



Ministerie van Buitenlandse Zaken

Aan
Van
Via
Kopie aan
Afgestemd met

[Handwritten signature]
DGPZ 14/10
SG, DAM, ZMA Was
DVB, DJZ

TER BESLISSING

Datum
14 oktober 2014
Onze Referentie
Minbuza-2014.616391

Opgesteld door

10.2.8

memo

Verzoek VS om overname gedetineerden Guantanamo

Aanleiding

- Vraag Amerikaanse Secretary of Defence Hagel aan MinDef 7/10 naar NL bereidheid tot overname enkele gedetineerden Guantanamo;
- (Politieke) wens VS tot oplossen 'probleem' Guantanamo voor einde ambtstermijn President Obama (nov. 2016);
- Veranderde (veiligheids-)politieke context en mogelijkheid NL om te helpen bij oplossen probleem belangrijkste bondgenoot en bij te dragen tot sluiting Guantanamo.

Gevraagd besluit



Kern/samenvatting

- 10.2.a
- 11
- Sluiting Guantanamo politieke belofte President Obama sinds eerste dag Presidentschap.
- Thans nog 149 gedetineerden in Guantanamo, waarvan 75 sinds ruim 4 jr 'cleared for release'. Door Pres. Obama 88 gevangenen eerder vrijgelaten.
- Weinig voortgang met overdracht Jemenieten aan Jemen (m.u.v. 2 recente gevallen).
- Tot op heden door NL gevolgd lijn: wens Guantanamo te zien sluiten; als sluiting Guantanamo in laatste stadium zonder NL betrokkenheid op onoverkomelijke problemen zou stuiten v.w.b. enkele gevangenen, dan NL bereid tot nader overleg voor vinden van oplossing.

- Eerdere belofte kabinet-Balkenende: NL wil meedenken met oplossing probleem Guantanamo.

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- Thans nog 149 gedetineerden in Guantánamo, waarvan 80 sinds ruim 4 jr 'cleared for transfer'. Door Obama-administratie 88 gevangenen eerder overgedragen aan derde landen.
- Weinig voortgang met overdracht Jemenieten aan Jemen (m.u.v. 2 recente gevallen).
- Tot op heden door NL gevolgd lijn: wens Guantánamo te zien sluiten; als sluiting Guantánamo in laatste stadium zonder NL betrokkenheid op onoverkomelijke problemen zou stuiten v.w.b. enkele gevangenen, dan NL bereid tot nader overleg voor vinden van oplossing.

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Toelichting

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- Verzoek aan NL past volgens VS bij sterke en goede vriendschap tussen VS en NL, en wens NL om Guantánamo te sluiten.
- Zodra merendeel van 80 'cleared for transfer' gevangenen overgedragen is, zullen kosten naar verwachting zwaarder wegen in VS binnenlands debat: per jaar kost één Guantánamo gevangene USD 2,7 miljoen, opsluiting in *maximum security facility* in VS kost USD 78.000.
- Administratie hoopt vóór Presidentsverkiezingen 2016 overdracht van overblijvende gevangenen naar Amerikaanse vasteland mogelijk te maken om zo Guantánamo daadwerkelijk te sluiten.
- Onder Republikeinen maar ook onder Democraten veel weerstand tegen sluiting Guantánamo, des te sterker in licht van strijd tegen IS: 66% Amerikaanse bevolking tegen sluiting Guantánamo.
- Politiek draagvlak NL t.a.v. opname gevangenen uit Guantánamo: in 2009 TK nog in meerderheid tegen; discussie sindsdien nauwelijks gevoerd.

10 2 a

From: WAS-PA
Sent: vrijdag 12 december 2014 22:30
To: 10 2 e 10 2 e
Subject: TRIM: [BZ-V] Verenigde Staten van Amerika - Justitie Sluiting Guantanamo persoonlijke wens van Obama
Rubricering1allow: minbuza.nl
X-SBV: 1

12 december 2014



BZ-Vertrouwelijk

Verenigde Staten van Amerika - Justitie - Sluiting Guantanamo persoonlijke wens van Obama

Van : WAS-PA
Verzonden op : 12 december 2014 22:29
Land/regio : Verenigde Staten van Amerika
Thema : Justitie

Samenvatting

- Obama blijft zich inzetten voor het sluiten van Guantánamo Bay en wil persoonlijk op de hoogte blijven welke landen zich bereid tonen bij te dragen aan het sluiten van Guantánamo Bay.

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- Hoe minder gevangenen er in Guantanamo overblijven, hoe belangrijker het kostenaspect van de gevangenis wordt.
- Hiermee komt het overplaatsen van de overblijvende gedetineerde naar het Amerikaanse vasteland inclusief hun uiteindelijke berechting dichterbij.

