



Médiateur européen

19 FEV. 2015

Date d'arrivée

European Ombudsman
Emily O'Reilly
1 avenue du Président Robert Schuman
CS 30403
F-67001 Strasbourg Cedex

Dear Ms O'Reilly,

Many thanks for your letter of 20 October 2014 announcing your own-initiative inquiry concerning the means through which Frontex ensures that joint return operations respect the fundamental rights of third-country migrants who are subject to forced returns.

We are very happy to participate in this investigation. Our own national investigation will commence this week.

I enclose a copy of the letter to our Minister of Security and Justice announcing our investigation. As stated in the letter, the investigation will also cover forced returns not involving Frontex. A copy of the news bulletin that will appear on our website next week is also enclosed.

We will keep you informed of the results of our investigation at national level.

We look forward to collaborating with you on this initiative.

Yours sincerely,

Frank van Dooren

Enclosures: Letter to Minister of Security and Justice
News bulletin



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Uw brief

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Behandelend medewerker

mw. drs. W.J. van Helden

Onderwerp

The Hague, 13 February 2014

National Ombudsman launches investigation into deportation flights

The National Ombudsman has launched an investigation into deportation flights for migrants who have exhausted all legal remedies and must therefore leave the country. He will establish how the flights are monitored in the Netherlands, and how human rights are safeguarded in the process. At the request of the European Ombudsman, similar investigations are being conducted by the National Ombudsmen in over twenty EU countries.

Migrants who must leave the Netherlands and who fail to do so of their own accord are forcibly deported to their country of origin. The Dutch authorities arrange special deportation flights, while others are facilitated by the European Union's Frontex agency. Member states are free to make use of these flights, the actual organisation of which remains the responsibility of one of the member states.

Independent monitoring needed

There is a risk that people will suffer harm during forced return operations. Coercive measures are sometimes used. The question is whether deportation flights are arranged in such a way as to rule out or minimise human rights violations. One essential safeguard is to have independent monitoring of such flights.

Security and Justice Inspectorate monitors in the Netherlands

The National Ombudsman is to investigate how deportation proceeds in practice, and how monitoring is arranged. The Security and Justice Inspectorate is responsible for monitoring the flights that are arranged by the Netherlands. The Repatriation and Departure Service prepares migrants for their deportation, and the Royal Military Police escort them on the flight. All three monitoring bodies will be questioned during the investigation.

The results of the investigations in the various EU countries will be compared later this year to identify any problem areas and examples of best practice, and to foster cooperation in this area.



Note for editors

For more information on the National Ombudsman's investigation, contact Sandra Loois on +31 (0)70 356 3641.

For more news, reports and background information, visit www.nationaleombudsman.nl, or follow the National Ombudsman on Twitter: www.twitter.com/nat_ombudsman.

The National Ombudsman is an independent institute that receives over 38,000 complaints every year from people experiencing problems with the authorities. Frank van Dooren is currently acting National Ombudsman; he was appointed by the House of Representatives.



TRANSLATION

Minister of Security and Justice
PO Box 20301
2500 EH The Hague

The Hague, 12 February 2015

Dear Mr Opstelten,

I hereby wish to inform you of an investigation I am conducting into the practice and monitoring of 'deportation flights', used for the forced return of migrants.

European Ombudsman's request

In October 2014 the European Ombudsman, Emily O'Reilly, announced that she was investigating the practice of forced return of migrants on 'Frontex flights', focusing on how human rights are respected in this process. She has put to Frontex a number of questions concerning the treatment of forced returnees on Frontex flights and how they are monitored (see enclosure).

The European Ombudsman has asked the National Ombudsmen in Europe to contribute to the investigation by investigating the practice of deporting migrants on special flights in their country. Twenty Ombudsmen have consented to do so. I too intend to conduct such an investigation.

The purpose of this cooperation between European Ombudsmen is to gain an insight into differences in the way forced returnees are escorted on these flights and how they are monitored. The investigation will identify where improvements are needed, as well as highlighting examples of best practice. The National Ombudsmen will present their initial findings to the biennial meeting of European Ombudsmen in April 2015.

Dutch National Ombudsman's investigation

I am therefore conducting an investigation of deportation flights in the Netherlands. My investigation will examine the practical implementation of both Frontex flights and flights arranged and vouched for by the Dutch authorities. The monitoring of these flights will also be examined. The first part of my investigation will serve to establish the facts. In the process of establishing the facts, I shall also consider the standards applied in the Netherlands. I shall discuss my findings with my European counterparts in April, focusing both on things that are done well and things that are open to improvement. I will then identify the problems and dilemmas arising from current practice. I shall publish a report on the practice in the Netherlands.

The investigation will initially consist of information gathering to ascertain how forced returnees are escorted on deportation flights from the Netherlands, and how they are monitored. Investigators from my office will interview staff of the Security and Justice Inspectorate, the Royal Military Policy (KMar) and the Repatriation and Departure Service (DT&V). They will also request documentation and figures. Any additional investigative activities will be decided on during the course of the investigation.

In addition, I would be grateful if you would answer the following questions:

- How many Frontex flights was the Netherlands involved in in 2014, and how many migrants were deported in this way?
- How many migrants were deported in 2014 on National repatriation flights (regular flights and specially chartered flights)?
- Did KMar and/or the Inspectorate receive any complaints about how migrants were deported? If so, how many and what did they concern?
- Does the Inspectorate have a protocol or policy memorandum that sets out how it performs its role as monitor? If so, please may I receive a copy?
- Does KMar have formal instructions or other internal guidelines concerning forced returns? If so, please may I receive a copy?
- Does DT&V have protocols or formal instructions concerning preparations to be made prior to the alien being handed over to KMar, and the way this transfer is effected? If so, please may I receive a copy?



This letter has been sent to all the monitoring bodies concerned (the Security and Justice Inspectorate, DT&V and KMar), as well as the members of government responsible (the Minister of Security and Justice, the State Secretary for Security and Justice and the Minister of Defence). I assume that you will answer the above questions in relation to your own monitoring bodies, and trust that if necessary you will coordinate your responses.

Given the short time available for this investigation, I would kindly request that you answer the above questions within two weeks.

I would also request that you appoint a contact with whom the investigators may liaise during the investigation.

I hope to have been of service.

Yours sincerely,

F.J.W.M. van Dooren
Acting National Ombudsman