

**MINISTRY OF FOREIGN AFFAIRS
OF THE RUSSIAN FEDERATION**

**REPORT
ON THE HUMAN RIGHTS SITUATION
IN THE EUROPEAN UNION**

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The Netherlands

Human rights NGOs, mass media, the United Nations Human Rights Council, the UN Committee on Economic, Social and Cultural Rights take note of the problems existing in the Netherlands related to immigrant rights, undemocratic treatment of illegal immigrants and asylum seekers.

Immigrants from developing countries (Turks, Moroccans etc.) are discriminated by local authorities. Recently, discriminatory measures have also been taken against people coming from "new" EU member States (Bulgaria, Romania, Poland). Many of them have difficulties in finding a job, receiving education or medical care.

In recent years, the Netherlands has seen stronger nationalistic and xenophobic trends, such as ban to visit certain public places. Economically, immigrants find themselves in a less favourable situation that is, in fact, caused by the measures taken by the authorities. As a result, migrant communities are getting more isolated and autonomous. The gap between the levels of education of natives and immigrants is growing. And there is a concern regarding certain passiveness of the Dutch government in countering "segregation" in schools. The Committee on Economic, Social and Cultural Rights also pays attention to the lack of anti-discriminatory provisions in the legislation of the Netherlands¹, stating that it does not provide protection against discrimination in all its forms. The Committee is further concerned that the situation is compounded by the rise in racism and xenophobia among the population.

According to the Internet Discrimination Hotline (MDI), half of the registered cases are related to the anti-Semitic Internet sites, and other ones are usually related to insulting expressions towards other religious and national minorities (immigrants from Turkey as well as from Morocco and other Arab countries). Many Dutch and foreign human rights organization and foreign authorities severely criticized the Internet website launched by the Dutch Party for Freedom where employers could report complaints about workers from Eastern Europe. According to human rights activists, this website directly contributes to growing xenophobia. However, the Dutch government refrains from taking proper measures to close it down.

Family reunification procedures are being made more complicated, according to the human rights experts, thus impeding immigration and spurring discrimination.

In the Netherlands, illegal immigrants and asylum seekers who are not criminals, are detained in prison-like establishments based on the local penal legislation. According to human rights activists, the conditions in such "special centers" are often worse than in prisons. Detainees are often subjected to cruel measures (prolonged detention in police cells, the use of handcuffs), and special circumstances are not duly taken into account (age, health etc.).

The statistics shows that in the Netherlands about 8 thousand foreigners are detained each year, and on average they spend 100 days in custody (in 2011, 6.1 thousand foreigners were detained for an average of 76 days), and more of them are detained repeatedly. In 2010, more than 20 per cent of foreigners were detained for more than six months, in 2011 – 18.4 per cent, i.e. at least every sixth foreigner was detained for more than 6 months.

According to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (August 2012), prolonged detention of families with minors that are subject to deporting is a serious human rights violation. The current Dutch law envisages that these categories of people should be sent out of the country within two (and if they avoid deportation – four) weeks, but in practice they remain in custody for longer periods than provided for by the law (in 2 cases – more than 60 days).

¹ See the Concluding Observations of the Committee on Economic, Social and Cultural Rights to the Report of the Kingdom of the Netherlands under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights. Doc. E/C.12/NLD/4-5 (December 2010)

There is evidence of poor quality of legal and medical assistance provided for the detained persons.

According to human rights organizations, in some cases, the regime of detention of illegal foreigners is more stringent than that of criminals, – for example, in terms of the use of common cells, special detention cells, the lack of common rules of granting exemption from arrest on humanitarian grounds, the lack of proportionate security measures in transportation.

According to Amnesty International (reports of June 2008, November 2010 and October 2011), in the Netherlands incarceration has become "an instrument of deterrence and punishment," because in many cases, the circumstances do not justify measures restricting freedom of asylum seekers or illegal immigrants (especially when it comes to vulnerable people such as victims of torture, human trafficking, elderly persons, pregnant women, persons with mental illness).

In the Report on the violation of rights of foreigners illegally staying on the territory of the Netherlands and detained (August 2012), the Dutch National Ombudsman repeatedly stresses that detention should be applied to foreigners only as a last resort measure of coercion and he criticizes the government for the lack of attention to the development of alternative ways of enforcing deportation.

