

# **NETHERLANDS HELSINKI COMMITTEE**

## **ANNUAL REPORT 2006**

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## INTRODUCTION

In his closing statement at the annual two-day Ministerial Council of the 56 OSCE participating states the Chairman-in-Office, the Belgian minister for foreign affairs, Mr Karel de Gucht, stressed that the fight against terrorism remains significant. He said that “progress had been achieved on trafficking, the protection of children, media capacity building and the fight against intolerance”. He added that it was unfortunate the ministers had been unable to strengthen engagement with human rights defenders.<sup>1</sup>

The concerns expressed during the Ministerial Council about the increasing climate of repression in which human rights defenders operate in many countries of Europe and Central Asia are reflected in several articles in the *Helsinki Monitor* in 2006.

These articles dealt with reform of the security sector, the protection of human rights defenders, repression, political violence, and terrorism. The NHC publishes the quarterly *Helsinki Monitor* in co-

operation with the International Helsinki Federation for Human Rights and Brill Academic Publishers. In 2006 the editorial board decided to change the name of Helsinki Monitor into Helsinki Monitor: Security and Human Rights as of 1 January 2007.



*The Belgian Foreign Minister Karel De Gucht, the 2006 OSCE Chairman-in-Office, with the Spanish Minister for Foreign Affairs and Co-operation, Miguel Angel Moratinos, the 2007 OSCE Chairman-in-Office, at the OSCE Ministerial Council in Brussels, 4 December 2006. (OSCE/Mikhail Evstafiev)*

One of the articles published in *Helsinki Monitor* was presented by Tanya Lokshina at the symposium *Transitions from Dictatorship to Democracy in Central and Eastern Europe and the Role of the International Community*. The topic of her presentation was the erosion of democracy and the grave threats to civil society in Russia. The symposium was held in November 2006 in The Hague in honour of Mr Jan Herman van Roijen, who was chairman of the NHC from 1999 until he resigned on 31 December 2005.

In the Netherlands the public debate on anti-terrorism measures remained lively in 2006. That year for the first time Dutch suspects, mainly of Moroccan origin, were found guilty of participating in the activities of a terrorist organisation. They were convicted on the basis of a new anti-terrorism law, which came into effect in August

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<sup>1</sup> OSCE, ‘14<sup>th</sup> OSCE Ministerial Council, Brussels Closing Statement by Minister Karel de Gucht, Chairman-in-Office’, Brussels, 5 December 2006.

2004. Moreover, in 2006 the Court of Appeal in The Hague ruled that the Dutch intelligence service may intercept journalists' conversations, but only in strictly limited cases when national security is at stake.

On 26 and 27 November the Interchurch Peace Council (IKV) and the NHC organized respectively the public debate *The threat of (the fight against) terrorism in the Netherlands and Morocco*, and the Round-Table Conference *Morocco and the Netherlands: Close Partners – Migration, human rights, and the combat against terrorism in the Netherlands and Morocco*. This bilateral round-table dealt with two themes, firstly migration and secondly human rights and terrorism, which are common to the Netherlands and Morocco. Among the other main human rights issues in the Netherlands in 2006 were the Dutch asylum policy, in particular the procedures for detention and expulsion of asylum seekers and their children, and the quality of fire safety measures in detention centres for illegal migrants. Furthermore, the radicalism of a small group of Muslims, the quality of the treatment given to persons detained under a hospital order, the waiting lists for juvenile care, measures to combat human trafficking, and the extent of the freedom of religion remained important issues of concern. In June the Dutch government resigned due to a disagreement between the coalition partners with regard to controversial proceedings by the minister for immigration and integration regarding the Dutch nationality of a member of parliament. New parliamentary elections were held on 22 November.

Already in February 2005 the NHC had published the report *Bridging the Gulf, Elements of the Helsinki Process as Inspiration for the Gulf Region*. The report expressed the need to study on the spot whether it would be feasible to introduce a Helsinki process in this region. In 2006 a NHC delegation made several fact-finding missions to the Gulf region to examine the human rights situation, and to acquaint itself with civil society and the prospects for regional co-operation. In November 2006 the *Bridging the Gulf Foundation for Human Security in the Middle East* was established. This new foundation, chaired by a former member of parliament, Ms Farah Karimi, is the first subsidiary organisation of the NHC.

The NHC continued its efforts to support local initiatives in Central and Eastern Europe to strengthen democracy, the rule of law and human rights. In Croatia, the Netherlands and the Croatian Helsinki Committee successfully concluded a project to improve the relations between the judiciary and the media. In the Czech Republic, the Police Training College in Prague and the NHC completed the project of integrating human rights, respect for and the protection of minorities in the training programme of the Czech police and in the Czech police organisation. In Latvia the NHC project to strengthen the anti-discrimination work of the Latvian Centre for Human Rights (LCHR) was concluded with good results. Also the institutional building in the field of anti-discrimination in Romania was finalized. The National Council for Combating Discrimination (NCCD) in Romania has been strengthened, including its network with other governmental institutions and NGOs which strive for anti-discrimination and diversity. Finally, the practical training for human rights lawyers and judges from all over Central and Eastern Europe in international human rights litigation has been finalized in a satisfactory manner.

The NHC commenced, for the first time, a project in Turkey to strengthen the local branches of human rights organisations. For this project the NHC co-operates with the Human Rights Association (IHD), MazlumDer (Organisation of Human Rights and Solidarity for Oppressed People) and Amnesty Turkey. This project is especially important in light of the report which the European Commission published on the progress made by Turkey in preparing for EU membership. One of the conclusions of this report is that “Turkey needs to significantly improve the situation of fundamental rights in a number of areas and address the problems that minorities are facing.”<sup>2</sup>

In Bulgaria the NHC started a Phare twinning project to strengthen the Bulgarian judiciary by the implementation of the new Penal Procedures Code and by enhancing the interagency co-operation between the Public Prosecutor’s Office and other bodies concerned in fighting organized crime and corruption. In January the NHC started a programme with three local human rights organisations to provide strategic human rights litigation in Armenia, Azerbaijan and Georgia. In October the NHC, together with the University of Zagreb and the Netherlands Institute for War Documentation (NIOD), commenced a project to establish a digital database on war crimes.

In the past year the NHC has profited from the support given by our local partners and government institutions in Central and Eastern Europe, by our valued experts and by our donors, which have provided us with the necessary financial resources and support without which it would have been impossible to continue to expand our activities. I would like to express my sincere thanks to all.

Tidde Hofstee

*Chairman of the Netherlands Helsinki Committee*

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<sup>2</sup> Commission of the European Communities, ‘Commission Staff Working Document: Turkey 2006 progress Report’ (COM (2006) 649 final), Brussels, 8 November 2006



## **1. BACKGROUND, OBJECTIVES, AND RESULTS**

### **1.1 Background**

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.

The International Helsinki Federation for Human Rights (IHF) is an international, non-governmental organization constituted by national Helsinki Committees and Cooperating Organizations in the participating States of the Organization for Security and Co-operation in Europe (OSCE). The IHF seeks to promote compliance with the human rights provisions of the Helsinki Final Act and its follow-up documents, with international legal obligations undertaken in the Council of Europe (CoE) and the United Nations (UN), and with human rights norms promoted by the European Union (EU). The IHF mandate is to protect and strengthen civil society groups that monitor and report on human rights issues from a non-partisan perspective, and to bring them together on a common international platform. The IHF represents its affiliates on the international political level and in the media, supports and assists their human rights monitoring and advocacy activities, and disseminates documentation based on their research.



*General Assembly of the International Helsinki Federation for Human Rights (IHF) in Sofia, 17-19 November 2006. This year the IHF's General Assembly was hosted by the Bulgarian Helsinki Committee. In the middle: Mr Hofstee, Chairman of the Netherlands Helsinki Committee*

## 1.2 Objectives

According to its articles of incorporation 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 also became a 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 advocates 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 Board of Trustees of the Centre for International Legal Co-operation (CILC) and participated in the General Assembly of Oxfam Novib (until May 2006, when Oxfam Novib abolished the General Assembly).<sup>3</sup>

<sup>3</sup> For further information on the NHC's background and objectives, see Appendix I

### 1.3 Ten results of NHC projects and lobbying efforts in 2006

In the project *ECHR training programme for human rights lawyers and NGOs in Serbia and Montenegro* nine lawyers obtained in-depth knowledge and practical skills on how to apply the European Convention on Human Rights in domestic and international litigation. This will contribute to an increase in the number of successful cases submitted by victims of human rights violations at the Strasbourg Court. This will have a positive impact on the rule of law and human rights situation in Serbia and Montenegro.

Within the framework of the project *Strengthening the Legal culture in Croatia: improvement of the relations between the judiciary and the media*, 15 judges and 9 prosecutors were trained to participate as spokespersons for courts and prosecutor's offices in 2006. Furthermore, a booklet was drafted for the courts, which contains the main guidelines for maintaining relations with the media. Between 2003 and 2006, the project served as a platform for contacts between the media and the judiciary. It has provided a basis for discussing and defining how the judiciary and the media in Croatia can and should maintain professional working relations. Such relations are important because a sufficient level of mutual trust, contacts and knowledge of each other's profession is needed for reporting on judicial matters in an objective and informative manner.

The project *Institutional building in the field of anti-discrimination in Romania* produced several positive results. Significant was the adoption of the new law on preventing and combating all forms of discrimination. According to the new law, the National Council for Combating Discrimination (NCCD) is the state authority in Romania in the field of anti-discrimination. The NCCD improved its co-operation with public authorities and other relevant actors assuming an important role in fighting discrimination. Furthermore, the visibility of the NCCD in Romanian society significantly increased.



*Closing Conference of the project 'Institutional building in the field of anti-discrimination in Romania', August 2006*

By organizing the public debate *The threat of (the fight against) terrorism in the Netherlands and Morocco*, and the Round-Table Conference *Morocco and the Netherlands: Close Partners – Migration, human rights, and the combat against terrorism in the Netherlands and Morocco*, the NHC has further expanded its geographic and thematic fields of activity, since it is the first time the NHC has launched a project concerning Morocco. This project has resulted in new contacts for

the NHC with Moroccan civil society and organisations and people in the Netherlands working with Morocco.

The NHC assists three of the leading human rights organisations in Turkey in developing and implementing a training program for local human rights defenders. Through this project the NHC has expanded its geographical field of activity to Turkey. In the project *Human Rights Defenders in Turkey: Strengthening the local branches of human rights organisations* each participating NGO developed a strategy on systematic training for its members. This strategy will enable the local members of the organisations to contribute in a more effective way to the activities of their organisation, since a growth in membership has not yet resulted in an increase in NGO numbers, their frequency and the effectiveness of their activities.

The project *Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania* has made relevant progression towards the development, testing and implementation of a model for the operation of children's rights monitoring and protection in 18 selected *seniunijas* (the smallest governmental unit in Lithuania). The representatives of all eighteen committees agreed on a list of conditions for successful functioning, such as the commitment of the municipal administration to children's rights, adequate support by municipal institutions, etc. About 330 persons participated in one or more training activities in 2006. These people took part as members of the *seniunija* children's committee or as professionals working in the field, e.g. social workers, socio-educational theorists, schoolteachers, etc.

The project *Drug prevention in prisons and rehabilitation of inmates in Estonia* aims at reducing recidivism among former inmates in Estonia. The project largely consists of train-the-trainer activities for various prison staff in drug treatment, rehabilitation and reintegration programmes. This is mainly done through train-the-trainer activities and group leader training activities of which one was a 'Coping Skills' training with 40 participants. An extensive drug investigation was conducted at the start of the project. The results of the project are taken into account in the Ministry of Justice Development Plan until the year 2011. The project results are also reflected in the action plan of the National Drugs Strategy for 2007-2009 and in the National HIV/AIDS Strategy for 2006-2015.

In the first year of the project *Reintegrating Juvenile Offenders in Romania* the Probation Department of the Romanian Ministry of Justice, the Netherlands Probation Service and the NHC developed two reintegration programmes on social skills (one for offenders aged 14 - 18 years, and one for those aged 18 - 25 years), one community sanctions program and a diagnosis instrument. Thirteen local probation teams with, in total, 49 team members were trained in the implementation of these four programmes. As of September 2006 the 14 probation teams implement the programmes as a pilot scheme in their county.

As a result of the projects *Practical training in international human rights litigation with an emphasis on non-discrimination and minority rights* and the *Training Programme for Human Rights Lawyers from the South-Caucasus* up to 160 practising lawyers and judges from a large number of countries in Middle and Eastern Europe, including Georgia, Armenia and Azerbaijan, gained practical knowledge and skills in international standards and in particular in applying the European Convention on Human Rights. This will stimulate the compliance of national laws and practice with international human rights standards.

In November 2006 the NHC, in co-operation with Human Rights Watch, successfully lobbied the Dutch Parliament concerning the maintenance of EU sanctions against Uzbekistan. Ms Karimi, a member of parliament, asked the Dutch minister for foreign affairs several parliamentary questions on this issue. The minister stated that the Netherlands has pleaded at the EU level for a prolongation of sanctions against Uzbekistan.<sup>4</sup>

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<sup>4</sup> Nederlands Ministerie van Buitenlandse Zaken, 'Beantwoording vragen lid Karimi over EU-sancties tegen Oezbekistan wegens mensenrechtenschendingen' 27 November 2006, at <http://www.minbuza.nl/nl/actueel/brievenparlement,2006/11Beantwoording-vragen-lid-Karimi-over-EU-sancties-t.html>.



## 2. ACTIVITIES

### 2.1 Research & Monitoring

#### 2.1.1 *Bridging the Gulf: Fact-Finding Mission to Saudi Arabia*

On 29 November 2004 the NHC organised a round-table conference entitled *Elements of the Helsinki Process as inspiration for the Gulf Region*<sup>5</sup>, in The Hague. As a result of this conference, the NHC published the report *Bridging the Gulf, Elements of the Helsinki Process as Inspiration for the Gulf Region* in February 2005. At the conference the need for research within the Gulf region was expressed, in order to determine whether it is feasible to introduce a Helsinki process in this region.

As part of the NHC project *Bridging the Gulf*, an NHC delegation consisting of Mr Jan ter Laak, senior advisor of the NHC, Ms Farah Karimi, a member of Parliament for the Green Left, and Ms Tomador Hassoun, president of the 'Arabic Dutch Women's Group', visited Saudi Arabia (Riyadh and Jeddah) from 7 to 11 April 2006. The same delegation had already visited the other Gulf States and Iran in the course of the past two years. The National Society for Human Rights served as a counterpart for the delegation.

During the entire visit members of the Royal Netherlands Embassy accompanied the NHC delegation. They visited several NGOs and other relevant organisations. During the debates the NHC delegation and the local organisations stated their positions with great gusto. Even though the points of view often remained diametrically opposed to those of the delegation, the Saudis greatly appreciated the exchange of opinions, which mainly concentrated on themes such as freedom of religion, rights for migrant workers, and women's rights.

The delegation found it remarkable that their Saudi discussion partners had hardly any knowledge of the concept of the universality of human rights. They frequently made requests to receive information and/or documents on this topic. They also referred to the Koran, in which this topic would be better and more extensively described. However, in the concluding conversation with the president of the Jeddah branch of the National Society for Human Rights there was like-mindedness with regard to the implementation of universal human rights, as well as an energetic, accessible bottom-up approach. The NHC delegation was clearly impressed by the work of the NGO and invited a number of its staff - including the president - to the Netherlands (scheduled for May 2007).

The NHC delegation concluded that their Saudi conversation partners still have the prevailing opinion that human rights should not be in conflict with Islamic law. This explains the reservations made by the Kingdom of Saudi Arabia about articles 14 (non-discrimination) and 16 (freedom of religion) of the Universal Declaration of Human Rights.

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<sup>5</sup> With this term the Gulf Co-operation Council is indicated: Saudi Arabia, the United Arab Emirates (UAE), Bahrein, Qatar, Oman and Kuwait, plus Yemen, Iraq and Iran ('the formula 6 + 3').

### ***2.1.2 Bridging the Gulf: Establishment of the Foundation for Human Security in the Middle East***

Fact-finding missions to the Middle East such as the one discussed in the previous paragraph are meant to examine the state of human rights and civil society in Saudi Arabia, the United Arab Emirates, Yemen, Qatar, Bahrain and Oman, and the prospects for regional co-operation. In November the *Bridging the Gulf, Foundation for Human Security in the Middle East* was established to provide for a more independent structure for the project *Bridging the Gulf*. The aim of this organization is to promote human rights, civil society and regional security in the Gulf region. Members of the foundation have also paid regular visits to Iran, and taken part in regional human rights processes. This foundation is the first subsidiary organisation of the NHC. It is chaired by Ms Farah Karimi. Professor Cees Flinterman is its vice-president.

From 2 December until 16 December Ms Karimi and Mr Ter Laak visited Oman, Northern Iraq (Kurdistan), Kuwait and Dubai. More information concerning this mission can be found in subsection 2.2 concerning publicity, which highlights an article written by Ms Karimi about this visit.

### ***2.1.3 Symposium on Transitions towards Democracy***

On 8 May the NHC held a symposium on the subject '*Transitions from Dictatorship to Democracy in Central and Eastern Europe and the Role of the International Community*', in honour of Mr Jan-Herman van Roijen, who was chairman of the NHC from 1999 until he resigned on 31 December 2005.

The NHC held the symposium in the Senate, at the invitation of Mr Ed van Thijn, a member of the Senate and a member of the NHC. Dr Floribert Baudet, senior lecturer and researcher at the University of Utrecht, Faculty of Language and Literature, gave a historical review on the origins of the Helsinki Process and the role of the Netherlands. Various Dutch and international speakers took part in a forum discussing the transition from dictatorship to democracy. Firstly, this discussion took place in a panel on specific countries, chaired by Dr Aaron Rhodes, executive director of the International Helsinki Federation for Human Rights. Members of this panel were: Ms Vasilika Hysi, executive director of the Albanian Helsinki Committee, Ms Tanya Lokshina, former executive director of the Moscow Helsinki Group, currently the Chairperson of the 'Demos' Centre<sup>6</sup>, Ms Kirsten Meijer, project manager for Belarus of the Alfred Mozer Foundation, and Mr Branislav Milinkovic, special envoy of Serbia and Montenegro to NATO.

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<sup>6</sup> The 'Demos' Centre ([www.demos-center.ru](http://www.demos-center.ru)) is a Moscow-based human rights think-tank founded by the Moscow Helsinki Group in January 2004. Today, the Centre's key areas of focus are: humanitarian problems in conflict zones, arbitrariness and violence in the activities of state agencies, effective implementation of international human rights standards, informational work for the benefit of civic society, human rights education and human rights mainstreaming



*Mr Jos Kösters, Executive Director of the NHC, and Mr Jan-Herman van Roijen, chairman of the NHC 1999-2005*

Tanya Lokshina spoke of the erosion of democracy and the grave threats to civil society in Russia and concluded: “The contemporary Russian regime is indeed destroying all independent forces within society (...) The only such force left today are independent NGOs, and definite steps are already taken to destroy them.”<sup>7</sup>

Secondly, Cees Flinterman, a member of the NHC, chaired a panel on the relevance of Civil Society and NGOs in periods of transition. Mr Daan Everts, Permanent Representative of the Netherlands to the OSCE, Professor Jenny Goldschmidt, a member of the NHC, Mr Wilco de Jonge, director of Press Now, and Mr Aaron Rhodes were panel members.

Mr Jos Kösters, executive director of the NHC, formally praised Mr Jan Herman van Roijen. The financial assistance of Stichting Haëlla and Press Now made this symposium possible. The symposium was very successful with more than 100 invitees taking part.

#### ***2.1.4 Working Group on Human Trafficking***

Following a theme meeting for the NHC staff on human trafficking with Ms Anne Offermans - member of the executive committee of the NHC - as a guest speaker, a working group on Human Trafficking was set up in 2005. The two main objectives of this working group are, firstly, to make an overview of the activities undertaken by other organisations in the field of human trafficking, and, secondly, to identify whether the NHC could have added value by participating in these activities, through its expertise, existing activities, and activities in the field of development.

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<sup>7</sup> For the full text see the column by Tanya Lashing, ‘Erosion of Democracy and Grave Threats to Civil Society in Russia’, *Helsinki Monitor*, 17 (3) 2006

In 2006 the working group distributed an information sheet via the ICMPD anti-trafficking network website in which the NHC offers its services and interest in co-operation with possible future partners in this field. Consequently, after having met with several important organisations in the Netherlands, the NHC working group has started to explore the field in Eastern Europe by visiting several local and international NGOs which are active in the anti-trafficking field. From these meetings the working group has drawn the positive conclusion that the NHC can be of added value in the field of human trafficking.

### 2.1.5 Morocco Conference

On 26 and 27 November the Interchurch Peace Council (IKV) and the NHC organized, respectively, the public debate *The threat of (the fight against) terrorism in the Netherlands and Morocco*, and the Round-Table Conference *Morocco and the Netherlands: Close Partners – Migration, human rights, and the combat against terrorism in the Netherlands and Morocco*.

On 26 November the participants in the public debate discussed the tension between human rights and anti-terrorism measures in Morocco. Furthermore, they made a comparison with similar tensions arising from new legislation to combat terrorism in the Netherlands. In the Netherlands this dilemma is reflected in the debate on the right to privacy versus certain anti-terrorism measures that have recently been legalised. The aim of the debate was to search for solutions that minimize the threat of terrorism but at the same time guarantee the human rights of suspects of terrorism and of persons with conservative Muslim beliefs, in both Morocco and the Netherlands.

In the first debate, Mr Gijsbert van Ijzerson Scholten of the IKV chaired the panel. Mr Fouad Laroui, a lecturer in French literature at the University of Amsterdam gave an address. Mr Abdeltalif Hatimy, president of the Moroccan human rights organisation *Montada Al Karama pour les Droits de l'Homme*, and Mr Maâti Monjib of the *Association Marocain des Droits de l'Homme* (AMDH) participated in this debate.

In the second debate, Mr Jan ter Laak, senior advisor of the NHC, chaired the panel. Ms Beatrice de Graaf of the University of Utrecht gave an address. Ms Esmâa Alariachi, a teacher and the anchorwoman of the Dutch TV programme *'De Meiden van Halal'* (Girls of Halal), and Mr Fred Teeven of the Liberal Party (VVD), participated in the debate.



Ms Esmâa Alariachi

On 27 November the NHC organized the Round-Table Conference *Morocco and the Netherlands: Close Partners*. This bilateral round-table concerned two common themes, firstly migration and secondly human rights and terrorism. This initiative elaborated on the suggestions and recommendations made during the Mediterranean Seminar 2005, which was organized by the OSCE in Rabat. These recommendations entailed the economic, as well as the human and cultural dimension of migration. In addition, guiding principles were formulated for an OSCE role in migration and integration. The OSCE and Morocco both demonstrated a desire for fruitful operations.

Ambassador El Mhamdi of Morocco opened both parts of the round-table with speech. In the first part (migration), the panel members were Mr Mimoun Aziza, historian at the University of Moulay Ismaïl in Meknès, Morocco; Mr Mehdi Alioua, a lecturer in sociology at the University of Toulouse; Mr Bahija Jamal, a researcher in the field of migration and law; and Mr Jeroen Doornik, a researcher at the Institute for Migration and Ethnic Studies (IMES). During the second part of the round-table (human rights and terrorism), Mr Abdeltif Hatimy; Mr Maâti Monjib; Mr Mohammed Cheppih, a consultant for the Palestinian Platform for Human Rights and Solidarity; Mr Anas Mezour, a journalist with the Arabic weekly *Al Ayyam*; and Mr Jan Jaap van Oosterzee of the IKV were panel members. This part was introduced by the Dutch minister of justice Mr Ernst Hirsch Ballin. During the entire day Mr Tiddo Hofstee, chairman of the NHC, chaired the discussions.

