions for the Hungarian staff on how to implement the new classification method. Furthermore, a large number of Hungarian staff members have been trained in the classification method. A pilot project has been set up to test the classification method. So far the results are excellent. Among other things, relations between staff members and the juveniles have become more open and less stressful, which in turn has resulted in fewer incidents and reports of misbehaviour.

Concerning resocialisation, important results have also been attained. Three important topics were elaborated into training modules. The partners chose a programme with training in social skills, with training in 'Equip' and with lessons on health in a broad perspective. 'Equip' is a peer training programme in social skills, anger management and making the right choices in the case of dilemmas. In the health lessons special sessions were included on all items of addiction. Addiction was brought within the framework of health and prevention and there was extensive discussion of the risks. A series of training programmes were held before the end of 2003 for the benefit of staff working directly with juveniles. An evaluation of the programme will follow later.

#### Assisting penitentiary reform in the Republic of Moldova

In view of the transition process, the Republic of Moldova engaged in a process of reforming the penitentiary system. As a result of the reforms, policy and practice should become interactive and in increased compliance with European standards and practice, and the quality of detention experienced by Moldovan inmates should

improve. At the request of the Moldovan authorities to the Dutch government for assistance in the reform process, a project was designed to provide the necessary support. Since the problems that needed to be addressed concerned both the practical and organisational aspects, as well as the legislative aspect, the project activities focused on legislative and policy advice, the training of staff and twinning programmes.

The project started in July 2002. It is managed by Ineke van de Meene on behalf of the NHC. The purpose of the activities in the field of Legislative and Policy Advice was to analyse the Moldovan legislation which regulates the criminal justice system in general and the enforcement of punishment in particular. To this end, a working group consisting of Moldovan, Dutch and Romanian experts was set up. It set out to check the compliance of the Moldovan legislation, in particular the draft Enforcement Code and other regulations concerning punishment, with the internationally recognised principles and standards, and whether procedures and principles of the Moldovan legislative and regulatory framework can be and indeed are applied in practice. The working group was expected to come up with concrete recommendations and policy advice in order to improve the present situation in the field of legislation and procedures.

Furthermore, the project proposal identified two main problems that needed to be addressed by the project: the lack of knowledge and practical skills needed for a professional prison organisation amongst the prison management, and the abusive attitude and perception of the management concerning security. Therefore, the project set out to change attitudes towards the work within the prisons and the prison system itself, and to improve the above mentioned skills and knowledge. This was done by means of a series of four training activities: two training sessions for 20 representatives of the higher management of the prisons (governors and deputy governors), the Training Institute and the Department of Penitentiary Institutions at the Ministry of Justice, and a further two training sessions for 20 representatives from the middle management of the Moldovan prison service.

The main focus of the training seminars would be on the implementation of best practices concerning education, labour, day programmes, detention planning, etc. In addition, the project was designed to pay attention to the human rights aspects of these best practices. Therefore, it was envisaged that the participants would be provided with a Romanian translation of the handbook entitled *Making Standards Work*.

Lastly, three twinning programmes between three Moldovan and three Dutch prisons were foreseen. The twinning activities were to facilitate the exchange of knowledge and practical experience in specific areas of the functioning of the penitentiary institutions. The topics that would be chosen for the twinning activities were to be approached from a practical perspective, taking into account both the necessity of implementing the standards of European prisons and the limited possibilities determined by the situation in Moldova.

In 2003, the following activities were organised in order to attain the results that were anticipated in this project.

The Legislative and Policy Advice Working Group met three times in 2003. During the first Consultation Meeting in January 2003, the working plan and strategy of the working group was established, documents were exchanged and the results of the research by the individual members of the working group were discussed.

In June 2003, an additional meeting of the working group was organised. During this meeting the Moldovan and international members of the working group discussed the new version of the chapter on the enforcement of pre-trial arrest in the draft Enforcement Code.

In September 2003, the second and last Consultation Meeting of the Legislative and Policy Advice Working Group was held. During this meeting, the working group examined the final version of the draft Enforcement Code of the Republic of Moldova. The experts analysed the methods of modifying the normative acts which are subordinate to the Enforcement Code (the so-called complimentary package), and the possibility of organising several training seminars for the staff of the penitentiary system relating to the practical application of the new provisions of the Enforcement Code. The experts also examined the possibility to train staff members in civil inspections in the places of detention (for instance by a Complaints Committee).

After the first training seminar for the higher management of the Moldovan Prison Service in December 2002, in 2003 three more seminars were organised: a follow-up training seminar for the higher management, and two training seminars for the middle management of the prison service.

The training seminars for the higher management focused on issues such as the technical and internal organisation of a penitentiary institution; the relations between the Department of Penitentiary Institutions at the Ministry of Justice and the penitentiary institutions themselves; disciplinary measures for the detainees and for the officers serving in the institutions; the inspection system; labour for detainees; and detention planning and other relevant aspects, including the human rights issue.

The programme for the middle management also addressed some of these topics, as well as subjects such as education and training of staff according to international standards; the work discipline of the officers in the institutions; and the preparation of detainees for release.

The handbook *Making Standards Work*, reports from the Committee for the Prevention of Torture and working protocols from the Dutch prisons were used as reference materials, as well as video tapes from the Netherlands. The seminars were conducted by four experts from the Dutch prison service: one general director, two location directors and one unit director.

During 2003, several activities took place within the framework of the twinning programmes between the Moldovan and Dutch prisons: Prison no. 1 in Bălți – PI Tilburg; Prison no. 5 in Cahul – PI Arnhem; and Prison no. 17 in Rezina – PI Flevoland.

Representatives from the Dutch prisons visited their counterparts in Moldova in order to exchange knowledge, experience and expertise on various issues concerning the prison system. In addition, material support was provided to the Moldovan twinning partners in the form of surveillance cameras, medical equipment (e.g. dental equipment), computer equipment and other materials.



The Dutch twinning partners organised study visits to the Netherlands for their Moldovan colleagues. During these study visits, the Moldovan delegations visited various Dutch penitentiary institutions, had meetings with Dutch colleagues, and were informed about various working methods and protocols.



*Discussion during a training session in Moldova.  
On the left Mr Sereda, Director of the Moldovan Prison Service.*

At the end of the project, on 1 October 2003, the following results had been attained. The Legislative and Policy Advice Working Group had finalised its comments and proposals for the draft Enforcement Code during the second Consultation meeting. According to plan, on the 1<sup>st</sup> of December 2003 the Enforcement Code was submitted to the Moldovan Parliament's Juridical Commission for Appointments and Immunities, in order to be approved during the second hearing. The draft Enforcement Code represents important progress in comparison to the previous legislative acts in this respect, by extending the rights and guarantees of convicted persons and by unifying the regulations relating to the enforcement of judicial decisions (fines, custodial sentences, community service orders, etc.).

The Dutch prison directors were pleasantly surprised concerning the openness of the participants in the training seminars, and their willingness to discuss the difficult situation of the Moldovan prison system. The participants were eager to learn and were open to suggestions and ideas from their Dutch colleagues, but at the same time they were critical about the way in which certain things are organised within the Dutch prisons and prison system. As a result of the training seminars, the higher and middle management of the Moldovan prison service have acquired knowledge of

international standards and working protocols. The Moldovan participants demonstrated a willingness to change the current situation in Moldova, and an awareness of the problems they are likely to encounter in the process of reforming the Moldovan penitentiary system and of their own prisons in particular.

The same holds true for the representatives of the Moldovan prisons who participated in the twinning programmes. Because of the visits by their Dutch colleagues and the visits to the Netherlands, they have increased their knowledge of international standards regarding penitentiary institutions. Furthermore, the Moldovan prisons have received material assistance from their Dutch partners.

In addition to the planned activities, an extra activity took place at the initiative of the Institute of Penal Reform. Since the books *Probation and Probation Services* and *Probation in the EU accession countries* (edited by Anton van Kalmthout) are of major importance with regard to the implementation of probation in the Republic of Moldova, it was proposed to translate a number of chapters of these books from English into Romanian. Information would thereby be made available to the Moldovan (legal) public. The body responsible for funding of the project, the Royal Netherlands Embassy in Kiev, granted permission to use savings in the budget for this purpose.

When the project was designed, the expected duration of the entire programme was three years. However, it was decided to start with a one-year project, which was to be extended if the results were satisfactory. The project activities have been successfully implemented and co-operation with local counterparts and beneficiaries (e.g. the Moldovan prison authorities and prison staff) became stronger as the project continued. Plans for an extension were made, for instance a train-the-trainer programme, continued legislative advice and additional activities within the twinning programmes. Unfortunately, because of serious cuts in the development aid budget of the Royal Netherlands Embassy in Kiev, the envisaged extension cannot take place.

*Other projects in the field of the professionalisation of prisons, the police and probation staff:*

- *Long-term monitoring of prison and pre-detention site conditions in Albania & Strengthening the Albanian Helsinki Committee*
- *Enhancement of the professional level of the Czech Prison Service*
- *New role and position of the Probation Service in Hungary*
- *Improving conditions of (pre-trial) detention for juveniles in Latvia*
- *Introducing probation in Bucharest, Romania*



*Court yard in one of the Czech prisons.*

### **2.5.3. Assistance to human rights movements**

#### **Practical training in international human rights litigation, with an emphasis on non-discrimination and minority rights, and on the European Convention on Human Rights**

An important aspect of the transition process of member states to the Council of Europe is the development of a political and legal regime guaranteeing the protection of human rights in practice. Effective implementation of the European Convention on Human Rights at the domestic level, both in law and in practice, is a prerequisite to guarantee the protection of human rights. This means that, firstly, standards of the European Convention should be applied in domestic courts. A number of countries in Central and Eastern Europe and the former Soviet Union have only very recently ratified the European Convention. A large number of lawyers and judges in these countries have insufficient knowledge and practical skills in using the potential of the international standards in effecting domestic systemic change and, where necessary, engaging the State in international proceedings.

The concrete aim of the Practical training project is to equip lawyers and judges from the whole region with knowledge and practical skills of how to use the international instruments on non-discrimination in their daily practices. The target group consists of experienced, English-speaking lawyers from different backgrounds, such as jurists working for Human Rights organisations, individual lawyers and judges. On behalf of the NHC Monica van de Ven and Barbara Henkes are responsible for the project.

The project runs from 2001 until September 2005. It consists of 5 training sessions for 20 participants per session (in total 100 participants). Three sessions are open to

participants from the whole region, two sessions are for specific regions, the Balkan region and the Caucasus region. On behalf of the NHC Lennart Rem was responsible for the project until September 2003. Since then Monica van de Ven is responsible for the project.

In 2003 the second session of the Practical Training took place from 24 November until 5 December. In this session 6 judges and 14 lawyers took part from countries in the Balkan region, such as Albania, Bulgaria, Bosnia-Herzegovina, Croatia, Macedonia, Moldova, Romania and Serbia and Montenegro.

The training session started with an overview of the international law on minority rights, and continued with basic concepts of international non-discrimination law. The participants examined particular rights – the right to privacy, right to property, freedom of religion, of association, social, economic and cultural rights, etc. - from a non-discrimination perspective. Furthermore, they analysed and compared the available procedures for remedying of violations of these rights. The second week of the training programme consisted of a litigation workshop on two hypothetical cases before the European Court of Human Rights. Experts with practical experience in international litigation, among whom were lawyers from the European Court in Strasbourg, moderated this workshop. The participants produced written complaints and government responses. The training concluded with a “hearing” of and a “judgement” on the cases by the “court”. Emphasis was placed on acquiring practical skills in drafting written memorials making appropriate use of the case-law of the European Court of Human Rights, meeting all procedural requirements, conducting hearings (they followed the real rules of the European Court in all details), and friendly settlement negotiations.

