

Dutch prisoners in Germany, France and other old EU Member States

First results of the EuroMoS Inquiry in the '*Gezant*'.

Scientific Research Unit EuroMoS

I. Introduction

Meanwhile we have the first results of the EuroMoS Inquiry which was initiated by means of a Questionnaire published in the *Gezant*. These preliminary results are discussed below, but first let us thank all respondents who have taken the trouble to complete and return the forms.

II. Processing of Data

Until the middle March, the provisional deadline, we received 56 completed Questionnaires. The data, both the replies to the questions giving possible alternatives for the response and the replies to open questions, were fed into the computer using a computer programme that was specially developed for our inquiry. The first result consists of tables with so-called frequencies (the number of corresponding answers to the closed questions).

III. Division into 3 groups of respondents

For the purpose of this first brief report we have only reviewed the answers of Dutch prisoners in a penitentiary in a former EU-Member State as this will enable us to obtain a clearer picture. On the basis of the location of the respondents in the various former EU-Member States, these groups were classified into three groups:

- (1) Dutch prisoners in Germany (13 persons);
- (2) Dutch prisoners in France (14 persons);
- (3) Dutch prisoners in other EU-Member States, to wit England (5), Spain(4), Greece(3), Belgium and Austria (2 each) and Denmark, Finland, Italy, Portugal and Sweden, one detainee in each of these countries (in the aggregate 21 persons).

IV Three essential questions in respect of the rights and actual circumstances of the Dutch detainees-respondents in the former EU-Member State

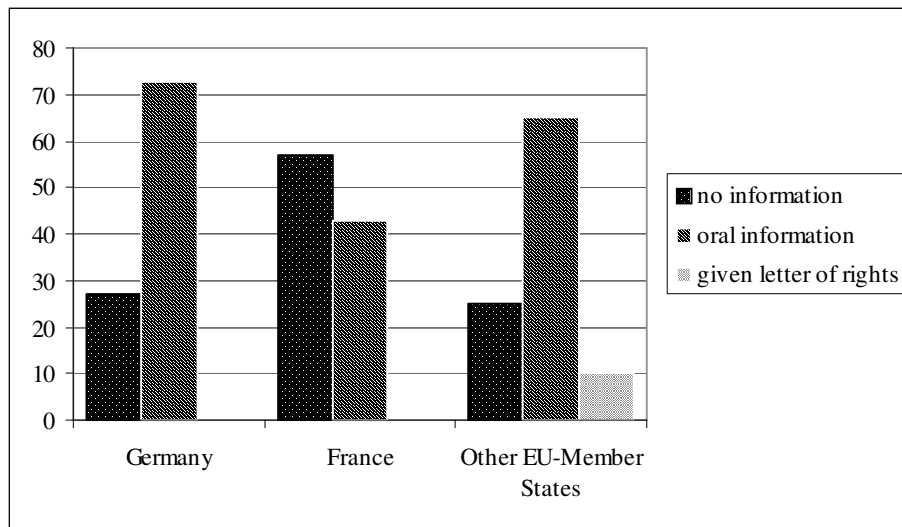
With regard to the three groups of detainees the answers to the following questions were thereupon examined:

1. Were the Dutch prisoners detained abroad informed of their rights?
2. Did the Dutch prisoners abroad sign documents which they could not understand on account of insufficient or a lack of knowledge of the language?
3. With how many prisoners were the Dutch detainees locked up in one cell?

In respect of 1)

The answers to the question whether and, if so, how prisoners were informed of their rights, we find in Figure 1:

Figure 1: Information in respect of rights



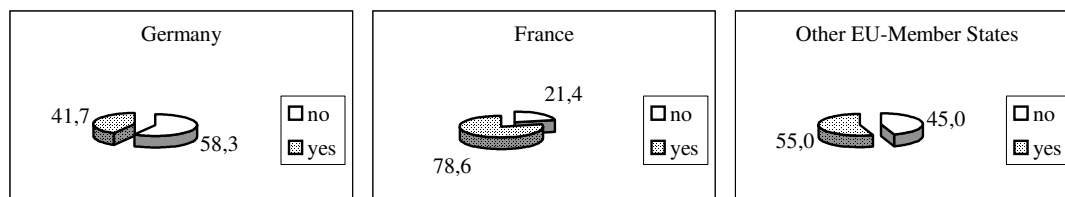
Over one-half of the Dutch detainees in France and approx. one-fourth of the prisoners in Germany and the other EU-Member States were not informed of their rights at all. Oral information was given to over 70% of detainees in Germany and to over 60% in other EU-Member States and over 40% in France. Only in Austria was one Dutch prisoner handed a letter of rights. This is of course a dire result which will require further examination of the causes of these shortfalls.

In respect of 2)

The answers to this second question show some of the consequences of insufficient information on their rights and, at the same time, also show how important interpreters and translators are for prisoners abroad.

Figure 2 is subdivided in three pies. These show that 41.7% of Dutch prisoners in Germany, 55% of Dutch prisoners in the other old EU-Member States and even 78.6% of Dutch prisoners in France are of the opinion to have signed documents which they could not fully understand on account of the language.