The first part of the round-table addressed two aspects of migration which concern both the Netherlands and Morocco. Firstly, the participants discussed the aspect of double loyalty. The majority of the 300,000 Moroccans living in the Netherlands have Dutch nationality. At the same time, Moroccan legislation guarantees the right to Moroccan nationality for all citizens of Moroccan origin. Hence, Moroccan immigrants in the Netherlands often have double nationality and feel connected to both countries. During the last few years the Dutch political debate on the integration of immigrants has put the double loyalty of these Moroccan-Dutch citizens under pressure. Some of those participating in this discourse consider the double loyalty to be a hindrance for the integration of this group into Dutch society. However, Morocco prefers to keep those Moroccans living abroad closely tied to their home country and is taking several initiatives for that purpose. Secondly, the participants discussed the problem of the illegal African migration to Europe, for which Morocco is a main country of transfer.

The second part of the round-table discussed human rights and terrorism. In the Arab world Morocco is a leading country concerning the matter of human rights. It is the first Arab country that has established a commission for truth and reconciliation to investigate human rights violations under the regime of its former king, Hassan II. Furthermore, the position of Moroccan women has improved remarkably due to the reform of Moroccan family law. However, since the terrorist attacks in Casablanca in 2003, the fear of terrorism seems to obstruct any further improvement of the human rights situation. The Moroccan government is currently arresting many supporters of

the Islamic movement *Al Adl Wal Ishane*. Also the Islamic political *Parti de Justice et Développement* (PJD) is under pressure. Finally, terrorist suspects are being imprisoned for months on end without any resulting legal proceedings.

Again, the participants made a comparison between the situation in Morocco and in the Netherlands concerning the tension between fundamental rights and anti-terrorism measures. At the end of the day, Mr Hofstee concluded: “I think we all agree on some points: that the fight against terrorism is an absolute necessity; that terrorism can never under any circumstances be justified; that terrorism is the ultimate violation of human rights and that those suspected of terrorism have the same rights as any other suspect, i.e. they are innocent until proven guilty. There can be no excuses for violating their rights.”

### **2.1.6 Visit to Cuba**

From 25 June until 3 July a delegation of *Cuba Futuro*, a Dutch-based foundation which promotes human rights and supports civil society groups in Cuba, and the NHC visited Cuba. The initiator of this visit was Mr Jan ter Laak. Other members of the delegation were Mr Aaron Rhodes and Ms Maria Louisa Bascur of the International Helsinki Federation for Human Rights. The Dutch embassy in Cuba assisted the delegation. *Cuba Futuro* presented a report on this mission in Warsaw, at a meeting of European NGOs working in Cuba. This event was organized by People in Need and the Helsinki Foundation for Human Rights in Poland. One of the main aims of this mission was to obtain a better understanding of the human rights situation in Cuba, and in particular the challenges faced by civil society. The report purported to outline the most pressing issues and concerns encountered during the mission.<sup>8</sup> Although in May 2006 Cuba took up its seat at the United Nations Human Rights Council, the report describes how the general human rights situation in Cuba has deteriorated precipitously in 2006. The report emphasizes the need for a more proactive approach to improve the Cuban human rights situation by the international community.<sup>9</sup>

### **2.1.7 Human Rights in the Netherlands**

Each year the NHC contributes to the IHF Annual Report by submitting a report on the compliance of the Netherlands with the OSCE standards. This report is a compilation of the research carried out by Dutch organisations (governmental and non-governmental), amongst which are human rights organisations. The subjects that were discussed this year included, among others, the reports of the Parliamentary Assembly of the Council of Europe and the UNHCR criticizing the Dutch asylum policy, in particular the procedures for the detention and expulsion of asylum seekers and their children, and the quality of safety measures in detention centres for illegal

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<sup>8</sup> *Cuba Futuro Foundation*, ‘Human Rights in Cuba – at the Twilight of the Castro Era’ December 2006, at [www.cuba-futuro.org](http://www.cuba-futuro.org).

<sup>9</sup> Ibid.

migrants. In this regard, the report pays attention to the findings of the Dutch Safety Board concerning the fire at the detention centre near Schiphol Airport in 2005, which resulted in eleven detainees losing their lives.

Furthermore, the report describes how, in June 2006, the Dutch government resigned due to a disagreement between the coalition partners with regard to the controversial proceedings by the minister for immigration and integration concerning the Dutch nationality of a member of parliament. New parliamentary elections were held on 22 November. Other issues in the NHC's contribution are the radicalization of a small group of Muslims, discrimination against Muslims, hate speech, and anti-terrorism measures. Also the report looks into the freedom of expression, since two journalists were detained because they refused to disclose their journalistic sources.

Additionally, the NHC wrote a more extensive report concerning human rights in the Netherlands enclosed in this annual report. This extended version contains further information on the quality of treatment given to persons detained under a hospital order, the waiting list for juvenile care, measures to combat human trafficking, and the extent of freedom of religion.<sup>10</sup> The NHC distributed this report among inter alia members of the Dutch parliament and NGOs. It was also published on the NHC website.

## 2.2 Publicity

### 2.2.1 *Helsinki Monitor*

The NHC publishes *Helsinki Monitor* in co-operation with the International Helsinki Federation and Brill Academic Publishers. *Helsinki Monitor* is a quarterly journal devoted to issues inspired by the work and principles of the Organization for Security and Co-operation in Europe (OSCE). It looks at the challenge of building security through co-operation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security. The journal, founded in 1990, is a legacy of the Helsinki process that was designed during the Cold War, to bridge Eastern and Western Europe on the basis of common principles and cooperative security. It brings to light current developments affecting human rights, peace and security across North America, and wider Europe including Central Asia.

The major themes of *Helsinki Monitor* include:

- Conflict prevention;
- Human rights;
- Minorities;
- Democracy building; and
- Cooperative security.

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<sup>10</sup> See for the full report: Appendix IV.

The journal not only reflects on developments, it draws attention to problems, and contributes to the policy-making discourse. With its thorough analysis and thought-provoking articles, *Helsinki Monitor* is a must for all those interested and involved in the OSCE and the process of guaranteeing security and protecting human rights. Readers of *Helsinki Monitor* find a regular column, both short and long articles, a chronicle of OSCE events, as well as occasional book reviews. 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. The *Helsinki Monitor* has a total of 157 subscribers (September 2006). These include academic libraries, government libraries and NGOs, therefore its total readership is considerably higher.

In 2006 the editorial board decided to change the name of *Helsinki Monitor* as of 1 January 2007 into *Security and Human Rights, Formerly Helsinki Monitor*, because this title better covers the quarterly's content and its target group.

In the four issues of 2006 Helsinki Monitor published articles on, inter alia:

- 'The 2005 Ljubljana Ministerial Council Meeting' by Victor-Yves Ghebali;
- 'Implementing anti-discrimination law and the human rights movement' by Dimitrina Petrova;
- 'The Optional Protocol to the Convention Against Torture (OPCAT): A major step forward in the global prevention' by Frank Ledwidge;
- 'Repression, political violence and terrorism. The case of Uzbekistan' by Edwin Bakker;
- 'Building local institutions and parliamentarianism in post-war Kosovo: A review of joint efforts by the UN and the OSCE from 1999 to 2006' by Jens Narten;
- 'Security Sector Reform and the future of the Code of Conduct' by David M. Law;
- 'Comments on the new set of Recommendations on Policing in Multi-Ethnic Societies' by Arie Bloed;
- 'Mechanisms for Interethnic Dialogue in Estonia and Russia: Outcomes and problems' by Aleksei Semjono;
- 'Organisational challenges and experiences of the Slovene Chairmanship' by Milan Jazbec;
- 'Protecting human rights defenders: A priority for the OSCE participating states' by Aaron Rhodes;
- 'Supporting civil society and NGOs in Eastern Europe: Some lessons learned' by Wilco de Jonge.

### ***2.2.2 Publications in support of NHC projects***

Within the framework of the *Training for Human Rights Lawyers in Armenia, Azerbaijan and Georgia*, the Union 42 of the Constitution, a partner of the NHC in

Georgia, published two training manuals. Firstly, a manual containing the application procedure before the European Court of Human Rights, and, secondly, a manual about the implementation of the European Convention on Human Rights in the Domestic Setting.<sup>11</sup> Furthermore, the Armenian Institute of Development (AID) published a manual on strategic human rights litigation in Armenia. Finally, the partner organisations in Armenia, Azerbaijan, and Georgia have set up websites concerning their strategic human rights litigation activities.

In support of the project *Drug prevention in prisons and rehabilitation of inmates* in Estonia, 8 manuals - for psychologists, pedagogic prison employees, probation officers, social workers and guards - were published. For example, the 'Coping Skills' manual was produced for prison staff and probation officers in order to provide support for the implementation of rehabilitation programmes in prisons. 'Motivational Interviewing' was another skills-oriented manual aimed at rehabilitating inmates. The manual for 'Rehabilitation of Juveniles' was successfully adapted to the Estonian situation. Finally, 'The Treatment of Sex offenders' was produced to support group leader training and train-the-trainer activities. Furthermore, two experts from this project, Ms Bep Duys and Ms Pauline Pollé of the Netherlands Probation Service, gave an interview about the training they provided. It was published in *Morse*, the magazine of the foreign office of the Probation Service.<sup>12</sup>

The magazine *Morse* also published articles concerning the project *Reintegrating juvenile offenders: introducing community-based interventions in Romania*, for which the Probation Service also provided experts.<sup>13</sup>

In the framework of the *ECHR training programme for human rights lawyers and NGOs from Serbia and Montenegro* 8 training manuals were published in the area of ECHR case law. The manuals concern articles 2, 3, 5, 6, 8, 10, 11, and 14 of the ECHR.

In the project *Strengthening the legal culture in Croatia: Improvement of the relations between the judiciary and the media* a number of the trained judges in co-operation with a journalist compiled a booklet with guidelines for spokespersons of courts.

As a result of the development of the manual of the project *Human Rights Defenders in Turkey: Strengthening the local branches of human rights organisations* a training module was developed on the subject Basic knowledge of human rights instruments. Also a newsletter was produced aimed at introducing the project to the various sectors of Turkish society (NGOs, government, political parties, the media etc.). The newsletter was produced in English and Turkish.

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<sup>11</sup> These publications can be found at: [www.article42.ge](http://www.article42.ge).

<sup>12</sup> Bep Duys, 'Want het vuur moet blijven branden: training Estland', *Morse*, Reclassering Nederland, December 2006, 9 (3) 8.

<sup>13</sup> Raymond Swennenhuis, 'Ondersteuning Roemeense Reclassering', *Morse*, Reclassering Nederland, April 2006, 9 (1) 5, and Hannie Roelofs, 'Pilot Werkstraf in Roemenië', *Morse*, Reclassering Nederland, September 2006, 9 (2) 11.

Within the framework of the project *“Strengthening the potential of the Ombudsman Institute and the Commission for Human Rights: Boosting the struggle against racism and discrimination in the Russian Federation”* two training manuals were published. Firstly, a basic human rights course, and, secondly, an advanced course on human rights, and combating and preventing racism and discrimination. Both manuals are designed for the staff of the Federal Ombudsman and for the Human Rights Council under the President (HRCPU). Next to this, a special book was published in two parts, entitled *“Course on fighting xenophobia and ethnic discrimination”*, giving a more in-depth description and analysis of xenophobia and ethnic discrimination and methods for preventing and combating discrimination.



*Seminar in Nizhnii Novgorod within the framework of the project ‘Strengthening the potential of the Ombudsman Institute and the Commission for Human Rights: Boosting the struggle against racism and discrimination in the Russian Federation’, October 2006*

In the project *Establishment of children’s rights protection monitoring mechanisms on the local level of Lithuania* five training manuals were published. Four manuals, ‘Awareness raising on children’s rights and principles for ensuring safe development of a child’, ‘Assessment and intervention in case of child abuse and neglect’, ‘Teaching parents parental skills’, and ‘Teaching children social skills’ were targeted at key persons in the community such as teachers and social workers. The other manual ‘Decision making, problem solving and policy making in committees’ was targeted at the members of the newly established children’s rights protection and monitoring committees on the *seniunija* level. (A *seniunija* is the smallest governmental unit in Lithuania, ranging from 500 to 40,000 people, and therefore closest to the people.) Additionally, information on the project and children’s rights in general is being disseminated through ‘Municipality News’, a weekly issued by the Association of Local Authorities, and an agreement was made with ‘School Magazine’, which is widely read by educational theorists and social workers.

In 2007, the NHC will publish a booklet on the public debate *The threat of (the fight against) terrorism in the Netherlands and Morocco* and the Round-Table Conference *Morocco and the Netherlands: Close Partners - Migration, human rights, and the combat against terrorism in the Netherlands and Morocco*.

Annually, the NHC distributes its annual report to up to a thousand different interested people and organisations.

*Article by Ms Farah Karimi, President of the 'Bridging the Gulf' Foundation*

From 2 until 16 December Ms Farah Karimi, a former member of parliament for the Green Left<sup>14</sup> and currently the president of the foundation *Bridging the Gulf*, and Mr Jan ter Laak, senior advisor of the NHC, visited Oman, Northern Iraq, Kuwait and Dubai for the project *Bridging the Gulf*. A Dutch newspaper published an article written by Ms Karimi concerning this fact-finding mission on 4 January 2007.<sup>15</sup> In this article Ms Karimi expressed her concern that Europe has almost no political influence in the Gulf Region and is practically absent in the debates about the political developments there. According to Ms Karimi this is remarkable since it is in the interest of Europe that these countries develop a process of democratization. She recalls Europe's experiences in the Cold War when conferences on security and co-operation in Europe, the Helsinki process, demonstrated that in the long term closer relations between rivals and enemies are possible. Ms Karimi concludes that as well as European governments NGOs have to realise that they cannot stand by helplessly while autocratic regimes refuse to reform, causing Islamic fundamentalism to gain ground.<sup>16</sup>

## 2.3 Lobbying

### 2.3.1 National Institute of Human Rights

On behalf of the NHC, Mr Jos Kösters takes part in an initiative that is aimed at establishing a National Institute of Human Rights (NIRM) in the Netherlands, that meets the requirements of the United Nations' Paris Principles.<sup>17</sup> The project is an initiative of the Netherlands Institute of Human Rights, the National Ombudsman, the Equal Treatment Commission, and the Dutch Data Protection Authority. The Dutch section of the International Commission of Jurists (NJCM) and the NHC participate as independent observers. The four initiators formulated a memorandum in which their co-operation was formalised. In 2005 they signed the memorandum in the presence of the minister for government reform and kingdom relations.

As from January 2006, two external advisors have been working on a detailed proposal for the establishment of the NIRM. These two external advisors have conversed with several interested parties, such as the School for Human Rights

<sup>14</sup> Ms Karimi was a member of Parliament until the elections of November 2006.

<sup>15</sup> Farah Karimi, 'Europa grote afwezige in de Golf-regio', *De Volkskrant*, 4 January 2007.

<sup>16</sup> Ibid.

<sup>17</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.

Research (ORM), and Utrecht University, to estimate the support for the NIRM. During these conversations the practical aspects of the NIRM as a nucleus linked to the Netherlands Institute of Human Rights were mapped. In July 2006 the external advisors presented a proposal for a working plan, a budget and an organisation plan. On 24 October a motion was passed in Parliament summoning the government to make the necessary policy and judicial preparations for the establishment of the NIRM.<sup>18</sup> An interim board of the NIRM will be formed under the presidency of Mr Oosting, a member of the Council of State. The other board members will be Mr Brenninckmeijer (National Ombudsman), Mr Hendriks (Equal Treatment Commission), and Mr Kohnstam (Data Protection Authority).

In 2007 the four partners will present their report on the organization and a specification of the duties of the NIRM. This report aims to provide the basis for political decision-making concerning the establishment of the NIRM, which will be the responsibility of the new government.

### ***2.3.2 International NGO Conference on the OSCE***

On 16 and 17 May the NGO coalition set up on the occasion of the Belgian presidency of the OSCE in 2006 organised an international conference in Brussels. Pax Christi Flanders fulfilled the main part in the organisation of this conference. In total about 180 NGO participants enrolled. Ms Anne Offermans attended the conference on behalf of the NHC. She participated in two workshops one on trafficking in human beings and one on racism.

### ***2.3.3 Atrocities in Andijan, Uzbekistan***

On 3 November 2006 the IHF and the Human Rights Society of Uzbekistan (HRSU) appealed to the EU to retain and expand sanctions imposed on Uzbekistan in the wake of the 2005 Andijan massacre. "This is a crucial moment for the EU to demonstrate its resolve to ensure justice for the victims of the Andijan killings and to protect the civil society of Uzbekistan", said Ulrich Fisscher, IHF President. Ms Holly Cartner, executive director of the Europe and Central Asia division of Human Rights Watch (HRW), visited the Netherlands on 6 November to influence the Netherlands government concerning the maintaining of EU sanctions against Uzbekistan. During her visit Ms Cartner spoke with Ms Karimi, then a Member of Parliament. Consequently, Ms Karimi asked the Dutch minister for foreign affairs several questions on this issue. The minister stated that the Netherlands has pleaded at the EU level for a prolongation of sanctions against Uzbekistan.<sup>19</sup> Next to this the NHC chairman Mr Hofstee has contacted the Ministry of Foreign Affairs to express the NHC's concern about the Dutch attitude concerning this issue.

<sup>18</sup> *Tweede Kamer der Staten-Generaal*, Brief van de Minister voor Bestuurlijke Vernieuwing en Koninkrijksrelaties, 30 800 V 30 800 VII, nr. 50, Vergaderjaar 2006-2007.

<sup>19</sup> Nederlands Ministerie van Buitenlandse Zaken, 'Beantwoording vragen lid Karimi over EU-sancties tegen Oezbekistan wegens mensenrechtenschendingen', 27 November 2006, at <http://www.minbuza.nl/nl/actueel/brievenparlement,2006/11/Beantwoording-vragen-lid-Karimi-over-EU-sancties-t.html>.

### ***2.3.4 Optional Protocol to the Convention Against Torture***

In December 2006 Mr Hofstee, chairman of the NHC, wrote a letter to the Netherlands Ministry of Foreign Affairs concerning the ratification of the Optional Protocol to the Convention Against Torture (OPCAT).

### ***2.3.5 Victims Trust Fund***

In 2006 the NHC donated to the Victims Trust Fund of the International Criminal Court (ICC). The ICC's trials involve victims who have often been damaged in the most severe manner. The Victims Trust Fund aims to provide them with help and compensation to enable them to rebuild their lives.

## **2.4 Technical Assistance**

The transition to democracy and the rule of law is a complex and lengthy process which continues to require 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 the institutions which guarantee democracy, respect for the rule of law and human rights, and respect for and the protection of minorities. In this context the NHC considers it relevant and important to support human rights education for all kinds of professional groups in order to strengthen the rule of law and democracy. 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, the legal staff of Ministries, police officers, prison staff and probation staff. For these target groups the NHC organizes a wide range of cooperative technical assistance programmes concerning:

- Improving the capacity of judicial professionals
- Professionalisation of prison systems, the probation service and the police
- Strengthening human rights organisations and institutions
- Contributing to post-conflict rehabilitation
- Reinforcing the establishment of effective legal aid systems

### ***2.4.1 Improving the capacity of judicial professionals***

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 organizations 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 organizations representing judges and/or prosecutors.

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

##### **Key problem**

The general public in Croatia has a negative opinion regarding the judiciary, which is perceived as slow, of low quality, and politically influenced. Most of these problems are real. The judiciary has been facing severe problems caused by organisational and procedural deficiencies, as well as a lack of qualified staff and material resources. Another problem is the lack of enforcement of court decisions. In this sense, the negative opinion of the general public about the judicial system seems to be justified. However, this negative opinion is not justified at all times. For instance, sometimes when court cases or criminal investigations are criticised, the judiciary is merely applying the existing laws. Negative opinions therefore also exist regarding issues that are in accordance with the accepted standards.

The opinion of the general public is mostly formed by what people read, hear and see in the media about court cases, investigations by the prosecution service, and the judicial system in general. The activities of the media are therefore crucial in shaping public opinion. The media are rather critical towards the judiciary. Partly this may be for good reasons, but in a large number of cases there is evidence that the media project an incorrect image of the judicial system. This is a serious problem, because negative reporting thus has a negative influence on the confidence of the public in the rule of law. This situation is also problematic in view of the importance of the media as a public watchdog in the judicial system. The media should provide an objective, trustworthy channel to the general public through which "justice can be seen to be done". And if justice is not done, objective and professional media coverage would stimulate reform.

In 2002, the first ideas for a project to address the problematic relations between the media and the judiciary were discussed by the Croatian and Netherlands Helsinki Committees with representatives of these two professions. In these discussions it was often mentioned that the problematic relations were, at least partly, caused by the fact that there were no professional relations between the judicial institutions and the media. There was a lack of trust, a lack of contact, and a lack of knowledge of each other's profession and role in society. Nevertheless, the first reactions regarding the ideas for a project were rather sceptical. However, at the same time, in 2002-2003,

public opinion polls indicated a high rate of distrust by citizens towards the judiciary. As a result of these polls, the judiciary started to realise that its public image needed to be improved. The media was identified as one of the most useful actors to achieve this goal. Within this environment, the implementation of this project started on 1 July 2003.



*Opening of the final training seminar for spokespersons in courts and prosecutor's offices, Zagreb, June 2006  
Mrs. Štefica Stažnik, Director of the Judicial Academy, and Mr. Lionel Veer, Dutch Ambassador to Croatia*

The project was implemented by the Croatian Helsinki Committee and the Netherlands Helsinki Committee. At the Netherlands Helsinki Committee, Ms Ineke van de Meene acted as project manager. In the course of the project, the Judicial Academy and the Office of the Prosecutor General became closely involved in the organisation of the training seminars. Throughout the project the Netherlands Embassy in Zagreb offered its continuous support, for which the Dutch and Croatian implementing partners are highly grateful. The duration

of the project was extended by 12 months. It was concluded on 1 July 2006. The Ministry of Foreign Affairs financed the project.

### **Objectives**

The overall aim of this project was to establish and sustain professional working relations between the judiciary and the media, and to improve the image of the judiciary. To contribute to this aim, the project's goal was to define professional working relations between the judiciary and the media, and to establish a network of contacts for the media within the courts and prosecutor's offices.

The project was designed to attain four results. First of all, it aimed to raise awareness and consensus about the professional working relations amongst the judiciary and the media. The second objective was to secure the commitment of the management of courts and prosecutor's offices for establishing a network of media liaisons, and to provide the necessary facilities for this network. Moreover, judges and prosecutors who were (going to be) appointed as spokespersons in their court or prosecutor's offices were to be trained. Lastly, an information brochure for the media and the general public on the judicial system in Croatia would be produced.