Commentaar

Het is de persoonlijke wens van Obama dat de VS de fouten uit het nabije verleden goed maakt. Hij blijft zich dan ook inzetten Guantánamo Bay te sluiten. 11

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Berichtgegevens

Aan : 10 2 e
Opsteller : 10 2 e
Afgestemd : Ambassadeur
Kenmerk : Was-pa/20141/238
Type : Beleids
Prioriteit : Routine
Rubricering : BZ-Vertrouwelijk
Categorie : Verslag/Info
Referte : Was-pa/2014/208

Dit bericht kan informatie bevatten die niet voor u is bestemd. Indien u niet de geadresseerde bent of dit bericht abusievelijk aan u is toegezonden, wordt u verzocht dat aan de afzender te melden en het bericht te verwijderen. De Staat aanvaardt geen aansprakelijkheid voor schade, van welke aard ook, die verband houdt met risico's verbonden aan het elektronisch verzenden van berichten.

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Ministerie van Buitenlandse Zaken

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From: 102 e
Sent: maandag 16 maart 2015 12:56
To:
Cc: 102 e 102 e WAS PA DVB-TN, 102 e
Subject: Note Verbale, Letter and Report on Guantanamo By the Bureau of the OSCE PA Third General Committee
Attachments: pagal0002 nv, report on guantanamo.pdf
Categories: Green Category

Bijgaand note verbale van Chair and Vice-Chair of the OSCE Parliamentary Assembly's General Committee on Democracy, Human Rights and Humanitarian Questions met verslag van bezoek aan Guantanamo Bay en aanbevelingen m.h.o.o. sluiting Guantanamo Bay.
 Oproep aan OVSE-landen om hieraan bij te dragen : request that you work with your government towards hosting detainees cleared for transfer

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Directie Veiligheidsbeleid (DVB)
 Afdeling Veiligheids- en Defensiebeleid (VD)
 Ministerie van Buitenlandse Zaken

Bezuidenhoutseweg 67 | Postbus 20061 | 2500 EB | 's-Gravenhage | 102 e

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<http://www.rijksoverheid.nl/>

Report on Guantanamo
By the Bureau of the OSCE PA Third General Committee

From 25 to 29 January 2015 the Chairperson and Vice-Chairperson of the OSCE PA General Committee on Democracy, Human Rights and Humanitarian affairs held meetings in Washington, DC and with personnel at the Joint Task Force Guantanamo at the U.S. Naval Station Guantanamo Bay, Cuba. The delegation particularly focused on efforts to close down the detention facility, as well as the status and legal access accorded to detainees held at Guantanamo.

The visit was a continuation of long-standing engagement by the OSCE Parliamentary Assembly in issues related to the detention facility at Guantanamo. The Assembly has previously conducted high-level visits in 2006, 2007 and 2008, and has adopted several resolutions on the issue.¹ The delegation expresses its thanks to the U.S. government and the personnel at JTF Guantanamo for their open approach to discussing issues raised by the Members and for facilitating the visit.

At the conclusion of their visit Chairperson Isabel Santos (MP, Portugal) and Vice-Chairperson Mehmet Sevki Kulkuloglu (MP, Turkey), called on OSCE countries to proactively assist the United States in efforts to close the facility and expressed concern regarding the legal context for detainees. The delegation stated that the continued detention of well over 100 people at Guantanamo for many years remains a dark spot on the United States' reputation in the sphere of human rights and rule of law. It was also noted that the facility remains a powerful symbol and is widely considered a recruiting tool for criminal terrorists globally.

This report is intended to share the conclusions of the delegation with colleagues in the OSCE Parliamentary Assembly, facilitating work by the Assembly on Guantanamo. It is hoped that this can serve as a basis for continued engagement to close Guantanamo, as well as a basis for reflection on how to uphold fundamental human rights in the fight against terrorism.

A. Status of detainees

At the time of the visit, 13 years since the establishment of the facility, Guantanamo reportedly housed 122 detainees.² The delegation was informed that the detainees were being held at Guantanamo to keep them off of the battlefield. Citing the laws of war, the U.S. government asserted that detainees could be held until the end of hostilities.

According to information provided, 54 detainees had already been cleared for transfer to other countries, 10 were in the process of prosecution before military commissions established by the U.S.

