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Legal proceedings concerning Mr van der Dussen and failures in the Spanish judicial system

Written question No. 689 to the Committee of Ministers
by Mr Pieter OMTZIGT, Netherlands, Group of the European People's Party

Mr Romano van der Dussen was arrested in Spain in 2003 and thereafter sentenced to 15 years and 7 months in prison for three counts of rape and sexual assault. Mr van der Dussen has maintained his innocence throughout.

During the trial in 2004 it was clear that the DNA found on the body of the victim did not match the DNA of Mr van der Dussen. In 2006 however, a DNA match occurred with the DNA of Mr Mark Dixie, who is serving a life sentence with a minimum tariff of 34 years in the United Kingdom for murder. This match in the Interpol files was officially known by the Spanish authorities. However, no further legal action has been taken despite repeated requests from Spanish lawyers to the Spanish Public Prosecution Service to reopen the case.

In February 2015 the Home Office in the United Kingdom took a mouth swab from Mr Dixie and sent it to Spain for a DNA comparison with the Spanish victim. For inexplicable reasons, the Spanish forensic police have thus far been unable to determine one single official match.

Recently Mr Mark Dixie also confessed to one of the three cases for which Mr van der Dussen is serving a sentence. Despite the overwhelming evidence that Mr van der Dussen is not guilty, his case has not yet come up for revision by the Spanish courts. Mr van der Dussen is still detained in Spain. And despite his confession, despite the DNA match, the Spanish authorities have not opened a case against Mr Dixie.

Mr Omtzigt,

To ask the Committee of Ministers:

What steps the Committee of Ministers intends to take to guarantee:

– that the Spanish authorities fully respect the judicial rights of convicted persons, in particular with regard to the re-opening of their case on procedural grounds or on the basis of new elements?

– that the Council of Europe member States – the British and Spanish authorities in the present case – ensure an effective police and judicial co-operation from the preliminary investigation stage, through the trial stage, to post-trial?

– that after new and convincing DNA evidence, which strongly and convincingly point to another person than the convict, the convicted person does not unnecessarily spend extra time in jail before formal revision?