The project consisted of two phases. During the first phase, round-table meetings were organised to stimulate the discussion within the judiciary (both judges and prosecutors), within the media, and between these professions on the relations between the media and the judiciary. The bottlenecks, as well as the importance of and opportunities for media coverage on the judiciary were discussed in often heated debates. The joint round-table meeting for the judiciary and the media in June 2004 resulted in a list of recommendations, which proposed inter alia to introduce the position of spokesperson in courts and state prosecutor's offices to facilitate the exchange of timely, accurate, and understandable information to the media.

The second phase of the project was dedicated to the formation of a network of spokespersons in a selected number of courts and prosecutor's offices. Despite the fact that the introduction of a spokesperson was recommended as a valuable instrument to improve the difficult relations between the media and the judiciary, the courts and prosecutor's offices were reluctant in selecting candidates for the training seminars. The judges and prosecutors who participated in the first training seminar in April 2005 indicated that, although they were already responsible for maintaining contacts with the media, they were hesitant to become the official spokesperson of the court. When, later that year, it became clear that the appointment of a spokesperson would become a legal obligation both for courts and prosecutor's offices, the stakeholders showed a renewed commitment to the project activities that aimed to train (future) spokespersons. In the first six months of 2006, two successful training seminars for (future) spokespersons were organised. Furthermore, a number of trained judges from the courts compiled a booklet with guidelines for spokespersons in courts.

## **Results**

At the end of the project, it seems justified to conclude that the project has laid down a basis for defining how the judiciary and media can and should maintain professional working relations. The project activities have provided a platform for discussions within the judiciary, within the media and between these professions on the nature of the relations between the judiciary and the media. Bottlenecks and sensitive areas have been identified and both professions have started to think about solutions to further improve their relations. It is encouraging to see that the participants at the last two training seminars expressed the wish to organise future meetings to discuss the developments regarding the spokespersons. Moreover, a first basic level of consensus on the nature of the working relations between both professions has been reached. This is reflected in the recommendations that were adopted during the final round-table conference, and in the booklet with main guidelines for the courts, which was drafted by a group of judges in co-operation with a journalist.

Moreover, various courts and prosecutor's offices now have spokespersons who can be contacted by the media. On a practical level, however, there is still room for improvement. The spokespersons still need most of the necessary (material) facilities. Secondly, the responsibilities and tasks of the spokespersons need to be determined and laid down in rules, regulations or guidelines. Additional training should also be made available. But progress has been made and is expected to take place in the future. Outside the framework of this project, but perhaps inspired by it, several

courts and prosecutor's offices have already launched web sites with information for the media and the general public. Unfortunately, the information brochure published for the media and the general public on the judicial system in Croatia could not be produced. It was envisaged that the compilation of these brochures should be part of the training programme for the spokespersons. However, the period between the second training seminar and the end of the project was too short to develop and publish the brochures.



*Training session for future spokespersons of the prosecutor's offices, Zagreb, June 2006*

The design of the project has proved to be successful. The first phase of round-table meetings provided a platform for both professions to air their complaints and objections against maintaining contacts with the other profession. The joint discussions were nevertheless fruitful and provided a basis for the next phase. Once the commitment of the stakeholders was reconfirmed, the training seminars served their purpose and enabled the participants to increase their knowledge and skills. In this process, the ongoing legislative procedure regarding the spokespersons played an important role. The pending obligation to appoint spokespersons increased the importance of the project, despite the fact that uncertainties regarding the position of spokespersons still remained.

At the moment of establishing this project there were no indications that the concept of spokespersons would be included in the Law on Courts and the Law on the State Prosecutors. Therefore, the project did not contain any activities related to the legislative process. Fortunately, the design of this project and the flexibility of the Matra Project Programme permitted the project period to be extended by 12 months. This made it possible to benefit from the legislative amendments that were discussed (and with regard to the adopted Law on Courts) in Parliament.

Other projects in the field of improving the capacity of judicial professionals:

- Establishing a European Law Documentation Centre for the Judiciary in Bulgaria
- Strengthening of the Bulgarian Judiciary: implementation of the New Penal Procedures Code and strengthening the interagency co-operation between the public prosecutor's office and other bodies concerned in fighting organized crime and corruption
- Strategic Human Rights Litigation in the South Caucasus
- ECHR Training Programme for human rights lawyers in Serbia and Montenegro

#### ***2.4.2 Professionalisation of prison systems, the probation service, the police and other legal professionals***

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. In order to provide knowledge and skills concerning the treatment of inmates and the management of prisons, training courses, seminars, and working visits are organised. In addition to this the NHC has also assisted in the establishment of probation services and further improving the quality of their work by providing training and consultancy on organisational development. The NHC also provides human rights training to police officers.

#### ***Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania***

##### **Key Problem**

Lithuania is a society in transition. The road to an open democratic society and free market economy is a difficult one and adversely affects certain segments of society. Children and young people, who completely depend on the goodwill of adults, are especially vulnerable. Families living at or below the poverty level, single-parent families and other families with various problems are often poorly equipped to provide proper care for their children or to cope with multiple stress. A lack of cultural and psychological awareness in this post-Soviet society contributes to children's abuse. Consequently, many children suffer neglect or physical and psychological damage, in many cases in their earliest and most vulnerable years. Furthermore, poor inter-agency co-operation, an insufficient competence base resulting from inadequate education for professionals working in the field of monitoring and protecting children's rights, and a lack of children's rights monitoring and protection mechanisms on the local level hinder the implementation of the UN Convention on the Rights of the Child in Lithuania.

##### **Objectives**

The project *Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania* aims at improving conditions for the healthy mental and physical development of Lithuania's children. The project's key goal is to advance the

system of children's rights monitoring and protection in Lithuania. Five results have been formulated. Firstly, to develop, test and implement a model for the operation of children's rights monitoring and protection in 18 selected *seniunijas*. (A *seniunija* is the smallest governmental unit in Lithuania, ranging from 500 to 40,000 people, and therefore closest to the people.) Secondly, to develop a comprehensive national competence base in children's rights monitoring and protection. Thirdly, to ensure the sustainability of this national competence base. Fourthly, to fully train child monitoring and protection councils in eighteen selected *seniunijas* to monitor and protect children's rights. Finally, to raise awareness and understanding of the monitoring and protection councils and of the rights of the child in Lithuania.

### Activities

The main activities of the project involve the establishment of child protection and monitoring councils in eighteen selected *seniunijas*. In addition, a model operational framework and model statutes for the operation of the councils are designed. Furthermore, a training programme is prepared and carried out, focusing on the most relevant topics. The programme contains a train-the-trainers component to provide a framework wherein the Dutch trainers train the Lithuanian trainers to conduct the training sessions themselves. Towards the end of the project the new knowledge is integrated into the qualification-raising programme for social workers and socio-educational theorists, and training materials and expertise are made available at methodological centres. The above-mentioned activities will be augmented by an information campaign aimed at raising awareness about the rights of the child and provisions of the Convention on the Rights of the Child, and mobilising citizens to take responsibility for children in their community.

The Lithuanian non-governmental organisation Community Change Centre (CCC) and the NHC jointly implement the project. Primary implementation is the responsibility of the CCC, while the NHC provides required knowledge and expertise concerning the monitoring and protection of children's rights in the Netherlands. On behalf of the NHC Renate Hartman is the project leader. Jolanta Blazaite is the person responsible for the CCC in Lithuania. In the Netherlands the Child Protection Board, PI Research, Bureau van Montfoort, and the Alexander Foundation are involved. In Lithuania the Ministry of Social Security and Labour, the NGO Child Support Centre and the Lithuanian Association of *Seniunajas* have a seat in the Project Steering Group.

In the first twelve months of the project, that started in December 2004, the Lithuanian partner organisation Community Change Centre completed an overall mapping exercise that formed a solid basis for the assessment of the local situation in *seniunijas*. The mapping revealed that the *seniunijas* have substantial differences in problems and infrastructure that should be taken into account (*e.g.* the non-existence of social workers working with families). In the first nine pilot *seniunijas* a committee was established.<sup>20</sup> In one of the *seniunijas* a committee had already been established

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<sup>20</sup> The working group was called a committee instead of a council as mentioned in the project title, because Lithuanian law stipulates that a council should be established on the municipal level.

and was formalized under Lithuanian law prior to the start of this project. The project benefited from lessons learnt and best practices.

Based on the outcome of the mapping, the training topics were defined: Awareness Raising on Children's Rights and Principles for Ensuring Safe Development of a Child; Decision Making, Problem Solving and Policy Making in Committees; Assessment and Intervention in Case of Child Abuse and Neglect; Teaching Parents Parental Skills (targeted at professionals); Teaching Children Social Skills (targeted at professionals); and Youth Participation. The management team recruited trainers on the Dutch and Lithuanian side, prepared materials and drafted programmes. One of the Dutch Project Steering Group members assisted in designing all six training programmes. Thus a coherent and complementary approach was adopted, built upon the gained knowledge and insights.

### Results

In 2006 the project expanded to nine new *seniunijas*. The committees of the first group of nine participants in the project consolidated themselves. They continued to gain expertise and became more confident in their work. They had already benefited greatly from the training activities, and used new knowledge and skills in their work. The development of a model framework for a local committee has progressed significantly based on the experiences of this first group of nine *seniunijas*. So far, two committees have formalized articles of incorporation. It is possible that the others might choose to develop alternative versions of the articles of incorporation, based on their specific situations and needs.

The development of committees of rural and small town *seniunijas* turned out to be smoother and more determined. They established their modus operandi and started the formalization of the process by the municipal authorities. The establishment of the committees in large cities has been more complex. While the people and organisations involved do not seem to lack motivation, they take an active part in training activities and use the gained knowledge as professionals in their work with children, so far they have not managed to form a "critical mass" in their *seniunijas* to significantly forward the establishment of the committees.

In the summer of 2006 an interim evaluation of all eighteen committees took place, aimed at exchanging success stories and learning from each other's positive results, and sharing problems and possible solutions. The big city *seniunijas* as well as those in small towns and rural areas emphasized different needs regarding the establishment and functioning of children's rights committees. Big cities have a need to gather, systemize and disseminate information related to children and services provided to them; exchange information between agencies and organizations, foster inter-agency co-operation and coordinate monitoring and protection of children's rights. Small town and rural *seniunijas*, on the other hand, give priority to work with individual families and solving the problems of children by means of monitoring and control, teaching social skills as well as mediation and advocacy with municipal institutions in the interests of a child or family.

The representatives of all eighteen committees agreed on a list of conditions for successful functioning, *e.g.* a commitment by the municipal administration to children's rights; adequate support by municipal institutions, especially the Children's Rights Protection Agency; agreement about the mandate and tasks of the committee; territorial, professional and institutional representative membership of the committee; one contact person to co-ordinate activities and gather and unite people representing different professions; and basic financial and technical support.

The project's environment has been changing positively during 2006. Firstly, children's rights received more publicity in the media and society. There were several highly visible children's rights cases investigated by the Children's Rights Ombudsperson. These cases drew attention to the lack of work with families and the necessity to not only start involving families, but also to solve issues on the local level. As a response new legal provisions were adopted by the Ministry of Social Security and Labour which foresee the establishment of one paid position for work with families in each *seniunija*. This is an important development which will strengthen local children's rights protection committees, and will create good synergies in *seniunijas* that already work in this direction.

Information on the project and children's rights in general is being disseminated through *Municipality News*, a weekly issued by the Association of Local Authorities. This magazine is subscribed to by all municipal administrations and is available in all *seniunijas* of Lithuania. Several articles have already been published. Also opportunities were identified to reach another part of the project's target audience with relevant information on children's rights. CCC entered into an agreement with *School Magazine*, which is a publication by the Ministry of Education and Science. It is widely read by teachers and social workers. A special supplement to the magazine was even published in 2006, containing information on the training programme and the activities of the already established local committees.

In 2007, the third and final year of the project, efforts will be made to consolidate the children's rights committees and community-oriented initiatives. Furthermore, the partner organisations will endeavour to make the training programme sustainable by engaging educational institutions and NGOs to continue to deliver these training programmes to relevant target groups in Lithuania. Hopefully the results of this project will have a long-lasting positive impact on the monitoring and protection of children's rights in Lithuanian society.

Other 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
- Drug Prevention in Prisons and Rehabilitation of Inmates in Estonia
- Reintegrating Juvenile Offenders: Introducing Community-based Interventions in Romania
- The Way Forward 2005-2008: A Reform Support Programme in the domain of Justice and Home Affairs for Turkey (EULEC)

### **2.4.3 Strengthening human rights organisations and institutions**

#### **Human Rights Defenders in Turkey: Strengthening the local branches of human rights organisations**

##### **Key Problem**

The Republic of Turkey signed the European Convention on Human Rights in 1950. The Convention came into force in 1954. Since then, the human rights situation in Turkey has been the object of much criticism by other member states of the Council of Europe, international organisations, and NGOs.

The human rights situation in Turkey played, and still plays, an important role in relations between the European Union and Turkey. The Luxembourg European Council of December 1997 confirmed Turkey's eligibility for accession to the European Union. According to the political criteria decided upon in Copenhagen in 1993, membership requires that a candidate country has achieved stability concerning institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. In October 2005 accession negotiations with Turkey started. In its report of November 2006 the European Commission stated that "Turkey continues to sufficiently fulfil the Copenhagen political criteria and has continued political reforms. However the pace has slowed during the past year. Significant further efforts are needed in particular on freedom of expression. Further improvements are also needed on the rights of non-Muslim religious communities, women's rights, trade union rights (...)."<sup>21</sup>

The continuing violations of human rights in Turkey and the need to further upgrade the human rights institutional framework<sup>22</sup> show the necessity of the work of non-governmental human rights organisations. The three project partners – Human Rights Association (IHD), MazlumDer (Organisation of Human Rights and Solidarity for Oppressed People) and the Turkish section of Amnesty International – have increased their membership in the last few years. This is an important development, since all three are organisations based on individual membership. The majority of the members of these organisations work on a voluntary basis.

While the growth in membership should enable the human rights organisations to increase the number, frequency and effectiveness of their activities, in practice this has not been the case. Despite the growing membership, there is still a rather limited group of people within the organisations who do the main part of the work. Amongst the new members there is a lack of knowledge and skills regarding human rights

<sup>21</sup> Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2006 – 2007, including Annexed Special Report on the EU's Capacity to Integrate New Members {SEC(2006) 1383} {SEC(2006) 1384} {SEC(2006) 1385} {SEC(2006) 1386} {SEC(2006)1387} {SEC(2006) 1388} {SEC(2006) 1389} {SEC(2006) 1390} page 17.

<sup>22</sup> Commission Staff Working Document Turkey 2006 Progress Report {Com(2006) 649 Final}, page 14

work. Training new members is important because it will enable them to contribute in a more effective way to the activities of the organisation. However, none of the three NGOs have a systematic or uniform training programme for their new members. The main reason for this lack of training strategy is the difficult situation in which the NGOs have been working. The main priority for the organisations has been the human rights work itself and the survival of the organisations.

With the changing human rights environment in Turkey, the IHD, MazlumDer and Amnesty Turkey felt the need for and the possibility of making better use of their increased membership, as well as to improve the quality, effectiveness and efficiency of their work. In 2004, the three Turkish human rights organisations decided to seek external support to strengthen their organisational capacity. They identified the development of a structural and sustainable training programme for local members as a priority. In particular, there is a need for training in general human rights topics and in capacity building issues.

Another area where improvement is needed is the uniformity of certain activities. Uniformity of data, however, is needed in order to be able to deal properly with a case and, on the national level, to compare cases and derive statistical information from those cases. It is therefore vital that the members know how to report and how to use this tool in their activities.

It is obvious that for the activities of the human rights organisations to produce results, it is important that society understands the necessity of their work. At the moment, members of human rights' organisations are often considered as obscure, anti-Turkish, and even as terrorists. This image needs to be normalised and the motivation and goals of the human rights organisations need to be explained. For this, contacts need to be established with authorities, the media and the general public. In these contacts, it should be emphasised that respected organisations like the Council of Europe and the United Nations are committed to human rights work, and that defending human rights should be considered as a normal activity in a democratic society governed by the rule of law.

### **Objectives**

This project aims to improve the capacity of the three human rights organisations to train the members of their local branches, including the board members, in essential elements of human rights work. The project will assist the NGOs to develop a strategy for the systematic training of their members, to develop training curricula and training materials. Furthermore, within the framework of the project, local members will be trained to conduct these training activities.

The project has two goals. The main goal is to increase the capacity of the three human rights organisations - IHD, MazlumDer and Amnesty Turkey - to train their local branches in essential elements of human rights work. The second aim of the project is to improve the knowledge and awareness in Turkish society of the importance of (local) human rights work for a democratic society governed by the rule of law.

The project has five main results. Firstly, a strategy for each of the three NGOs on how to set up a systematic training programme for the local members. Secondly, three training programmes for each of the three human rights NGOs on knowledge and skills regarding human rights. Thirdly, a group of 60 Turkish trainers, who can provide training based on the developed training programmes, and who are experienced in conducting a training seminar. Fourthly, 400 local human rights activists trained in basic human rights knowledge and skills. Finally, public relations events for representatives of local, regional and national government representatives, state bodies, interest groups, the media NGOs etc.

The ministry of foreign affairs finances the project (Matra). Amnesty International provides two of the members of the international expert team.

### Activities

The main activities of this project are a strategy meeting where a training strategy will be established, a kick-off meeting aimed at discussing the actual implementation of the project activities and to enable the international and local experts and representatives of the three NGOs to become acquainted. Subsequently training modules and materials will be developed for the three different subjects; 1) Basic knowledge of human rights instruments; 2) Reporting and 3) Internal Organisation. This material will be used by future trainers during a train-the-trainers session. After the trainers have been trained, the trainers will practice and apply the training programmes that will be held throughout the country. For all the three NGOs a number of training seminars will be organised.

Parallel to the above-mentioned activities four PR events will be held, in order to inform Turkish society about the project and human rights in general. For this purpose also PR materials such as newsletters will be developed



*Planning the activities for autumn 2007 after the kick-off meeting of the project 'Human Rights Defenders in Turkey: Strengthening the local branches of human rights organizations'*

In Turkey the three project partners established a project office where a project manager and a project assistant prepare and implement the project activities. The NHC and the Turkish project office jointly implement the project. On behalf of the NHC Mr Jos Kösters is responsible for the project, he was assisted by Ms Ineke van de Meene. In April 2006 she was replaced by Mr Jochem Beunderman. The project steering committee oversees the implementation of the project. All project partners are represented in this committee.

## Results

In March 2006 the first meeting of the project steering committee took place. As a result of this meeting the planning of all activities until mid 2007 was approved.

On May 12-14, 2006 the training strategy meeting took place in Ankara. As a result of this meeting the three human rights organisations developed a training strategy for their members. Prior to this meeting the organisations had compiled a needs assessment in which they specified their training needs.

The kick-off meeting took place in Ankara in June 2006. The purpose of this meeting was to introduce the six international experts in the three different topics (human rights, reporting and internal organisation) to the Turkish NGOs and their experts (2 per organisation, 6 in total per topic), for the international and Turkish experts to discuss the actual implementation of the project activities, for the international experts to be informed about the latest developments in the human rights situation in Turkey and, finally, to determine how the forthcoming project activities would be planned and implemented.

Furthermore, the dates of the various events and the distribution of tasks between the national and international experts were decided upon by the working groups for the three topics.

Also a spin-off project was negotiated during this meeting between the three Turkish human rights organisations joined in IHOP and HURIDOCS<sup>23</sup>. In this spin-off project a number of the members of the IHOP organisations are trained by HURIDOCS in establishing and maintaining an electronic database for human rights abuses. The emphasis in this project is on obtaining technical skills such as IT skills and database maintenance. This project will complement and will further enhance the effectiveness of the NHC project, whereby as a side-effect the overall effectiveness of the three human rights organisations will improve.

For the occasion of the kick-off meeting a public relations event was organised in order to promote the project itself and human rights in Turkey in general. For this event, the project partners organised a reception with a wide participation from different circles, including parliamentarians, diplomatic representatives (the Netherlands, Bulgaria, Greece, Ireland, Sweden, the UK, Austria, Finland, Slovakia, the USA etc.); representatives of various Turkish NGOs; representatives of the Prime Minister, the Human Rights Committee, trade unions, political parties (SDP, EMEP,

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<sup>23</sup> HURIDOCS provided the two international experts on monitoring and reporting.

DTP, CHP, AKP), the EC Delegation in Turkey and the United Nations; academic staff from universities, journalists and similar guests. During the reception Mr Levent Korkut (the Turkish project leader) and Mr Jos Kösters (the Dutch project leader) presented the project. In addition a newsletter was produced introducing the project to the participants. The newsletter was written in English and Turkish.

On September 15 – 17 the development of the manual activity for topic I (Human Rights) took place in Ankara. The aim of this meeting was to develop a training manual that was going to be used during both the training of trainers activity and the training sessions. In preparation for this meeting the Turkish experts and their international counterparts had submitted material on various topics that deal with human rights law ranging from international organisations such as the United Nations and the Council of Europe to the different human rights such as the right to education and freedom of speech as they are protected under international and Turkish law. The different topics were discussed and a training programme with interactive exercises was designed.

The training of trainers meeting for topic I (Human Rights) was held in Ankara in November 2006. During this session a group of, in total, 16 trainers from the three human rights organisations were trained to conduct the training modules that were developed during the development of the manual for topic I. They were also trained in how to use the various materials and exercises. The future trainers were requested to prepare one part of the training module. Subsequently they presented this part and received feedback on its content and performance from the other trainers and the international and Turkish experts. The training of trainers meeting was provided by an expert team of two international experts and six Turkish experts.

In December 2006 the development of the manual activity for topic II (Reporting) took place in Ankara. The aim of this meeting was to develop a training manual that was going to be used during both the training of trainers activity and the training sessions. In preparation for this meeting the international experts from HURIDOCS had prepared materials on human rights monitoring and documentation. Topics that are related to monitoring and documentation such as interviewing techniques and proper documentation were discussed. Subsequently a training programme was designed. In order to improve the effectiveness of this part of the programme it was decided that the training of trainers activity was going to be split up into a practical and a theoretical part.

Other NHC projects in the field of strengthening human rights organisations and institutions:

- Training for Human Rights lawyers in Armenia, Azerbaijan and Georgia
- Strengthening the Anti-discrimination Work of the Latvian Centre for Human Rights (LCHR)
- Institutional Building in the field of Anti-Discrimination in Romania
- Strengthening the potential of the Ombudsman Institute and the Commission for Human Rights: boosting the struggle against racism and discrimination in the Russian Federation

#### ***2.4.4 Contributing to post-conflict rehabilitation***

In the 1990s a number of conflicts took place in the OSCE region. Some of the conflicts have ended; the others have become frozen conflicts. Post-conflict rehabilitation is one of the main tasks of the Organization for Security and Co-operation in Europe. The NHC also contributes to the process of rehabilitation in post-conflict areas by supporting institution building in the fields of the rule of law, minority rights and human rights, and by providing training to legal professionals. In a post-conflict country it is also important to deal with the past in order to foster reconciliation and to prevent the past from becoming a cause for new conflicts. Dealing with the past means both dealing with past events and with current events related to those past events. In relation to war crimes, it is important to restore justice and to make the perpetrators of war crimes accountable for the atrocities they committed. The NHC supports initiatives by local organisations that foster reconciliation and restore justice.

