

NETHERLANDS HELSINKI COMMITTEE

ANNUAL REPORT 2008

This report was compiled by
Claudia Sarti and Emma Oosten
English Revision by Peter Morris
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P.O. Box 11717
2502 AS The Hague
The Netherlands

T +31 (0)70 - 3926700
F +31 (0)70 - 3926550
E office@nhc.nl
I www.nhc.nl

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INTRODUCTION

Since the adoption of the Universal Declaration of Human Rights on 10 December 1948, human rights standards and their implementation have undergone enormous developments. Today, all fields of society are influenced by the spirit of human rights. For the past twenty-two years, the Netherlands Helsinki Committee (NHC) has promoted security, human rights, democracy and the rule of law through various activities in the Organization for Security and Co-operation in Europe (OSCE) region, which spans from Vladivostok to Vancouver. This has proved to be an urgent and very needed task; in many parts of the OSCE region security, human rights, democracy and the rule of law cannot be taken for granted. Indeed, in a range of countries violent conflict and renewed dictatorship has had a very negative impact on human security, freedoms and dignity. This annual report of the NHC provides the reader with an insight into our work, and with an overview of the achievements during the year 2008.

In 2008, Finland held the chairmanship of the OSCE with three objectives: continuity, coherence, and co-operation. The Finnish Chairman-in-Office appointed two Special Envoys. These Envoys assist the Chairman-in-Office with particularly challenging tasks; one was appointed for the issues in Central Asia and the Caucasus, and the other was concerned with election issues. Also, a new Head of Mission at the OSCE's Georgia Mission was appointed.

In December 2008, the Ministerial Council of the OSCE was held in Helsinki. As had happened for the past six years, the OSCE did not manage to come to a ministerial declaration about the construction of regional security. Still, various decisions were adopted at this meeting: concerning early education for Roma and Sinti, combating the trafficking of human beings, and also other decisions. The participating States also reached an agreement on the Nagorno-Karabakh conflict.¹

At the beginning of 2008, elections in several countries led to turmoil in the OSCE region: in Georgia, Armenia and Kyrgyzstan the opposition claimed that the elections were not in accordance with the OSCE standards. In March, the Office for Democratic Institutions and Human Rights (ODIHR) decided not to observe the presidential elections in Russia. Editor-in-chief Arie Bloed of the NHC quarterly Security and Human Rights concluded that "there is a great necessity to organize free and fair elections in all OSCE countries, but at the same time the OSCE's main watchdog and assistance-provider (ODIHR) finds it increasingly difficult to implement its task."²

In 2008, Kosovo declared its independence from Serbia. This historical decision was adopted by the Assembly of Kosovo on the 17th of February. This independence move was strongly opposed by Serbia, the Russian Federation, and several other countries, but the United States and a majority of the European Union (EU) countries recognized the new state.³ Polarized reactions among Kosovo Serbs and Kosovo Albanians were visible, but those clashes were not drastic. The decision to declare independence was

¹ Nina Suomalainen, "Observation on an OSCE Chairmanship: Intentions, challenges and outcomes," in: Security and Human Rights, Vol. 20, 2009, no. 1, pp. 19-24.

² Arie Bloed, "Chronicle: Elections cause turmoil in OSCE region," in: Security and Human Rights, Vol. 19, 2008, no. 2, p. 2.

³ Arie Bloed, "Chronicle: Elections cause turmoil in OSCE region," in: Security and Human Rights, Vol. 19, 2008, no. 2, p. 3.

followed by the fall of the Serbian government and growing tensions between the Serb authorities and the EU.

In August, the armies of Georgia and the Russian Federation clashed with militants and with each other for control of South Ossetia. The conflict escalated into a five-day war between Georgia and the Russian Federation. The Finnish Minister of Foreign Affairs Stubb, the Chairman-in-Office, and the EU Presidency, together sought an agreement between the two states. The OSCE observers had difficulties entering South Ossetia to monitor the humanitarian situation and even the High Commissioner on National Minorities was not allowed into the region.⁴ In the autumn, the experts from ODHIR and the High Commissioner on National Minorities entered the conflict region found that severe human violations had taken place during and after the conflict and the displacement was ongoing. The Russian Federation, which after the Georgian-Russian war recognized South Ossetia as an independent state, demanded a creation of a separate, fully mandated OSCE Mission in South Ossetia. An interview with Shorena Nazghaidze and Marina Chokheli from Union Article 42, the Georgian non-governmental organization with which the NHC cooperates in its human rights strategic litigation programme, covers this topic (see page 43).

The year 2008 saw the 60th anniversary of the Universal Declaration of Human Rights. The NHC celebrated this anniversary in various ways. On 13 November 2008, it organized, in cooperation with the LOS Foundation (National Support Service for Undocumented People), a round-table conference on the rights of illegal persons in the policy of the European Union and the Netherlands. At this conference that was held in the House of Parliament in The Hague politicians, representatives of the various ministries, NGOs and scholars participated.

The NHC was also one of the organizers of the Right Now Festival, which was held on 10 December 2008 aimed at raising awareness of human rights among young people. Chapter 2 contains more details concerning these events.

On 18 December the NHC and others celebrated the 70th birthday of Jan ter Laak with a conference on Civic Diplomacy.⁵ Jan Ter Laak was involved with the NHC from its very beginning and his life was dedicated to improving human rights in many countries around the world. We are sorry to have to share with you the news of his sudden death on 12 March 2009. As member of the executive committee and senior advisor, Ter Laak was the driving force and the source of inspiration for many NHC activities. In the interest of conflict prevention and respect for human rights in Europe and beyond, he always aimed to establish a dialogue between governments, politicians and civil society. He provided great support for human rights activists and victims of human rights violations in inter alia the former Yugoslavia, Russia and Chechnya, Central Asia, and the Gulf Region. The NHC has lost both his tireless inspiration and a remarkable colleague and friend.

The topic of the relation between religion and politics was discussed during the OSCE Human Dimension Implementation Meeting (HDIM). As in previous years, a NHC delegation participated in the HDIM. Ms Hanneke Gelderblom-Lankhout delivered an

⁴ An interview with Knut Vollebaek, the High Commissioner on National Minorities, is available in the second issue of the 2008 Security and Human Rights.

⁵ More information on the Civic Diplomacy conference can be found on page...

intervention on freedom of religion and discussed the return of religion to the political arena. Furthermore, Ms Anne Offermans intervened on the position of Internally Displaced Persons in the Caucasus region and distributed documents on irregular migrants in the Netherlands and other participating States. More information about the recommendations provided in both interventions can be found in the activities chapter in this report.

In December, during the OSCE Civil Society Forum in Helsinki, the NHC, together with the Bulgarian Helsinki Committee and the International Partnership for Human Rights, presented a Statement on Human Rights Defenders. This statement referred to serious abuses against human rights activists which occurred in Belarus, Russia, Serbia, and Uzbekistan. The statement presented recommendations to the OSCE participating states which were urged to stress freedom of expression and the protection of human rights defenders. The column in this report is directed towards this statement (see page 46). In relation to this topic, an outline of a project on Human Rights Defenders in Turkey is available in this report on page 21. This project was conducted between 2005 and 2008. The NHC and three local NGOs working in the field of human rights cooperated in improving the capacity of the local members of these NGOs.

In 2008, attention was also given to the two newest member states of the EU. The European Commission expressed concern in its 2008 reports⁶ about the ongoing corruption in Romania and Bulgaria. Several member states, including the Netherlands, urged that sanctions be applied, as a result of which the European Commission decided to impose financial sanctions against Bulgaria. The NHC project Strengthening of the Bulgarian Judiciary: Implementation of the New Penal Procedures Code. Strengthening the interagency cooperation between Public Prosecutor's Office and other concerning bodies in fighting organized crime and corruption', which started in 2005, was directed towards the establishment of an independent, reliable and efficient prosecution office in Bulgaria. In the interview with Roelof Jan Manschot, the NHC expert, one can read about the struggles and results of this project. In 2008 the project on Establishing an EU Law Documentation Centre for the Judiciary in Bulgaria was completed. This project, which started in 2006, was directed towards the establishment of an EU Law Documentation centre and was conducted together with the National Institute of Justice in Bulgaria and the TMC Asser Institute. A summary of this project and its achieved goals can be found on page 15. In this annual report we also share the results of the project that took place in Romania between 2005 and 2008 and was directed towards the reintegration of juvenile offenders (see page 18).

In 2008 the last MATRA project⁷ of the NHC in one of the new 2004 EU member states came to a close. Between 2004 and 2008 the NHC implemented a successful project in Lithuania directed towards the establishment of children's rights protection and monitoring mechanisms at the local level. In the coming years, the NHC is looking to cooperate with the new candidate states of the EU. Since 2006 the NHC has supported a project by the Law Faculty of Zagreb University in Croatia to preserve the

⁶ Every 6 months an Interim Report from the European Commission to the European Parliament and the Council is issued in Brussels On Progress in Bulgaria under the Co-operation and Verification Mechanism. For more details, see the reports dated 12 February 2008 and 23 July 2008. Those reports are available on http://ec.europa.eu/dgs/secretariat_general/cvm/progress_reports_en.htm

⁷ Since 1994 the Dutch Ministry of Foreign Affairs has promoted the Matra programme directed towards building 'civil society' in the Middle and East European Countries. The Matra programme has been named after the Dutch term for Social Transformation (Maatschappelijke Transformatie).

collective memory regarding the war in the former Yugoslavia in the 1990s. The goal of this project is the creation of an efficient, publicly accessible and sustainable digital database of articles on war crimes in this region.

As in previous years the NHC supported the project ‘Bridging the Gulf,’ directed toward promoting human rights in the Gulf Region. Starting in 2006 the Foundation ‘Bridging the Gulf’ has become independent of the NHC. However, the NHC will continue to provide administrative support to its projects.

NHC projects are possible thanks to the financial support of several donors and the expertise of our extensive network of qualified and motivated experts, and thanks to the support provided by local governments and NGOs from Central and Eastern European countries. We are very grateful for this. Chapter 3 of this report pays attention in detail to a small selection of these partners. Our cooperation has led to a number of achievements in 2008 and contributed to human rights compliance all over the OSCE region. The board and the staff of the NHC are looking ahead to new activities that will be carried out in the spirit of the Universal Declaration of Human Rights, aimed at strengthening human security, together with other partners in the OSCE region.

We hope that this report will provide informative reading for those interested in the work of the NHC.

Tidlo Hofstee,
Chairman of the Netherlands Helsinki Committee

1. NHC OBJECTIVES

The NHC was founded to advance the rule of law at the international and at the country level, under which human rights can be fully realized. The NHC promotes security, human rights, democracy, and conflict prevention in the OSCE region. To meet these objectives, the NHC supports and strengthens the activities of international and national governmental and non-governmental organizations with similar aims, publishes Security and Human Rights, organises conferences and monitors compliance of OSCE commitments in the Netherlands.

The NHC is a non-governmental organization, and cooperates with non-governmental organizations, public bodies and international organizations in the OSCE region, including the Netherlands. The NHC works with and supports various national Helsinki committees in a number of OSCE member states.

Since 2004, the NHC has been a member of Partos, the umbrella association for Dutch non-governmental organizations in the international development cooperation sector. The NHC is a member of the Coalition for the International Criminal Court (CICC), a network of over 200 non-governmental organizations. The NHC participates in the creation of the Netherlands' National Institute for Human Rights. Since 2007 the NHC has been a member of the Broad Human Rights Platform (Breed Mensenrechten Overleg), a coalition of Dutch human rights organizations that aims to promote human rights in Dutch foreign and (since 2008) internal policy.

The activities are developed and coordinated together with donors, experts and partner organizations.

2. ACTIVITIES AND ACHIEVEMENTS IN 2008

2.1 NHC projects

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.

Together with its partner organizations and experts the NHC provides assistance in the following fields:



2.2 Project highlights: results in 2008

A regional meeting of the project **Strategic human rights litigation in the South Caucasus**, directed towards partners from Armenia, Azerbaijan and Georgia, was held in Bakuriani, Georgia. All partners attended the meeting, including the international experts from INTERIGHTS and the PHFHR. A total of 25 participants were present. The meeting lasted 3 days. The partner organizations learned about each other's activities and approaches. The Azeri and Armenians, for example, were motivated by the Georgians to organise activities outside the capital. The lawyers benefited by gaining knowledge of the legal issues and strategies in each other's cases. All participants were informed about the human rights situation in the project countries. In addition, manuals on how to apply to the European Court of Human Rights and how to implement the European Convention of Human Rights; brochures on prison conditions; and lawyers' network bulletins have been published and distributed among the stakeholders.



Participants of regional meeting of the project, visiting Borjomi Spring Park. From left to right: Arman Poghosyan, Haik Alamyanyan, David Khachatryan, Elena Fileeva, Dina Vedernikova, Marina Kvachadze, Marina Chokheli, and Kirsten Hawlitschek

With regard to Azerbaijan twenty-two Azeri human rights lawyers participating in the project, have enhanced their knowledge and skills on the implementation of the ECHR, regarding media rights, the execution of judgments, and the Article 6 right to a fair trial, from the point of view of domestic law as well as international human rights standards. Furthermore, awareness concerning the implementing of the ECHR at the domestic level amongst legal professionals and human rights NGOs was raised at the stakeholders' conference in Baku in December 2008.

The main aim of the project **Establishing an EU Law Documentation Centre for the Judiciary** was to improve the provision of knowledge and information about EU law to the Bulgarian judiciary. In June 2008 the official presentation of a new web-based infrastructure (www.nij.bg) took place at the National Institute of Justice (NIJ) in the presence of representatives of the Dutch Embassy, the Dutch and Bulgarian Ministries of Justice, the Supreme Judiciary Council, the Bulgarian Judges Association and other guests.

The most important achievements of the project are that all Bulgarian lawyers now have access to EU legal information by making accessible and available special dossiers and training materials on current topics of EU law in the Bulgarian language through the NIJ website. The professional capacity of the NIJ as a training centre for the judiciary has been strengthened and new and successful models for the transfer of knowledge have been introduced by the expert meetings that were organized. The NIJ has

established a fully equipped EU Law Documentation Centre, a new library and well-trained staff that are prepared for further new challenges.



The library of the EU law Documentation Center of the National Institute of Justice, Sofia. One of the achievements of the project *Establishing European Union Law Documentation Center for the Judiciary*.

Within the project **Strengthening of the Bulgarian Judiciary**⁸, recommendations for the improvement of the legal framework for criminal proceedings in the pre-trial phase have been elaborated in joint work with Bulgarian prosecutors and they served as a basis for a draft detailed amendment to the Penal Procedure Code and the Special Intelligence Means Act as well as the Law on Extradition and the European Arrest Warrant.

No less than 51 recommendations for the organization and cooperation between prosecution and law enforcement bodies with investigative powers were elaborated. Based on these recommendations the cooperation in investigations before starting the formal pre-trial phase, the use of special investigation means, the European Arrest Warrant, the setting up and organization of a network for international cooperation and the work with joint investigation teams have been elaborated in a General Guideline. A total of 222 prosecutors, 12 investigators (sledovateli), 18 preliminary investigators (doznateli) and 4 representatives of the ministry of the Interior (police officers) have been trained in four specific topics.

The project **Treatment of Violent Offenders in Croatian Prisons and Penitentiaries** addressed the problem mentioned in the title by providing training to security and treatment staff of the Croatian prison administration. In total twelve staff members from the Treatment Department and two staff members from the Social Welfare Centre were trained in Aggression Replacement Training. After each training programme the Croatian participants started work in six prisons. In these training programmes they taught prisoners how to deal with their aggressive behaviour.

Furthermore, twelve persons from the Security Department have been trained in aggression reduction. These trainers also practised by training their colleagues in how to deal with aggressive prisoners. Until the end of 2008 the security staff at the penitentiary in Lipovica– Popovača and the prisons of Bjelovar, Karlovac, Sisak and Varaždin were trained by the Croatian trainers.

⁸ The full title of the project is: Strengthening of the Bulgarian Judiciary. Implementation of the new penal procedures code. Strengthening the interagency cooperation between the public prosecutor's office (PPC) and other concerned bodies in fighting organized crime and corruption.

As an element of the project on **Fostering a Culture of Human Rights**, the NHC partner 'Human Rights Foundation of Turkey' presented a 22-minute long documentary entitled "Tolerance to Torture", produced and directed by Armağan Pekkaya and Umut Kol. The documentary was shown in a number of cities in Turkey and at various national and international festivals. It won the first prize on two occasions (at the 9th Izmir Short Film Festival - best documentary and at the 20th Istanbul Short Film Festival - best documentary). It also won the second prize at the IF Istanbul Independent Movies Festival, besides being a finalist at many other festivals. Through the screenings at various festivals, the documentary reached a large public and thus contributed to raising awareness concerning torture and the prevention of torture.

As part of the project **Human Rights Defenders in Turkey**, the NHC and its three local partners prepared three sets of training materials for the local branches of the human rights organizations with the contribution of international and local experts. As reference and trainers guides four types of books were published and sent to different NGOs and all branches of the Human Rights Association of Turkey, Mazlumder and Amnesty International Turkey. The books were highly appreciated and were used by the organizations. In total 1500 copies of these materials were printed and distributed. The materials are also available on the Internet site of IHD: <http://www.ihd.org.tr>

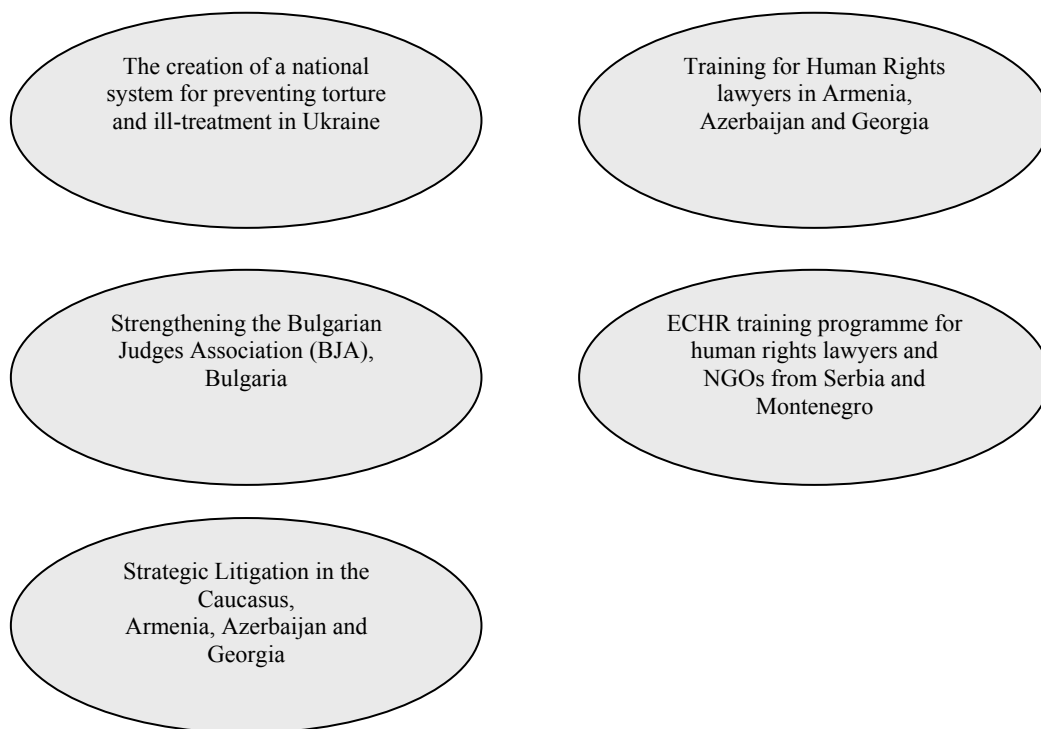
In December 2008 trainers trained by the NHC and the Netherlands Probation Service delivered the first training sessions for local staff of the Probation Department of Romania, as a result of the project **Reintegrating juvenile offenders: Introducing community-based interventions in Romania**. These training activities on Diagnosis and on Community Work were held in Brasov, Covasna, Harghita, Constanta, Galati and Braila. The probation services of Olt, Dolj, Galati, Braila, Vrancea, Bucharest and Dambovită were trained in the implementation of the social skills for minors programme. The Netherlands Probation Service, the Romanian Probation Department and the NHC had developed these three programmes, plus the social skills for adults programme, as part of the project Reintegrating Juvenile Offenders in Romania.

After three and a half years the project **Establishment of Children's Rights Protection and Monitoring Mechanisms on the Local Level In Lithuania** was successfully closed. The project was very efficient in mobilizing local initiatives and motivating professionals and community activists for voluntary work in protecting children's rights. It was also very effective in building a national competence base. The project developed products (a training programme and other methodological tools) that will be extensively used in the future. The funds invested in the project can be regarded as seed money that has been put to efficient use. At the closing conference, in May 2008, the presentation of the project publication 'Protection of children's rights in the community - Practical guidelines for working with children and parents and co-operation between institutions' took place. The book is one of the most important results of the project. The demand for this book is great and the local partner of the NHC Community Change Centre has set up a strict distribution plan to ensure that the book reaches more *seniunijas* (the smallest administrative unit, closest to the local community) and academic institutions.

2.2.1 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 cooperation among judges and prosecutors, and among international organizations representing these professional groups. The NHC also supports train-the-trainer activities 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.

One of the projects in this field, the **Establishment of the EU Law Documentation Centre for the Judiciary (2006-2008)** is reported here in detail. Other NHC projects in the field of the judiciary and support in adapting legislation to European standards are:



Establishment of the EU Law Documentation Centre for the Judiciary (2006-2008)

The National Institute of Justice in Bulgaria (NIJ) asked for support in the establishment of a documentation centre on European Law in order to be able to provide information on the legislation and case law of the European Union, as well as the European Convention on Human Rights, both in Bulgarian and in foreign languages. As a future member of the European Union, the Bulgarian judiciary needed to apply the rules and rulings in their daily practice.

The project team consisted of the NIJ, the TMC Asser Institute and the NHC. The project was coordinated together with the Phare twinning project “Strengthening of the Bulgarian Judiciary. Training of Magistrates and Administrative Staff.”

Objective

The project Establishment of an EU Law Documentation Centre for the Judiciary aimed to improve the provision of knowledge and information about EU law to the Bulgarian judiciary by establishing a new web infrastructure for the National Institute of Justice.

Activities

The project consisted of three stages. The first component was the establishment of an EU Law Documentation Centre. A library system (Softlib) was obtained, installed and implemented, including a dedicated server, in 2008.

Within this project advice has been given on the following issues: staffing, library procedures, shelving arrangements, the acquisition of periodicals and obtaining the official status of an European Information Centre. Furthermore, a subscription to the online information service of Agence Europe has been provided. With the permission of the European Information Association the so-called Quick Guides on topics such as “How to find EC Directives” and “How to use the Official Journal” have been translated into Bulgarian. Moreover, the LIC collection has been supplemented with a donation of 120 books on international law. In May 2007 the EU Law Documentation Centre was officially opened.

