

# **NETHERLANDS HELSINKI COMMITTEE**

## **ANNUAL REPORT 2004**

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## INTRODUCTION

On 31 December 2003 the Netherlands' term as Chairman-in-Office of the OSCE expired. Subsequently, in 2004 our country served as a member of the OSCE Troika together with Bulgaria (CiO in 2004) and Slovenia (CiO in 2005).

With a view on the Netherlands' OSCE chairmanship in 2003, the Netherlands Helsinki Committee organised an evaluation meeting on 4 March 2004. This event was attended by NGOs, representatives from various universities and officials from the Netherlands Ministry of Foreign Affairs. On the whole, participants were positive about the Netherlands' chairmanship, although several speakers regretted that there had been no substantial movement towards a solution of at least one of the 'frozen conflicts' east of Vienna.

For the NHC the entry into the European Union of eight Baltic, Central and East European countries on 1 May 2004 had important implications. We have been active in parts of these regions with our various projects since the NHC's inception. These tasks will in future fall within the range of European Union activities; the NHC will, therefore, transfer its focus further south and further east in Europe. The foregoing was actively discussed by the NHC in the second half of 2004. The possibility was also considered of undertaking limited project activities in the Maghreb countries and the Middle East.

In the second half of 2004, the Netherlands served as President of the European Union. During this period consultations were held with Bulgaria and Romania on EU-membership. Both countries will, as a requirement of entry-negotiations, have to continue on the path of reform of their *inter alia* judicial- and prosecutions systems. During the Netherlands EU Presidency discussions were also held with Croatia on future negotiations for EU accession. The NHC is actively involved in those three countries in order to contribute to the strengthening of democratic institutions related to their respective judicial systems. In Bulgaria, the NHC has finalised a 'train the trainers' project at the Magistrate Training Centre. In Romania the NHC is currently engaged in a project to strengthen the judiciary and court clerks, a project for the rehabilitation of criminals and a project for the National Committee for Combating Discrimination. Together with the Croatian Helsinki Committee, we are undertaking a project for the improvement of relations between the Croatian judiciary and the media.

On 17 December 2004 the European Council decided to start negotiations with Turkey in October 2005 on its future entry into the European Union. The goal of these negotiations, of which the outcome is not guaranteed beforehand, is full membership of the EU. Concerning Cyprus, it was agreed that Turkey will declare it will sign the Protocol extending the Ankara agreement to all 25 Member States before 3 October 2005, when the accession negotiations will start. At the same time, the NHC developed a project in close co-operation with three Turkish human rights NGOs to strengthen their local branches of human rights defenders.

With great interest the NHC followed the Georgian Rose-revolution in January 2004 with the election of president Saakashvili and the Ukrainian Orange-revolution in

December 2004, after which Yushchenko became head of state. Both events gave a substantial impulse to a further democratisation in Eastern Europe. The NHC intends to develop activities to further strengthen the process of democratisation in Georgia and Ukraine and hopefully, when circumstances permit in Belarus.

On 29 November 2004 the NHC organised a Round-table Conference on Elements of the Helsinki Process as Inspiration for the Gulf Region. Reactions by interested persons and institutions further strengthened the endeavour of the NHC to examine whether it might in the future be feasible to undertake activities on a limited scale in the Middle East.

In the past year the NHC has profited from the support of our local partners and government institutions in Central and Eastern Europe, of our valued experts and of our donors. Particularly the Netherlands Ministry of Foreign Affairs, the Netherlands Ministry of Justice, the European Commission and the Open Society Justice Initiative provided our partners and us with the necessary financial resources and support without which it would have been impossible to continue and expand our activities. I would like to extend my sincere thanks to all.

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 Stoel 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 Stoel 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. Between 2002 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. At the end of 2004 the NHC secretariat had eleven 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 forty-four 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.

On behalf of the NHC the new member of the executive committee, Kristin Henrard, and Jos Kösters, executive director, participated in the annual meeting of the IHF from November 11 till 14 in Moscow. Jos Kösters was member of the Election Committee that prepared and organised the election of a new executive committee of the IHF. At the annual meeting Ulrich Fischer of the German Helsinki Committee for Human Rights was elected a new president of the IHF. Furthermore the members of the IHF discussed the human right situation in Chechnya; the human rights situation in a number of OSCE participating states, including the development in the Netherlands in the wake of the murder of Theo van Gogh; the plan of activities of the IHF and the IHF financial report and budget.

In co-operation with the IHF the NHC organised on November 30 a meeting for human rights NGOs in the Mediterranean region and the Middle East.

The NHC participated in the IHF project *The Legal Protection of Individual Rights in the Russian Federation* (July 2002 - December 2004). The project is designed to deal with human rights problems in the Russian Federation. It is aimed at developing the provision of free legal advice and support on human rights issues to individuals in Russia. This is to be achieved through capacity-building activities for a Russian NGO, the Movement for Human Rights (MHR), which has a nation-wide network of human rights groups. Activities are focused on the delivery of technical support to twenty-one field offices of the MHR, and on a series of training seminars, major conferences, study tours to Western Europe, Russia-based summer and winter schools on different human rights related themes, and one-to-one training. The project also has the capacity to provide legal aid for particularly important human rights related cases. As prime contractor, the IHF leads a consortium made up of the three Russian NGOs – the Independent Council of Legal Expertise, the Information Center for the Human Rights Movement and the Moscow Helsinki Group – and the NHC.

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

According to its statutes of 2000 the objectives of the NHC 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. It is a member organisation of the International Helsinki Federation for Human Rights. In 2004 the NHC became also member of Partos, the umbrella association for Dutch non-governmental organisations in the international development co-operation sector. Partos supports these organisations in reaching their goals by working to increase professionalism throughout the sector and helping it to position itself clearly in the public eye. Partos was founded in 2004. Furthermore the NHC is a member of the Coalition for the International Criminal Court. This network of over 2,000 non-governmental organizations (NGOs) advocates for a fair, effective and independent International Criminal Court (ICC). The NHC participates in the Netherlands NGO Platform for the ICC. Finally, the NHC participates in the General Assembly of Novib, OXFAM Netherlands, and the Board of Trustees of the Centre for International Legal Co-operation (CILC).

## 2. ACTIVITIES

### 2.1. Research

On March 4, 2004 Dutch Foreign Ministry officials, NGO representatives, and academics met to review the performance of the Netherlands OSCE Chairmanship-in-Office in 2004. The NHC organised this meeting in close co-operation with the Netherlands Ministry for Foreign Affairs. The participants were fairly positive concerning the Netherlands Chairmanship. The adoption of an Action Plan to Combat Trafficking in Human Beings, and the improved co-operation both between the OSCE and NGOs, and between the OSCE and the EU, NATO, and the Council of Europe received favourable response. Moreover, the participants agreed that they reviewed the organisational improvements of the OSCE concerning consistency, transparency, and continuity of the organisation positively.

However, the participants mentioned some issues on which not much progress had been made. The main disappointment during the Netherlands Chairmanship was the obstructive position adopted by the Russian Federation. Due to the Russian attitude Chechnya was impassable for the OSCE, no breakthrough was made in the Moldavian conflict concerning Transdniestria, and consensus on a Ministerial Declaration in 'Maastricht' turned out to be impossible.

Among the keynote speakers were the Dutch Minister for Foreign Affairs Mr Ben Bot, Ambassador Daan Everts, head of the OCSE Task Force at the Ministry, and Personal Representative of the Chairman-in-Office for Moldova, Ambassador A.P.R. Jacobovits de Szeged. Furthermore, representatives of for example Amnesty International, the Inter Church Peace Council (IKV), ICCO and Press Now spoke at the meeting. Academics who participated in the meeting were Dr Edwin Bakker, senior research fellow at the Netherlands Institute for International Relations 'Clingendael' and Prof. Willem van Genugten, University of Tilburg.

On 29 November 2004, the NHC organised the round-table conference entitled *Elements of the Helsinki Process as inspiration for the Gulf Region*. A variety of themes were discussed during the conference. The most important ones were the potential conflicts that may pose a threat to the Gulf region and the applicability of the CSCE/OSCE model for the Gulf region. Moreover the speakers and participants spoke about the role of NGOs and the relationship between religion and politics. Finally, the situation in Iraq and the Israel-Palestinian conflict in relation to the Gulf region were discussed.

Mr Paul Aarts (University of Amsterdam) chaired the round-table conference. The introductory speeches were delivered by Mr Jan Herman van Roijen, Chairman of the NHC, Ambassador Mr Waleed A. Elkhareiji, of the Royal Embassy of the Kingdom of Saudi Arabia, and Mr Michiel den Hond, Director of the North Africa and Middle East Department at the Netherlands Ministry of Foreign Affairs. The keynote speakers were: Mr Yalim Eralp, Former Ambassador of Turkey to the OSCE, Mr Christian Koch, Program Director GCC-EU Relations of the Gulf Research Center in Dubai, Mr Reza Yousefian, Former member of the Islamic Consultative Assembly. In the afternoon the keynote speakers were Mr Baqer al-Najjar of the Department of Sociology at the University of Bahrein, Mr Maurits Berger, senior researcher at Clingendael, Netherlands Institute for International Relations, and Mr Toby Jones,

analyst of the Gulf Region at the International Crisis Group. Ms Farah Karimi, a member of the Netherlands Second Chamber of Parliament contributed to the forum discussion. Mr John Packer, a fellow at the Carr Center for Human Rights Policy of Harvard University delivered the closing remarks.



Left to right: Christian Koch, Toby Jones, Baqer al-Najjar, Maurits Berger, Farah Karimi, Reza Yousefian, and Paul Aarts.

In March 2005 the NHC published the contributions by the conference speakers together with a summary of the debates and the closing remarks in: *Bridging the Gulf, Elements of the Helsinki Process as Inspiration for the Gulf Region* (ISBN 90-807745-5-3). Hivos financed the conference and the publication.

## 2.2. Monitoring

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: freedom of expression and personal security; anti-terrorism measures; independence of the judiciary, conditions in prisons (including rights of the child); respect of private life; national and ethnic minorities (ratification of the Framework Convention for the Protection of National minorities); racism, intolerance and xenophobia; discrimination; migrants and asylum seekers; and trafficking in human beings.<sup>2</sup>

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

<sup>2</sup> The contribution to the IHF Annual Report 2005 (events of 2004) has been added to this annual report as appendix III.

### 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 Academic Publishers. The *Helsinki Monitor* is an English-language quarterly on the work of the OSCE and 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 2004, four issues were published with articles on e.g. *OSCE and internal displacement: A new momentum*, by Christophe Beau and Jens-Hagen Eschenbächer; *The role of the OSCE in combating discrimination and promoting tolerance*, by Christophe Kamp; *Muslim religious freedom in the OSCE area after September 11*, by Krassimir Kanev; and *Recovering from Dayton: From 'peace-building' to 'state-building' in Bosnia and Herzegovina*, by Marianne Ducasse-Rogier. Special attention was paid to police reform in Serbia and the Former Yugoslav Republic of Macedonia in articles by Marjana Trivunovic and Darko Lesjak. With regard to developments in the field of the media in the OSCE area, two articles were published in this year's *Helsinki Monitor*: *Media development by OSCE field missions*, by Mark Thompson and *The use of minority languages in the broadcast media*, by John Packer and Sally Holt.

Based on the round-table conference on 'Elements of the Helsinki Process as inspiration for the Gulf Region', the NHC published the book *Bridging the Gulf, Elements of the Helsinki Process as Inspiration for the Gulf Region, The Hague, 29th November 2004* (ISBN 90-807745-5-3). This publication includes all the contributions by the keynote speakers at the conference, supplemented by a summary of the debates and closing remarks.

The NHC published a booklet with the texts, debates and speeches of the evaluation meeting of the Netherlands OSCE Chairmanship-in-Office. This evaluation had been organised by the NHC on 4 March 2004 and was attended by Dutch Foreign Ministry officials, NGO representatives, and academics. The publication was entitled: '*Een redelijk succes. Terugblik op het Nederlandse OVSE-Voorzitterschap door ambtenaren van het Ministerie van Buitenlandse Zaken, door vertegenwoordigers van NGOs en door wetenschappers*' ('*A reasonable success. A review on the Netherlands OSCE Chairmanship by officials of the Ministry of Foreign Affairs, by representatives of NGOs and by academics*').

In the framework of the project *Professionalisation of the Hungarian Prison Service*, the NHC published four training manuals. One training manual is aimed at trainers of prison staff, the three remaining manuals on drugs, juvenile offenders, and day-programmes and communications are aimed at the students of the training centre for

Hungarian prison staff. These publications were made possible by financial support from the Matra programme of the Netherlands Ministry of Foreign Affairs.

In the framework of the project *Training for Human Rights Lawyers in Georgia* the training manuals by INTERIGHTS on separate articles of the ECHR are currently being published. The publication of these training manuals was made possible by a grant from the Open Society Justice Initiative, Budapest.

In the framework of the Phare Twinning project *Strengthening the Romanian Judiciary*, training manuals have been published for magistrates and court clerks on various topics, including EU competition law, the European Convention on Human Rights and the Role of a Magistrate in a Democratic Society. The publication of those manuals was made possible by financial support from the European Commission.

## 2.4. Lobbying

In 2004 the Balkan Political Club (BPC) organised a NGO side-event parallel to the OSCE Ministerial Council in Sofia, Bulgaria on 6 and 7 December. Anne Offermans, a member of the NHC executive committee, attended this event. The topic of discussion was the contribution of regional NGOs to security and stability in Europe. The themes that were discussed were the following: the Role of the Balkan Political Club for Security and Stability in the Balkans as a part of Europe; the Role of NGO's for Security and Stability in the Balkans; and the School desegregation initiative in the OSCE area. This last contribution was presented by the ODIHR and focussed on the desegregation of education for Roma and Sinti.

Anne Offermans provided a contribution on trafficking in human beings. In her introduction she paid special attention to the new issue of safe return and social inclusion and the necessity of co-operation between NGOs in the countries of destination and the countries of origin.

Over the past few years the NHC has been urging the Netherlands Government to ratify the Framework Convention on National Minorities with a broad definition of the term national minority.

In 2003 the NHC published the book *'New Minorities': Inclusion and Equality*, which was based on the round-table conference held on 20 October of that same year. In this publication the NHC argues for a broad definition of the term national minority, i.e. with the inclusion of ethnic minorities, Roma and Sinti. Also in recent editions of the IHF yearbook the NHC has been paying attention to the reluctance of the Netherlands Government to ratify the Framework Convention. Since the ratification process would be finalised in the First Chamber in 2004, the NHC sent two letters to the members of the First Chamber's Committee for Justice. In these letters, the NHC once more urged the members of the First Chamber to ratify the framework Convention with a broad definition of the term national minority. (See also the contribution to IHF yearbook in appendix III.)