¹ Reports on previous engagement by the OSCE Parliamentary Assembly, as well as previous recommendations, can be found at: www.oscepa.org

² 80 people are understood to have been detained in Guantanamo since the opening of the detention facility. Please see: NY Times "The Guantanamo Docket" <http://projects.nytimes.com/guantanamo>

government. The remaining 58 detainees' status is regularly reviewed to determine if they could be eligible for transfer. Such reviews are based on an assessment of the continued threat posed by the detainee, and authorities stressed that this was a robust internal process. However, the delegation feels that this process could benefit from added transparency and additional scrutiny.

B. Prospects for closing down the facility

The United States government's strong commitment to closing Guantanamo was repeatedly underlined to the delegation, and they noted that Presidents George W. Bush and Barack Obama had both expressed their wish to close the facility. Late 2014 and early 2015 has seen a significant number of detainees transferred to third countries. The delegation saw this as a positive step and as evidence of the U.S. government's efforts to achieve the goal of shutting down the facility. Fulfilling this goal requires greater co-operation both domestically and internationally.

Within the OSCE, the following countries are understood to have resettled detainees that were not their citizens: Albania, Belgium, Bulgaria, Estonia, France, Georgia, Germany, Hungary, Ireland, Kazakhstan, Latvia, Portugal, Slovakia, Spain, and Switzerland.³

The delegation urges every OSCE participating State to re-examine the possibility to host some of the 54 detainees approved for transfer, as this would be an important step in efforts to close the facility. Such efforts do not, however, absolve the United States of its own responsibilities to take further action to close the facility and to provide improved access to an effective legal system for detainees.

The delegation regrets the opposition by some lawmakers in Congress to closing the facility and the legal obstacles that Congress has put in the way of government efforts. Such obstruction not only undermines the United States' security by perpetuating Guantanamo as a symbol of injustice and a recruiting tool for terrorists, but also raises questions among allies regarding the United States' commitment.

The delegation expressed concern regarding previous cases in which detainees had reportedly suffered severe harm following transfer to another country. The delegation was informed that decisions regarding the transfer of detainees to other countries involves not only a security assessment but also considers the human rights record of each country. Detainees reportedly can raise objections to their resettlement to a particular country. They can also receive support for integration processes, including for example language instruction, prior to transfer.

C. Conditions of detention

The delegation is unable to comment on previous facilities or treatment practices at Guantanamo. The information provided by JTF personnel and the example facilities shown to the delegation was helpful and generally gave the impression of a professionally-run facility. The delegation was given a briefing by senior military personnel covering aspects including medical coverage, legal access, religious

³ Miami Herald, 'By the Numbers' <http://www.miamiherald.com/news/nation>
and <http://www.worldamerica.com/article2163210.html> (accessed 18 January 2015).

sensitivities, and the daily routine and behavior of detainees. The delegation was also given a tour of camps five and six, including example detention cells, but was not permitted to view camp seven, which reportedly requires a high level of security clearance.

Despite numerous requests, the delegation was not permitted to speak with detainees. The delegation noted that the International Committee of the Red Cross conducts visits and meets with detainees. However, without personal access to detainees, the delegation was not able to adequately assess their conditions, and the request for OSCE PA representatives to meet and speak to detainees still stands.

D. Access to legal recourse

According to information provided to the delegation, only a small number of the remaining 122 detainees were facing or are likely to face formal charges before a court. Those who currently face charges are brought before military commissions, a unique procedure established by the United States within the military apparatus and separate from regular domestic courts and from regular military courts martial. Military commission rulings can, however, be appealed to domestic federal courts. Detainees have the ability to challenge the lawfulness of their military detention in U.S. federal court and are entitled to defence lawyers, either from within the U.S. military or civilian lawyers. The delegation was informed that Congressional restrictions currently prohibit transfer of Guantanamo detainees to the United States, including for prosecution in U.S. federal courts.

During the visit the delegation viewed through closed-circuit television pre-trial proceedings of the military commission established for Abd al Hadi al-Iraqi. United States authorities also facilitated conversations with representatives of prosecution and defence counsel engaged in the military commissions process.

The legal context for detainees has changed several times since the opening of Guantanamo. Responding to domestic court rulings regarding detainees' rights, the U.S. Congress passed laws in 2006 and 2009 setting out a framework and legal basis for military commissions.⁴ While important in that they established clearer guidelines and jurisdiction, the changing legal context has resulted in very significant delays in trials, challenging the right to a trial within a reasonable time. In addition, certain aspects of the military commissions still raise concerns. The admission of hearsay evidence, intended to accommodate battlefield circumstances, is a challenge to a fair trial. Also, defence lawyers informed the delegation that the large amount of material that is considered classified limited what lawyers can discuss with their clients and presented serious challenges to their ability to mount a defence.

