

PRESS RELEASE



The Hague, 1 September 2015

National Ombudsman notes points for improvement in repatriation process

Dutch authorities go to considerable lengths to ensure that repatriation procedures are conducted with due regard for the rights of the individual. Nevertheless, a study by the National Ombudsman concludes that some aspects can be improved. The Ombudsman has made recommendations to the State Secretary of Security and Justice with regard to the availability of medical care, the accessibility of the complaints procedure, and the exchange of information. In his report, he also advocates multidisciplinary supervision of the entire repatriation process as well as standard investigation of incidents. The National Ombudsman examined the process by which persons refused leave to remain in the Netherlands are removed from our country, and specifically the manner in which repatriation flights are organized and monitored to ensure no violation of individual's rights. The investigation was prompted by a request from the European Ombudsman.

Persons who are denied permission to remain in the Netherlands and who fail to leave voluntarily can be repatriated, a process known as 'forced return'. Generally, they are booked onto a scheduled flight operated by a commercial airline. In 2014, the Netherlands returned 1,520 persons to their country of origin in this way. In some cases, 'Joint Return Operations' (JROs) are organized under the auspices of the European Frontex agency, in which case one Member State is responsible for the flight itself and for the monitoring arrangements. In 2014, the Netherlands repatriated fourteen persons on a Frontex flight.

Implementation

The repatriation procedure is subject to strict protocols, and the relevant authorities do much to ensure that the individual's rights are respected at all times. The National Ombudsman finds that officers of the Royal Netherlands Marechaussee (*Koninklijke Marechaussee*) generally succeed in establishing a good rapport with the returnees they are required to escort, thus fostering cooperation and reducing the likelihood of a situation in which force or restraint becomes necessary. Nevertheless, the National Ombudsman sees room for improvement in terms of medical support and the exchange of information. For one thing, the circumstances in which it is necessary to verify whether a returnee is 'fit to fly' have not been adequately defined. Then there are occasions on which police escorts are required to make judgements of a medical nature, while they neither possess nor have ready access to the necessary expertise. In the Ombudsman's view, medical support must be available at all times.

The National Ombudsman also draws attention to shortcomings in information exchange. Police escorts rely to a significant degree on 'TISOV', the joint information system in which a returnee's personal details (such as height, the language he or she speaks, and whether any resistance to repatriation can be expected) is – or should be – recorded. In some cases, essential information is not to hand. In the Ombudsman's opinion, the exchange of information in the repatriation process should be improved.

Monitoring and supervision

An effective system of independent monitoring provides an essential safeguard, ensuring that all government responsibilities with regard to returnees' rights are met. Since 2014, the Security and Justice Inspectorate (*Inspectie Veiligheid en Justitie*) has been responsible for supervising return operations from the moment the returnee arrives at the departure airport until he or she arrives at the destination airport. The National Ombudsman finds that this supervision must be extended to include the preparations for the return flight. In addition, the Inspectorate should be required to investigate all incidents. And furthermore, the quality of supervision will be enhanced by adopting a multidisciplinary approach. Currently, the Inspectorate only ascertains whether the correct procedures have been followed with regard to medical issues, but does not make a medical assessment.

An effective and accessible complaints procedure is another essential safeguard. The National Ombudsman finds that returnees must be actively informed about their right to submit a complaint, and that relevant information should be made available both before and during the return flight.

Monitoring of Frontex flights

The organization and supervision of a Frontex flight falls to one of the participating Member States. Frontex has produced a Code of Conduct to which all members subscribe. However, Member States each have different standards when it comes to repatriation flights. The National Ombudsman recommends that the definition of 'proportional force' is harmonized at European level, together with agreements on monitoring and supervision. This calls for improved cooperation between Member States.

Background

The National Ombudsman's investigation was prompted by a request from the European Ombudsman, who in late 2014 announced the intention of reporting on the 'Joint Return Operations' conducted under the banner of the Frontex agency. She invited the National Ombudsmen of the Member States to contribute information about the return procedures in their respective countries. Similar studies were therefore conducted simultaneously by the Netherlands' Ombudsman's counterparts in other Member States. The European Ombudsman's report, *How Frontex can ensure respect for migrants' fundamental rights during forced returns*, was submitted to the European Parliament on 6 May 2015.

Note to editors

The full report (ref. 2015/126) can be found online at www.nationaleombudsman.nl. For further information, please contact Sandra Loois (+31 70 356 3641) or Erna van Eerden (+31 70 356 3637).

The European Ombudsman's report is available at www.ombudsman.europa.eu/nl/press.

For news, reports and background information about the National Ombudsman, see www.nationaleombudsman.nl. Follow the National Ombudsman on Twitter: www.twitter.com/nat_ombudsman.



The National Ombudsman's office is an independent institute which each year receives some 38,000 complaints from individuals who are dissatisfied with the service provided by public sector authorities in the Netherlands. The National Ombudsman is appointed by Parliament. The incumbent is Reinier van Zutphen.