As a result 20 lawyers and judges from the Balkan region have increased their theoretical and practical knowledge of international standards concerning human rights and minority rights. They have gained some practical experience in using the tools of international litigation, particularly in bringing a case before the European Court of Human Rights. One of the indicators as to the extent to which the overall objective has been achieved should be the use of the European Convention by jurists in everyday practice. As a follow-up, the Netherlands Helsinki Committee in co-operation with INTERIGHTS (London), two of the main project partners, aim to develop a network of lawyers. This network will facilitate contacts between participants in the training sessions in order for them to exchange information and to consult each other on their work in specific non-discrimination cases. The main long-term effect of the project that is foreseen is a higher degree of compatibility of the human rights protection regimes in the member states of the Council of Europe with their international human rights obligations. As experience in the last few years in Bulgaria, and partly in Romania has demonstrated, the use of international mechanisms for individual complaints has brought about important and substantial changes in law enforcement and amendments to legislation. They have thereby, it has turned out to be successful mechanisms by which to place human rights issues on the agenda of governments and parliaments.

Strengthening the anti-discrimination work of the Latvian Centre for Human Rights and Ethnic Studies

Discrimination in Latvia, as elsewhere, has a variety of victims – ethnic minorities, women, the aged, disabled persons, persons of a certain sexual persuasion, religious minorities, and others. Most discussions on discrimination in Latvia have focused solely on the ethnic, linguistic and citizenship dimensions. This is understandable. In the first years of the new millennium the registered population of Latvia consisted roughly of 2,350,000 persons, of whom 58% were ethnic Latvians, while the largest minorities were Russians (29%), Belarusians (4%), Ukrainians (2.6%) and Poles (2.5%).

The issue of discrimination has been a controversial one in Latvia. During Soviet rule, the regime regularly employed discrimination as a component of its nationalities policy and ethnic Latvians and the Latvian language (like almost all non-Russian groups and languages) were subject to various forms of discrimination. The concept of discrimination itself needs to be rehabilitated and reappraised in the public eye by promoting awareness of the economic, moral and political costs of discrimination, as well as its illegality.

Because of low public awareness and the lack of an enabling legislative environment, the targets of discrimination have rarely fought discrimination in the courts or sought assistance from state bodies or NGOs. Public awareness concerning procedures for seeking redress for discrimination is still low. At the same time, however, the demands of implementing EU anti-discrimination legislation are becoming more urgent now that Latvia will become a member of the EU in 2004.

Therefore there is a need for a strong promotion of anti-discrimination activities in Latvia. In Latvia, the foremost human rights organisation is the Latvian Centre for Human Rights and Ethnic Studies (LCHRES). The LCHRES was founded and registered in 1993 as a social organisation devoted to monitoring human rights and ethnic relations, conducting research and advocacy work within this field, engaging in human rights education and training, and providing legal aid to victims of human rights violations. The two core areas of the LCHRES' specialisation are 1) inter-ethnic relations (e.g. citizenship, language policy, minority rights, integration policy) and 2) human rights in closed institutions (e.g. prisons, mental hospitals, police cells, refugee centres). The work of the LCHRES was recognised by the United States and the European Union in 1998, when it received the Democracy and Civil Society Award – a prize awarded to human rights NGOs in Central and Eastern Europe to commemorate the 50<sup>th</sup> anniversary of the Marshall Plan. Moreover, in 2003 the LCHRES received the first *Max van der Stoep Award* for its work in the promotion and protection of rights of national minorities.

The current project aims to contribute towards promoting the implementation of anti-discrimination legislation in Latvia. More in particular, the project has the objective of strengthening knowledge, awareness and skills amongst key target groups in

governmental and non-governmental circles in order to prevent and combat discrimination in Latvia.

The project will result in a group of trained key actors in the field of anti-discrimination issues in Latvian society. Moreover, the LCHRES will have developed its own strategy concerning non-discrimination and equal treatment and this can be adopted by other relevant active NGOs. In addition, there will be greater awareness amongst the general public regarding discrimination issues. Finally, the possibilities for litigation to combat discrimination will be strengthened.

The project consists of several types of activities. Firstly, the LCHRES will organise seminars and workshops on the implementation of law and practice regarding non-discrimination and equal treatment. Moreover, the LCHRES will develop and fine-tune its own strategy concerning anti-discrimination and this can be adopted by other NGOs. The LCHRES will also write and publish regularly on non-discrimination issues. Finally, the LCHRES will engage in legal counselling consisting of legal assistance to the public at large as well as specifically targeted public interest litigation at national or international tribunals.

The LCHRES and the NHC implement the project jointly. The LCHRES is the primary implementing organisation, whereas the NHC provides the necessary knowledge and expertise regarding international law and practice concerning non-discrimination and equal treatment. The Netherlands Ministry of Foreign Affairs under the Matra-programme finances the project. The project started in August 2003 and will go on until August 2006. On behalf of the NHC Raymond Swennenhuis is responsible for the project.

In the first few months of the project (November 2003) there was a study visit to the Netherlands for members of the LCHRES as well as representatives of other NGOs and the government. The study visit consisted of various meetings with representatives of Dutch governmental and non-governmental organisations in the field of anti-discrimination. The visit resulted in the further fine-tuning of strategy concerning anti-discrimination. Furthermore, the LCHRES provided legal assistance to individuals who are faced with discrimination.

In the coming year, among other things, a seminar is foreseen on the implementation of relevant EU guidelines regarding racism and anti-discrimination. Relevant actors such as politicians and legal experts from Latvian society will take part. Workshops will also be organised for other non-governmental organisations on the practical implications of national and European anti-discrimination provisions.



*Other projects in the field of assistance to human rights movements:*

- *Training for human rights lawyers in Armenia, Azerbaijan and Georgia*
- *Environmental protection and human rights in the Czech Republic*
- *Model Legal Aid Board Programme in Hungary*
- *Coaching and monitoring the Human Rights NGO Resource Centre in Moldova*
- *Media and human rights in the Russian Federation*
- *Human Rights Monitoring Network in the Russian Federation*
- *Legal protection of individual rights in the Russian Federation*
- *Making standards work in the Correctional Institutions in Ukraine*





### **3. INTERNAL ORGANISATION**

#### **3.1. Board**

Prof. M. van der Stoel is the Honorary Chairman of the NHC. In 2003 the NHC executive committee consisted of the following persons: Mr J.H.R.D. van Roijen (Chairman), Mr B. van Delden (Vice-Chairman), Dr E. Bakker (General Secretary), Mr B.N.J. Pompen (Treasurer), Dr A. Bloed, Mr I.F. Dekker, and Ms A. Offermans. On 1 January 2003 Mr Bakker took over the position of General Secretary from Mr Dekker. On 1 January 2004 Mr Dekker left the executive committee. He was succeeded by Dr K. Henrard in February 2004. Mr J. ter Laak is the senior advisor to the executive committee. The executive committee held five meetings during 2003.

The committee members are: Prof. E.A. Alkema, Mr J.G.A. van den Brand, Mr W.J. Deetman, Mr A.H. Dijckmeester, Mr T. Etty, Prof. C. Flinterman, Ms H.M. Gelderblom-Lankhout, Prof. J.E. Goldschmidt, Ms S. van Heemskerck Pillis-Duvekot, Mr L.J. Hogebrink, Mr C. Homan, Mr J.G.N. de Hoop Scheffer, Mr G. Huyser, Mr C.F. Stork, and Mr E. van Thijn. The committee met on two occasions during 2003.

#### **3.2. Staff**

In 2003 Mr Jos Kösters remained Executive Director and Mr Raymond Swennenhuis Deputy Director. Ms Margaret Karsten remained Office Manager. On 16 May 2003 the secretary Ms Karin den Dulk left the NHC. She was succeeded by Ms Mirelle Slobbe. Ms Monica van de Ven, Ms Ineke van de Meene, Ms Mechteld Schelberg and Ms Anna Stunova remained as staff members. Mr Lennart Rem, a staff member, left the NHC on 31 August 2003 and was replaced by Ms Nicole Versteegen. Mr Jeroen Jansen, a staff member, left the NHC on 15 September 2003. Mr Hotze Bergsma worked as a staff member at the NHC from 16 March until 15 September 2003. On 1 April 2003 Mr Koen Wagenbuur was employed in the new function of financial officer. Ms Barbara Henkes continued to work on a freelance basis for the NHC. Ms Tamar Boss, Mr Jeroen Bomers, Mr Vincent Cillessen, Ms Doortje Ninck Blok, Mr Niels van der Meulen and Ms Anouk Vorselman worked as interns.

#### **3.3. Finances**

The annual financial report 2003 is printed in a separate publication and is distributed to all NHC donors. The report includes the audit certificate by the auditing firm HLB Schippers in Amsterdam. A Summary Balance Sheet and an overview of the Income and Expenditures is presented in this annual report (figure 1 and 2). This shows a positive Result of Operations in 2003 of € 6,978 of which € 6,000 has been added to the Social Fund and € 978 to the unrestricted reserve.

In 2003 The Netherlands Helsinki Committee managed 40 projects, in 15 countries or regions. In terms of project expenditures the Czech Republic and Hungary received

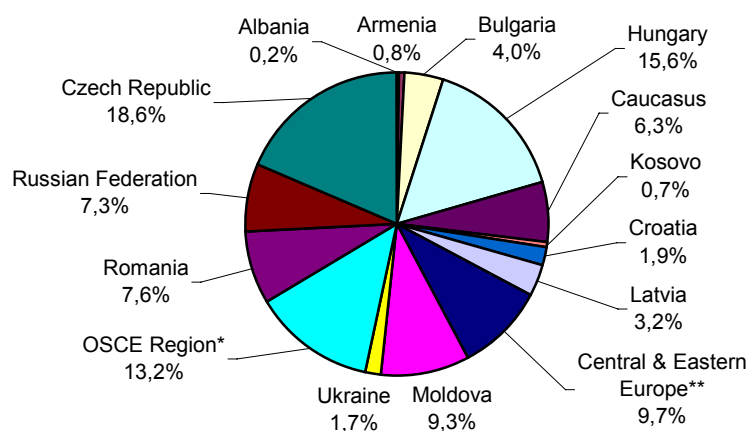
the largest contribution. Due to the Netherlands chairmanship of the OSCE in 2003, activities that contributed to the OSCE region as a whole form a large share this year (figure 3). The MATRA programme funded 12 projects in 2003, which is by far the largest of the different sources of funding. However, in financial terms the total funds of the PHARE programme constituted the largest contribution to the projects in 2003 (figure 4 and 5). The total project expenditures in 2003 show an increase of 26% compared to the year before. In comparison to 1999 the total project expenditures have grown 134% (figure 6).