The NHC participates as independent observer in an initiative of the Netherlands Institute of Human Rights, the National Ombudsman, the Equal Treatment Commission and the Dutch Data Protection Authority and the Dutch section of the International Commission of Jurists. The aim of this initiative is to prepare a proposal for a national human rights institute in the Netherlands that meets the requirements of the United Nations' Paris Principles<sup>3</sup>. The initiative seeks to further improve the co-ordination between these organisations of *e.g.* the preparation of periodic reports of the Netherlands government on the implementation of international human rights obligations.

## 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 still requires active support. Relevant expertise is available in Western Europe 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 still 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 organisations.

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<sup>3</sup> UN Commission on Human Rights Resolution 1992/54 of 3 March 1992, annex (E/1992/22); General Assembly Resolution 48/134 of 20 December 1993.

### ***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.

#### ***Strengthening the legal culture in Croatia: improvement of the relations between the judiciary and the media***

In July 2003, a new project called *Strengthening the legal culture in Croatia: improvement of the relations between the judiciary and the media* started. The NHC implements this project in co-operation with the Croatian Helsinki Committee. Ms Ineke van de Meene is the project manager on behalf of the NHC.

In general, the relations between the judicial institutions and the media in Croatia are not of a high professional standard. There is a lack of trust, a lack of contacts, and moreover, there is a lack of knowledge about each other's roles in a democratic society. The media can have a big influence when reporting on judicial matters: i.e. negative reporting has a negative influence on the public opinion considering its confidence in the rule of law. It is clear that the above-mentioned deficits pose a serious problem to Croatian society. The situation is also problematic in view of the role of the media as a public watchdog of the judiciary. The media should provide an objective, trustworthy channel to the general public through which "justice can be seen done". If justice is not done, objective and professional media coverage could stimulate judicial reform.

This project aims to contribute to the improvement of the relations between the judiciary and the media in Croatia. This is done in two steps: first of all by bringing the judiciary and the media together in order to get to know each other better, and to raise awareness about each other's profession and role in society. To this aim, three round table conferences were organised.

The second step is to provide the judiciary with skills to maintain professional contacts with the media. A network of media liaisons will be established in 8 pilot courts and prosecutor's offices. In a series of training seminars, these media liaisons will be trained to obtain the required skills. To prepare the development of such a network, consultation meetings with court presidents and chief public prosecutors will be organised.

Lastly, a number of public information brochures on the functioning of the judiciary will be published.

In 2004, the NHC and the Croatian Helsinki Committee organised a series of round table conferences.



The Netherlands Ambassador in Croatia, Ambassador Veer, officially opened the first conference, which took place in January 2004. During this conference, journalists from different media from all over the country met to discuss and to identify the difficulties and problems they usually encounter with regard to their relations with the judiciary. In addition, attention was paid to the role of the media in a democratic society, particularly with regard to the reporting on the criminal justice system. An important theme during the discussions was the principle that the media should be able to report on (criminal) cases and judicial issues, while being careful not to add punishment. During these discussions it became clear that there are differences of opinion amongst the journalists regarding privacy issues and other ethical questions when it comes to reporting on criminal investigations and court cases. The participants agreed that it is important that the media should discuss these differences of opinion amongst themselves.

By way of illustration, a Dutch press judge (René Elkerbout), press prosecutor (Bart Nieuwenhuizen) and journalist (Ad Rijken) gave introductions on the way in which the relations between the judiciary and the media are organised in the Netherlands and how they have developed over the last thirty years.

To conclude the round table conference, recommendations were formulated in order to improve the relations between the media and the judiciary.

In April 2004, the second round table conference took place. The purpose of this conference was similar to that of the first round table: to discuss and to identify the difficulties and problems concerning media coverage of investigations and court cases. However, this conference was organised for judges and public prosecutors. A Dutch press judge (Bert Maan), a Dutch press prosecutor (Bart Nieuwenhuizen) and a Dutch journalist (Ad Rijken) informed the participants about the way the relations between the media and the judiciary are organised and carried out in the Netherlands. The spokesperson of the Ministry of the Interior gave an introduction to illustrate the Croatian experience with maintaining relations with the media. Furthermore, in order to experience the reality of dealing with the media, a role-play was organised in which the participating judges and prosecutors held simulated press conferences.

At the end of the conference, the participants acknowledged that the media and the judiciary need to learn how to communicate with each other and moreover, that they should become aware of each other's priorities. Since both the media and the judiciary share the common objective of informing the public about the functioning of the judiciary, there should be a partnership between the two. Lastly, a number of recommendations were formulated to reach these goals.

The last round table conference was held in June 2004. In this conference both the media and the judiciary participated. The aim of this round table was to build on the results of the two previous ones and to try to formulate a preliminary set of guidelines for the relations between the judiciary and the media. A Dutch press judge (Elianne van Rens), a Dutch press prosecutor (Oebele Brouwer) and a Dutch journalist (Ad Rijken) moderated group discussions in which the participants discussed their expectations towards each other. Although in some groups the discussions became quite passionate, the participants reached a high degree of general agreement on the

recommendations for the future. During the conference a preliminary set of guidelines was drafted.

One of the conclusions of this third round table conference was that over the next five years priority should be given to the establishment of the function of ‘spokespersons’ (or ‘media liaisons’) in the Croatian courts and prosecutor’s offices. This conclusion coincides with the activities that the NHC and the Croatian Helsinki Committee planned for the second phase of the project: the training of a number of ‘pilot’ media liaisons in eight courts and eight prosecutor’s offices in Croatia.

Following this last round table conference, a consultation meeting was organised to discuss the establishment of a network of media liaisons in a number of courts and prosecutor’s offices in Croatia. In this meeting, Croatian and Dutch members of the Steering Committee of the project discussed the preconditions for setting up media liaisons within the judiciary in Croatia with the deputy president of the Croatian Supreme Court, presidents and (deputy) chief prosecutors of the participating courts and prosecutor’s offices. Furthermore, the profile of the media liaison was determined and the selection procedure was discussed.

The project will continue in 2005, when a series of training seminars for the media liaisons will be organised and the network of media liaisons in eight courts and prosecutor’s offices will be set up.

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

- *Assistance in strengthening the independence and functioning of the Romanian judiciary system: Further assistance for the development of the National Institute for Magistrates (NIM) and the Training Centre for Court Clerk (TCC) in Romania*

### ***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.

*New role and position of the national Probation Service in Hungary*

In response to the political, social, and economic changes that took place in Hungary in the 1990s, the national Probation Service and the legislative framework in which this service operates were reformed radically. In July 2003, the national Probation Service<sup>4</sup> in Hungary was formed as the new national government agency for the Probation Service in Hungary. The tender that was launched for the Matra Pre-Accession Project *New role and position of the national Probation Service in Hungary* was awarded to the NHC. On behalf of the NHC Ms Ineke van de Meene is responsible for the project.

The project has two main goals. First of all, by means of a series of ‘management workshops’ the project aims to strengthen the management of the national Probation Service in Hungary, both on the national and the regional level. This reinforcement will take place by improving the effectiveness, efficiency and quality of the working processes within the Probation Service, as well as the management control on these processes. The focus of these project activities is on three of the five statutory tasks of the national Probation Service: pre-sentence reports, social inquiry reports and supervision of probation. Representatives of six of the 20 regional offices of the national Probation Service will participate in the management workshops, as well as representatives of its national headquarter.

The second project goal is to increase the methodological expertise and skills of the probation officers. With the changes in the Hungarian legislative framework tasks and responsibilities have been added to the work of the probation officers. Therefore, to be able to appropriately carrying out their tasks in this new environment, the probation officers will need to be equipped with methodological knowledge and skills. To this aim, a Train-the-trainer course is organised.

In 2004, two workshops were organised. Two experts from the Netherlands Probation Service, Michiel van der Veen and Jan Verhoeff, provided the expertise regarding the content of these workshops. Monique Lejeune from ELVE Management & Organisatie carried out the technical design of and the coaching during the workshops. During the first workshop in June, an analysis was made of the various steps in the process of drafting pre-sentence reports, social inquiry reports and of carrying out probation supervision. Subsequently the minimum requirements for each step were defined, as well as the quality indicators and the moments of management control. These elements were written down in an assessment form. During the summer of 2004, the county managers and heads of departments in the six participating counties started to use these assessment forms in order to measure the quality of the work of the probation officers.

The results of the assessments were evaluated in the second workshop in October 2004. The overall conclusion of both staff and management was that the assessment forms served as a useful instrument to improve the quality of the work and the possibilities of the manager to check the work of his subordinates and to provide them

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<sup>4</sup> In April 2004 the official name of the national Probation Service in Hungary changed to “Hungarian Probation and Legal Aid Directorate”.

with feedback. Therefore the decision was made to introduce the assessment form as a new management tool in the Probation Service throughout Hungary. Since the introduction of such new management tools might encounter resistance from within the organisation, a special workshop was designed to address the issue of change management. During this workshop the participants formulated strategies in order to minimise possible resistance against a nation-wide introduction of the assessment forms and other tools to strengthen the management control within the national Probation Service in Hungary.



*Sándor Ivancso, Michiel van der Veen and Monique Lejeune (left to right) during the first management workshop in Budapest, June 2004.*

After the workshop, the assessment of the work of the probation officers in the pilot regional offices continued, on the basis of the partly revised assessment forms. Moreover, the instrument of time measurement was introduced. On the form, the probation officers register the amount of time they spend on specific activities, for instance conducting interviews with clients. During the last workshop in February 2005, it will be evaluated what kind of (management) information can be derived from this time registration. Also, during the evaluation meeting in 2005, the remaining 14 county managers will be informed about the results of the workshops and the plans to introduce the assessment form as management tool throughout the national Probation Service.

#### *Train-the-trainer course*

In June 2004, 18 participants for the Train-the-trainer course were selected. The group of future trainers is a representative mix of probation officers, heads of departments (both juvenile and adult), county managers and representatives from the national office of the national Probation Service. Amongst the participants are also staff members who only recently started working at the Probation Service. In total nine out of 20 regions are

represented. Since five of the participants of the Train-the-trainer course did already attend the management workshops, there is an input of the results of the management workshop into both the Train-the-trainer course and also in future training materials.

In November 2004 the first part of the Train-the-trainer course took place in the Netherlands. The aim of the intensive two-week programme was twofold. First of all, the participants collected information about the Netherlands Probation Service and related institutions, in particular on the topics “diagnosis and risk assessment”, “group activities” and “reporting”. Visits were organised to a juvenile prison, a judicial addiction care centre, the court and the regional office of the Netherlands Probation Service in Leeuwarden, and to the Salvation Army.

Secondly, the participants were provided with training on didactical skills and on developing a training curriculum.

The official closing dinner of this first part of the Train-the-trainer course was attended by several honoured guests, like Mr Karel van Soest (Mayor of Boxmeer), Ms Maria Vértesi (Consul of the Republic of Hungary in The Netherlands), Mr Leo Tigges (managing director of the Netherlands Probation Service), Mr Jan van den Brand (advisor on international relations to the Netherlands Prison Service and a member of the NHC), as well as the Dutch experts involved in the course.

The second part of the Train-the-trainer course will take place in Hungary in March 2005.

*Other NHC projects in the field of the professionalisation of prison systems, the probation service and the police:*

- *Integrating human rights, respect for and the protection of minorities in the training programme of the Czech police and in the Czech police organisation*
- *Improving prison conditions for better resocialisation of Juvenile Offenders in Hungary*
- *Professionalisation of the Hungarian Penitentiary Service: co-operation between Hungarian and Netherlands Directorates for the Penitentiary*
- *Improving conditions of (pre-trial) detention for juveniles in Latvia*
- *Drug prevention in prisons and rehabilitation of inmates in Estonia*
- *Assistance in penitentiary reform in the Republic of Moldova*
- *Making standards work in the correctional institutions in Ukraine- partnerships, training and other assistance to Correctional Institutions in Ukraine*
- *Introducing Probation in Bucharest, Romania*
- *Institution building in the field of anti-discrimination in Romania*
- *Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania*



*Trainers manual Best Practices Training for Hungarian prison staff in the project “Professionalisation of the Hungarian Penitentiary Service”.*

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

#### *Training programme for human rights lawyers from the South-Caucasus*

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 (ECHR) 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 ECHR should be applied in domestic courts. Armenia, Azerbaijan and Georgia have recently ratified the ECHR. A large number of lawyers in these countries need knowledge and practical skills to use the potential of the international standards in effecting domestic systemic change and, where necessary, engaging the state in international proceedings.

The training programme for human rights lawyers from the South-Caucasus has two aims. First the programme seeks to enhance the practical knowledge and skills of

practising human rights lawyers and NGOs in Armenia, Azerbaijan and Georgia in applying the ECHR in domestic and international public interest litigation. The second aim of the training programme is to enhance NGO capacity in those countries by transferring skills and knowledge by running comprehensive training projects on the application of the ECHR and other international human rights instruments.

The target group consists of experienced lawyers from different backgrounds, such as jurists working for Human Rights organisations, or individual lawyers. The foreign experts who act as trainers include practising lawyers from a variety of countries with expertise in ‘Strasbourg’ and lawyers from the Registry of the European Court of Human Rights (ECtHR), as well as academics with practical experience in working with the ECHR.

On behalf of the NHC Monica van de Ven, Kamala Laghate, and Barbara Henkes are responsible for the project

Each training programme consists of five training sessions, which are designed and implemented, in co-operation with INTERIGHTS (United Kingdom) and a local NGO. The first four training sessions focus on a cluster of ECHR rights. Experts on the ECHR provide the participants with both a theoretical bases as with the latest developments in the case law of the ECtHR. The participants analyse and compare the available procedures for the remedying of violations of these rights. In order to ensure a close reflection of the national legal practice in the training programme, the trainers use hypothetical cases on every ECHR article they discuss during the training sessions.

During the litigation workshops in the second half of each session, domestic and international experts coach the participants in the practice of litigation before national and international courts on the basis of hypothetical cases. First the participants produce written complaints and government responses, after which they proceed with a “hearing” and a “judgement” on the cases by the “court”. Emphasis is placed on acquiring practical skills in drafting written memorials, making appropriate use of the case law of the ECtHR, meeting all procedural requirements, conducting hearings (following the rules of the ECtHR in detail), and friendly settlement negotiations.

The fifth session of the training programme consists of a seven-day intensive re-enactment of the main stages of taking a case to the European Court of Human Rights.

