

AMNESTY INTERNATIONAL ANNUAL REPORT EXTRACTS

THE NETHERLANDS

ANNUAL REPORT 2007

Head of state: Queen Beatrix
Head of government: Jan Peter Balkenende
Death penalty: abolitionist for all crimes
International Criminal Court: ratified

New legislation increased the length of time people charged with terrorism offences could be detained pending trial. Reports of ill-treatment of Iraqi detainees by military personnel in 2003, which disclosed war crimes allegations, emerged.

War crimes allegations

After allegations emerged that Dutch Military Intelligence personnel had ill-treated several detainees in Al-Muthana province in Iraq in 2003, the Minister of Defence confirmed in November that an independent committee would examine the interrogation methods used by the Military Intelligence and Security Services in Iraq at that time, including the use of ski goggles, loud music or noise, and water. The Ministry of Defence subsequently confirmed that these methods had been used.

It also emerged that, as early as November 2003, the Royal Military and Border Police had investigated the treatment of suspects by the Military Intelligence and Security Services, and that the prosecuting authorities concluded in 2004 that no offence had been committed. No information about the allegations or investigations had previously been provided to Parliament or the public.

The standing Review Committee on the Intelligence and Security Services announced a separate investigation.

Imprisonment following refoulement

- In June, Syrian national 'Abd al-Rahman al-Musa was sentenced to death for membership of the Muslim Brotherhood after an unfair trial before the Syrian Supreme State Security Court. The Dutch authorities had failed to prevent his expulsion from the USA to Syria via the Netherlands in January 2005, or to allow him to exercise his right to file an asylum application despite warnings about his safety. His death sentence was immediately commuted to 12 years' imprisonment. He was reportedly held incommunicado for most of his detention, but was eventually allowed some family visits. AI considered him a prisoner of conscience, held solely for his non-violent beliefs. In May the UN Working Group on Arbitrary Detention found his detention to be arbitrary, given "the gravity of the violation of the right to a fair trial".

Terrorism

New legislation with the stated aim of countering terrorism was officially published in November, but had not entered into force by the end of 2006. It provided for an increase in the maximum period of pre-trial detention for people charged with terrorism offences, from 104 days to a further period of up to two years, and for the prosecution not to be obliged to fully disclose evidence during this further period. Under the legislation, the detainee would have the right to periodically challenge both the detention and the decision not to disclose evidence.

In September, the government proposed measures that would make it easier to withdraw residence permits from non-nationals convicted of any crime. This could increase the number of those designated as "undesirable aliens". Non-nationals thus designated could be deported, banned from re-entry for up to 10 years, or imprisoned for up to six months if they remain in the country. If suspected of terrorism, they could be designated on the basis of secret intelligence withheld from them and their lawyers.

Deaths and detentions of migrants

Migrant children continued to be detained in accordance with unchanged government policy, although the numbers appeared to decline following nationwide protests.

- In September the independent Dutch Safety Board reported on its investigation into the October 2005 fire in a temporary detention centre at Amsterdam's Schiphol airport in which 11 irregular migrants died and 15 other people were injured. The Board confirmed earlier concerns about unsafe detention conditions and found that safety recommendations had not been fully implemented, that guards lacked training and intervened inappropriately, and that other detention centres had similar deficiencies. It concluded that "there would have been fewer or no casualties if fire safety was taken more seriously by the government authorities responsible". Following publication of the report, the Ministers of Justice and Housing resigned. Their successors announced reorganization of government departments, strengthened fire safety regulations, and offered to discuss compensation for the victims. The criminal investigation into the cause of the fire continued. In April the Board criticized the Minister of Immigration for the expulsion of survivors and other witnesses before they could be interviewed. Shortly before publication of its report, most survivors still in the country were granted residence permits.

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There were concerns about the treatment of asylum-seekers and migrants and about the extension of counter-terrorism legislation.

Migration issues On 26 January, the Royal Dutch Constabulary (RDC) failed to intervene in the expulsion from the USA of a Syrian man, Abd-al Rahman al Musa, so that he could file an asylum request. Subsequently, Abd-al Rahman al Musa was detained upon his arrival in Syria. In the wake of this case, the RDC announced that it would amend its policy and respond to non-governmental organizations and lawyers intervening to prevent refoulement of asylum-seekers in future. On 27 October, there was a fire in the temporary detention centre at Schiphol Airport in which 11 irregular migrants (people who did not have legal permission to remain in the country) perished. Approximately 350 people were being held in the complex when the fire broke out. The centre, which held both prisoners and irregular migrants, had caught fire on two previous occasions, the first being shortly before it was opened in 2003 and the second in 2004. According to some reports, previous recommendations by fire prevention officials had not been implemented. Survivors said that there was a delayed reaction by centre staff to cries for help from the detainees. On 27 October, the Safety Investigation Council launched an investigation into the fire. While the nature and extent of the investigation were not made public, the Safety Investigation Council indicated the investigation should be concluded within a year. The National Agency for Correctional Institutions was charged with collating all relevant materials for use by the Safety Investigation Council. Additionally, the Forensic Science Service was also conducting its own investigation on behalf of the Public Prosecution Service.

Counter-terrorism In January, the government announced the introduction of new counter-terrorism measures, including the criminalization of "incitement to terrorism". The measures were announced shortly after the murder in November 2004 of film maker Theo van Gogh by Mohammed B., a member of the Hofstad Network, which was considered a "terrorist group" by the Dutch government. The draft proposal on counter-terrorism measures would also criminalize glorifying, condoning, trivializing and denying other serious crimes, including war crimes, crimes against humanity and genocide. The draft legislation stated that in order to be found guilty, a person must have known or reasonably expected that their utterance(s) could seriously disturb public order. Although the draft bill was circulated to advisory bodies in July, it had not been submitted to parliament by the end of the year. A separate draft bill, introduced in parliament in June, included measures raising the maximum period of pre-trial detention for terrorist offences. In December, the Hague Court of Appeal overturned a decision of the District Court and permitted the extradition to the USA of Mohammed A., a Dutch national of Egyptian origin accused of crimes involving fraudulent phone cards which may have been used to facilitate contact between members of al-Qa'ida. His lawyers argued against extradition, fearing he would be treated as an enemy combatant if he were extradited to the USA. The Court of Appeal allowed the extradition after receiving the assurance of the USA that he would be prosecuted "before a Federal Court in accordance with the full panoply of rights and protections that would otherwise be provided to a defendant facing similar charges". The USA further guaranteed Mohammed A. would not face prosecution by a military commission, be criminally prosecuted in any tribunal or court other than a US Federal Court, and that he would not be treated or designated as an enemy combatant.