



DUTCH
SAFETY BOARD

Summary Safety of asylum seekers



Safety of asylum seekers

The Hague, April 2014

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Dutch Safety Board

The aim in the Netherlands is to limit the risk of accidents and incidents as much as possible. If accidents or near accidents nevertheless occur, a thorough investigation into the causes, irrespective of who are to blame, may help to prevent similar problems from occurring in the future. It is important to ensure that the investigation is carried out independently from the parties involved. This is why the Dutch Safety Board itself selects the issues it wishes to investigate, mindful of citizens' position of independence with respect to authorities and businesses. In some cases the Dutch Safety Board is required by law to conduct an investigation.

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NB: The full report is published in Dutch. The English summary is the translation of the consideration, summary, recommendations and conclusions of the report. In the event of any discrepancy between these versions, the Dutch text shall prevail.

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CONSIDERATION

The death of Russian asylum seeker Alexander Dolmatov at the detention centre in Rotterdam prompted the Dutch Safety Board to investigate the safety of the (on average 16,000) asylum seekers residing at various types of reception facilities in the Netherlands.

The Board's main conclusion is that asylum seekers¹ residing at reception facilities under the responsibility of the Dutch government are not necessarily unsafe, but that they do run certain risks. This report describes these risks, and identifies shortcomings in risk management. The Board believes it is important for the relevant parties to eliminate these shortcomings, and argues for fewer regulations and higher levels of professional responsibility in the implementation of asylum policy.



(Source: ANP Photo - Inge van Mill)

For some years now, asylum policy has been high up on the public and political agenda, calling into question both the basic principles of the policy and the manner in which it is implemented in concrete instances. The policy is continually changing under pressure from public and political opinion. It is partly for this reason that the construct of legislation, regulations, case law, procedures and work instructions that has emerged is so intricate. The Board has identified a predominantly legalistic approach to asylum policy, expressed

¹ In this report the term asylum seekers also refers to asylum seekers who have exhausted all means of appeal.

by the tendency to want to define everything in terms of regulations. The officials who implement asylum policy realise that their work is subject to public scrutiny, and therefore tend to adhere strictly to the regulations for fear of making errors. This is, however, not always in the interests of asylum seekers' safety. Nor is it realistic to assume that it is possible to draw up water-tight regulations and procedures for all conceivable situations.

The officials who implement the asylum policy demonstrate great commitment to their work, and try to do the best they can. In their day-to-day work, they regularly need to balance conflicting interests. They must not only take asylum seekers' safety into consideration, but also other interests such as the speed of the procedure, costs, their own safety and that of other asylum seekers, and legal equality. In weighing up these considerations, officials generally have the professional freedom to take the personal circumstances of asylum seekers into consideration. In practice, however, they do not always succeed in putting this freedom to good use. The safety of asylum seekers can therefore sometimes become subordinate to other interests.

To enable officials to make better use of their professional freedom and not lose sight of the human perspective, it is essential to give them a clear set of principles to support them in balancing conflicting interests. By 'principles', the Board is referring to values that are shared by all authorities involved in asylum and immigration matters, such as carefulness, human dignity and attention to personal circumstances. Officials and their superiors must be able to raise these issues with one another.

It is important that all those involved realise that risks can never be excluded entirely. Expectations must be kept realistic concerning risks and safety for asylum seekers, to which the involved parties can contribute by being more open on the subject in their communication. They should not just respond to incidents, but should also show more of the day-to-day reality and be prepared to enter into relevant discussions. This openness will allow future discussions on the implementation of the asylum policy to be based more on facts than on emotions or inaccurate perceptions, as sometimes appears to be the case now.

The Board has observed that in previous years, much has already been set in motion to help eliminate the barriers to effectiveness in the asylum procedure. It would be beneficial for the relevant authorities to genuinely be given the time and opportunity to carefully implement the initiated and planned policy measures.