The first session in Armenia had already been implemented in 2003. During 2004 the four final Armenian training sessions were implemented. The second session was implemented in January 2004 on article 5 ‘Right to liberty and security’ and article 6 ‘Right to fair trial’. Experts in this session included Monica Macovei, a practising lawyer in Romania, Andrea Tamiatti, lawyer at the Registry of the ECtHR, and Hryar Ghukasyan, Professor of Law at Yerevan University. In March a session was implemented on article 8 ‘Right to respect for private and family life’, article 12 ‘Right to marry’, and article 14 ‘Prohibition of discrimination’. Experts in this session included Ursula Kilkelly of the University College of Cork, Ireland, Magda Mierzewski, and Andrea Coomber from the United Kingdom. During the May session also three ECHR articles were dealt with: article 9 ‘Freedom of thought, conscience and religion’, article 10 ‘Freedom of expression’ and article 11 ‘Freedom of assembly



and association'. In this session both international and local experts functioned as trainers. The last session was held from 29 September until 4 October.

The participants, the organisers and the local partner were satisfied about the way in which the programme had been carried out.



*Participants at the Armenian training session for human rights lawyers held between 29 September and 4 October 2004.*

In Azerbaijan the selection of the 20 participants was finalised in February. In July 2004 the first training session on the articles 2 and 3 ECHR was implemented. In this training session Nikita Ivanov, a lawyer at the Registry of the ECtHR and Yonko Grozev, a practising lawyer from Bulgaria acted as trainers and experts. The second session in Azerbaijan took place from 20 to 24 October with experts from *inter alia* the Council of Europe.

In Georgia the training program was already implemented in 2002 and 2003. In July 2004, a follow-up 'retreat' session was organised for the participants of this training programme. During two days, the Georgian lawyers discussed their human rights cases with the experts, and were updated on the latest developments in the case law of the European Court of Human Rights.

As a result of the training programme 20 lawyers from each participating country from the South-Caucasus, increased their theoretical and practical knowledge of European standards concerning human rights and minority rights. They gained practical experience in using the tools of international litigation, and particularly they have gained experience and knowledge for bringing a case before the ECtHR.



INTERIGHTS and the NHC implemented the training sessions in close so-operation with their local partners: Union Article 42 of the Constitution (Tbilisi), the Bar Association of the Republic of Armenia (Yerevan) and the Legal Education Society (Baku). The Open Society Justice Initiative, the Open Society Assistance Foundation and the Netherlands Ministry of Foreign Affairs financed the various training sessions.

In 2005 the three remaining training sessions in Azerbaijan will be implemented.

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

- *Strengthening the anti-discrimination work of the Latvian Centre for Human Rights and Ethnic Studies*
- *Model Legal Aid Board Programme in Hungary*
- *Coaching and monitoring the Human Rights NGO Resource Centre in Moldova*
- *Human Rights Monitoring Network in the Russian Federation*
- *Practical training in international human rights litigation, with emphasis on non-discrimination and minority rights, and on the European Convention on Human Rights (ECHR)*
- *The legal protection of individual rights in the Russian Federation*
- *Environmental protection and human rights in the Czech Republic*



*Jos Kösters (left), Executive Director of the NHC, at a conference at the Police Training College in Prague, Czech Republic.*

### 3. DONORS, EXPERTS AND LOCAL PARTNERS OF THE NHC

#### 3.1. Donor: Interview with Bert van Geel

Mr Bert van Geel is head of the Matra programme of the Netherlands Ministry of Foreign Affairs. The Matra programme provides funding for projects in Central and Eastern Europe with the aim of supporting those countries in their transformation to pluralistic, democratic constitutional states. Matra supports activities, which stimulate the process of change of civil society organisations, the state and its institutions. Matra also aims to contribute to the process of European integration. Meanwhile, the programme has been designed in such a way that it makes a contribution to the reinforcement of the bilateral relations between the ‘Matra-countries’, and the Netherlands. Prior to his position at the Netherlands Ministry of Foreign Affairs, Mr Bert van Geel worked as deputy head of mission at the Royal Netherlands Embassy in Bulgaria.

*Matra and the NHC have worked together for ten years. You have been responsible for the Matra programme for six years now. What was Matra like when you just started?*

I will start a little earlier, in the early 1990s, after the collapse of communism in Eastern Europe. During the first years after the fall of the Berlin wall, people in the West thought co-operation with Eastern Europe should be focussed on the economic aspects of the transformation. However, it soon became clear that the process of transformation in this region touched upon virtually every aspect of society. As a result of the growing attention for the social and political aspects of the transformation process in the region, the Matra programme was founded.

We wanted to support social transformation by means of institution-building on the basis of twinning arrangements between Eastern European organisations and Dutch partner organisations.

Initially, Matra was primarily aimed at civil society development through the set up of partnerships between Eastern European civil society organisations and their Dutch counterparts. We have chosen this strategy, as a considerable number of Eastern European governments had still not broken entirely with their communist pasts. Since many people in Eastern Europe wanted to set up their own businesses or organisations in the field of civil society, this formula turned out to be successful.

However, Matra did not stick to civil society. Over the years, Matra has always adapted to its changing environment and, starting in 1997/1998 East European governments started to show an interest in the Matra programme. Since accession to the European Union became a serious option for Eastern European countries, those countries increasingly started to focus on Western Europe.



*Bert van Geel*

*During this period you came back from Bulgaria, to join the department responsible for Matra.*

That is right. When I started in The Hague with Matra, an evaluation of the programme had shown that civil society approach of Matra had been very successful. According to the evaluation particularly its demand orientation and the flexibility of the programme were the success factors. However, over the years it had become clear that there was a need for intensifying relations with Eastern Europe at the governmental level also. Therefore, state secretary Benschop decided to expand the programme and to diversify the approach on the basis of the stages of development in terms of approximation to the EU. So henceforth, we divided the Matra countries into three groups in order to be able to offer support that would also meet the demand for pre-accession support where appropriate. The first group of countries consisted of states, which were already quite far advanced in their process of social transformation. Those were the advanced candidate for membership of the European Union (the Visegrad four). Countries like Bulgaria and Romania were categorised in the second group. The third group consisted of our so-called 'new neighbours' of the enlarged EU. With regard to the new neighbours, one thinks of countries like Russia, Ukraine, and Belarus. Turkey (a not so advanced candidate member state) was added to the second group. So the countries were now divided into different groups, however, the common denominator in all the Matra programmes remained the building of partnerships between the Netherlands and its Eastern European counterparts in order to strengthen networks for the transformation.

*In 2004 a new evaluation showed that there is too much fragmentation in the Matra programmes. What do you think of this conclusion?*

First of all, I would like to stress that Matra has proved to be very successful and has been expanded on the basis of this success. In 2002-2004 we spent 95 million Euros on projects in Eastern Europe. That is the same amount of money that we spent over the first five years of Matra. Moreover, we further diversified the programmes. We financed partnerships at the governmental level, training programmes in the Netherlands for Eastern European civil servants, civil society projects, pre-accession projects, etc. The evaluation of 1998 made us a compliment for the flexibility of the programme. However, the 2004 evaluation of the municipal co-operation component in Matra calls it fragmentation. What can you say, there is always something to complain about. This does not mean that we have not taken the recommendations of the evaluation seriously. On the contrary, we are working very hard to better focus and streamline this important and in many respects very effective component of our programme.

*Nevertheless, Matra will literally continue to broaden its horizon. Also recently many Matra countries acquired membership of the EU. What does that mean for the future of the programme?*

With regard to the new Eastern European member states of the EU it will eventually mean that those countries won't be eligible for Matra financing. Those countries now are full members of the EU and that means that the process of transformation has been

completed in the sense that the EU-criteria have been met. This does not mean that they do not need support anymore, but after accession Brussels should mainly provide this support. Matra will be phasing out in the period 2005-2007.

Considering our broadened horizon, we will start to focus more on our neighbours in the east and the south. Especially a country like the Ukraine is very important at the moment, since lots of things will now change. This means more opportunities for Matra. Russia and Belarus are different. In Russia, things are changing as well; however, not always in the desirable direction. Progress in the transformation of Belarus is hard to observe. So in those countries our transformation paradigm is not unconditionally applicable. Where transformation is not so obvious we are aiming at the potential for transformation.

*A whole new step in Matra's policy plans for the direct future is Matra's expansion to the south.*

When the first plans to expand to countries like Jordan and Morocco were presented, everybody reacted rather sceptically. In the beginning I also had many doubts. However, once I started to actually study the region, I realised that through the Matra programme we really do have the opportunity to make a contribution to counter negative developments in those countries. Through Matra we aim to make a positive and constructive difference. We feel that particularly in Morocco the perspective for a democratic transformation is good.

*Could you say something about the sort of partnerships Matra aims to set up during the first phase of the partnership with its southern neighbours? Will Matra start with civil society projects, or do you have other plans?*

We will start differently to 10 years ago in Eastern Europe. Whereas in Eastern Europe governments were pretty weak after the fall of communism, in the Arab countries of North Africa the governments are quite powerful. This means that if we want to get things done over there, it is important to establish friendly connections with the authorities right away. That is why we are first going to establish bilateral partnerships with the Moroccan and Jordanian authorities. We will probably start with an exchange programme for civil servants of the Ministries of Justice and Economic Affairs.

*During your stay in Bulgaria you also worked with the Matra programme, however, from a different perspective. Could you tell us something about the Matra projects you have been involved with in Bulgaria?*

The projects I feel most affinity with are those projects with a great social impact. Somebody once called the Matra projects 'just a small needle prick'. Of course you can look at it in that way. However, I look at it in a totally different way. I see Matra as a sort of acupuncture. You must know very well where to put your money. If you are successful, you have found a 'meridian', which means that you finance a project that generates a multiplier effect.

I can give you an example of such a project in Bulgaria. In Bulgaria you have approximately 4,000 Chitalishte. Chitalishte is a unique institution with a special place in Bulgarian society, which could be described as a culture house. Chitalishte were

originally used for education, charity, theatre, dance, and music. These culture houses were the first secular community centres that offered equal participation and universal access to services on a democratic basis and without discrimination. After the breakdown of communism financial support from the state for the Chitalishte decreased tremendously. This caused an enormous deterioration in the Chitalishte. We decided to financially support the project 'Reinventing Chitalishte, how to go back to the future', which was developed by UNDP. First, we started with 30 Chitalishte. Soon 30 became 60 and in the second Chitalishte project 200 Chitalishte were turned into 'vehicles for the transformation'. Other donors invested in follow up projects, which made it possible for hundreds of other Chitalishte to adopt a model for participatory community development.

*What was the impact of the Reinventing Chitalishte programme on Bulgarian society?*

One should keep in mind how much has changed in Bulgaria and other Eastern European countries over the last 10 years. The old structures of society have undergone tremendous changes. Through the Chitalishte people now have the opportunity to share their common culture with each other. A large part of Chitalishte are currently used for theatre, music, or dance performances, but people also use them for meetings between local communities and governmental bodies, or as an internet cafe. It is a pleasure to see how this cultural heritage project has turned out to be a great success. And I must add that it is really overwhelming to see what a magnificent impact such a project can have within a community.

Another Bulgarian project in which Matra was financially involved was the 'Beautiful Bulgaria Project'. This project was aimed at restoring certain landmarks in the larger cities. After Matra turned down the first proposal for financial aid, we decided to include Roma in the project. By having the buildings renovated by Roma we turned the project into an 'integration of minorities' project. Subsequently, Matra decided to finance the project. The great thing about this project was that Roma were trained in restoration and construction work. Thanks to this training they improved their perspectives on the labour market tremendously. This shows that a good project has the ability to serve a variety of goals. The buildings were reconstructed, the Roma improved their perspectives on the labour market and thus in society in general. Moreover, the Roma were proud of the fact that they had contributed to the restoration of the Bulgarian cultural heritage. Imagine the great impact of such a programme!

*Mr Van Geel, could you finally say something about the co-operation between Matra and the NHC?*

Well, I am very positive about our co-operation. We have worked together for quite a number of years now, with great satisfaction. The NHC is a large player within the Matra programme. I think that the NHC programmes have had significant importance for the strengthening of judicial structures in the countries of the region covered by Matra. I sincerely hope that the NHC will maintain its strong presence in Matra for the years to come: the transition countries are going to need you!

### 3.2. ECHR expert: Interview with Vesselina Vandova

Vesselina Vandova works as a human rights lawyer at INTERIGHTS in London. INTERIGHTS is an international centre for the legal protection of human rights. The centre has several regional and thematic programmes through which the highly qualified staff members aim to provide expert advice and assistance to those defending human rights through legal proceedings. INTERIGHTS also aims to improve the functioning and use of existing mechanisms and to develop positive human rights case law in each region and internationally. INTERIGHTS and the NHC work together on a practical training programme on non-discrimination and minority rights with emphasis on the ECHR for human rights lawyers and judges from Central and East Europe.

*Ms Vandova, you have been working for INTERIGHTS for two years now, could you tell us something about yourself? What was your motivation for becoming a human rights lawyer?*

After graduating in law in Bulgaria, I became involved in the work of *Bulgarian Lawyers for Human Rights*. These were the first Bulgarian NGO litigating cases before the domestic courts and the European Court of Human Rights. My interest in human rights law grew out of my interest in criminal law. Initially, I was interested in international human rights law as an additional avenue for protecting the rights of people accused of a crime, particularly those in detention and in prison.

At my current work at INTERIGHTS I work on a myriad of human rights problems throughout Eastern Europe and the former Soviet Union: from police brutality in Russia to forced sterilisation of Roma women in Slovakia. Together with my colleagues in the Central and Eastern European Programme we provide expert advice and assistance to lawyers who take human rights cases to the European Court of Human Rights (ECtHR). It is our goal to strengthen their capacity in the use of human rights law, and to further develop the human rights standards in Central and Eastern Europe. In our work we use three methods: litigation before national and international tribunals (most notably the European Court of Human Rights), training programmes for lawyers and the dissemination of international human rights legal information. These activities are designed to mutually reinforce each other and are conducted in close co-operation with other NGOs. Our key partners in Eastern Europe at the moment are in Armenia, Azerbaijan, Bulgaria, the Czech Republic, Georgia, Poland, Russia, Serbia and Montenegro, Slovakia and Ukraine.



*Vesselina Vandova*



*How important is it to provide human rights lawyers and judges in the region with technical advice and assistance?*

We help local lawyers to argue cases of human rights violations by providing them with advice on the international and comparative standards and on legal strategies. Our experience from arguing cases before the court in Strasbourg has shown that providing judges with expertise and information (especially comparative studies from other jurisdictions, examples of best practice, etc.) helps these judges to develop case law and is thus an important component of strategic litigation for achieving social change. Our experience during the last few years shows that strategic litigation in the region has often provided the basis for government reform, and has proved to be a useful tool in developing the protection of human rights, and the establishment of government accountability, the rule of law and democracy.