Human rights activists have criticized the Dutch policy towards equality between men and women. According to the 2011 research of the World Economic Forum, the Netherlands rank 15th (in 2009 – 11th place) by such indicators as the number of women studying, working or occupying managerial positions, and salary. Discrimination manifests itself in a significant difference in wages between men and women, in poorer representation of women in the labor market and in political life (according to the Dutch Electoral Council, women accounted only for 31 per cent (303 candidates) of 972 candidates included in the parties' lists for the elections to the second chamber of the parliament in September 2012).

Active work of the Dutch police and intelligence agencies on wiretapping of citizens and monitoring of their Internet interactions in order to "ensure national security and fight against crime" raises many questions in terms of legality and respect for human rights, especially the right to privacy. According to the study published in May 2012 by the Research and Documentation Center of the Ministry of Justice of the Netherlands, in 2010 about 22,000 phones were wiretapped in the Netherlands. The study notes that these figures are higher than those for other European countries, and the information obtained by wiretapping rarely helps in solving crimes.

The public authorities are conducting massive collection and compilation of personal data, such as data on movement of vehicles (with navigation and roadside cameras), logs of phone calls, Internet usage statistics, including content of visited sites, and such actions are fraught with too detailed "profiling" of individuals, which, with all the development of technology, does not exclude errors and blunders. Further widespread use of information from such dossiers on citizens by government agencies may lead to incorrect results, and sometimes to violations of their rights². It is also a cause for concern that in many cases such persons are requested to give their permissions for collection of their personal data, and such collection is done in an undifferentiated way, with no particular purpose. The collected data can be stored for a longer period than the period necessary for its use.

There are still concerns about the human rights situation in the Caribbean part of the Netherlands. In 2007, the European Committee for the Prevention of Torture made a number of recommendations aimed at improving the detention conditions of prisoners held in custody in Aruba and the Netherlands Antilles (Curacao, Saint Marten and the BES islands). Some establishments still have not addressed a number of significant violations (lack of ventilation, overcrowding, poor quality of healthcare, prolonged detention, etc.). Moreover, there are doubts that in practice detainees are provided with adequate legal assistance during interrogations.

² Earlier, a story became known in the Netherlands. When a child was taken from the mother by force and given to a guardian on the basis of mother's electronic medical records that contained data of her mental illness. The investigation established that a mistake was made in putting the code of the disease in the medical records.

The Committee on Economic, Social and Cultural Rights notes that in violation of Article 8 of the International Covenant on Economic, Social and Cultural Rights in Curaçao and St. Marten a ban on the right to strike is still in force, and in the Netherlands there is no explicit recognition of the right to strike in the legislation, while it is not prohibited. Corporal punishment is not prohibited in Aruba yet, as required by Article 10 of the Covenant.

Today one of the most pressing and debated issues in the Netherlands in the field of human rights is the spread of sexual assault against children and teenagers.

On October 8, 2012, the Commission published the report "Surrounded by care, but not safe", which contains the results of a two-year study. It covered the period from 1945 to 2010 and was devoted to the analysis of reports of sexual violence against children taken into guardianship, and the analysis of government responses to such reports, as well as evaluation of the existing mechanisms for the detection of cases of sexual violence. The Commission established that the Government of the Netherlands and the guardianship bodies do not ensure safety of children placed into guardianship, and fail to exercise proper oversight over the protection of children's rights. Children living in guardianship institutions or foster care families are significantly more likely (143 out of 1,000) to complain about sexual abuse than regular Dutch children (74 of 1,000). Compared with ordinary children, minors in guardianship are sexually abused 2.5 times more often (and mentally deficient children in the guardianship institutions are abused 3 times more often or more).

In most cases, criminal attacks are committed with the involvement of problem children and teenagers living in the same guardianship institutions, and in 30 per cent of cases – with the involvement of employees of the relevant authorities or foster parents.

The report of the Commission indicates the lack of participation of government authorities – mainly of the Ministry of Public Health, Welfare and Sports and the Ministry of Security and Justice, which are responsible for the implementation of policies in this field - in the elaboration of measures to ensure safety of children in guardianship institutions. In particular, there is a lack of government oversight over the situation in these institutions. Central government agencies give the guardianship institutions too much freedom in choosing the methods to combat sexual violence, keeping only a "system responsibility", which in practice puts children at risk. Mechanisms of selection of personnel for the guardianship institutions (and prospective parents) often do not include in-depth tests and checks.