The delegation took note of individual concerns raised by detainees' defence counsel particularly to do with communication with detainees and classification of protected materials, some of which conflicted with information provided by JIF personnel. Specifically, the delegation was given conflicting accounts regarding the ability for detainees to communicate by telephone regularly and openly with their defence counsel, but was not able to corroborate without speaking to detainees themselves.

⁴ For analysis of the development of military commissions please see: Fisa, Jennifer K., 'The Military Commissions Act of 2009 (MCA 2009): Overview and Legal Issues', Congressional Research Service, 4 August 2014.

The vast majority of those detained at Guantanamo have not, and are not expected to face charges and prosecution. Instead, citing the laws of war, the U.S. government asserts that detainees could be held until the end of hostilities. While noting that there is a long tradition internationally of holding prisoners during war time to keep them out of active combat on battlefields, the delegation concluded that application of this approach to criminal terrorists captured when fighting terrorism is not reasonable. With no clearly defined battlefield and a "war" that does not have a clear-cut end, this legal theory has worrying consequences for the long-standing principle of the right to a fair trial within a reasonable time. For decades the United States has been a leader in championing respect for human rights principles globally – it should not allow existing security challenges, however real they may be, to override its own application of human rights.

E. Recommendations

1. The United States, working with other OSCE countries, should step up efforts to close the facility at Guantanamo. The United States Congress and government should work to develop a national consensus on achieving this objective, which is in the best interests of the country's security and international standing.
2. OSCE parliamentarians should encourage their governments to actively explore the possibility to host detainees cleared for transfer. Such efforts are crucial to shutting down the detention facility, as called for in OSCE PA resolutions.
3. The United States government should reconsider the application of traditional laws of war in the fight against terrorism in view of the amorphous and open-ended character of this fight.
4. OSCE parliamentarians and participating States should engage in an active discussion to consider if an alternative legal framework, beyond domestic criminal law and outdated laws of war, is necessary to address modern security threats. Terrorists and non-state actors continue to pose significant security threats across the OSCE and beyond, and a purely state-based legal framework may no longer be sufficient to address these concerns.
5. The United States government is strongly encouraged to be more transparent regarding detainees and their information. Specifically, classification rules should be relaxed and contact with detainees by high-level domestic and international delegations should be facilitated. This is crucial to develop confidence about conditions at Guantanamo among a skeptical global public.
6. To ensure confidence in the military commissions process, the United States government should ease classification rules to enable defence lawyers to access all relevant material and to discuss such material with their clients.
7. For those detainees that have been and are going to be released following detention without trial, the United States government should contribute to their reintegration process as compensation for time detained without trial.
8. The OSCE Parliamentary Assembly should remain actively engaged in assessing the situation at Guantanamo and in assisting in efforts to close the facility.

Annex: Delegation and list of interlocutors

OSCE PA Delegation:

- Isabel Santos (MP, Portugal), Chair, OSCE PA General Committee on Democracy, Human Rights and Humanitarian Questions
- Mehmet Sevki Kulkuloglu (MP, Turkey), Vice-Chair, OSCE PA General Committee on Democracy, Human Rights and Humanitarian Questions
- Gustavo Pallares, OSCE PA Deputy Secretary General
- Andreas Baker, OSCE PA Director of Elections

The delegation met with:

Congress

- Senator Benjamin Cardin, former OSCE PA Vice-President, member of the U.S. Helsinki Commission and the U.S. Delegation to the OSCE PA

Washington Meetings

Senior Officials

- Paul Lewis, Special Envoy, Guantanamo Detention Closure, Office of the Under Secretary of Defense, Department of Defense
- Charles Trumbull, Acting Special Envoy for Guantanamo Closure, Department of State
- Steven Dalbey, Director, Office of Detainee Policy, Office of the Under Secretary of Defense, Department of Defense
- L. Victor Hurtado, Principal Deputy Director, Office of European Security and Political Affairs, Department of State
- Wendy Kelly, Chief, Operations, Office of Military Commissions, Department of Defense
- Col Karen Mayberry, Chief Defense Counsel, Office of the Chief Defense Counsel, Department of Defense

Staff

- Liam Apostol, Associate Deputy General Counsel, Office of General Counsel, Department of Defense
- Amy Apostol, Associate Deputy General Counsel, Office of General Counsel, Department of Defense
- Jamie Briggs, Office of the Legal Adviser, Department of State
- Jason Foster, Associate Deputy General Counsel, Office of General Counsel, Department of Defense
- Mark Hobel, Office of the Special Envoy for Guantanamo Closure, Department of State
- Audrey Hsieh, Office of the Special Envoy for Guantanamo Closure, Department of State
- COL James Mitchell, Deputy Branch Chief, Office of Detainee Affairs, Joint Staff, Department of Defense
- Natalya Seimeca, Office of the Legal Adviser, Department of State
- Ashika Singh, Office of the Legal Adviser, Department of State
- Bridgette Walker, Office of European Security and Political Affairs, Department of State