*Could you say something about the participants in the training sessions which INTERIGHTS and the NHC organise together? What particular knowledge or skills do the participating lawyers and judges generally lack?*

Human rights litigation requires a very high level of knowledge of international and comparative law. During our work in Eastern Europe we observed that many branches of the legal profession in Central and Eastern Europe now have training systems, such as judicial training centres, schools for prosecutors and investigators etc., and most often it is the responsibility of the State to organise and fund these activities. Intergovernmental organisations also largely focus on these training institutions and there are numerous exchanges between States' administrations. However, in most countries in the region, there are still no systems for training practising lawyers, in particular in human rights issues. Most laws regulating the profession are completely silent on the issue of advocates' training, and practically nowhere is there any obligation for advocates to attend continuous training after they have qualified for the Bar. The main problems concerning those training programmes that are organised are their ad hoc nature and their low practical value for litigation. The most serious and continuously neglected gap is therefore ongoing human rights training for practising advocates. To fill this gap, we have developed in the past four years a number of different training models with partners in the region.

*INTERIGHTS and the NHC have worked together since 1998. Could you say something about the partnership between INTERIGHTS and the NHC?*

Most of the training projects, which we designed and implemented, were organised in collaboration with the NHC. Our joint training programmes have so far received remarkably positive feedback from participants. The component that is most appreciated and distinguishes our training programmes from those of many other organisations is the in-depth litigation workshops. Both lawyers and judges from the region have commended our workshops as a highly successful tool for training practitioners. As a result, the demand for training programmes based on this model has increased and some NGOs in the region have successfully replicated our training models.



*Finally, could you say something about the strength of the partnership between INTERIGHTS and the NHC?*

The partnership between the NHC and INTERIGHTS has a long history and has been very successful to date. Its strength lies in the complementary skills of the two organisations. While INTERIGHTS provides the expertise in international human rights law and is responsible for the content of the particular training programmes, the NHC has wide-reaching expertise in the capacity building of NGOs, in analysing the need for a particular form of training, and in developing strategies which best address these needs. As a result of our collaborative efforts, at present there is a wealth of NGOs in the region involved in litigation and in providing human rights training or information. Also, several of the judges who have been trained in our Practical Training on Non-Discrimination and Minority Rights have delivered very progressive judgements in cases involving discriminatory practices against Roma. All these successes are a direct result of our training projects and contribute to an important extent to the better protection of human rights in Central and Eastern Europe and the Former Soviet Union.

### **3.3. Partner portrait: Interview with Dr László Huszár**

Dr László Huszár is Deputy Director General of the Hungarian Prison Service. One of his tasks is the co-ordination of contacts and activities between the Hungarian Prison Service and foreign partners. The Prison Service has the task to enforce punishments and sanctions related to deprivation of liberty. It operates 32 prisons all together of which 16 are remand prisons. Also 12 private companies employing prisoners belong to the organisational structure. The total number of prisons is about 17,000, whereas the official capacity is approximately 12,000. The number of personnel is about 7,500. This includes staff who does not work directly with prisoners. The Prison Service has its own Training Institute and is engaged in a multi-year plan to construct new prison buildings and reconstruct old prisons.

*The project has been set up three years ago. Could you say something about the initial phase? How did the programme come into being?*

Our colleagues within the Netherlands Prison Service approached us in order to set up a co-operation programme between the Netherlands Prison Service and the Hungarian Prison Service. We were pleased with this proposal and in 2001 we had our first policy meetings with our Dutch colleagues. During those initial meetings it became clear that the Netherlands offered us a new kind of co-operation, which was more like a partnership than a training programme. We discussed the content of the partnership programme together with our Dutch counterparts and decided to focus on the professionalisation of prison management, imprisoned juveniles, drugs, and day programmes for prisoners. We decided also to set up a twinning scheme between Hungarian prisons and Dutch prisons.

*What is the importance of this programme for Hungarian prisons?*

I think that the Hungarian prisons have benefited from the programme in different ways. Through the programme we have introduced new features in the way in which the Hungarian Prison Service works, which has enhanced the professional self-confidence of the Hungarian Prison staff tremendously.



*László Huszár*

Another outcome of the programme concerns training in the actual implementation of different kinds of programmes in Hungarian Prisons. So this is a benefit on the level of management and policy making.

The third benefit concerns the twinning programme and the way in which the Dutch and the Hungarians have worked together as equal partners. Although the twinning programme was initially set up as an exchange of knowledge, eventually it came down to a transmission of knowledge from the Dutch to the Hungarians. However, due to the sensitive approach adopted by the Dutch, this worked quite well.

The programme influenced Hungarian prisons as an institution; however, also members of the prison staff were trained in skills, which will undoubtedly affect their day to day tasks.

*In your opinion, what are the most important gains for members of the Hungarian Prison staff?*

In the Train-the-trainer programme it was the first time that prison staff with different professional backgrounds, e.g. prison guards, prison psychologists, or prison managers had worked together in one single training programme. During the training, the staff learned a great deal about methodology of working with inmates in a prison. The methodology that was taught during the Train-the-trainer course has been formally implemented in the general training programme for Hungarian Prison staff. During the course, the participants drafted training manuals on juvenile inmates, drugs, and day programmes and communication. Those manuals have been printed and are currently being used in the general training programme of the Hungarian Prison Service. Hence, future prison personnel will benefit directly from the training programme, since they are being trained in the practical use of the new methodology. Also, the methodology is being implemented in a more indirect way. Because the participants themselves have personally changed as a result of the training programme, their working attitude has changed accordingly. Another gain for the prison staff who participated in the training programme was the fact that the courses were taught in English, so they improved their English language skills as well.

*Besides the prison staff, have the partnership programmes changed the lives of inmates?*

I would say that this is unavoidable, since the daily lives of the inmates are closely related to the quality of the staff. The affect that the programme has on the prisoners seems indirect, but actually it is not. If we look at the twinning scheme between Vught and Szeged, which are both maximum-security prisons, the inmates have experienced the direct affect of the twinning since Vught prison managed to provide the inmates of Szeged prison with some computers and TV sets.

Another example concerns juvenile inmates who have experienced real differences in their day to day routine. As a result of the training initiative their day programmes have changed in terms of frequency and quality, for example with regard to education. Also in terms of communication between prison staff and inmates things have changed for the better.

*Were there any cultural differences or sensitive issues between the Hungarians and the Dutch, which formed a hindrance to the co-operation in the partnership programmes?*

No, I must say that everything went very smoothly. In such cases, a major concern can be that people do not like to be taught by others. I think our Dutch colleagues managed to avoid tensions with regard to this matter in a very intelligent way.

However, the twinning between the prisons of Budapest and Breda was unsuccessful. The problems that caused the premature ending of the twinning scheme were probably caused by cultural misunderstandings. Those misunderstandings were related to the way in which both prisons perceived how drug abuse in prisons should be solved. The staff of Breda prison did not see any obstacles to directly tackling the drugs issue in Budapest prison, while the Hungarians wanted to treat the matter in a different way.

*What is the situation actually like in Hungary, considering the physical condition of the prison buildings? Does the government pay attention to modernising the buildings, is that an issue?*

For us it is definitely an issue. The prisons we currently have in Hungary were built over 100 years ago. Moreover, those old prisons have been designed for a totally different kind of policy. The government has described what needs to be done, however it is a financial problem. There have been some efforts to modernise prison buildings with the help of the EU and a project in which private entrepreneurs invest their money in public institutions. However, finance remains the obstacle for large-scale modernisation of Hungarian prison buildings.

*Essentially, the programme was a partnership between the Hungarian and the Netherlands Prison Service. What was the role of the NHC?*

The NHC organised and facilitated the training programmes. The NHC also took care of the administration, financial matters, and was responsible for contacts with the steering committee and one of the main sponsors of the project, the Netherlands Ministry of Foreign Affairs.

I am satisfied and positive concerning the co-operation with the NHC, since I consider it to be very beneficial to work with professionals. Also the fact that I consider the NHC to be a well-organised organisation has made the co-operation a pleasant one.

*You have now been working with the Netherlands for three years. Would you like to embark on a new international co-operation programme?*

We would definitely like to continue international or Dutch co-operation; however, finances remain the obstacle.

*Could you tell us something about your own career in the Prison Service, why did you decide to work in the Prison Service?*

Twelve years ago I started working in a prison as a social worker. I became interested in the prison system during my military service. As a conscript, I served in a platoon that had been formed by ex-convicts and university students. I was surprised by the way, in which the ex-convicts adapted so well to army life. Since I had studied sociology, I started to study prison-related issues in a sociological way. That is how I ended up here. Now, for two years I have been Deputy Head of the Hungarian Prison Service.

During those 12 years I have seen a process of gradual change. This process did not have a great deal to do with strategic thinking, things just changed in accordance with general societal transformations.

*As you probably know quite a lot is changing in the Netherlands Prison Service at the moment. What are your thoughts on this development?*

Well, since the political colour of societies tends to change, it is only natural that governmental policies change as well. In this light you could say that changes in prison conditions in the Netherlands are natural.

On the other hand, one should consider the achievements that the Netherlands Prison Service has accomplished over the years. A good example of one of those achievements is single-cell accommodation and the policy that is based on this single-cell accommodation. However, to me it seems that due to a scarcity of resources the authorities have to decide to distribute these resources differently. So now only those prisoners who are highly motivated and those who have a real possibility of successfully returning to society can benefit from more facilities.

However, in light of the high standards of the Netherlands Prison Service, it is a pity that the system is being changed.

### **3.4. COLUMN**

#### **Terrorism results in upheaval in the Netherlands Reactions seem out of proportion**

In the aftermath of the murder of Theo van Gogh, limited terrorist acts led to social disruption in the Netherlands. The ingredients were: a murder, arson, threatening letters and an arrest during which a hand-grenade was thrown and which was broadcast live on national television for several hours. However, these were not the only ingredients of the great unrest. After the murder of Theo van Gogh some politicians and administrators had made comments which affected the feeling of insecurity. The media became a channel for hysterical statements on the alleged

terrible state of the country, on the inappropriate anti-terrorist policy and on the huge terrorist threat. The word 'war' was not avoided. Deputy Prime Minister Zalm confirmed that the Cabinet had declared war on this kind of extremism and radicalism. Also a variety of magazines, newspapers, and television programs spoke of war and reported that the terrorist threat had never been greater. According to the media, the Netherlands was in flames.

In fact, the number of terrorist incidents in the Netherlands is very small. Moreover, the murder of Theo van Gogh is difficult to compare with '9/11' or 'Madrid', at least with regard to the number of people killed. In this light, terrorism seems to be primarily an imagined threat. However, despite the fact that the threat is not particularly lethal, it should nevertheless be taken very seriously. As the events of November 2004 have demonstrated, the impact of those acts is considerable. The numbers of dead or injured are not necessarily relevant. After all, the direct victims of terrorism are instrumental rather than being the target of terrorism (however, with regard to Theo van Gogh one could question this general statement). It is all about the effect of the attacks: to influence the public opinion and the process of political decision-making. In this light, unfortunately, the murder of Theo van Gogh and the 'attacks' on institutions that followed, could to a certain extent be compared to 9/11 and Madrid. Considering the aspect of political decision-making, sadly it should be underlined that Dutch politicians and decision-makers were not able to take a rational position on what had happened.

During the days and weeks that followed the murder of Theo van Gogh, MPs started to call for more and tougher measures in order to counter terrorism. A number of those calls and the subsequent proposals by the Minister of Internal Affairs and the Minister of Justice should be considered as overheated reactions. The measures, which were discussed in Parliament in January 2005, embody more restrictions on civil rights than ever before. One should ask oneself whether those restrictions will actually increase the right to security or the right to freedom from fear in the way that their proponents claim. The effectiveness of the plans of Minister Donner (Justice) and Minister Remkes (Internal Affairs) are still uncertain. They want to take measures against potential terrorists, even before they have committed any criminal offence. For instance, those who associate themselves with radical ideology should report to a police station at regular intervals. Such 'suspects' could also be subject to a restraining order: they will not be allowed to be within the vicinity of airports, the Dutch Parliament, or certain politicians or opinion makers. In some cases they could even be subject to a *Berufsverbot* which means that they would be prohibited from teaching at schools or preaching in mosques. Finally, according to Donner and Remkes, the glorifying or the justifying terrorist crimes should become punishable.

Except for the question whether those measures will really make the Netherlands a safer place, the question remains how 'suspects' can prove their 'innocence'. Especially when their innocence should be proven before a judge, while the charges have only been formulated in the reports of the Dutch General Intelligence and Security Service (AIVD). Moreover, how do those measures relate to the fundamental principles of the rule of law and international law? This last question can only be answered after it becomes clear how the ideas will be formulated in the bills. So far, the proposals hardly seem to be compatible with important basic principles concerning

anti-terrorist action in relation to human rights. This also applies to the *Declaration on the fight against terrorism and the protection of human rights*, published by the NHC in 2003. This declaration states that “anti terrorism measures should be looked at carefully from the perspective of the principle of proportionality and the principle that every potential abuse (of such measures) should be excluded. For the time being one cannot say a great deal about any potential abuse. However, the ideas as such show that the ministers and the Cabinet are willing to adopt far-reaching measures. For sure, measures such as the duty to report, restraining orders, and the prohibition against pursuing one’s profession and prohibiting the justifying of terrorism challenge the principle of proportionality.

In addition, there seems to be a lack of proportionality in the debate on terrorism and on anti-terrorism policies. The threat of terrorism seems to have been blown out of proportion by certain MPs as well as members of government. One could ask whether this is a sensible way to react to terrorist events, especially if one considers the aim of terrorism: to cause social unrest. In this light one can conclude that over the last few months a murderer and a relatively small group of radicals have been able to cause upheaval in society and politics. In my mind, this is too great of an honour to these marginal and frustrated individuals.

Edwin Bakker

*Dr Edwin Bakker is a senior research fellow at the Netherlands Institute for International Relations ‘Clingendael’ and General-Secretary of the NHC.*

## **4. INTERNAL ORGANISATION**

### **4.1. Board**

Prof. M. van der Stoel is the Honorary Chairman of the NHC. In 2004 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, Dr K. Henrard and Ms A. Offermans. On 1 January 2005 Mr Pompen left the executive committee. He was succeeded by Mr A.M. Daane who took over the position of treasurer. Mr J. ter Laak is the senior advisor to the executive committee. The executive committee held five meetings during 2004.

