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Council of Europe
European Committee for the Prevention of Torture
F-67075 Strasbourg Cedex
France

Concerning: The circumstances in Immigration Detention Centres in the Netherlands

Dear Sir or Madam:

Please allow me to inform you on the circumstances for immigration detention in the Netherlands since your last visit in 2007. From your press-release I understood that the Committee is planning to visit the Netherlands in 2011 again. For that reason we would like to inform you on our experiences from the Immigration Detention Hotline.

In your report on your visit in 2007 you express your concern on the suitability of the regime, “the delegation noted the extent to which the Dutch approach to the administrative detention of immigration detainees has changed [since our last visit] [The CPT] sees no reason for immigration detainees to be held in prison facilities under a limited community regime. The CPT recommends that the Netherlands authorities reconsider their approach towards the detention of immigration detainees, in the light of the above remarks.”¹

Although there are some improvements to be noted, the implementation and execution of the immigration detention was not improved fundamentally. Therefore we would like to inform you on the current situation of the immigration detention facilities in the Netherlands, hoping that you will be able to pay attention to these issues during your visit. We will first explain about the Immigration Detention Hotline, then on the issues that we come across at our Hotline concluding with some recommendations for your visit.

Immigration Detention Hotline

¹ 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, Strassbourg 2008: Council of Europe, p. 32-33

The Immigration Detention Hotline was started on February 2010 as an initiative of Stichting LOS, the National Organisation for the Support of Undocumented Migrants. Last years the implementation and execution of immigration detention has been repeatedly criticised². However the minister consented these critics only in a very limited way, as a consequence no fundamental changes in the regime were established.³ Stichting LOS did recognise the critique and started the Immigration Detention Hotline to collect complaints on the detention circumstances, to register them and if possibly assist in a legal succession. This means that migrants in detention and all other parties involved can complain at the Hotline, whereupon their complaints will be investigated and if possible an official complaint will be lodged at the Commissie van Toezicht. For this we cooperate with seven lawyers, who are willing to assist the migrants in their complaint if their own lawyer is not able to do so. In this way we attempt to gain a better understanding of the detention circumstances and on the other hand we strive to improve the accessibility of the complaints procedure.⁴

Since the start of the Hotline over a year ago we have received 115 reports on the detention circumstances, containing 182 complaints. The complaints were presented to us by detained migrants, their family and friends, lawyers, employees, visitors and other parties involved. Most complaints concern medical care, violence, use of isolation cells and the use of handcuffs during transport. These complaints were shared by other non-governmental organisations, lawyers and the inspection 'Sanctietoepassing' as you can see from the number of reports released on the topic November last year, among them the report of Amnesty International⁵. Therefore we would like to declare to you our main concerns on the circumstances in the detention centres, based on the complaints we receive, hoping that you will be able to consider these issues during your visit.

Experiences from the detention centres

Below we will go into the most frequent themes of complaints that we encounter at the Immigration Detention Hotline. We will try to give a brief explanation on these topics, obviously you can always contact us for more information or documentation.

Medical problems

The accessibility and availability of medical care and medical problems that evolve while in detention form the main concern of the complaints we receive. Of the 182 complaints we received 40 focused on the access to medical care.

² See among others: Hammerberg, T., *Report by the Commissioner for Human Rights mr. Thomas Hammarberg on his visit to the Netherlands*, Straatsburg: Raad van Europa 2010, Amnesty International, *The Netherlands: the detention of irregular migrants and asylum-seekers*, Londen: Amnesty International 2008, Committee on Civil Liberties, Justice and Home Affairs from the European Parliament, *The conditions in centres for third country national (detention camps, open centres as well as transit centres and transit zones) with a particular focus on provisions and facilities for persons with special needs in the 25 EU member states*, Inspectie voor Sanctietoepassing, *Detentiecentrum Noord-Holland, locatie Zaandam: Inspectierapport, doorlichting*, Den Haag: ministerie van Justitie 2010, Justitia et Pax Nederland, *Humaniteit in Vreemdelingenbewaring; ervaringen van het r.-k. justitiepastoraat*, Den Haag 2010 en Kalmthout, A.M. van, *Het regiem van de vreemdelingenbewaring: de balans na 25 jaar*, Justitiële Verkenningen, jrg. 33 nr. 4 2007 p. 89-102