Projects in the field of contributing to post-conflict rehabilitation:

- Documenting the past of Croatia: establishment of a digital database for war crimes (this project only commenced in September 2006)

#### ***2.4.5 Reinforcing the establishment of effective legal aid systems***

The legal aid programme of the NHC aims to improve legal aid systems provided by the state and non-governmental organisations with the aim being to enhance access to justice for victims of human rights violations and other socially vulnerable, poor and disadvantaged people. In many countries of Central and Eastern Europe the mechanisms to ensure individual access to legal information and assistance are often inadequate and ineffective. As a consequence, many people - and especially those who are poor or otherwise disadvantaged - are left without any real access to legal counsel in both criminal and non-criminal matters. Partner organisations of the NHC provide legal aid themselves or lobby for the improvement of legal aid by the state. Their fields of work include anti-discrimination and criminal law. To help improve equal and effective access to justice, the NHC supports these partner organisations in improving the quality and quantity of their own legal aid work. The NHC also supports pilot schemes and lobbying activities to engage Ministries of Justice in legal aid reform efforts.

Projects in the field of reinforcing the establishment of effective legal aid systems:

- Model Legal Aid Board in Hungary (see the annual report 2005)



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

#### 3.1 Donor: Interview with Ms Nelli Timm and Ms Laura Kikas

Twinning is an initiative of the European Commission that was launched in 1998 in the context of the preparation for enlargement of the European Union. It was conceived as an instrument for targeted administrative co-operation to assist Candidate Countries to strengthen their administrative and judicial capacity to implement Community legislation as future Member States of the European Union. The instrument has justified itself within Phare pre-accession assistance and is now also used for CARDS, MEDA and TACIS programmes for enhancing co-operation. The Central Financing and Contracting Unit which is based in the Ministry of Finance of each Beneficiary Country is responsible for the tendering, contracting, and payment of Twinning projects in the case of decentralised programmes (except for MEDA).<sup>24</sup> Ms Nelli Timm works at the Central Financing and Contracting Department (CFCD) in the Ministry of Finance of Estonia. She acts as the National Contact Point for Twinning. The CFCD in Estonia is the Contracting Authority for the Transition Facility project *Drug prevention in prisons and rehabilitation of inmates* – a Twinning project between the Ministry of Justice of the Netherlands and the Estonian Ministry of Justice. Ms Laura Kikas works at the Ministry of Justice in Estonia and is the leader of the project. She will answer some additional questions concerning the project. The NHC manages the project on behalf of the Netherlands Ministry of Justice.



*Ms Nelli Timm, National Contact Point for Twinning at the Central Financing and Contracting Department (CFCD) in the Ministry of Finance in Estonia*

*Could you tell us something about your career thus far?*

Ms Timm: “I have been working for the CFCD since March 2004. All these three years I have been managing and coordinating the Twinning instrument in Estonia. Before that I was working in the Tallinn City Council and at Bradley Dunbar Associates Estonia, which is part of the Bradley Dunbar Group.”

Ms Kikas: “I am the adviser of the social welfare division of the department of prisons at the Ministry of Justice in Estonia. My job is to coordinate the social rehabilitation of prisoners.”

<sup>24</sup> European Commission, Directorate General Enlargement, ‘Institutional Building in the Framework of European Union Policies, A Reference Manual on ‘Twinning’ Projects – Revision 2005’

*Ms Nelli Timm, could you identify specific benefits of Twinning projects in comparison with other grant programmes provided by the European Commission?*

The Twinning Programme's objective is to develop administrative and judicial capacity regarding the implementation of the EU *acquis communautaire* in Beneficiary Countries (EU new member states up to 2009, Acceding Countries, Candidate Countries, and Neighbouring Countries). What makes the instrument unique is that it is built on establishing partnerships (that will hopefully continue after the project) and on the distribution of the best practical experience available in the European Union. Both the Beneficiary and its counterpart from a EU member state are from public administrations. There is no classical public tendering for finding a project partner and the choice is made solely by the beneficiary institutions based on proposed expertise. The contract and the detailed work plan, that aims to attain the goals which the Beneficiary Country has set for itself, are agreed upon and prepared jointly by the partner institutions.

*Ms Nelli Timm, what is the scope of the role of the CFCD and of the European Commission in this Twinning project?*

The CFCD's role in a Twinning Project starts with the circulation of the Twinning Project Fiche. We organise and chair the selection meetings of our future partner, we give our comments to the Twinning Contract that is prepared by the Twinning partners, we submit the Contract to the European Commission for their opinion, and we sign the contract on their behalf. During the implementation of the project we have the role of monitoring the execution of the Contract and we approve any project changes. We also approve all project reports, control the project financial expenditure's eligibility and issue payments to our Member State project partner. Our main objective is to ensure that projects are implemented according to the Contract and the Twinning Project Fiche in a wise and eligible way. The European Commission has a key role in granting financing for projects that Estonia is requesting. It evaluates the project's relevance both to Estonian circumstances and priorities, to the *acquis communautaire* and the priorities of the European Union. Besides programming, the European Commission gives its opinion about the Twinning Contract which describes the actions to be taken for attaining the goals for which financing has been requested. Next to these active roles regarding giving approval, the European Commission takes a role in monitoring the project's developments, its outcomes, and its sustainability. To conclude, it can be seen that before the Contract is signed the European Commission and the CFCD take a more active role. From the start of the project the responsibility for executing the Contract and achieving the objectives lies within the project Beneficiary and its Member State counterpart. The European Commission's and the CFCD's role is then concentrated more on monitoring.

*Ms Nelli Timm, as of the date of Estonia's accession to the EU, the CFCD has assumed management authority for contracting, implementation and payments within the framework of Twinning under Transition Facility<sup>25</sup>. How has this increased role of the CFCD affected your daily work? Has this in any way influenced the choice of projects which you finance?*

On 29 November 2004, the European Commission took the decision to grant the Extended Decentralised Implementation System (EDIS), that is, conferring the management of Phare aid on a decentralised basis to the Estonian Authorities.<sup>26</sup> From this date the Commission, including the European Commission Representation in Estonia, waived the requirement for ex-ante endorsement for project selection, tendering and contracting, and undertook supervision on an ex-post basis. In practice this means that the European Commission Representation in Estonia waived its control functions over project matters and project documents. The CFCD now has sole responsibility.

In reality EDIS has not increased our workload as ex-ante control functions were performed also before EDIS together with the European Commission Representation. The only new field is commenting and giving our opinion on Twinning Contracts, which was entirely the European Commission Representation's task before EDIS. Preparing a Twinning Contract is the biggest and most important step in a Twinning project and this is also reflected in our practice – verifying the Twinning Contract and its conformity with both the Project Fiche's and instrument's requirements is the most time-consuming and difficult task that the CFCD performs within this instrument. However, a good Contract will facilitate both implementation and monitoring, and also avoids possible problems throughout its execution. Talking more generally, EDIS has had a positive effect: the time for processing and approving documents has shortened, co-operation between different institutions in Estonia and abroad is better, and communication is faster. The choice of the projects is not influenced by EDIS, as the European Commission remains the decision maker in granting financing for projects financed by national programmes of the Transition Facility.

*Ms Nelli Timm, in your experience, what is the added value of working with a Resident Twinning Adviser (RTA)?*

Regarding the added value of RTA institutions we can generalise by saying: RTA is the backbone of a Twinning Project. And this is true. As the RTA is present in the Beneficiary Country for at least a year, he/she will develop an in-depth knowledge

<sup>25</sup> Transition Facility: Article 34 of the Act of Accession sets up a Transition Facility. Its aim is to provide continued support for the reinforcement of administrative and judicial capacity in the new MS during the period of 2004-2006. The countries concerned are: Cyprus, Malta, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovenia and Slovakia. A similar Transition facility will be set up for Bulgaria and Romania following their accession. (Art. 31 of the Act of Accession)

<sup>26</sup> Extended Decentralised Implementation System (EDIS): As of the date of accession, implementing agencies in the new Member States will assume management authority for contracting, implementation and payments within the framework of Twinning under Phare/Transition Facility

this country's circumstances, and can thus propose tailor-made solutions for executing the necessary changes in the Beneficiary Country. His/her presence is valuable for ensuring that the administration of the Beneficiary Country is absorbing the know-how. Also, everyday consultations and working hand-in-hand with the Beneficiary makes him/her the most important expert in a Twinning project.

*Ms Nelli Timm, recently an on-the-spot visit by a delegation of the European Commission, consisting of officials of DG Enlargement responsible for projects in Estonia, was made to the project. What was their opinion of the project?*

This was not an inspection in the sense of an audit, but more a monitoring activity in order to ensure the proper implementation of the EU projects. Also, it was not targeted at the CFCD, but at project management in Estonia in general. The delegation of the European Commission visited seven projects, including the project *Drug Prevention in Prisons and Rehabilitation of Inmates*. During on-the-spot visits to the projects they were interested in the sustainability of the project results, the implementation of the activities, the problems encountered, and an evaluation of the co-operation. Their overall opinion about Estonian projects was positive; however, their detailed opinion will be issued in addition. The work of the CFCD has also received positive feedback.

*What is the importance, according to you, of investing in the project 'Drug prevention in prisons and rehabilitation of inmates in Estonia'?*

Ms Timm: "The project contributes to addressing the problem of drug abuse in Estonian prisons. In particular it aims to develop drug-treatment and rehabilitation programmes both in prisons and during probation. In parallel, it will help to improve the social reintegration of ex-offenders through the development of the social skills programme for offenders."

"During the project the Transition Facility's contribution is used in order to develop a long-term action plan in the field of drug abuse and drug supply prevention in Estonian prisons based on a detailed analysis of the current situation. The second significant part of the project is training prison and probation staff in rehabilitation programmes for various types of detainees. And last but not least, developing programmes for the reintroduction of inmates to society."

Ms Kikas: "Considering the sustainability of the project we have tried to use the best training and methods which are the most suitable for Estonian conditions. Next to this, the project results are reflected in the action plan of the Estonian National Drugs Strategy for 2007-2009, and will be used in the yearly review of the action plans of the National HIV/AIDS Strategy for 2006-2015. Finally, the project results have had an impact upon the Ministry of Justice's Development Plan, which is used annually to set objectives for prisons. We hope that all these actions will help to guarantee the sustainability of the project."

*What are your experiences in cooperating with the Estonian and Netherlands Ministries of Justice for this project?*

Ms Timm: “The co-operation with both ministries has been good. Both ministries are dedicated to the project and contribute to reaching the same goals. The working atmosphere has been positive which is very important for the success of the project, as Twinning relies on co-operation.”



*Ms Laura Kikas, adviser of the social welfare division of the department of prisons at the Ministry of Justice in Estonia.*

Ms Kikas: “The strength of the project is firstly the involvement of very professional experts, who can provide the best expertise. Secondly, there is good co-operation with the Netherlands Ministry of Justice, which is always helpful and contributes 100% to the best results. We have had many long discussions about our expectations and their possibilities, which contributed to gaining the best results. Thirdly, on the administrative side, the project was very comprehensively prepared. It is now really easy to lead the work, because the activities’ purposes are clear, there is a good logical timetable, and so on.”

*The NHC is a human rights organisation. What do you think of the role of such an organisation as a project manager assisting the Dutch project leader of the Ministry of Justice?*

Ms Timm: “The Netherlands Helsinki Committee’s role and contribution to this project cannot be underestimated. The NHC has taken the role of ensuring procedural and technical compliance with the Twinning instrument’s regulations so that the substantial issues managed by the Dutch Ministry of Justice would not be obstructed. The NHC has been a very professional, aware, and reliable counterpart for us in the Central Financing and Contracting Department.”

Ms Kikas: “The NHC project manager (Ms Julia Koster) is a great help in coordinating the activities. I cannot imagine what would have happened if this manager had not been involved. Due to her, we do not have to worry about the logistics, paperwork, and so on. The project manager knows the project profoundly and I can rely on her on every aspect: administrative problems, constant issues, and an additional professional opinion.”

### 3.2 Expert: Interview with Mr Peter van den Biggelaar

Peter van den Biggelaar is the Executive Director of the Legal Aid Board 's-Hertogenbosch. The Legal Aid Board is an independent management body (ZBO) that is responsible for organizing and supervising government-funded legal aid. In the Netherlands, five Legal Aid Boards, which are accountable to the Ministry of Justice, manage the legal aid system. These boards are located in Amsterdam, Arnhem, The Hague, Leeuwarden and 's-Hertogenbosch. The Legal Aid Boards work with a mixed model, with public providers (Legal Services Counters) and private lawyers. They provide legal aid for all kinds of legal cases (civil, criminal, administrative, and asylum), and for all kinds of legal services (advice, assistance, and representation). Peter van den Biggelaar is the Dutch key expert of the Matra project *Model Legal Aid Board Programme in Hungary*.

*Mr Van den Biggelaar, could you tell us something about your career thus far?*

I studied law at the University of Nijmegen. During my study I worked as an assistant at the law clinic in Helmond. From 1976 to 1992 I worked for the Legal Aid and Advice Centre in 's-Hertogenbosch. In 1992 I joined the Legal Aid Board in 's-Hertogenbosch, which was in the process of being formed, and in March 1993 I was appointed as Executive Director. From 2003 to 2005 I was responsible as a national project leader for the reform of the Legal Aid Scheme by the introduction of 30 Legal Services Counters (the new front offices in the system), and the transformation of a number of Legal Aid and Advice Centres into private law firms specializing in legal services for those people who are most in need of legal aid.

*What is the Legal Aid Board's scope of work, and what does your function encompass?*

The five Legal Aid Boards in the Netherlands are responsible for the administration and supervision of government-funded legal aid. Additionally, in 's-Hertogenbosch we fulfil some specific tasks that have national effect, concerning consumers bankruptcy law (reconstruction of debts) and the interpreter service. Our work always includes spending time on ensuring an effective organization, by formulating a coherent policy in co-operation with the other Legal Aid Boards. Consequently, the managers and staff maintain the efficient functioning of the organization, and my job is to steer their activities. Currently, the five Legal Aid Boards are progressing to form one national body, which is also more common internationally. I think this process of centralization will be finalized in about two years. Our responsibility for the organization of government-funded legal aid is important because persons who cannot afford legal assistance have to receive timely, adequate legal advice when needed. Our point of view is that good organization and the ability to help at an early stage of a person's problem will lead to saving costs elsewhere in the system of, for example, social benefits. The selection procedure which takes place at police stations and at the Legal Services Counters is therefore of great importance. Persons are advised to continue a certain legal path or to choose an alternative. Secondly, we assess whether

persons qualify for the legal assistance of lawyers and mediators, by checking their income with the tax and the national registry office of the municipal authorities.



*Mr Peter van den Biggelaar (on the right) with members of the Hungarian delegation*

*The project that the Legal Aid Boards and the NHC work on at the moment takes place in Hungary. What is the Legal Aid Board's role within this project?*

Within the framework of this project, the NHC, the partners in Hungary, and the Legal Aid Boards together with other Dutch partners such as the Ministry of Justice, The Legal Services Counters, private lawyers and the Police try to establish if there is a comparable structure in the Netherlands and in Hungary concerning legal aid. The Legal Aid Boards' main role in the project is the input of expertise. Other aspects of our role are to enthuse and to stimulate our partners in Hungary who are just starting to set up a system of legal aid. We can demonstrate certain challenges in the process. Furthermore, we can warn them of certain aspects of our system that do not function or that cost a great deal of effort. We are able to illustrate the obstacles which we encountered with the reform of our legal aid scheme, and we can help to prevent them from making the same mistakes as we did. The current system of legal aid in the Netherlands functions adequately; however, such a system cannot be set up within ten years. By helping and stimulating each other we can partly contribute to the process.

*Is the Netherlands of specific importance in such a project in comparison with other countries?*

No, the Netherlands is not particularly more appropriate to provide knowledge on legal aid than other countries, our participation has to do with culture, budget and other aspects. I do notice that we participate in such a project with a great deal of

pleasure and enthusiasm, which of course is an important precondition. We regularly participate in international projects, and established relations often remain. Next to this, I think the Legal Aid Boards in the Netherlands have a wide scope, I mean we pay attention to civil, administrative, and criminal law, to alternative dispute resolution, to mediation, to quality monitoring, and to consumers' bankruptcy law. Therefore, we have a broad perspective.

*What is the relevance of this project in Hungary?*

In my opinion, the project itself serves to attract attention to the need for legal aid in Hungary. I think this has worked well, since I noticed that certain persons involved are very enthusiastic, for example the minister of justice. This has led to certain steps forward. The project's relevance is also the opportunity to emphasize the importance of structure. The introduction of such a structure, in which stakeholders such as lawyers and the police participate, has been one of the most important aspects of this project. The key issue is access to justice, and how to establish this.

*What changes and improvements can be made in the field of legal aid in Hungary?*

Improvements have been made, the first steps have been taken, and it is important to see that there is potential for progress. As always, these improvements cost money. However, quality and co-operation also have an influence, and these are difficult to measure. This having been taken into account, I do see some budgetary problems. However, the drive to move forward is so strong that problems can be dealt with. I must say that the NHC organized our visits to Hungary very well. The programme gave us time to talk to the police - because in Hungary criminal law is of principal importance in the system of legal aid - to lawyers, judges, people from the ministry and others. During our visits we established that, of course, many improvements can be made. The prison boards clearly expressed their intentions to improve the situation. The functioning and co-operation of the police differ per district. For the development of legal aid it is important for the police to realize the importance of providing a suspect with a fair legal process. Another improvement that should be made is the participation of the Bar, which naturally has to do with the low fees. The assessment of eligibility for legal aid should be more transparent. Furthermore, the access to legal aid in the rural areas should be enhanced, as should the process of appointing lawyers and quality assurance. Finally, the budget could be reallocated by introducing a coordinating body. This will make it easier to build up a monitoring and research programme to keep better track of the expenditures. In this field an improvement has been made with the establishment of the Justice Offices.

*Was this quality assurance one of the main aims of the Hungarian Helsinki Committee when it commenced this project?*

Yes, absolutely. This followed the many complaints it had received concerning lawyers, which are inherently connected to quality, organization, and costs. I suppose that this has been the motivation to focus only on a limited number of cases in the project (120), to be able to analyze the need and effectiveness of legal aid, and the

obligations of lawyers. In this way, an insight into quality could be gained, and provisions could be made.

*The project's key goal is to create an input for future legislation for legal aid in criminal cases. The project tested the working of legal aid in practice and collected some experiential facts to use in the lobbying for this new legislation. In your opinion, what were the most important gains in this respect?*

Significant in our project is the involvement of the Ministry of Justice, since it is responsible for the new legislation; it is very fortunate that we have such a good interaction. The policy makers are very aware of the importance of legal aid. I feel the same about certain members of parliament, who attended meetings and participated in exchanging experiences. Progress will have to be made gradually; nevertheless, I certainly see an input for the new legislation. We had a conference where the Hungarian Helsinki Committee, the minister of justice, the President of the Supreme Court, the Dean of the National Bar Association and some other lawyers delivered presentations. Of course, this was a fairly important group of people who demonstrated a certain coherence in their ideas on progress. Everybody, especially the minister of justice, was confronted with the problem of finances. Obviously, there are more areas that need government funding than legal aid in Hungary. However, legal aid is highly prioritized. The forming of this network has been one of the most important project results. There was complete commitment by all the stakeholders. I still have regular contact with these people. The most important aspect for countries which want to develop their legal aid system is to develop a structure and a network. Regarding the legislation, the first impulse, the introduction of the legal aid offices, has been well organized. This provided a particular infrastructure, which is great. Furthermore, the attention of the legal aid offices goes beyond criminal law, because it also encompasses civil law and victim support. I think that this will lead to a better understanding by citizens of the need for legal aid, despite the importance of criminal law itself. The average citizen has problems of a civil nature, such as family problems, consumer problems, housing and tenancy problems, and so on. There have been several improvements regarding the new legislation, such as the introduction of the legal aid offices, an increase in lawyers' fees, and the creation of a consultation function. Additionally, the process of appointing lawyers is improving. In civil cases there is also a consultation function, and it is easier to litigate. The project has helped to stimulate these developments. I have to say that the staff of the Hungarian Helsinki Committee are very dedicated, and that they work very hard to achieve their objectives.

*Were there any obstacles when implementing the project?*

There were three obstacles. The main obstacle was the role of the police. Since the project involved criminal cases the police had the responsibility of arranging for lawyers who met the conditions of the project. This has cost a lot of effort and a large amount of correspondence. Again, I have to say that the staff of the Hungarian Helsinki Committee were very persistent in dealing with this. They had many setbacks, but kept up the struggle by sending letters to the minister of justice and the

police commissioner. A second obstacle was the role of the lawyers. Some were not willing to fully cooperate or were not qualified. However, we also had some good lawyers, and their role improved more rapidly than that of the police. The third obstacle was a lack of money, a common problem.

*Did the recent study visit of the Hungarian delegation to the Netherlands have added value?*<sup>27</sup>

Yes, certainly. The Hungarian delegation, which consisted of both policy makers and persons who carry out this policy in practice, gained knowledge about another system of legal aid and all its different aspects. The study visit provided them with the opportunity to take this knowledge home and to discuss its possibilities in Hungary.

I always take pleasure in participating in these events. Firstly, I have to answer questions about why our system works in a certain way, while we take this for granted. This means a return to the origins of the system. Secondly, I learn the possibilities of working with a lower budget. These are pure benefits, and it is a way to expand my network. I find that the participants ask good questions and are very involved. Such a study visit is a good confrontation with our own activities, and it is a very positive experience, although time is limited.

*What can you say about the co-operation with the NHC?*

I find that the NHC employs good people with a broad vision, and they provide a very good service for us. We cooperated well in formulating a programme and we had a nice exchange of ideas. In my opinion, the NHC is a special organization, just like other organizations which try to lift the situation in these countries step by step to a higher level. The NHC staff are creative and they provide good feedback, which is important because one puts a great deal of energy and time into such a project. The project was almost finalized when the idea came up to invite some people who work with legal aid in practice, in contrast to the policy makers. The NHC responded very well to this idea and organized the last study visit. That the NHC listens to ideas and executes them is a very nice thought.

### 3.3 Partner Portrait: Interview with Ms Ilze Brands Kehris

Ilze Brands Kehris is the director of the Latvian Centre for Human Rights (LCHR).

<sup>28</sup>The LCHR works on promoting respect for human rights in Latvia at the regional and European level. From 15 August 2003 up until 15 August 2006 the LCHR and the NHC implemented the project *Strengthening the Anti-Discrimination Work of the Latvian*

<sup>27</sup> In February 2007 a delegation of eight Hungarian participants from the Hungarian Ministry of Justice, the Hungarian Central Office of Justice, the Legal Aid Service department, and the Hungarian Helsinki Committee visited multiple organizations in the Netherlands concerning Legal Aid and Justice, such as the. Legal Aid Board 's-Hertogenbosch and Leeuwarden, the Ministry of Justice, a prison, a court, a law firm, a police office, Organization for Victims of crime etc.

<sup>28</sup> Until the end of 2005 the LCHR used to be called the Latvian Centre for Human Rights and Ethnic Studies, LCHRES.

*Centre for Human Rights.* This project aimed to contribute to the promotion of implementing anti-discrimination legislation in Latvia. More in particular, the project had the objective of strengthening knowledge, awareness, and skills amongst key target groups in governmental and non-governmental circles to prevent and combat discrimination in Latvia. The LCHR was the primary implementing organisation, whereas the NHC provided the necessary knowledge and expertise regarding international law and practice in non-discrimination and equal treatment.