The second component of the development of a web-enabled internet and intranet infrastructure was achieved by means of an assessment of the existing ICT infrastructure and website of the NIJ and the experiences and wishes of the staff of the NIJ. On the basis of this assessment the functional and technical specifications of the web-enabled infrastructure were designed in close consultation with the experts from the Phare Twinning project.

The third component was strengthening the capacity of the staff, the trainers and the judiciary. Four members of staff from the Learning and Information Centre participated in the Training Course for legal information specialists at Asser College Europe. The ACE course took place at the TMC Asser Institute, The Hague, in October 2006. As a long-term result, the skills and knowledge acquired will ensure a reliable basis for the development of the research activities planned to be carried out by the Learning and Information Centre at the NIJ in the future.

The NIJ organised two Round-table meetings which were attended by trainers from the NIJ as well as by Bulgarian magistrates. In 2007, a first expert meeting was held on the subject of the European Arrest Warrant. The meeting proved to be good promotion for the NIJ and its Learning and information centre.

The second expert meeting (on 25-27 February 2008) concerned “Issues of judicial cooperation in civil and commercial matters in the EU”. The purpose and aims of this expert meeting were to bring together high-level experts and practitioners, to exchange experiences and to solve practical problems. Furthermore, these aims included preparing training and background materials on the topic and publishing these materials on the NIJ website.

The new Internet-site (www.nij.bg) was successfully demonstrated at the promotional event of June 23 in the presence of representatives of the Dutch Embassy, the Dutch and

Bulgarian Ministry of Justice, the Supreme Judiciary Council and the Bulgarian Judges Association and other distinguished guests.

Conclusion

An additional study visit to the Netherlands was organized for experts of the NIJ and the Bulgarian judiciary and ministry of Justice. The aim of the study visit was for the experts to become acquainted with the 'EURINFRA' model introducing the position of the "EU law courts coordinator" as a successful example of knowledge management within the judiciary. Five experts from the NIJ participated. A Romanian delegation consisting of 5 persons joined the Bulgarian group. This delegation consisted of judges, prosecutors and IT specialists involved in software development programmes for the Romanian judiciary.

Following the three recommendations, the NIJ experts expressed their intention to work further on establishing a network of court coordinators in Bulgaria by adapting the example of their Dutch colleagues.

At the concluding meeting of the EURINFRA study visit the Bulgarian group of experts gave its important findings of the study visit in the form of three recommendations that they would submit to the Bulgarian national judicial authorities:



Signing the contract of cooperation: Mr Stoil Sotirov, president of the Bulgarian Judges Association, (right) and Mr Jos Kösters, executive director of the NHC, at the start of the project 'Strengthening the Bulgarian Judges Association.

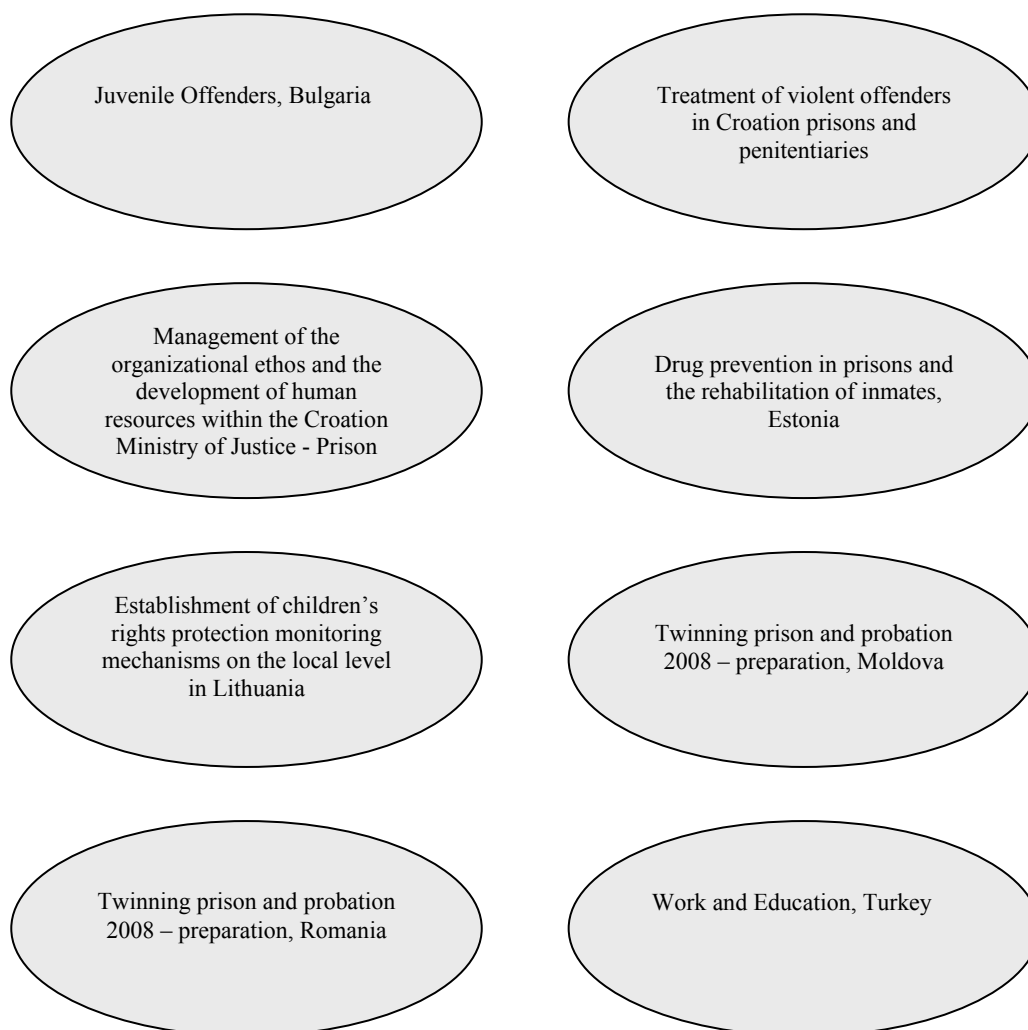
- Each court in Bulgaria should appoint a European law court coordinator on civil and penal matters.
- A database system including national legislation and judgments as well as a European law section with the case law of the European Court of Justice in Luxembourg should be integrated.
- There is a necessity to make the state policy towards the raising of awareness concerning European law uniform in character.

This project has been a successful one, both in terms of organization and of its outcomes. As more than 80% of the courts already have access to the Internet, a large part of the Bulgarian Judiciary is already benefiting from the project results. The same applies to the Prosecution Service which is rapidly catching up.

2.2.2 Professionalization of prison systems, the probation service and the police

The NHC has extensive experience in implementing projects providing guidance and advice to prison staff concerning the practical implementation of international and European norms and standards. The NHC facilitates cooperation and twinning relationships between prison institutions in the Netherlands and those in countries in Central and Eastern Europe. In order to provide knowledge and practical skills concerning the treatment of inmates and the management of prisons, training courses, seminars and working visits are organized. Additionally, the NHC also assists in the establishment of a probation system.

In addition to the project **Reintegrating Juvenile Offenders: Introducing Community-Based Interventions in Romania** reported here in detail, NHC projects in the field of the professionalization of the prison systems, the probation service, the police, and other legal professionals were:



Reintegrating Juvenile Offenders: Introducing Community-Based Interventions in Romania (2005- 2008)

The NHC and the Netherlands' Probation Service were the implementing Dutch organizations. The implementing local organizations in Romania were the Ministry of Justice, the Probation Department and the Centre for Legal Resources. The project was financed by the Ministry of Foreign Affairs in the Netherlands (the Matra Programme⁹) and the Ministry of Justice of Romania.

The key problem

Since the political changes in 1989, Romania has been confronted with a large increase in criminality. One of the reasons for this increase is the economic situation which worsened in the 1990s. Juveniles tend to commit more petty crimes, such as pick-pocketing and small-scale thefts. The penalties for those petty crimes are severe, and as a consequence many juveniles have been sentenced to terms of imprisonment. The prisons in Romania are still overcrowded. Furthermore, the problem of reintegrating a large group of juveniles has arisen. In this situation, probation can be an important instrument for decreasing the number of juveniles who are sent to prison, as it will form an alternative punishment. Probation can also make an earlier release possible.

Probation is still relatively new to Romania. Between 1997 and 2001, several NGOs implemented eleven probation pilot schemes. Given the success and positive results during this period, the Ministry of Justice considered the implementation of a probation system to be feasible within the Romanian criminal justice system and provided the necessary legal framework. Since 2001, the Ministry of Justice has established 41 local probation teams at the level of each County Court. Still, in 2004 the Probation Department in Romania was not yet sufficiently equipped to provide services to juveniles; in particular the Department did not have sufficient experience, know-how, and skills to provide this service. The Department lacked programmes for reintegration, trained staff and training programmes for its staff. Furthermore, facilities to provide community-based interventions were lacking. The community-based interventions are community measures and sanctions that are imposed by the court against offenders under the Criminal Code. They consist of, for example, community service, social reintegration programmes and combined orders.

Objective

This project aims at the effective reintegration of juvenile offenders aged 14-25 years into Romanian society. The project focuses especially on the development of community-based intervention and training for probation staff to enable them to implement the required interventions. The development of these measures is more pressing in light of the ongoing process of significant legislative reform in the field of criminal law. This legislative reform involves the introduction of new alternatives to imprisonment.

The beneficiaries of this project are the Probation Department of the Ministry of Justice, its local probation teams, NGOs in the field of probation, and juvenile delinquents.

⁹ Since 1994 the Dutch Ministry of Foreign Affairs has promoted the Matra programme directed towards the building of a 'civil society' in the Middle and East European Countries. The Matra programme is named after the Dutch term for Social Transformation (Maatschappelijke Transformatie).

Activities

The project started in January 2006 with a preparatory study of the legal framework and existing practice of community-based interventions. A team of experts — made up of specialists from the Dutch Probation Service and the Probation Department — studied the relevant documents in the field of judiciary reform, probation law, and criminal law, and interviewed relevant key persons at the Ministry of Justice, local probation staff, and the judiciary. The team also met with the Romanian Minister of Justice. As a result, the expert team produced an Assessment Report that provides an overview of the legal framework as well as of the policy and practice regarding community service and reintegration programmes. The report formulates, furthermore, concrete proposals as to what specific activities should be undertaken in the project. The second preparatory activity consisted of meetings with the project partners and representatives of the relevant stakeholders, such as local NGOs and the judiciary, which took place in March 2006. These consultations approved the recommendations of the Assessment Report.

The second stage of the project focused on the training programme. Firstly, in May and June 2006, the participants for the training programme were selected. The participants applied as a team because they will implement the pilot programmes as a team during the pilot phase. Secondly, the programme for the introduction of community measures was developed and the training of staff from twelve local probation teams took place (in total 48 people). Four training sessions were organized: one session on community sanctions, two on the topic of reintegration (social skills for minors aged 14-18 years and for adults aged 18-25 years), and one on a diagnosis instrument.

As a result of the training sessions in June and September 2006, all twelve participating probation teams had developed an implementation plan for the pilot phase at the local level. These plans were implemented in the local communities between November 2006 and May 2007. Also a sufficient legal framework was needed to successfully pilot the two community sanction pilot schemes that took place in Bucharest and Vrancea. Therefore, the Minister of Justice issued an order to make these two pilot schemes possible.

In May 2007 experts from the Netherlands Probation Service and 12 participating probation teams evaluated these pilot projects. Based on this evaluation the four programmes were adjusted. The Ministry of Justice accredited the programmes in 2008.

Two experts from the Dutch Probation Service, Frans Clobus and Carla Hermans, trained 12 staff members from the probation teams as trainers.



(left) Mr Ben Zengerink and Ligia Dumitrascu (project leader on behalf of the Probation Department of the Ministry of Justice of Romania) after the concluding meeting of the project with the State Secretary of Justice, Bucharest, September 2008.

They also developed a training manual together with their Romanian colleagues. As a result of this activity the Probation Department is now able to train the staff of its other local probation teams and to introduce the 4 programmes in all 41 regions. The Ministry accredited the training manual in 2008.

Finally, in September 2008 Ben Zengerink (Dutch Probation Service) and Jos Kösters (NHC) met with State-Secretary Theodor Cătălin Nicolescu of the Ministry of Justice to present the project results and discuss the introduction of the programmes for all 41 local probation teams.

Results

The project goal, a successful and sustainable introduction of effective community-based interventions for juvenile offenders in Romania, has been achieved. The four teams of Dutch experts and local probation staff developed three reintegration programmes (two social skills training programmes and a community sanctions programme) and a diagnosis instrument. The content of these four interventions for juvenile offenders was the result of the assessment mission. The programmes were based on Dutch best practices and were adapted for the Romanian probation system. They were piloted by the local probation teams and evaluated. Based on the results of the evaluation the Probation Department accredited them.

Important conditions for sustainability were achieved. The Probation Department presented a plan for the dissemination of the programmes, including a budget (2008/2009) for the training of staff and for implementing the programmes. The Probation Department also accredited the programmes so that they have become standard. The necessary changes to the law that gave the Probation Service the necessary competence for providing community sanctions were implemented.

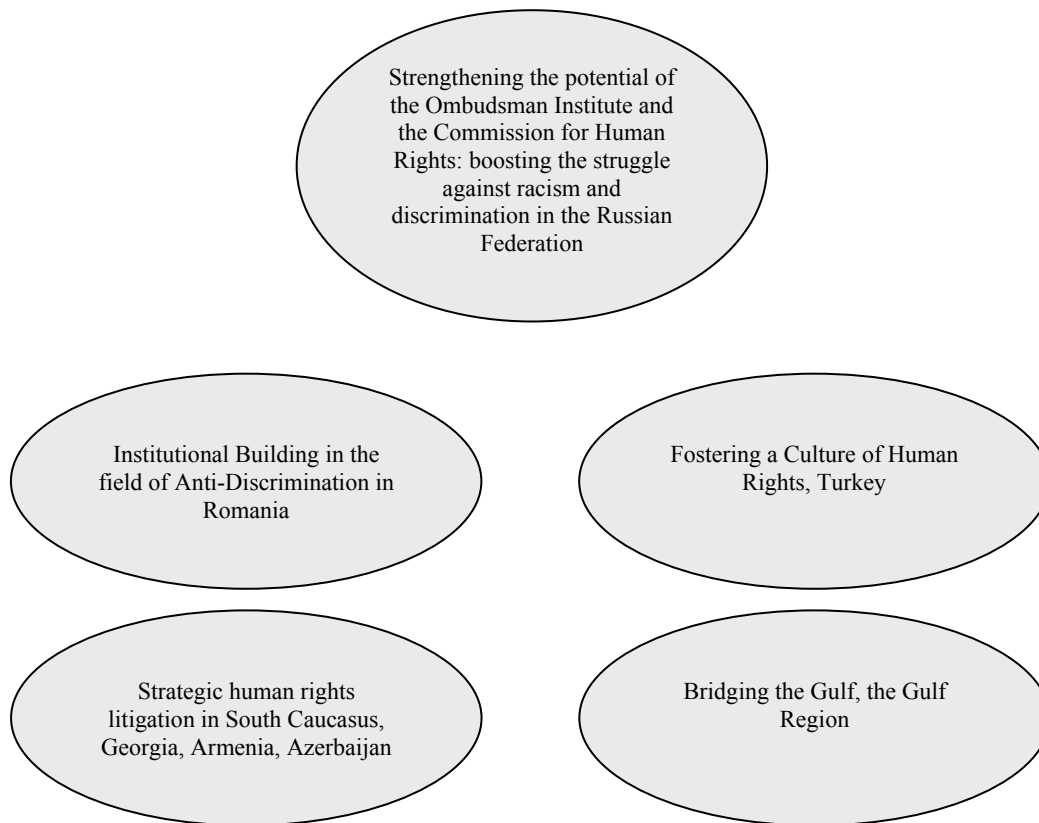
The Ministry of Justice included a budget of approximately € 60,000 for the training of probation staff in the State Budget 2009. The Ministry also ensured that the local probation teams have access to the allocated funds for the training of staff and that sufficient time would be available for staff members to take part in training activities.

The main remaining concern regarding the sustainability of the results is the capacity of the Probation Department to effectively take responsibility for all its tasks and responsibilities according to the law. Overall the capacity of the department is small compared to these tasks and responsibilities. The Dutch project partners have addressed this issue on various occasions with the management of the Probation Department and the political leadership of the Ministry.

2.2.3 Strengthening human rights organizations and institutions

By ratifying the international human rights conventions and adopting democratic constitutions each country commits itself to abide by the rule of law. Violations of human rights still occur in Central and Eastern Europe, however. One of the goals of the NHC is to raise awareness concerning a human rights project directed towards education and training.

The project **Human Rights Defenders in Turkey: Strengthening the local branches of human rights organizations**, which ended in 2008, is described here in detail. The NHC also ran the following projects:



Human Rights Defenders in Turkey: Strengthening the local branches of human rights organizations (2005-2008)

The project on Human Rights Defenders in Turkey was conducted from 2005 to 2008. The staff and members of three Turkish NGOs participated in this project: IHD (the Human Rights Association), Mazlumder and Amnesty International Turkey. The Ministry of Foreign Affairs of the Netherlands financed the project (MATRA programme). Also the Dutch section of Amnesty International contributed by providing international experts.

The key problem

In the 1950s the Republic of Turkey signed and ratified the European Convention on Human Rights. However, the human rights situation in Turkey is often criticized by the various organizations, including local and international human rights organizations and international organizations such as the Council of Europe. In the last few decades the human rights situation has played an important role in the relation between Turkey and the EU. As Turkey aspires to become a member of the EU the reform of Turkish legislation and the implementation of this reform are being monitored by the EU. The European Commission has noticed improvements regarding human rights in Turkey. Among the human rights violations that are reported by national and international organizations are the death penalty, torture and ill-treatment, and problems concerning the freedom of expression, freedom of the press and broadcasting, gender equality, cultural rights, minority rights, etc. Local human rights organizations, such as the Human Rights Association and Mazlumder, monitor violations of human rights. The results are published in reports and are used for lobbying. Furthermore they provide

legal aid to the victims of human rights violations. The organizations, together with Amnesty International, Turkish section, are important for the promotion of human rights in Turkey. Until some years ago, the relations between these NGOs and the Turkish authorities were very strained. Various human rights defenders were targeted, harassed, and intimidated by state officials. Since 2004 talks between the various human rights NGOs and the government have taken place; several legal reforms have been discussed and shortcomings have been pinpointed. Still, the current reports on human rights in Turkey indicate that much remains to be done. Human rights defenders are working in very difficult circumstances, being targeted by nationalistic groups and becoming victims of human rights abuses themselves. At the same time, the NGOs involved in advocating human rights lack a structural system of membership training and organizational development.

Project objectives

The direct beneficiaries of this project are three human rights NGOs: the Human Rights Association (IHD), Mazlumder and Amnesty International Turkey. This project aims to improve the effectiveness and efficiency of those organizations.

The project aims at two goals. First, to increase the capacity of the three human rights organizations; to train the members of their local branches (including board members) in essential elements of human rights work. The local branches play not only an important role in the work of the organizations, but also on the overall level of promoting human rights.

The second goal of the project is directed towards improving knowledge and awareness in Turkish society concerning the importance of human rights work for a democratic society governed by the rule of law. It is important that Turkish society recognizes the work of human rights defenders.

Activities

The activities in the project include a meeting to address the development of a specific strategy for each of the three NGOs, and meetings between the future trainers and training activities for the local members of the participating NGOs (May 2006). Based on the results of this meeting each NGO developed a systematic training programme for local members, including an organizational strategy concerning who and when to train, and how to finance that training.

In June 2006 saw the kick-off of the Event. Between November 2006 and March 2007 three expert teams consisting of experts from the three participating organizations and in total six international experts developed training manuals for the local members of the three organizations. The topics of the manuals are: national and international human rights standards and instruments, human rights monitoring and reporting and internal organizations.

Between December 2006 and June 2007 a total of 60 members of the three organizations were trained as trainers. The aim of this training was to enable them to provide training based on the manuals for the members of the local branches of IHD, Mazlumder and Amnesty International. In total 36 trainers were trained.

Starting in October 2007 until May 2008 the project partners organized 12 seminars. Approximately 250 members of the local branches participated in these seminars. The seminars took place all over Turkey. All seminars were evaluated with the trainers and participants. Overall the results of these evaluations were positive.

Finally, four PR events were organized: one in 2006, one in 2007 and two in 2008. Amnesty International Turkey organized a PR event after the local training of Amnesty International on 26-27 April 2008. For this event all NGOs and related establishments in Malatya, the local media, union representatives and officials were invited. Around 60 persons participated. The event was a success. The president of Amnesty International Turkey and Jos Kösters (NHC) participated in the event. Jos Kösters was interviewed by the local media. The interview was published in some local newspapers. The closing PR event took place in Ankara on 26 May 2008. At this reception the project leader, Levent Korkut, and the Director of the NHC, Jos Kösters, delivered an opening speech. For the reception in which lecturers from universities, members of parliament, ministers, deputies, representatives from NGOs, national and international media representatives, officials from embassies and representatives of human rights organizations participated, the results of the project were invited. It was successful in terms of advocacy. A total of 83 persons participated.

Results

The three participating human rights organizations have improved their capacity to train members of their branches in essential elements of human rights work. First, all three organizations developed a training strategy which was used as a basic document for the training programme developed in the second phase of the project. Second, they developed, with the support of international experts, three training manuals, including an instruction for the trainers, on each of the selected topics. The manuals were tailor-made for each of the organizations, taking into account their specific characteristics, such as their mandate and rules. Third, three teams of 12 trainers were trained to provide the training. The training of these trainers aimed at providing the necessary knowledge, skills and attitude. The trainers should be able to provide interactive training.

Finally, almost all trainers participated in the 12 seminars for the members of the three organizations. The overall number of participants was above the objectives defined in the project proposal. In general the participants evaluated the seminars positively.