³ See among others Tweede Kamer, vergaderjaar 2009-2010 19 637, nr. 1331, Tweede Kamer, vergaderjaar 2009-2010, 19 637 nr. 1222, Tweede Kamer, vergaderjaar 2009-2010, 19 637, nr. 1302 en Tweede Kamer, vergaderjaar 2007-2008, 24 587 en 31 200 VI, nr. 245

⁴ For more information on the Hotline see: www.meldpuntvreemdelingendetentie.nl

⁵ Amnesty International. *Vreemdelingendetentie: in strijd met mensenrechten*. November 2010, NJCM-Commentaar. *De toepassing en tenuitvoerlegging van de vrijheidsontneming van vreemdelingen. Knelpunten en aanbevelingen*. November 2010, NJCM, Humanistisch Verbond. *Onuitzetbaar: Morele vragen over het vreemdelingenbeleid*. November 2010, Inspectie voor Sanctietoepassing. *De tenuitvoerlegging van de vreemdelingenbewaring*. September 2010

The detained migrants complain that it takes a long time before they receive medical aid. First they have to fill in a form where they can indicate their complaints. This form will be considered by a nurse who decides whether someone will be sent through to the doctor or not. The migrants complain that this procedure takes a long time, with the consequence that they walk around with their complaints and pains longer than necessary. Moreover they complain that often they are not properly treated but instead are given paracetamol, calming- and sleeping tablets. This frustrates the migrants, who feel that their complaints are not taken seriously by the medical service and that they are not treated properly.

Last February we received a complaint from a man in detention centre Zaandam who had hurt a muscle in his back. It took eight days before a doctor came to see him, until then he had been in bed. We also receive complaints about the availability of medical care in detention. Migrants complain about the lack of necessary medical care, like rehabilitation facilities, physiotherapy and proper psychological treatment.

Based on these complaints we fear that the minimum of health services is not effectively exercised and that in this way the health of the detainees cannot be safeguarded (art. 39 European Prison Rules). Most of the medical complaints came from the detention platform Zaandam (13 complaints) and detention Centre Zeist (8 complaints). Given these signals we hope that you have an opportunity to investigate the medical procedure, with special attention for the centres in Zaandam and Zeist, during your visit.

Violence

Although the attitude of the guards towards the detainees has improved⁶ we still receive complaints of degrading treatment and incidental violence (12 complaints). Especially in detention centre Zeist the detainees experience a very negative and uncooperative atmosphere (5 complaints). We have also heard of threats posed by guards, warning people to not report their complaints.

Lately we have received several complaints on violence used against detainees. One complaint came from a man in Zeist who was kicked and pushed so heavily during his transfer to an isolation cell that he broke his finger, three teeth and bruised his ribs. He went to see a doctor the next day, but when he was referred to the hospital he could not go, wearing the obliged handcuffs was too painful since his whole hand had swollen. For his teeth he went to a dentist who offered to pull his teeth, the only possibility under the basic healthcare provided by the detention centre. The man refused to let his teeth pulled, he wants the detention centre to take their responsibility for the violence used and wants his teeth replaced. His complaint is still under discussion. In February we received two more complaints on violence from detention centre Zeist. All of them started a complaint, for so far without success. None of them have yet received proper medical help for the harm done. An effective remedy against the violence used seems hard to accomplish.

We find it very disturbing that people detained solely for their expulsion are exposed to this kind of violence and that the direction for so far refuses to take any responsibility, ignoring the harm done. We hope that you will be able to investigate this matter during your visit, since any force or violence should be kept to an absolute minimum as is stated in art. 64(2) of the European Prison rules.

⁶ See also Amnesty International. *Vreemdelingendetentie: in strijd met mensenrechten*. November 2010, p. 23

Use of isolation cells

Isolation cells in detention (9 complaints) are used for two reasons, observation for medical reasons and as a punitive measure. We often receive complaints about the use of isolation cells as a punitive measure. It is perceived as an incomprehensible and heavy measure, for sometimes relatively small disputes. In January we received a complaint of a whole group that was put in isolation for fourteen days after a fight between fellow detainees. The transfer to isolation often comes with the use of force and violence as described above.

In your former report you describe isolation for lengthy periods without medical justification as ‘ill-treatment’⁷, a practice however that still occurs on regular basis. We don’t have information on the exact number of times isolation as a punitive measure is applied, this would however be very interesting to investigate. The punishment is experienced as very severe measure that leads to frustration and incomprehension. One special case, which highlights the exaggerated character of the measure, is that of a guard that refused to send a man to isolation who had rejected to wear handcuffs for his hospital visit. The guard considered this ridiculous and refused to detain the man in isolation. He called on the pastor for a solution. We hope that you will be able to investigate this matter more deeply during your visit.