Joint Task Force Guantanamo Meetings

- Rear Admiral Kyle J. Cozad, USN, Commander, Joint Task Force Guantanamo
- Brigadier General Ronald E. Paul, USAF, Deputy Commander, Joint Task Force Guantanamo
- Sargent Major Juan M. Hidalgo, USMC, Command Sargent Major, Joint Task Force Guantanamo

Civil Society

- Members of the delegation also spoke with a number of individuals engaged with issues related to Guantanamo including from think-tanks, non-governmental organizations and journalists.

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From: 10 2 e
 Sent: donderdag 26 maart 2015 21:06
 To: 10 2 e
 Cc:
 Subject: RE: Woordvoeringslijn - Guantanamo
 Attachments: Woordvoeringslijn Guantanamo 26-3.docx

Beste allen,

Bijgaande woordvoeringslijn is door plvDGPZ geaccordeerd. De woordvoeringslijn is ter informatie gedeeld met V&J.

Groet,

10 2 e

From: 10 2 e
 Sent: donderdag 26 maart 2015 17:44
 To: 10 2 e
 Cc: 10 2 e
 Subject: Woordvoeringslijn - Guantanamo
 Importance: High

10 2 e

Bijgevoegd concept-woordvoeringslijn over Guantanamo. De mededeling van M in de Eerste Kamer heeft geleid tot mediavragen. Naar verwachting zal M hier morgen verder over worden bevraagd en marge Ministerraad.

Graag je akkoord met bijgaande Q&A's.

Dank,

<http://www.nrc.nl/nieuws/2015/03/26/vs-vragen-den-haag-hulp-bij-sluiting-guantanamo/>

VS vragen Den Haag hulp bij sluiting 'Guantanamo'



Minister Koenders (Buitenlandse Zaken, PvdA) heeft het verzoek van de Amerikanen "in beraad". Foto ANP / Valerie Kuypers

door Mark Kranenburg en Guus Valk

BinnenlandBuitenland

De Verenigde Staten hebben Nederland kortgeleden verzocht twee gedetineerden uit de omstreden terreurgevangenis op Guantánamo Bay op te nemen die voor vrijlating in aanmerking komen. Dit bevestigen diplomatieke bronnen aan *NRC Handelsblad*. Minister Koenders (Buitenlandse Zaken, PvdA) zegt dat Nederland het verzoek nog "in beraad" heeft. Onduidelijk is wie de twee gevangenen zijn en welke nationaliteit zij hebben. Het toelaten van ex-gevangenen uit 'Gitmo' ligt in Nederland gevoelig. Een meerderheid in de Tweede Kamer was tot nu toe tegen. Andere Europese landen namen al wel gevangenen op.

President Obama wil de gevangenis sluiten, maar mag van het Congres geen vrijgelaten gedetineerden in eigen land opnemen. In 2009 deed Obama al een vergeefse poging bij toenmalig premier Balkenende ex-gedetineerden naar Nederland te verplaatsen.

Of het kabinet ingaat op het verzoek is de vraag. Nog in december zei minister Koenders in de Tweede Kamer dat hij 'twijfels' had. Met een afwijzing van het nu geopenbaarde concrete verzoek riskeert Nederland wel een diplomatieke botsing met de VS.

Amerikanen verbaasd over mededeling Koenders

Een woordvoerder van het Amerikaanse ministerie van Buitenlandse Zaken zegt dat de VS "er alles aan doen met onze naaste bondgenoten de sluiting van Guantánamo Bay te versnellen". Enkele Amerikaanse bronnen reageren met verbazing op de mededeling van Koenders. Het is gebruikelijk dat over dit soort zaken pas naar buiten wordt getreden als er een definitief besluit is genomen, om de kans op mislukking te verkleinen.

Koenders maakte dinsdagavond voor het eerst terloops melding van het verzoek van de VS. Dat gebeurde tijdens een debat in de Eerste Kamer over internationale veiligheidsstrategie, waar hij antwoordde op een vraag van senator Franken (CDA). Obama zei vorige week dat hij nog altijd spijt heeft dat hij de gevangenis niet op zijn eerste dag in het Witte Huis heeft gesloten. Sluiting was een verkiezingsbelofte uit 2008, die hij nooit heeft kunnen inlossen. De gevangenis werd in 2002 onder president George W. Bush geopend, als plek om gevangenen in de oorlog tegen terrorisme buiten het internationale recht om gevangen te houden.