**Figure 1: Summary balance sheet**

	31 December 2003 in Euro	31 December 2002 in Euro
<b>Assets</b>		
Fixed Assets		
Tangible Fixed Assets	8,252	3,798
Current Assets		
Debtors	22,606	11,245
Liquid Resources	691,592	685,454
	<u>722,450</u>	<u>700,497</u>
<b>Liabilities</b>		
Unrestricted reserve	200,944	199,966
Restricted reserves		
Social fund	76,890	70,890
OSCE Research fund	-	2,887
Project development fund	-	1,502
Current liabilities		
Project subsidies	394,494	307,562
Creditors	50,122	117,690
	<u>722,450</u>	<u>700,497</u>

**Figure 2: Income and expenditure**

	2003 in euro	2002 in euro
<b>Income</b>		
Project subsidies	2,124,019	1,678,218
Other income	52,250	43,211
	<u>2,176,269</u>	<u>1,721,429</u>
<b>Expenditure</b>		
Personnel costs	502,080	390,690
Rent and office expenses	110,210	117,228
Other costs	20,438	11,573
Direct project expenses	1,536,563	1,190,286
	<u>2,169,291</u>	<u>1,709,777</u>
Result of operations	<u>6,978</u>	<u>11,652</u>

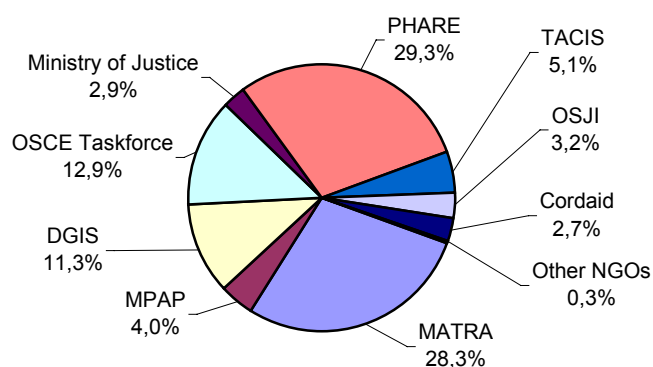
**Figure 3: Project expenses per country or region**

\*) Projects benefiting the OSCE region in the context of the Netherlands OSCE Chairmanship in 2003

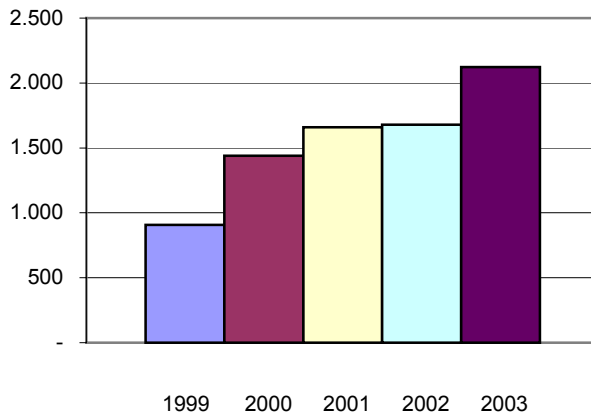
\*\*) Projects that target multiple countries in Central & Eastern Europe

**Figure 4: Source of funding**

	Number of projects
MATRA programma	12
MPAP (MATRA Pre-Accessie Programma)	2
DGIS (Netherlands Ministry of Foreign Affairs)	4
OSCE Taskforce (Netherlands Ministry of FA)	5
Ministry of Justice	2
PHARE (European Commission)	7
TACIS (European Commission)	2
OSJI	2
Cordaid	3
Other NGOs	1
<b>Total number of projects</b>	<b>40</b>

**Figure 5: Project expenses by source of funding**

**Figure 6: Project expenses 1999 - 2003**  
(x 1.000 Euro)



### 3.4. Annual Social Report

In 2003, the NHC continued to oversee the working conditions for its employees and experts. As a requirement of the Occupational Health and Safety Act (*Arbo Wet*), a risk inventory and evaluation was carried out in 2001 to identify those working conditions that should be improved. The plan of action that was elaborated as a result of the risk inventory and evaluation was further implemented in 2003. The NHC took measures to reduce physical health risks for NHC employees. Attention was also paid to safety issues in the building and emergency situations during travelling abroad. The NHC arranged travel and health insurance for its staff, experts and guests. The policy paper on the working conditions, including an emergency plan, was further elaborated. The employees had an emergency evacuation exercise. Two employees followed a refresher course on first aid and fire prevention. At the end of 2003 Mr I.F. Dekker succeeded Mr L.J. Hogebrink as the trusted representative of the NHC employees.

#### **4. DONORS, EXPERTS AND LOCAL PARTNERS OF THE NHC**

##### **4.1. The Netherlands OSCE Chairmanship-in-Office: an interview with Ambassador Daan Everts**

During 2003 Ambassador Daan Everts was head of the Ministry of Foreign Affairs' OSCE taskforce and the special representative of the OSCE Chairman-in-Office Minister Jaap de Hoop Scheffer. In the past he has been Head of the OSCE Missions to Kosovo and Albania. Together with the permanent representative in Vienna he was responsible for the chairmanship. As such, he had several meetings with the NHC which led, among other things, to the Seminar on Human Rights and Terrorism.

*Ambassador Everts, what were the goals of the Netherlands chairmanship?*

A main objective was to help redefine the new role for the OSCE in a drastically changed European security environment. After the end of the cold war – which also came to an end thanks to the OSCE's contribution – the EU, NATO and others took over the essential functions in Eastern Europe. Furthermore, we had to restore the balance in terms of programmatic focus between East and West of Vienna and between the three dimensions (politico-military, economic/environmental and the human dimension). Some participating states of the OSCE were critical of the rather exclusive focus on the human dimension in many of the countries of the former Soviet Union only. This was also a reason for our new emphasis on 'new threats' that challenge security in both East and West and that transcend all dimensions – but not at the expense of the cause of human rights and democratic freedoms. Another priority was the reinforcement of the co-operation with other organisations, to strengthen ties with the EU, NATO, UN, the Council of Europe, but also to start a dialogue with organisations outside Europe, such as the Organization of the Islamic Conference. Of course, the so-called frozen conflicts within the OSCE Region were high on our agenda. We wanted to contribute to the resolution of the conflicts concerning Moldova, Nagorno-Karabakh, Abkhazia and South Ossetia. A less spectacular but important goal was to make the OSCE more efficient, to strengthen the cohesion of the different institutions, to professionalise the budget process and to establish an objective recruitment policy. In this we were supported by the Secretary-General of the OSCE.

*To what extent have these goals been accomplished?*

A large part of these goals were indeed accomplished. The OSCE has probably gained in organisational strength and relevance. A significant achievement was the adoption of a strategy to face new threats and challenges which basically sets the agenda for the coming years. Similarly we saw the adoption of an Action Plan to combat the trafficking in human beings. Many have come to see this as an urgent new priority concern. We added the creation of a Special Representative, and a supporting office, to give the plan more operational 'punch'. I could also mention the action plan concerning the Roma and Sinti. Further, co-operation in the field of arms control has been expanded and gained new importance in the context of anti-terrorism.

On other matters we have made less headway. The frozen conflicts in Moldova, Nagorno-Karabakh, Abkhazia and South Ossetia are not resolved, although important progress was made in the case of Moldova. Apart from this, revolutionary developments took place in Georgia, in which the OSCE played a modest, but constructive role particularly with regard to the successive elections. And we paid extra attention to Central Asia, which is now a better focused policy area for the OSCE.

The new Chairman-in-Office, Mr Solomon Passy, the Bulgarian Minister for Foreign Affairs, made it very clear that he intends to stress the implementation of the policies initiated under the Netherlands Chairmanship. One could say that the Troika of Portugal, the Netherlands and Bulgaria has put the OSCE firmly back on the international map. In Portugal the policies were conceived, the Netherlands worked them out and translated them in practical terms, and the Bulgarians are in the process of carrying them out.

*What was the contribution of NGOs, especially the NHC, to the chairmanship?*

It is difficult to measure the contribution of NGOs. Most interaction within the OSCE takes place between states. NGOs can influence the arena in which states operate. It is important that they raise urgent problems in order to shake the OSCE out of the routine of complacency. The Organization's consensus model can be paralysing. One of the political goals of the chairmanship was to raise the profile of the NGOs within the OSCE framework. In order to do so we organised a meeting with international NGOs such as Amnesty International, International Crisis Group, IHF, etc. at the beginning of the year. One of the results was the NGO meeting parallel to the OSCE Ministerial Council in Maastricht. Respectable NGOs can have firm opinions on delicate subjects such as Chechnya, where governments are subject to intergovernmental sensitivities. On more generally agreed subjects, like trafficking in human beings, the OSCE itself can be more forceful. But, for the response of society at large, NGOs can still make vital contributions.

As regards Maastricht, it was the first time that a NGO meeting was organised in parallel with a ministerial meeting. For security reasons little interaction between both meetings was established. Also the ministerial meeting was prepared well in advance, so influencing it when it is held is hardly possible. Those who made contact found it an interesting and fruitful experiment for both sides. For the future a more useful set-up is probably to hold the NGO meeting before the ministerial one and have NGO representatives address the ministerial meeting.

A major contribution by the NHC was the organisation of the seminar on Human Rights and Terrorism. Some people, including myself, were concerned about aspects of the 'war against terrorism'. There are tensions between fighting terrorism and respecting human rights and the rule of law. In some cases the means disagree with the goals. This can happen in any state, including the most established democracies. Terrorism is also used as an excuse to get rid of the opposition. The seminar devoted attention to the existing tensions and made the convincing case that respect for human

rights is an 'anti-terrorist' weapon. The seminar was timely and the results were used in the ministerial meeting. The co-operation between ourselves in the Ministry and the NHC was truly exemplary.

*What would you, based on last year's experience, like to give to NGOs?*

NGOs should do more to influence governments and parliaments. These are policy-making bodies. They should also mobilise external support, by pointing out to people which problems exist. In order to do so they should ensure high quality input. Parliaments should be more involved in the OSCE. During our Chairmanship we invited the Parliamentary Assembly to the Troika. This trend should be ongoing in the future. It might help the OSCE to influence governments from the other side of the fence. This mainly depends on members of parliament, but NGOs can also play a role in this.

*How useful were your own experiences as the Former Head of the OSCE Missions to Kosovo and Albania?*

The chairmanship wanted to improve the organisational infrastructure. The Organization has to get a firmer grip on the missions. This should lead to new missions and the end of some ongoing ones. Because of positive post-conflict developments some missions have become redundant, whereas a mission in Central Asia would probably be the only one of its kind and would fill an obvious vacuum.

Because I was familiar with the work on the ground, I knew that missions are sometimes very much on their own, with too little guidance and support. That makes the role of the Head of Missions disproportionately decisive. Better organisation of work on the basis of workplans is required. On the other hand, there is a possibility to overestimate the usefulness of a continued mandate. We should be wary not to overextend our role and fall into the trap of uncritical self-perpetuation. That is why clear goals and exit benchmarks are desirable. And that is not only true for the OSCE.....

#### **4.2. Train-the-trainers Programme for the Magistrate Training Centre/National Judicial Institute in Bulgaria: the impressions of an expert**

Ms Marlies Bos-Buurman is the Adviser in Education at the T.M.C. Asser Institute (a post-academic inter-university institute for research and education in private and public international law, international commercial arbitration and European Law in The Hague). Last year she developed a train-the-trainers programme for the Bulgarian judiciary in close co-operation with the NHC and the MTC (Magistrate Training Centre) in Sofia. She has been responsible for the implementation of the project in Bulgaria. At the moment she is living in Sofia as a long-term adviser in an EuropeAid project, offering technical assistance for the preparation of a recruitment and training strategy for the Bulgarian judiciary.

*What kind of project was this train-the-trainers programme for the Bulgarian judiciary?*

The T.M.C. Asser Institute, NHC and MTC developed this programme as a follow-up to a project that dealt with an introduction to European Law for Bulgarian magistrates. The first train-the-trainers project explained the fundamental principles in European Law. The same Bulgarian trainers were involved in the second project: a group of selected magistrates, consisting of judges, prosecutors and investigators (comparable with the *rechter commissaris* (examining judge) in the Netherlands). The project focused on two legal subjects: “EU Intellectual Property Law” and “Police and Justice Co-operation in the field of criminal and civil matters in the European Union”.

The first topic was for judges dealing with private law, the second for judges, prosecutors and investigators. All trainers are linked to the Magistrates Training Centre. Such training project activities still continue, although they are now funded somewhat differently. The project was financed by the Netherlands’ Ministry of Foreign Affairs’ Matra Projects Programme.

*What was your role in this project?*

My task was to develop the content of the programme. I was also responsible for the supervision and monitoring of the trainers and their activities in Bulgaria. Another aspect was to promote team building and co-operation within the group of trainers.

*What was the strength of the project?*

The project made the training of the judiciary possible in Bulgaria. Nowadays, magistrates in Bulgaria are training their colleagues themselves. The fact that the trainers are practising magistrates makes their training activities acceptable to their colleagues. Another advantage is that the magistrates develop contacts: judges, prosecutors and investigators discover each other’s opinions and professional ideas and working methods. The magistrates in Bulgaria used to work in strict isolation from one another and hardly had any opportunity to meet. The trainers also learn to co-operate together as one team. In general teamwork is not a common practice in Eastern Europe and also not in Bulgaria.

Since the 1st of January 2004 the MTC has become a non-governmental organisation. However, the Centre received official government status and has now been transformed into a National Judiciary Institute (NJI). Bulgarian law now recognises that it is the official Training Centre for the Judiciary in Bulgaria, responsible for the initial training of magistrates. The Bulgarian state is responsible for its main financing. In practice the finances will not be sufficient in the coming years, which will still make additional funding necessary from donor projects.