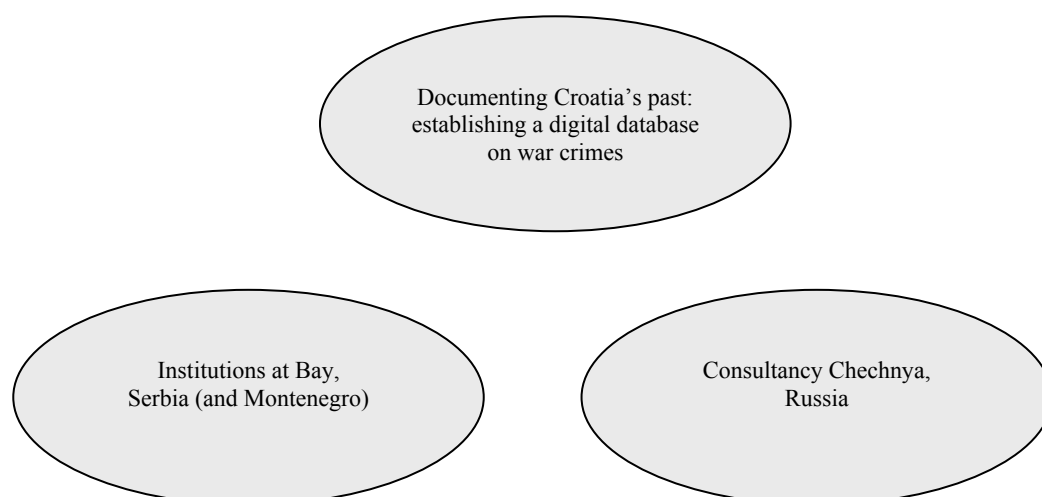
The project contributed to an improved knowledge and awareness in Turkish society of the importance of human rights work in a democratic society governed by the rule of law. The level of participation in the four public relations events was good. A large number of people, representing local and national civil society, authorities and the international community participated in the events. The events also attracted some media coverage locally. In the end only one activity, the seminar in Urfa, was first obstructed by the local authorities. Thanks to the speedy intervention by the participants and the host organization the seminar took place unhindered. On the other hand, one must be realistic about these results as well. The knowledge and awareness of human rights work in Turkish society is generally still low. Much work remains to be done here.

This project enhanced the adherence of participants to universal human rights standards. The reporting and organizational work was very successful. Thanks to this project the participating organizations became closer and more open to cooperation, and all three organizations did to their best to achieve the objectives of the project. The project played an important role for the practice of working together. Besides the fact that the trained trainers worked together and developed common standards, this is the most

important achievement of the project. The other achievement is that discussions during the project activities were conducted in a positive atmosphere and local trainers shared their experiences. Now each organization has its own experts. According to the participating organizations the participants started using the knowledge, skills and attitude they acquired in the seminars.

2.2.4 Contributing to post-conflict rehabilitation

The NHC directed the following projects on contributing to post-conflict rehabilitation:



2.2.5 Reinforcing the establishment of an effective legal aid system

The one project run in this category was a **Study visit by Egyptian Prosecutors**.

Chemonics International Inc. (Egypt) asked the NHC to organize a study visit to the Netherlands for 10 Egyptian Prosecutors. This study visit was part of the USAID-financed project “Administration of Criminal Justice in Egypt”. The study visit took place between 15 November and 22 November and was jointly organized by the Director of the Legal Aid Board in Den Bosch and the NHC.



Egyptian Prosecutors on a study-visit in the Netherlands, November 2008

The aim of the study tour was to contribute to an improved application and knowledge of issues relating to the right to counsel and other human rights issues in the criminal justice context in Egypt. Participants observed how the right to counsel is applied and enforced

in the Netherlands, a civil law country that uses a system similar to the one in Egypt and which is apparently highly regarded in Europe.

During the study visit presentations were given by the Public Prosecution Service, the International Association of Prosecutors, the Police, Lawyers, the Legal Aid Board and the Legal Service Counter. The participants also visited a local court in Den Bosch and the International Criminal Court in The Hague.

During the evaluation session at the NHC all participants expressed their satisfaction with the study visit. The programme gave them a sufficient number of observations and inspirations for new structures and processes in the field of counselling and human rights that could be transferable to Egypt.

2.2 Research, monitoring and lobbying

2.2.1 Participation in the Human Dimension Implementation Meeting, 29 September-10 October 2008, Warsaw, Poland

Since 1993 the Office for Democratic Institutions and Human Rights has been located in Warsaw. Each year the Human Dimension Implementation Meeting (HDIM) is organized in the capital. This meeting is the biggest human rights conference in Europe. Hundreds of representatives from governments and non-governmental organizations gather together to review the implementation of OSCE human dimension commitments. As in previous years, a delegation from the Netherlands Helsinki Committee participated in the HDIM. Two representatives took part in the HDIM sessions that took place from 5 to 8 October 2008.

Intervention on the Freedom of Religion

Hanneke Gelderblom-Lankhout, a member of the NHC, delivered an intervention on the freedom of religion, focusing on the comeback of religion in the political arena, as well as the relationship between religion (the Church) and the state. Gelderblom-Lankhout referred to the recent conflicts in Europe between Muslims and Christians.¹⁰

Intervention on Displaced Persons in the Caucasus

Anne Offermans, a member of the NHC executive committee, delivered her intervention on the topic of Internally Displaced Persons in the Caucasus. Offermans spoke about several conflict territories, presenting the numbers of displaced persons in North and South Ossetia, Georgia, Azerbaijan, Chechenya, Ingushetia and Dagestan. The NHC recommendations which she presented were directed towards the authorities of Georgia, Azerbaijan and the Russian Federation, as well as the authorities of other OSCE states with a displaced population.¹¹

2.2.2 Round-table conference: 'The rights of irregular migrants: the policy of the European Union and the Netherlands,' 13 November 2008, The Hague

In 2008 the Round-Table conference topic was 'The rights of irregular migrants: the policy of the European Union and the Netherlands'. This conference, organized together with the National Support Group for Undocumented Migrants (in Dutch: Stichting LOS, Landelijk Ongedocumenteerden Steunpunt), gathered 60 people from various

¹⁰ For more information about this intervention please see the website of the NHC.

¹¹ All of these recommendations are included on the NHC website.

governmental and non-governmental organizations as well as researchers and politicians. The conference was concerned with the situation of irregular immigrants, a group which is vulnerable to abuse, and their human rights. During the conference an overview of a minimum core of social and economic rights for this group was discussed. This conference was held in the House of Parliament in The Hague on the 13th of November 2008. Ms Tineke Strik, a member of the Senate and representing the Green Left party, hosted the conference.

According to the Research and Documentation Centre of the Netherlands Ministry of Justice (Wetenschappelijk Onderzoeks- en Documentatiecentrum, WODC) there are between 100,000 and 150,000 illegal immigrants in the Netherlands.



Political forum during the Round-table conference, from left to right: Mr Ed van Thijn, Mr Chris Keulemans, Ms Corien Jonker, Ms Pauline Meurs, Ms Tineke Strik.

In the last few years the authorities have stepped up efforts to effectively reduce

irregular immigration, but there are still great numbers of irregular immigrants living in the Netherlands. The irregular immigrants are vulnerable and in danger of being exploited. They run the risk of having to live in poor living conditions. Even though the education and health systems are available for all children living in the Netherlands, the children of illegal immigrants often do not have access to any of them. They fear that these institutions will contact the police as a result of which they might be sent back to their home countries.

The Netherlands has a duty to protect this vulnerable group of people. During the conference the LOS gave an overview of a minimum core of social and economic rights for irregular immigrants proposed by the Parliamentary Assembly of the Council of Europe (PACE). The following rights were proposed:

- Adequate housing and shelter guaranteeing human dignity;
- Emergency health care available to irregular migrants;
- Social protection where it is necessary to alleviate poverty and preserve human dignity. Migrant children should enjoy social protection on the same level as native children.
- Rights in employment, including: fair wages, reasonable working conditions, access to the courts to defend rights, and trade union activity. The state should ‘rigorously’ pursue employers breaching those terms.
- Rights to primary and secondary education for all children.

Since 1998, the Benefit Entitlement (Residence Status) Act (in Dutch: *Koppelingswet*) excludes illegal immigrants from access to the Dutch health system, social security, social housing and so on. In this situation, also in 1998, the *Koppelingsfonds* was created in order to cover the irregular immigrants' costs for a family doctor, medicines, dentists, etc. The Fund, however, does not cover the costs of a hospital stay, psychiatric help or nursing homes. In 2008 this system was under revision, and there is a possibility that in 2009 all care institutions will be given compensation in the form of costs for providing medical treatment for irregular immigrants.

In practice the right to primary and secondary education for all children of irregular immigrants is problematic. Although all children under the 18 years of age have free access to education and according to the law should be able to finish the schooling that they have started before they become 18 years of age, many of them, for various reasons, do not attend school. There are several explanations for this. Firstly, during the registration procedure the parents are asked to present their identity documents or their Social Security Number. However, irregular immigrants do not have such a number. Secondly, some of the immigrants think that they are required to pay school fees, not knowing that the fee is voluntary and not obligatory. Thirdly, the lack of adequate housing or shelter contributes to regular moving. This can result in discontinuity in schooling or can even, in the worst case, lead to the end of education. Furthermore, children who finish their elementary education are not eligible to continue their study after they have reached the age of 18 years.

Two lectures on migration law from the conference, as well as several citations from the dissertation by Manon Pluymen, were published in the Migrantenrecht Forum in December 2008. Tineke Strik focused her article *Irregulars: a border-crossing point of concern* (*Illegalen: een grensoverschrijdend punt van zorg*) on the situation of Dutch illegal immigrants. Pieter Boeles, Professor of immigration law and the chairman of the National Committee on the Rights of Illegal Persons, directed his paper at the basic rights of illegal immigrants.

Jos Kösters, executive director of the NHC, posted a blog on the website of Amnesty International making known to a wider public some conclusions from the round-table conference. This blog (in Dutch) is accessible at <http://www.amnesty.nl/deweekvan/39941>.

2.2.3 OSCE Civil Society Forum, 2-3 December 2008, Helsinki

Jan ter Laak represented the NHC at the OSCE Civil Society Forum organized by the Finnish Committee for European Security (STETE). A statement prepared by the NHC in cooperation with the Bulgarian Helsinki Committee and the International Partnership for Human Rights concerning human rights defenders was presented at this meeting. Some of the recommendations in this statement were made during the Civil Society Forum to the sixteenth Ministerial OSCE meeting. These recommendations were discussed during the OSCE Civil Society Forum in three workshops on human rights, human trafficking and civil society and conflict prevention and resolution. A column based on this statement written by Brigitte Dufour and Ann-Sofie Nyman can be found in this report on page 46.

Following the OSCE CSF, the sixteenth Ministerial OSCE meeting took place. However, the Finnish Chairman-in-Office did not welcome NGO representatives at the opening and closing sessions of this ministerial meeting. In this way, the Chairman-in-Office tried to prevent the Russian-Chechnya Friendship Society — which is forbidden in the Russian Federation — from intervening. The Netherlands Minister of Foreign Affairs publicly protested against this banning of NGOs.¹²

2.2.4 Right Now Festival, the 60th anniversary of the Declaration of Human Rights, 10 December 2008

Together with four other NGOs — Aim for Human Rights,¹³ the National Youth Council (Nationale Jeugdraad),¹⁴ Justitia et Pax¹⁵ and Nederlands Juristen Comité voor de Mensenrechten (NJCM, Dutch Section of the International Commission of Jurists) — the NHC organized a ‘Right Now Festival’ to celebrate the 60th anniversary of the Declaration of Human Rights. This festival took place on the 10th of December in The Hague and was preceded by the human rights online campaign. The website that was created for this occasion gave young people the opportunity to create their own human rights laws. Approximately 1000 young people participated in this festival. Various events accompanied this celebration. It was decided by the organization of the festival to keep the website on the air, so the issue of human rights will be accessible via this medium.¹⁶

2.2.5 Conference on Civic Diplomacy, 18 December 2008

On 18 December, a conference on Civil Diplomacy: diplomacy between the power and human rights was organized in Utrecht at the occasion of Jan ter Laak’s 70th birthday. The lectures were delivered by various speakers working in the field of human rights. The NHC together with the Institute for History of International Relations (Geschiedenis van de Internationale Betrekkingen), and the Netherlands Institute of Human Rights (SIM, Studie- en Informatiecentrum Mensenrechten) initiated this



From right to left Mr Jan ter Laak †, Mr Tiddo Hofstee, Mr Duco Hellema, Ms Beatrice de Graaf (Photo: Tammo Hoeksema)

conference. During the conference, various case studies - including Cuba, Rwanda, and the Russian Federation - were discussed in the light of the question whether NGOs and other civil societies can function as ‘diplomats’ or ‘amateur diplomats.’ The conference started with a status report on civic diplomacy presented by Mr Cees Flinterman, an honorary Professor of Human Rights at Utrecht University and a member

¹² OSCE Magazine, March-April 2009, pp. 6-8.

¹³ For more information see the AHR website: <http://www.aimforhumanrights.nl/>

¹⁴ For more information see the NJR website : <http://www.jeugdraad.nl/>

¹⁵ For more information see the Justitia et Pax website: <http://www.justitiaetpax.nl/jep/index.html>

¹⁶ For more information see the website: <http://www.rightnowfestival.nl/home.php>

of UN committee CEDAW, and a board member of the NHC and the 'Bridging the Gulf' Project. During the congress, Ms Farah Karimi, chairperson of the Bridging the Gulf project and the Director of Oxfam Novib, was interviewed by Mr Duco Hellema, Professor of the History of International Relations at the University of Utrecht, about human rights and civil society in the Gulf Region. Mr Aage Borchgrevink, of the Norwegian Helsinki Committee and the Russian Justice Initiative Foundation, talked about European involvement in human rights in Chechnya. After the break, Mr Peter Morée from the Faculty of Theology at the Charles University in Prague, discussed cases from Cuba, followed by an interview with Mr George Weiss, the founder of Radio La Benevolencija Humanitarian Tools Foundation, conducted by Ms Beatrice de Graaf, a researcher at the Centre for Terrorism in The Hague. Mr Weiss discussed the situation in Rwanda. The final lecture was delivered by Mr Aaron Rhodes, the chairman of the International Campaign for Human Rights in Iran, who spoke about the situation of current civic diplomacy.

The conference ended with a panel discussion led by Beatrice de Graaf. The conference was open to diplomats, representatives of NGOs, researchers and students. A book edited by Beatrice de Graaf and Tammo Hoeksema is in preparation as a result of this meeting and is expected to be published in 2009 by the Netherlands Institute of Human Rights (SIM).

2.2.6 National Institute for Human Rights (NIRM)

In 1992 the United Nations, and in 1993 the Council of Europe, called upon the member states to create a National Institute for Human Rights according to the 1991 Paris Principles.¹⁷ Since 2006, the NHC has been participating in an initiative to create a NIHR that complies with the Paris Principles. Since March 2005, the consortium has consisted of the National Ombudsman, the Dutch Data Protection Authority (College Bescherming Persoonsgegevens), the Dutch Equal Treatment Commission (Commissie Gelijke Behandeling) and the Netherlands Institute of Human Rights (Studie en Informatiecentrum Mensenrechten) at the Utrecht University, has taken the initiative to create the National Institute for Human Rights (NIRM). In April 2007 this consortium offered a report to the Ministry of the Interior and Kingdom Relations. This report, entitled 'Human Rights Connect and Oblige: A National Institute for Human Rights also for the Netherlands' (Mensenrechten Verbinden en verplichten) - is as a plea for creation of the NIRM and highlights the importance thereof.

After several years of negotiations, in July 2008 the government proposed to link the National Institute for Human Rights with the National Ombudsman. However, at this moment in time there is still no formal decision which has been taken by the government on an NIRM. The NHC will participate in the further developments concerning the formalization of an NIRM. The NHC hopes that the institute will receive its official status in 2009.

¹⁷ Press release by the Government, 11 July 2008, see also:
http://www.regering.nl/Actueel/Persberichten_ministerraad/2008/juli/11/Nederland_krijgt_Nationaal_Instituut_voor_de_Rechten_van_de_Mens

2.3 Security and Human Rights - a quarterly journal

Security and Human Rights (until 2007 the Helsinki Monitor), founded in 1990, is a quarterly journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). Security and Human Rights is published by Brill; it presents experts' views on the latest events in the OSCE region and on developments affecting human rights, peace, and security across North America, Europe and Central Asia. The articles stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security. The journal is aimed at readers from NGOs, research institutions and politics, and all those who are involved in guaranteeing security and protecting human rights within the OSCE and beyond.

Topics in 2008

In 2008 the topics discussed quarterly were, for example, the independence of Kosovo, the Georgian-Russian War, the Spanish Chairmanship of the OSCE and relations between the West and Russia. Walter Kemp, Editor of the journal and a Senior Advisor at the UN Office on Drugs and Crime, interviewed Ambassador Knut Vollebæk, who since 2007 has been the OSCE High Commissioner on National Minorities (HCNM). In this interview Vollebæk talked about the importance of the HCNM in the field of conflict prevention. He pointed to the legacy of forced population transfers that took place during the Stalin era and even today are still the cause of various inter-ethnic conflicts in countries in transition. Vollebæk stated that the HCNM has a duty to prevent eventual conflicts that involve the so-called 'non-traditional' 'new' minorities. He stressed that the HCNM needs to work closely with the participating States and the Office for Democratic Institutions and Human Rights in order to prevent religious intolerance and discrimination. He pointed out that most of the countries are multi-cultural and multi-ethnic. Minority issues are thus a sensitive topic; however, those diversities also create various new opportunities and not always new problems. In these diverse societies the HCNM has an important role to play, working on conflict prevention, early warning and early action, and convincing governments that this is an important investment in their security.



Vollebæk was the Chairman-in-Office while in 1999 the OSCE's Kosovo Verification Mission was withdrawn and the Kosovo war started. Almost ten years later, on the 17 February 2008, the Kosovo Assembly adopted a declaration declaring Kosovo's independence from Serbia. This topic was discussed by various experts in the second and third issues of Security and Human Rights.

In the third issue Edwin Bakker wrote an article entitled: The recognition of Kosovo: violating territorial integrity is a recipe for trouble. Bakker provided an insight into Kosovo's independence, but with a rather sceptical point of view. He talked about the influence that this independence has on neighbouring countries such as Macedonia. Bakker referred to the Helsinki Final Act that deals with the territorial integrity of states and their inviolability of frontiers. Bakker questioned the recognition of Kosovo by the EU member states and the USA with regard to the lack of consent from the actual motherland, Serbia, which still regards Kosovo as its province. He warned that a

recognition of this sort could lead to other nationalist leaders and other regions separating, such as Cyprus.

The journal has a homepage on Brill's website: <http://www.brill.nl/shrs>. It is also presented in a brochure on all of Brill's Human Rights journals.

Members of the editorial board in 2008

In 2008 the Editorial board consisted of 15 members:

- Edwin Bakker, a Senior Researcher at the Netherlands Institute of International Relations Clingendael, The Hague
- Arie Bloed, Editor-in-Chief, Former Executive Director of the Constitutional and Legislative Policy Institute, OSJI, Budapest
- Aage Borchgrevink, Norwegian Helsinki Committee
- Krzysztof Drzewicki, Senior Legal Adviser to the OSCE High Commissioner on National Minorities
- Harm Hazewinkel, formerly of the Netherlands Ministry of Foreign Affairs before his retirement and having dealt for many years with the OSCE
- Wilco de Jonge, Executive Director of Press Now
- Walter Kemp, a Senior Advisor at the UN Office on Drugs and Crime
- Julia Koster, Executive Editor, Staff Member of the Netherlands Helsinki Committee
- Timo Lahelma, Roving Ambassador for Central Asia, Ministry of Foreign Affairs, Finland
- Rianne Letschert, Associate Professor of International Law and Victimology and the Research Director at the International Victimology Institute of Tilburg University
- Sabine Machl, Senior Adviser to the OSCE High Commissioner on National Minorities
- Branislav Milinkovic, Special Envoy of Serbia to NATO
- Tiemo Oostenbrink, Executive Secretary of the Advisory Council on International Affairs, Dutch Ministry of Foreign Affairs
- Erika Schlager, Senior Staff Member of the United States Commission on Security and Cooperation
- Andrei Zagorski, Professor at the Geneva Center for Security Police
- Wolfgang Zellner, Deputy Director of the Institut für Friedensforschung und Sicherheitspolitik, Hamburg

3. PORTRAITS: DONORS, EXPERTS AND LOCAL PARTNERS

Each year the annual report pays special attention to the work of a selection of donors, experts and local partners of the NHC. We are grateful for the fruitful cooperation we have with them and gladly present the insights from their perspective in this report.

3.1 Donor portrait

An interview with Mr Paul Geurts who has worked for the Dutch Prison Service for the past twenty years. He started his career as a Social Worker, and since 1982 has been working in various prisons not only in the Netherlands but also in Southern Africa. Between 1982 and 1987, he worked as an orthopaedic workshop supervisor in Zomba Prison in Malawi. Since 1989, he has held various positions in the Netherlands, such as manager of educational and social services in several prisons, deputy governor of Arnhem prison, and governor of two prisons in Zutphen and Zeeland. Since 2007, Geurts has been Director of International Co-operation for the Dutch Prison Service.

You have been working for 20 years for the Dutch Prison Service. What has been the most important work for you there, and what have you learned in during the past 20 years?

It's a difficult question. The easiest answer would be, of course, that the job that I am doing at the moment is the most interesting job I have ever had. So working in international relations is everything I wished for in the last couple of years, and I have a opportunity to do it now. But — running the risk that this will become a commercial for the DPS — I must say that ever since I started working for the DPS, in 1989, I have had, from all my superiors, the opportunity to develop myself in the way I would like to, which means from the middle manager up to the senior manager, up to the manager responsible for the prisons, and up to the international relations that I manage now.

You have represented the Dutch government for the past 2 years while working abroad for the improvement of human rights. Can you tell us about your involvement in the improvement of human rights?

To be honest, I have only done this job – international relations - for some 18 months. Before that I was a prison governor. But still, your question is very correct and very important. It is important to know that the prison service does not have an aliens' policy of its own. We are an agency that works for the Ministry of Justice. Our Ministry of Justice is, of course, part of the Dutch Government, and the Dutch Government has a foreign policy, and part of this policy involves the announcement and improvement of human rights in the world, basically. Of course, we cannot be all over the world. The Ministry of Justice has prioritised several countries. At the moment we have priorities in Croatia, Turkey, Morocco, Bulgaria, Romania, Surinam, the Dutch Antilles (of course), and perhaps soon in Indonesia. But also, a part of the Dutch Aliens' Policy is a contribution that the Dutch government would like to make towards improving the situation in fragile states like Afghanistan and Iraq, and



Mr Paul Geurts

also fragile states in Africa, such as the Democratic Republic of Congo, Sudan, and Burundi. And we would also like to, and indeed are trying to make a contribution towards the improvement of the situation of the fragile states through the improvement of prisons in those countries.

We don't have persons there yet, but our next step will be to try to get prison advisors into those countries.

Looking at human rights as a whole, of course, the Dutch government feels that human rights are very important. The European Community feels that human rights are one of the main topics. And in all the projects that we work on, we always look at human rights situations in prisons, and try, if necessary, to motivate countries to prioritize this aspect. To be honest, it's hardly ever necessary, because the countries that want to cooperate with us are very aware of the need to work on improvements in human rights in their prisons.