In April 2013, the Lower House of the Dutch Parliament discussed the report on the death of Russian asylum seeker Alexander Dolmatov at the Rotterdam detention centre. During this discussion, the State Secretary for Security and Justice announced that he would ask the Dutch Safety Board to conduct an investigation into the safety of asylum seekers in the asylum system. The Safety Board agreed to this request, as such an investigation is in line with the Board's mission, i.e. to improve safety for persons whose safety is largely dependent on third parties, as is the case with asylum seekers.

The investigation was specifically aimed at asylum seekers living in reception facilities for asylum seekers under the responsibility of the Dutch government, and examined the risks to which they are exposed, and how the parties involved manage these risks. Wherever risk management was found to be lacking or insufficient, the relevant causes were investigated, as well as ways in which the parties involved could eliminate the identified shortcomings.

Although asylum seekers are not necessarily unsafe, they are at risk

The Safety Board found no indications that asylum seekers living in reception facilities for asylum seekers are necessarily unsafe. They can, however, be affected by events and circumstances that may be damaging to their physical or mental health. The particular risks run by asylum seekers and their severity depend, among other things, on how smoothly the asylum procedure runs, their need for medical care, the level of social safety at the facility where they reside, and whether they are subject to measures or means that restrict their freedom. The longer asylum seekers remain in the procedure, the more likely it is they will experience events and circumstances that may be damaging to their physical or mental health. The involved parties are aware of the risks to which asylum seekers are exposed, but do not always succeed in managing these risks. Problem areas affecting risk management are described below.

The safety of asylum seekers sometimes becomes subordinate to other interests

Officials who implement asylum policy are regularly forced to balance conflicting considerations. In their decisions they must not only take asylum seekers' safety into consideration, but also other interests such as the speed of the procedure, costs, their own safety and that of others, and legal equality. In weighing up these aspects, officials generally have sufficient professional freedom to take the personal circumstances of asylum seekers into consideration. In practice, however, it is not always easy for them to put this freedom to good use. Asylum seekers' safety can therefore sometimes become subordinate to other interests.

The medical (and other) information necessary to guarantee the safety of asylum seekers is not always available

In order to guarantee the safety of asylum seekers, officials need reliable and up-to-date information on the asylum seekers they are dealing with, such as their right of residence

or their case history. However, this information is not always available when it is needed, due to poor record-keeping or faulty transfer of information. The investigation revealed that this problem pervades the entire procedure and practically all parties involved, and affects a variety of types of information. Although measures have recently been taken and promises made to improve the transfer of information, some problem areas still remain. The continued improvement of information transfer therefore requires ongoing attention. In this respect, it is important that the parties involved do not exclusively focus their efforts on information systems development - a greater focus on the accuracy of information both from the systems and from non-digital sources is also crucial to ensure the safety of asylum seekers. This could be achieved if the officials involved would contact each other (by telephone) to verify the accuracy of information.

The Board is particularly concerned about the transfer of medical information. At important moments in the asylum procedure, such as the (stressful) moment of detention, medical information required to ensure the safety of asylum seekers is not always available to officials. Officials are sometimes also missing information on people's health that is relevant to safely transporting or deporting them. Doctor-patient confidentiality (which is also in the interest of asylum seekers from a privacy perspective) hampers the exchange of information, which is exacerbated by a lack of clarity surrounding the precise scope and application of doctor-patient confidentiality. Although over the last year various solutions to problems concerning the transfer of medical information have been proposed, no satisfactory solution has yet been found. The Board deems it important for the parties involved to find such a solution as soon as possible, and that it is advisable to include all parties that provide medical care to asylum seekers² in this process, as well as experts³ external to the standard set of authorities involved.

Quality in taking crucial decisions can be improved

Officials who implement asylum policy take decisions that significantly influence the extent to which asylum seekers are – and feel – safe within the asylum procedure. Particularly crucial are the decisions on the acceptance or rejection of asylum applications, on granting a deferral of deportation on medical grounds, and on the detention of asylum seekers. Although the parties involved work hard to take these decisions conscientiously and have constructed quality systems to aid their decisions, the Board still sees opportunities to improve the quality of decision-making. Problem areas when deciding on asylum applications include the varying quality of lawyers and interpreters, and the problems experienced by employees of the Immigration and Naturalisation Service in balancing conflicting interests. When decisions are made concerning the deportation of asylum seekers with medical problems, accessibility of medical care at their destination is not assessed, leaving no guarantee that they will receive the required medical care once they have departed. Decisions concerning detention status are hampered because the available information is not always reliable, because not all assistant public prosecutors are adequately equipped for their job, and because of the inconsistent quality of qualified legal counsel.