*What is your opinion of Bulgaria’s progress towards accession to the EU?*

During last four years Bulgaria has achieved a great deal in the adoption of national legislation and regulations. But the real implementation of the rules is still weak and at a preliminary stage. However each time I have been abroad for a longer period and have returned to Sofia, I can discern that progress has been made. Certainly the younger generation of Bulgarians are very motivated in becoming part of the



European Union, and are willing to devote their energy towards progress. As long as this will continue Bulgaria might be able to join the EU in 2007. However, there are still many tasks to fulfil before it realises its obligations.

*What is the stance of the Bulgarian people towards accession of the EU?*

Interviews have made it clear that more than 50% of the people are in favour of accession. The Bulgarians find accession self-evident and are all confident that it will happen. It was a real disappointment when it became clear that Bulgaria and Romania were not allowed to join in 2004. Both countries are in favour of accession. The transition from a Soviet State to a EU member is not an easy task.

*What are you doing nowadays?*

Our projects starts with analysing the legal education at the Universities. We are responsible for the development of a training strategy not only for the judiciary but also for the clerical staff in the courts. At the moment the training system for magistrates only consists of *ad hoc* training courses. A more permanent and structural training system is needed for the future. Our aim is that the judiciary will have eventually the same level of professionalism all over the country. At the end of the project a list of proposed training courses need to be developed and we will provide the curricula, the training materials and training in one of the courses in the pilot training programme.

*What can you tell about the culture of Bulgaria?*

Bulgaria has many aspects in common with Western Europe. Most Bulgarians of the younger generation are able to speak English and some of them also French and German. The older generation is more familiar with only German, or French, and they still retain their skills in the Russian language. The country is very scenic and is therefore very suitable for tourism. Bulgaria has a very interesting history, which includes the Thracian, Greek, and Roman cultures. The Bulgarians are a strong and proud people, loving nature and culture. They have the spirit and intention to “make the best of the situation”. The Orthodox Church alongside the synagogue and the mosque. The religious denominations live in peaceful harmony. However, the attitude of many Bulgarians towards the Roma minority is different. Human rights specialists consider them to be oppressed. The Roma are still considered as a problem by the Bulgarians. This notion exists throughout Central and Eastern Europe.

#### **4.3. Partner portrait: the Moscow Helsinki Group**

The Moscow Helsinki Group (MHG) was first established in 1976. It is the oldest contemporary human rights organisation in Russia. Owing to repression, the MHG had to suspend its activities in 1982, but during the reform, which would eventually lead to the collapse of the Communist regime, it was re-established in 1989. Nowadays it implements, through its large network in the Russian Federation, monitoring, educational and legal programmes. It also focuses for a large part on building a civil society. To do so it works together with several international Human

Rights NGOs, including the NHC. The MHG and the NHC worked together on the implementation of a Human Rights monitoring network and the construction of an information network between Human Rights groups and journalists in Russia. The MHG also works together with the IHF on several issues. This interview was conducted with Ms Tanya Lokshina, the Programme Director of the MHG.

*About 200 regional NGOs participate in your network initiatives. How important is such a monitoring and information network for human rights protection in the specific Russian situation?*

This is incredibly important if you take into consideration the huge territory of the Russian Federation and the differences between the 89 regions. It is vital that the human rights situation is assessed from within, by local NGOs. The only way to create a complete picture of the human rights situation in the country as a whole is to actually carry out thorough monitoring of the relevant human rights developments in every region and then to compile a complete picture.

*The NHC also contributes to your network initiatives. What makes the contribution of the NHC valuable to our joint projects?*

The NHC has contributed quite a lot. We organised some very successful programmes together. One of them was the *Human Rights School in Russia*, which was basically a train-the-trainers programme. This resulted in qualified human rights trainers from provincial NGOs who organise human rights training programmes in their own as well as in neighbouring regions. Another successful programme was *Human Rights and the*



*Tanya Lokshina*

*Russian Media*. The aim of this programme was to educate journalists about human rights, on the one hand, and, on the other, to give some basic training in public relations and media strategizing to provincial NGOs. The NHC was also involved in a joint effort together with the MHG, the Polish Helsinki Foundation for Human Rights and the IHF, called *Human Rights Monitoring Network in the Russian Federation*. This project included country-wide thematic monitoring efforts concerning the situation in relation to nationalism and xenophobia, prisoners, patients in psychiatric institutions and elections. NGOs from all 89 Russian regions took part in this project. The role of the NHC was mainly to increase publicity for the project in the countries of the European Union and to act as an advocate for the project. The NHC

also provided experts for the monitoring workshops taking place in the North Caucasus.

*Together with the IHF and others you have monitored the situation in Chechnya. This has resulted in several critical statements. What is the effect of those statements?*

We co-operate with the IHF very closely, particularly in the Northern Caucasus on whatever has to do with human rights and the Chechen Republic. We send joint missions there on a regular basis. The last mission, in which I took part, went there in February 2004. Based on that, we delivered a joint report focusing on the forced return of IDPs to Chechnya, which was widely distributed. The next mission is planned for the first week of May. Together with the IHF, the MHG also organises workshops for human rights defenders in Ingushetia, close to the Chechen border. So, the training aspect is also very important. As far as statements are concerned, we issued quite a number of very critical statements on different aspects of the human rights situation in Chechnya as far as the general elections were concerned, which we all considered to be a fraud. These statements received a great deal of publicity; the press were quick to pick them up. Together with the IHF we held briefings in Chechnya at the Parliamentary Assembly of the Council of Europe in January 2004 and at the UN Human Rights Commission in Geneva in March 2004.

*What do you think of the national elections of March the 14<sup>th</sup>, 2004? How do they influence the future of Russia with respect to democracy and freedom of the press?*

It is evident that the result of the elections was predetermined. There was no doubt that Putin would win. The best evidence of this is the fact that he sacked the Cabinet a week before the elections. On the other hand one cannot deny that Mr Putin is a legitimate president, because he enjoys a great deal of support among the population. Unfortunately, in contemporary Russia democracy is not a popular word. In fact, for many of the Russian people, after the social and economic hardships of the 1990, democracy equates with chaos. Therefore democracy, human rights and fundamental freedoms are not very favoured – and that explains Mr Putin's success. During the first four years of Mr Putin's leadership all the key institutions for democracy and human rights were subjected to erosion's, it is most likely that these processes will only be reinforced during the coming four years. There is no reason to be optimistic.

*A new development for your organisation is the co-operation with governmental bodies. The MHG co-operates with the Commission for Human Rights and also with the Regional Ombudsmen. NGOs co-operating with the government is not a common practice in Russia. Can you tell us why this has changed? What are the benefits? What are the risks involved?*

Ms Alexeeva, chair of the MHG, is actually a member of the Presidential Human Rights Commission. This opens certain channels to us, such as access to the president's administration. We also work very actively with the ombudsman's office. The new ombudsman is Mr Lukin, a prominent former Soviet diplomat and one of the key members of the "Yabloko" democratic party. He is very sympathetic to human rights issues in general. He knows many human rights actors on a personal basis, which also helps. There is a great deal of readiness and openness on his part. He is now creating a public council at the ombudsman's office. Some 20 people from among the Russian human rights defenders have become members of this council, including Ms Alexeeva and myself. But there are also risks involved. The Russian authorities

try to use – for public relations purposes – the fact that some major human rights organisations, like the MHG and the “Memorial,” co-operate with those official bodies. At such international forums as the UN Human Rights Commission, the Parliamentary Assembly of the Council of Europe, etc., Russian delegations regularly state that the very presence of such co-operation indicates that the human rights situation in Russia is steadily improving. We are aware of this, but the advantages of this co-operation have so far been outweighed the negative efforts. As soon as this balance shifts, the co-operation will have to be stopped.

*What are the MHG’s plans for the future, given the political situation in Russia?*

The MHG is now co-ordinating several major networking programmes. A human rights monitoring network, a legal aid clinics network, a network of NGO coalitions in the defence of public interests, etc. We will continue to support these networks. We will also continue to monitor the violations of human rights, the fairness of elections, the situation in Chechnya, and so on. Our educational training programme will also continue and will expand, to include not only regional human rights defenders but also public officials.

#### **4.4. Column**

##### **The Netherlands Chairmanship: Achieving realistic goals**

The Netherlands Chairmanship took place during a difficult time for the OSCE. One of the main problems is the fact that the OSCE, despite its name, is still lacking an organisational structure. A second problem is the changing position of the OSCE within the international security architecture. More than ten years after the end of the Cold War the OSCE is no longer the obvious and only meeting place between East and West. Not only has the position of the OSCE within the international framework been changed, it is also less clear given the fact that the major actors – the US, Russia and the EU – seem to have no clear-cut ideas on the Organization’s future.

Against this background, in September 2002, the Netherlands Foreign Minister De Hoop Scheffer named his three main priorities for the Chairmanship, accompanied by a list of results that were to be achieved. First of all, he stressed the necessity to strengthen the organisational-structural aspects of the OSCE, which could be separated into a geographical redistribution and a more balanced set of tasks of the missions and other field activities (partly in response to the criticism of mainly Russia as to the one-sided attention of the OSCE); improvement of the political management of the OSCE field missions; and improvement of the co-ordination of the activities of the different OSCE institutions. A second priority of the Netherlands Chairmanship was the emphasis on crisis management and conflict prevention. Results that were to be achieved in these areas are: an active involvement in so-called ‘frozen conflicts’, with a tentative priority for the case of Moldova; strengthening the Dutch diplomatic presence in Central Asia; and diminishing the size and the set of tasks of the OSCE missions in the Balkans to the benefit of a stronger presence in the Caucasus region and in Central Asia. The third priority was to achieve a more balanced policy of the

Organization. The targets were a more balanced relationship between the politico-military dimension and the economic and human dimensions of the OSCE; without a weakening of the commitment to human rights issues and the development of the rule of law; and a firm handling of so-called trafficking problems.

The expectations of the Netherlands Chairman-in-Office were high. The Netherlands was and is regarded as a prominent participant in the OSCE, as a country that could give new impetus to the development and functioning of the Organization. The Netherlands, after all, has been a country that from the outset has been closely involved with the Conference, later on the Organization for Security and Co-operation in Europe. Besides its involvement in the past, the fact that the Netherlands as a relatively large 'small country' is capable and willing to invest the necessary diplomatic and financial means further raised the expectations.

In order to be able to determine to what extent expectations were met and whether or not the Netherlands Chairmanship can be regarded as a success, we look primarily at the initiatives and activities employed, as well as the decisions taken by the Organization in 2003.

Given the priorities and targets related to the role, position and perceptions of the Russian Federation, it comes as no surprise that, already at the beginning of 2003, De Hoop Scheffer visited Moscow. Moreover, throughout his Chairmanship, he often contacted his Russian counterpart. With regard to 'frozen conflicts', De Hoop Scheffer put a great deal of effort into attaining a breakthrough in the case of Moldova. A commission was expected to draft a new constitution on the basis of which the break-away region of Transdniestria could be reintegrated in a federal Moldova. In the course of the year, noticeable progress was made. In early November, when a breakthrough in this conflict seemed at hand, De Hoop Scheffer again visited Moldova. However, after his departure and with only days remaining until the Ministerial Council of the OSCE at Maastricht, the Russians severely embarrassed the Chairmanship, the US and the EU. On November 17, the Moldovan president Voronin and his Russian colleague Putin announced that they had made a separate deal, without involving the OSCE or its Chairman-in-Office. In response, De Hoop Scheffer informed president Voronin that several participating states could not agree to the deal and had expressed serious reservations regarding some key provisions.

Paying attention to a second troubled region within the OSCE area, Central Asia, was initially hampered by developments related to Iraq. A visit by the Chairman planned for mid-February was cancelled at the last moment. A few weeks later De Hoop Scheffer travelled to Turkmenistan. In July he visited the four other former Soviet republics in Central Asia. With these visits he underlined the Dutch interest in developments in this region, including concerns over the human rights situation, the rule of law and slow progress with regard to democratization. The priority of the Netherlands as regards trafficking found its way on to the OSCE agenda. The two preparatory meetings of the yearly Economic Forum and the Economic Forum in Prague itself were dedicated to this theme. Partly as a result of these meetings, a substantial OSCE action plan against trafficking was adopted.