*Can you tell us something about your organisation?*

The Latvian Centre for Human Rights was established in 1993, which means it is one of the oldest and most established NGOs in Latvia. We have a staff that fluctuates between ten to fourteen persons, and since we work in an interdisciplinary fashion our staff include sociologists, political scientists and lawyers, apart from administrative personnel. We are part of the International Helsinki Federation for Human Rights, which focuses on the OSCE area. Ever since the beginning our main areas of focus have been human rights in prisons and mental health institutions. Increasingly we also work with the police and focus on border guard issues, minority rights, social integration, racism and intolerance and anti-discrimination. I believe one of our strengths is that we are accustomed to dealing with the full range of stakeholders, from victims of human rights abuses to policy-makers and legislators. This means that when we advocate legislation or a policy change, we are very aware of the real situation at the grassroots level, including in the closed institutions. We receive clients for legal consultations, we carry out research and publish papers, human rights reports and other publications, we advocate change and try to raise public awareness with seminars, conferences and training programmes. Furthermore, we participate in various working groups and provide expert opinions to various institutions, including to the Constitutional Court of Latvia.



*Ilze Brands Kehris*

*Latvia has received international attention due to the Gay Parade in Riga. What consequences did the Gay Parade have for the work of the LCHR?*

The first Gay Pride parade was organized in Latvia in 2005, and led to controversy and a great deal of tension. This was unexpected for many, because Latvian society was perceived as being generally tolerant, or at least not very aggressively intolerant. This misconception changed in the summer of 2005, partly with the help of some rather irresponsible politicians, who started to make public homophobic statements. They were soon followed by a rather strange alliance of national radicals, fundamentalist church groups and other radical individuals. The atmosphere grew ugly, and there was very little counter-argumentation heard, if any, and none by politicians. The municipality declined to issue a permit for the parade on dubious grounds. At that time, the LCHR engaged with the organisers of the event and assisted in the submission that was made to the administrative court to challenge the

decision. This challenge was successful, and the Parade was held, under heavy police protection. In 2006, there were plans to hold a second Riga Parade. Also a new Lesbian, Gay, Bisexual and Transgender (LGBT) organization was formed as a positive side-effect, one can say, of the mess in 2005. However, the municipal authorities again refused to give permission for the event. The anti-gay rhetoric was again fuelled by politicians, and the anti-gay protesters were very active. The organizers again challenged the decision in the courts, but this time the decision was upheld (it is currently subject to an appeal), so the event was not held. However, many people had been invited, including parliamentarians and local government representatives from several foreign countries (including the Netherlands). Therefore, several side-events still took place, such as a seminar, a press conference and a church service. The anti-gay protesters outnumbered the participants in the events and they were extremely aggressive, they verbally harassed the participants, and threw bags of trash and excrement at them. The police were seen to be scandalously passive. This real-life background has certainly made LGBT rights issues a major concern in the anti-discrimination work of the LCHR. We have and will continue to work actively for rights protection of LGBT people and for awareness-raising on these issues among politicians and in society at large.

*You were our partner in a project to strengthen the anti-discrimination work of LCHR, how did this project come into being?*

The project aimed to raise the LCHR's capacity concerning anti-discrimination, and was started in 2003 to enable us to gain knowledge and experience so as to be a competent player in the field by the time of accession to the EU in 2004. The project design started under our previous director, Nils Muiznieks, who together with NHC staff elaborated a proposal based on our estimation of the needs in the field of anti-discrimination which were most pertinent to Latvia at the time. It needs to be noted that at that time in Latvia no one – neither civil society nor the government – had done any serious work on discrimination at all. The NHC was a natural partner for us because we are both part of the IHF, and because the Netherlands has long-term experience in the field of anti-discrimination.

*During this project, the LCHR has developed an anti-discrimination strategy and has produced several publications on anti-discrimination. Furthermore, the LCHR has provided legal aid to clients concerning anti-discrimination. What is the importance of these activities and, in your opinion, especially with respect to the implementation of the anti-discrimination legislation in Latvia?*

I believe that the importance of this project for us is impossible to overstate. We started out by learning from the experience of the Netherlands through an initial study visit, which gave us a good basis for gathering further information on different EU practices. We engaged in several expert groups in Latvia, which were formed to elaborate the necessary legislative amendments for the transposition of EU Directives 2000/43/EC and 2000/78/EC. I believe it is fair to say that we became a visible and competent player in the field in Latvia before other actors had even started the engagement, including those who were supposed to be the competent state institutions.

In addition, the Matra-funded project gave us an opportunity to engage with other NGOs and institutions, and to share our experiences and developments with them.

*How did you experience the visit of HM Queen Beatrix of the Netherlands to Latvia with respect to this project?*

We were, of course, deeply honoured by the visit of HM Queen Beatrix to our Centre, and impressed by her interest in the issues which the LCHR deals with. However, the visit was not related to the project. The Netherlands Ambassador in Latvia had included us on the list of possibilities for a visit because of the importance in Latvia of the issues we work with, especially minority rights and the situation of Russian-speakers. I would like to add that we of the LCHR were very inspired by the visit and the discussion we had, and strongly felt the signal of encouragement to civil society in Latvia. This is still weak in many ways and often not particularly welcome by the official side in Latvia, especially when working on potentially controversial issues such as those we work on.

*Your study visit to the Netherlands focused on co-operation between NGOs and the police in the field of anti-discrimination. In your opinion, what were the most important gains for those participating in this visit?*

This study visit was particularly important because the issue of hate crime has only become topical in Latvia within the last two years, and the Latvian police clearly lacked experience in dealing with these cases. Next to this, problems with legislation complicated their work. In this case the hate crime issues were connected to handling protest events. The participants gained knowledge on handling radical groupings and conflict prevention. The Netherlands provided great examples of good practice, and we were impressed by the experience of both the Amsterdam and the Rotterdam police forces. Amsterdam participates in a twinning sister city project with Riga, and we were surprised and extremely pleased by the wonderful co-operation we received from the Amsterdam City Council and the Amsterdam police. After our study visit we were able to organize a conference in Latvia for the police, and it was one of our most successful events, even though it was also difficult because of the tension surrounding the recent Gay Pride debacle in Riga. It was largely thanks to our Amsterdam police force representative Leo de Wilde, and also a UK colleague from Northern Ireland, Robin Dempsey, that the event was successful in attracting the interest of the Riga police. Furthermore, we were grateful for the examples of constructive police co-operation with NGOs, which is a new phenomenon in Latvia. At the end of the, at times, emotionally charged seminar, both we and the police participants seemed convinced that we will gain from our interaction, and from the communication with our respective Dutch colleagues. Thus the study visit provided the impetus for continuing work which we are in the process of now starting, although the Matra project has ended.

*How, during this project, did the twinning with the Netherlands develop and are these established relationships still in place?*

The twinning with the Netherlands was successful during the project, and it continues and will continue as we move ahead. We have made contacts with NGOs in the Netherlands, which we are keen to continue, including the Anne Frank House in Amsterdam and RADAR in Rotterdam. Next to this we have participated in the initiative against hate on the internet led by the Dutch participants from and the founders of the International Network Against Cyber Hate (INACH) and we hope to become an active member of that network as well. Additionally, we are thrilled with the possibilities for co-operation with the Dutch authorities, including the Amsterdam City Council and the police. We hope to continue these interactions, bringing with us various public authorities from the Latvian side, including the police. In a sense, this is a result of the project and we are happy to have initiated several contacts. Nevertheless, we obviously cannot take credit for the very positive work of the police counterparts from the two countries. Suffice it to say, though, that we are extremely happy that there is such an opportunity for the Latvian police to exchange experiences and learn from their Dutch counterparts.

*What, in your opinion, are the results of this project?*

The results of the project are difficult to measure precisely; however, I believe they really are very significant. What would have been the situation if the LCHR had not been able to increase capacity in this period? We have contributed to raising the issue of discrimination in Latvia and we continue to be a focus point for expertise in the field, in terms of legislative developments, actual court cases, policy development, and the mobilization of civil society. There is still a lot of work to be done, but we are grateful for the possibility which the project provided to develop our own knowledge, to organize large-scale and small-scale events related to anti-discrimination, and to produce publications and public commentary on related issues. We can now influence the developments in Latvia. Furthermore, we can actually contribute to the European scene with our accumulated experience from the perspective of a new EU member state. All of this is in a way related to the opportunities which this project provided.

*Do you think this project could have political consequences and in what respect?*

As I already mentioned, there are clearly political consequences. Through the position that the LCHR has gained through this project, we were able to become a major participant on the domestic scene for the development of anti-discrimination legislation and policy. It is a different matter, of course, that our desired solutions – or even sometimes minimum requirements – are not ultimately formulated in their entirety in the official outcomes; however, this is a normal state of affairs for any NGO. I actually believe that we have had a far greater impact than most of our more experienced, old member state colleagues have enjoyed, precisely because the timing of the project was so opportune. Our actions have had added value and we increased the level of information concerning many discrimination-related issues. In this regard, it is also important to note that Latvia is a small country and both access to decision-

makers and access to the media are probably a great deal easier than in more challenging environments. Throughout the project we were visible in the public sphere, and it became known by persons interested in these issues – including politicians – that we do have expertise to share. In some ways, working with officials at the ministry level has of course been easier than working with policy-makers at the highest level, especially the parliament, since some of the issues such as the LGBT became politicized and immorally instrumentalised for political gain. But all in all, the project results have contributed to raising awareness, even at the political level, of the issues of anti-discrimination and of the requirements in this regard when joining the EU.

*What is your view on a future anti-discrimination strategy in Latvia?*

As in all countries, the anti-discrimination strategy in Latvia will experience its ups and downs. At present, I would argue that the problem is that there is no long-term thinking, no strategic planning. This is not a problem in this field alone; policies in Latvia have only recently been oriented toward a more strategic approach. However, the LCHR is of the opinion that progress will be made. We are convinced that NGOs – and, in time, also social partners, who are still quite weak in Latvia for various historical reasons – will play a crucial role in anti-discrimination developments. By raising public awareness, lobbying policy-makers, and resorting to litigation when necessary, the NGOs will continue to argue that anti-discrimination is not a backseat issue, but should be part of the priorities for the authorities, government and parliament included.

*What can you say about the co-operation with the NHC?*

We are extremely happy to have had this opportunity to work closely with the NHC, which we of course have known for many years as co-members of the IHF. We have learned not only from the substantial Dutch experience, but also from the way the NHC as an organization approaches issues of administration and financing, for instance. I would clearly like to make the point that this project turned out to be a recipe for success for a NGO in a pre-accession EU country. The NHC has in many ways been an ideal partner: we always felt the support of the NHC, the provision of the know-how and the involvement and interest in what we were doing, and at the same time a completely respectful attitude towards us as partners who are more aware of the local situation and local needs. We were able to consult the NHC on all issues; nevertheless there was mutual trust that we were doing what was needed for the project. This should be the case in all partnerships, but as we know from the real world, it is not always so. The experience of the NHC in interacting with a variety of organizations outside the EU, combined with its expertise in EU matters and its contacts within the Netherlands, makes it an ideal partner for any organization, particularly in states outside the EU and in pre-accession EU member states. The end of the project is certainly not the end of our partnership, and we look forward to further co-operation and to working together for the causes of human rights to which our two organizations are committed.

### 3.4 Column

#### Human rights of irregular migrants

The large number of irregular migrants living in the member states of the Council of Europe will definitely be one of the most serious human and social tragedies in the years to come. Although a more precise number is by definition not available, the more or less official estimates vary from 3 to 5 million (18 million in the USA).

In a recent resolution by the Parliamentary Assembly of the Council of Europe, adopted in June 2006, it was preferred to use the term “irregular migrants” because this term is neutral and does not carry the stigmatisation of the term “illegal”, which is in many cases not appropriate. There are a great variety of reasons why they entered the country of residence.

The resolution does not deal with the migration problem as such. Most member states argue that there are, at the end of the day, only two alternatives: either regularisation or a return to the country of origin. But whatever the policies of the member states are, it is a fact of life that there will always be a number of irregular migrants present in Europe. This, despite the fact that they are not officially registered, that their existence is ignored and, worst of all, that they are completely deprived of human rights. Because of that reason irregular migrants are extremely vulnerable and are increasingly the target of exploitation and organised crime.

The Assembly is of the opinion that, whereas human rights are universal, many of them are applicable to all persons regardless of their nationality or status. It invited four outstanding European lawyers to analyze the most relevant international and European conventions and treaties, which are The Universal Declaration of Human Rights (1948), The International Covenant on Civil and Political Rights (1966), the Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Rights of the Child (1989), the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the ILO Convention on Migrant Workers (1975), the European Convention on Human Rights (1950), the European Social Charter (1961), the Revised Social Charter (1996) and the Council of Europe Convention on Action against Trafficking in Human Beings (2005). These experts made an inventory of minimum rights that should be respected under all circumstances. These minimum rights are:

- The right to life. Unreasonable force should not be used to prevent the entry of non-nationals into a country and a duty exists for the authorities to try to rescue those whose life may be in danger as a result of seeking to enter a country;
- Irregular migrants should be protected from torture, inhuman or degrading treatment or punishment. The return process should be carried out while completely respecting the returnee's right to dignity.
- Detention should be used only as a last resort and not for an excessive period of time. The detention of children and other vulnerable persons (pregnant women, mothers with young children, the elderly, people with disabilities) should be avoided wherever possible;

- The right to asylum and non-refoulement should be respected;
- Collective expulsion of aliens, including irregular migrants, is prohibited;
- The right to confidential treatment of information should be respected. Information relating to an asylum application should not be made available to the authorities of the receiving state upon return;
- The right to respect for private and family life should be observed. Removal should not take place when the irregular migrant concerned has particularly strong family or social ties with the country seeking to remove him or her.

Needless to say, most of these fundamental rights (I have only presented a selection) are violated and ignored by most member states (the Netherlands included) on a day-to-day basis in spite of the fact that all the international treaties concerned have been ratified.

Apart from these fundamental civil and political rights the Assembly also tried to identify a number of minimum social rights which should be considered to belong to the very heart of the protection of irregular migrants' rights as formulated in the most relevant international and European conventions. None of these following rights have been "*invented*" for the occasion. They have already been guaranteed for many years, but most of them are not applied or respected in most of the member states.

- At least a right to adequate housing and shelter guaranteeing a minimum level of human dignity;
- Emergency health care should be available to irregular migrants and States should seek to provide more holistic health care, taking into account, in particular, the specific needs of vulnerable groups such as children, disabled persons, pregnant women and the elderly;
- Social protection through social security should not be denied to irregular migrants where it is necessary to alleviate poverty and to preserve human dignity. Children are in a particularly vulnerable situation and they should be entitled to social protection which they should enjoy on the same footing as national children;
- A right to adequate conditions of employment (not a right to work) in order to prevent certain forms of exploitation, which means fair wages, reasonable working conditions, compensation for industrial accidents, access to the courts and also freedom to form and to join a trade union. Any employer failing to comply with these terms should be rigorously pursued by the relevant authorities in the member states;
- All children have a right to education extending to primary school level and also to secondary school level in those countries where such schooling is compulsory.
- All children, but also vulnerable groups such as the elderly, single mothers and more generally single girls and women, should be given particular protection and attention.

The Assembly invites the governments of the member states to assure that the large number of irregular migrants are able to enjoy these minimum rights *in practice*. It is no longer acceptable that the presence of so many people without a status is officially ignored as if they are not human beings at all. While steps are being taken by states

across Europe to reduce the number of irregular migrants, such as through the tightening of borders, promoting voluntary and forced returns and regularising the situation of many of them, there will always be a significant number of irregular migrants in Europe, who for one reason or another cannot be returned or regularised (and certainly not immediately). For these people a minimum level of rights should be guaranteed in the law and in practice to allow them to live in dignity and to avoid their exploitation.

*Ed van Thijn, Rapporteur for the Committee on Migration, Refugees and Population of the Parliamentary Assembly of the Council of Europe.* Mr Van Thijn is a member of the NHC.

The legal experts who have been consulted are:

- Prof. Jean Francois Akandji-Kombe (University of Caen): the European Social Charter and protection of illegal immigrants.
- Prof. Jeremy McBride (University of Birmingham): the European Convention on Human Rights and protection of irregular migrants
- Prof. Ryszard Cholewinski (University of Leicester): Study on Obstacles to Effective Access of Irregular Migrants to Minimum Social Rights.
- Prof. Paul Schoukens and Prof. Danny Pieters (European Institute of Social Security): Exploratory Report on the Access to Social Protection for Illegal Labour Migrants.

## **4. INTERNAL ORGANISATION**

### **4.1 Board**

Prof. M. van der Stoel is the Honorary Chairman of the NHC. In 2006 the NHC's executive committee consisted of the following persons: Mr T.P. Hofstee (Chairman), Mr A.H. van Delden (Vice-Chairman), Dr E. Bakker (General Secretary), Mr A.M. Daane (Treasurer), Dr A. Bloed, Ms K. Henrard, and Ms A. Offermans. Mr J. ter Laak is the senior advisor of the executive committee. The executive committee held five meetings during 2006. On 1 January 2007 Mr van Delden and Ms Henrard resigned. Ms W.M.E. Thomassen, a member of the Supreme Court and a former judge and vice-president of the European Court of Human Rights, replaced Mr van Delden as vice-chairman.

In 2006 the committee consisted of the following persons: Prof. E.A. Alkema, Mr J.G.A. van den Brand, Mr L.J. Hogebrink, 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 C. Homan, Mr G. Huyser, Mr C.F. Stork, Mr E. van Thijn, and Mr B.N.J. Pompen. On 1 January 2006 the committee was expanded with the inclusion of Mr J.H.R.D. van Roijen. The committee met on one occasion during 2006. The subjects of this meeting were among other things human rights for irregular migrants and the report of the Parliamentary Assembly of the Council of Europe on Dutch asylum policy. Mr E. van Thijn introduced both topics. Furthermore, on 8 May a symposium was held in honour of Mr J.H.R.D. van Roijen on transitions to democracy. On 1 January 2007 Mr A.H. van Delden, who had been vice-chairman of the NHC until December 2006, became a member of the Committee.

### **4.2 Staff**

In 2006 Mr Jos Kösters was the executive director. Ms Renate Hartman remained deputy director and Mr Koen Wagenbuur financial officer. Ms Marjolein Boele commenced as office manager on 1 January 2006. Ms Ellen Pototsky, the secretary, left the NHC on 1 October 2006. As of September Ms Myrah Wouters covered the secretarial work until 31 December 2006. Meriam Haagstam started working for the NHC as secretary on 1 December 2006.

Ms Monica van de Ven, Ms Ineke van de Meene, Ms Julia Koster and Ms Kamala Laghate remained as staff members. Furthermore, two new staff members joined the NHC, Ms Kirsten Wiemers who started in March 2006 and Mr Jochem Beunderman, who started in April 2006. Ms Mechteld Schelberg who had been a staff member of the NHC since 1 January 2001 left on 1 January 2007.

Ms Myrah Wouters (Annual Report 2005), Ms Samira Abbadi (Morocco conference) and Ms Nelleke Koster (Annual Report 2006) worked as interns. In 2006 two persons offered their services on voluntary basis. Mr Pepijn Zaagman assisted in various administrative tasks in September and October. Mr Nader Rashan started working in August. He assists the financial administration.



Ms Samira Abbadi

#### 4.3 Annual Social Report

Good working conditions are the basis for the quality of the work of NHC employees and experts. The NHC's terms of employment are established in the legal status regulations (*Rechtspositiereglement 2006*), which had its basis in the terms of employment of Oxfam Novib. Besides some minor changes in the '*RPR 2006*', also the article concerning compensation for commuter travelling was amended. The NHC had made a risk inventory and evaluation (RIE) in 2001. Due to the regulations of the Occupational Health and Safety Act (*Arbo Wet*) this 'RIE' was also carried out in 2006. As a result of the 'RIE' the NHC carried on improving the working conditions of its employees by installing new adjustable desktops and chairs at their workplaces. Besides this improvement in workspace, some conventional computer screens were replaced by flat screens. The archive - until 2005 located in an employee's office - has been moved downstairs to a special archive and library room. In co-operation with the landlord of the premises several adaptations were made to the office building to improve working conditions. These adaptations (installing ventilation grills and extra windows) started in 2006, and will be finalised in 2007.

In November 2006 two members of staff were trained for the in-company emergency service. They are responsible for providing first aid, and for emergency evacuations. In 2006 it was formalized that the office manager is the NHC's 'prevention employee'. Mr I.F. Dekker remained as the NHC employees' confidential representative. In 2006, the entire staff of the NHC followed an in-company training programme in time management in order to increase the effectiveness and efficiency of their work. One member of staff has followed an educational training course to enhance her capacities as a project manager.

In 2006 two members of staff went on maternity leave. Furthermore, the NHC granted one employee paternity leave after her maternity leave. The traditional yearly retreat of the NHC was postponed to March 2007. During this session the employees will discuss the policy plan, linked with quality management.

#### **4.4 Finances**

The 2006 annual financial report appears as 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 are presented in this annual report (tables 1 and 2). This shows a positive Result of Operations in 2006 of € 31,061 of which € 6,000 has been added to the restricted reserve and € 25,061 to the unrestricted reserve. The result is higher than was forecast, as a result of the many project activities that were implemented in 2006.

In 2006 The Netherlands Helsinki Committee managed 32 projects in 13 countries or regions. Total project disbursement by the NHC increased from €1,978,890 in 2005 to a total of €2,812,934 in 2006. (figure 1) In terms of project expenditures Romania received the largest contribution, followed by Estonia and Serbia and Montenegro (figure 2). The MATRA programme remains by far the largest source of funding, both in terms of the number of projects that were financed in 2006, and in terms of the funds disbursed (table 3 and figure 3).