You mentioned Romania, Bulgaria, and various other countries outside the European Union in which the DPS is active. It seems to me that the problems that need to be addressed in EU prisons are very different from those outside the EU. The European countries that you mentioned are recovering after 50 years of communist regime. For countries outside the EU, it's a different story. How do you approach countries from the Eastern Bloc?

It is, of course, a very different story in various parts of the world. In the Eastern Bloc, you see very many differences. Some would say that there was no real bloc. If you look at Romania, this country was never really Russia-oriented; it had its own approach. Bulgaria was very Russia-oriented. If you look at the Balkan countries, Tito also had a completely different approach. And if you look at Moldova, it has a completely different, quite Russian approach again.

The main difference at the moment is that human rights are the same around the world. There is no difference in human rights for somebody who lives in Indonesia or somebody living in Russia. So we look upon those problems in the same way. However, the development of human rights in those countries is very different. Bulgaria and Romania have been in the EU for the last two years, but they still have a way to go in improving their systems. And we are trying to assist them in this. For example, in Romania we are helping to decentralize the organization of their system. In Bulgaria, we are working in a juvenile institution and we would like to help them to improve the pedagogical requirements for juveniles. We would also like to share with them new methods that are used in the Netherlands and United States: the cognitive methods. We would like to improve the possibilities for staff to teach pupils to change their behaviour which, again, might help. And in the meantime, what we would like to do throughout these projects — and this is actually the major aim of these projects - is to build contacts between different government systems. It is important that we know each other and that we can work together. We are not there to judge their systems, they are not there to judge; but we would like to share our experiences with them.

Basically, a prison is a simple system: the police arrest somebody; he is sent to prison; we make sure that he is there; he has to stay a certain period according to the decision of the court; and then we send him home again. I say 'he' because the vast majority of prisoners are men. There are not so many women or children, luckily. In that period of

imprisonment (which is usually short, but sometimes quite long), it is important that we try not to damage the prisoners, because that further isolates them from society after the completion of their sentence.

Helping to share our experiences in this matter with other countries is very important, because then you talk about basic human rights. Prison should not make things worse for prisoners, but should protect society.

You worked with the NHC in Bulgaria and Romania and years before the DPS had a project in Poland and the Czech Republic. I wonder if you now see an improvement in those countries. And do you still have contact with those countries?

What you can see in those countries is immense. First of all, it always starts with an attitude. And being part of the European Union helps to become a part of the same European family. And, if you are part of the same family, then you are in a position to talk with each other about the situation you find. What I have already seen, in the 18 months that I've done this job, is that there is, as in Croatia, an immense change in the attitude of the prison staff. What they see is that they have to improve, and they look to see what tools they need to take those steps. And then they ask the Netherlands "please, do you have some tools for us?" We help them with some tools, and then you can see the change actually taking place.

I was in the Czech Republic in the autumn, where I visited several prisons, and of course the buildings are still the same. There is no money available to build new modern prisons. But it is all about the attitude of the staff, and if that changes, then the staff are more willing to listen to prisoners and to be aware that prisoners can also have problems. He is not merely a criminal, but also a person with a family and relations. Because of his prison sentence, he no longer has a job, and his wife and children may have social problems when they have no income or only part of an income. As long as the staff are willing to take that into account and to make a prisoner's life easier, I think we can gain a lot. And I think that this change of attitude comes very quickly in some countries; in some it comes more slowly.

One of our aims is not to work only because of the projects but also to maintain relationships. This means that we invite our partners to conferences. We also see them at international conferences of course. When we or they have a new approach we invite them or they invite us to share these experiences. It's very important to have these relationships.

The countries in Europe have similar systems, in a way. But as already mentioned, you have also worked in South America and Southern Africa. Can you say that you learned something in those countries that you could put into your work in European countries?

Of course I use the experiences from those countries every day. One of the most important things that I learned there was that a prison is a part of society. Which means that if in a certain country the conditions for civilians are very poor, they will be worse for prisoners? The commissioner of prisons in Kenya told me that prisons there were very overcrowded. What happened was that there was a famine in the country and people thought that if they could be sent to prison they would receive some food there. So in order to survive they needed to be imprisoned. As you see, the prison in this way is a part of society, and if there are problems in society those will be visible in the prisons as well.

If a country is poor, its prisons will not be sufficiently supported. Is there not a danger that in countries with financial difficulties, such as Romania or Bulgaria, the improvement of prisons will be neglected?

Of course the financial situation in the country will be visible in all parts of society and also in the prisons. At the same time, in the Netherlands we also have some problems with Dutch prisons. Perhaps our problems are not so significant, not on the same level and not on the same scale as in other countries, but still...

What is your goal as director of international relationships for the next few years? What kinds of problems or strategies would you like to offer to the countries you work with?

We do not have a policy that we are imposing on other countries. A country comes to us with a certain request and then we look to see what we can do to assist. At the same time, we also learn from our partners. It is a mutual cooperation that we are involved in. For example, I have recently been visiting prisons in Turkey. There are prisons with areas where 3 to 21 prisoners live together and have an open space. The prisoners can go outside to the open air anytime they want. Of course, Turkey has more space than we have in the Netherlands. But still we can learn from their ideas on prison architecture. In the Netherlands, there are small cells; the prisons are built to be very practical and efficient, but offer less space moving around.

The DPS has been working with the NHC on various projects. Could you tell us how this cooperation is working?

The NHC provides us with excellent project management support. At the DPS, we do not have people available to manage this type of project and to take care of the financial processes. We have people who know everything about prisons and correctional institutions. However, even if we would train people in how to manage projects, we would not have the insights that the NHC provides us with. The NHC has long experience in Eastern Europe. Let me give you an example. When I come with a project proposal to your director, Jos Kösters, he will advise me and provide various additional pieces of information. He would say, "oh, you go to this country, I know that person there, and if you go to that country you should meet this and that person." This is a bonus and very valuable information that I can receive from the NHC.

So you think there will be more cooperation between the DPS and the NHC?

Yes, I certainly think so. I think it would also be a very good thing if the NHC could also support us in our projects in Southern Africa and other countries outside Europe. We will need a professional organization like the NHC to support us there with their management skills and insights. We hope that we can extend our cooperation. I also hope that the NHC will be able to continue its work for many years to come.

Thank you very much for this interview and for your kind words about the NHC.

3.2 Expert portrait

An interview with Roelof Jan Manschot who has been working in the Dutch judicial system ever since finishing his studies and completing his military service. Manschot worked from 2006 to 2008 as an expert in the Twinning project for Strengthening the Bulgarian Judiciary. In 2004, the European Commission had pinpointed corruption and lacunae in the Bulgarian judicial system, and this project was a necessary preparation for Bulgaria's EU accession. Two main partners of this project were the Federal Ministry of Justice of the Republic of Austria (as a senior partner), and the Ministry of Justice of the Netherlands (as a junior partner). This project aimed at contributing to the development of judicial reform and at the improvement of the legal environment in the Republic of Bulgaria.



Mr Roelof Jan Manschot

Manschot started his career in 1977 as the Public Prosecutor at the First Instance Court of Amsterdam. From 1983-1985, he was an advisor to the Minister of Justice on drug policy and on the prevention of sexual violence against minors and women. In 1985, he became Senior Public Prosecutor at the Court of Appeal of Amsterdam, and in 1995 he became Chief Public Prosecutor of the regional prosecution service at Almelo. From 2001 Manschot held the office of Chief Public Prosecutor for international affairs and was the Netherlands' member of (Pro-) Eurojust. Manschot became Eurojust Vice-President in 2004 and held this office up to his retirement in 2007. Eurojust is an organization that combats cross-border crime. Eurojust has been based in The Hague since 2002.

You worked for thirty years for the Public Prosecution Service in various fields and different functions. Could you tell us how your work there was connected to Human Rights?

Of course in the beginning the work was more on the national level. And we always had the impression that upholding human rights in the Netherlands was at an adequate level. But, we have seen, after some of the verdicts of the Human Rights Court in Strasbourg, that also in the Netherlands there are various fields and reasons for improvement.

Later in life, when my work became more internationally-oriented, as a logical consequence I became more involved in human rights. Already in the 1980s, I participated on behalf of the Netherlands in the United Nations Commission on Drugs in Vienna. I was a member and the vice-president of the Criminal Law Division of the International Association of Judges, which was an association of magistrates from all over the world. I got in touch with colleagues from countries where human rights issues were still quite a problem. When I became the Dutch national member of Eurojust in 2001, pro-Eurojust back then, it became even more imminent to me that human rights was an issue for certain member states. Specifically after the enlargement of the European Union in 2004 and later in 2007, with the former communist countries it was apparent that special attention should be given to issues of human rights. Also among

the first 15 members, there were sometimes problems with several countries, for instance, Italy and Greece. The way in which the police in those countries handled suspects and witnesses was not up to the standards of the European Convention on Human Rights. In Eurojust we also had relations with non-EU countries, like Turkey, the Russian Federation, or the United States, talking for example about Guantanamo Bay. In this context human rights became a professional issue for me as well. Of course, issues like a fair trial, within a reasonable time, and so on, have been beacons right from the start of my professional life.

You mentioned Eurojust. I have read that you were one of the pioneers there. Eurojust became official in 2002, and you were one of its two vice-presidents until 2007. I understand that Eurojust aims to fight organized crime in Europe. Could you tell us about the motives behind the creation of Eurojust and your experience during the pioneering years at Eurojust?

The political motivation for creating Eurojust was that cross-border organized crime was becoming more of a threat towards the European Union; not only concerning the financial interests of the Union, but also in areas like trafficking in human beings, terrorism, organized fraud, etc. To fight this crime, professionals would work together on a bilateral level; the Netherlands would have contacts with Germany, Belgium would have contacts with France, and so on. However, this approach was not sufficient as crime had become very organized, especially as there were no longer any inner frontiers within the European Union. One criminal organization could be simultaneously active in four, eight, or even ten member states. For financial and logistical reasons national prosecutors were not able to get colleagues from ten countries around the table. Eurojust was created to overcome this problem; the added value of Eurojust is that we work on a multinational scale. We have members from ten or fifteen countries around the same table, sometimes including non-EU member states. For example, in cases of trafficking in human beings, source or transit countries are often not EU members, such as Turkey, Iraq, or Ukraine. If you want to tackle a problem in its entirety, then you would like to have all the involved countries working together to tackle the criminal organization as a whole. If you take out one or two pawns, they would be replaced and the organization would simply continue its devastating work.

Eurojust aims to fight crime and corruption. How would Eurojust help in projects like the one that you were involved in with Bulgaria?

In the first place, we helped Bulgaria to prepare for accession to the European Union, which took place on January 1st 2007. Secondly, Bulgaria was recovering from forty, fifty years of a totalitarian system where everyone was afraid of everyone else. We encountered various problems. The first one was if a decision had to be taken during the meetings, your colleagues would look at their superior, and this superior would look at his/her superior. Personal initiative and involvement were lacking. The second problem was that in the old days the police and prosecution service, and even judges, were used by the Party for its goals. It was a twofold experience; on the one hand, the average citizen would not go to the police for help because the police were a threat; on the other hand, the police and prosecution service would not regard themselves as being the servants of the people; they would only follow Party directives. In this situation you would like to change the minds of the people: tell the police, the courts and the prosecutors that they are there to help victims, witnesses, but even suspects with their problems; and give a suspect a fair trial. And also change the minds of citizens so that they can believe that they will be helped, and then there will be a proper investigation.

This kind of unjust approach is of course a problem. In 2004, the European Commission pinpointed corruption and the reform of the judicial system in Bulgaria and Romania as areas of serious concern. Changes in those areas were necessary in order for Bulgaria and Romania to be admitted to the EU. The project with Bulgaria aimed at this concern and was started in 2006. However, in the summer of 2008 the EU published a rather negative report about Bulgaria, highlighting its corruption problem. In addition, a group of EU member states including the Netherlands was pushing for sanctions against Sofia in July 2008. On the one hand, there are projects to help Bulgaria, but, on the other, we hear that corruption is still going on. In the light of the EU's negative report, how do you see this situation?

The first step, of course, is to create awareness amongst the citizens that it is not normal if you have to pay in order to have your case handled by the court as soon as possible or to pay even more if you want to win the case. A decent service should be given by the police, the prosecution service and the courts. Secondly, professionals need to be aware that it is unjustified and unprofessional to accept a bribe, just as it is also unprofessional to recruit people for a job among your friends, family, and your political party. It takes time to raise this awareness. But as long as you don't start this process and don't start adjusting the legislation, the Criminal Code and the Code of Criminal Procedure, nothing will change. I think that we made it clear to the European Commission, for whom we were working on this project, that the level of non-corruption in Bulgaria was not satisfactory. Last year the EU withheld half a billion Euros in subsidies for Bulgaria; saying that Bulgaria will receive that money from the moment it shows that it has reached another, more adequate level concerning the functioning of the judiciary. Still, the problem remains; you meet old colleagues who have been there for thirty years. How are you going to change them?

I think the change in Romania was more radical; they threw out many of the old nomenclature. In this case the disadvantage is that you get young colleagues in high positions; colleagues who don't have the necessary experience for these high positions. Still, a major change takes only one generation. Before the next generation will be nominated they will be fifty years old, have clean sheets and the necessary experience. In Bulgaria it has always been a struggle to try to control the old cronies and crooks who were there when the communist system was in charge. It is of course difficult to put a general prosecutor on trial, because his brother is the head of an antique smuggling gang and all the police reports on that gang miraculously disappear from the desk of the general prosecutor. To prevent any misunderstanding, I am not referring to the current general prosecutor, but to a former one. And as long as you encounter problems in prosecuting a politician for embezzling funds, abusing his/her position, etc., and the government starts to threaten you and to put pressure on you to throw out such a case, you have not solved the problem.

In Romania, there was a very good Minister of Justice, Ms Macovei, who had been a prominent member of the Romanian Helsinki Committee. Still, when she started to assist in the prosecution of a colleague, she was, more or less, forced to leave.

Those changes don't happen in ten or twenty years, but when you don't do anything, nothing will change. As we say, a drop hollows out the stone. Still, even in a country like Italy there are problems. We all know what the problems are in the southern part of Italy. A movie like Gomorra shows how the problem of organized crime is embedded in the country's system, in the city councils, in the provincial councils, in the courts and

even in the Church. It's problematic. I am not saying that there is no improvement, but it does take a long time. And in my personal opinion Prime Minister Berlusconi is not very helpful in improving the situation, as soon as he tries to change the law on fraud to save himself from being prosecuted. That is not a good example for the rest of society.

Eurojust has to follow the hierarchical order within each EU country. What happens when a country like Bulgaria is still corrupt? Could Eurojust help to solve the internal corruption of one country?

Let me explain it this way, Eurojust is not a supra-international instrument, so we cannot issue orders to governments of member states. But in article 7 of the Eurojust decision, there is a provision which says that Eurojust can formally request a member state to instigate a prosecution or to refrain from prosecution. The member state concerned can refuse to do so, but it has to do this in writing and present reasons for such a refusal. Now, if country A or country B will refuse on three occasions and within a short time to cooperate with Eurojust, we will ensure that in the European Council of Ministers questions will be posed by either the Commission or by other member states to the Minister of Justice or the Minister of the Interior of the country concerned: Why does country A or country B not cooperate with Eurojust?

This is the way it works in daily practice and, so far, most of the member states have complied. So it is a beginning, it is a first step. I think we have done well also in anti-corruption cases to get the necessary documents. I am sure that in the example of Mr Berlusconi, if those would be documents about Mr Berlusconi himself, then we would not get them.

So we have to be patient. This drop hollowing out the stone is a Dutch and Austrian drop on Bulgarian ground, and I wonder to what degree influences from those two countries influence the system there. What if the partner is Italy or Spain? How would the changes be different? How much influence does a partner have relating to a change, and how would the change be different if a different partner was involved in the project?

That is a difficult question. In general, you spoke about Spain. I think after the Franco regime disappeared in Spain, it took some years to get rid of some of the old fascist judges and prosecutors. Now, there is a whole new generation with high moral standards concerning their professional life; and I think it will be an asset to send them to Bulgaria. As long as you don't go there with the idea that we are going to tell the Bulgarians what is good for them. It is their system, it is their country, and we want to show that things can be done in different ways. We make suggestions and hope that the Bulgarians will pick up some of the ideas that we give them and pass them on to their colleagues. The project in Bulgaria reached about 260-300 prosecutors and police officers, which is a lot; it is between 1/5 and 1/10 of the total prosecution service.

At the moment I am involved in a project in Palestine. On the West Bank, with a population of two and a half million people, there is a backlog of sixty thousand cases, not because of the fact that people don't want to work, but because they are poorly organized. So we have to help them in reconstructing their own organizations: administratively, logistically, and of course to draft a Code of Criminal Procedure.

They do not have an automated system, and even if they have computers, those are stand-alone computers, and so one city does not know what is happening in the next city - a national system is needed. The problem is why in one city it takes 60 days to come to trial and in the next city 260 days, without any apparent reason for this difference. Those kinds of things you want to know in order to come up with suggestions for improvement, because one of the essences of having a fair trial is that the trial will take place within a reasonable time, according to decisions of the European Court of Human Rights. And if it takes 5 years to come to trial and the accused has been remanded in custody, this contravenes human rights. But, if you are the victim, and the suspect is not in custody, and you have to wait 5 years before the trial starts, it is also against human rights. We make suggestions for improvement and our colleagues decide if they fit within their system. That is the way it should work, and that is in fact what we are trying to operate in many countries.

In Moldova where I participated in a project, the situation was still so bad that when I spoke to younger colleagues in a separate room and started asking questions in depth, you know what they did? They pointed at the walls and the ceiling, because they knew that the room might be bugged. I am speaking about 2008. And there, the drop which hollows out the stone has to be a very big drop, because otherwise nothing will happen.

You talk about cooperation within the EU as Eurojust is directed towards cooperation between prosecutors and between different judicial systems. Do you think that there could be co-operation between E.U Member States and non-Member States?

I would be very hesitant to give information to Belarus, for example, because we all know what is going on there, and on what level the corruption exists. I would not be happy in terrorist cases to pass on information to the Syrian authorities. And you would not share all information with the USA if it concerned prisoners who are held in Guantanamo Bay.

But this might change of course. And you must always work for change. I think one of the added values of Eurojust is that we can, within the E.U, “force” the member states to work together. If we have a case on human trafficking in which both Bulgaria and Romania are involved, as transit or as resource countries, we arrange a meeting at Eurojust. They have to send colleagues who are in charge of those cases there, or should be in charge of a criminal investigation and prosecution. And when they come we show them what is in it for them. If they make the headlines in the Bulgarian or Romanian newspapers because of a successful prosecution in a human trafficking case, for example, it will be good for the country, it will be good for the victims, and it might even be good for their own career. So they will want to cooperate, but not on their own initiative, you have to rally them around the table, and then, quiet often, it does work. The moment things start running, they become enthusiastic and say: ah, this is good! They then reserve some police capacity for investigations, to carry out house searches, to tap telephones, etc. So it can be helpful, but again you have to show them what the added value is, but to be honest I have to show many of my Dutch colleagues as well when they do not have international cases or work on a bi-national level. It is always time-consuming. They have to come to The Hague - which is in the same country - but if you come from Thessaloniki or Helsinki you have to catch a flight and so it will cost you three days to come and go back. They can’t afford the time, unless... And that unless is what you have to demonstrate.

You seem to be full of hope and very persistent.

Well, if you are not full of hope or if you are not persistent, you can't do this job. We used to say in Dutch "the road to hell is paved with good intentions", and we also say "if you don't shoot, you are sure to miss." So...shoot and maybe you shoot one and you miss three, but at least you have shot one; and that is progress. If you want to tackle organized and cross-border crime, this is the way to do it. And of course in the end there may be supranational bodies. It will take time before the politicians will accept supranational bodies, because countries all over the world are not happy to give away their sovereignty concerning internal security. Internal security is holy for every government because that is the way citizens look at it: When things go wrong in the country, we have a government to tackle that the problem. "What, Europe, Brussels? No, my national government!" We have to work on change in our mind to see that international co-operation in this respect can be an added value. And again international cooperation only when there is a minimum level of moral standards, a minimum level of upholding human rights, a minimum level of fair trials and trials within a reasonable time, etc., etc.

Let me now turn to my last question. In 2007 you had your farewell symposium; however, this symposium did not really mean full retirement for you, because as you mentioned at the beginning of this interview, you are still actively working for the EU, the UN, and for Amnesty International. You have wide experience and extensive knowledge. What advice or golden rule do you have for people working in the field of human rights?

The golden rule is firstly, to help colleagues not from a position of superiority but from a position of equality. Secondly, to realize that what you are trying to change is their morals and their system, not yours. They will accept your suggestions within their sovereignty and their system. Thirdly, don't despair. If you are not optimistic about getting results, don't start on it. Still, it is difficult, my project in Moldova made me quite desperate sometimes, but, I am not giving up. Unless I am thrown out of the country by the local dictator, I will try to continue. There is an old saying by our Father of the Fatherland, William of Orange. He said: "You don't have to hope, to start your quest, nor do you have to win to persevere." That is the golden rule, because you never know if you are going to win, or that you going to get results. But, that is not a reason to give up, or to stop your efforts. Continue as long as there is the slightest possibility that it might be helpful. It is not only helpful for the countries that you are working with, but it is also helpful for ourselves — as you learn all the time from each other. Any change for the better in the world, is positive for your own country, because average standards in the world will improve. It is the same with the United Nations, if you don't believe that the UN will be a helpful in any way, don't be a member. But as soon as you are a member, you have to contribute to improving the situation in the world. It's the same for projects like this, you are not part of the project for your own gain or for the salary you earn. No, you are part of the project because it is useful and to share your experience and knowledge with others. And that is the reason why after I have retired, I still continue with various projects. It is something of a pity to throw away the experience that you have gained after so many years. And it also gives me the impression that, although I am retired, I can still be useful to society as a whole. The only difference is that when I am retired, it is I who will decide when, where, and how long - and this luxury position I will not give up.

Thank you very much for this interesting interview. I hope your expertise will be used not only by Amnesty International but also by other organizations. Perhaps by the NHC once again.

3.3 Partner portrait

An interview with Shorena Nazghaidze and Mari Chokheli from Article 42 of the Constitution, a non-governmental, human rights defence organization in Georgia.

Shorena Nazghaidze graduated from the Tbilisi Law Institute in 2002. She is one of the founders of Article 42. She specializes in civil law. She is a board member and a coordinator of one of the projects. Together with her colleagues, she devotes herself to human rights.

Marina Chokheli is the Executive Director of Article 42. She graduated in 2000 from the Tbilisi Law Institute and has worked for Article 42 since 1999. In addition to human rights, her field of expertise covers Civil Law. She is a member of the Georgian Bar Association.