² Such as the Asylum Seekers' Health Centre or the medical services for detention centres.

³ Such as the Ministry of Health, Welfare and Sport and the Royal Dutch Medical Association.

Asylum seekers with psychological and psychiatric problems do not always receive the care they need

The Board has seen nothing to indicate that healthcare at reception facilities for asylum seekers is generally insufficient. However, asylum seekers with psychological and psychiatric problems do not always receive the care they need. Opportunities to treat these persons are limited, particularly in detention centres, family locations and freedom-restricting centres. One important reason for this is the uncertainty surrounding the progress of their asylum procedure. Particularly concerning the treatment of psychological trauma, starting a treatment programme that cannot be concluded is known to cause adverse effects. In such cases it is the expected duration of stay at a particular centre, and not the individual's healthcare needs, that determines whether treatment will commence. It is therefore possible that asylum seekers with untreated psychological trauma are deported or end up on the street, where they can constitute a danger to themselves or their environment.

The collaboration between institutions that is necessary in order to guarantee the safety of asylum seekers does occur in some areas, however, there is room for improvement

Asylum seekers are dependent on the staff of a large number of parties. The multitude of interconnected working procedures necessitates further coordination between these parties to ensure the safety of asylum seekers. Although the process that asylum seekers must undergo is currently considered to be a 'chain', in reality it does not always function as such. Although there is collaboration in some areas, it cannot yet be considered very tight-knit. The Board therefore believes it is important to increase awareness of the entire process among all of the organisations involved. After all, staff from the various authorities will be able to coordinate their daily activities more effectively if they have an awareness and understanding of each other's working procedures. The Board considers it important not to limit this collaboration to the relevant government organisations, as the private parties⁴ and civil society organisations⁵ involved have much valuable knowledge that can be used to help eliminate the problem areas identified in this report.

The learning capacity of organisations in the asylum procedure could be improved

The organisations who implement the asylum policy are missing a mechanism that could be used to jointly monitor the safety of asylum seekers. Incident registration by the various organisations currently does not provide a clear understanding of the nature and scope of the problems system-wide, making it impossible to learn from incidents in a structured way.

The safety of asylum seekers throughout the process is currently not a matter of external supervision; supervision is fragmented, and concentrates on only some parts of the process – while it is precisely the problem areas at the junctures between the organisations that are the biggest threat to the safety of asylum seekers. The Board wishes to emphasise that supervision of the functioning of the whole process is necessary, and believes that the Inspectorate of Security and Justice would be particularly suited to take on a coordinating role in this respect. Close collaboration with other inspectorates responsible for supervision of specific aspects of the asylum procedure, such as the Healthcare Inspectorate and the Inspectorate for Youth Care, will also be required.

4 Such as the Asylum Seekers' Health Centre, private security organisations and lawyers.

5 Such as the Dutch Council for Refugees and Amnesty International.

Recommendations

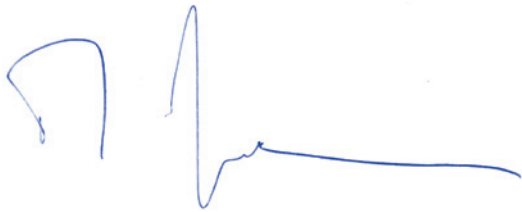
In this report, the Safety Board describes which shortcomings in the functioning of the system can potentially lead to asylum seekers suffering physical or mental harm. Some of these shortcomings were already identified by other parties prior to this investigation. Based on these findings, the State Secretary for Security and Justice and other organisations involved have recently made various promises and implemented policy changes. These include the new Repatriation and Immigrant Detention Act (*Wet terugkeer en vreemdelingenbewaring*), the measures taken to improve information exchange between authorities, and the plans to give the occupants of reception facilities for asylum seekers more opportunities for constructive daily activities.