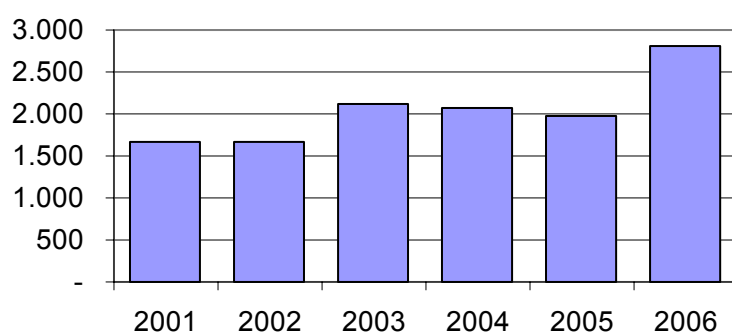
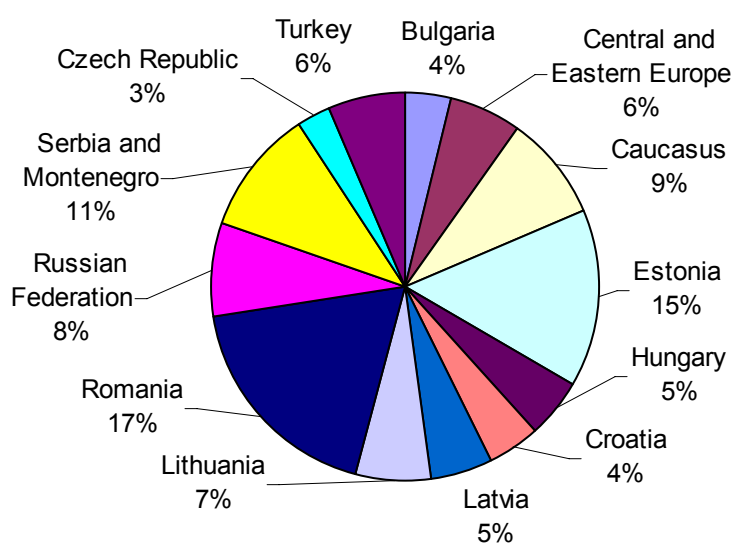
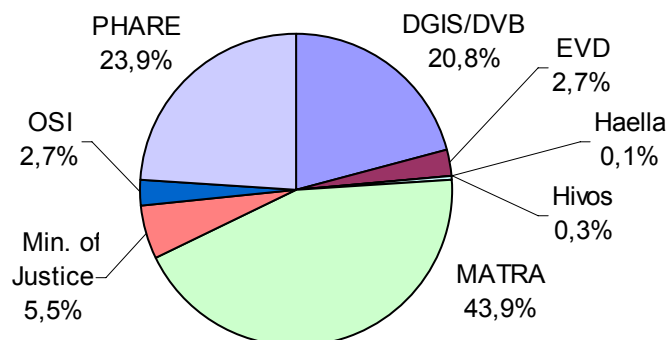
This considerable increase in total disbursements was partly caused by a number of projects for which approval was overdue in 2005, and which started at the beginning of 2006. Because the NHC and its partner organisations in Central and Eastern Europe were keen to implement the projects, an effort was made to make up for the delays that had occurred. Since the negative Result of Operations in 2005 was for a large part due to these same delays, the exceptionally positive result in 2006 can be partly related to last year's deficit.

**Table 1: Summary balance sheet**

	31-Dec-06 in euros	31-Dec-05 in euros
<b>Assets</b>		
Fixed Assets		
Tangible Fixed Assets	16.724	13.410
Current Assets		
Debtors	47.036	27.095
Advances Local Partners	587.557	319.364
Liquid Resources	528.181	1.025.674
	<u>1.179.498</u>	<u>1.385.544</u>
<b>Liabilities</b>		
Unrestricted reserve	185.249	160.188
Restricted reserve	63.428	57.428
Current liabilities		
Project subsidies	848.861	1.099.939
Creditors	81.960	67.988
	<u>1.179.498</u>	<u>1.385.544</u>

**Table 2: Income and expenditure**

	2006 in euros	2005 in euros
<b>Income</b>		
Project subsidies	2.812.934	1.978.890
Other income	13.606	5.314
	<u>2.826.540</u>	<u>1.983.844</u>
<b>Expenditure</b>		
<b>Projects and Programmes</b>		
NHC execution	1.330.159	1.516.020
Execution by local partner organisations	1.147.528	195.936
Organisational costs of implementation	184.992	213.061
	<u>2.662.679</u>	<u>1.925.017</u>
<b>Public Debate and Lobby</b>		
NHC execution	99.565	107.875
Execution by local partner organisations	13.928	-
Organisational costs of implementation	19.306	20.903
	<u>132.799</u>	<u>128.778</u>
	<u>2.795.479</u>	<u>2.053.795</u>
Result of operations	<u>31.061</u>	<u>-69.951</u>

**Figure 1: Project disbursements (x € 1,000)****Figure 2: Project disbursements per country or region.****Figure 3: project disbursements per donor.**

**Table 3. Number of projects per donor**

Ministry of Foreign Affairs (DGIS, DVB)	7
Ministry of Foreign Affairs (MATRA)	11
EVD (MATRA Pre-Accessie Programme)	1
Haella	1
Hivos	1
Ministry of Justice	5
OSI	3
PHARE (European Union)	3
<b>Total</b>	<b>32</b>

## 5. APPENDICES

### Appendix I Background and Objectives, further information

#### Helsinki Committees

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

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

In the early years the NHC's 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. In September 2005 The Helsinki Monitor Conference "OSCE's Future After 30 Years" took place in the Hofburg in Vienna, which dealt with the political crisis the OSCE faces today. The purpose of this Conference was to bring together important voices to examine the current situation and to help the OSCE regain political credibility and achieve results needed by the people of the region. After the conference the NHC published the report *Life begins at 30*, a reflection of the conference's speeches and debates, supplemented with concise summaries.

### 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.

**Appendix II Projects of the Netherlands Helsinki Committee in 2006**

<b>Country</b>	<b>Project name</b>	<b>Partners</b>
Armenia, Azerbaijan and Georgia	Training for Human Rights Lawyers in Armenia, Azerbaijan and Georgia	Article 42 – Georgia; INTERIGHTS
Bulgaria	Establishing a European law Documentation Centre for the Judiciary	T.M.C. Asser Institute; National Institute for Justice
	Strengthening of the Bulgarian Judiciary: Implementation of the New Penal Procedures Code Strengthening the interagency co-operation between the public prosecutor's office (PPO) and other bodies concerned in fighting organized crime and corruption	Netherlands: Ministry of Justice, Public Prosecution Service Austria: Austrian Federal Ministry of Justice / Austrian Centre for the Promotion of Legal Competence in Eastern Europe and Central Asia (CLC) Bulgaria: Public Prosecutor's Office
Croatia	Strengthening the legal culture in Croatia: improvement of the relations between the judiciary and the media	Croatian Helsinki Committee
	Documenting the past of Croatia: establishment of a digital database on war crimes	Faculty of Law – Zagreb University; Netherlands Institute for War Documentation (NIOD)
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 Interior Ministry in Prague (PTC); Landelijk Selectie – en Opleidingsinstituut Politie (LSOP); Netherlands Centre for Police and Integrity Issues (NCPII); Czech Helsinki Committee (CHC)
Estonia	Drug prevention in prisons and rehabilitation of inmates	Netherlands Ministry of Justice; Netherlands Prison Service (DJI); Department of Prisons of the Estonian Ministry of Justice; Trimbos Institute – Netherlands Institute of Mental Health and Addiction
Hungary	Model Legal Aid Board Programme in Hungary	Hungarian Helsinki Committee
Latvia	Strengthening the anti-discrimination work of the Latvian Centre for Human Rights and Ethnic Studies (LCHRES)	The Latvian Centre for Human Rights and Ethnic Studies (LCHRES)
Lithuania	Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania	Community Change Centre – Lithuania; Netherlands Child protection Board
Romania	Institutional Building in the field of Anti-Discrimination in Romania	Netherlands Ministry of Justice; Netherlands bureau against racial discrimination (LBR); National Council for Combating Discrimination - Romania
	Reintegrating juvenile offenders: Introducing community-based interventions in Romania	Netherlands Probation Service; Ministry of Justice - Romania

Russia	Strengthening the potential of the Ombudsman Institute and the Commission for Human Rights: boosting the struggle against racism and discrimination in the Russian Federation	Moscow Helsinki Group
Serbia and Montenegro	ECHR training programme for human rights lawyers and NGOs from Serbia and Montenegro	Helsinki Committee for Human Rights in Serbia; INTERIGHTS
South Caucasus	Strategic human rights litigation in the South Caucasus	Various NGOs
Turkey	Human Rights Defenders in Turkey: Strengthening the local branches of human rights organisations	Human Rights Association (IHD); Mazlumder; Amnesty International Turkey
	Participation of the NHC in a EULEC project regarding professionalization of the Turkish police	EULEC

<i>Other</i>	<i>Project Name</i>	<i>Partners</i>
Helsinki Monitor 2005	Publishing Helsinki Monitor 2006	International Helsinki Federation for Human Rights
Gulf Region	Bridging the Gulf	National Society for Human Rights in Saudi Arabia
Morocco Conference	Morocco and the Netherlands: Close Partners	Interdenominational Peace Council (IKV)
Symposium on transitions towards democracy	Transitions from Dictatorship to Democracy in Central and Eastern Europe and the Role of the International Community	Haëlla Stichting and Press Now
Training on European Convention and non-discrimination	Practical Training in international human rights litigation, with an emphasis on non-discrimination and minority rights, and on the European Convention on Human Rights (ECHR)	INTERIGHTS; Netherlands Bar Association; Netherlands Training and Study Centre for the Judiciary; Netherlands Association for the Judiciary

### **Appendix III Donors in 2006**

Amnesty International

Council of Europe

European Commission: Phare Twinning Programme for Bulgaria

European Commission: Phare Twinning Programme for Estonia

European Commission: Phare Twinning Programme for Romania

EVD, Agency for International Business and International Co-operation

Haëlla Foundation

Hivos

Netherlands Ministry of Foreign Affairs: Human Rights and Peacebuilding Department

Netherlands Ministry of Foreign Affairs: North Africa and Middle East Department

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

Netherlands Ministry of Foreign Affairs: Security Policy Department

Netherlands Ministry of Foreign Affairs: Theme-based Cofinancing (TMF)

Netherlands Ministry of Justice: Directorate for Internal Affairs and Immigration

Numico Trading B.V.

Open Society Institute Budapest

Open Society Justice Initiative

Press Now

United Protestant Churches



## Appendix IV Human rights in the Netherlands, events in 2006

### THE NETHERLANDS

*FOCUS: Migrants and Asylum Seekers; Nationality and Citizenship; Intolerance, aggressive nationalism, racism, and xenophobia, including hate speech; Anti-terrorism measures; Freedom of Expression, Free Media and Information; Conditions in Prisons and Detention Facilities; Rights of the Child; Equal Rights of Men and Women; Trafficking in Human Beings; Judicial System and the Right to a Fair Trial; Freedom of Religion; Elections. Part of this text can also be found in our contribution to the IHF Annual Report 2007, events of 2006.*

Among the main human rights issues in the Netherlands in 2006 - criticized by several NGOs, the Parliamentary Assembly of the Council of Europe and the UNHCR - were Dutch asylum policy, in particular the procedures for the detention and expulsion of asylum seekers and their children,<sup>29</sup> and the quality of fire safety measures in detention centres for illegal migrants. Furthermore, the radicalism of a small group of Muslims, the quality of the treatment given to persons detained under a hospital order, the waiting lists for juvenile care, measures to combat human trafficking, and the extent of the freedom of religion remained important issues of concern.

In June the Dutch government resigned due to a disagreement between the coalition partners with regard to controversial proceedings by the minister for immigration and integration concerning the Dutch nationality of a member of parliament. New parliamentary elections were held on 22 November. Striving for an optimal integration policy and taking efforts to reduce problems of diversity are expected to be among the most important tasks of the new government that will be formed at the beginning of 2007.

### Migrants and Asylum Seekers

#### Detention and expulsion of asylum seekers and their children

The Parliamentary Assembly of the Council of Europe (PACE) expressed its concern about the treatment of asylum seekers' children in the Netherlands in a report published in November 2005. According to this report, the Dutch asylum policy violated European standards on human and children's rights. The PACE was specifically concerned about children waiting in detention centres to be expelled, or

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<sup>29</sup> The following reports criticised Dutch asylum policy: *Unicef*, 'Geen Kind in de Cel!', June 2006, at [#topInspectie Jeugdzorg](http://www.unicef.nl/unicef/show/id=10745), 'Bescherming in bewaring: advies over de plannen van het ministerie van justitie voor vreemdelingenbewaring van alleenstaande minderjarigen in detentiecentrum Zeist', Utrecht, May 2006, at [http://www.defenceforchildren.nl/ariadne/loader.php/dci/documenten/Bescherming\\_20in\\_20bewaring.pdf/](http://www.defenceforchildren.nl/ariadne/loader.php/dci/documenten/Bescherming_20in_20bewaring.pdf/)  
*Council of Europe, Parliamentary Assembly*, 'Doc. 10741, 'Policy of return for failed asylum seekers in The Netherlands', 15 November 2005, at <http://assembly.coe.int/Main.asp?Link=http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10741.htm>  
*Human Rights Watch*, The Netherlands; 'Fleeting refuge: the triumph of efficiency over protection in Dutch asylum policy', 14 April 2003, at <http://www.hrw.org/reports/2003/netherlands0403/nether0403.pdf>

fearing separation from their parents.<sup>30</sup> On 26 January the Dutch minister for immigration and integration stated that while it was necessary to take into account the question of children and family considerations, “all parents were responsible for their own children, and some parents had chosen to instigate a prolonged admission process while being well aware of the possibility of a negative outcome.”<sup>31</sup>



Ms Verdonk, minister for immigration and integration  
(photo provided by the Dutch Liberal Party, VVD)

Furthermore, PACE addressed the violation of the *non-refoulement* principle, which protects refugees from being returned to places where their lives or freedoms could be threatened. In April the minister for immigration and integration was heavily criticized for allowing Syrian officials to interrogate failed asylum seekers from Syria on Dutch territory in the absence of Dutch officials from the Dutch Immigration and Naturalization Service (IND) and thus placing the asylum seekers at risk should they be returned. Their expulsion was initially delayed for six months. In May the National Ombudsman commenced an investigation into the IND's methods to present asylum seekers to representatives of their country of origin.<sup>32</sup> On 31 October, the minister for immigration and integration announced that, for the time being, no asylum seekers from Libya, Eritrea, Somalia and Syria would be expelled

from the Netherlands.<sup>33</sup> Another case where the principle of *non-refoulement* was under threat was the intended expulsion of Iranian homosexuals, who would possibly face the death penalty for their sexual orientation if returned to Iran. Following

<sup>30</sup> Council of Europe, Parliamentary Assembly, 'Doc. 10741, 'Policy of return for failed asylum seekers in The Netherlands', 15 November 2005, at <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10741.htm> For lobby NGOs and cases, see [www.geenkindindecel.nl](http://www.geenkindindecel.nl), 'Geen Kind in de Cel', 14 October 2006

<sup>31</sup> Council of Europe, '2006 Ordinary Session: Report Seventh sitting', 26 January 2006, at <http://assembly.Coe.int/Main.asp?link=/Documents/Records/2006-1/E/0601261500E.htm#2>

<sup>32</sup> Nationale Ombudsman, 'Nationale Ombudsman start onderzoek naar presentatie ex-asielzoekers', 18 May 2006, at [http://www.ombudsman.nl/nieuws/persberichten/2006/20060518\\_presentatieasielzoekers.asp](http://www.ombudsman.nl/nieuws/persberichten/2006/20060518_presentatieasielzoekers.asp)

<sup>33</sup> De Minister voor Vreemdelingen zaken en Integratie Verdonk, 'Verzoek VKC geen onomkeerbare stappen te zetten t.a.v. asielzoekers uit een aantal landen', 06-just-B-890, 31 October 2006, at [http://www.justitie.nl/images/omonkeerbare%20stappen%20te%20zetten%20tav%20asielzoekers\\_6504\\_tcm34-24267.pdf?cp=34&cs=2096](http://www.justitie.nl/images/omonkeerbare%20stappen%20te%20zetten%20tav%20asielzoekers_6504_tcm34-24267.pdf?cp=34&cs=2096)

criticism by parliament, the minister for immigration and integration issued a residence permit to these asylum seekers.<sup>34</sup>

An additional issue was the fate of asylum seekers whose application had been rejected before 1 April 2001. After the elections of 22 November, a majority in the new parliament adopted a resolution that no members of this “group of 26,000”<sup>35</sup> can be expelled until the new government is formed. The minister for immigration and integration stated, however, that she saw no possibilities to comply with this resolution.<sup>36</sup> However, in the end the government decided not to expel asylum seekers from this group in case their expulsion would result in humanitarian objections, in particular for families with children. This moratorium on expulsion is valid until a new government is formed. The government stated that its decision does not in any way anticipate the policy of this new government.<sup>37</sup>

### *Dispute over a residence permit*

On 11 May the Somali-born Ayaan Hirsi Ali, a member of parliament, revealed in an interview on Dutch TV that she had lied about her name in order to acquire Dutch nationality. As a result, the minister for immigration and integration declared that Hirsi Ali’s citizenship was invalid, and she refused to make use of legislation that foresees the possibility of granting a person Dutch nationality on the grounds of special circumstances and interests, and required her to hand in her passport.<sup>38</sup> Parliament objected to the minister’s decision and forced the minister to carry out further investigations.<sup>39</sup> On 28 June the minister established that Hirsi Ali could maintain her Dutch nationality but should sign a confession as to her guilt – a decision that led to the withdrawal of support for the government by one of the coalition partners (D66) and thus forced the government to resign.<sup>40</sup>

<sup>34</sup> *Ministerie van Justitie*, ‘Vervolgde homo’s niet terug naar Iran’, 18 October 2006, at <http://www.justitie.nl/actueel/nieuwsberichten/archief-2006/Vervolgde-homos-niet-terug-naar-iran.aspx>

<sup>35</sup> For more information on the ‘group of 26,000’ see: *Council of Europe, Parliamentary Assembly*, ‘Doc. 10741, ‘Policy of return for failed asylum seekers in the Netherlands’ 15 November 2005, at <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/WorkingDocs/Doc05/EDOC10741.htm>

<sup>36</sup> *Ministerie van Justitie*, Directoraat-Generaal Wetgeving, Internationale Aangelegenheden, Integratie en Vreemdelingenzaken, Directie Vreemdelingenbeleid, ‘Reactie op motie-Bos c.s.’, 5 December 2006, at [http://www.justitie.nl/images/20061205\\_5457415%20Reactie%20op%20motie%20Bos%20c.s.tcm34-29347.pdf](http://www.justitie.nl/images/20061205_5457415%20Reactie%20op%20motie%20Bos%20c.s.tcm34-29347.pdf)

<sup>37</sup> Letter by the prime minister to the Second Chamber of Parliament, 13 December 2006, number 3058215 at <http://www.minaz.nl/data/1166054933.pdf>

<sup>38</sup> *Ministerie van Justitie*, ‘Overzicht gebeurtenissen n.a.v. discussie naturalisatie Hirsi Ali’, 28 June 2006, at <http://www.justitie.nl/actueel/nieuwsberichten/archief-2006/nB-overzicht-aHa.aspx>

<sup>39</sup> *Tweede Kamer der Staten Generaal*, motie van het lid van Beek c.s., ‘De situatie rondom de nationaliteit van Mw. A. Hirsi Ali’, 16 May 2006 at <http://home.bestuuronline.nl/tweedekamer/assets/Tweede%20Kamer%2028%20juni%202006/documents/KST97344.pdf>

<sup>40</sup> *Parlement & Politiek*, ‘Kabinetscrisis 2006: de ‘Ayaan-crisis’, July 2006, at <http://www.parlement.com/9291000/modulesf/hbzbne0r>

The whole issue was prompted by the planned expulsion of Taïda Plasic, an 18-year-old secondary school student from Kosovo, without allowing her to conclude her education in the Netherlands because of having made “false use of the procedures concerning her residence permit”, a decision that launched a lively public debate.

*Supreme Court: Nuriye Kesbir cannot be extradited*

On 15 September the Supreme Court decided against the minister of justice that Ms Kesbir could not be extradited to Turkey because there were no sufficient guarantees that Ms Kesbir would not be faced with torture and ill-treatment upon her return. Extradition could therefore mean a violation of the European Convention on Human Rights (ECHR).<sup>41</sup> Ms Kesbir is of Kurdish origin and a former member of the presidential board of the Kurdistan Workers’ Party (PKK). The Turkish authorities consider her to be responsible for several acts of terror in Turkey. Ms Kesbir claims that she never engaged in any terrorist activities, and that she has always been mainly occupied with activities to promote the emancipation of women.

*Evaluation of the Aliens Act 2000*

After evaluating the working of the Netherlands Aliens Act 2000, the Dutch Section of the International Commission of Jurists (NJCM) made some urgent recommendations concerning the Dutch asylum policy. This evaluation provided by the NJCM is essentially aimed at the procedure in the application centre: “In the Netherlands, an asylum application has to be submitted at an application centre (AC), this is also where the initial assessment of the application takes place. This procedure takes a maximum of 48 hours”.<sup>42</sup> The NJCM recommends, among other things, that this procedure will only be used for unfounded and fraudulent applications, in conformity with the criteria used by the Executive Committee of the UNHCR.<sup>43</sup> According to the NJCM, the AC procedure in this respect lacks a clear, substantive criterion that can be used to determine whether an asylum application should be handled in the AC procedure or in an ordinary procedure.

Furthermore, the NJCM has made the following recommendations: there should be more time for legal assistance when the AC procedure is commenced; there should be no interrogations of asylum seekers’ children; and the psychological counselling of asylum seekers should be improved. Next to this, the NJCM concluded that the role of the appeal procedures for asylum seekers needs to be evaluated, because the legal protection afforded to asylum seekers has diminished. Lastly, the NJCM stated that it is probably better not to use a strict interpretation of administrative law principles in asylum cases. For instance, there is a principle of administrative law to the effect that

<sup>41</sup> *Juridisch Dagblad*, ‘Nuriye Kesbir mag niet aan Turkije worden uitgeleverd, Hoge Raad wil Concrete waarborgen zien’, 15 September 2006, at <http://juridischdagblad.nl/content/view/3889/53/>

<sup>42</sup> Ministerie van Justitie, Immigratie- en Naturalisatiedienst, ‘The asylum procedure in the Netherlands’, November 2004, at [http://www.ind.nl/en/Images/Publiek\\_ENGAlgemeentcm6-16537.pdf](http://www.ind.nl/en/Images/Publiek_ENGAlgemeentcm6-16537.pdf)

<sup>43</sup> *UNHCR Executive Committee*, Conclusion no. 30 (XXXIV), ‘The problem of manifestly unfounded or Abusive applications for refugee status or asylum’

there may not be ‘any new facts and circumstances’ introduced during an appeal. Using this principle in asylum law can lead to the risk of violating the principle of ‘non-refoulement’.<sup>44</sup>

### *The tightening of immigration rules*

In January the minister for immigration and integration announced plans to tighten immigration rules in order to enable the withdrawal of residence permits for aliens who engage in criminal conduct. The longer an alien lives in the Netherlands, the more serious the public order offence (i.e. the sentence) has to be for the Dutch Immigration and Naturalization Service (IND) to be able to withdraw a residence permit. This has been established in the ‘sliding scale’ of the Aliens Decree.

The scale was tightened in 2002 to make firmer action against criminal aliens possible. Since then, a residence permit can be withdrawn if an alien has lived in the Netherlands for less than a year, and was sentenced to at least one month of detention. This mainly involves offences concerning drugs, burglary, and abuse.<sup>45</sup>

In January 2006 it was too soon to determine whether these stricter immigration rules had led to more withdrawals of residence permits, according to the IND. The Advice Committee on Aliens Affairs (ACVZ), an independent advisory body, advised that the focus should be on improving the effective implementation of existing legislation. The committee recommended that after a few years the necessity of further tightening the scale could be evaluated.<sup>46</sup> However, the minister for immigration and integration did not follow this advice and she wanted to tighten the ‘sliding scale’ of the Aliens Decree further, even though the effects of the changes made in 2002 were still uncertain. In September 2006 parliament agreed with the proposed starting points for tightening this legislation. The new policy is tougher, especially for aliens who have lived for less than three years in the Netherlands. Every sentence, even a fine, can lead to the withdrawal of an Alien’s residence permit and ultimately to expulsion.<sup>47</sup>

According to a judge of the Court of Appeal of Amsterdam, the tightened ‘sliding scale’ has the negative effect of ‘being overly broad’. He highlighted the distinction which is made in criminal law between a summary offence and a criminal offence. Taking over these concepts in another legal area can have unexpected, undesirable consequences.<sup>48</sup>

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<sup>44</sup> NJCM, ‘Vijf jaar later: een commentaar van het Nederlands Juristen Comité voor de Mensenrechten (NJCM) op de Evaluatie van de Vreemdelingenwet 2000’, November 2006.