There has been a long collaboration between the NHC and Article 42. Between 2001 and 2005, Article 42 was the NHC's partner in the training project for human rights lawyers. Along with other projects Article 42 is currently working on the project "Strategic Litigation in the Caucasus. The international partners of the project are: the Netherlands Helsinki Committee and INTERIGHTS; regional partners of the project are: the Armenian Institute for Development (Armenia) and the Legal Education Society (Azerbaijan). The project is financed by the Netherlands Ministry of Foreign Affairs and GOF RE of the British Embassy. The project started on January 1, 2006, and will last for five years.

How was Union Article 42 established? And what is the main goal of your organization? What has changed in your work since the beginning?

Article 42 was founded by lawyers in 1997 as a non-governmental, non-political organization. Our mission is to promote the establishment of the rule of law in the country through the introduction of international standards for the defence of human rights and freedoms and to increase legal awareness among the public. The main goals of our organization are to enhance the protection of human rights, to promote the democratic process and to enhance public knowledge of human rights.

The organization started its work in the period when experience in the protection of human rights in Georgia was very miserable. At that time the organization had limited human and financial resources. But now Article 42 is known as one of the famous human rights organizations. The experience and staff of the organization as well as other resources have grown. New contacts with different organizations and institutions have been established.



Members of the Article 42 organization giving legal aid in the region

Could you mention some of the most common violations of human rights that you encounter? How many cases of violation of human rights a year does your organization deal with? Is this a stable number or does it fluctuate? If the number of cases increases or diminishes annually, what do you think influences this change?

Article 42 has been working on European Court of Human Rights (ECtHR) cases since 2002. The first two decisions by the ECtHR against Georgia were in cases prepared and sent by our organization. During these years we litigated human rights cases before the domestic courts as well as before the ECtHR.

According to our organization's experience the most common violations in Georgia are violations of articles 6, 3, 5 of the European Convention on Human Rights and article 1 of Protocol 1.

Our organization prepares and sends about 10 cases a year to the ECtHR.

How does your work influence social changes in Georgia? What do you think is the most important to achieve in the next few years, and how will your work contribute to it?

We try to enhance public knowledge of human rights and to ensure the protection of human rights. We are working on various human rights and constitutional cases free of charge for our clients. Our organization was the first to win a case at the ECtHR. We won cases at the constitutional court as well and they resulted in amendments being made to different Georgian laws. We organize training programmes for lawyers; the main subjects in these training programmes are human rights and constitutional law. We are working on publications as well. More than 20 brochures and leaflets have been prepared by the staff of Article 42.

At this moment we are working on our Plan for the period 2009-2011. But the main goal will still be the protection of human rights. We will continue to litigate cases and other activities targeted towards achieving this goal. Of course we will establish new methods as well.

In August 2008, the conflict in South Ossetia was transformed into a five-day war between Russia and Georgia. This conflict was accompanied by various human rights atrocities and was very strongly opposed by NATO and the EU. How did this conflict influence your work?

More than 400 IDPs (Internally Displaced Persons) and their relatives addressed our organization for legal help. Members of our organization visited these people at the place where they were then located, studied the situation and the evidence. We have prepared and sent about 400 individual applications to the ECtHR which were combined in 70 cases (these activities are financed by the Open Society Georgia Foundation; project title: Legal Assistance of the IDPs in the Litigation before the ECtHR).

How does the cooperation with the NHC influence your work? Have you established significant cooperation with other NGOs and/or institutions at the national and international level?

The main activity implemented by our organization was legal consultations with and the representation of clients before the courts. Among the framework for this project we are implementing different activities not related to the representation of specific clients by the staff of Article 42. Of course, it is significant experience for the organization.

Within the framework of the project we are cooperating with INTERIGHTS, the Armenian Institute for Development and a Legal Education Society. The cooperation on legal issues with INTERIGHTS is very interesting and valuable.

Also, we are cooperating with the Public Defender's Office. The deputy public defender was a member of the project's Steering Committee. This person was involved in the regional meeting organized within the framework of the project.

The project on Strategic Litigation is still ongoing; however, with reference to a previous project in which you were involved together with the NHC, could you tell us how the protection of human rights has improved thanks to this project? And how do you implement what you learned there in your work nowadays?

It is quite difficult to evaluate how the protection of human rights has improved because it takes some time to obtain the results of such efforts, but, we know that around 20 lawyers have been trained in issues involving the protection of human rights. Some of them are working on these cases right now and are quite good defenders of human rights. Of course the experience which we have gained in implementing that project involving working on ECHR cases was very valuable for the organization. We were the first to prepare and win cases before ECtHR and it defined our present place among other NGOs. Our experience is not so great, but we have prepared about 450 ECtHR cases (including cases involving IDPs v Russia) and have already won six of them.

Last year a meeting was organized with Armenia and Azerbaijan, two countries involved in the project on Strategic Litigation in the Caucasus. Was that a successful meeting? How do you find cooperation between neighbouring countries?

I think that the sharing of experience is always very useful for all sides. We are always pleased to have the opportunity to consult with different experts.

This meeting was quite interesting and useful. We were able to learn more about each other's organizations and specific aspects of each other's work. We shared experiences.

Each project has its good and bad sides, and both help us to learn for the future what we can do better. Would you like to name two good and bad sides of the projects that you carried out with the NHC? What would you change in the future?

Two good sides of the first project (the Practical Training Course for Human Rights Lawyers - 2001-2003) were: firstly, the issue itself – the protection of human rights — was timely and very important for our organization as well as for the lawyers and society. Secondly, it was a new experience, the first contact with international experts in these issues for participating lawyers.

The minor side was that, unfortunately, only a few trained lawyers are actively working on ECHR cases.

Two good sides of the Strategic Litigation project in the Caucasus are: firstly, that it is combined; a small number of different activities aim to achieve one goal. Secondly, this project gives an opportunity to cooperate with different lawyers and that helps to cover more cases of human rights violations.

What would you like to accomplish in the next few years? Do you have plans for other projects in the near future?

We are going to continue working on ECHR cases. Also, we will like to establish a training centre for lawyers (mainly for lawyers from various Georgian regions). At the initial stage we will use our own human sources but in the future we would like to invite international experts as well.

What important message do you have for the NHC and other NGOs that work towards the improvement of human rights? Are there any urgent issues that you would like to share with us?

The activities we are implementing together with the NHC are very important for improving the implementation of national and international standards regarding the protection of human rights and fundamental freedoms in national legal practice and national law in this region. Building a network of lawyers' assistance to enhance the skills of lawyers in various regions of Georgia is another important aspect.

We are happy to cooperate with the NHC and our other partners. We hope to continue these relations in order to strengthen our skills and opportunities as defenders of human rights and to ensure the protection of human rights in Georgia.

Thank you for your interview.

3.4 Column

No time for celebration: human rights defenders remain at risk in the OSCE region, by Brigitte Dufour and Ann-Sofie Nyman

Brigitte Dufour is the Director of the Brussels-based International Partnership for Human Rights (IPHR), which assists human rights groups from different countries in making their concerns heard at the international level. She holds diplomas in Law and in Linguistics and Russian Studies from the University of Montréal and has worked for many years as the Deputy Director of the International Helsinki Federation for Human Rights (IHF). She has led several international human rights projects implemented in cooperation with NGOs from different parts of the OSCE region and has extensive experience of international human rights advocacy.

Ann-Sofie Nyman is a Research and Project Development Consultant at the IPHR and is engaged in the development of projects and publications on behalf of this organization. She has master's degrees in political science (Abo Akademi University, Finland) and international peace studies (University of Notre Dame, US) and previously worked as researcher with the IHF, where, among other things, she researched and wrote several reports on current human rights issues in the OSCE region.

The year 2008 marked the 60th anniversary of the UDHR. From the time of its adoption, this landmark document has served as a source of inspiration for the global human rights community, with women and men across the world struggling to make real the visions of the declaration. The contents and spirit of the declaration have also greatly influenced the Helsinki process¹⁸ and the Helsinki movement.

¹⁸ At the OSCE Ministerial Council in Helsinki in December 2008, the participating States reaffirmed their "strong commitment" to the Universal Declaration of Human Rights and recommitted themselves to "act in conformity" with it. They also declared that the rights contained in the declaration "remain relevant." See the Ministerial

Another anniversary in 2008 was the tenth anniversary of the United Nations Declaration on Human Rights Defenders.¹⁹ This declaration was adopted by consensus by the UN General Assembly, which witnesses strong support for its principles and values among the world's states, including the OSCE participating States.

Although not legally binding, the Declaration on Human Rights Defenders helped bring the protection of human rights defenders to a new level by rearticulating existing rights in a way that make them easier to apply to human rights activists and by drawing together provisions from different treaties relevant to the defence of human rights. The declaration also explicitly calls on states to take all necessary measures to protect those engaged in human rights activities against violence, discrimination, threats or pressure. A Special UN Representative on Human Rights Defenders was established in 2000 to support the implementation of the declaration.

The improvements in the international protection of human rights defenders that have taken place in the past decade are indeed a laudable development. The progress made at the international level, however, has often not translated into corresponding improvements in the actual situation of civil society activists who are working to promote human rights at the national and local level. Many governments continue to neglect and violate their international obligations and commitments in this area, and do not only fail to safeguard the rights of individuals to engage in activities on behalf of human rights, but also obstruct and impede such activities.

In the OSCE region and elsewhere, human rights defenders face different obstacles and dangers because of their efforts to promote respect for human rights. They receive threats, they are defamed and stigmatized, and they are placed under surveillance and prevented from travelling abroad. They suffer economic and social reprisals, such as dismissal from their jobs. Their organizations are denied official registration or closed down, their offices are raided and equipment confiscated, and they are denied permission to organize demonstrations to express their concerns. They are subject to arbitrary checks and controls by different branches of authorities and their access to funding is restricted. They are arrested, prosecuted and imprisoned on politically motivated charges after unfair trials. They are tortured and ill-treated and forcibly confined in psychiatric institutions. They are physically attacked or killed.

Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights, 5 December 2008, at http://www.osce.org/documents/mcs/2009/03/36852_en.pdf

¹⁹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly, 9 December 1998 (Resolution 53/144). Available at [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En?OpenDocument)

Family members of human rights defenders are also persecuted as a means of putting pressure on defenders, and even human rights defenders who live in exile outside of their home countries are at risk of harassment. Violations against human rights defenders, and their loved ones, are often perpetrated with impunity, meaning that those responsible are not brought to justice.

In a common trend, authorities question the credibility of human rights defenders or attempt to justify restrictive measures against them by citing concerns about national security or stability. However, in reality, authorities that repress or discredit human rights activity are typically afraid of public scrutiny and criticism. Such fears are also reflected in the policies of the governments of those OSCE countries where human rights defenders are most endangered. These countries include Belarus, Russia, Serbia, Turkmenistan and Uzbekistan.

The Belarusian government has recently sought to demonstrate its willingness to human rights change, e.g. by establishing an advisory council on human rights with civil society representation. However, no real efforts to address core human rights problems have been made, and far-reaching restrictions on human rights activity remain in place.²⁰ Legislation in force, among other things, criminalizes participation in the activities of NGOs that are not registered with the authorities. At the same time, most human rights NGOs continue to be denied registration, and scores of activists have been fined, warned and imprisoned on these grounds in the last few years.²¹

The Russian government has gradually stepped up measures to limit political debate and to control civil society, while also accusing pro-democracy and human rights groups of serving as vehicles for foreign forces seeking to destabilize the situation in Russia. These developments have contributed to fostering mistrust and suspicion against human rights defenders and to increasing their vulnerability to intimidation, harassment and violent attacks. Attacks against defenders are often surrounded by impunity, as illustrated by the case of the 2007 murder of human rights journalist Anna Politkovskaya, where those responsible remain at large.²²

Human rights defenders in Serbia enjoy relative freedom to operate but face hostile attitudes from the authorities, the media and the public. Leading human rights groups and activists – many of whom are women – are frequently subject to media attacks and publicly stigmatized as “enemies,” in particular because of their efforts to ensure accountability for war crimes and to promote minority rights.²³ The authorities have

²⁰ For more information, see for example, Monitoring Report on Developments in Belarus, October 2008 – January 2009, at http://www.en.civicbelarus.eu/novinky/zprava_o_vyvoji_udalosti_v_belorusku_rijen_2008_leden_2009

²¹ See Amnesty International, “Belarus Must Respect Freedom of Association, Assembly and Expression,” 26 August 2008, at <http://www.amnesty.org/en/appeals-for-action/belarus-must-respect-freedom-assembly-association-and-expression>

²² Three men accused of helping to organize the murder of Politkovskaya were acquitted in February 2009. Family, colleagues and human rights defenders criticized the investigation and subsequent trial as deeply flawed. The suspected gunman was not charged, and the investigation failed to identify the person(s) who ordered Politkovskaya's assassination.

²³ See, for example, Norwegian Helsinki Committee, “Helsinki Committee for Human Rights in Serbia threatened and subject to smear campaign,” 9 October 2008, at <http://www.nhc.no/php/index.php?module=article&view=779>;

4. INTERNAL ORGANIZATION

4.1 Board

Prof. M. van der Stoel is the Honorary Chairman of the NHC. In 2008 the NHC's executive committee consisted of the following persons:

- Mr T.P. Hofstee (Chairperson),
- Ms W.T. Thomassen (Vice Chairperson),
- Ms B.T. van Ginkel LL.M. (General Secretary),
- Mr A.M. Daane (Treasurer),
- Ms A. Offermans,
- Mr G.J. van Oven.

Mr J. ter Laak was the senior advisor to the executive committee. He passed away on 12 March 2009 (see page 85).

The executive committee held 5 meetings in 2008. On 1 January 2009 Mr A.M. Daane resigned. Mr G. Visser, a chartered accountant at Dubois & Co Registeraccountants, replaced Mr Daane as treasurer.

In 2008 the committee consisted of the following persons:

- Prof. E.A. Alkema,
- Mr J.G.A. van den Brand,
- Mr A.H. van Delden,
- Mr A.H. Dijckmeester,
- Mr T. Etty,
- Prof. C. Flinterman,
- Ms H.M. Gelderblom-Lankhout,
- Prof. J.E. Goldschmidt,
- Ms S. van Heemskerck Pillis-Duvekot,
- Mr L.J. Hogebrink,
- Gen. (ret.) C. Homan,
- Mr J.H.R.D. van Roijen,
- Mr E. van Thijn,
- Mr B.N.J. Pompen.

On 1 January 2008 the committee was expanded with the inclusion of Dr. E. Bakker, Dr. A. Bloed, and Dr. R. Letschert. Mr Deetman resigned on 1 July 2008. Mr C.F. Stork and Mr G. Huyser resigned on 1 January 2009.

The committee had two meetings during 2008. The subjects discussed at these meetings included, amongst others, 'Freedom of Religion' by Ms Gelderblom-Lankhout and 'Courting Democracy in Serbia' by Ms Nina Tromp, a lecturer at the University of Amsterdam.

4.2 Staff

In 2008 Mr Jos Kösters remained the executive director. Ms Renate Hartman, deputy director, left the NHC on 1 September 2008. Her successor is Ms Kirsten Hawlitschek.

Ms Julia Koster, Ms Kamala Laghate, and Ms Brigitte Dufour remained the project managers. Mr Jochem Beunderman left on 1 January 2008.

Ms Marjolein Boele (office manager) and Ms Meriam Haagstam (secretary) remained in their positions. On 1 January 2008 Ms Carla Huisman (financial officer) joined the NHC.

Ms Antoniya Stoyanova (Annual Report 2007) and Ms Andrea Naphegyi (Annual Report 2007) worked as volunteers. Ms Emma Oosten (Human Rights in the Netherlands 2008) worked as an intern.

4.3 Annual social report

Every year, the NHC presents a Social Report in which the terms of employment, the Dutch Occupational Health and Safety Act, Human Resource Management and the risk inventory and evaluation (RIE) concerning the NHC are presented.

The terms of employment of the NHC are established in the legal status regulations (Rechtspositiereglement), which are based upon the terms of employment of Oxfam Novib of 2007 - 2008. In 2008 the NHC adopted the life-course savings scheme, which is a statutory arrangement that gives each employee in the Netherlands the opportunity to save part of his/her gross salary tax-free in order to finance a period of unpaid leave in the future. Due to moving offices to the Laan van Meerdervoort 70 in February 2008, the policy on working conditions (Arbobeleid) and safety regulations (Calamiteitenplan) were adapted. In 2008, one employee was responsible for providing first aid and emergency evacuations. In 2008 two emergency evacuation exercises took place.

Mr I.F. Dekker remained the confidential representative of the staff members of the NHC.

4.4 Finances

The 2008 Annual Financial Report is edited 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 and is prepared in accordance with the Dutch Guidelines for Annual Reporting 650 for fundraising organizations. A Summary Balance Sheet and an overview of the Income and Expenditures are presented here (Tables 1 and 2).

Table 1 Summary balance sheet

	31-12-08 in euros	31-12-07 in euros
Assets		
Fixed Assets		
Tangible Fixed Assets	9,882	10,964
Current Assets		
Debtors	138,012	141,938
Advances Local Partners		743,039
Liquid Resources	650,666	370,805
	<u>798,560</u>	<u>1,266,746</u>
	31-12-08 in euros	31-12-07 in euros
Liabilities		
Unrestricted reserve	158,015	185,249
Restricted reserve	36,194	63,428
Current liabilities		
Project subsidies	444,893	907,371
Creditors	159,458	116,442
	<u>798,560</u>	<u>1,266,746</u>

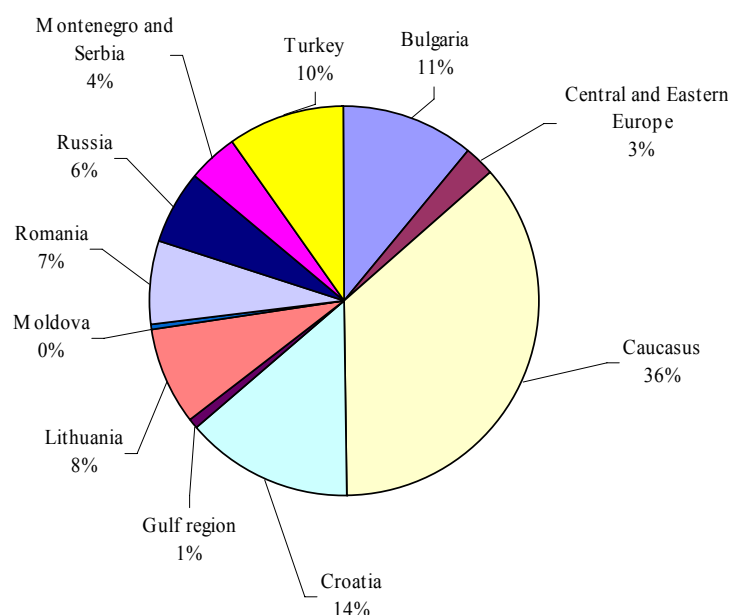
Table 2 Income and expenditure

	2008 in euros	2008 budget	2007 in euros
Income			
Project subsidies	2,371,294	2,121,057	1,873,638
Other income	8,866	5,000	7,506
	<u>2,380,159</u>	<u>2,126,057</u>	<u>1,881,144</u>
Expenditure			
Projects and Programmes	2,261,433		1,556,626
Public Debate and Lobbying	52,411		213,054
Fundraising costs	20,372		24,369
Administration and organization costs	94,669		92,840
	<u>2,428,884</u>	<u>2,175,784</u>	<u>1,886,888</u>
Result of operations	<u>-48,724</u>	<u>-49,727</u>	<u>-5,744</u>

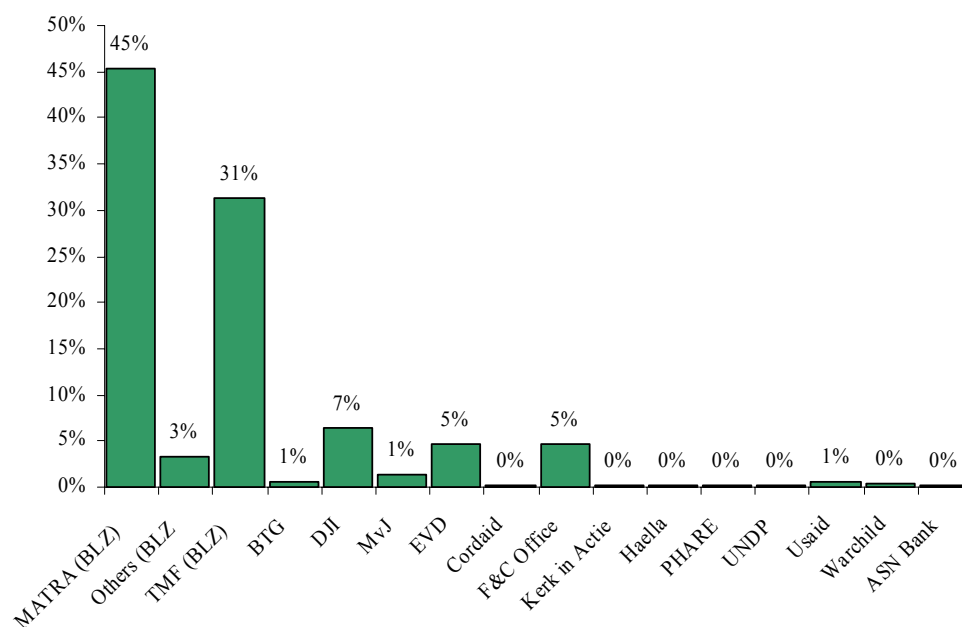
The NHC closed 2008 with a negative Result of Operations of € 48,724, which had been forecasted in the (revised) budget. This negative result is mainly due to the low rates set by the funders. Furthermore, there were several unique disadvantages, such as a bad debt of an NHC partner of € 3,811, subsequent costs for the Security and Human Rights journal 2007 of € 3,729, and costs due to bankruptcy of the International Helsinki Federation of € 4,567.

In 2008 the Netherlands Helsinki Committee managed 33 projects in 11 countries or regions. In terms of project expenditures the southern Caucasus received the largest contribution, followed by Croatia (Figure 1).

Figure 1 Project expenditures per country or region



The MATRA Programme remained the largest source of funding, both in terms of the number of projects that were financed in 2008 and in terms of the funds disbursed (Figure 2 and Table 3).

Figure 2 Project disbursement per funder**Table 3 Number of projects per donor**

Ministry of Foreign Affairs (MATRA Project Programme)	8
Ministry of Foreign Affairs (DGIS, DVB, Embassies)	4
TMF (BLZ)	1
Bridging the Gulf	5
Netherlands Prison Service (DJI)	4
Ministry of Justice	3
Matra Pre-Accession Programme (EVD)	1
Cordaid	1
Foreign & Commonwealth Office	1
Haëlla Stichting	1
Kerk in Actie	1
PHARE (European Union)	1
Chemonics International	1
USAID	1
War Child	1
ASN Bank	1

5. APPENDICES

Appendix I Netherlands Helsinki Committees: Background

The Helsinki Final Act and the creation of the OSCE

In 1975, all European countries (except Albania), the Soviet Union, Canada and the United States, gathered in Helsinki for a Conference on Security and Co-operation in Europe (CSCE), a diplomatic conference facilitating East-West dialogue in Europe. The outcome of this conference was the Helsinki Final Act, a historical international agreement to promote peace and stability in Europe, signed by thirty-five Heads of State. In subsequent years, the CSCE developed into the world's largest regional security organization. In November 1990, heads of state from the CSCE countries gathered for a Summit in Paris, and the CSCE was transformed into an Organization for Security and Co-operation, which today consists of fifty-six states and has its own institutional framework and human rights mechanisms.