Figure 2: Degree of lack of understanding of documents signed by the respondents



In respect of 3)

With regard to those Dutch inmates in foreign prisons who completed the EuroMoS' Questionnaire there are great differences. Table 1 shows whether one prisoner was held in one cell (-1), or whether he was incarcerated with as many as the cells were meant for (0) or whether he was held with more persons than for which the cell was meant for.

Table 1: Under-occupancy or over-occupancy of a cell

	Germany	France	Other EU-Member States
-1	18,2	15,4	10,5
0	81,8	46,2	52,6
1		23,1	31,6
2		15,4	
24			5,3
N	11	13	19

While in Germany either less or just as many persons are held in one cell as for which the cell was meant, cells in France and in other old EU-Member States are over-occupied by more than one-third. In Greece the number of persons held in excess of what the cells were meant for is particularly harsh: one Dutch prisoner is in a cell with thirty-two, another Dutch detainee with thirty-eight persons in one cell, in Dutch terminology, in one-living-unit. Having regard to the high level of over-occupancy, there is every reason to doubt that the conditions of the European Prison Rules of 1987, as drafted and adopted by the Council of Europe, are complied with. With regard to the more specific aspects, like sanitary conditions, medical care and the provision of meals, compliance with these standards at a European level will be reviewed in a following report. However, it can already be stated with certainty that in several countries the standards for living space in cells does not reach the levels applicable in the Netherlands. For, article 3 of the *Regeling eisen verblijfsruimte penitentiaire inrichting* (Rules for Living Space in Penitentiary Institutions), published in the *Staatscourant* 2004, 175, read as follows:

‘The living unit must at least consist of a floor area of 10 sqm with a width of two meters and a free height of 2.5 meters, with a margin of deviation of 10%.’

With regard to living units for more than two detainees, article 12a of the same Rules provides that these must be ‘established and made in such a way that each individual detainee will have sufficient room and daylight’. In several European countries Dutch prisoners are confronted with detention conditions which are worse than those in their own country.

Figure 3: Number of prisoners per cell (in percentages).

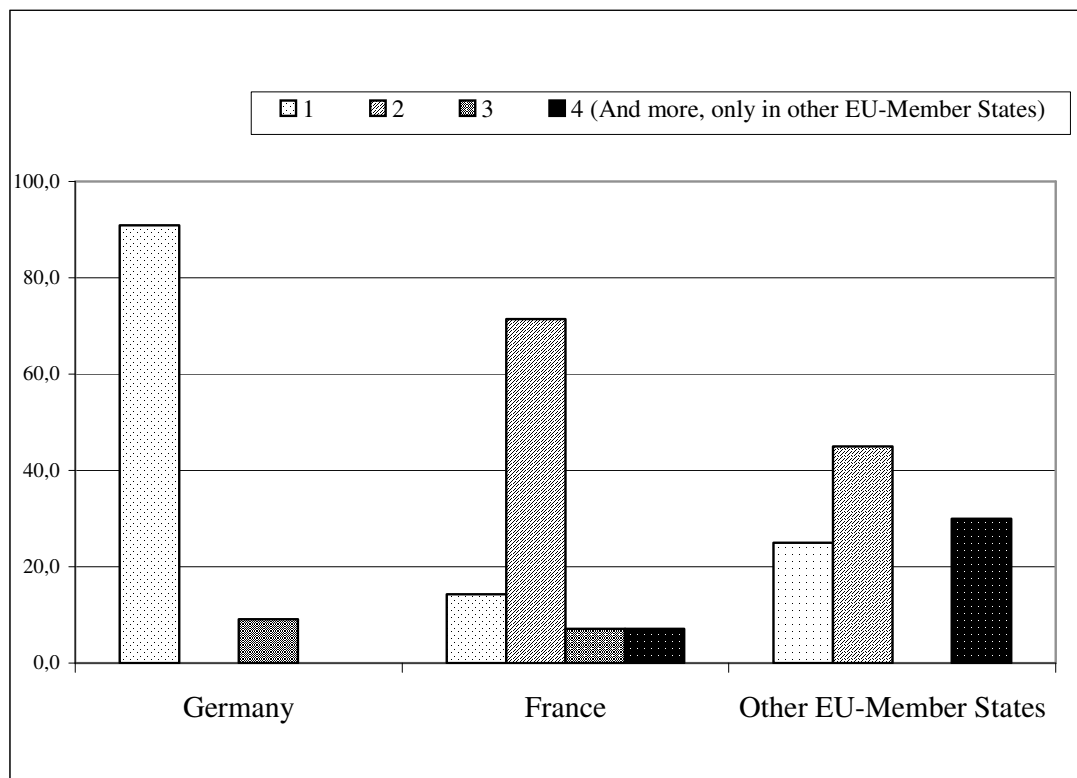


Figure 3 shows the great differences in the number of prisoners per cell between our three groups:

- 1) In Germany about 90% of the Dutch prisoners have a cell by themselves.
- 2) In France about 70% of the Dutch prisoners share a cell with a second person while about 17% are incarcerated in one cell and about 13% must share a cell with two or three other persons.
- 3) In the other former EU-Member States about 22% have a cell for themselves, about 42% are together with one other prisoner in one living-unit while about one-third shares a cell with three (and even more) prisoners.

As far as the living conditions of these prisoners abroad, these are for at least one-third of the respondents far below the level required in the Netherlands.