With regard to the organisational-structural reform of the Organization, the Netherlands can claim two decisions of the Permanent Council on new financial and budgetary

processes that will improve transparency and the possibility to control these processes. A Dutch initiative on the management of human resources within the Organization was also accepted.

What should have been the climax of the Netherlands Chairmanship, the Ministerial Council in Maastricht, turned out to be something of a disappointment. No agreement could be reached on a final document. Positive, however, were the many decisions taken on that occasion. The Council approved, amongst other things, draft decisions on tolerance and non-discrimination, the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area and a document on Combating Trafficking in Human Beings. Furthermore, the OSCE Foreign Ministers adopted the draft on Travel Document Security and the draft OSCE Strategy to Address Threats to Security and Stability in the 21<sup>st</sup> Century. In this Strategy the OSCE states that it will pay more attention to combating terrorism and organized crime. The OSCE pledge of immediate financial assistance for the forthcoming elections in Georgia (€7 million) can also be regarded as a positive outcome of the meeting. The same holds true for the attendance of the meeting by many Foreign Ministers – among them Colin Powell, Igor Ivanov and Joschka Fischer – giving additional weight to the Organization and the decisions taken by the Ministerial Council. A clear disappointment was the uncooperative, at times outright negative attitude of the Russian delegation. The Russians were not willing to agree on a draft text which expressed continuous OSCE support for the independence and territorial integrity of Moldova and Georgia, and which included a repeated call for the withdrawal of Russian troops from these countries. This attitude not only prevented the adoption of a final declaration, but also showed that the investments of the Netherlands Chairmanship in good relations with Moscow had not paid off at all.

Despite the disappointment of ‘Maastricht’ and the double-crossing of Russia with regard to the initiatives of the Chairmanship (and others) on Moldova, the Netherlands can look back at a relatively successful OSCE Chairmanship-in-Office. The expectations on the eve of the Netherlands Chairmanship were high; perhaps a little too high. The priorities and targets of the Chairmanship were more realistic, and most of them were achieved. Despite the lack of a ‘solution’, progress was made with regard to the frozen conflict in Moldova. After more than a decade of stagnation, this case still looks more hopeful now than a year ago. Although the decision-making procedures and organisational structure of the OSCE have not been radically altered, one can speak of improvements in the management of human resources and finances as a result of the efforts of the Netherlands Chairmanship. The exchange of information and consultations – both between OSCE institutions and between the Organization and its ‘partner organisations’ – have been improved and intensified during 2003. In addition, the Netherlands as Chairman-in-Office has managed to put a number of issues on to the OSCE agenda that are relevant to the OSCE area as a whole. In particular the problem of trafficking proved to be a very appealing theme as a truly pan-European problem.

Dr Edwin Bakker

*Research staff member at the Clingendael Institute*

*General-Secretary of the NHC*

## 5. APPENDICES

### Appendix I: Projects of the Netherlands Helsinki Committee in 2003

<i>Country</i>	<i>Project name</i>	<i>Partners</i>
Albania	Long-term monitoring of prison and pre-detention site conditions in Albania & Strengthening the Albanian Helsinki Committee	Albanian Helsinki Committee; Polish Helsinki Foundation for Human Rights; SNV – Netherlands Development Organisation
Bulgaria	Assistance to the judiciary in Bulgaria: Continuing training in EU legislation and practice	T.M.C. Asser Institute; Netherlands Training and Study Centre for the Judiciary (SSR)
Caucasus	Training for human rights lawyers in Armenia, Azerbaijan and Georgia	Article 42 – Georgia; INTERIGHTS
Central Asia	Project identification mission to Kazakhstan and Kyrzygstan	OSCE; Netherlands Ministry for Foreign Affairs – OSCE Taskforce
Croatia	Strengthening the legal culture in Croatia: Improving relations between the judiciary and the media	Croatian Helsinki Committee
Czech Republic	Strengthening the Czech Union of Judges	Czech Union of Judges; Czech Helsinki Committee; Netherlands Association for the Judiciary (NVvR); Netherlands Training and Study Centre for the Judiciary (SSR)
	Enhancement of the professional level of the Czech Prison Service. Twinning between the Czech Republic and The Netherlands	Netherlands Prison Service (DJI); Prison Service of the Czech Republic; Netherlands Ministry of Justice
	Environmental protection and human rights	Milieukontakt Oost-Europa; Environmental Law Service (EPS) – Czech Republic
	Integrating human rights, respect for and the protection of minorities in the training programme of the Czech police and in the Czech police organisation	Police Training College of the Ministry of the Interior in Prague (PTC); Landelijk Selectie – en Opleidingsinstituut Politie (LSOP); Netherlands Centre for Police and Integrity Issues (NCPII); Czech Helsinki Committee (CHC)
Hungary	Professionalisation of the Hungarian Penitentiary Service: co-operation between Hungarian and Netherlands Directorates for the Penitentiary	Hungarian Prison Service; Netherlands Prison Service (DJI); Netherlands Ministry of Justice; Elve Management en Organisatie BV
	Improving prison conditions for better resocialisation of Juvenile Offenders	Hungarian prison Administration; Netherlands Prison Service (DJI)
	New role and position of the Probation Service in Hungary	Netherlands Probation Service; Hungarian Probation Service; Elve Management en Organisatie BV
	Model Legal Aid Board Programme	Hungarian Helsinki Committee

<i>Country</i>	<i>Project name</i>	<i>Partners</i>
Latvia	Strengthening the anti-discrimination work of the Latvian Centre for Human Rights and Ethnic Studies	The Latvian Centre for Human Rights and Ethnic Studies (LCHRES)
	Improving conditions of (pre-trial) detention for juveniles in Latvia	Robert Suvaal Training & Coaching; Latvian Prison Administration; Latvian Ministry of Justice
Moldova	Coaching and monitoring the Human Rights NGO Resource Centre	Helsinki Committee for Human Rights in Moldova; Resource Centre for Human Rights (CreDO)
	Assistance in penitentiary reform in the Republic of Moldova	CARPEM; Prison Service – Moldova; Netherlands Prison Service (DJI)
Romania	Strengthening the training capacity of the National Institute of Magistrates	National Institute of Magistrates in Romania (NIM); Netherlands Training and Study Centre for the Judiciary (SSR)
	Introducing probation in Bucharest	Romanian Group for Human Rights (GRADO); Probation Services in Romania and in the Netherlands
	Assistance in strengthening the independence and functioning of the Romanian judiciary system	National Institute of Magistrates in Romania; Training Centre for Clerks; Netherlands Training and Study Centre for the Judiciary (SSR); Netherlands Ministry of Justice
Russia	Media and human rights	Management and Media Academy; Moscow Helsinki Group
	Human Rights Monitoring Network in the Russian Federation	Moscow Helsinki Group; International Helsinki Federation for Human Rights
	Legal protection of individual rights in the Russian Federation	International Helsinki Federation for Human Rights; Moscow Helsinki Group
Ukraine	Making standards work in the Correctional Institutions in Ukraine-Partnerships, training and other assistance to Correctional Institutions in Ukraine	State Department for Execution of Punishment; Kuriyazh and Pryluky Correctional Institutions; Kyiv Institute of Internal Affairs; Ukrainian Legal Foundation; Hunnerberg and Teylingereind Juvenile Institutions, The Netherlands; Child Care and Protection Board
10 EU Candidate Countries	Phare Horizontal Programme on the strengthening of the rule of law for Central and East-European Candidate Countries	Centre for International Legal Co-operation – the Netherlands; various other European partners (in Italy, Germany, the United Kingdom, France and Spain)



<i>Other</i>	<i>Project name</i>	<i>Partners</i>
Helsinki Monitor 2003	Helsinki Monitor 2003	
Training in the European Convention and non-discrimination	Practical training in international human rights litigation, with emphasis on non-discrimination and minority rights, and on the European Convention on Human Rights (ECHR)	INTERIGHTS; Netherlands Association for the Judiciary; Netherlands Bar Association; Netherlands Training and Study Centre for the Judiciary (SSR)
Netherlands OSCE Chairman-in-Office in 2003	Conference <i>Abkhasia, Nagorno-Karabakh and Chechnya: Challenges in the Caucasus for the Netherlands OSCE Chairmanship-in-Office</i> , 28 April 2003; Conference <i>'New Minorities': Inclusion and Equality</i> , 20 October 2003; Seminar <i>Human Rights and Terrorism</i> , 18 September 2003; Meeting NGOs and OSCE Chairmanship, Vienna, 12 May; OSCE Working Group for NGOs in the Netherlands; NGO Conference parallel to the 11th Meeting of the OSCE Ministerial Council, Maastricht, 1 & 2 December 2003	OSCE Taskforce Netherlands OSCE Chairmanship-in-Office; Inter Church Peace Council (IKV); OSCE High Commissioner Office on National Minorities; International Helsinki Federation for Human Rights



## **Appendix II: Donors in 2003**

Cordaid

European Commission: Delegation of European Commission in Russia

European Commission: European Initiative for Democracy and Human Rights

EVD, Agency for International Business and International Co-operation (Senter International)

Municipality of The Hague

Netherlands Ministry of Foreign Affairs: Social Transformation Programme Central and Eastern Europe (MATRA)

Netherlands Ministry of Foreign Affairs: Minister for Development Co-operation

Netherlands Ministry of Foreign Affairs: OSCE-Taskforce

Netherlands Ministry of Foreign Affairs: Royal Netherlands Embassies in Kiev (Ukraine) and Tirana (Albania)

Netherlands Ministry of Foreign Affairs: Security Policy Department

Netherlands Ministry of Justice: Directorate for Internal Affairs and Migration

Numico

Open Society Institutes in Baku (Azerbaijan) and Yerevan (Armenia)

Open Society Justice Initiative

Uniting Protestant Churches in the Netherlands



### **Appendix III: Contribution to the IHF Annual Report 2004, events of 2003**

#### **The Netherlands<sup>1</sup>**

IHF FOCUS: anti-terrorism measures; national and ethnic minorities; asylum seekers and immigrants; trafficking in human beings and prostitution; right to education; women's rights; rights of the child.

The year 2003 started with elections, which had been called after the collapse of the government in 2002. The elections were quiet and peaceful compared to those of 2002, which had been marked by the assassination of Pim Fortuyn, the political leader of a newly formed party, and the rise of this party in parliament and its participation in government. Established parties regained their seating in the 2003 elections and in May the new cabinet was sworn in. It consisted of two of the parties of the former cabinet, namely the Christian Democrats and the Liberal Party, and a small third party, the Social Liberal Party. Topics such as security, terrorism, immigration and integration remained high on the political agenda and resulted in several bills.

2003 was also the year of the first Netherlands Chairmanship of the OSCE with the Minister of Foreign Affairs, Jaap de Hoop Scheffer, as Chairman-in-Office. The focus of the Netherlands Chairmanship was on security, and more specifically on the threat of trafficking in human beings, arms and drugs.<sup>2</sup>

#### **Anti-Terrorism Measures**

##### *National Anti-Terrorism Policy*

Following the terrorist attacks of 11 September 2001, the Minister of Justice adopted a policy to strengthen anti-terrorist activities. The Action Plan Anti-terrorism and Security (*Actieplan Terrorismebestrijding en Veiligheid*) was first published on 5 October 2001. The document contained concrete policy targets for strengthening the intelligence services, the police force and the armed forces. It also stressed that security checks should be stricter; finances have to be controlled and when they are criminal, they should be frozen.<sup>3</sup> There have been a few progress reports since then. The latest and last progress report, number six, was published on 27 June 2003. The minister concluded that the existing structures have been strengthened and that most of the targets have been met.

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<sup>1</sup> Based on the report by the Netherlands Helsinki Committee (NHC) to the IHF. The NHC does not systematically monitor human rights developments in the Netherlands, but mainly organises projects aimed at strengthening democracy in Central and Eastern European countries. Furthermore, the NHC monitors and promotes the OSCE process through various publications, such as the *Helsinki Monitor*. This chapter is primarily based on reports by prominent international and national human rights organisations.