56 gedetineerden mogen weg van eiland

Op dit moment zitten er nog 122 mensen vast, 56 van hen worden nergens van verdacht en mogen gaan. Obama schakelde tot nu toe 22 landen in om gevangenen op te nemen die niet terug kunnen keren naar hun land, bijvoorbeeld omdat vervolging dreigt. De ex-gedetineerden komen in hun nieuwe land op vrije voeten.

Tijdens een bezoek aan Obama in 2009 zette toenmalig premier Balkenende de deur op een kier voor het opnemen van ex-gedetineerden. Dit leidde tot protest in de Kamer. Een meerderheid zag de toekomst van de gevangenen als Amerikaans probleem.

Woordvoeringslijn Guantanamo

- De VS heeft NL, en andere landen, gevraagd op humanitaire gronden één of twee Guantanamo-gedetineerden over te nemen die goedgekeurd zijn voor vrijlating ("approved for transfer").
- Van deze personen is door de VS autoriteiten vastgesteld dat hun detentie beëindigd moet worden omdat zij niet zijn aangeklaagd en/of veroordeeld van enig misdrijf.
- De Nederlandse regering heeft nog geen besluit genomen over dit verzoek.

Waar hangt besluit vanaf?

- Wij onderzoeken hoe andere landen die al personen uit Guantánamo hebben overgenomen, hiermee zijn omgegaan.
- Vanzelfsprekend worden alle aspecten van mogelijke overname onderzocht. Het verzoek zal ook binnen het kabinet worden besproken.

Om welke personen gaat het?

- Zo ver zijn we nog niet.
- Het gaat om personen die volgens de VS autoriteiten in aanmerking komen voor vrijlating. Het merendeel van deze "approved for transfer" gedetineerden is al door andere landen overgenomen, waaronder Europese landen.

Wat betekent het voor relatie met VS als NL geen gevangenen overneemt?

- Het sluiten van Guantánamo heeft hoogste prioriteit voor de VS-Administratie.
- NL heeft zich altijd hardgemaakt voor de sluiting van Guantánamo Bay. Het bestaan van de detentiefaciliteit op Guantánamo Bay is in strijd met internationaal recht en werkt terrorisme in de hand.
- De VS graag steun van hun bondgenoten om Guantanamo te sluiten. Aanzienlijk aantal landen heeft hier gehoor aan gegeven door personen uit Guantánamo over te nemen.

Wanneer wordt besluit verwacht?

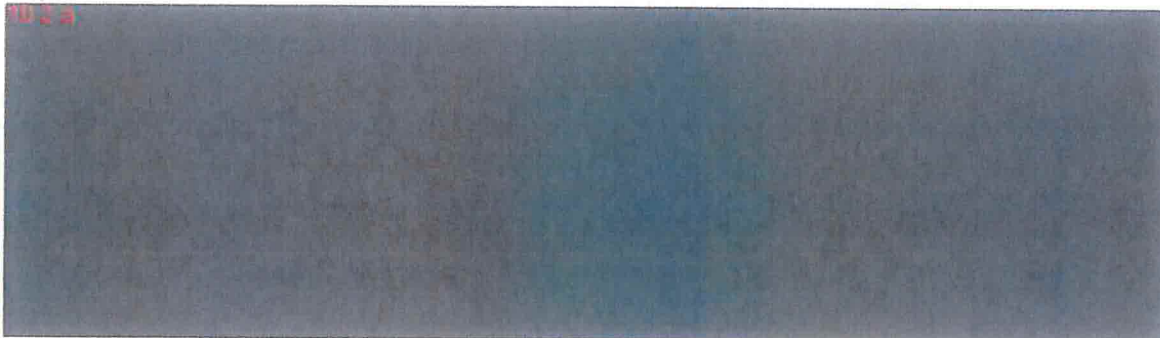
- Zo snel mogelijk, maar zorgvuldigheid staat bovenaan.

Waarom gaat Nederland eerdere positie heroverwegen?

- Wij hebben nu een concreet verzoek ontvangen.
- VS-administratie heeft afgelopen jaren veel gedaan om sluiting van Guantánamo mogelijk te maken. Veel personen zijn al overgebracht naar andere landen. Men wil hier nu vaart mee maken.
- Belangrijk dat we hier serieus naar kijken. Groot onrecht dat mensen zo lang zonder enige vorm van proces vastzitten op Guantánamo. Daar moet zo snel mogelijk een einde aan worden gemaakt.