On the other hand isolation is used as an observation measure for medical reasons, like a vulnerable medical condition after a hunger- or thirst strike or an attempted suicide. The detainees are then kept in the same isolation cell that is used for punitive measures, the only difference is that then the detainees are filmed on camera to observe their health. But why is it necessary to keep these people, who are under high psychological pressure, in such a sober and criminalizing environment?⁸ Again, we would very much like to know how often this measure is applied and what the effects on the detainees kept in isolation are.

The use of handcuffs during transport

For all transport outside the detention centre handcuffs and other restraints are used as a standard, sometimes combined. The restraints are found very humiliating by the detainees, people feel criminalized and are ashamed. As an illustration one example of an older pregnant woman who had to go to the hospital for an amniotic fluid puncture. She was only allowed to go if she would wear a *broekstok* – a stick that is attached to your belt and ankle to prevent that the detainee will escape. The woman found this unnecessary and humiliating and refused to wear it. She missed the appointment for her amniotic fluid puncture, which was medically necessary considering her age and the number of handicapped people in her family.

This is just one example of how humiliating the standardized use of handcuffs and other restraints are experienced, and to what serious medical consequences it can lead. Another example is the practice of visitation. After entering the detention centre, a replacement or a visit by a lawyer or social worker the detainees body and clothes will be examined on prohibited goods like weapons and drugs. For this the detainee has to undress completely and kneel three times. The visitations are experienced extremely embarrassing and shocking⁹. We have not personally received any complaints about visitation since it is such a delicate topic. However from other organisations like Amnesty International we have heard stories of this humiliating practice. We do not see how unnecessarily heavy and criminalizing measures like

⁷ 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, Strassbourg 2008: Council of Europe, p. 32-33

⁸ See also: A critique on the use of isolation cells for hungerstrikers by Joost den Otter (medical expert) and Pauline Jacobs (doctoral student). Medisch contact: Hongerstakers in de isoleercel, 15 april 2011.

⁹ Amnesty International. *Vreemdelingendetentie: in strijd met mensenrechten*. November 2010, p. 20

these can be harmonized with the legal status of the detained migrants. We hope that you will be able to investigate this matter more deeply during your visit.

Recommendations

Above we have sketched the main complaints we receive at our hotline. In addition we would like to make a few more notes responding to your former report. In 2007 you wrote that according to the Dutch authorities, the two detention boats served as temporary accommodation¹⁰. The boats in Rotterdam and Dordrecht are indeed removed by now, the platform in Zaandam however is still used as immigration detention centre and will continue until at least 2013¹¹. Regarding this extended opening, we advise you to take special care investigating the circumstances at platform Zaandam during your visit.

Like you wrote in your former report¹², the detainees are still placed in duo-cells. With the closure of detention centre Dordrecht the six-persons cells have disappeared, the two-person cells however are still used. One of the improvements established by the government is an extension of the visiting hours to two hours a week, as you recommended in your report¹³. You also write about the initiative of external volunteers visiting the detainees. There are indeed visiting groups in Schiphol and Zaandam. The detention centre in Rotterdam however has not given permission for this initiative. In Rotterdam the volunteers visit the people on an individual basis. While considering the heavy regime these visits would be a welcome activity for a many more detainees.

Analysing the complaints that we received at the Immigration Detention Hotline, we would advice you to give special attention to the following aspects:

- access to adequate medical care
- use of violence and the direction's responsibility in this
- use of isolation cells as a punitive and medical measure
- unnecessary humiliating restraints procedures like the use of handcuffs and visitations

Furthermore, we would advice you to give priority to the detention centres in Zeist and Zaandam, from which we receive most complaints.

Thank you for your time and consideration. We hope that you will be able to pay attention to the themes mentioned above. A critical investigation on these matters is very welcome. Hopefully it can lead to the improvement of the immigrants' situation up to adequate human rights standard.

Yours faithfully,

Rian Ederveen
Ilona van Breugel
Stichting LOS and the Immigration Detention Hotline

¹⁰ Section a- introduction: point 55 of your report 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, Strassbourg 2008: Council of Europe.

¹¹ SP: Bajesboten blijven langer in Zaanstad liggen, 10-04-2011

¹² section b- material conditions: point 57 of the CPT report (see above)

¹³ section 9- contact with the outside world: point 72 of the CPT report (see above)