<sup>2</sup> OSCE, "Democracy, good governance are key to maintaining stability, OSCE CiO says," press release, 13 January 2003, at [http://www.osce.org/news/generate.php3?news\\_id=2996](http://www.osce.org/news/generate.php3?news_id=2996).

<sup>3</sup> Ministry of Justice, "Actieplan Terrorismebestrijding en Veiligheid, Bijlage bij brief van 5 oktober 2001, kenmerk 5125137/RD" 5 October 2001.

More long-term and new policy targets have been announced in another document called *Terrorism and the Protection of the Society (Terrorisme en de Bescherming van de Samenleving)*.<sup>4</sup> In this document, the minister expressed his concerns about the possible emergence of extremist Islamic terrorism in the Netherlands. Not only conventional, but also nuclear, biological, chemical and radioactive terrorism are supposed to be a real threat. In order to counter this threat successfully the minister proposed some legislative changes as well as new laws.<sup>5</sup> The minister envisaged more far-reaching means and working methods for the intelligence service, including the possibility to search databases of third parties and to supervise relevant NGOs, places of worship and Muslim schools. A Joint Committee on Anti-Terrorism would also be established, in which all relevant organisations, such as representatives of the Ministries of Internal Affairs, Defence, Finance, Foreign Affairs and Justice, the Public Prosecutions Department (OM) and the National Police Agency (KLPD), would co-operate to back up the minister.<sup>6</sup>

### *The Penal Code*

On 13 June 2002, the EU member states signed a Council Framework Decision concerning anti-terrorism. This decision obliged member states to implement anti-terrorism laws.<sup>7</sup> The minister of justice proposed a revision of national legislation to introduce measures aimed at combating and countering terrorism so as to conform with the EU obligations, but in some cases he also proposed rules going beyond the demands of the Framework Decision.<sup>8</sup> The revision was approved by the Second Chamber with a broad majority in December 2003, but not without political debate.<sup>9</sup>

The major topics in this debate have been the following: whether animal activists should or should not fall under the definition of terrorism; the punishment for leading or being a member of a terrorist organisation; punishments for recruiting people for an armed struggle; whether merely planning something unlawful could be punishable and the possibility of using the General Intelligence and Security Service (AIVD) documents in the courtroom. The latter is debatable because the AIVD can use far-reaching methods of investigation in order to fulfill its preventive tasks. This means that the AIVD can collect evidence even though no one has been charged. A majority of the chamber condemned animal activism and saw it as terrorism and were amazed to hear that the police and the Public Prosecutions Department (OM) did not seriously deal with animal activism.<sup>10</sup> With the amendments to the law, it is possible to punish animal activists like terrorists, which means that the sentences can be 50 % longer. Alongside being a member of or leading a criminal organisation, also being a member of or leading a terrorist organisation is punishable. The minister of justice also

<sup>4</sup> Second Chamber, *Vergaderjaar 2002-2003*, 27 925, No. 96.

<sup>5</sup> Ministry of Justice, *Notitie, Terrorisme en de Bescherming van de Samenleving*, 5232163/503/23juni2003, 23 June 2003.

<sup>6</sup> NRC, "Donner: terreur bedreigt Nederland," 25 June 2003.

<sup>7</sup> Council Framework Decision, 13 June 2002, 2002/475/JHA.

<sup>8</sup> Wet terroristische misdrijven.

<sup>9</sup> Volkskrant, "Donner haalt terreurwet ongeschonden binnen," 6 December 2003.

<sup>10</sup> Trouw, "Kamer vindt bevrijders van dieren terroristen," 2 October 2003.

proposed to make recruiting for an armed struggle and conspiracy to commit a terrorist act punishable. The last two went beyond the EU Framework Decision. Furthermore, a motion by one of the members of parliament urged the government to enact a law that would make the use of AIVD documents in the courtroom possible.<sup>11</sup>

The bill will be placed before the First Chamber in 2004. The only criticism has come from criminal law scholars who have argued that the law is superfluous.<sup>12</sup> They have said that it is a novel aspect for Dutch law to make conspiracy punishable; it is also somewhat alien to punish a mere motive. According to them, from there it is a small step to make criminal thoughts punishable.<sup>13</sup>

### *Extradition Treaties*

On 13 June 2002 the EU member states not only agreed to a Council Framework Decision on anti-terrorism, but also to the introduction of a European arrest warrant. This warrant made extradition to other member states less difficult as judicial control would be marginal in view of a sharp reduction in the conditions that need to be fulfilled and the emphasis on mutual trust.<sup>14</sup> The Netherlands would still be able to have different laws on abortion, euthanasia and the use of drugs without running the risk of having to extradite persons with foreign nationalities to their home countries where these activities are criminal because these areas have been excluded from the scope of the Framework Decision. A former member of the European Parliament, and now member of the Netherlands Parliament, Ms. L van der Laan, voiced her concern about the different rules safeguarding legal rights in the member states. In some countries it is possible to imprison suspects for many years before being brought before the courts. The arrest warrant applies to vague concepts such as racism, corruption, fraud and terrorism whilst member states' descriptions of these concepts differ.<sup>15</sup>

The law to implement the Framework Decision easily passed through the Second Chamber with only two small left wing parties voting against it. It is likely that it will also easily pass through the First Chamber in 2004.

The EU not only reached an agreement between the member states concerning extradition, but also reached an agreement with the United States. On 19 September, the EU signed the Agreement on extradition between the European Union and the United States of America. This agreement complemented existing bilateral extradition treaties.<sup>16</sup> The Netherlands had already signed a bilateral treaty to the same effect in 1980, so in practice little will be changed. The introduction of the EU agreement only

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<sup>11</sup> Second Chamber, *Vergaderjaar 2003-2004*, 28 463, No. 25.

<sup>12</sup> Groenlinks, *Repressie niet de oplossing, maar het probleem*, November 2003, at <http://www.groenlinks.nl/bladen/repressie.html>.

<sup>13</sup> Radio Nederland, Wereldomroep, "Terrorisme in het strafrecht," 6 December 2003, at <http://www.rnw.nl/achtergronden/html/ned021206.html>.

<sup>14</sup> Council Framework Decision, 13 June 2002, 2002/584/JHA.

<sup>15</sup> Van Kempen, D., "Europees arrestatiebevel," *Europa van Morgen*, 2 October 2002, p. 317.

<sup>16</sup> Agreement on extradition between the European Union and United States of America.

gave rise to new discussions concerning the extradition practice between the Netherlands and the US.

Amnesty International recommended to the EU that extradition should not be possible where individuals are at risk of suffering serious human rights violations such as the death penalty, unfair trial, and torture or ill-treatment.<sup>17</sup> The EU-USA agreement contains an article that gives the extraditing state the right to refuse extradition if the other state can impose capital punishment. The minister of justice gave assurances that, according to the bilateral treaty, it would not be possible to extradite without an arrest warrant and appropriate evidence, which would prevent aberrations such as those in Guantánamo Bay.<sup>18</sup>

Criminal law scholars remained very critical concerning the government's extradition policy due to the fact that the law of criminal procedure in the US is completely different from that in the Netherlands. Almost all extradited Dutch citizens have been suspected of drug smuggling, for which plea-bargaining is possible. In exchange for a confession a reduction in the sentence is possible, but there are no further checks as to the evidence available. Overall, there is no guarantee of a fair trial when extradited to the US, the scholars said.<sup>19</sup>

The government strengthened juridical co-operation with the US. On 13 and 14 March there was a meeting in The Hague at which both Governments agreed to place extra US officers at the US embassy in The Hague to combat drug trafficking. They also agreed on procedures to accelerate extradition in the future.<sup>20</sup>

### *The Statutory Duty to Produce Identification*

There has been a long-lasting discussion concerning the statutory duty to produce identification in the Netherlands. Up until 2001 there was no majority in favor of introducing such a duty.<sup>21</sup> Nevertheless, on 16 December a vast majority of the Second Chamber voted in favor of it.<sup>22</sup> The law now has to pass through the First Chamber in 2004, which is very likely. The first proposal by the government applied to persons who were 12 years of age or older. Lacking a majority in parliament, the ministers raised the age to 14.<sup>23</sup> Now the law stipulates that every person aged 14 or older should be able to produce identification if asked to do so by an investigating officer on reasonable grounds, which include detection, the provision of assistance and

<sup>17</sup> Amnesty International, "Amnesty International's recommendations to JHA Council 5-6 June 2003," press release, 4 June 2003.

<sup>18</sup> Second Chamber, *Vergaderjaar 2002-2003*, 23 490, No. 276.

<sup>19</sup> These concerns have been brought up by M. Teurlings, a Dutch lawyer, who has several Dutch clients in the US. Teurlings, M., "Uitleveren aan VS staat gelijk aan veroordelen," in *Nederlands Juristenblad*, No. 8, 2003.

<sup>20</sup> Letter from the minister of justice, "VS-NI bilaterale law enforcement besprekingen," 5217863/03/DISAD, 25 March 2003.

<sup>21</sup> College Bescherming Persoonsgegevens, *Advies wetsvoorstel uitbreiding identificatieplicht*, 2003, at [http://www.cbppweb.nl/documenten/adv\\_z2002-1486.htm](http://www.cbppweb.nl/documenten/adv_z2002-1486.htm).

<sup>22</sup> Second Chamber, *Stemmingen*, TK37, 37-2606, 16 December 2003.

<sup>23</sup> NRC, "Identificatie verplicht vanaf 14 jaar," 3 May 2003.



maintaining public order.<sup>24</sup> The fine for not being able to produce identification has been set at a maximum of €2,250.<sup>25</sup>

On 6 December human rights NGO Privacy International sent an open letter to the members of both chambers. It stated that the proposed law would contravene several aspects of the fundamental freedom to respect for one's private life. The requirement for children to carry identification, in particular, was in violation of the UN Declaration on the Rights of the Child. Privacy International intends to challenge the legality of the law through the courts.<sup>26</sup>

## National and Ethnic Minorities

### *The Framework Convention for the Protection of National Minorities*

The Netherlands signed the Framework Convention for the Protection of National Minorities in 1995. In order to proceed to ratification a law to that effect has to be passed by both the Second and First Chamber. After being passed by the Second Chamber in 2000, it stalled in the First Chamber in 2001. A majority of that chamber found the definition of a "national minority" to be too broad. Because the Council of Europe could not agree on the definition of national minorities, the contracting parties had to find their own definition. The government defined national minorities as the Friesian people and all groups to which the integration policy applied. The First Chamber considered this definition to be too wide. Lacking a majority, the minister stayed the proceedings to consult the Council of Ministers.<sup>27</sup>

On 16 December, the Minister of Immigration and Integration proposed to both chambers that the definition should be narrowed so that only the Friesian people would be covered by the concept "national minority" in the sense of the Framework Convention. With this narrow definition, there should be a majority in both chambers. The minister also stated that ratification with a narrow definition would be more positive in the international context than no ratification at all.<sup>28</sup>

The minister proceeded with the legislative process in the First Chamber while having changed the Declaration that would be made at the moment of ratification (determining the scope of application *ratione personae*). However, the responsible commission of the First Chamber considered this to be an unconstitutional practice because laws always have to be first passed by the Second Chamber and only then by the First Chamber, while in this case the proposed law had fundamentally changed

<sup>24</sup> Het Parool, "Identificatie vanaf 14 jaar verplicht," 9 December 2003.

<sup>25</sup> Volkskrant, "Kamer stemt in met identificatieplicht," 17 December 2003.

<sup>26</sup> Privacy International, "An Open Letter to Members of the Eerste Kamer and Tweede Kamer concerning Justice Minister Donner's identification proposals," 6 December 2003, at [http://www.bof.nl/docs/privacy\\_international\\_brief.pdf](http://www.bof.nl/docs/privacy_international_brief.pdf).

<sup>27</sup> Letter from the minister of immigration and integration, "Goedkeuringswetvoorstel Kaderverdrag bescherming nationale minderheden DDS 525 9765," 16 December 2003.