Achtergrond

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- Nu nog 122 gevangenen in Guantánamo, waarvan 56 "cleared for transfer".
- VS wil deze resterende "approved for transfer" gedetineerden vóór juli 2015 overdragen aan andere landen.
- "Approved for transfer"-gedetineerden zijn door 6 instanties in VS goedgekeurd voor vrijlating (Department of Defense, Homeland Security, Justice, State, Joint Chiefs of Staff, Director National Intelligence).

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inventarisatie New York Times: VK (14), Fra (9), Dui (3), Bel (3), Ita (2), Spa(5), Zwe (1), Ier (2), Den (1), POR (2), Hon (1), Bul (1), Slow (8), Lat (1), Est (1).

Hoe minder gevangenen in Guantánamo, hoe makkelijker de overplaatsing van overgebleven gedetineerden naar VS vasteland (kosten per gevangene nemen dan toe, waarmee Administratie een sterkere case heeft richting Congres).

- VS verzoek is afgelopen dinsdag door u in de Eerste Kamer bevestigd

• 11

[REDACTED]

From: [REDACTED]
Sent: maandag 30 maart 2015 11:37
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: argumenten waarom Nederland toch een paar Guantanamo gevangenen zou moeten opnemen.
Attachments: TPs for Dutch on Potential Transfers 3-26-15.docx
Categories: Green Category

Zie ter info bijgaand bericht dat ik van Boris Dittrich (HRW) kreeg met argumenten voor opnemen van Guantanamo gevangenen door NL.

Heb hem bedankt voor bericht en gemeld dat ik het onder de aandacht zou brengen.

Groet,

[REDACTED]

[REDACTED]

[REDACTED]

Bezuidenhoutseweg 67, 2500 EB The Hague

T +31 70 348 [REDACTED]

F +31 70 348 [REDACTED]

www.government.nl

From: Boris Dittrich [REDACTED]
Sent: vrijdag 27 maart 2015 17:32
To: [REDACTED]
Subject: argumenten waarom Nederland toch een paar Guantanamo gevangenen zou moeten opnemen.

Beste [REDACTED]

Bijgaand zend ik je een notitie over de gevangenen van Guantanamo Bay en waarom Nederland hen toch zou moeten opnemen, althans de twee waarvan sprake was in de media.

De argumentatie gaat in tegen de door de meerderheid van de Tweede Kamer gehanteerde argumentatie die niet op de feiten lijkt te zijn gebaseerd.

Graag wil ik hier even met jou of Bert Koenders overleggen. Uiteraard snap ik de politieke gevoeligheid.

Wil je me de ontvangst van deze email bevestigen?

Hartelijke groet,

Boris Dittrich

[REDACTED]

4/24/2014

1. "Baker City" (Baker City, Oregon) - Baker City, Oregon

News: Prominent 5 (10/1/2014) Baker City, Oregon

For **no. 2 e** hrw.org/lgbt

The future is not in front of us, it is inside of us.

TPs - Dutch considering taking Guantanamo detainees (3-26-15)

The main point we want to make is that we heard that the Dutch were considering this and that we are very glad. Though we are not sure which two detainees they are considering, most of those cleared for release have been cleared since at least 2009, and many were cleared even before that by the prior George W. Bush administration. These are all detainees who never should have been in Guantanamo in the first place and it is a real tragedy that any of these men are still there at all.

Most have been there for nearly 13 years. The only reason they are still there is not through any fault of their own but due to dysfunctional American politics (in short, Congress has placed obstacles in the way of transferring detainees out of Guantanamo and President Obama has been unwilling to take the political risks necessary to overcome those obstacles). But the men that remain at Guantanamo should not have to pay the price for this. They are accused of no wrongdoing and have been unjustly detained there for years.

Though this is largely a US problem that the US has created, keeping Guantanamo open is how affecting global security – it is not just a US national security problem. Though the US is ultimately responsible, it needs the help of other countries at this moment to solve it. If the Netherlands can do something to help it should because it will encourage other countries to do the same – an example sorely needed right now. Additionally, the window of opportunity to put an end to indefinite detentions at Guantanamo is closing. It really needs to happen while Obama is still in office because there is no guarantee that the next president will work to close the facility. In fact, they may keep it open and put more detainees there which would not be in the interest of any government.