Origins of the Helsinki Committees

In order to implement the commitments of the Helsinki Act of 1975, Yuri F. Orlov, a prominent Soviet physicist and human rights activist, announced the formation on May 12th, 1976 of the Moscow Helsinki Group. Together with ten other founders, Orlov set up a watchdog organization based on the provision in the Helsinki Final Act, Principle VII, which establishes the rights of individuals to know and to act upon their rights and duties. Inspired by this example, many other Helsinki watch groups were established in and outside the Soviet Union and the Warsaw Pact. In January, 1977, a group called Charta 77 was established in Czechoslovakia. In September 1979, another Helsinki watch group was formed in Poland. Although the Moscow Helsinki Group was forced to disband in 1982, its pioneering efforts inspired others to draw attention to violations of human rights. In 1982, representatives from Helsinki committees around the world founded the International Helsinki Federation; the NHC was a member until the IHF was dissolved in 2007.

The Netherlands Helsinki Committee

The Netherlands Helsinki Committee was founded in 1987. In its early years, the activities of the NHC focused on monitoring the Helsinki process in the Netherlands and other European countries. Those activities were mostly of an academic nature, such as organizing conferences in the OSCE fields and reporting on OSCE developments. After the fall of the soviet-dominated block, the activities of the NHC increased. Since then the NHC assists various governmental and non-governmental organizations and professional groups that focus on improving human rights in various ways. For example, activities are directed toward providing programmes for judges or prison staff organizations. Monitoring and promoting human rights in the Netherlands remained an element of the work of the NHC up to the present day.

In the quarterly journal of the NHC, Security and Human Rights, formerly Helsinki Monitor, scholars and experts provide their reflections on human rights issues in the OSCE region. Currently, the NHC organizes annual round-table conferences and seminars in which the current debates surrounding the Helsinki process and human rights are shared with a wider public.

The ‘Bridging the Gulf’ initiative, started by the NHC with the intention to stimulate state and citizen attention for human rights and security in the Gulf region, became a separate foundation in 2006, but retained a close connection, mostly administrative, with the NHC.

Appendix II Projects of the Netherlands Helsinki Committee

Current Projects		
Country	Project name	Partners
Bulgaria	Establishing a European law Documentation Centre for the Judiciary	T.M.C. Asser Institute, National Institute of Justice (Bulgaria)
	Strengthening of the Bulgarian Judiciary: Implementation of the New Penal Procedures Code Strengthening the interagency cooperation 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
	Strengthening the Bulgarian Judges Association (BJA)	Bulgarian Judges Association (BJA), Dutch Association for the Judiciary (NVvR)
	Juvenile Offenders	Ministry of Justice Bulgaria, Reformatory in Boychiovtsi, Netherlands Prison Service (DJI and JJI)
Caucasus	Training for Human Rights lawyers in Armenia, Azerbaijan and Georgia	Article 42 – Georgia; INTERIGHTS
	Strategic human rights litigation in the South Caucasus	Article 42 (Georgia), Armenian Institute of Development, Legal Education Society (Azerbaijan), INTERIGHTS, Polish Helsinki Foundation for Human Rights (Poland)
Croatia	Documenting the past of Croatia: establishment of a digital database on war crimes	Faculty of Law – Zagreb University; Netherlands Institute for War Documentation (NIOD)
	Treatment of violent offenders in Croatian prisons and penitentiaries	Croatian Prison Administration and Netherlands Prison Service (DJI), Netherlands Probation Service
	Management of the organizational ethos and development of human resources within the Croatian Ministry of Justice - Prison Administration	Croatian Prison Administration and Netherlands Prison Service (DJI)
Egypt	Study visit	Legal Aid Council (Netherlands)

Current Projects		
Country	Project name	Partners
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
The Gulf	Bridging the Gulf	
Lithuania	Establishment of children's rights protection monitoring mechanisms on the local level in Lithuania	Community Change Centre – Lithuania; Netherlands Child Protection Board
Moldova	Twinning prison and probation 2008 - preparation	Netherlands Prison Service (DJI) and Netherlands Probation Service
Romania	Reintegrating juvenile offenders: Introducing community-based interventions in Romania	Netherlands Probation Service; Ministry of Justice - Romania, Centre for Legal Resources (Romania)
	Assistance for enhancing the respect of human rights in prisons and improving the efficiency of the Romanian penitentiary system- preparation	Netherlands Prison Service (DJI)
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
	Consultancy Chechnya	Serlo (Russian Federation)
Serbia(and Montenegro)	ECHR training programme for human rights lawyers and NGOs from Serbia and Montenegro	Helsinki Committee for Human Rights in Serbia; INTERIGHTS,
	Institutions at Bay	YUCOM
Turkey	Human Rights Defenders in Turkey: Strengthening the local branches of human rights organizations	Human Rights Association (IHD); Mazlumder; Amnesty International Turkey
	Fostering Culture of Human Rights	Human Rights Foundation of Turkey
	Work and Education	Netherlands Prison Service (DJI), Ministry of Justice (Turkey), Ministry of National Education (Turkey)
Ukraine	Creation of a national system for preventing torture and ill-treatment in Ukraine	Kharkiv Human Rights Protection Group

Current Projects		
Country	Project name	Partners
Conferences	Round-table conference on “The Netherlands and the European Values: The Role of the Council of Europe and the European Court of Human Rights”	Haëlla Foundation, Cordaid
	High-Level Conference on Combating Discrimination and Promoting Mutual Respect and Understanding 2007	International Helsinki Federation; Norwegian Helsinki Committee; COC Nederland
	Human Dimension Implementation Meeting 2008	International Partnership for Human Rights
	Round-table conference 'Irregular Migrants'	National Support Service for Migrants (LOS Foundation)
	OSCE Civil Society Forum - 2/3 December 2008 - Helsinki	
Security & Human Rights 2008	Publishing Security & Human Rights (formerly Helsinki Monitor) 2008	

Projects in development		
Country	Project name	Partners
Caucasus	Strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and in consolidating political participation and representation	Article 42 (Georgia), Armenian Institute of Development, Legal Education Society (Azerbaijan), INTERIGHTS, Helsinki Foundation for Human Rights, Memorial (Moscow), International Partnership for Human Rights.
Georgia	Capacity building in support of the rule of law in Georgia	Human Dynamics, UN Association in Georgia
Kazakhstan	Activities in the framework of Kazakhstan's Chairmanship of the OSCE in 2010	Kazakhstan International Bureau for Human Rights
Romania and Hungary	Preventing human rights abuses in places of detention.	Romanian Helsinki Committee (Apador), Hungarian Helsinki Committee
Serbia	Promotion of the Rights of Trafficked Persons in Serbia with Emphasis on Legal Support – A Human Rights-Based Approach	ASTRA (Serbia), La Strada International
	Fund for legal protection of victims of violations of human rights.	Various human rights organizations

Appendix III Donors

Council of Europe	www.coe.int
Cordaid	www.cordaid.nl
European Commission	www.europa.eu.int/comm
European Union, Phare	www.europa.eu.int/comm
EVD International Programmes	www.evd.nl
Haëlla Foundation	www.haella.nl
Hivos	www.hivos.nl
Municipality of The Hague	www.denhaag.nl
Netherlands Ministry of Foreign Affairs	www.minbuza.nl
Netherlands Ministry of Justice	www.justitie.nl
Open Society Institute – Budapest	www.osi.hu
Open Society Justice Initiative (former COLPI) - Hungary	www.justiceinitiative.org
Kerk in Actie	www.kerkinactie.nl

Appendix IV Human Rights in the Netherlands

INTRODUCTION

The Netherlands Helsinki Committee has since many years monitored the application of human rights instruments in the Netherlands. The purpose of this research and monitoring is to raise awareness and, as a result, to improve the actual human rights situation in the Netherlands.

This 2008 report focuses on various human rights topics, inter alia the right to asylum, integration, free speech versus the freedom of religion, discrimination, the right to security, the right to privacy, inhuman and degrading treatment or punishment and human rights developments within Dutch legislation. All these topics were the subject of public attention during 2008.

A new section of this year's report is dedicated to the human rights of children in the Netherlands. Children belong to the more vulnerable groups in society, because they have limited opportunities to change their own situation. During 2008 the Dutch government received a lot of criticism on its policy related to children. The Netherlands Helsinki Committee argues that it is important to raise awareness concerning the human rights situation of children in the Netherlands and in doing so it hopes to improve their situation.

CONSTITUTIONAL CHANGE

Challenges to the constitutionality of legislation

The current Dutch Constitution does not allow tribunals to decide on disputes regarding the constitutionality of legislation. Since quite a number of constitutional rights are also guaranteed in international human rights conventions with direct effect, such as the European Convention on Human Rights, alleged violations of these rights by any legislative act can nevertheless be challenged before a court. The Dutch Constitution, however, includes more constitutional rights than the European Convention on Human Rights and therefore it provides citizens with wider protection. For this reason the Member of Parliament



Buildings of the Dutch government, The Hague, Netherlands (photo: Markus Bernet)

Femke Halsema, the party chairperson of the GroenLinks party, made a proposal for an amendment to the Constitution.²⁸ According to advocates of the amendment, allowing an Act to be tested against the Constitution provides an extra guarantee. Instead of blindly trusting the legislator to respect the Constitution, it will become possible for a court to assess the constitutionality of laws.²⁹ However, according to opponents of this bill proposing to change the Constitution, it is contrary to the primacy of legislative authority. When a constitutional assessment is allowed, they claim that judges can become too politicized.

The House of Representatives adopted the amendment during the first reading with a large majority. The Senate subsequently adopted the amendment during the first reading on the 2nd of December 2008. Since it concerns a constitutional amendment, the Bill will have to pass through the House of Representatives as well as the Senate in a second reading after the parliamentary elections for the House of Representatives, which are scheduled for 2011.

UN Review of Human Rights in the Netherlands

The Universal Periodic Review (UPR) is a process which involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations.³⁰

The UPR took place for the first time in 2008 and the Netherlands was among the first States reviewed. Secretary of State for Justice, Ms Albayrak, led the Netherlands delegation in the main review session.³¹

ASYLUM AND MIGRATION

As a member of several international organizations such as the European Union and the Council of Europe, and as a party to numerous international human rights conventions, amongst which is the International Convention on the Protection of Refugees and Asylum Seekers, the Netherlands is bound by the obligation regarding the protection of asylum seekers. However, the implementation of the right to asylum gives rise to several problems. The policies of the government and the local authorities, the debates taking place in the House of Representatives, and the opinions of the political parties play an important role in the complex process and difficult application of the right to asylum.

²⁸ Eerste Kamer der Staten-Generaal, 'Initiatiefvoorstel-Halsema constitutionele toetsing door de rechter', retrieved on 10 December 2008 from: http://www.eerstekamer.nl/wetsvoorstel/28331_initiatiefvoorstel_halsema

²⁹ NRC Handelsblad, 'Toetsing aan de Grondwet onverwacht iets dichterbij' retrieved on 10 December 2008 from http://www.nrc.nl/binnenland/article2080854.ece/Toetsing_aan_de_Grondwet_onverwacht_iets_dichterbij

³⁰ Office of the High Commissioner for Human Rights, 'Universal Periodic Review', retrieved on 20 June 2009 from: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

³¹ NJCM, 'Mensenrechtenexamen (UPR) Nederland afgerond, maar nog niet voorbij...', retrieved on 16 December 2009 from <http://www.njcm.nl/site/newsposts/show/223>

Asylum procedure

By the end of 2007 the National Ombudsman, Alex Brenninkmeijer, published a report in which he argued that the asylum procedure is not always fair. He criticized the Ministry of Foreign Affairs and the Ministry of Justice. In his opinion the official reports on asylum claimants (in Dutch: *individuele ambtsberichten*), which the Ministry of Foreign Affairs produces, may contain inaccuracies that cannot be filtered out by the current system of control. The National Ombudsman also argued that the civil servants, who use these official country reports to assess a request for asylum, are tendentious and biased.³²

Although the Ministry of Foreign Affairs and the Ministry of Justice did not recognise this criticism,³³ they have been in contact with the National Ombudsman. By September 2008 the National Ombudsman sent a letter to the House of Representatives as several important recommendations in his report had not yet been fully taken up. This includes providing the Immigration and Naturalisation Service with unprocessed information, which is necessary for an unbiased decision by civil servants in assessing requests for asylum. Also the amount of information which the Dutch government protects from being accessible is still too large. By providing accessible information the principle of equality of arms can be met. The National Ombudsman argued that this principle lies at the core of a fair trial.³⁴

There were successful court challenges to discriminatory law and policies restricting the ability of legal residents to bring family members into the Netherlands from non-Western countries. In July 2008 the District Court of Amsterdam ruled that it is unlawful to require only migrants from certain countries, wishing to join their family in the Netherlands, to pass an integration test demonstrating their knowledge of the Dutch language and society before being allowed into the country.³⁵ Meanwhile, the integration test which, according to Human Rights Watch,³⁶ disproportionately affects Moroccan and Turkish Muslim migrants, has been criticized by members of Parliament and Dutch non-governmental organizations like for example 'Art.1' because of the risk of discrimination.³⁷

Earlier in the same month, the District Court of Roermond overturned another law. This law required that residents wishing to bring a non-Dutch marital partner to the Netherlands should earn at least 120% of the minimum wage. The court argued that these income requirements are in violation of the European regulations (2003/86/EC) on family reunion.³⁸ The Ministry of Justice is appealing both judgments.³⁹

³² Nationale Ombudsman, *De geloofwaardigheid van ambtsberichten, hoe asiolverhalen worden bevestigd of ontkracht*. Den Haag: Nationale Ombudsman, 2007, p.6.

³³ Trouw, 'Ombudsman: asielpprocedure verloopt niet eerlijk', retrieved on 4 January 2009 from: <http://www.trouw.nl/nieuws/nederland/article1691980.ece>

³⁴ Nationale Ombudsman, *brief aan Voorzitter Tweede Kamer der Staten-Generaal*. Den Haag: Nationale Ombudsman, 19 September 2008, p.3

³⁵ Rechtbank Amsterdam, 'Bij gezinshereniging geen inburgeringsexamen in buitenland vereist', retrieved on 9 January 2009 from: <http://www.rechtspraak.nl/Gerechten/Rechtbanken/Amsterdam/Actualiteiten/Bij+gezinshereniging+geen+inburgeringsexamen+in+buitenland+vereist.htm>

³⁶ Human Rights Watch, 'The Netherlands events of 2008', retrieved on 10 January 2009 from: <http://www.hrw.org/en/world-report/2009/netherlands>

³⁷ Art.1, 'Internationale kritiek op Wet inburgering buitenland terecht', retrieved on 9 January 2009 from: http://www.art1.nl/artikel/7805-Internationale_kritiek_op_Wet_inburgering_buitenland_terecht

³⁸ Rechtbank Roermond, 'Rechtbank acht Nederlandse inkomenseis voor gezinsvormers in strijd met Europese regelgeving', retrieved on 9 January 2009 from:

General pardon

In May 2007 the Dutch government announced a general pardon for an estimated 27,000 persons who had sought asylum before April 2001, whose asylum claims had been rejected or were still pending, and were still residing in the country.⁴⁰ Officially, illegal residents could request this general pardon until 1 January 2008, afterwards the Immigration and Naturalization Services was no longer allowed to consider any such requests. However, mayors' statements (in Dutch: *Burgemeestersverklaring*), which were necessary if an illegal resident wishes to be considered for a residence permit, were still under consideration by the Immigration and Naturalization Services after 1 January 2008.⁴¹

The House of Representatives demanded that the State Secretary of Justice should stop municipalities from taking further requests for a general pardon into consideration. The State Secretary responded by stating that this will no longer be possible by the 1st of January 2009.⁴² Asylum seekers therefore still had the opportunity to file their request until the end of December 2008.

The State Secretary of Justice tried to prevent the persons subject to these general pardon procedures from filing an objection against any negative decisions, by offering the asylum seekers in question a permit ex officio. The offer would not be processed according to content and therefore lodging an objection would not be possible. However the Council of State, the highest administrative court, did not agree and therefore asylum seekers who did not get an offer can lodge an objection. The Council of State decided this in two cases involving a Turkish and an Iranian asylum seeker.⁴³

Detention of migrants and asylum seekers

On average 20,000 migrants and rejected asylum seekers were put every year in administrative detention during the 2004 – 2007 period, and although the Dutch Immigration and Naturalization Services produced numbers which are considerably lower (about 10,000 cases), the number is still formidable.⁴⁴ According to Amnesty International this policy of detaining irregular migrants and asylum seekers can be ascribed to a growing control and security-oriented approach by governments in relation to irregular migrants. On the 28th of June 2008 Amnesty International published a report which examined to what extent these measures have contributed to a deterioration in the human rights situation in the Netherlands, like the right to privacy or the right to freedom of movement, of irregular migrants and asylum seekers.⁴⁵

<http://www.rechtspraak.nl/Gerechten/Rechtbanken/Roermond/Actualiteiten/Rechtbank+acht+Nederlandse+inkomenseis+voor+gezinsvormers+in+strijd+met+Europese+regelgeving.htm>

³⁹ Human Rights Watch, 'The Netherlands events of 2008', retrieved on 10 January 2009 from:

http://www.hrw.org/en/world-report-2009/european-union#_The_Netherlands_1

⁴⁰ Ministry of Justice, 'Settlement of the estate of the 'old' Aliens Act scheme and the agreement concluded with the Association of Dutch Local Authorities', retrieved on 25 May 2007 from: http://english.justitie.nl/images/Brief%20pardon%20engels_tcm35-68973.pdf

⁴¹ De Telegraaf, 'Pardon loopt door', retrieved on 12 December 2008 from:

http://www.telegraaf.nl/binnenland/2737913/_Pardon_loopt_door_.html

⁴² Elsevier, 'Kamer eist: Albayrak, sluit pardonloket!', retrieved on 12 December 2008 from

<http://www.elsevier.nl/web/10215077/Nieuws/Nederland/Kamer-eist-Albayrak,-sluit-pardonloket.htm>

⁴³ Raad van State, 'Vreemdeling kan bezwaar maken tegen niet krijgen aanbod voor pardonregeling', retrieved on 5 January 2009 from http://www.raadvanstate.nl/pers/persberichten/persbericht/?pressmessage_id=111

⁴⁴ Kalmthout, A.M. Van, Hofstee-van der Meulen, F.B.A.M, Dunkel, F., *Foreigners in European Prisons*, Nijmegen: Wolf Legal Publishers, 2007.

⁴⁵ Amnesty International, *The Netherlands: The detention of irregular migrants and asylum-seekers*. London: Amnesty International, 2008, p.5.

The report also concludes that the Dutch detention policy is in violation of international human rights standards. The detention policy unnecessarily restricts the human rights of irregular migrants and asylum seekers by limiting their movement, privacy, access to meaningful daily activities, leisure, visiting hours and communication with the outside world. Amnesty International is concerned about recent measures that increasingly tend to criminalize irregular migration. Firstly, the measures force people to the margins of society where they may become drawn into criminal activities in order to survive. Secondly, the increasing influence of criminal law in the area of immigration policy stigmatizes irregular migrants as “criminals”, generating stereotype and xenophobic images and attitudes towards migrants and asylum seekers.⁴⁶

At the beginning of 2008 the State Secretary of Justice announced that she will use the International Convention on Children’s Rights as a guide in her policy regarding detention pending expulsion. For that reason the State Secretary changed the policy for families in detention. Children with their parents are no longer allowed to remain in detention for a period longer than 14 days.⁴⁷

However, according to the coalition ‘Children do not belong in detention pending expulsion’ (in Dutch: *Kinderen horen niet in vreemdelingenbewaring*) young single foreign nationals are still being detained.⁴⁸ The coalition estimates that there are about 100 single under-aged foreign nationals in detention pending expulsion every year.

In the spring of 2008 the State Secretary of Justice decided, due to a lack of available accommodation, that young single foreign nationals could be placed in juvenile wings of penitentiaries. The Youth Care Inspectorate, the Education Inspectorate, the Health Care Inspectorate and the Application of Sanctions Inspectorate investigated the security situation within the juvenile wings of the Rijnmond (in the IJssel facility) and Noord-Holland Noord (in Zwaag) penitentiaries.⁴⁹

The Inspectorates concluded in a jointly published report that the situation within the juvenile wing in Zwaag was unacceptable.⁵⁰ They argued that single under-aged foreign nationals should not be held at this location. The situation at the IJssel juvenile wing was acceptable, but substantial improvements were necessary. The inspection departments appreciated all the efforts which had previously been made at both locations, however they argued that according to the size and problems of the target group the results of all the efforts were insufficient.⁵¹ The State Secretary of Justice

⁴⁶ Amnesty International, *The Netherlands: The detention of irregular migrants and asylum-seekers*. London: Amnesty International, 2008, p.5.

⁴⁷ Ministerie van Justitie, ‘Alternatief vreemdelingenbewaring voor gezinnen met kinderen’, retrieved on 5 January 2009 from: <http://www.justitie.nl/actueel/persberichten/archief-2008/80129alternatief-vreemdelingenbewaring-voor-gezinnen-met-kinderen.aspx>

⁴⁸ SAMAH, *Kinderen horen niet in vreemdelingenbewaring*. Amsterdam: SAMAH, 2008, p.1.

⁴⁹ Ministerie van Justitie, ‘Rapporten veiligheid binnen de jeugdafdelingen van PI Noord-Holland Noord en PI Rijnmond’, retrieved on 5 January 2009 from www.justitie.nl/images/20081126_5573149a%20rapporten%20Veiligheid%20binnen%20de%20jeugdafdelingen%20van%20PI%20Noord%20Holland%20Noord%20en%20PI%20Rijnmond_tcm34-150314.pdf

⁵⁰ Inspectie Jeugdzorg, Inspectie voor de Sanctietoepassing, Inspectie voor de Gezondheidszorg en Inspectie van het Onderwijs, ‘*Veiligheid binnen tijdelijke jeugdafdelingen in Penitentiaire Inrichtingen*’, Utrecht, 2008.

⁵¹ Inspectie Jeugdzorg, Inspectie voor de Sanctietoepassing, Inspectie voor de Gezondheidszorg en Inspectie van het Onderwijs, ‘*Veiligheid binnen tijdelijke jeugdafdelingen in Penitentiaire Inrichtingen*’, Utrecht, 2008.

immediately took action.⁵² From the beginning of December 2008 single under-aged foreign nationals were no longer being held at Zwaag. The State Secretary also decided that the long-term use of IJssel is not necessary due to a decrease in capacity. However, the IJssel penitentiary will be used until 2010.