<sup>28</sup> Ibid.

after the approval by the Second Chamber. Hence, the entire ratification process will take much longer than originally anticipated.

The Netherlands Helsinki Committee expressed its disapproval of this narrow definition of “national minority” adopted by the Netherlands government. This would not be in line with the tendency also to include “new” minorities, who are immigrants into the country and often do not have the nationality of the country concerned, within the concept of “national minority.” In this respect reference should be made not only to the practice of the Human Rights Committee<sup>29</sup> (supervising the International Covenant on Civil and Political Rights, ratified by the Netherlands) but also to the practice of several states, like the UK, which have not encountered any problems by including them within the scope of application of the Framework Convention.<sup>30</sup>

## Asylum Seekers and Immigrants

### *Asylum Policy*

According to a report by Human Rights Watch (HRW)<sup>31</sup> the new Aliens Act, which came into force in 2001, implied a shift in Dutch asylum policy from a protection-focused to an efficiency-focused policy.<sup>32</sup> HRW concluded that as a result of this efficiency-focused policy the fundamental rights of asylum seekers and refugees are threatened. The Dutch NGO Coalition for Children’s Rights (Kinderrechtencollectief),<sup>33</sup> the Dutch Section of the International Commission of Jurists (NJCM) and the Johannes Wier Foundation<sup>34</sup> shared this view. HRW’s three main concerns were the widespread use of the accelerated asylum determination procedure (the AC procedure), the reception conditions for asylum seekers and the treatment of migrant children in asylum and immigration procedures.

Dutch asylum law provided for two types of review: the accelerated AC procedure and the normal procedure. The AC procedure took 48 hours, during which period a decision was made whether to reject the request or transmit it to the normal procedure. HRW criticized the fact that there were no explicit criteria to determine what factors triggered use of the AC procedure instead of the normal one. By the

<sup>29</sup> Human Rights Committee, General Comment 23 on article 27 of the ICCPR, paragraph 5.2., at [http://www.unhchr.ch/tbs/doc.nsf/\(symbol\)/CCPR+General+comment+23.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(symbol)/CCPR+General+comment+23.En?OpenDocument).

<sup>30</sup> K. Henrard, ‘New Minorities’ and the applicability of minority rights,” in Bakker, E. & J. Bomers (eds.), *‘New Minorities’: Inclusion and Equality*, NHC, 2003, pp. 21-22.

<sup>31</sup> Human Rights Watch, *Fleeting Refuge: the Triumph of Efficiency over Protection in Dutch Asylum Policy*, April 2003, Vol. 15, No. 3 (D), at <http://www.hrw.org>.

<sup>32</sup> The Immigration and Naturalisation Service (IND) indicated that there were 23% less asylum requests in the first six months of 2003 compared to the same period in 2002. See <http://www.ind.nl>.

<sup>33</sup> Kinderrechtencollectief, *Growing up in the Low Countries: Children’s Rights in the Netherlands*, 2003.

<sup>34</sup> NJCM and Johannes Wier Stichting, *Commentary on the Second Periodic Report of the Kingdom of the Netherlands in accordance with Art. 44, paragraph 1 (a) of the Convention on the Rights of the Child*, 2003.

second half of 2002, sixty percent of all incoming cases were determined under the AC procedure and this number has continued to rise. Consequently, cases dealt with under the AC procedure included cases of a complex or humanitarian nature. A period of 48 hours in which to assess the case, however, was not sufficient in order to take all circumstances into account.

The final authority for appeals in asylum and immigration cases was the Council of State, the highest administrative court. This judicial body has developed a rather restrictive case law concerning repeated applications, while only marginally reviewing the factual basis. The combination of the extensive use of the AC procedure and this strict case law has given Dutch asylum law a strikingly restrictive outlook. According to HRW, the new law, particularly as interpreted by the Council of State, has resulted in routine infringement of asylum seekers' most basic rights, the right to a meaningful opportunity to be heard and to seek asylum and refuge outside one's own country.<sup>35</sup> HRW has taken note of the serious risk that, as a result of all this, the procedure will result in violations of the Netherlands' *non-refoulement* obligations.

According to HRW the reception conditions for asylum seekers awaiting appeal under the AC procedure did not comply with the Netherlands' obligations under the International Covenant on Economic, Social and Cultural Rights. This covenant requires that no group may be denied "the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing."<sup>36</sup> However, Dutch asylum law stipulated that asylum seekers awaiting appeal after a rejection under the AC procedure have no right to material benefits, including housing.<sup>37</sup> In addition, asylum seekers, who had exhausted all legal remedies, had an obligation to leave the Netherlands, under threat of being expelled if they do not leave of their own free will.

The HRW report was also submitted to the minister of immigration and integration by the standing parliamentary committee of justice. In his response, the minister stated that he did not agree with the HRW's assessment of Dutch law as being in violation of international law. Dutch law could be tested against international law by the Dutch courts. Hence, the present policy would not be changed.<sup>38</sup>

### *Minor Asylum Seekers*

The Netherlands is party to the Convention on the Rights of the Child, article 3 of which guarantees the unrestricted well-being of all children. According to article 44 of the convention, a state should report to the committee every five years. In 2004, the Netherlands' government will discuss its report with the UN Committee on the Rights

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<sup>35</sup> Human Rights Watch, *Fleeting Refuge: the Triumph of Efficiency over Protection in Dutch Asylum Policy*, April 2003, Vol. 15, No. 3 (D), at <http://www.hrw.org>.

<sup>36</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 11.

<sup>37</sup> Human Rights Watch, *op.cit.*

<sup>38</sup> Letter from the Minister of Immigration and Integration, Second Chamber, Vergaderjaar 2002-2003, 19 637, No. 738.

of the Child.<sup>39</sup> In advantage of this meeting NGOs, including HRW, have carried out their own research into the situation of children's rights in the Netherlands.<sup>40</sup>

The treatment of migrant children in asylum and immigration procedures in particular appeared to violate the standards of international children's rights. According to HRW, adversarial asylum interviews were frequently conducted without the presence of a lawyer or guardian and often failed to take into account the impact of trauma and children's less developed cognitive ability to present a structured argument to support their asylum claim (in combination with an inappropriately broad definition of "accompanied" child under Dutch law).<sup>41</sup> This was argued to violate the Convention on the Rights of the Child. At the request of the minister of immigration and integration, the Advisory Committee on Alien Affairs published a report on children and the asylum practice. The paper concluded that while there were no overall violations but only incidental violations, the government had backtracked its humanitarian record and if this continued it might lead to violations in the future.<sup>42</sup>

Another aspect of the asylum policy concerning minors that was criticized was age investigation. This investigation was carried out when an asylum seeker claimed to be a minor but the Immigration and Naturalization Service (IND) doubted the claim. The investigation was based on an x-ray scan of the collarbone. Being a minor or not had serious consequences for one's rights: minors had additional safeguards, guardians were available, reception facilities were separate, and repatriation only took place when adequate reception existed in the country of origin. On 23 October the Administrative Law Division of the Council of State confirmed on appeal that age investigation, carried out at the behest of the IND, was not being implemented sufficiently carefully.<sup>43</sup> A cultural anthropologist was responsible for the age investigation, upon whose assessment the decision to issue a permit was based. The age investigation itself was carried out by two anonymous radiologists, who took no responsibility in the procedure. In the future the age investigation should be signed by the radiologists and they should take responsibility for their decision. The decision of 3 March 2004 of the Administrative Law Division of the Council of State appeared to support this adaptation, making the age investigation a legitimate tool in the determination of the status of alleged minors. In this case two radiologists would sign the results of the age investigation.<sup>44</sup>

A member of the Second Chamber of Parliament asked the minister of immigration and naturalization to put an end to age investigation, and not to take any decisions based on this investigation.<sup>45</sup>

<sup>39</sup> See also section on the Rights of the Child.

<sup>40</sup> Kinderrechtencollectief, op.cit.; and NJCM and Johannes Wier Stichting, op.cit.

<sup>41</sup> Human Rights Watch, op.cit.

<sup>42</sup> Adviescommissie voor Vreemdelingenzaken, *Kinderen en de Asielpraktijk*, 2003.

<sup>43</sup> Decision of the Administrative Law Division of the Council of State, 23 October 2003.

<sup>44</sup> Decision of the Administrative Law Division of the Council of State, 3 March 2004.

<sup>45</sup> Second Chamber, *Vergaderjaar 2003-2004, Aanhangsel*, No 397.

*Immigrants*

In 2001 and 2002, the national ombudsman received far more complaints concerning the Aliens Department<sup>46</sup> than ever before.<sup>47</sup> These complaints primarily concerned the unlawful delay in processing requests for residence permits. The Ombudsman concluded that the delay was of a structural nature and was caused by the constant adaptation of the relevant regulations by the Aliens Department. He not only blamed the Aliens Department, but also the responsible senior staff of the regional police force, the state secretary of justice and the minister of foreign affairs. In response, the Ministry of Justice pointed out that the delays had already been shortened and that a swift processing of the requests for residence permits now formed part of the government program.<sup>48</sup>

In May 2002, the fees for residence permits increased substantially, and this was followed by a further increase in January 2003. Together, these increases implied a rise in fees of between 300 and 1,150%, depending on the type of permit. Due to the focus in the public and political debate on reducing immigration, this increase did not receive much attention from the media or politicians. Nevertheless, some organisations voiced their objections. On 20 June, the national ombudsman sent a letter to the minister of immigration and integration, in which he notified the minister that many complaints had been made concerning the increases.<sup>49</sup> The Executive Board of the Netherlands Helsinki Committee sent a letter on 6 October to the Second Chamber of Parliament in which it made clear that the increases were not in line with OSCE standards, which promote the free movement of persons between participating states.<sup>50</sup>

A professor of Legal Sociology, C.A. Groenendijk, and a professor of Constitutional and Administrative Law, C.A.J.M. Kortmann, indicated that the increases were not only unreasonable and foolish but also unlawful. They were unreasonable because the actual costs were considerably lower, foolish because many immigrants, including scientists, exchange students and temporary employees, would instead go to other countries, and unlawful because they violated article 104 of the Constitution, the Aliens Act 2000, the EEC-Turkey Association Agreement and the European Social Charter.<sup>51</sup>

In October 2003, several MPs put critical questions to the minister of immigration and integration. In addition, some motions were proposed, designed to reduce the effects

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<sup>46</sup> Since the introduction of the new Aliens Act in 2000 the administrative aspects of immigration have been transferred from the Aliens Department (Vreemdelingendienst) to the Immigration and Naturalisation Service (IND).

<sup>47</sup> Nationale Ombudsman, *Openbaar rapport nr. 2003/160*, 10 June 2003.

<sup>48</sup> Nos nieuws, "Ombudsman kraakt vreemdelingenbeleid," 11 June 2003, at [www.jib.org/actueel/240301.html](http://www.jib.org/actueel/240301.html).

<sup>49</sup> Nationale Ombudsman, *Klachten over verhoging legeskosten voor reguliere verblijfsvergunningen*, 20 June 2003.

<sup>50</sup> Netherlands Helsinki Committee, 6 October 2003.

<sup>51</sup> Groenendijk, C.A. and C.A.J.M. Kortmann, "Nieuwe verhoging leges voor verblijfsvergunningen," in *Nederlands Juristen Blad*, No. 7, 2003.

of the increase.<sup>52</sup> The government, however, defeated all motions.<sup>53</sup> The minister promised that she would reconsider the charges, especially those for exchange students. She admitted to not being very happy with the policy of her predecessor.<sup>54</sup> However, the policy remained unchanged.