- If concern is expressed about the so called “recidivism” rate we should explain that that the numbers often used in this context (30%) are frankly false (if they want details about this – see below). It's true that some men who have been released from Guantanamo have become involved in militancy but the number is relatively small. Most of them were detainees who were released years ago under the Bush administration and who were subjected to a much less rigorous security review process. The truth is, and this is actually the more important statistic, the vast majority of those released from Guantanamo are living peaceful lives. Those who are slated for release now should not be penalized for what some other former Guantanamo detainees, who they have zero relationship with, may have done after they were released years ago.
 - *Details on the false 30% so-called “recidivism” rate: The false 30% number is perpetuated because politicians in the US gain political points by repeating it. They get it by rounding up and combining the so-called “confirmed” and “suspected” numbers. Of the 647 detainees released, only 18% (17.9%), are considered “confirmed” of engaging in militancy while another 11 (10.7%) are considered “suspected” of such engagement. But even these numbers are hard to verify because the US doesn't provide anything but the numbers so we don't know how they came to these determinations. In addition, the standard for inclusion in the “confirmed” category is a preponderance of the evidence standard – so “more likely than not.” So if the US has some information indicating that there is a 51% chance that a former detainee is involved in militancy, the case will be put in the “confirmed” category. The standard for inclusion in the “suspected” category is even lower – there must be a plausible but unverified or single-source reporting indicating a specific former GTMO detainee is directly involved in terrorist or insurgent activities.”*

- Additionally, an overwhelming majority of those in the 18% category were transferred during the Bush administration, before more rigorous rules and processes governing transfers were put in place by Obama. In fact only six detainees transferred since 2009 are in the "confirmed category" and one is in the suspected category. The fact is that the vast majority of detainees released since Guantanamo opened in 2002 are living peaceful lives. This is really the more important number. Of course there is never a 100 percent guarantee that a released detainee will not become involved in militancy but the chances are pretty low, especially for those detainees cleared for release.
- If concern is expressed about problems related to one of the more recent transfers to Uruguay (six were transferred at the end of last year and there have been some stories in the press that they are not getting what they were promised (see recent story if interested)), it is in fact true that the men didn't get what they were promised. They were promised that each of them would have their own house within a month and that they would be able to bring their families to Uruguay. This has not happened. They are still sharing rooms in one house and sleeping in bunk beds. They are also not getting the help with Spanish lessons, the health care treatment, or the work training they were promised. The way for the Netherlands to avoid this happening is to only make promises that they can keep. I don't see that being a problem for the Dutch. The Uruguayan government however has now taken to calling the former Guantanamo detainees "lazy" in order to counter the comments they have made in the press about their conditions (legitimately, though not necessarily wisely). We also have to remember that the men have been through serious psychological trauma (one of them, Dhiab, is actually mentally ill) and are suffering. They do need rehabilitation which they are not getting in Uruguay. Again, I have no doubt that that the Dutch would be sensitive to this and supply it.
- If they want the most recent numbers here they are:
 - 122 detainees still there. Of these.....
 - 56 have been cleared for release.
 - 7 are currently facing charges in the military commissions.
 - 3 have been convicted in the military commissions (but some of these convictions have been overturned and appeals are pending)
 - 34 have not been cleared but will get parole type hearings to determine if they can be put in the "cleared" category. 12 have received these hearings so far and 8 have been cleared through this process.
 - 22 may face charges someday but after 13 years, they have still not been charged with anything.

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From: DWH
Sent: donderdag 2 april 2015 15:07
To: [REDACTED]
Subject: FW: [BZ V] Verenigde Staten van Amerika Bilateraal - Overname gedetineerden Guantanamo
Attachments: JBZ_raadsconclusies_2009___Sluiting_van_Guantanamo.pdf
Rubricering1allow: minbuza.nl
X-SBV: 1

2 april 2015



BZ-Vertrouwelijk

Verenigde Staten van Amerika - Bilateraal - Overname gedetineerden Guantanamo

Van : DWH
Verzonden op : 2 april 2015 14:59
Land/regio : Verenigde Staten van Amerika
Forum : Bilateraal
Deadline : 10 april 2015
Gewenste actie : U wordt verzocht te uwent op geëigend niveau na te gaan of berichten dat gedetineerden uit Guantanamo door uw ontvangstaat zijn overgenomen bevestigd kunnen worden en wat hierbij de belangrijkste overwegingen zijn geweest.

Verzoeken uiterlijk vrijdag 10 april langs vertrouwelijke weg te rapporteren

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Samenvatting

- VS heeft NL – en eerder ook uw ontvangstaat – gevraagd op humanitaire gronden één of twee Guantanamo-gedetineerden over te nemen die goedgekeurd zijn voor vrijlating.
- Ervaringen van EULS die eerder gedetineerden hebben overgenomen, zullen meegenomen worden in de Nise besluitvorming over het VS verzoek.

Commentaar

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