

WRITTEN QUESTION E-1115/02
by Lousewies van der Laan (ELDR)
to the Commission

Subject: Violation of the European Convention on Human Rights by Netherlands emergency law on drug couriers

Recently (on 5 March 2002) the Netherlands adopted two emergency laws on the detention of cocaine smugglers. What is and is not allowed in the treatment of detainees is set out in the Netherlands in two basic laws. The emergency laws temporarily suspend these basic laws for a specific category of detainee. As justification for this the Netherlands government cites an emergency arising from 'major capacity problems in detention centres and prisons'.

As a result of these changes to the law, prisoners being held on suspicion can, in contrast with usual practice in the Netherlands, be put in the same cell as convicted criminals, and minors with adult prisoners. In addition, restrictions are placed inter alia on constructive use of time, visiting rights, access to rehabilitation and vocational possibilities. This would appear to be in violation of international criteria such as those laid down, for example, in the substantive sections of the general reports of the European Committee for the Prevention of Torture and Inhumane and Degrading Treatment and with Article 3 of the European Convention on Human Rights.

Article 6 of the EU Treaty and the Charter of Fundamental Rights of the European Union affirm the fundamental importance that the EU attaches to human rights. In that it is entitled to attend the relevant deliberations of the Committee of Ministers of the Council of Europe (Arrangement between the Council of Europe and the European Community of 16 June 1987) and on the basis of Article 303 of the EC Treaty, the Commission can put human rights issues on the agenda for the Council of Ministers, which has direct authority in this area.

1. Is the Commission familiar with the content of the aforementioned Netherlands laws?
2. Does it share my concern that fundamental principles, as contained in the European Convention on Human Rights and the reports of the Committee for the Prevention of Torture, are being violated as a result of these laws?
3. What possibilities does it see of raising these problems with the Netherlands government?
4. Is it prepared to bring this matter to the attention of the Council of Europe for further investigation?
5. If a similar situation were to arise in an applicant country, what steps could the Commission take, and should this subject be included in the annual progress reports?