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 G. Huyser, Mr C.F. Stork, and Mr E. van Thijn. On 26 May 2004 Mr J.G.N. de Hoop Scheffer passed away. He was the chairman of the NHC from 1995 until 1999. Mr De Hoop Scheffer remained member of the committee until his death. On 1 January 2005 the committee was expanded with the inclusion Mr B.N.J. Pompen, treasurer of the NHC until December 2004. The committee met on two occasions during 2004.

### **4.2. Staff**

In 2004 Mr Jos Kösters was Executive Director and Mr Raymond Swennenhuis Deputy Director. Ms Margaret Karsten remained office manager and Mr Koen Wagenbuur remained financial officer. On 31 May 2004 the secretary Ms Mirelle Slobbe left the NHC. She was succeeded by Ms Marlies van Amerongen who started working for the NHC on 1 April 2004. Ms Monica van de Ven, Ms Ineke van de Meene, Ms Mechteld Schelberg and Ms Anna Stunova remained as staff members. Ms Nicole Versteegen, a staff member, left the NHC on 30 April 2004. Because of the maternity leave of two staff members, two new staff members were temporarily employed; Ms Renate Hartman as from 1 May 2004 and Ms Kamala Laghate as from 16 October 2004. Ms Barbara Henkes continued to work on a freelance basis for the NHC.

Ms Anne-Marie Baan, Mr Niels van der Meulen, Mr Roel Notten, Ms Maartje Vrans and Ms Carien Westerveld worked as interns.

### **4.3. Finances**

The annual financial report 2004 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 2004 of € 9,733 of which € 6,000 has been added to the Social Fund and € 3,733 to the unrestricted reserve.

In 2004 The Netherlands Helsinki Committee managed 29 projects, in 14 countries or regions. In terms of project expenditures Romania and Hungary received the largest contribution (figure 3). The Matra programme remains by far the largest source of funding, both in terms of number of projects that were financed in 2004, and in terms of funds disbursed (figure 4 and 5). After a number of years of growth of the total project disbursements by the NHC, the total disbursements seem to have stabilised in 2004. In 2004 the total project expenditures amount to € 2,064,000-, which constitutes a decline of 2.7% compared to 2003 (figure 6).

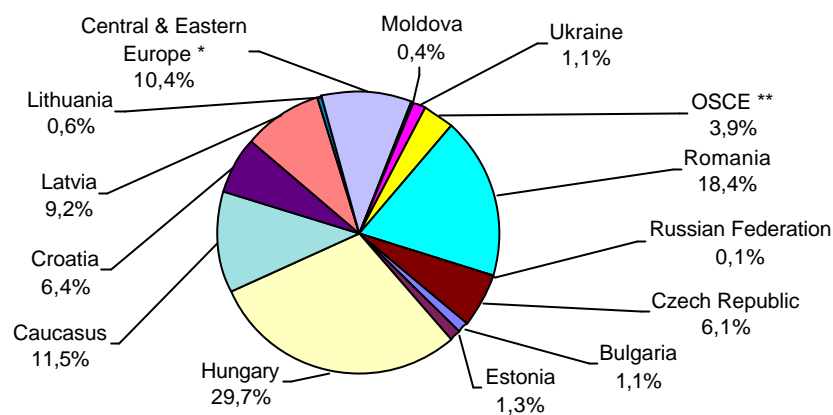
**Figure 1: Summary balance sheet**

	31 December 2004 in Euro	31 December 2003 in Euro
<b>Assets</b>		
Fixed Assets		
Tangible Fixed Assets	5,398	8,252
Current Assets		
Debtors	122,050	22,606
Liquid Resources	561,517	691,592
	<u>688,965</u>	<u>722,450</u>
<b>Liabilities</b>		
Unrestricted reserve	204,677	200,944
Restricted reserves		
Social fund	82,890	76,890
Current liabilities		
Project subsidies	347,783	394,494
Creditors	53,615	50,122
	<u>688,965</u>	<u>722,450</u>

**Figure 2: Income and expenditure**

	2004 in Euro	2003 in Euro
<b>Income</b>		
Project subsidies	2,064,608	2,124,019
Other income	19,548	52,250
	<u>2,084,156</u>	<u>2,176,269</u>
<b>Expenditure</b>		
Personnel costs	427,724	502,080
Rent and office expenses	96,402	110,210
Other costs	6,896	20,438
Direct project expenses	1,543,401	1,536,563
	<u>2,074,423</u>	<u>2,169,291</u>
Result of operations	<u>9,733</u>	<u>6,978</u>



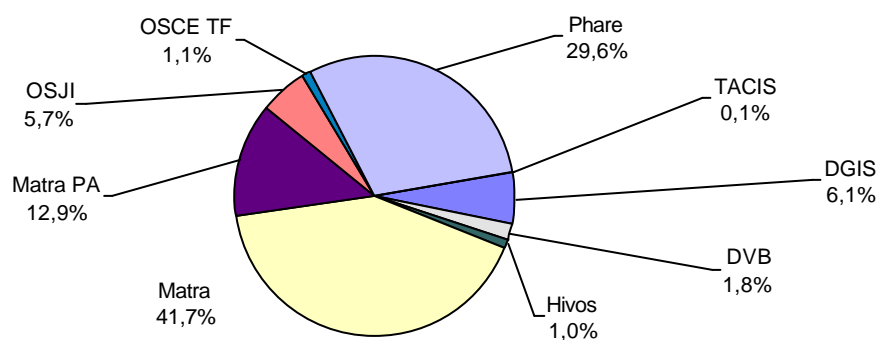
**Figure 3: Project expenses per country or region**

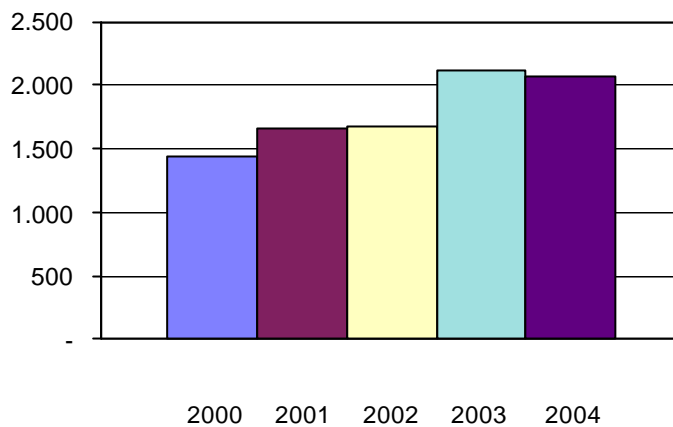
\*) Projects benefiting the OSCE region as a whole

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

**Figure 4: Source of funding**

	Number of projects
Matra Programme	11
MPAP (Matra Pre-Accession Programme)	3
DGIS (Netherlands Ministry of Foreign Affairs)	2
OSCE Taskforce (Netherlands Ministry of FA)	2
DVB (Netherlands Ministry of FA)	1
Phare (European Commission)	7
TACIS (European Commission)	1
OSJI	1
Hivos	1
<b>Total number of projects</b>	<b>29</b>

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

**Figure 6: Project expenses 2000 - 2004 (x 1.000 Euro)**

#### **4.4. Annual Social Report**

In 2004, the NHC continued to pay attention to 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 (RIE) 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 2004. The NHC took measures to reduce physical health risks for the NHC employees. Also attention was 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. It drafted guidelines for safe travelling abroad for its experts, staff members and guests from abroad. The policy paper on the working conditions, including an emergency plan, was finalised. The employees had an emergency evacuation exercise. Two employees followed a refresher course on first aid and fire prevention. Mr I.F. Dekker remained the trusted representative of the NHC employees.

## 5. APPENDICES

### Appendix I: Projects of the Netherlands Helsinki Committee in 2004

<i>Country</i>	<i>Project name</i>	<i>Partners</i>
Caucasus	Training for human rights lawyers from the South-Caucasus	Article 42 – Georgia; INTERIGHTS
Croatia	Strengthening the legal culture in Croatia: Improvement of the relations between the judiciary and the media	Croatian Helsinki Committee
Czech Republic	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 (NCPPI); Czech Helsinki Committee (CHC)
Estonia	Drug prevention in prisons and rehabilitation of inmates in Estonia	Netherlands Prison Service (DJI); Netherlands Ministry of Justice; Department of Prisons of the Estonian Ministry of Justice; Trimbos Institute – Netherlands Institute of Mental Health and Addiction
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); Netherlands Ministry of Justice
	New role and position of the national Probation Service in Hungary	Netherlands Probation Service; Hungarian Probation Service; Elve Management en Organisatie BV
	Model Legal Aid Board Programme	Hungarian Helsinki Committee
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
Lithuania	Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania	Community Change Centre – Lithuania; Netherlands Child Protection Board

<i>Country</i>	<i>Project name</i>	<i>Partners</i>
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	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: Further assistance for the development of the National Institute for Magistrates (NIM) and the Training Centre for Court Clerk (TCC)	National Institute of Magistrates in Romania; Training Centre for Clerks; Romanian Ministry of Justice; Netherlands Training and Study Centre for the Judiciary (SSR); Netherlands Ministry of Justice
	Institutional building in the field of anti-discrimination in Romania	Netherlands Ministry of Justice; LBR (Netherlands bureau against racial discrimination); National Council for Combating Discrimination – Romania
Russia	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; Kuriash and Pryluky Correctional Institutions; Kyiv Institute of Internal Affairs; Ukrainian Legal Foundation; Hunnerberg and Teylingereind Juvenile Institutions, The Netherlands; Child Care and Protection Board
<i>Other</i>	<i>Project name</i>	<i>Partners</i>
Helsinki Monitor	<i>Helsinki Monitor</i> 2004	International Helsinki Federation for Human Rights
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	INTERIGHTS; Netherlands Association for the Judiciary; Netherlands Bar Association; Netherlands Training and Study Centre for the Judiciary (SSR)
Netherlands OSCE C-i-O in 2003	Evaluation meeting on the OSCE Chairmanship in 2003, 4 March 2004	OSCE Taskforce Netherlands OSCE Chairmanship-in-Office
Gulf Region	<i>Conference Elements of the Helsinki Process as Inspiration for the Gulf Region</i> , 29 November 2004	Hivos

## **Appendix II: Donors in 2004**

Cordaid

European Commission: Delegation of European Commission in Russia

European Commission: European Initiative for Democracy and Human Rights

European Commission: Phare Twinning Programme for Hungary

European Commission: Phare Twinning Programme for Romania

European Commission: Transition Facility Twinning Programme for Estonia

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

Global Ministries of Uniting Churches in the Netherlands / Kerkinactie

Hivos

M.A.O.C. Gravin van Bylandt Foundation in the Netherlands

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: Security Policy Department

Netherlands Ministry of Justice: Directorate for Internal Affairs and Immigration

Numico

Open Society Institute Assistance Foundation Armenia

Open Society Institute Assistance Foundation Azerbaijan

Open Society Justice Initiative

Shell International B.V.

Stichting Fondswerving Militaire Oorlogs – en dienst Slachtoffers



## **Appendix III: Contribution to the IHF Annual Report 2005, events of 2004**

### **THE NETHERLANDS<sup>1</sup>**

*IHF FOCUS: freedom of expression and personal security; anti-terrorism measures (including citizenship); independence of the judiciary; conditions in prisons (including rights of the child); respect of private life; national and ethnic minorities (ratification of the Framework Convention for the Protection of National Minorities); racism, intolerance and xenophobia; discrimination; migrants and asylum seekers; trafficking in human beings.*

During 2004 in the Netherlands, the cabinet consisted of the Christian Democrats (CDA), the Liberal Party (VVD), and a small third party, the Social Liberal Party (D66). Topics such as security, terrorism, immigration and integration remained high on the political agenda. After the murder of film director Theo van Gogh, freedom of expression became an important issue, focusing particularly on the limitations on freedom of speech and the obligation of the state to provide protection for outspoken public figures.

In the second half of the year 2004, the Netherlands held the presidency of the European Union (EU). The focus of the Netherlands presidency was the enlargement of the European Union, with special attention to the accession of Turkey to the EU. From November 2003 to May 2004, the Netherlands held the presidency of the Council of Europe.

#### **Freedom of Expression and Personal Security**

On 2 November, the filmmaker Theo van Gogh was killed on a street in Amsterdam. His murderer left a letter on his body in which he threatened to kill, among others, Ayaan Hirsi Ali, a member of the liberal party VVD in the Second Chamber of Parliament; Geert Wilders, a former member of the VVD; and both the mayor and an alderman of the city of Amsterdam. Consequently, Ayaan Hirsi Ali and Geert Wilders went into hiding, Wilders had already had personal protection since October 2004, and the other threatened politicians were provided personal protection from that date on.

Theo van Gogh was always an outspoken person and had received death threats on a regular basis, but declined personal protection. However, he had been closely observed by the National Protection Co-ordinator (NCBB), the General Intelligence and Security Service (AIVD) and the Amsterdam police. During periods of heightened security risks, the police had taken additional protective measures around Van Gogh's house.<sup>2</sup>

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<sup>1</sup> Based on a report by the Netherlands Helsinki Committee to the IHF, February 2005.

<sup>2</sup> Letter from the Minister of Justice and the Minister of the Interior to the Second Chamber about the murder of Theo van Gogh, annex 1, 10 November 2004.

The Netherlands had been confronted with threats against MPs, politicians, journalists and celebrities since the 2002 murder of Pim Fortuyn. In 2004, this trend continued. The threats ranged from hate-emails and letters containing a bullet, to a rap song inciting the murder of Ayaan Hirsi Ali. A considerable portion of the threats was aimed at persons who expressed their critical opinions on issues related to Islam as a religion in general, the position of women in a Muslim community and the integration of immigrants and Muslims in Dutch society. Those threats led to a heightened security regime for threatened members of parliament such as Ayaan Hirsi Ali and Geert Wilders. Both politicians have been outspoken about issues concerning Islam.

The murder of Theo van Gogh made the subjects of freedom of expression and the obligation of the state to provide personal protection for outspoken politicians and other public figures one of the main themes of public debate.

In the Netherlands, the Royal and Diplomatic Security Service (DKDB) is responsible for the protection of members of the royal house, their guests, diplomats, and members of parliament.<sup>3</sup> Persons who do not belong to those groups and who are believed to need personal protection are either protected by local police units or private companies.

Following the murder of Van Gogh, complaints were made about the fact that only politicians were entitled to personal protection provided by the DKDB. Moreover, Geert Wilders stated that he was not provided with appropriate personal protection and he did not feel safe while sitting in the Second Chamber of Parliament. Besides, Wilders argued that he was being hindered in the formation of his newly founded political party, Groep Wilders, since people who were interested in working with him would easily become targets for the same kind of threats he himself had already encountered. Without adequate protection, Wilders stated, the democratic process would be infringed. Also, the chairman of the Second Chamber of Parliament called the current situation an infringement of the democratic process, since members of parliament were being hindered from properly carrying out their tasks.