In light of the above, the Board has decided not to issue recommendations for all of the shortcomings identified. The Board expects the organisations who implement asylum policy to take advantage of the findings and conclusions in this report themselves, and implement improvement measures. However, the Board will make several more general recommendations aimed at anchoring the safety of asylum seekers, and enabling the relevant parties and officials to jointly ensure the safety of asylum seekers. These recommendations should not result in new regulations and protocols, but in more professional freedom for staff, allowing them to take the personal circumstances of asylum seekers into consideration when making decisions.

The Board makes the following recommendations to the State Secretary for Security and Justice:

1. Ensure that officials who implement the asylum policy can make better use of their professional freedom, by developing a set of basic principles that offer these officials support when balancing conflicting interests. Make safety an explicit element in this balance of interests. Ensure that all officials are aware of these principles and that they act accordingly.
2. Improve collaboration and information exchange among staff at the various organisations involved in the implementation of asylum policy. Allow them to reflect on each other's activities and create more opportunities for mutual consultation on the best way to deal with individual cases, e.g. by organising joint case-study discussions.
3. Implement improvements to decisions regarding the admission, detention and deportation of asylum seekers by:
 - a. raising the quality of interpreters and detention (and other) lawyers;
 - b. better equipping assistant public prosecutors to take decisions regarding the detention of asylum seekers; and
 - c. taking the accessibility of medical care in countries of origin into consideration when deporting asylum seekers with medical problems.
4. Create clarity on the opportunities that are available for sharing medical information, with due observation of doctor-patient confidentiality. Find a long-term solution to the problems concerning the transfer of medical information.

5. Ensure that asylum seekers with psychiatric problems receive the care they need.
6. Promote process-wide learning from incidents by making use of existing incident records and collecting additional information as necessary. Use this information to help manage the risks faced by asylum seekers.
7. Ensure that the safety of asylum seekers is subject to external supervision throughout the entire asylum process. Charge the Inspectorate for Security and Justice with the responsibility for this supervision (or its coordination).



T.H.J. Joustra
Chairman, Dutch Safety Board



M. Visser
General Secretary

The Dutch Safety Board has conducted an investigation into the safety of asylum seekers falling under the responsibility of the Dutch government and residing in reception facilities for asylum seekers (e.g. an asylum seekers centre, freedom-restricting centre, family centre or detention centre). The investigation focused on the following core question:

What risks are asylum seekers exposed to who fall under the responsibility of the Dutch government and who live in a reception facility for asylum seekers, and how do the organisations involved manage these risks?

The Board examined the risks to which asylum seekers are exposed, but could not precisely determine the frequency with which they suffer physical or mental damage. The data required to do so is not available. However, the inquiry did identify shortcomings in risk management, and revealed where improvements are necessary to the design and functioning of the system and to the available care for asylum seekers. The Board is aware that although an effective system design is a necessary condition to ensure the safety of asylum seekers, it is not sufficient in itself. It is also important that the system works in practice, and that the staff of organisations who implement asylum policy receive the support and freedom required to do their work properly. Staff must be able to take personal circumstances into consideration when dealing with, and making decisions that affect asylum seekers. This professional freedom is essential in ensuring the proper functioning of the system as a whole, and the safety of individuals in particular. The Board realises that it is not possible to exclude all risks faced by asylum seekers, as some risks are an inherent part of asylum policy.

Based on the investigation, the Safety Board has formulated the following conclusions:

Conclusion 1

Asylum seekers living at reception facilities under the responsibility of the Dutch government are not necessarily unsafe. They can, however, be affected by events and circumstances that may be damaging to their physical or mental health.

The Board has seen no indications that asylum seekers are unsafe by definition. Authorities involved in asylum matters (and their staff) are aware of the risks faced by asylum seekers and strive to manage them. Nonetheless, asylum seekers can still be affected by events and circumstances that may be damaging to their physical or mental health. Such circumstances and events are particularly those that lead to careless decision-making concerning asylum applications, a lack of adequate medical care, socially unsafe situations in reception facilities, or incorrect application of measures and means that restrict asylum seekers' freedom. The longer asylum seekers remain in the procedure, the more likely it is they will experience such events and circumstances.