<sup>45</sup> IND Context, Tijdschrift voor relaties van de IND, ‘Strengere aanpak criminele vreemdelingen: verstoring van de openbare orde en verblijfsbeëindiging’, January 2006.

<sup>46</sup> ACVZ, ‘Openbare orde en verblijfsbeëindiging’, 30 September 2005, at <http://www.acvz.com/index/php?id=16,146,0,0,1,0>.

<sup>47</sup> ND Context, Tijdschrift voor relaties van de IND, ‘Strengere aanpak criminele vreemdelingen: verstoring de openbare orde en verblijfsbeëindiging’, January 2006.

<sup>48</sup> Reinier de Winter, Raadsheer in het Hof Amsterdam, ‘Uitzetting wegens misdrijf: het strafrecht als ijkpunt in het vreemdelingenrecht’, Kluwer 2005.

## Nationality and Citizenship

### *Aruba and the Netherlands Antilles*

In 2005 the minister for immigration and integration and the minister for government reform and kingdom relations announced plans to restrict the immigration policy for youths from the Netherlands Antilles and Aruba. The Antillean prime minister strongly protested against what he described as a form of discrimination against citizens of the same kingdom, since Antilleans and Arubans (hereafter: Antilleans) have Dutch nationality.<sup>49</sup>

In 2006 the aim of the Dutch policy towards the Antilles has been to find structural solutions on the Antilles by improving the living conditions for young people as well as the system of education. The new educational programme has been advancing connections with the Antillean labour market, thereby making it more attractive to find a job on the Antilles. The minister for government reform and kingdom relations has been supporting the Antillean government with initiatives such as the *'Deltaplan'*, which connects social-training courses and new educational programmes. Since 1 May 2006 these social-training courses have been obligatory for 16 to 24-year-old Antilleans if they want to settle in the Netherlands. These initiatives help to prevent young Antilleans from marginalizing, causing a nuisance or engaging in criminal behaviour when they come to the Netherlands.<sup>50</sup>

To complete these efforts a bill with complementary measures concerning the return of young Antilleans if they have a record of causing problems was sent to the Council of State for advice by the minister for integration and immigration in May 2006.<sup>51</sup>

On 19 April 2006 the Council for the Judiciary established, with respect to this bill, that in practice it would not be feasible to return young Antilleans. According to the council a criminal record provides insufficient reference points for a judge to decide whether returning these young Antilleans is indeed fair. Additionally, the council found that a decision on a forced return would give rise to complex legal questions which could not be answered within the domain of criminal law.<sup>52</sup>

<sup>49</sup> *IHF Annual Report 2006, Events in 2005*, 'Nationality and Citizenship: Aruba and the Netherlands Antilles', 2006, p. 281

<sup>50</sup> *Ministerie van Buitenlandse Zaken*, 'Antilliaanse Jongeren', 2006 at [www.minbuza.nl/onderwerpen/de\\_nederlandse/antilliaanse](http://www.minbuza.nl/onderwerpen/de_nederlandse/antilliaanse)

<sup>51</sup> [www.integratie.net](http://www.integratie.net), 'Wet houdende aanvullende maatregelen inzake het verblijf in Nederland van Antilliaanse en Arubaanse risicjongeren en inzake inburgering van Antilliaanse en Arubaans Nederlanders', 30 January 2006, at <http://www.integratie.net/binaries/kiem/bulk/publicatie/2006/2/toelichting-aanvullende-maatregelen-antillianen.pdf>, see also *IHF Annual Report 2006, Events in 2005*, 'The Netherlands: Nationality and Citizenship', 2006, p. 281

<sup>52</sup> *Council for the Judiciary*, 'Ontwerp-wetsvoorstel houdende aanvullende maatregelen inzake het verblijf in Nederland van Antilliaanse en Arubaanse risicjongeren en inzake inburgering van Antilliaanse en Arubaanse Nederlanders', 19 April 2006, at <http://www.rechtspraak.nl/NR/rdonlyres/DC204F68-3B06-44A4-8969-E5DC17FE1109/0/advRvdr5.pdf>

In September 2006 the Council of State advised the minister for immigration and integration that returning criminal Antilleans would not be possible because these persons possess Dutch nationality. Moreover, the Council of State concluded that the bill violated the European Convention on Human Rights.<sup>53</sup>

### **Intolerance, aggressive nationalism, racism, and xenophobia, including hate speech**

#### *Muslim radicalization and Islamic activism*

In March the National Coordinator for Counterterrorism (NCTb) reported that Muslim communities in the Netherlands had gained a degree of resistance to Islamic radicalization. Muslims engaged more visibly in public debate and publicly distanced themselves from violent Islamic movements.<sup>54</sup> Nonetheless, Muslim radicalization remained an important issue of concern.<sup>55</sup>

According to a study published in October by the Institute for Migration and Ethnic Studies (IMES) of the University of Amsterdam, two percent of Muslims in Amsterdam were sensitive to radicalization. The researchers recommend that measures be taken to restore confidence in politics and society, to enhance religious defensibility and to improve contacts with radicalized young Muslims.<sup>56</sup>

In April 2006 the Scientific Council for Government Policy (WRR) published a report with the aim of “formulating a policy perspective that will contribute to reducing the tensions with and within the Muslim world on issues of Islamic activism,”<sup>57</sup> concluding that a climate of confrontation and stereotypical thinking does not create stable conditions for security, democratization and human rights and noting that democratic values and respect for human rights can be found in Islamic activism itself.<sup>58</sup> Various political parties, including those in government, distanced themselves from the report and Geert Wilders, the leader of a right-wing political party, rejected the report by noting that “Islam is incompatible with democracy.”<sup>59</sup>

<sup>53</sup> *NRC Handelsblad*, ‘Conclusie Raad van State: Terugkeerwet Antillianen ‘deugt niet’’, 7 September 2006.

<sup>54</sup> *Ministerie van Justitie*, ‘Moslims weerbaarder tegen radicalisering’, 2 March 2006, at [http://www.regering.nl/actueel/nieuwsarchief/2006/03March/02/0-42-1\\_42-76943.jsp](http://www.regering.nl/actueel/nieuwsarchief/2006/03March/02/0-42-1_42-76943.jsp)

<sup>55</sup> Marieke Slootman and Jean Tillie, ‘Processen van Radicalisering, waarom sommige Amsterdamse moslims radicaal worden’ Instituut voor Migratie- en Etnische Studies, Universiteit van Amsterdam, October 2006. At <http://www.uva.nl/actueel/object.cfm/objectid=073C8BC9-9F55-4D47-9AB6FA75BE05C730/templateid=D37C1DE1-AF6B-491C-955257D970D5E728>

<sup>56</sup> Ibid.

<sup>57</sup> *Scientific Council for Government Policy*, ‘Dynamism in Islamic Activism: Reference points for democratization and human rights’, 2006, at <http://www.wrr.nl/english/dsc?c=getobject&s=obj&!sessionid=1ySrofBaqs3114uVBDU@p5K78L9!DmM!6Az1FIsdrhsUhCp3M4aGxJh@OuGEX@h&objectid=3708&!dsname=default&isapidir=/gvisapi/>

<sup>58</sup> Ibid.

<sup>59</sup> Ingrid van der Chijs, ‘Verhagen en Wilders woedend over Islam-rapport’, 11 April 2006, at <http://www.elsevier.nl/nieuws/politiek/artikel/asp/artnr/94208/index.html>

In June the National Bureau Against Racial Discrimination (LBR) presented a report on racial discrimination in 2005, prepared at the request of the Ministry of Justice. According to it, about half of the people of Turkish and Moroccan origin said that they had been subjected to racial discrimination at least once during that year.<sup>60</sup>

### *Hate Speech*

As of the end of 2006, the minister for immigration and integration was looking into possibilities to expel the imam Sjeik Fawad Jineid from the Netherlands after he had allegedly directed a curse towards Hirsi Ali and Theo van Gogh, a few weeks before Van Gogh was murdered.<sup>61</sup> The Advice Committee on Alien Affairs (ACVZ) advised the minister for immigration and integration that the expulsion of imams would be in violation of freedom of religion.<sup>62</sup>

On 2 November the District Court of The Hague decided in another case that the imam Eisha Berham had been wrongfully deprived of his residence permit. The court rejected the opinion of the Dutch Intelligence Service (AIVD) and the minister for immigration and integration that the imam posed a threat to national security, noting that it could not be unequivocally proved that the imam's opinions expressed in his preaching could be a breeding ground for terrorist acts.<sup>63</sup>

### **Anti-terrorism measures**

On 13 March fourteen suspects from the so-called Hofstadgroup, a radical Islamic network, stood trial. Five of them were acquitted and nine were found guilty of participating in the activities of a terrorist organisation. These were the first convictions partly based on the new anti-terrorism law, which came into effect in August 2004. The defendants lodged an appeal.<sup>64</sup>

On 1 December the District Court of Amsterdam sentenced four members of another radical Islamic group related to the Hofstadgroup to imprisonment for planning attacks on politicians and the headquarters of the AIVD, but decided that the group could not be qualified as a terrorist organisation. These convictions served as a test for new anti-terrorism laws, which provide for the use of special methods of investigation in cases

<sup>60</sup> LBR, Monitor Rassendiscriminatie 2005; presentatie 14 juni aan Minister Verdonk, at <http://www.lbr.nl/?node=5424>

<sup>61</sup> Ministerie van Justitie, 'Kamervragen over de uitspraken van imam Fawaz Jneid in de As Soennahmoskee' 28 November 2006, at <http://www.justitie.nl/images/uitspraken%20imam%20Fawaz%20Jneid%206655%20tcm34-28826.pdf>, see also *IHF Annual Report 2006, Events in 2005*, 'Freedom of Expression, Free Media and Information' 2006

<sup>62</sup> NJCM, 'ACVZ: buitenlandse imams niet structureel weren', 26 September 2005, at <http://www.njcm.nl/index.php?page=nieuws&&id=90>

<sup>63</sup> District Court of the Hague, sitting in Amsterdam LJN: AZ1371, AWB 05/53996, 05/53878, 2 November 2006, see also *IHF Annual Report 2006, Events in 2005*, 'The Netherlands: Extremism, Hate Speech and Hate Crimes', 2006, p. 281-282.

<sup>64</sup> [www.rechtspraak.nl](http://www.rechtspraak.nl), 'Rechtbank heeft uitspraak gedaan in zaken verdachten Hofstadgroep', 10 March 2006, at <http://www.rechtspraak.nl/Gerechten/Rechtbanken/s-Gravenhage/Actualiteiten/Rechtbank+heeft+uitspraak+gedaan+in+zaken+verdachten+Hofstadgroep.htm>

where there are indications of terrorist acts. These methods for instance facilitate easier access to wire-tapping orders and make the detention of a terrorist suspect more feasible with less formalities. Political parties from the left remained critical of this legislation expressing the fear that it could potentially be used to limit fundamental human rights.<sup>65</sup>

## Freedom of Expression, Free Media and Information

### *The Intelligence and Security Services Act*

In January Bart Mos and Joost de Haas, two reporters from a Dutch newspaper, published articles based on classified information leaked by a source within the Dutch Intelligence Service (AIVD). The information concerned, among other things, corruption within the Criminal Investigation Department. After the articles were published, the AIVD intercepted the journalists' phone conversations and recorded their telecom data. The journalists commenced and won a case against such monitoring methods by the AIVD. On appeal, however, the Court of Appeal ruled on 31 August that the AIVD could in principle intercept journalists' conversations, but only in restricted cases which are in the interest of national security.<sup>66</sup> Also the Review Committee on the Intelligence and Security Services established that the investigation by the AIVD had been legitimate.<sup>67</sup>



*Journalists Bart Mos and Joost de Haas after their release  
(photo: De Telegraaf)*

In November the District Court of The Hague ordered the detention of the above-mentioned journalists for refusing to abide by a judicial order to reveal their sources. The OSCE Free Media Representative Mr Haraszti protested against this decision saying that "The right to refuse to disclose journalistic sources should be protected by law."<sup>68</sup> The two men were released four days later.

<sup>65</sup> *Eerste Kamer der Staten Generaal*, 'Middelen voor opsporen terroristische misdrijven verruimd' 8 November 2006, at <http://www.eerstekamer.nl>

<sup>66</sup> *NCJM*, 'Gerechtshof Den Haag: AIVD mag in beginsel journalisten afluisteren', 8 September 2006, at <http://www.njcm.nl/index.php?page=nieuws&&id=146>

<sup>67</sup> Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 'Rapport Commissie van Toezicht inzake het onderzoek van de AIVD naar het uitlekken van staatsgeheimen', 7 December 2006, at <http://www.minbzk.nl/actueel/publicaties?ActfId=103510>

<sup>68</sup> *OSCE Press Release*, 'OSCE media freedom representative concerned over detention of Dutch journalists for refusing to name source', 30 November 2006, at <http://www.osce.org/item/22317.html>

*'Armenian Issue'*

During the campaigning period for the parliamentary elections in the Netherlands some politicians were removed from the list of candidates because they hold the opinion that no genocide was committed against Armenians by the Ottoman regime at the beginning of the 20<sup>th</sup> century.

There is disagreement between different scholars as to whether these deaths of hundreds of thousands of Armenians can be qualified as genocide. Some scholars are of the opinion that the term genocide should apply, while others establish that there was a deportation of Armenians and often recognize that there was a case of ethnic cleansing against this group. The Turkish government officially denies that the term genocide applies and maintains that the Armenian casualties resulted from starvation and other deprivations. Therefore, the Turkish government speaks of the 'Armenian issue' instead of the 'Armenian genocide', and makes an effort to stop the international labelling of these events as genocide. Some scholars claim that there is not enough evidence to draw any definite conclusions. Internationally, the discussion focuses on the exact definition of genocide and the appropriateness of this term.<sup>69</sup>

The refusal of three candidates for the parliamentary elections to qualify the killings of Armenians as genocide received a great deal of attention in the Dutch media. Two of the candidates are members of the Christian Democratic Party (CDA) and one of them is a member of the Labour Party (PvdA). The candidates were part of a network of Dutch politicians of Turkish origin who had previously lobbied against the use of the term Armenian genocide. On 21 December 2004 parliament, including the political parties CDA and PvdA, adopted a resolution which states that genocide was committed against Armenians in 1915. However, these three particular candidates distanced themselves from the resolution in an interview with a Turkish newspaper. They were therefore erased from the lists of candidates in September. Consequently, the Turkish community in the Netherlands threatened to boycott the elections. Other candidates of Turkish origin ventured no opinion on this issue.<sup>70</sup>

Thijl Sunier, an anthropologist and an expert on Turkey at the University of Amsterdam, stated the following: "In the future we will be confronted more often with political and moral issues concerning diverse interests, ideas and cultural backgrounds of the Dutch and migrants." He also established that Dutch persons of Turkish origin are of the opinion that the term genocide is used in the Netherlands in a campaign against Turkish EU membership and against Islamic politicians.<sup>71</sup>

Turkish legislation forbids the mass deaths in 1915 from being labelled as genocide. According to Rob Boudewijn, a fellow of the Clingendael European Studies

<sup>69</sup> NRC *Handelsblad*, 'Mini-dossier Armeense kwestie', 12 October 2006, at [http://www.nrc.nl/binnenland/article503090.ece/Mini-dossier\\_Armeense\\_kwestie](http://www.nrc.nl/binnenland/article503090.ece/Mini-dossier_Armeense_kwestie)

<sup>70</sup> NRC *Handelsblad*, 'Mini-dossier Armeense kwestie', 12 October 2006, at [http://www.nrc.nl/binnenland/article503090.ece/Mini-dossier\\_Armeense\\_kwestie](http://www.nrc.nl/binnenland/article503090.ece/Mini-dossier_Armeense_kwestie)

<sup>71</sup> Aart Brouwer, 'Het Sèvres-syndroom', *De Groene Amsterdammer*, 130 (41) 13 October 2006, 10-12

Programme, the situation in both countries can be perceived as a limitation on free speech, because the political majority decides which opinions are allowed and which are not in public debate.<sup>72</sup>

The Dutch political party the Christian Union (CU) has tabled a bill which makes persons who deny genocide punishable by law, if their denial has the intention to discriminate, or to incite hatred. In the bill, the CU refers to the Armenian genocide. The CU has stated that the bill concerns acts of genocide that are ‘widely recognized’, such as the Armenian genocide.<sup>73</sup> In 2005 the Minister of Justice made a legislative proposal to penalize the glorification, glossing-over or denial of serious crimes, if these pronouncements are intended to disrupt public discourse. The Council for the Judiciary criticized this bill at the time: “The Turkish government has an essential different opinion about the mass deaths of the Armenians than the Armenian community.”<sup>74</sup>

### Conditions in Prisons and Detention Facilities

#### *The detention and treatment of illegal migrants in the Netherlands*

A discussion on emergency procedures concerning the detention and treatment of illegal immigrants in the Netherlands, prompted by the death of eleven detainees at the detention centre near Schiphol Airport in October 2005, continued in 2006.<sup>75</sup>

In August 2006, the minister for immigration and integration issued 39 residence permits to illegal migrants who had been affected by the Schiphol fire.<sup>76</sup> On 21 September the Dutch Safety Board established that the fire would have resulted in “less or no” casualties if the authorities had followed emergency procedures more effectively; the fatal outcome of the fire was the result of a failure by the Ministry of Justice, the Service for Construction and Maintenance of Government Buildings and the municipality of Haarlemmermeer; the aftercare of the surviving detainees was insufficient and poorly organized; the National Agency of Correctional Institutions (DJI) was primarily responsible for the tragic events; and that some survivors had been expelled without having been examined concerning trauma-related health complaints. Consequently, the minister of justice, the minister of public housing, and the mayor of Haarlemmermeer resigned. The board concluded that structural deficiencies in fire safety measures comparable to those in the detention centre at

<sup>72</sup> Rob Boudewijn, ‘De EU en Turkije, Turkije en de EU: hoe nu verder?’, Instituut Clingendael, The Hague 15 November 2006

<sup>73</sup> *Tweede Kamer der Staten-Generaal*, ‘Voorstel van wet van het lid Huizen-Heringa’, Vergaderjaar 2005-2006 30 579, nr. 3.

<sup>74</sup> A.H. van Delden, Brief aan de Minister van Justitie: ‘Ontwerp wetsvoorstel strafbaarstelling verheerlijking, vergoelijking, bagatellisering en ontkennen zeer ernstige misdrijven’ *Council for the Judiciary*, 15 September 2005, at [www.rechtspraak.nl](http://www.rechtspraak.nl)

<sup>75</sup> *IHF Annual Report 2006, Events in 2005*, ‘The Netherlands: Conditions in Prisons and Detention Facilities’ 2006, p. 278-279

<sup>76</sup> *Ministerie van Justitie*, ‘Verblijfsvergunningen voor slachtoffers Schipholbrand tenzij ernstige antecedenten’ 31 August 2006, at <http://www.justitie.nl/actueel/persberichten/archief2006/Verblijfsvergunningen-Schiphol-slachtoffers.aspx?cp=34&cs=579>

Schiphol were also common in other penitentiary institutions and advised the Ministry of Justice to examine such measures and to improve them if necessary. It also recommended that the ministry should critically evaluate the contingency plans of the institutions, giving special attention to the reception and aftercare of detainees.<sup>77</sup>

In May the publication of a weekly magazine article on the deficient fire safety and living conditions on a prison boat near Rotterdam,<sup>78</sup> housing mostly illegal aliens, triggered an investigation by the Sanction Application Inspectorate and the Council for the Administration of Criminal Justice and Youth Protection (RSJ), which however established that there were no structural deficiencies on such boats. The investigation nevertheless recommended that social and material conditions on these boats need to be improved.<sup>79</sup>

On 11 December, a group of asylum lawyers won their case against the Ministry of Justice for interim relief to improve the conditions on prison boats near Rotterdam, and for a second investigation into fire safety on board these boats. They had also demanded that asylum seekers should not be detained for a period longer than six months.<sup>80</sup>

#### *Persons detained under a hospital order*

In 2005 some incidents resulted in commotion concerning the quality of the treatment given to persons detained under a hospital order (TBS) in the Netherlands. On 7 June 2005 a TBS patient escaped from his supervisor during a leave of absence. When shortly thereafter this TBS patient was connected to the murder on an elderly man in Amsterdam, this prompted a fervent public debate. It was the second time in 2005 that a TBS patient had escaped and committed a serious crime. On 16 June 2005 parliament decided to establish a parliamentary committee of inquiry, because the existing TBS system seemed to be unfit to protect the state and society. On 16 May 2006 this committee presented its report.<sup>81</sup>

Furthermore, in June a report was published by the Dutch Inspectorate for the Implementation of Sanctions. "The focus of the Inspectorate's study deals primarily with the public safety of conditional hospitalisation; how do the probation organisations keep an eye on the risk of reoffending during the implementation of the

<sup>77</sup> *Onderzoeksraad voor Veiligheid*, 'Brand Cellencomplex Schiphol-Oost: eindrapport van het onderzoek naar de brand in het detentie- en uitzetcentrum Schiphol-Oost in de nacht van 26 op 27 oktober 2005', 21 September 2006, at [http://www.onderzoeksraad.nl/publicaties/ovv/rapport\\_schipholbrand.pdf](http://www.onderzoeksraad.nl/publicaties/ovv/rapport_schipholbrand.pdf)

<sup>78</sup> Robert van de Griend, 'Undercover op de Illegalenboot', *Vrij Nederland*, 25 March 2006, at <http://www.vrijnederland.nl/vn/show/id=57476>

<sup>79</sup> Ministerie van Justitie: Inspectie voor de Sanctietoepassing en Raad voor Strafrechtstoepassing en Jeugdbescherming, 'Detentieboten Zuid-Holland, locatie Merwehaven: Inspectierapport' May 2006, at <http://www.inspectiesanctietoepassing.nl/Images/Inspectierapport%20definitieftcm49-119281.pdf>

<sup>80</sup> District Court of The Hague LJN: AZ4156, KG 06/1258, 11 December 2006.