The minister of justice, however, rejected Wilders' request. He stated that the DKDB only provides personal protection on grounds of concrete threats or the risk of concrete threats. In addition, the minister stated that personal protection should not become a status symbol.<sup>4</sup>

Nevertheless, according to the case law of the European Court of Human Rights (ECtHR), article 10 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) implies a positive obligation on the state to guarantee both the security of its citizens and the freedom of expression.

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<sup>3</sup> Dienst Koninklijke en Diplomatieke Beveiliging, [http://www.politie.nl/klpd/klpddiensten/dienst\\_koninklijke\\_en\\_diplomatieke\\_beveiliging/default.asp](http://www.politie.nl/klpd/klpddiensten/dienst_koninklijke_en_diplomatieke_beveiliging/default.asp)

<sup>4</sup> *NRC Handelsblad*, "Beveiliging geen Statussymbool", 8 December 2004.



The killing of Theo van Gogh triggered heated discussion on freedom of expression and, specifically, the content of speech. Politicians, journalists and opinion makers debated whether freedom of speech should have limitations. Paul Cliteur, a philosopher of law and a publicist known for his critical televised comments on Islam, decided to stop speaking out on sensitive issues related to integration and Islam.<sup>5</sup> Cliteur made this decision after he had been strongly criticized by journalists for allegedly stimulating the process of radicalisation among Muslims.

The second reason for Cliteurs retreat from the public eye was a report by the AIVD<sup>6</sup> entitled *Background of Jihad Recruits in the Netherlands*. In this report the AIVD stated that a growing number of Muslims feel they are treated disrespectfully and inadequately by opinion makers and authorities. Finally, the AIVD stated that it considers young Muslims who feel unjustly treated a pool for radicalization and potentially for recruitment for the *Jihad*.<sup>7</sup>

Cliteur argued that freedom of speech has two limits; the limit of decency, which has to do with morality, and a legal limit. According to Cliteur, the limit of decency is more restricted than the legal limit. That is, Cliteur argued, because the state considers freedom of speech to be an essential element in the development of democracy and science. Accordingly, Cliteur stated that freedom of speech ends when one speaks to incite hatred or physical violence. Moreover, he stated that the courts should decide on disputes concerning expressed opinions or statements.<sup>8</sup>

However, Wilhelmina Thomassen, a former Dutch judge at the ECtHR in Strasbourg, stated that the limits to freedom of speech in the European context lie where the expressed opinions and statements affect the human dignity of another person. This means that, according to her, in Europe one cannot simply write and say anything one wants without showing some respect to other persons.<sup>9</sup>

### *Prohibition of Blasphemy*

In the meantime, the minister of justice proposed to sharpen article 147 on the prohibition of blasphemy. In response to this proposal, the political party D66 filed a bill to have article 147 abolished.<sup>10</sup>

In its bill, D66 stated that the law should provide equal protection against insults or offences on the grounds of religion, ideology, race, and sex. The bill failed to pass the

<sup>5</sup> Conversation with Mr Paul Cliteur during the television program “Buitenhof”, <http://www.vpro.nl/programma/buitenhof/afleveringen/16641404/items/17008413/>

<sup>6</sup> *NRC Handelsblad*, “In Nederland gloeien de priemen voor de tongen van Cliteur en Hirsi Ali”, 27 March 2004.

<sup>7</sup> Memorandum of the Minister of the Interior, *Background of Jihad Recruits in the Netherlands*, 10 March 2004.

<sup>8</sup> [www.libertarian.nl](http://www.libertarian.nl), “Het verbod op godslastering mag verdwijnen”, interview with Paul Cliteur, 8 December 2004, <http://www.libertarian.nl/NL/archives/001825.php>

<sup>9</sup> *NRC Handelsblad*, “De kracht van softpower”, 4 December 2004.

<sup>10</sup> *NRC Handelsblad*, “Hype godslastering schaadt aanzien Kamer”, 24 December 2004.

Second Chamber although, in principle, the majority of the parties voting against it were essentially in favor of the abolition of article 147. These parties' vote against resulted from resentment about the way in which the debate on freedom of speech had been narrowed due to the bill tabled by D66. The leader of the Labor Party (PvdA) stated that the discussion should not only be about blasphemy, but about where to draw the line when it comes to freedom of speech in general and when to resort to the criminal law.<sup>11</sup>

On 2 December, Dutch citizens, including some people with a Muslim background, commenced interlocutory proceedings in order to prohibit the release of Ayaan Hirsi Ali's film "Submission Part II" and to ensure that, in the future, Ayaan Hirsi Ali would refrain from using remarks that are unfriendly to Islam. "Submission Part I", written by Ayaan Hirsi Ali and filmed by Theo van Gogh, deals with the abuse of Muslim women.<sup>12</sup>

### Anti-Terrorism Measures

#### *Legislation*

In the aftermath of the terrorist attacks in Madrid in March 2004, the minister of justice decided to investigate Dutch legislation in terms of how it provides for protection against terrorist acts. As a result of this investigation, the minister concluded that adjustments to the criminal law were necessary to obtain the appropriate means to fight terrorism effectively.<sup>13</sup>

On 10 August, the Terrorist Crimes Act entered into force. This act provides the legal tools to punish individuals who participate in, establish, and/or manage a terrorist organization. In addition, the Terrorist Crimes Act provides a legal basis for the prosecution of activities which can be considered "recruitment for the *Jihad*", conspiracy and the planning of terrorist crimes.<sup>14</sup>

On 10 November, the minister of justice sent a letter to the Second Chamber in which he put forward a series of proposals for amendments to the Code of Criminal Procedure and the Criminal Code. The proposed amendments relate to the extension of the legal possibilities for the investigation, prosecution, and detention of suspects of terrorist crimes with the aim of prevention.<sup>15</sup> Regarding investigations, the bill will ensure the possibility to infiltrate, observe and intercept telecommunications at an earlier stage of investigation compared to the present situation.<sup>16</sup> Similarly, the bill makes it easier to provisionally detain suspects of terrorist crimes. In 2004, a

<sup>11</sup> Ibid.

<sup>12</sup> *NRC Handelsblad*, "Geding om vervolgfilm Hirsi Ali", 2 December 2004.

<sup>13</sup> Wijziging van het Wetboek van Strafvordering, het Wetboek van Strafrecht en enige andere wetten ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven. Memorie van Toelichting, pp. 16.

<sup>14</sup> Ibid., pp. 17.

<sup>15</sup> Ibid., pp. 16.

<sup>16</sup> Ibid., pp. 37.

reasonable suspicion of a terrorist crime was required for both the use of special investigative powers such as observation and infiltration, and for keeping somebody in provisional detention. With reference to a terrorist crime, the minister of justice proposed to replace the wording “reasonable suspicion” with “indications”. This means that if the amendments are accepted, “indications” of a terrorist crime will become a legal ground to submit an individual to special investigative powers and, in addition, to keep somebody in provisional detention.<sup>17</sup>

Furthermore, the proposed amendments include plans for a prolongation of provisional detention for those who are held in detention on suspicion (or indication) of terrorist crimes. In 2004, the maximum period of provisional detention was 90 days. After adoption of the bill, this period could be prolonged by three months at a time, with a maximum of two years.<sup>18</sup>

### *Intelligence, Databases and Data-Mining*

In accordance with the above-mentioned extensions of the legal possibilities for the investigation, prosecution, and detention of suspects of terrorist crimes, the minister of justice argued that in order to fight terrorism effectively, the possibilities for the investigation of data by the AIVD should be extended. Through changes in legislation, the minister aims to shorten the judicial procedure to gain access to both public and private databases.<sup>19</sup>

According to the minister of justice, techniques for the analysis of data files should also be improved to fight terrorism effectively.<sup>20</sup> With the aim of the prevention of terrorist crimes, the AIVD can define a terrorist profile and then crosscheck different types of databases that contain personal information on Dutch citizens in order to find matches for this profile.

Both techniques – data-mining and profiling – encountered criticism from experts on matters of intelligence and human rights. Professor B. Custers, an expert on intelligence from the University of Tilburg, argued that estimating the possibility that somebody with a certain profile forms a terrorist threat is one thing, but pointing out the actual terrorist is something else. He also pointed to the risk of stigmatizing certain groups based on their high-risk profile.<sup>21</sup> According to Britta Böhler, a lawyer who has defended terrorist suspects, civil rights are being transgressed when people become suspects of terrorist crimes not because of a reasonable suspicion, but merely

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<sup>17</sup> Ibid., pp. 19-20.

<sup>18</sup> Ibid., pp. 33.

<sup>19</sup> For claiming public data, the district attorney will have to give permission. For claiming databases of private organizations such as telecom providers, the delegated judge will also have to approve.

<sup>20</sup> Wijziging van het wetboek van Strafvordering, het Wetboek van Strafrecht en enige andere wetten ter verruiming van de mogelijkheden tot opsporing en vervolging van terroristische misdrijven. Memorie van toelichting, pp. 26-27.

<sup>21</sup> *NRC Handelsblad*, “AIVD hoeft niet groter, maar moet wel beter”, 22 November 2004.

because of the fact that they match a certain profile. Above all, Böhler argued that the line between a suspect and a non-suspect becomes more and more indistinguishable.<sup>22</sup>

All the above-mentioned proposals to amend the Code of Criminal Procedure were criticized as problematic in terms of articles 5 (right to liberty and security of person) and 8 (respect of private and family life) of the ECHR.

### *Mosques*

During 2004, a number of mosques made headlines as centers for spreading extremist ideas. Especially after the murder of Theo van Gogh, extremist mosques became focal points of government measures concerning terrorism. In a letter of 10 November by the minister of justice, proposals were made to expand authorities' powers to declare illegal the activities of associations such as mosques if those activities contravene public order and to close them down. Also, if an association like a mosque has committed no illegal acts but its activities are considered unacceptable to Dutch society, the minister's proposal aims to enable the authorities to intervene through a combination of political administrative measures, the application of immigration laws and financial supervision and control.<sup>23</sup> It seems vital that these additional powers for the authorities go hand in hand with adequate safeguards against abuse.

### *Dual Citizenship*

On 27 August, the minister of justice announced the preparation of a bill considering a change to the Kingdom Act on Dutch Nationality. Through this bill, the withdrawal of Dutch nationality will become possible. According to the announcement by the minister of justice, the withdrawal of Dutch nationality will only become possible when a person has damaged the essential interests of the state, i.e., through terrorist activities. Moreover, Dutch nationality can only be withdrawn from persons holding dual citizenship.

According to legal experts, however, both the principle of equality and the law of treaties make this measure illegal.

### **Independence of the Judiciary**

#### *The Trial of Sergeant-Major Eric O. from the Marines*

Reactions by high-ranking politicians on the legal case against a Dutch officer stationed in Iraq gave cause for concern regarding their respect for the independence of the Dutch judiciary.

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<sup>22</sup> Wil van der Schans, "Gezocht: Man met baard. Overheid moet oppassen voor stigmatisering bij terreurbestrijding", *Contrast*, No. 19, 8 October 2004, <http://www.xs4all.nl/~respub/artikelen/contrastterrorisme.htm>

<sup>23</sup> Ministry of Justice, "Persbericht: Forse aanpak gewelddadig terrorisme", 11 November 2004.

- In July, 43-year-old Sergeant-Major Eric O. from the Netherlands Marines was indicted for violations of the rules of engagement and regulations on the use of force for Dutch troops.<sup>24</sup> On 27 December 2003, Eric O. had fired two warning shots close to a group of alleged Iraqi looters, apparently killing one of them. He was arrested and flown back to the Netherlands. Following a trial, he was found not guilty on 18 October. The prosecutor appealed against the acquittal and the case was pending as of the end of 2004.<sup>25</sup>

During the months preceding his trial, the prosecutor general stated that the soldier would be charged with manslaughter and the Public Prosecutions Department and the Ministry of Justice provided information on the case. These actions were all criticized by the Second Chamber of the Parliament. Following the verdict, a number of high-ranking politicians publicly commented on the charges and the verdict, heavily criticizing the operation of the prosecutor and the judiciary.

The Council for the Administration of Justice and the Netherlands Association for the Judiciary (NVvR) responded by urging politicians to refrain from making public statements on pending legal cases. More specifically, the NVvR noted, "If MP's do not respect the separation of powers, the independence of the judiciary will be affected".<sup>26</sup>

## Conditions in Prisons

### *Two in One Cell Policy*

In 2004, the Ministry of Justice cut the budget for penitentiary institutions. Consequently, the minister of justice decided to economize the operation of Dutch prisons. Starting in October 2004, social activities in prisons were reduced, as a result of which inmates spend more time alone in their cells.<sup>27</sup> Also since October, re-socialization programs are no longer accessible for every inmate, which, according to a committee of detainees, will hamper their rehabilitation in society. In some prisons, experiments with two inmates being housed in one cell have already started.

The announcement of these economy measures resulted in protests by both prison staff and inmates.<sup>28</sup> Close to 1,000 inmates instigated interlocutory proceedings against the minister of justice<sup>29</sup> claiming that the measures are contrary to article 1 of the Criminal Code and article 7 of the ECHR (no punishment without a criminal offence).

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<sup>24</sup> *De Volkskrant*, "Chronologie zaak Erik O", 27 September 2004.

<sup>25</sup> *RTL Nieuws*, "OM in hoger beroep tegen de vrijspraak van militair Eric O", 29 October 2004.

<sup>26</sup> *NRC Handelsblad*, "Rechters kritiseren bemoeienis politiek", 20 October 2004.

<sup>27</sup> Ministry of Justice, "Twee ministeriele regelingen, beleid inzake meerpersoons celgebruik", 6 September 2004.

<sup>28</sup> *Abvakabo*, "Noodkreet uit de gevangenissen", 29 June 2004; *Leeuwarder Courant*, "Actie in de Marwei", 14 April 2004; *Noordhollands Dagblad*, "Steeds meer irritaties in Westlinge", 11 September 2004.

<sup>29</sup> *NRC Handelsblad*, "Sober regime mag in gevangenissen", 16 November 2004.