EU migrants

A majority of the Dutch House of Representatives requested the Government to close the Dutch borders for another three years for Romanian and Bulgarian migrant workers.⁵³ Romania and Bulgaria have been members of the European Union since January 2007. In 2007 and 2008 migrant workers from Romania or Bulgaria continued to need a working permit when working in the Netherlands. Since this two-year transition phase was about to end on the 1st of January 2009, it had to be decided whether or not to prolong the transition phase. Should the Romanian and Bulgarian migrant workers be given the freedom of movement and employment or not? The government decided not to open the Dutch borders to Romanian and Bulgarian migrant workers because of the economic crisis, and the consequences for Dutch employment.

Irregular migrants

The number of irregular migrants living in the Netherlands is estimated at 100,000 to 150,000⁵⁴. The Dutch policy towards them is very strict. For the last ten years, the principal means to deal with illegal stays in the Netherlands have been the detention of foreign nationals and to deny them their basic rights, most importantly their rights to shelter and social protection. As a result of this policy, migrants with irregular status are afraid to be detected and therefore keep a low profile. They are difficult to reach and are often not aware of their rights.⁵⁵

Since the enactment of the Benefit Entitlement (Residence Status) Act (in Dutch: *Koppelingswet*), irregular migrants have been excluded from most public services, including the public health insurance system, social services, social housing schemes, payment of taxes and so on. Because of the Netherlands' international human rights commitments, the provisions of the law were formulated so as to ensure that irregular migrants have access to necessary health care, education for minors, and legal counsel.⁵⁶

According to the National Support Group for Undocumented Migrants (in Dutch: *Stichting Landelijk Ongedocumenteerden Steunpunt, LOS*) the Dutch policy of combating illegal stays by means of denying a number of key social and economic rights such as the right to adequate housing and social protection for irregular migrants, relegates migrants with irregular status to a situation that can only be considered inhuman. According to LOS such a policy is unacceptable, especially when it affects

⁵² Ministerie van Justitie, 'Staatssecretaris Albayrak sluit jeugdafdeling PI Noord-Holland Noord', retrieved on 2 December 2008 from: <http://www.justitie.nl/actueel/persberichten/archief-2008/81128staatssecretaris-albayrak-sluit-jeugdafdeling-pi-noord-holland-noord.aspx>

⁵³ Tweede Kamer der Staten-Generaal, 'Vrij verkeer werknemers Bulgarije en Roemenie', retrieved on 5 January 2009 from: <http://www.tweedekamer.nl/kamerstukken/dossiers/vrijverkeerwerknemersbulgarije.jsp>

⁵⁴ Stichting Landelijk Ongedocumenteerden Steunpunt, 'Human Rights for Irregular Migrants in the Netherlands', The Hague: National Support Service for Migrants, August 2008, p.1.

⁵⁵ Stichting Landelijk Ongedocumenteerden Steunpunt, 'Human Rights for Irregular Migrants in the Netherlands', The Hague: National Support Service for Migrants, August 2008, p.1.

⁵⁶ Stichting Landelijk Ongedocumenteerden Steunpunt, 'Human Rights for Irregular Migrants in the Netherlands', The Hague: National Support Service for Migrants, August 2008, p. 1.

vulnerable people like families with children or people unable to return to their countries of origin.⁵⁷

At a local level the municipalities and non-governmental organizations try to offer these people a decent living. However, some politicians argue that illegal residence as well as enabling illegal residence should be actionable. They argue that the Netherlands as a country has the right to deny entry to foreign nationals or to expel persons. During 2008 a member of the People's Party for Freedom and Democracy (in Dutch: *Volkspartij voor Vrijheid en Democratie*, VVD) proposed a motion to deny education to illegal persons who have reached the age of majority. In addition a member of the Freedom Party (in Dutch: *Partij voor de Vrijheid*, PVV) proposed a motion to make illegal residence a criminal offence. Both motions were rejected in October 2008.⁵⁸

Trafficking in Human Beings

In May 2008 the sixth report of the National Rapporteur on Trafficking in Human Beings was presented. This report, which contains an update of numbers until 2006, shows a growing number of victims of trafficking in human beings. The number grew in 2007 as well. The National Rapporteur also commented the disappointing results in tackling human trafficking cases regarding exploitation outside the sex industry, the improvements in the residential status of victims of trafficking in human beings, the formation of the Trafficking in Human Beings Task Force, and the legislation which is being prepared regarding commercial sexual services.⁵⁹

In the Netherlands the *Bureau Van Montfoort* and the *Verwey-Jonker Institute* developed a special monitor at the request of the Scientific Research and Documentation Centre of the Ministry of Justice. The objective of the Trafficking in Human Beings Monitor is to periodically assess the position of trafficked persons in the Netherlands. It is also an important source of information for the House of Representatives.⁶⁰

One of the findings of the monitor which was published in 2008 was that victims of the trafficking in human beings in the Netherlands, for example forced prostitutes, are not sufficiently informed of their rights and opportunities. The victims are usually poorly informed on the progress of the criminal case against their exploiters. Another failure is that the police usually do not inform the victims that they are allowed to consider for three months after the crime has taken place, whether or not to come forward.⁶¹

⁵⁷ Stichting Landelijk Ongedocumenteerden Steunpunt, '*Human Rights for Irregular Migrants in the Netherlands*', The Hague: National Support Service for Migrants, August 2008, p. 4.

⁵⁸ Tweede kamer der Staten-Generaal, 'VVD en PVV bepleiten hardere aanpak illegaliteit', retrieved on 2 December 2008 from: http://www.tweedekamer.nl/kamerstukken/verslagen/kamer_in_het_kort/bepleiten.jsp#0

⁵⁹ Bureau Nationaal Rapporteur Mensenhandel, 'Persbericht Zesde rapportage van de Nationaal Rapporteur Mensenhandel', retrieved on 5 January 2009 from: <http://www.bnrm.nl/rapportages/zesde/>

⁶⁰ Verwey-Jonker Instituut, 'Opvang en bescherming slachtoffers mensenhandel seksindustrie kan beter', retrieved on 10 December 2008 from: http://www.verwey-jonker.nl/actueel/persberichten/opvang_bescherming_slachtoffers_mensenhandel_seksindustrie_kan_beter

⁶¹ Verwey-Jonker Instituut, 'Opvang en bescherming slachtoffers mensenhandel seksindustrie kan beter', retrieved on 10 December 2008 from: http://www.verwey-jonker.nl/actueel/persberichten/opvang_bescherming_slachtoffers_mensenhandel_seksindustrie_kan_beter

Victims of trafficking in human beings have the right to a temporary residence status in the Netherlands if they come forward. The Immigration and Naturalization Department (in Dutch: *Immigratie en Naturalisatiedienst, IND*) is legally obliged to decide within a working day on the acquirement of a residence permit. However, in 80% of cases it takes the Immigration and Naturalization Department longer than this. Besides these difficulties the prosecution service dismisses criminal cases very easily, and thus, the request for a temporary residence permit is declined.⁶² In this process the victims of trafficking in human beings are endangered from two sides, on the one side by their exploiters and, on the other, by not being offered a safe place to hide from their exploiters. In the end this leads to problems regarding the accommodation of victims and it makes it difficult for them to file a complaint regarding such a dismissal.⁶³

A sharp increase in trafficking in women was measured during 2008 by the chief of police in the northern city of Groningen. During 2008 the police received 125 indications of human trafficking. Especially young Bulgarian women were being forced to work as prostitutes. The chief of police argued that these women had been brought to the Netherlands under compulsion and they did not know that they were victims of an unacceptable crime. To address this problem of trafficking in women and forced prostitution the police department decided to address the source of the problem: in Bulgaria. Special teams were established which travel to Bulgaria and track down the traffickers and investigate the social circumstances of families at risk.⁶⁴

INTEGRATION

Integration is still one of the most often debated topics on the political agenda in the Netherlands. The dispute entails several and different positions, *i.e.* government policies, the points of view of the political parties, members of the House of Representatives and NGOs. These viewpoints alternate between moderate and extreme positions. International organizations, the government and local authorities are making efforts to promote the need to integrate and the peaceful cohabitation of Dutch people and immigrant groups, while preserving the democratic values of society.

Integration tests

During the past three years the Dutch government has adopted a series of measures with the aim being to improve the integration of migrants. The most significant was the integration test. In July 2008 Human Rights Watch criticized the Dutch government regarding the integration test being held abroad. Unlike the integration test in the Netherlands, introduced in 2007 and which most foreign nationals must pass in order to obtain long-term residence, the overseas integration test is only applicable to nationals of some countries wishing to join family members or spouses living in the Netherlands.

⁶² Verwey-Jonker Instituut, 'Opvang en bescherming slachtoffers mensenhandel seksindustrie kan beter', retrieved on 10 December 2008 from: http://www.verwey-jonker.nl/actueel/persberichten/opvang_bescherming_slachtoffers_mensenhandel_seksindustrie_kan_beter

⁶³ Verwey-Jonker Instituut, 'Opvang en bescherming slachtoffers mensenhandel seksindustrie kan beter', retrieved on 10 December 2008 from: http://www.verwey-jonker.nl/actueel/persberichten/opvang_bescherming_slachtoffers_mensenhandel_seksindustrie_kan_beter

⁶⁴ Politie Groningen, 'Perspresentatie 2008', retrieved on 10 February 2009 from: http://www.politie.nl/Groningen/projecten/perspresentatie_2008.asp

According to HRW the overseas integration test violates the principle of non-discrimination as enshrined in the European Convention on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. A researcher at Human Rights Watch argued that the Dutch government should wait until the end of the policy review before continuing this discriminatory test. According to Human Rights Watch it is not sufficiently clear why some migrants do have to take an examination and others do not. This difference in treatment could lead to non-Western migrants being alienated from Dutch society instead of integrating into it.⁶⁵

Face-covering clothing

A draft bill by the Party for Liberty (in Dutch: *Partij voor de Vrijheid*) member Geert Wilders in 2007 to introduce a prohibition on wearing a burka was received with little enthusiasm in Dutch politics. The People's Party for Freedom and Democracy (in Dutch: *Volkspartij voor Vrijheid en Democratie*) decided that this bill is not all-embracing, because it only concerns a prohibition on wearing a burka or nikab. The People's Party for Freedom and Democracy decided to submit another bill. This bill also addresses, besides the burka and nikab, a prohibition on wearing a helmet or balaclava in a public place. The new bill has been submitted to the House of Representatives and prohibits the wearing of all kinds of clothing which cover the face in public buildings.⁶⁶ In February 2008 Parliament decided that wearing a burka will be prohibited for civil servants and at schools.⁶⁷

The Dutch Section of the International Commission of Jurists argued that this decision by Parliament is unclear and ambiguous.⁶⁸ The justification and underlying argument for the decision is insufficient. The Committee argued that when looking at the minor problems which face-covering clothing causes, it is not very usual that a limitation meets the required demands, like the ones used by the European Court of Human Rights. The Dutch Section of the International Commission of Jurists argued that Parliament had probably taken the decision just for the sake of appearance.

⁶⁵ Human Rights Watch, *The Netherlands: Discrimination in the name of integration, Migrants' rights under the Integration Abroad Act*, New York: Human Rights Watch, May 2008.

⁶⁶ Trouw, 'VVD dient wetsvoorstel boerkaverbod in', retrieved on 9 January 2009 from: <http://www.trouw.nl/nieuws/article1764833.ece>

⁶⁷ Voorzitter van de Tweede Kamer der Staten Generaal, 'Gelaatsbedekkende kleding', retrieved on 9 January 2009 from: www.minbzk.nl/aspx/download.aspx?file=/contents/pages/91583/kabinetsbesluitgelaatsbedekkendekleding.pdf

⁶⁸ Dutch section of the International Commission of Jurists, 'Standpunt NJCM over kabinetsbesluit gelaatsbedekkende kleding d.d. 8 februari 2008', retrieved on 9 January 2009 from: http://www.njcm.nl/site/press_releases/show/16



Women wearing a niqab during a demonstration in The Hague against a proposed ban on the burqa (AP Photo: Fred Ernst).

DISCRIMINATION

The right to freedom from discrimination belongs to each individual; it lies at the heart of human rights. Article 1 of the Dutch Constitution states that all persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on other grounds whatsoever shall not be permitted.

Equal Treatment Act

The European Commissioner of Social Affairs warned the Dutch government in February 2008 that Article 5.2 of the Equal Treatment Act (in Dutch: *Algemene Wet Gelijke Behandeling*) is not in complete agreement with European regulations from 2000 regarding labour and professions. The European Commissioner warned that Dutch churches and other religious organizations have in some cases the freedom to refuse to appoint certain people due to their religious or sexual preferences.⁶⁹ Following this warning the Minister of Education, Culture and Science clarified in the House of Representatives that the Netherlands does not consent to discrimination. A motion was proposed in the House of Representatives to change the Equal Treatment Act; however, this motion was rejected.^{70 71}

⁶⁹ Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland, 'EU-Nederland laat te veel ruimte voor homo discriminatie', retrieved on 20 January 2009 from: http://www.coc.nl/dopage.pl?thema=any&pagina=viewartikel&artikel_id=2134

⁷⁰ Tweede Kamer der Staten Generaal, 'Motie van het lid Halsema C.S.', retrieved on 20 January 2009 from: <http://parlando.sdu.nl/>

⁷¹ Tweede Kamer der Staten Generaal, 'Handelingen 2007-2008 nr67, pag. 4707-4707.', retrieved on 20 January 2009 from: <http://parlando.sdu.nl/>

Discrimination against homosexuals

By the end of December 2008 the Minister for Foreign Affairs defended gay rights at a special event of the United Nations against discrimination of homosexuals. On the initiative of the Netherlands and France the other United Nations member states were called upon to stop violations of the human rights of homosexual, lesbian and transgender persons.⁷² This statement was signed by 66 of the 192 United Nations member states.⁷³

The Minister of Education, Culture and Science promoted human rights for homosexuals as well. He attended the Gay Pride Parade in Amsterdam to emphasise the importance of gay emancipation.⁷⁴ On 5 March 2008 Princess Maxima, the wife of Willem-Alexander, Prince of Orange, the heir apparent to the throne of the Netherlands, attended the signing of an agreement for the acceptance of homosexuals.⁷⁵

While several Ministers were defending gay rights the Dutch police registered a striking 150 cases of violence against homosexuals in the first half of 2008. Most of the suspects (86%) were autochthonous persons. In the Netherlands violence motivated by discrimination was never previously registered. The number of cases was six times higher than the Ministry of the Interior and Kingdom Relations and the Ministry of Justice expected⁷⁶. From this time onwards the computer programs of the police have been adapted so that the police can register violence motivated by discrimination.

FREE SPEECH AND ITS LIMITS

The Netherlands is a country in which the balance between free speech and prohibitions on insulting and (incitement to) hatred and discrimination is rather fragile. Due to the opening of borders and globalization a society is growing in which many different population groups start looking for their identity and culture, while living together with people with very different background, convictions and beliefs whose freedom is guaranteed as well. In particular the question of the level of protection against criticism, insult and (calls for) discrimination that religious beliefs or the groups confessing these beliefs should receive has become a focus of debate.

Prohibition on contemptuous blasphemy

The Christian Democratic Appeal's (in Dutch: *Christen Democratisch Appèl*, CDA) Minister of Justice Hirsch Ballin proposed to Parliament that a prohibition on contemptuous blasphemy (Article 147 of the Penal Code) should be decriminalised. Instead of the prohibition on contemptuous blasphemy Hirsch Ballin was planning to extend Article 137c of the Penal Code on insult and discrimination. A majority of all the

⁷² De Telegraaf, 'Verhagen verdedigt homorechten', retrieved on 20 January from:

http://www.telegraaf.nl/buitenland/2822179/_Verhagen_verdedigt_homorechten_.html?cid=rss

⁷³ Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit COC Nederland, 'Historische dag: 66 landen steunen Verklaring', retrieved on 20 January 2009 from:

http://www.coc.nl/dopage.pl?thema=any&pagina=viewartikel&artikel_id=2713

⁷⁴ De Volkskrant, 'Minister Plasterk toegejuicht op Gay Pride', retrieved on 20 January 2009 from:

http://www.volkskrant.nl/binnenland/article1051529.ece/Minister_Plasterk_toegejuicht_op_Gay_Pride

⁷⁵ De Volkskrant, 'Plasterk vaart mee met Gay Pride', retrieved on 20 January 2009 from:

http://www.volkskrant.nl/binnenland/article510025.ece/Plasterk_vaat_mee_met_Gay_Pride

⁷⁶ Police academy of the Netherlands, 'Rapportage homofobie geweld periode 1 januari – 1 juli 2008', retrieved on 20 January 2009 from:

http://www.radar.nl/sites/radar/files/site11_20081118093227_1_rapportagehomofobgeweld1.pdf

non-confessional parties had argued for years that it is not in agreement with the principle of equal treatment to provide religious people with more legal protection by prohibiting contemptuous blasphemy than others. At the beginning of 2009 a two-thirds majority of the House of Representatives spoke out in favour of dropping the prohibition on contemptuous blasphemy.⁷⁷

Islamic extremism

According to the Racism & Extremism Monitor (in Dutch: *Monitor Racisme & Extremisme*) the problem of 'Islamophobia' increased considerably during 2008. This does not merely concern the so-called 'negative climate of opinion' regarding Muslims, but also an increase in violence regarding this community and more tolerance regarding offences against Muslims. The eighth report of the Racism & Extremism Monitor also argued that in the Netherlands freedom of speech and protection against discrimination are off-balance. The reason for all this lies in the changes in the political climate and the side-effects of policies against terrorism and radicalization.⁷⁸ The Racism & Extremism Monitor argued that the character of right-wing politics in the Netherlands has changed considerably by on the one hand an increase in extreme right-wing street activism and on the other hand the manifestation of the increasingly more outspoken Party for Freedom (in Dutch: *Partij voor de Vrijheid*).⁷⁹ According to the Racism & Extremism Monitor around one thousand people participate in right-wing street activism, like for example in the organizations 'Blood & Honour' and 'Voorpost'. The researchers at this Monitor do not agree with the General Intelligence and Security Service (in Dutch: *Algemene Inlichtingen- en Veiligheidsdienst, AIVD*), which concluded that right-wing street activism is a limited problem. According to these researchers the definition of the General Intelligence and Security Service is too limited.⁸⁰

In its third report on the Netherlands the European Commission against Racism and Intolerance (ECRI, the Council of Europe's independent human rights monitoring body specialised in combating racism, racial discrimination, xenophobia, anti-Semitism and intolerance) also recognizes the problem of 'Islamophobia'. The ECRI suggests that the Dutch government should prohibit every public expression of 'Islamophobia'. The ECRI argues that the Dutch government should take a leading role in stimulating the debate on integration, it should act upon the use of racist and xenophobic use of language in politics and it should revise its policy on direct and indirect discrimination according to race.⁸¹

⁷⁷ Ministerie van Financiën, 'gewijzigde motie van het lid van der staaij ter vervanging van die gedrukt onder nr. 64', retrieved on 20 February 2009 from: <http://rijksbegroting.minfin.nl/2009/kamerstukken,2009/1/23/kst127175.html>

⁷⁸ Jaap van Donselaar en Peter R. Rodrigues (red.). *Monitor racisme & extremisme : achtste rapportage*, Amsterdam : Anne Frank Stichting ; Leiden: Universiteit Leiden, 2008. Retrieved on 5 January 2009 from: <http://www.annefrank.org/upload/Downloads/Monitor2008-8.pdf>

⁷⁹ Jaap van Donselaar en Peter R. Rodrigues (red.). *Monitor racisme & extremisme : achtste rapportage*, Amsterdam : Anne Frank Stichting ; Leiden : Universiteit Leiden, 2008.

⁸⁰ Jaap van Donselaar en Peter R. Rodrigues (red.). *Monitor racisme & extremisme : achtste rapportage*, Amsterdam : Anne Frank Stichting ; Leiden : Universiteit Leiden, 2008, pagina 55 en 56.

⁸¹ Europese Commissie tegen Racisme en Intolerantie, 'Derde rapport over Nederland', retrieved on 20 January 2009 from: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/NLD-CbC-III-2008-3-ENG.pdf

Sooreh Hera

The Haagse Gemeentemuseum refused to exhibit a series of photographs by the Iranian artist Sooreh Hera. The photographs display Islamic homosexuals wearing a mask depicting the Prophet Mohammed and his son-in-law Ali. The People's Party for Freedom and Democracy (in Dutch: *Volkspartij voor Vrijheid en Democratie*, VVD) was willing to display the work of the artist in the House of Representatives; however, Hera refused to align herself to a political party.^{82 83} By the end of 2008 the Mohammed photographs were shown for the first time in the Gouda Museum.⁸⁴

Arrest of Gregorius Nekschot

On 13 May 2008 the Dutch cartoonist Gregorius Nekschot was arrested and taken into custody for interrogation. Nekschot caricaturizes political ideas about Dutch multicultural society and the behaviour of people with rigid religious or ideological views. Muslims are frequently the subject of his cartoons.⁸⁵ After 30 hours he was released, but is expected to be prosecuted for discriminatory speech, insulting certain groups in society on the basis of their race or beliefs and possibly also for the crime of inciting hatred. His arrest resulted in much debate in the press and Parliament, especially with regard to the question of whether or not the arrest was politically motivated. The Minister of Justice argued that he did not actively interfere in the decision-making process of the Public Prosecutor's Office.⁸⁶

Fitna the movie

Fitna is short film by Dutch the parliamentarian Geert Wilders. A large part of the film, which was first released on the Internet in 2008, deals with the influence of Islam on the Netherlands, and criticizes the world of Islam and the Koran. Various Dutch people filed an official complaint against the film after its release. Complaints had also been submitted about a number of other statements by Geert Wilders. At first the Prosecutor's Office decided not to prosecute him. In January 2009, however, the Amsterdam Court of Appeal ordered the public prosecutions department to put Geert Wilders on trial for inciting hatred and discrimination on the grounds of his comments and the insults against Muslims.⁸⁷

The security of Ayaan Hirsi Ali

Ayaan Hirsi Ali is a vocal opponent of Islam. She has been under threat because of her expressions as an opinion maker and politician, including the movie 'Submission part 1' which she produced with Theo van Gogh. Since entering politics at the end of 2002 she had received protection from the Dutch authorities. In 2006 she moves to the USA. .