<sup>81</sup> *Tweede Kamer der Staten-Generaal*, 'Parlementair Onderzoek TBS', Vergaderjaar 2005-2006, 30 250, nr. 5.

conditional hospitalisation?”<sup>82</sup> “Conditional *TBS* psychiatric hospitalisation is not the same as *compulsory TBS* psychiatric hospitalisation. When the judge imposes a conditional *TBS* sentence, the convicted person is not sent to a *TBS* clinic. Instead, he has to comply with a number of specific conditions for a period of two years. Such conditions could include voluntary treatment in a psychiatric hospital. If the person concerned does not comply with the conditions, the public prosecutor has the power to make the conditional *TBS* sentence a compulsory *TBS* psychiatric hospitalisation sentence.”<sup>83</sup> The report concluded that the probation and after-care service does handle conditional *TBS* with care. However, the report did introduce some suggestions for improvement. For instance, it is possible to “improve communication between the Public Prosecution Service, the probation services and the National Agency of Correctional Institutions (DJI)”, according to the report. Additionally, the report stated that the power of probation officers during inspection visits must be better specified by uniform rules.<sup>84</sup>

On 18 May, the Dutch Section of the International Commission of Jurists (NJCM) organised a conference on hospital order transients. These are delinquents with a psychiatric disorder who in anticipation of placement in a *TBS* clinic are held in a remand prison. The European Court of Human Rights finds the detention of *TBS* patients in a facility that is not suitable for them to be in violation of article 5 ECHR, especially if the detention is for a longer period of time. The Court of Appeal of The Hague ruled on 27 April that a transient period of four months is unlawful.<sup>85</sup> The general opinion during the conference was that more needs to be invested in the quality of treatment at *TBS* clinics. The NJCM agreed with the Inspectorate’s study that adjustments are necessary. The NJCM recommended that treatment in *TBS* clinics should be more specialized and differentiated and that a judge should decide on leave of absence, resocialisation, and placement in a long-term facility. According to the NJCM, these recommendations provide safeguards for society and the *TBS* patient alike.<sup>86</sup>

In a reaction to the recommendations contained in these reports the minister of justice sent plans to improve the *TBS* sector to parliament on 10 October. These plans contained, among other things, the following improvements: the lengthening of the term during which persons can be followed after their treatment from three to ten years; extending the time which the probation and after-care service have per *TBS* patient after the hospitalisation order has come to an end from 30 to 120 hours; improving the psychological after-care of former *TBS* patients; the commencing of a multiannual forensic research programme in 2007, and of further research in risk

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<sup>82</sup> *Ministry of Justice*, ‘Dutch inspectorate: probation service to improve supervision of conditional hospital Orders’, 13 June 2006, at [http://english.justitie.nl/currenttopics/\\_pressreleases/archives2006/Dutch-inspectorate-probation-service-to-improve-supervision-of-conditional-hospital-orders.aspx](http://english.justitie.nl/currenttopics/_pressreleases/archives2006/Dutch-inspectorate-probation-service-to-improve-supervision-of-conditional-hospital-orders.aspx)

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Court of Appeal of The Hague, LJN AW4923, 27 April 2006

<sup>86</sup> *NJCM*, ‘Standpunt *TBS*’, 13 June 2006, at <http://www.ncjm.nl/index.php?page=persberichten&&id=8>

assessment instruments; the lengthening of the maximum period for conditional hospitalisation from four to nine years; and the introduction of a new test to help assess applications for leave.<sup>87</sup>

### *Misconduct by Dutch military personnel in Iraq*

In the week before the elections of 22 November a discussion developed in the Dutch media concerning news that Dutch military personnel had abused Iraqi detainees during interrogation in 2003. On 17 November the minister of defence established an independent committee to investigate these allegations. This committee will probably present the results of this investigation in the course of 2007.<sup>88</sup>

### **Rights of the Child**

On 30 January the Amsterdam Office for Juvenile Care presented data on the waiting lists for juvenile care. It established that 5,000 children had to wait longer than 9 weeks for juvenile care in the Netherlands. This concerned children in urgent need of care. It has been estimated that in the Netherlands approximately 50 children die annually due to misconduct by their parents. The waiting lists for juvenile care are a cause of this problem.<sup>89</sup>

Commencing in 2004, the government provided for extra funding for juvenile care on a structural basis. Furthermore, the government agreed with the provinces that they would take all necessary measures to ensure that this sector functions more efficiently. The presumption was that demand would develop according to expectations, as would the development of efficiency. However, in 2005 the demand for juvenile care increased more significantly than expected, mainly because children were removed more rapidly from their homes if their safety was at stake. Therefore the need for foster and residential care strongly increased.<sup>90</sup>

In May the state secretary for health, welfare and sport informed parliament that of the extra 5,000 children for whom the provinces had promised to provide adequate juvenile care in order to deal with the problem of the waiting lists, some 3,000 had received help. This meant that the performance-related agreements between the state secretary for health, welfare and sport and the provinces had been met by 58 percent. On 28 April the provinces agreed that on 1 January 2007 there would be no children waiting for more than nine weeks for juvenile care.<sup>91</sup>

<sup>87</sup> *Ministerie van Justitie*, 'Plan van aanpak terbeschikkingstelling en forensische zorg in strafrechtelijk kader' 10 October 2006

<sup>88</sup> *Ministerie van Defensie*, 'Commissie van Onderzoek geïnstalleerd', 17 November 2006, at [http://www.mindef.nl/actueel/nieuws/2006/11/20061123\\_vandenberg.aspx](http://www.mindef.nl/actueel/nieuws/2006/11/20061123_vandenberg.aspx)

<sup>89</sup> *Meldpunt Huiselijk Geweld*, 'Aard en omvang van huiselijk geweld', 15 January 2007, at <http://www.huiselijkgeweld-dwo.nl>

<sup>90</sup> *Ministerie van Volksgezondheid, Welzijn en Sport*, 'Kamerstuk DJB/JZ-2657462', 2 February 2006, at <http://www.minvws.nl/kamerstukken/djb/2006/wachttijsten-jeugdzorg.asp>

<sup>91</sup> *Ministerie van Volksgezondheid, Welzijn en Sport*, 'Wegwerken wachttijden jeugdzorg ligt op koers', 24 October 2006, at <http://www.minvws.nl/persberichten/djb/2006/wegwerken-wachttijden-op-koers.asp>

At the end of 2006, youth workers are still under great pressure. One reason for this pressure is the decision of the Public Prosecutions Department to commence legal proceedings against a family supervisor. In a family counselled by this family supervisor a three-year-old girl had died after a long period of abuse and neglect.

### **Equal Rights of Men and Women**

In September 2005 the Clara Wichmann Institute<sup>92</sup>, the Dutch Section of the International Commission of Jurists (NJCM), and others commenced proceedings against the Dutch government for contributing towards the discrimination of women by granting state funding to the Reformed Political Party (SGP). This political party did not allow women to become full party members and to stand for parliamentary elections. The District Court of The Hague ruled that the SGP discriminated against women and violated the UN Convention on the Elimination of all Forms of Discrimination Against Women. The District Court further decided that the party should be stripped of state funding.<sup>93</sup>

Consequently, on 24 April 2006, the SGP board announced that it would allow women to become members. However, women would not be allowed to stand for parliamentary elections. The Clara Wichmann institute reacted that the proposal of the SGP board was ‘a step in the right direction’; however, it was still not content. The institute stated that women would still not be full party members because they would not be permitted to hold any administrative functions, and that it remains to be seen to what degree women could actually participate. The institute concluded that the announcement by the SGP board did confirm that the case in September 2005 had been successful and had accelerated the improvement of the situation.<sup>94</sup>

### **Trafficking in Human Beings**

“In 2004 the Dutch government has taken several measures in the context of the National Action Plan on Human Trafficking<sup>95</sup> in the field of prevention, legislation, investigation and prosecution to counteract human trafficking. Meanwhile a knowledge centre for human trafficking has been set up, the legal opportunities to intervene have been extended and there is a national information desk for juvenile prostitution. Following some debates in parliament, the fourth report by the Dutch National Rapporteur on Trafficking in Human Beings, and some investigations, the

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<sup>92</sup> Expertise centre for women and law in the Netherlands

<sup>93</sup> *IHF Annual Report 2006, Events in 2005*, ‘The Netherlands: Equal Rights of Women and Men’, 2006, p. 279-280

<sup>94</sup> *NJCM*, ‘Voorstel SGP-bestuur: vrouwen kunnen partijlid worden, maar zich niet verkiesbaar opstellen’, 24 April 2006, at [www.njcm.nl/index.php?page=nieuws&&id=109](http://www.njcm.nl/index.php?page=nieuws&&id=109)

<sup>95</sup> *Ministerie van Justitie*, ‘Nationaal Actieplan Mensenhandel’, December 2004, at [http://www.justitie.nl/images/Nationaal%20Actieplan%20Mensenhandel%20versie%20TK%202\\_tcm74-102699\\_tcm34-3245.pdf](http://www.justitie.nl/images/Nationaal%20Actieplan%20Mensenhandel%20versie%20TK%202_tcm74-102699_tcm34-3245.pdf)

Dutch government has decided to take supplementary measures.”<sup>96</sup>

One of these supplementary measures is to provide temporary residence for the victims of trafficking, for as long as the criminal proceedings necessary for the detention and conviction of the suspects may take. After the criminal proceedings have finished, humanitarian circumstances and the victim’s safety in the country of origin are decisive for an eventual prolonged permission to stay.<sup>97</sup> Furthermore, on 17 November the District Court of The Hague decided that alongside the victims, a witness to the trafficking can also not be expelled from the Netherlands as long as the criminal proceedings against the suspects of trafficking have not been completed. This is because the minister for immigration and integration had plans to expel a possible witness to trafficking, even though the criminal case was still taking place. The witness decided to legally contest these plans by the minister.<sup>98</sup>

On 22 June the city of Amsterdam closed several brothels, using legislation which has been effective since 2003. This legislation enables the closing of brothels if the owners are suspected of criminal conduct, such as trafficking in women or drugs.<sup>99</sup> Most female victims of trafficking are forced to work in prostitution. This form of trafficking has received a great deal of attention in the Netherlands because of the phenomenon called ‘loverboys’. An increasing number of girls are seduced by young men, mainly of Antillean and Moroccan origin, who ultimately force these girls to work in prostitution. Surprisingly, the Foundation against Trafficking in Women notes that most victims are found in brothels which are licensed. According to the Foundation, the authorities should keep these brothels more intensively under supervision.<sup>100</sup>

In November the European Parliament rejected a bill proposing a ban on brothels in the European Union.<sup>101</sup> The initiators of the proposal pronounced their concern that trafficking in women will increase if the sex industry is legalized. In the Netherlands the ban on brothels was abolished in 2000. The aim of this policy is in the words of the state secretary for the interior and kingdom relations: “The legalization of the sex industry actually places the police in a far better position to keep track of the situation and to maintain control. And it offers far greater opportunities to tackle the problem

<sup>96</sup> Ministry of Justice, ‘Supplementary measures action plan human trafficking’, 03 February 2006, at <http://english.justitie.nl/currenttopics/pressreleases/archives2006/Supplementary-measures-action-plan-human-trafficking.aspx>, see also: *IHF Annual Report 2006, Events in 2005*, ‘The Netherlands: Trafficking in Human Beings’, 2006, p. 284-285.

<sup>97</sup> Ministerie van Justitie, directoraat internationale aangelegenheden en vreemdelingenzaken, *Directie vreemdelingenbeleid*, ‘Voortgezet verblijf na B9-regeling, 5431581/06/DVB’, 14 August 2006.

<sup>98</sup> District Court of The Hague, sitting in Amsterdam LJN: A22503, AWB 05/45888, 17 November 2006.

<sup>99</sup> Gemeente Amsterdam, ‘Amsterdam screent prostitutiebranch’, 21 June 2006, at <http://www.amsterdam.nl/nieuws?ActItmIdt=11908>

<sup>100</sup> ECPAT, ‘Melding mensenhandel vertoont een stijgende lijn, mannen beginnen zich nu ook te melden’, 16 August 2006, at <http://www.ecpat.nl/ariadne/Loader.php/epcat/Actualiteiten/Krantenknipsels/Handelminderjarigen>

<sup>101</sup> European Parliament, ‘Texts adopted by parliament: fighting trafficking in human beings’, Strasbourg, 16 November 2006, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0498+0+DOC+XML+V0//EN>

of people trafficking. Clearly, the underlying aim of efforts in this field is to protect people's human rights."<sup>102</sup>

On 1 August the District Court of Breda convicted five men of trafficking in human beings. These men had arranged illegal transit to the Netherlands for at least ten minor Indian asylum seekers.<sup>103</sup>

Since November 2004, 98 Indian minor asylum seekers aged between 13 and 18 have disappeared from asylum seekers' centres. These children came to the Netherlands to earn money for their families.<sup>104</sup>

On 24 November the Dutch government accepted several proposals to protect single minor asylum seekers against human traffickers, at the request of the minister for immigration and integration and the minister of justice.<sup>105</sup>

### **The Judicial System and the Right to a Fair Trial**

A research study by the faculty of law of Utrecht University on the everyday communication during the hearings at the District Court of Utrecht revealed some interesting developments in the practice of criminal law in the Netherlands. Crime statistics show that organized crime, specifically in the field of drugs and human trafficking, has increased in the Netherlands. Furthermore, the crime rates among certain groups of immigrants and minorities offer reason for concern.

Although many citizens in the Netherlands are of the opinion that Dutch criminal law is generally too soft, according to the study objective indicators demonstrate a hardening of criminal law. Sentences have become tougher and the capacity of detention centres has expanded. The researchers state that compared to other European countries, the dispensation of criminal justice in the Netherlands can be characterized as rather stern. Importantly, confidence in the judicial authorities is relatively high, even though it has slightly decreased in the past years.<sup>106</sup>

The research study established that a full application of the principle of 'due process' is difficult to achieve in the practice of criminal law nowadays, because, firstly, judicial authorities are faced with great working pressure and a heavy case-load. According to the study this results in the judicial authorities adopting the characteristics of a bureaucratic organization, where work has to be done using strict guidelines in a short period of time. Secondly, the study established that the so-called

<sup>102</sup> *Ministry of the Interior and Kingdom Relations*, 'Speech by the State Secretary for the Interior and Kingdom Relations at the 32nd European Regional Conference of ICPO (Interpol)', 14 May 2003, at <http://www.minbzk.nl/bzk2006uk/subjects?ActItmIdt=1984>

<sup>103</sup> ECPAT, 'Celstraffen voor smokkelaars van Indiase kinderen', 1 August 2006, at <http://www.ecpat.nl/ariadne/Loader.php/epcat/Actualiteiten/Krantenknipsels/Handelminderjarigen>

<sup>104</sup> ECPAT, 'Celstraf geëist in zaak smokkel jongens', 18 July 2006, at <http://www.ecpat.nl/ariadne/Loader.php/epcat/Actualiteiten/Krantenknipsels/Handelminderjarigen>

<sup>105</sup> *Ministerie van Justitie*, 'Kabinet: Maatregelen voor bescherming AMV's tegen mensensmokkel', 24 November 2006, at [http://www.minjus.nl/actueel/persberichten/archief\\_2006/Maatregelen-voor-Bescherming-aMV's-tegen-mensensmokkel.aspx?cp=34&cs=579](http://www.minjus.nl/actueel/persberichten/archief_2006/Maatregelen-voor-Bescherming-aMV's-tegen-mensensmokkel.aspx?cp=34&cs=579)

<sup>106</sup> Pieter Ippel and Susanne Heeger-Hertter, 'Sprekend de Rechtbank: Alledaagse communicatie in de Utrechtse zittingszaal', December 2006, p. 126.

‘family model’ is more often applied in criminal law. When children, young persons, or suspects with a psychological disorder are put on trial, an attempt to reach a social and humanitarian solution precedes the penal sanctioning. Thirdly, the study disclosed that the criminal sector is increasingly entwined in the entire system of criminal proceedings. The judges neither have an insight into the foregoing steps, nor in the execution of the sentence or treatment. Fourthly, the study stated that there is an unmistakable tendency in Dutch criminal law towards intensified crime control. This appears in the increasing number of sentences of life imprisonment, the acceptance of lifelong detention under a hospital order in a long-stay facility, and the recent introduction of the Institution for Multiple Offenders. These four factors suggest that the idea of a complete, open and fair trial is under pressure in everyday reality in the Netherlands.

Interviews held by the researchers with judicial authorities indicated that as well as judges, lawyers can barely keep up with the amount of alterations to the criminal law, which are often made too rapidly. They generally blamed politicians for this. The researchers concluded that, generally, the communication between judges, lawyers and suspects can be qualified as being up to standard and adequate.<sup>107</sup>

## **Freedom of Religion**

### *Freedom of religion in schools*

On 1 August the District Court of Utrecht ruled in an interim injunction that a reformatory secondary school in Utrecht could refuse a student because his parents had different ideas than the school about clothing regulations and the desirability of a representative advisory body. The parents applied for the interim injunction after the school had informed them that their son had been rejected as a student. The school was of the opinion that the ideas of the parents and those of the school on certain subjects that are essential for the identity of that school, were too different.<sup>108</sup>

The District Court established that the school could refuse the student based on article 23 of the Dutch constitution, which guarantees freedom of conviction for denominational education.<sup>109</sup> This principle carries great weight, therefore the board of a denominational school may in principle refuse a student who does not meet the religious conditions of entry which the school applies, even though the parents have a strong preference for this direction of education.<sup>110</sup>

<sup>107</sup> Pieter Ippel and Susanne Heeger-Hertter, ‘Sprekend de Rechtbank: Alledaagse communicatie in de Utrechtse zittingszaal’, December 2006, p. 139-162.

<sup>108</sup> *NJCM*, ‘Kort geding Rechtbank Utrecht: reformatory school mag leerling weigeren’, 7 August 2006, <http://www.njcm.nl/index.php?page=nieuws&&id=144>

<sup>109</sup> *Grondwet voor het Koninkrijk der Nederlanden* van 24 augustus 1815, Hoofdstuk 1 Grondrechten, artikel 23.

<sup>110</sup> Voorzieningenrechter Rechtbank Utrecht, LJN: AY5353, 15863 / KG ZA 06-688, 1 August 2006

The chairman of the Dutch Association for Educational Law stated that the parents should instigate proceedings all the way up to the Supreme Court, because according to him it is time for a renewed legal interpretation of article 23 of the Dutch constitution. Other legal experts state that the ruling of the District Court reflected a correct interpretation of article 23.<sup>111</sup>

### *Ban on the Burka*

On 3 November a committee of legal experts presented a report considering the legal possibilities to ban the *burka*, at the request of the minister for immigration and integration. This committee of experts concluded that a ban on the *burka* is only possible if the ban is on all face-covering clothing and that the ban cannot be applied in 'real' public areas, such as on the streets.<sup>112</sup>

On 17 November the government approved a proposal made by the minister for immigration and integration to submit a bill on a prohibition on all face-covering clothing in (semi-)public areas, including the *burka*, on grounds of public safety.<sup>113</sup> In the meantime existing methods to prevent persons from wearing face-covering clothing will be applied. In December the Second Chamber of Parliament passed a motion on the prohibition on wearing the *burka* in public in the Netherlands. At the end of this year, the subject is still under discussion.<sup>114</sup>

### *Dutch Equal Treatment Commission*

In November the Dutch Equal Treatment Commission (CGB) decided that the suspension of a female Muslim teacher who had refused to shake hands with males in her function had been unnecessary. The CGB called for more religious freedom in a multicultural society.<sup>115</sup> The minister for immigration and integration and her party strongly disagreed and proposed to abolish the CGB. Other political parties also expressed concern over this CGB decision.<sup>116</sup>

<sup>111</sup> [www.recht.nl](http://www.recht.nl), 'Ouders, ga door tot de Hoge Raad', 11 September 2006, at <http://www.recht.nl/artikel/index.html?nid=25801&marker=0>

<sup>112</sup> Prof. B. Vermeulen e.a., 'Overwegingen bij een boerka verbod: zienswijze van de deskundigen inzake een verbod op gezichtsbedekkende kleding', 3 November 2006.

<sup>113</sup> Ministerie van Justitie, 'Algemeen verbod op gezichtsbedekkende kleding', 17 November 2006, at <http://www.minjus.nl/actueel/persberichten/archief2006/PB-algemeen-verbod-gezichtsbedekkende-kleding.aspx?cp=34&cs=579>

<sup>114</sup> See also: *IHF Annual Report 2006, Events in 2005*, 'The Netherlands: Discrimination against Muslims', 2006, p. 283-824.

<sup>115</sup> *NRC Handelsblad*, 'Hand of knik, het gaat om respect', 8 November 2006, site CGB: <http://www.cgb.nl>

<sup>116</sup> *NRC Handelsblad*, 'Verdonk wil commissie kwijt na uitspraak' 14 December 2006, at <http://www.nrc.nl/binnenland/article537794.ece>

## Elections

On 22 November elections to the Lower Chamber of Parliament were held in the Netherlands. These were hurried elections because the government had resigned early due to the Hirsi Ali affair (see ‘migrants and asylum seekers: dispute over a residence permit’ on the second page). The Socialist Party (SP) gained most and almost tripled its number of seats. Another significant development was the emergence of the new right-wing party (PVV) which gained nine of the 150 seats in the Lower Chamber of Parliament. Important points of the PVV’s manifesto are the lowering of tax rates; implementing tough measures to combat crime and terrorism; paying more attention to the family and education; putting a stop to the immigration of non-Western aliens (Moroccans and Turks); instituting a quota for the acceptance of asylum seekers of 5,000 per year; installing a system of direct democracy with binding referenda; distributing extra money to health care for elderly people; expanding the existing infrastructure; stopping the expansion of the EU with more member states; and expanding the constitution with fundamental animal rights.<sup>117</sup>

The election results and the fragmentation of seats in favour of small parties hamper the rapid formation of a new cabinet. Currently, the Christian Democratic Party (CDA, 41 seats), the Labour Party (PvdA, 33 seats) and the Christian Union (CU, 6 seats) are in the process of forming a new cabinet.<sup>118</sup>

On 30 October 2006 the minister for government reform and kingdom relations rejected 1,200 voting computers, because these computers could not guarantee the privacy of the voter. Consequently, during the elections of 22 November, people had to vote with a pencil and paper in 35 municipalities.<sup>119</sup>

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) deployed an Election Assessment Mission to the Netherlands for the 22 November elections, following an invitation by the Dutch government. It was the first time the OSCE had supervised elections in the Netherlands. The mission included eight election and legal experts.<sup>120</sup> The ODIHR team mainly focused on electronic voting, to increase ODIHR’s comparative knowledge of e-voting systems. The team spoke to journalists, politicians, and also with representatives of the organisation entitled ‘We don’t trust voting computers’.<sup>121</sup>

In its Election Assessment Mission Report, ODIHR states that “the legal framework provides a sound basis for democratic elections. It may, however, be timely to review and consolidate the principal instrument for elections, the Elections Act, inter alia, to

<sup>117</sup> [www.pvv.nl](http://www.pvv.nl), ‘Verkiezingspamflet Groep Wilders/ Partij voor de Vrijheid’, 25 August 2006

<sup>118</sup> Information up to 19 December, *Parlement & Politiek*, ‘Tweede Kamer Verkiezingen 2006 (uitslag)’, November 2006, at <http://www.parlement.com/9291000/modulesf/hg3my2ju>

<sup>119</sup> Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, ‘Brief aan de Tweede Kamer over Stemmachines’, 30 October 2006, at <http://www.minbzk.nl/actueel?ActItemId=99736>

<sup>120</sup> OSCE, ‘OSCE/ODIHR sends team of experts for Netherlands parliamentary elections’, 13 November 2006, at <http://www.osce.org/item/22042.html>

<sup>121</sup> <http://www.wijvertrouwenstemcomputersniet.nl>

embrace in primary legislation voting by electronic machine.”<sup>122</sup> Regarding electronic voting, ODIHR recommended that there should be routine testing of voting machines before elections, also by an entity other than the election authorities. Legislation regulating electronic voting systems should include providing the election results on paper, to enhance the public confidence in voting machines. Furthermore, the report stated that voting system standards should not permit the use of systems which depend for their security on the secrecy of any part of their technical specifications. Finally, ODIHR recommended that more consideration could be given to enhancing the role of the Electoral Council.

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<sup>122</sup> OSCE/ODIHR Election Assessment Mission Report, ‘The Netherlands, Parliamentary Elections 22 November 2006’, Warsaw 12 March 2007.