Conclusion 2

The lack of information greatly hampers officials in their ability to ensure the safety of asylum seekers. Improvements to the information system are necessary, but do not constitute a cure-all for all problems. Extra vigilance concerning the accuracy of information remains necessary.

Staff do not always have the information they require in order to take the personal circumstances of asylum seekers into account when weighing considerations and making decisions. Problems in information exchange affect the entire process, practically all parties, and a variety of types of information. Although measures have recently been taken and promises made to improve the transfer of information, some problem areas still remain. The improvement of information transfer requires ongoing attention. In this respect, it is important that the parties involved do not exclusively focus their energy on information systems development - a greater focus on the accuracy of information both from the systems and from non-digital sources is also crucial to ensure the safety of asylum seekers. This could be achieved if the officials involved would contact each other (by telephone) to verify the accuracy of information.

Conclusion 3

Medical information that can help ensure the safety of asylum seekers is not always available when needed.

At important moments in the asylum procedure, such as the moment of detention, staff often do not have the medical information required to ensure the safety of asylum seekers. Officials are sometimes also missing information on asylum seekers' health that is relevant to their work, e.g. for safely transporting or deporting asylum seekers. Doctor-patient confidentiality (which is also in the interest of asylum seekers from a privacy perspective) hampers the exchange of information. Although over the last year various solutions to this problem have been proposed, no satisfactory solution has yet been found. The Board deems it important for all the relevant parties to meet and quickly find a solution to this problem. It is also advisable to include the parties that provide medical care to asylum seekers⁶ in this process, as well as experts⁷ external to the standard set of authorities involved. The Board also notes that the exchange of medical data is sometimes hampered due to a lack of clarity regarding the scope and application of doctor-patient confidentiality. Greater clarity is required concerning the limits of doctor-patient confidentiality, and the relevant officials must also be informed of the possibilities that do exist for sharing medical information subject to the existing regulations.

⁶ Such as the Asylum Seekers' Health Centre or the medical services for detention centres.

⁷ Such as the Ministry of Health, Welfare and Sport and the Royal Dutch Medical Association.

Conclusion 4

The quality of decisions that are of crucial importance to the safety of asylum seekers can be increased by including additional safeguards.

Officials who implement asylum policy take decisions that significantly influence the extent to which asylum seekers are – and feel – safe within the system. Although the parties involved work hard to take these decisions conscientiously and have constructed quality systems to aid their decisions, the Board still sees opportunities to further improve the quality of decision-making. Problem areas when deciding on asylum applications include the varying quality of lawyers and interpreters, and the problems experienced by employees of the Immigration and Naturalisation Service in balancing conflicting interests. When decisions are made concerning the deportation of asylum seekers with medical problems, their subsequent access to medical care is not investigated. This can lead to asylum seekers not receiving appropriate medical care in their country of origin. Problems when deciding on matters of detention affect areas such as information exchange, training and legal aid.

Conclusion 5

In general, there are no problems with the availability and accessibility of healthcare by asylum seekers. However, those with psychological or psychiatric problems do not always receive the care they need.

The Board has seen nothing to indicate that healthcare at residential facilities and detention centres for asylum seekers is generally insufficient. However, asylum seekers with psychological and psychiatric problems do not always receive the care they need. Opportunities to treat these persons are limited, particularly in detention centres, family centres and freedom-restricting centres, partly due to uncertainty surrounding the progress of their asylum procedure. In such cases it is the duration of the expected stay at a particular centre, and not the individual's healthcare needs, that determines whether treatment will commence. Particularly concerning the treatment of psychological trauma, starting a treatment programme that cannot be concluded is known to cause adverse effects. It is therefore possible that asylum seekers with untreated psychological trauma are deported or end up on the street, where they can constitute a danger to themselves or their environment.