According to a court, however, these provisions refer to the moment at which a sentence is imposed, not to the implementation of the sentence. Consequently, the claim was rejected.<sup>30</sup>

#### *Non-Criminal Youth in Juvenile Penal Institutions*

On 30 November, the national ombudsman published a report on emergency relief concerning youths in juvenile penal institutions. Due to a lack of places in appropriate institutions, some 150 juveniles with severe behavioral problems had been temporarily placed in juvenile penal institutions under civil law provisions. None of them had committed a crime.<sup>31</sup>

According to the Department of Justice, the youths remained in a juvenile penal institution for an average of 132 days. However, the ombudsman had started his investigation due to a complaint from a 12-year-old girl who had stayed in such an institution for almost 10 months. According to the ombudsman, it is unacceptable to place non-criminal children in institutions with juvenile delinquents for such a long period of time. Although there are no legal provisions on this issue, youth care considers a term of 42 days to be a reasonable period for voluntary crisis relief in a non-judicial institution. However, this term has frequently been excessively exceeded.<sup>32</sup>

The ombudsman stressed that confining non-criminal youths in a penal institution is not only contrary to the ECHR, but also undesirable in the light of the fact that the detention centres cannot provide appropriate education and mental health care for behavioural problems of the juveniles. Finally, the ombudsman warned about the negative effects on mentally disturbed juveniles of living under a penal regime.<sup>33</sup>

Already in the spring of 2004, both juvenile court judges and the UN Committee on the Rights of the Child expressed their concern about the treatment of non-criminal juveniles with behavioral problems.<sup>34</sup> An expert in the field of juvenile psychiatry, Professor Th. Dorelijers, stressed the need for good mental health care for these children in order to prevent the development of more serious psychiatric problems.<sup>35</sup> Researchers from the Verwey-Jonker Institute also stressed the need for separating criminal juveniles from non-criminal juveniles. In its report, the Verwey-Jonker Institute concluded that non-criminal juveniles in penal institutions suffer in various ways from contact with their criminal inmates.<sup>36</sup>

<sup>30</sup> Uitspraak: LJN: AR5713, Rechtbank 's-Gravenhage, KG 04/1214.

<sup>31</sup> Nationale Ombudsman, "Niet-criminele jongeren verblijven ontoelaatbaar lang in jeugdgevangenissen", 30 November 2004, Rapport 2004/460.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> *NJCM, Nieuws*, "VN-Comité: Nederland leeft Kinderrechtenverdrag onvoldoende na", 1 February 2004, <http://www.njcm.nl/index.php?page=nieuws&&id=25>

<sup>35</sup> *NRC Handelsblad*, "Allemaal in de jeugdgevangenis", 20 October 2004.

<sup>36</sup> Verwey-Jonker Instituut, "Samenplaatsen van jongeren in justitiële inrichtingen", May 2004.

On the advice of a committee, the minister of justice and the state secretary of healthcare stated that separate institutions for juveniles with behavioral problems and juvenile delinquents are needed. However, it would take a few more years to adopt the necessary legislation to this effect and to prepare the appropriate institutions. Until then, criminal and non-criminal juveniles would be held in the same institutions, but isolated from each other.<sup>37</sup>

Nevertheless, the ombudsman reported at the beginning of October that both criminal and non-criminal juveniles were still being placed together in one department for unacceptably long periods of time.

#### *Aruba and the Netherlands Antilles: Death in Prison*

The arrest, detention and subsequent death in custody of Ben Komproe, the former prime minister and minister of justice of the Netherlands Antilles, gave rise to concerns about conditions in the prison of Bon Futuro in Curaçao. The Netherlands Antilles is an autonomous country within the Kingdom of the Netherlands.

Komproe was arrested on 6 September on suspicion of forgery, corruption of civil servants, and participation in a criminal organization. A month after being placed in Bon Futuro prison, Komproe died in hospital.

The public prosecutor and the management and staff of Bon Futuro Prison were aware of the fact that Komproe suffered from serious health problems, but Komproe did not receive appropriate medical care while in prison. After suffering from serious stomach bleeding on a number of occasions, Komproe was hospitalized and underwent an operation. A few weeks later, he died.<sup>38</sup>

The committee set up to investigate Komproe's death concluded that he had been denied adequate medical treatment, to which the Public Prosecutions Department and the prison management had been at fault. Furthermore, it stated that leaving the care of detainees to uneducated private security personnel amounts to a violation of the rights of prisoners.<sup>39</sup> In reaction to the report, the incumbent minister of justice stated that he would solve the described problems.<sup>40</sup>

One week later, a report by the Health Inspectorate stated that even though Komproe had been denied appropriate medical care while in prison, his health problems were caused by long-lasting stress and dated back to the period prior to his incarceration.

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<sup>37</sup> *NRC Handelsblad*, "Allemaal in de jeugdgevangenis", 10 October 2004.

<sup>38</sup> *NRC Handelsblad*, "Komproe stierf in cel door stress", 8 December 2004.

<sup>39</sup> *Onafhankelijk vooronderzoek naar de feiten en omstandigheden aangaande het overlijden van de heer Bernhard Maximiliaan Johan Komproe, geboren op Curaçao op 22 Oktober 1942, Oud Minister van Justitie. Conform de opdracht bij Landsbesluit van de 16de Oktober 2004, No.1 (No. 6493/RNA).*

<sup>40</sup> *NRC Handelsblad*, "Komproe in cel niet goed behandeld", 6 December 2004.

The public prosecutor dismissed the critical statements made by both reports and claimed that neither Komproe nor his attorney ever notified the authorities about the fact that Komproe was allegedly too ill to be detained.<sup>41</sup> At the end of October, the Antillian States (parliament) established a parliamentary inquiry with the task to look into health care in Bon Futuro Prison in Curaçao.<sup>42</sup>

After its 2002 visit to Bon Futuro Prison, the European Committee for the Prevention of Torture and inhuman or Degrading Treatment (CPT) concluded that the prison fell short of European standards in terms of staffing and medical care. As a response to the CPT report, the Netherlands replied that efforts were being made to upgrade living conditions in Bon Futuro Prison and that medical care would be improved by appointing a full-time doctor.<sup>43</sup>

## Respect of Private Life

### *Statutory Duty to Produce Identification*

On 16 December 2003, a vast majority of the Second Chamber voted in favor of a statutory duty to produce identification in the Netherlands.<sup>44</sup> This law was approved by the First Chamber on 22 June 2004 and entered into force on 1 January 2005.<sup>45</sup> Compared to the already existing duty to be able to identify oneself, the newly adopted law stipulates that every person aged 14 or over is obliged to produce identification on request. Investigative or supervisory officials now have the power to demand identification documents if they consider it necessary for the execution of their duties.<sup>46</sup> The fine for not being able or not willing to produce identification has been set at a maximum of EUR 2,250.<sup>47</sup>

In response to this bill, the Dutch section of the International Committee of Jurists (NJCM) expressed its concerns from a human rights perspective. First of all, according to the NJCM, lowering the age limit of the already existing duty to produce identification to 14 years (from 18) is contrary to the right to privacy under article 8 of the ECHR.

<sup>41</sup> *NRC Handelsblad*, “Komproe stierf in cel door stress”, 8 December 2004.

<sup>42</sup> Arubastation.com Arubaanse community op internet/www.nu.nl  
<http://www.arubastation.com/Article4898.phtml>

Wicked Station, [http://wickedstation.com/news\\_content\\_post.asp?ID=1134](http://wickedstation.com/news_content_post.asp?ID=1134)

<sup>43</sup> Council of Europe, *Response of the Authorities of the Kingdom of the Netherlands to the report of the CPT on its visit to the Kingdom in Europe and the Netherlands Antilles*, November 2002, <http://www.cpt.coe.int/documents/nld/2003-39-inf-eng.pdf>

<sup>44</sup> Tweede Kamer, Stemmingen, TK37, 37-2606, 16 December 2003.

<sup>45</sup> Eerste Kamer stemt in met identificatieplicht, 22 June 2004,  
[http://www.justitie.nl/pers/persberichten/archief/archief\\_2004/220604Eerste\\_Kamer\\_stemt\\_in\\_met\\_identificatieplicht.asp](http://www.justitie.nl/pers/persberichten/archief/archief_2004/220604Eerste_Kamer_stemt_in_met_identificatieplicht.asp)

<sup>46</sup> *Het Parool*, “Identificatie vanaf 14 jaar verplicht”, 9 December 2003.

<sup>47</sup> *De Volkskrant*, “Kamer stemt in met identificatieplicht”, 17 December 2003.



Moreover, the NJCM considered the lack of a sound system for complaints and controlling the proper execution of the statutory duty problematic. A judicial verification of the practice of the identification legislation will only take place if the order to produce identification results in the arrest and the detention of an individual. In other cases, persons will only have the ability to file complaints after their alleged maltreatment with the national ombudsman or the police. Furthermore, the NJCM expressed concern about the law's possible implications for the exercise of the freedom of assembly, the freedom to demonstrate, and the freedom of speech, since the statutory duty to produce identification might keep people away from certain events. Finally, the NJCM was cautious about the risk of discriminatory application of the law.<sup>48</sup>

## National and Ethnic Minorities

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

In 1995, the Netherlands signed the Framework Convention for the Protection of National Minorities. In 2001, a first attempt to ratify the Convention in the Netherlands foundered in the First Chamber due to a lack of agreement on the definition of national minority as was put forward by the Dutch government in its declaration. In this declaration, which had successfully passed through the Second Chamber, both the Friesians and those persons who were subject to integration policy were considered to be a national minority.

At the end of 2003, a new attempt was made to ratify the Framework Convention for the Protection of National Minorities. The minister of immigration and integration perceived the ratification of the Framework Convention to be an urgent matter due to the upcoming Dutch presidency of the EU. In order to speed up the process, the minister had changed the declaration so as to only grant the Friesians the status of a national minority.

In reaction to the minister's announcement, MP's posed questions regarding the change in the declaration, with specific attention to the exclusion of Roma and Sinti from the status of national minority. In her letter of 19 April, the minister indicated five criteria, approved by the government, which should be met by a minority in order to be granted the status of national minority.<sup>49</sup> One problematic feature of the criteria is a nationality requirement, i.e., the Framework Convention would be applied only to Dutch citizens. However, it should be underlined that these criteria are not officially part of the declaration under the Framework Convention for the Protection of National Minorities and thus do not have any legally binding value. They are merely indications of future government policy, but a new (differently composed coalition) government could disregard these criteria.

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<sup>48</sup> NJCM, "NJCM uit kritiek op wetsvoorstel tot uitbreiding identificatieplicht", 15 March 2004.

<sup>49</sup> Tweede Kamer, TK 26389, no. 9.

On 30 November, the ratification process passed the First Chamber with the declaration that included only the Friesians.<sup>50</sup> The adopted version was criticized by opposition politicians and NGOs for, among other things, its narrow interpretation of a national minority and its exclusion of Roma and Sinti.

In January 2004, a committee of experts on international criminal law and issues of immigration and refugees sent a letter to the Second Chamber stating that in order not to impair the UN Convention on Racism, the Dutch government would need to present sound arguments for restricting the status of national minority to the Friesians. Furthermore, the committee argued that the Dutch government had not yet presented valid reasons not to include Roma and Sinti in the Framework Convention. Finally, the committee argued that since the criteria for the status of a national minority were unclear, the proposed exclusion of minorities other than the Friesians from the Framework Convention is in violation of article 1 of the Constitution, which states that everyone in the Netherlands has to be treated equally under equal circumstances. Both the National Bureau against Racial Discrimination (LBR) and FORUM, an organization for the promotion of a multicultural society, reinforced these complaints.<sup>51</sup>

### *Quota for Primary Schools*

In November, the City Council of Education in Rotterdam announced a plan to introduce a quota system for the enrolment of children from ethnic minorities and native Dutch children to public primary schools. The declared aim of this measure is to combat the problem of segregation at school level and the emergence of so-called white schools and black schools.

The Rotterdam City Council stated that a quota system would be contrary to the law on equal treatment since public schools are open to everybody, and the minister of education expressed concern that the plan might be illegal. The minister and the city council agreed to have the plan screened by the Advisory Council for Education.<sup>52</sup> The plans were criticized by some politicians for being contrary to the freedom of education and to parents' freedom of choice.<sup>53</sup>

The LBR stated that it is illegal to combat segregation in education by ethnicity-specific measures. Furthermore, the LBR argued that social cohesion in neighborhoods and the quality of education should be the most important points of attention.<sup>54</sup>

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<sup>50</sup> Eerste Kamer 26389.

<sup>51</sup> Letter from Permanente commissie van deskundigen in internationaal vreemdelingen-, vluchtelingen- en strafrecht, Commissie Meijers, 19 January 2004.

<sup>52</sup> *NRC Handelsblad*, "Rotterdam wil scholen 'witten'", 22 November 2004.

<sup>53</sup> CDA fractie Rotterdam, "Segregatie in het onderwijs niet bestrijden met dubbele wachtlijsten", 16 December 2004, <http://www.cdarotterdam.nl/new/commissie.asp?id=65>

<sup>54</sup> Landelijk Bureau Racisme Bestrijding, "Dubbele wachtlijsten onmogelijk, onnodig en ongewenst", 25 November 2004, <http://www.lbr.nl/?node=1952>

*Roma and Sinti*

The Monitor on Racism and the Extreme Right – a research project carried out by Leiden University and the Anne Frank Foundation – contained a chapter on Roma and Sinti. In order to collect information on the position of Roma and Sinti in the Netherlands, the researchers interviewed a number of key speakers and field experts who are professionally involved with Roma and Sinti.

Based on interviews with these experts, the researchers concluded that Roma and Sinti are discriminated against on a variety of levels, especially in housing, education, access to goods and services as well as the social benefits. Interactions with public authorities, including social service agencies, the police and the judiciary were also mentioned as fields in which Roma and Sinti experience discrimination, largely due to preconceived ideas about Roma and Sinti and alleged criminality. Furthermore, the Monitor stated that the experts perceived discrimination against Roma and Sinti to be structural rather than occasional. According to the researchers, the roots and causes of this discrimination are to be found in deeply rooted mistrust and prejudices between Roma and Sinti and the Dutch majority population.<sup>55</sup>

**Racism, Intolerance and Xenophobia<sup>56</sup>***Attacks on Schools, Churches, and Mosques*

After the murder of Theo van Gogh, the Netherlands was confronted with a series of violent acts against mosques, churches, Islamic schools and people from ethnic minority groups. In the wake of this upsurge of violence, the researchers of the Monitor on Racism and Extreme Right published the finding of a survey of acts of violence with a racist motive, which were committed in the Netherlands between 2 and 30 November 2004.<sup>57</sup>

The racist violence started immediately after the murder of Van Gogh on 2 November. Its intensity and frequency reached its peak in mid-November and decreased at the end of the month. During November, the Monitor on Racism and Extreme Right counted 174 racially motivated criminal offences. They included threats, destruction of property, arson and physical abuse. In 61% of the cases, violence was aimed at Muslim targets, of which the arson and burning down of an elementary Islamic school in Uden and a mosque in Helden were the most destructive expressions of anti-Islam sentiments.