### *General Pardon*<sup>55</sup>

An ongoing debate concerned those asylum seekers who were long term residents in the country. Due to a continually changing policy the IND and the courts of appeal were forced to deal with a rising backlog of cases. The people concerned had lived in the Netherlands for five years or more while awaiting the outcome of their request for asylum and were in most cases already integrated into Dutch society. If refused a permit, they had to leave the country or otherwise remain illegally. The latter had serious consequences and precluded, *inter alia*, any support from the state. Some of those who failed to obtain a permit, also did not have the necessary documents to return to their country of origin and hence were forced to remain in the country illegally through no fault of their own.<sup>56</sup> Certain municipalities supported those “illegals,” although this was in contradiction with the policy of the national government.<sup>57</sup>

Several NGOs and the Association of Netherlands Municipalities (VNG) proposed a solution to this problem by granting a general pardon, which would include a permit for those who had been in the country for a long period of time. The minister of immigration and integration proposed a compromise on 29 August,<sup>58</sup> which included the grant of a residence permit for 2,100 out of 10,000 people by the end of 2003. The debate on the exact modalities of the compromise, however, continued into early 2004. The VNG and several NGOs were dissatisfied with the proposed solution and felt that the problem would continue.<sup>59</sup> Most of the opposition parties also agreed with this view.<sup>60</sup>

<sup>52</sup> Second Chamber, *Vergaderjaar 2003-2004*, 29 200 VI, No. 9-13.

<sup>53</sup> Second Chamber, *Stemmingen*, TK 12, 12-657 and 12-658, 9 October 2003.

<sup>54</sup> See <http://asp.hsbrabant.nl/skoopimpuls/nieuws.asp?id=1644>.

<sup>55</sup> On 9 January 2004 the Association of Netherlands Municipalities (VNG) and the four major municipalities agreed with the minister of immigration and integration on her policy to send asylum seekers back to their country of origin. Only a specific pardon will grant a small group—some 2,300 persons—a permit. Several NGOs have already proclaimed that they will resist the policy and care for these illegal residents.

<sup>56</sup> VluchtelingenWerk, persbericht (2004), *VluchtelingenWerk Nederland zeer teleurgesteld: slechts 2300 vluchtelingen krijgen verblijfsvergunning*, at <http://www.vluchtelingenwerk.nl/nl/articles/01110000.225.html>.

<sup>57</sup> Volkskrant, “Steden laten asielzoekers ongemoeid,” 9 December 2003.

<sup>58</sup> Letter from the Minister of Immigration and Integration, *Second Chamber, Vergaderjaar 2002-2003*, 19 637, No. 754.

<sup>59</sup> Inlia/Vluchtelingen Organisaties Nederland (VON), *Zonder pardon?, Reactie op de pardonregeling van de minister voor Vreemdelingenzaken en Integratie voor langdurig in Nederland verblijvende asielzoekers*, September 2003.

<sup>60</sup> Volkskrant, “Oppositie eist ruimer pardon Vijfduizend probleemgevallen moeten weg,” 30 August 2003, at <http://www.volkskrant.nl/denhaag/1062134793584.html>.

### *Action Program Rotterdam*

In 2002 the local party headed by Pim Fortuyn became part of the Municipal Council of Rotterdam after winning a large number of seats. In December 2003, the Municipal Executive launched an “Action Program” to combat the increasing poverty in the city. The program concluded that the group of underprivileged citizens would continue to grow until 2017 and several complementary policies were proposed to combat this. These policies include the provision of residence permits depending on integration; freedom of establishment only after complete integration; the introduction of an admission criterion based on “income from work”; and the introduction of a general obligation to carry identity papers.<sup>61</sup> Public support for the program was wide. However, many ministers were more skeptical because the policies are not possible within the existing legal framework. This led to a nationwide public debate. The minister of immigration and integration stated that parts of the plan were unrealistic. She said that it is not possible only to allow those people who are integrated, to settle themselves in a municipality, because people who have a permit or Dutch citizenship have the right to freedom of establishment. The minister of spatial planning, housing and the environment, stated that the admission criterion based on “income from work” was not possible, despite the desirable outcome.<sup>62</sup> Mr. R. Lubbers, the United Nations High Commissioner for Refugees and an inhabitant of Rotterdam, agreed with the executive that immigrants and refugees should at least be willing to learn the Dutch language and to become Dutch citizens.<sup>63</sup>

### **Trafficking in and the Smuggling of Human Beings and Prostitution**

#### *Dutch Policy*

On 1 October 2000, the prohibition on brothels was lifted, making prostitution a legal profession. Lifting this prohibition was evaluated in 2003. When the lifting of the ban was implemented a set of goals were formulated, including the control and regulation of prostitution; an improvement in combating involuntary prostitution; the protection of minors against sexual abuse; the protection of the position of prostitutes; the disentanglement of prostitution and the criminal peripheral phenomenon; and, finally, cutting down on illegal prostitution.<sup>64</sup>

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<sup>61</sup> Municipal Executive Rotterdam, “Rotterdam zet door. Op weg naar een stad in balans,” December 2003, at <http://www.rotterdam.nl/smartsite229.dws?MainMenu=267127&Menu=2001337&goto=2001300&style=2128&substyle=251100>.

<sup>62</sup> Volkskrant, “Aanpak verpaupering Rotterdam,” 2 December 2003, at <http://www.volkskrant.nl/binnenland/1070308163273.html>.

<sup>63</sup> Volkskrant, “Lubbers steunt eisen Rotterdam aan nieuwkomers,” 4 December 2003, at <http://www.volkskrant.nl/binnenland/1070432090540.html>.

<sup>64</sup> Under Dutch law prostitution itself is not illegal, provided that one complies with the requirements of the law. These requirements include *inter alia* health regulations, residence permit and working permit. Prostitution by *e.g.* victims of human trafficking (forced prostitution) is therefore illegal under Dutch law.

In November, the minister of justice stated that lifting this prohibition could not yet be called a success. Most existing brothels had not changed their policies and still used illegal practices, whereas plans for new brothels hardly ever obtained a permit, thus frustrating the possibility for change. The lifting of the prohibition was mainly meant to control illegal practices and to protect prostitutes. Municipalities were made responsible for the licensing policy but policies differed greatly, which made the situation even less clear.<sup>65</sup> Involuntary, under-aged and illegal prostitution emerged in those municipalities with little control and found its way into the escort business, already inherently difficult to control.<sup>66</sup>

A special arrangement was made to fight illegal prostitution, known as the B9 arrangement (*B9-regeling*). This arrangement gave each person engaged in such illegal activities the right to housing and financial, legal and medical care as long as he or she was willing and able to testify in a trafficking case. The police were obliged to inform illegal aliens, who might be victims of trafficking, of this arrangement. In 2003, 108 persons applied for the arrangement of which 74 were approved.<sup>67</sup> The Dutch National Rapporteur on Trafficking in Human Beings (*Nationaal Rapporteur Mensenhandel, NRM*) stated that more attention should be given to the risks for the victim during giving evidence and returning home. A return policy should be developed.<sup>68</sup>

The minister of justice also proposed several changes in the law concerning trafficking and smuggling. These should also comply with the obligations flowing from the ratification of several international treaties, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.

Most changes affected the Penal Code. On 20 June the cabinet decided to make trafficking and smuggling punishable of their own accord, without any extra requirements. This implied the removal of the profit motive, as well as the removal of the intention to sexually exploit as a constitutive element of the crime of trafficking and smuggling in human beings. The requirement of the former motive made it necessary to prove that the smugglers had made a profit. In some cases, this was very difficult to prove, hence making a conviction virtually impossible. Sentences were also increased.<sup>69</sup>

### *The OSCE Chairmanship in Office*

Under the Netherlands Chairmanship-in-Office, trafficking in human beings was given priority in the OSCE. This resulted in an action plan to combat human trafficking, which was adopted by the Permanent Council on 24 July and confirmed during the ministerial meeting in Maastricht on 1-2 December. The ministers also decided,

<sup>65</sup> Second Chamber, *Vergaderjaar 2003-2004*, 25 437, No. 44.

<sup>66</sup> Daalder, A., op.cit.

<sup>67</sup> Second Chamber, *Vergaderjaar 2003-2004*, 28 638, No. 2.

<sup>68</sup> Vromans, M., "Thema: Aanpak mensenhandel en mensensmokkel "Pro-actief optreden van OM nodig in mensenhandel,"" in *Opportuun*,; Vol. 10, No. 1, September 2003.

<sup>69</sup> Second Chamber, *Vergaderjaar 2003-2004*, 29 291, No. 3.



during the ministerial meeting, to establish a mechanism to assist the participating states in combating trafficking in human beings. The mechanism would consist of two parts: a special representative and a special unit in the OSCE Secretariat, to support the implementation of the action plan in the participating states. The focus is broad, covering the protection of victims, the prevention of trafficking in human beings and the prosecution of those who facilitate or commit the crime.<sup>70</sup>

### Right to Education

The Liberal Party, which formed part of the government, wanted to see special restrictions placed on private primary schools in order to curtail Muslim schools. It claimed that Muslim schools were detrimental to integration while segregation should be fought by all means. Special obligations should be placed on those opening up a new school.<sup>71</sup> The plans contradicted article 23 of the Netherlands Constitution, which grants the freedom to establish and maintain private schools, and makes possible religious schooling with tax funding. Since 1917 every school, irrespective of its background, has the right to be financed by the state. The Education Inspectorate (*Onderwijsinspectie*) only checks the quality of education on objective grounds.

The other large government party, the Christian Democrats, supported article 23 because it allows Christian schooling to benefit from tax funding. In order to bridge these differences of opinion the Liberal Party, represented by the minister of finance, who was also the deputy prime minister, proposed to stop financing schools with only pupils from disadvantaged home backgrounds. This should lead to the end of many mono-ethnic Muslim schools.<sup>72</sup> In 2004 the minister of education, culture and science, a Christian Democrat, will introduce a new policy.

### Women's Rights

One of the political parties represented in the Netherlands Parliament, the Calvinist Constitutional Party (SGP), did not permit women to become full members. Female members were not entitled to vote in the party nor to be party candidate in the elections.

In 2001, the UN Committee on the Elimination of Discrimination against Women urged the Netherlands to take measures to halt this practice, which contravened the Convention on the Elimination of all forms of Discrimination Against Women. Article 7 of this treaty stipulates that women and men have equal rights to participate in political and public society. However, no changes had taken place since then. In June 2003, several NGOs sent a warning to the SGP and the state. As neither responded, the organisations decided to go to court. On 13 November 2003, the organisations

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<sup>70</sup> OSCE, *Decision No. 2/03 Combating Trafficking in Human Beings*, Ministerial Council, Maastricht 2003.

<sup>71</sup> NRC, "VVD en Van der Hoeven botsen," 30 October 2003.

<sup>72</sup> Telegraaf, "Zalm wil via omweg verbod op moslimscholen," 29 November 2003.

summoned the SGP and the state to appear before a court. The organisations would like to see a judgment on the conflict between the equal rights of men and women and the right of religious freedom or the right of freedom of association.<sup>73</sup>

### **Rights of the Child**

In 1995, the Netherlands ratified the UN Convention on the Rights of the Child. The contracting parties are obliged to report every five years on the implementation of the convention. Not only the Netherlands government but also several NGOs produced a report,<sup>74</sup> all of which will feature in the discussions between the Committee on the Rights of the Child and the Government in 2004. Most of the criticism concerned immigration policy.<sup>75</sup> The development of child-care facilities is also one of the concerns according to the NGOs. Another concern was the ongoing recruitment in the armed forces of individuals under the age of 18. The Committee on the Rights of the Child already criticised this practice in 1999. The policy has not changed since then.

In 1999, the Committee also encouraged the government to consider the establishment of an Ombudsman for children to monitor the implementation of the CRC. The government, however, argued that existing institutions such as the National Ombudsman already fulfil this monitoring task. Nevertheless on 6 December 2001 two members of the parliament proposed a law to implement the Ombudsman for children. The motion was still pending at the time of writing.

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<sup>73</sup> Clara Wichmann Instituut, "SGP en de Nederlandse Staat gedagvaard wegens vrouwendiscriminatie," 2003, at [http://www.clara-wichmann.nl/activiteiten/persberichten/031114\\_SGP.html](http://www.clara-wichmann.nl/activiteiten/persberichten/031114_SGP.html).

<sup>74</sup> Kinderrechtencollectief, op.cit.; and NJCM and Johannes Wier Stichting, op.cit.

<sup>75</sup> See section on Minor Asylum Seekers.