Conclusion 6

Officials of authorities involved in asylum matters regularly need to balance conflicting interests. They have sufficient professional freedom to maintain a human perspective, and are generally also adequately equipped to do so. In practice, however, circumstances can arise that hinder them in their ability to take the safety of asylum seekers into consideration when balancing these interests.

Officials face a number of dilemmas when implementing asylum policy. Sometimes, for example, officials must weigh up their own safety or that of their colleagues against the safety of an asylum seeker. Officials can also end up in situations in which they must decide between equal treatment on the one hand, and personalised treatment on the other. It may also be necessary for officials to decide between the interests of an asylum seeker and those of the organisation they work for. In weighing up these interests, officials who implement the asylum policy generally have sufficient professional freedom to take the personal circumstances of asylum seekers into consideration. In practice, however, conditions arise that make it difficult for officials to take proper advantage of this professional freedom. A lack of information, an emphasis on productivity, and insufficient (re)training means that sometimes the safety of asylum seekers becomes subordinate to other interests.

Conclusion 7

Asylum policy is subject to major social, political and administrative attention. Although this can lead to changes and improvements to this policy, it also puts pressure on the parties and officials whose job it is to implement the policy, potentially putting the safety of asylum seekers at risk.

Asylum policy is fast-changing. The topic receives a lot of attention in the media, often due to incidents that occur. This social, political and administrative attention can sometimes lead to policy changes that contribute to the improved management of the risks faced by asylum seekers, and forces the parties involved to focus attention on the manner in which policy is implemented. However, this level of attention on asylum policy also puts officials under pressure, forcing them to remain up-to-date on changes to laws, legislation and policy and to implement them in their day-to-day work. Officials are also well aware that their actions are under scrutiny. For fear of making errors, they tend to adhere strictly to the regulations and do not dare to make effective use of the professional freedom they have been given.

Conclusion 8

Cooperation in the field of safety between officials who are involved in the implementation of the asylum policy can still be improved.

For their safety, asylum seekers are dependent on a large number of officials from various organisations. To effectively manage the safety risks faced by asylum seekers, it is important that the officials involved collaborate closely. The interdependence and multitude of connections among the working processes of all parties involved demands precise coordination. However, there are still improvements possible at implementation level. The Board believes it is important to promote an awareness of the process as a whole among all levels of the organisations involved, by means such as coordination meetings, mutual internship exchanges and joint case-study discussions. Staff from the various authorities will be able to coordinate their daily activities more effectively if they have an awareness and understanding of each other's procedures. Parties must be aware that thought and action across institutions is necessary to ensure the safety of asylum seekers. The Board considers it important not to limit this collaboration to the relevant government organisations, as the private parties⁸ and civil society organisations⁹ involved have much valuable knowledge that can be used to help eliminate the problem areas identified in this report.

Conclusion 9

The organisations who implement the asylum policy are not set up to jointly monitor the safety of asylum seekers and to learn from incidents in a structured way.

There is no mechanism in place to jointly monitor the safety of asylum seekers at all times. Incident registration by the various organisations currently does not provide a clear understanding of the nature and scope of the problems system-wide, making it impossible to learn from incidents in a structured way. The Board believes it is desirable to put the information that is available to better use, and possibly to collect additional information in order to create an understanding of the extent to which asylum seekers are safe throughout the entire asylum procedure. This information is necessary to reduce the risks faced by asylum seekers as much as possible.

Supervision of the asylum process is fragmented. A range of parties maintain supervision of various parts of the process, however, the safety of asylum seekers throughout the entire process is not subject to any supervision – while, as various studies point out, it is

⁸ Such as the Asylum Seekers' Health Centre, private security organisations and lawyers.

⁹ Such as the Dutch Council for Refugees and Amnesty International.

precisely the problem areas at the junctures between the organisations that form the biggest threat to the safety of asylum seekers. External supervision of the functioning of the whole process is necessary to gain an overview of how it performs. The Board believes the Inspectorate for Security and Justice would be particularly suited to take on a coordinating role in this respect. It will also be important for the Inspectorate to collaborate closely with other inspectorates responsible for supervision of specific aspects of the asylum procedure, such as the Healthcare Inspectorate and the Inspectorate for Youth Care.

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