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<sup>55</sup> Jaap van Donselaer en Peter R. Rodrigues, *Monitor Racisme en Extreem-rechts, zesde rapportage*, Anne Frank Stichting, Onderzoek en Documentatie, Universiteit Leiden, Departement Bestuurskunde, November 2004.

<sup>56</sup> See also IHF, "Intolerance and Discrimination against Muslims in the EU – Developments since September 11", March 2005, [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4029](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4029)

<sup>57</sup> Jaap van Donselaer en Peter R. Rodrigues, *Monitor Racisme en Extreem-rechts, zesde rapportage*, Anne Frank Stichting, Onderzoek en Documentatie, Universiteit Leiden, Departement Bestuurskunde, November 2004.

According to the Monitor on Racism and Extreme Right, in 15% of the cases, right-wing racist gangs of youths were involved. However, the researchers remarked that the larger part of the above-mentioned offences still have to be solved. This means that it remains unclear to what extent the offences against Muslim targets in the aftermath of the death of Van Gogh had indeed been committed by extreme right-wing racists.

During 2004, the Monitor on Racism and the Extreme Right pointed out a trend, which showed an increase in the participation of the extreme right in acts of violence, compared to the years 2002 and 2003. A significant increase in anti-Muslim statements was also identified among the four marginal Dutch political parties, which the Monitor on Racism and the Extreme Right qualifies as extreme right-wing political parties. Those parties are, however, not represented in parliament.<sup>58</sup>

## Discrimination

### *Ratification of the Twelfth Protocol to the European Convention for Human Rights*

On 28 July 2004, the Netherlands ratified the 12th Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

The 12th Protocol provides for a general prohibition of discrimination. The current non-discrimination provision of the ECHR, article 14, is limited because it only prohibits discrimination in the enjoyment of one right or another guaranteed by the ECHR. The 12th Protocol removes this limitation and guarantees that no one shall be discriminated against on any ground by any public authority. The 12th Protocol entered into effect on 1 April 2005.<sup>59</sup>

Since no adjustments to national legislation were needed to implement the 12th Protocol,<sup>60</sup> it is remarkable that it took the Netherlands four years to ratify.

### *Equal Treatment Act*

On 1 May 2004, the act on equal treatment in employment on the grounds of age (*Wet Gelijke Behandeling op Grond van Leeftijd bij Arbeid*) entered into force. Through this act, the Netherlands transposed to national legislation the EC Framework Directive, which *inter alia* addresses discrimination on grounds of age<sup>61</sup> related to

<sup>58</sup> Ibid.

<sup>59</sup> Eerste Kamer 27-1462, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=177&CM=8&DF=3/16/05&CL=ENG>

<sup>60</sup> *Behandeling van het wetsvoorstel Goedkeuring van het op november 2000 te Rome totstandgekomen Protocol nr. 12 bij het verdrag tot bescherming van de rechten van de mens en de fundamentele vrijheden*. (Trb.2001, 18 en 173) (28100 (R1705) Handelingen 2003-2004 Eerste Kamer, pag. 1462-1466, datum vergadering: 11-05-2004, Document ID: HAN7691A10.

<sup>61</sup> Directive 2000/78 EC.

employment, as well as professional and vocational training. Discrimination on grounds of age is only allowed on an “objective legal ground”.<sup>62</sup> The Committee on Equal Treatment (CGB) will supervise compliance with the act.<sup>63</sup>

### *Race Equality Directive*

On 1 April 2004, the European Race Equality Directive (Directive 2000/43/EC) entered into force. This directive was implemented in the Netherlands through amendments in the already existing law on equal treatment, *Algemene Wet Gelijke Behandeling* (AWGB).<sup>64</sup>

## **Migrants and Asylum Seekers**

### *Integration*

In recent years, immigration and integration have become issues on which political parties have been highly divided. In order to be able to make an objective judgement on integration policy in the Netherlands, the Second Chamber established a Parliamentary Inquiry on Integration Policy (Blok Committee). The Blok Committee had the task of preparing an assessment of integration policy in the Netherlands over the past 30 years. Moreover, the committee had to define recommendations for future integration policy. The central questions that the committee was charged with answering were why the integration of immigrants in Dutch society failed, which mistakes have been made in the past integration policies, and what can the Netherlands learn for the future.

The Blok Committee started working on 3 December 2002 and it published its report entitled *Bruggen Bouwen* (Building Bridges) on 19 January 2004.

The Blok Committee concluded that the integration of a large number of immigrants had not failed at all, but instead had succeeded entirely or partly – a statement that caused a nation-wide discussion.<sup>65</sup> In addition, the committee concluded that although immigrants consider themselves to be integrated, they do not feel accepted and experience systematic discrimination, particularly in the areas of employment and education.<sup>66</sup> Furthermore, the Blok Committee pointed out that during the last few decades, the Second Chamber and the government have failed to fully appreciate the need for immigrants to integrate and the related need for them to be proficient in Dutch.<sup>67</sup> Regarding the employment of immigrants, the Blok Committee concluded

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<sup>62</sup> Ministerie van sociale zaken en werkgelegenheid, “Leeftijdscriminatie bij arbeid verboden vanaf 1 mei 2004”, 13 February 2004, [http://home.szw.nl/actueel/dsp\\_persbericht.cfm?jaar=2004&link\\_id=37550](http://home.szw.nl/actueel/dsp_persbericht.cfm?jaar=2004&link_id=37550)

<sup>63</sup> Wet Gelijke Behandeling op grond van leeftijd bij de arbeid 28.170. <http://www.cgb.nl>

<sup>64</sup> Algemene Wet Gelijke Behandeling, <http://www.lbr.nl/?node=1147>

<sup>65</sup> *Bruggen Bouwen*, Chapter 10, Summary, Conclusions and Recommendations, 19 January 2004.

<sup>66</sup> *NRC Handelsblad*, “Commissie Blok: integratie geslaagd”, 19 January 2004.

<sup>67</sup> *Bruggen Bouwen*, Summary, Conclusions and Recommendations, 19 January 2004.

that ethnic minorities are not adequately (proportionally) represented in the labor market due to a lack of effort by national authorities.<sup>68</sup>

Furthermore, the Blok Committee concluded that immigrant children have significant educational arrears compared to their Dutch classmates, even though these arrears have decreased tremendously between 1988 and 2003. Another trend noted by the Blok Committee regarding education was the high degree of segregation in the educational system. The committee argued that besides the composition of residential areas and the fact that parents have the freedom of choice, article 23 (freedom of education) of the Dutch Constitution is problematic because it prescribes that religious schools and schools with a specific philosophical character have the authority to deny access to children from another denomination or philosophy.<sup>69</sup>

Regarding the emancipation of immigrant women and girls, the report concluded that although their participation in education and the labor market has increased significantly during the last decade, not enough attention has been given to this issue. Also, the Blok Committee emphasized that the wearing of headscarves or other religious garments is a matter of personal choice and responsibility. As a consequence, the committee argued that any restriction on the wearing of the headscarf should only be acceptable on functional grounds.<sup>70</sup>

The outcome of the report was to give rise to fairly sharp responses from members of parliament, many of whom questioned the conclusions and especially the recommendations. The discussion about the report also drew attention to article 23 of the Constitution (freedom of education) with calls by some politicians to amend it.

Various immigrant organizations considered the report well balanced and confirmed its basic tenets. The organizations were pleased with the recommendation that more government involvement and co-ordination in integration policy is necessary and also with the finding that more attention is needed for the integration of immigrant women.<sup>71</sup>

In spite of the negative reactions, many of the recommendations were taken up by the political parties in their policy papers on integration.<sup>72</sup> In addition, the Second Chamber voted in favor of 25 out of 27 recommendations. The two recommendations that were not passed concerned the organization and financing of integration courses and the monitoring of immigrant participation in the labor market.<sup>73</sup>

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<sup>68</sup> Ibid., pp. 11.

<sup>69</sup> Ibid., pp. 20.

<sup>70</sup> Ibid., pp. 27.

<sup>71</sup> Nova, "Inspraakorgaan Turken tevreden met rapport-Blok", 19 January 2004, [http://www.novatv.nl/index.cfm?cfid=25129999&cftoken=97685038&ln=nl&fuseaction=nieuws.details&kolumn\\_id=3623](http://www.novatv.nl/index.cfm?cfid=25129999&cftoken=97685038&ln=nl&fuseaction=nieuws.details&kolumn_id=3623)

<sup>72</sup> *De Volkskrant*, "Commissie Blok krijgt achteraf toch nog enige lof", 9 April 2004.

<sup>73</sup> Tweede Kamer, stemmingen 14 April 2004, TK 66 4299-4301.

*Asylum Seekers*

In January 2004, the minister of immigration and integration announced that 26,000 rejected asylum seekers, most of whom had been living in the Netherlands for over five years, would be expelled. They had been denied a residence permit at several stages of their asylum procedures and used all the appeal avenues provided by the former asylum procedure in the Netherlands, a procedure that took several years.

The announcement of the forthcoming expulsion gave rise to nation-wide protests, as a result of which the minister of immigration and integration pointed out that so called “harrowing cases” still had a chance of escaping expulsion. Nevertheless, only 2,334 out of the 26,000 failed asylum seekers met the criteria of a “harrowing case”, and were granted a residence.

The announced mass expulsions were criticized by a variety of NGOs, city mayors, opposition parties, opinion makers and the general public,<sup>74</sup> many of which charged that the expulsions violated the *non-refoulement* principle under international law”.<sup>75</sup>

In spite of protests, the government refused to give in and special exit centers and programs were established for those to be returned. It was difficult to estimate how many of the 23,666 rejected asylum seekers were actually returned during 2004. The Immigration and Naturalization Service (IND) only provided the total number of rejected asylum seekers who were returned between January and end of August: 9,120. However, 7,500 of those people were in fact only removed from the administrative system, while it remained unclear whether they had physically left the country as well.<sup>76</sup> Only 1,620 failed asylum seekers were actually expelled by means of supervised departure, repatriation, or mobile supervision of foreign nationals.<sup>77</sup> The International Organization for Migration (IOM) supported and assisted those migrants who returned to their countries of origin voluntarily.<sup>78</sup>

A number of rejected Somali asylum seekers have filed cases at both the Council of State (the highest administrative court) and the ECtHR in order to contest their

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<sup>74</sup> VluchtelingenWerk, “VluchtelingenWerk Nederland zeer teleurgesteld: slechts 2300 vluchtelingen krijgen verblijfsvergunning”, 26 January 2004, <http://www.vluchtelingenwerk.nl/nl/articles/01110000.225.html>

<sup>75</sup> See, for example, Human Rights Watch, “Netherlands: Safety of Failed Asylum Seekers at risk, letter to the Dutch Integration Minister”, 13 February 2004, <http://hrw.org/english/docs/2004/02/12/nether7360.htm>

<sup>76</sup> Immigratie en Naturalisatie Dienst (IND), “Cijfers terugkeer”, 16 March 2005, [http://www.ind.nl/nl/inbedrijf/overdeind/cijfersenfeiten/Cijfers2004\\_terugkeer.asp](http://www.ind.nl/nl/inbedrijf/overdeind/cijfersenfeiten/Cijfers2004_terugkeer.asp)

<sup>77</sup> These terms are used by the Immigration and Naturalization Service: a “supervised departure” means that a foreigner is required to hand over his passport or other travel document until he has crossed the border; “repatriation” means that the foreigner is taken abroad under supervision; and “mobile supervision of foreign nationals” (MTV) means that the Royal Military Constabulary checks the foreign national near the border who is handed over, if necessary, to the Aliens Police.

<sup>78</sup> International Organization for Migration, <http://www.iom-nederland.nl/home.asp?langId=1>

planned expulsion to Northern Somalia, a region the Netherlands considered to be safe. However, Northern Somali authorities had informed the Dutch government that they would not accept asylum seekers who were not originally from that region. Notwithstanding those statements, the Dutch government continued to expel non-Northern Somalis to Northern Somalia.<sup>79</sup> The Somali complainants at the Council of State and at the ECtHR argued that by expelling failed Somali asylum seekers to Northern Somalia, the Netherlands was violating article 3 of the ECHR (prohibition of inhumane treatment).

After the ECtHR had pronounced interim measures, the Council of State ruled that the Dutch authorities may no longer expel Somalis who are not from Northern Somalia to Northern Somalia.<sup>80</sup> After this ruling, the minister of immigration and integration decided to temporarily halt the expulsion of rejected Somali asylum seekers.<sup>81</sup>

### **Trafficking in Human Beings**

In December 2004, the government of the Netherlands adopted a national plan of action to counter trafficking in human beings. The national plan has two focal points: First, it is necessary to collect specific information for the purpose of early recognition and prevention of trafficking in human beings, and to forward this information to relief organizations and investigative authorities. Second, it is important to expand relief capacity for trafficked people who are not in possession of a permanent residence permit.<sup>82</sup>

According to an already existing arrangement to fight illegal prostitution, the “B9 arrangement”, victims of trafficking have the possibility to prolong their stay in the Netherlands temporarily, in order to be able to file charges and to testify in a trafficking case.<sup>83</sup> In the new plan of action, the implementation of the “B9 arrangement” will be improved.

Another part of the report focuses on remigration. After their return, victims of trafficking have often faced reprisals in their home countries. In order to counter this problem, the National Plan of Action provides a short term- and a long-term solution. In the short term, women who face these kinds of security risks in their countries of origin will acquire residence status in the Netherlands. The Ministry of Foreign Affairs will investigate the long-term solution for this problem.<sup>84</sup>

<sup>79</sup> *NJCM, Nieuws*, “Nederlandse Staat gedagvaard in kort geding over uitzetting Somalische asielzoekers”, 12 March 2004, <http://www.njcm.nl/index.php?page=nieuws&&id=31>

<sup>80</sup> *NJCM, Nieuws*, “Uitspraak Raad van State over uitzetting Somalische minderheden”, 2 June 2004, <http://www.njcm.nl/index.php?page=nieuws&&id=41>

<sup>81</sup> Vluchtelingenwerk, “VluchtelingenWerk Nederland: Stap in de goede richting voor Somalische asielzoekers. Minderheden uit Somalië voorlopig niet uitgezet”, 8 June 2004.

<sup>82</sup> Tweede Kamer, Vergaderjaar 2003-2004, 28 638, No. 2.

<sup>83</sup> *Ibid.*

<sup>84</sup> Ministry of Justice, “Ministerraad: Nationaal actieplan mensenhandel”, 10 December 2004.