⁸² Volkspartij voor Vrijheid en democratie, 'VVD en PVV openen vrijdenkersruimte', retrieved on 21 February 2009 from: <http://www.vvd.nl/index.aspx?Contentid=8610&Chapterid=1147&Filterid=974>

⁸³ Elsevier, 'VVD, PVV openen vrijdenkersexpositie in Kamer', retrieved on 21 February 2009 from: <http://www.elsevier.nl/web/10194681/Dossiers/Censuur-in-Nederland/Nekschot/VVD,-PVV-openen-vrijdenkersexpositie-in-Kamer.htm>

⁸⁴ NRC Handelsblad, 'Omstreden moslimfoto's naar museum Gouda', retrieved on 21 February 2009 from: http://www.nrc.nl/achtergrond/article1856593.ece/Omstreden_moslimfotos_naar_museum_Gouda

⁸⁵ De Pers, 'Cartoonist in de cel gezet', retrieved on 21 February 2009 from: <http://www.depers.nl/binnenland/202231/Cartoonist-in-cel-gezet.html>

⁸⁶ Minister van Justitie, '31200 VI 183 BRIEF VAN DE MINISTER VAN JUSTITIE' retrieved on 21 February 2009 from: <http://rijksbegroting.minfin.nl/2008/kamerstukken,2008/8/1/kst121385.html>

⁸⁷ Gerechtshof Amsterdam, Hof Amsterdam beveelt de strafvervolgning van het Tweede Kamerlid Geert Wilders, Retrieved on 20 February 2009 from: <http://www.allepersberichten.nl/persbericht/3812/1/Hof-Amsterdam-beveelt-de-strafvervolgning-van-het-Tweede-Kamerlid-Geert-Wilders/>

The US government does not provide her with security measures. Hirsi Ali argues that the Dutch government has instead pledged to continue financing her protection abroad. However, this support stopped in October 2007. The Dutch government argued that if a person goes abroad for an extended period of time and does not serve the Dutch government in an official capacity, his/her protection is no longer the responsibility of the Dutch state⁸⁸.

According to Hirsi Ali the Dutch state offered to be responsible for her security in the past and present. Therefore she decided to legally enforce the Dutch state to be responsible for the costs of her security. She requested the District Court of The Hague to order sworn statements by civil servants and former members of the government attesting to the past agreements on her security.⁸⁹ Tjibbe Joustra, the national coordinator for counterterrorism, had already given a sworn statement to the effect that he had never promised Hirsi Ali that she would get permanent protection paid for by the Dutch government.⁹⁰

RIGHT TO PRIVACY

The right to privacy covers several aspects of the life of a citizen. One of the dilemmas regarding this right deals with the potential conflict between the right to privacy of some and the right to security of others. The protection of national security and the citizens of the state influence the balance between the measures that the state could take with respect to a person's right to privacy and measures that the state can adopt in order to ensure the security of other persons. The issue is on the international agenda and is a topic of debate in the Netherlands.

Registration of Antillean adolescents

A majority of the House of Representatives agreed with the government that trouble-making Antillean adolescents should be registered. In September 2008 the Administrative Law Division of the Council of State decided that it is allowed to process the personal data of this group in a Reference Index of Antilleans (in Dutch: *Verwijsindex Antillianen*). The Data Protection Authority (in Dutch: *College Bescherming Persoonsgegevens*) agreed that the Minister of Housing, Communities and Integration would specifically register trouble-making Antillean adolescents. The Council of State argued that the Data Protection Authority had sufficient grounds for allowing the processing of personal information on the ethnicity of Antilleans taking into account the significant public interest.⁹¹ OCaN (in Dutch: *Stichting Overlegorgaan Caribische Nederlanders*) had asked the Council to withdraw this exemption because the bill results in a disproportional violation of constitutional rights, like the right to privacy, equal treatment and the right to personal freedom. The organization also feared

⁸⁸ Ministry of Justice. 'Beveiliging van mevrouw Hirsi Ali', retrieved on 20 December 2008 from <http://www.justitie.nl/actueel/nieuwsberichten/archief-2007/beveiliging-van-mevrouw-hirsi-ali.aspx>

⁸⁹ De Pers, 'Hirsi Ali wil beveiliging juridisch forceren', retrieved on 9 January 2009 from: <http://www.depers.nl/binnenland/206839/Hirsi-Ali-wil-beveiliging-afdwingen.html>

⁹⁰ Elsevier, 'Joustra: Ik heb Hirsi Ali geen beveiliging beloofd', retrieved on 10 January 2009 from: <http://www.elsevier.nl/web/10215472/Dossiers/Ayaan-Hirsi-Ali/Wie-beveiligt-Ayaan/Joustra-Ik-heb-Hirsi-Ali-geen-beveiliging-beloofd.htm>

⁹¹ Raad van State, 'Minister Vogelaar mag persoonsgegevens over Antilliaanse afkomst verwerken in gegevensbestand', retrieved on 9 January 2009 from: http://www.raadvanstate.nl/pers/persberichten/persbericht/?pressmessage_id=107

repressive measurements which do not apply to non-Antillean adolescents.⁹² However, the Council of State dismissed this appeal.⁹³ According to OCaN this decision gives rise to a dangerous situation regarding the right to privacy. Therefore the organization took the issue to the European Court of Human Rights in September 2008.⁹⁴

At the beginning of November 2008 the governments of the Netherlands Antilles and of Aruba asked the government of the Netherlands for a response to the report from the European Commission against Intolerance and Racism (ECRI). ECRI recommended that the Dutch authorities should carefully review their policies targeting the Dutch Antillean population to ensure that such policies are in conformity with the prohibition of racial discrimination. In particular, it suggested that the Dutch authorities should revise the introduction of the Reference Index of Antilleans in the light of such a prohibition.⁹⁵ When Minister Vogelaar of Integration and Housing visited the Antilles, she announced that she would withdraw the Reference Index of Antilleans.⁹⁶ However, she resigned as Minister of Housing, Communities and Integration under pressure from the Labour Party leadership on 13th of November. The party leader, the Minister of Finance and Deputy Prime Minister Wouter Bos, placed the Reference Index of Antilleans back on the political agenda by withdrawing the letter of Minister Vogelaar.⁹⁷ By the end of December 2008 Parliament had decided that the registration system for trouble-making Antillean adolescents will be replaced by a more general registration system for all trouble-making adolescents (in Dutch: *Verwijsindex Risicojongeren*).⁹⁸ The bill on this new registration system regarding all trouble-making adolescents passed through Parliament at the beginning of 2009.⁹⁹

Prosecuting terrorist crimes

A legislative proposal on measures for national security aimed at preventing acts of terrorism passed through the House of Representatives in March 2007. The proposal contains provisions which severely limit the freedom of movement and the right to privacy of persons suspected of being "connected to" or supporting terrorist activities. One could for example think of not allowing the suspected person to be in the neighborhood of certain buildings or persons or obliging the suspected person to report to the police on a regular basis. The legislative proposal is currently pending before the Senate.¹⁰⁰ Human rights groups like the Dutch Section of the International Commission

⁹² Persbericht OCaN, retrieved on 3 September 2008 from: www.njcm.nl/site/uploads/download/279

⁹³ Raad van State, 'Minister Vogelaar mag persoonsgegevens over Antilliaanse afkomst verwerken in gegevensbestand', retrieved on 9 January 2009 from: http://www.raadvanstate.nl/pers/persberichten/persbericht/?pressmessage_id=107

⁹⁴ Persbericht OCaN, retrieved on 3 September 2008 from: www.njcm.nl/site/uploads/download/279

⁹⁵ European Commission against Racism and Intolerance, 'Third report on the Netherlands', retrieved on 3 December 2008 from: http://hudoc.ecri.coe.int/XML/Ecri/ENGLISH/Cycle_03/03_CbC_eng/NLD-CbC-III-2008-3-ENG.pdf

⁹⁶ NRC Handelsblad, 'Vogelaar: geen aparte databank voor Antillianen', retrieved on 3 December 2008 from: http://www.nrc.nl/binnenland/article2055910.ece/Vogelaar_geen_aparte_databank_voor_Antillianen

⁹⁷ Radio Nederland Wereldomroep, 'Databank Antilliaanse probleemjeugd terug op tafel', retrieved on 3 February 2009 from: http://antilliaans.caribiana.nl/politiek/car20081114_datakort

⁹⁸ Jeugd en Gezin, 'Kabinet: Antilliaanse risicojongeren helpen via de algemene verwijsindex', retrieved on 3 February 2009 from: <http://www.jeugdengEZIN.nl/nieuwsberichten/2008/antilliaanse-risicojong.-vir.asp>

⁹⁹ Jeugd en Gezin, 'Kabinet stemt in met wetsvoorstel verwijsindex risico's jeugdigen', retrieved on 3 February 2009 from: <http://www.jeugdengEZIN.nl/nieuwsberichten/2009/kabinet-wetsvoorstel-vir.asp>

¹⁰⁰ Eerste Kamer der Staten Generaal, 'Wet bestuurlijke maatregelen nationale veiligheid', retrieved on 3 February 2009 from: http://www.eerstekamer.nl/wetsvoorstel/30566_wet_bestuurlijke_maatregelen

of Jurists criticized the legislative proposal for its lack of clear definitions and the absence of any judicial supervision of such measures.¹⁰¹

Public Prosecutions Department

By the end of 2007 the police and the Public Prosecutions Department had recorded and therefore overheard conversations in a murder case against the Hells Angels.¹⁰² The Public Prosecutions Department in Amsterdam acknowledged that it had made a mistake while recording conversations between suspects and their lawyers and not destroying the tapes.¹⁰³ In July 2008 the Public Prosecutions Department tapped the communal telephone line of the Amsterdam prison. This telephone line was used by detainees to consult their lawyer, and again the tapes were not destroyed.¹⁰⁴ In November 2008 the Public Prosecutions Department again failed to do so when at least 200 recordings of confidential conversations between four suspects and their lawyers were not destroyed.¹⁰⁵ At the beginning of 2009 the Public Prosecutions

Department made the same mistake once again. During a criminal investigation into gangland killings in the Amsterdam underworld 163 confidential conversations between lawyers and suspects were not destroyed.¹⁰⁶ All proceedings were halted because conversations had been recorded and overheard, and Parliament posed questions to the Minister of Justice. The Minister announced that the regulations for wiretapping conversations will be changed in a way that confidential conversations will be destroyed.¹⁰⁷

INHUMAN AND DEGRADING TREATMENT

Ratification of the Optional Protocol to the Convention on Torture

In November 2008 the Minister for Foreign Affairs commenced the process for ratifying the Optional Protocol to the UN Convention on Torture by following the 'silent approval procedure'.¹⁰⁸ The First Chamber of parliament however requested a substantive discussion of the proposal, which led to postponement of ratification.

¹⁰¹ Dutch Section of the International Commission of Jurists, 'HRW-World Report 2008: ook Nederland onder de loep van Human Rights Watch' retrieved on 9 January 2009 from: <http://www.njcm.nl/site/newsposts/show/209>

¹⁰² Human Rights Watch, 'The Netherlands events of 2008', retrieved on 9 January 2009 from: <http://www.hrw.org/en/world-report-2009/netherlands>

¹⁰³ De Volkskrant, 'Justitie opnieuw in fout met af luisteren gesprekken' retrieved on 3 February 2009 from: http://www.volkskrant.nl/binnenland/article1041133.ece/Justitie_opnieuw_in_fout_met_af luisteren_gesprekken

¹⁰⁴ De Volkskrant, 'Justitie opnieuw in fout met af luisteren gesprekken' retrieved on 3 February 2009 from: http://www.volkskrant.nl/binnenland/article1041133.ece/Justitie_opnieuw_in_fout_met_af luisteren_gesprekken

¹⁰⁵ Trouw, 'OM blundert opnieuw met vertrouwelijke gesprekken', retrieved on 3 February 2009 from: http://www.trouw.nl/nieuws/nederland/article1903210.ece/OM_blundert_opnieuw_met_vertrouwelijke_gesprekken.html

¹⁰⁶ NRC Handelsblad, '163 taps in liquidatiezaak niet vernietigd', retrieved on 3 February 2009 from: http://www.nrc.nl/binnenland/article2195684.ece/163_taps_in_liquidatiezaak_niet_vernietigd

¹⁰⁷ Ikregeer.nl, 'Besluit van, houdende wijziging van het Besluit beveiliging gegevens aftappen telecommunicatie in verband met het bewaren van telecommunicatiegegevens', retrieved on 3 February 2009 from: <http://ikregeer.nl/document/BLG19512>

¹⁰⁸ Eerste Kamer der Staten Generaal, 'Facultatief Protocol bij het Verdrag tegen foltering en andere wrede, onmenselijke of ontorende behandeling of bestraffing; New York, 18 december 2002', retrieved on 20 January 2009 from: http://www.eerstekamer.nl/brief/20081127/facultatief_protocol_bij_het

Terrorist wings in prisons

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment expressed concern about the placement of terrorism suspects in special high-security "terrorist wings" in prisons, the conditions of which it considered to be so strict as to amount to de facto isolation.¹⁰⁹

Healthcare

In September 2008 a psychiatric patient died in an isolation cell at a clinic in Amsterdam. The Healthcare Inspectorate criticised the general conditions in the clinic. In its report the Inspectorate states that patients are instantly removed from a stretcher and placed in an isolation cell.¹¹⁰

During the period 2007-2008 the Healthcare Inspectorate visited 86 Dutch care institutions and assessed the quantity and the methods used in restriction of liberty measures. The most important conclusion of its report was that a restriction of liberty occurs too often. The Healthcare Inspectorate also argued that social workers do not usually view their actions as a restriction of patients' liberty. Therefore the Inspectorate advocates a prohibition on tying patients down with a so-called Swedish band. In response to this report a wide variety of organizations working in care institutions signed a declaration of intent to reduce drastically the use of restriction of liberty methods.¹¹¹ Parliament agreed upon a new bill regarding care and compulsion (in Dutch: *Wetsvoorstel Zorg en Dwang*), after realizing that the current legislation should not longer apply to mentally retarded people or people with a mental illness. The bill provides better protection for these people when they are being restrained by care providers or are being forced to undergo care.¹¹²

CHILDREN

This section focuses on the human rights of children in the Netherlands. The Netherlands has ratified the United Nations Children's Rights Convention which therefore should be a guideline for its policies relating to children

Report on Children's rights by Unicef Netherlands and Defence for Children International

The first annual report on children's rights by Unicef Netherlands and Defence for Children International pointed out that the Netherlands scores insufficiently on the subjects of the policy on foreign nationals, healthcare and adolescent (social) care.¹¹³

¹⁰⁹ Council of Europe, 'Report to the authorities of the Kingdom of the Netherlands on the visits carried out to the Kingdom in Europe, Aruba, and the Netherlands Antilles by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)', retrieved on 20 January 2009 from: <http://www.cpt.coe.int/documents/nld/2008-02-inf-eng.pdf>

¹¹⁰ Inspectie voor de gezondheidszorg, 'Zorg voor Vrijheid, samen naar minder vrijheidsbeperking', retrieved on 20 January 2009 from: <http://www.zorgvoorvrijheid.nl/download/Congreskrant%20Zorg%20voor%20Vrijheid.pdf>

¹¹¹ Inspectie voor de gezondheidszorg, 'Zorg voor Vrijheid, samen naar minder vrijheidsbeperking', retrieved on 20 January 2009 from: <http://www.zorgvoorvrijheid.nl/download/Congreskrant%20Zorg%20voor%20Vrijheid.pdf>

¹¹² Rijksoverheid, 'Kabinet akkoord over wetsvoorstel zorg en dwang', retrieved on 20 January 2009 from: http://www.regering.nl/Actueel/Persberichten_ministerraad/2008/Juni/27/Kabinet_akkoord_over_wetsvoorstel_zorg_en_dwang

¹¹³ Unicef, 'Jaarbericht kinderrechten 2008', retrieved on 20 January 2009 from: <http://www.nrc.nl/redactie/binnenland/unicefNL.pdf>

This statement was based on the appreciation of experts panels. In the reported period the number of children who had to wait for adolescent (social) care for longer than nine weeks had increased from 425 to 4,000. Also an increasing number of children fell victim of violence or were being unnecessarily separated from their parents. Prevention of circumcision of young girls required a more concerted and consistent approach, according to the report.¹¹⁴

Human Rights Education

The Netherlands also received criticism regarding its international obligation of human rights education. The *Platform Mensenrechten Educatie* and the Dutch Section of the International Commission of Jurists published a report on this issue by the end of 2008. This report addressed the fact that in the Netherlands little attention has been given to human rights education.¹¹⁵ In February 2008 the Netherlands committed itself at the United Nations to producing an action plan on human rights education. However, the Minister of Education, Culture and Science stated that there is no need for such an action plan. In September 2008 the Commissioner for Human Rights, Mr Hammarberg, visited the Netherlands and reiterated that human rights education is an essential part of a national human rights policy. During his visit the Commissioner learned that, in general, knowledge of the Dutch Constitution and its fundamental rights and human rights in the Netherlands in general is not well developed.¹¹⁶ However, the Minister of Education, Culture and Science seemed to continue to neglect the importance of the action plan and the opinion of the Commissioner..

Supervision of children by child protection services

Parliament decided to widen the opportunities for the child protection services to supervise children. Youth Care Agencies (in Dutch: *Bureau Jeugdzorg*) will be given the right to obtain information from third parties without the consent of the parents whose child has been placed under supervision. In November 2008 the Youth Care Agencies received a great deal of criticism for removing children from their homes without providing sufficient reasons and without consulting the children themselves. Consulting children during a divorce is obligatory when these children are aged 12 years and above.¹¹⁷

Children in juvenile detention centres

The National Ombudsman argued in December 2008 that there are still too many children in juvenile detention centres because there is no room for them in care facilities.¹¹⁸ According to him detaining these children is in violation of universal human rights. Four years ago the same problem was addressed by the National

¹¹⁴ Unicef, 'Jaarbericht kinderrechten 2008', retrieved on 20 January 2009 from: <http://www.nrc.nl/redactie/binnenland/unicefNL.pdf>

¹¹⁵ Platform Mensenrechteneducatie, 'Gemiste Kansen?: Aandacht voor Mensen- en Kinderrechten in het Nederlandse Onderwijs', retrieved on 20 January 2009 from: <http://www.cmo.nl/pmre/downloads/Rapport-PMRE-Najaar2008.pdf>

¹¹⁶ Council of Europe, REPORT BY THE COMMISSIONER FOR HUMAN RIGHTS MR THOMAS HAMMARBERG' retrieved on 20 January 2009 from: <http://www.cmo.nl/pmre/Rapport-Hammarberg.pdf>

¹¹⁷ Christen Unie, 'Meer bescherming voor kinderen', retrieved on 20 January 2009 from: <http://www.christenunie.nl/nl/k/91/news/view/297670/48130/Meer-bescherming-voor-kinderen.html>

¹¹⁸ Trouw, 'Onschuldigen te lang in jeugdgevangenis', retrieved on 20 January 2009 from: <http://www.trouw.nl/nieuws/nederland/article1917748.ece>

Ombudsman; however, since then there have been no significant changes.¹¹⁹ The Minister of Youth and Family planned to extend the capacity of these youth care facilities; however, this is still not sufficient. The care facilities will probably be available in 2010, and until then many children will remain in juvenile detention centres, the Ombudsman argued.¹²⁰

¹¹⁹ De Nationale Ombudsman, Onderzoek Nationale ombudsman wijst uit: NIET-CRIMINELE JONGEREN VERBLIJVEN ONTOELAATBAAR LANG IN JEUGDGEVANGENISSEN', retrieved on 20 January 2009 from: http://www.ombudsman.nl/nieuws/persberichten/2004/20041130_jeugdgevangenis.asp

¹²⁰ Dag, 'Honderden kinderen onschuldig in gevangenis', retrieved on 20 January 2009 from: <http://www.dag.nl/binnenland/honderden-kinderen-onschuldig-gevangenis-4335>

IN MEMORIAM JAN TER LAAK 1938 – 2009

On March 12, 2009 Jan ter Laak passed away. Since its foundation in 1987 Jan had been actively involved in the activities of the Netherlands Helsinki Committee, first as a member of the executive committee, later as a senior advisor.

In the last 12 years Jan was the driving force and the source of inspiration of many activities of the NHC, like our conferences on security and co-operation in Europe.

Jan's key quality was networking. In the interest of conflict prevention and respect for human rights in Europe and beyond he always aimed to establish a dialogue between governments, politicians and civil society. He provided great support for human rights activists and victims of human rights violations in inter alia the former Yugoslavia, Russia and Chechnya, Central Asia and the Gulf Region.

The NHC has lost his tireless inspiration and a remarkable colleague and friend

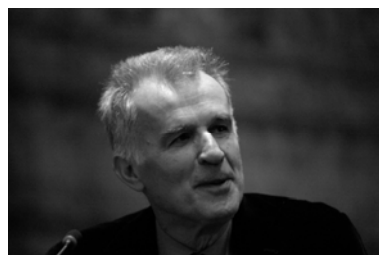
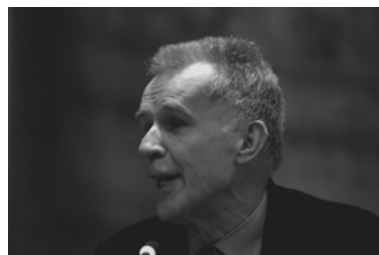


Photo: Tammo Hoeksema

POSTSCRIPT

The NHC has been promoting security, human rights and the rule of law for the past 22 years. In the coming years, the NHC will continue to facilitate activities aimed at improving these themes in the OSCE region, as well as broadening its activities according to its Strategic Policy Plan for 2008-2009.

The NHC will investigate possibilities to expand its region of involvement. Attention will be given to countries within and outside the OSCE region that are not yet involved in the activities of the NHC. Within the OSCE territory, special consideration will be given to Central Asia and the Western Balkan countries. Also, special attention will be given to Kazakhstan as the future chair of the OSCE. Outside the OSCE region, the NHC will target its interest at the countries of the Middle East and North Africa - mainly the partner countries of the OSCE states.

In addition to its present involvement in public debate, lobbies, various projects, and programmes, the NHC intends to extend its activities to provide direct legal assistance to human rights abuse victims, through support for local human rights organizations. Also the NHC intends to become directly involved in providing and organizing workshops in the field of project management.

To meet its goals, the NHC will continue to search for new sponsors. The NHC will continue to approach the European Commission with new projects. The NHC hopes to reach new funding providers by developing new activities and themes in new countries. The NHC is looking into cooperation with organizations that have particular expertise in the field of human rights.

The NHC will organize annual conferences on relevant issues regarding the OSCE and the Helsinki process. In its quarterly journal, *Security and Human Rights*, it will continue to discuss current OSCE issues; also special editions will be devoted to urgent themes. We are thankful to the many experts and researchers who present their views in this journal.

The NHC would like to thank its donors, partner organizations, and experts for their continuous cooperation. Our work would not be possible without you. We look forward to further teamwork and to developing new activities in the field of security, human rights and the rule of law.

Jos Kösters

Executive Director of the Netherlands Helsinki Committee