



CPT/Inf (98) 15

**Report to the Netherlands Government
on the visit to the Netherlands
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 17 to 27 November 1997

This report was made public by the Netherlands Government on 10 September 1998.

Strasbourg, 29 September 1998

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Copy of the letter transmitting the CPT'S report

Strasbourg, 24 July 1998

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government the Netherlands drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Netherlands from 17 to 27 November 1997. The report was adopted by the CPT at its 36th meeting, held from 29 June to 3 July 1998.

I would like to draw your attention to paragraph 159 of the report, in which the CPT requests the Dutch authorities to provide an interim and a follow-up report on the measures taken upon its report. The CPT would be most grateful if it were possible, in the event of the reports provided being in Dutch, for them to be accompanied by an English or French translation. It would also be most helpful if the Dutch authorities could provide a copy of the reports in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Ivan ZAKINE
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

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Economic Cooperation Department
Interregional and Regional
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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the Netherlands from 17 to 27 November 1997. The visit formed part of the CPT's programme of periodic visits for 1997 and was the second periodic visit to the Netherlands to be carried out by the Committee¹.

2. The visit was carried out by the following members of the CPT:

- Mr Günther KAISER (Head of the delegation);
- Mr Jón BJARMAN;
- Mr Zdeněk HÁJEK;
- Mr John OLDEN;
- Ms Maria SCIBERRAS.

They were assisted by:

- Mr Timothy HARDING (Director of the University Institute of Forensic Medicine, Geneva, Switzerland) (expert);
- Ms Françoise TULKENS (Professor, President of the Criminology and Penal Law Department, Catholic University of Louvain) (expert);

and accompanied by three members of the CPT's Secretariat:

- Mr Fabrice KELLENS;
- Mr Mark KELLY;
- Ms Bojana URUMOVA.

¹ The first periodic visit took place in August/September 1992.

B. Establishments visited

3. The delegation visited the following places of detention:

Amsterdam:

- Over-Amstel Prisons (Demersluis and Het Veer)*
- Amsterdam Police Headquarters*
- Police Station, Warmoesstraat 44-50*
- Koninklijke Maréchaussée ("Royal Gendarmerie") facilities, Schiphol International Airport
- Registration Centre for Asylum Seekers at Schiphol International Airport

Emmen:

- Emmen Police Headquarters

Groningen:

- Dr S. van Mesdag Clinic
- Regional Police Headquarters

Ter Apel:

- Departure Centre for Foreigners

Tilburg:

- Regional Police Headquarters
- Police Station, Stationsstraat 14
- King Willem II Detention Centre for Foreigners

Vught:

- Nieuw Vosseveld Prison (EBI and TEBI)

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations and other bodies active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the national authorities, non-governmental organisations and other bodies with which the delegation held consultations is set out in Appendix II to this report.

* Establishment visited for the first time in 1992

D. Cooperation encountered during the visit

5. As had been the case during the CPT's 1992 visit to the Netherlands, the delegation's meetings with the national authorities at both the start and the end of the visit took place in a spirit of close co-operation. The delegation was received by the Minister for Justice, Mrs W. SORGDRAGER, and the State Secretary for Justice, Mrs E.M.A. SCHMITZ. In addition fruitful discussions were held with senior officials from the Ministries of the Interior, Foreign Affairs, Defence and Justice. The delegation also had an instructive meeting with the National Ombudsman, Mr M. OOSTING.

6. On the whole, the delegation received a satisfactory reception from management and staff in the places of detention visited. However, it rapidly became apparent that information about the delegation's visit and the CPT's mandate had not been distributed to and/or within all police establishments in an effective manner. In consequence, the delegation's work was considerably delayed during visits to a number of police stations, including - in the case of Amsterdam Police Headquarters - in an establishment which had been notified in advance of the CPT's intention to carry out a visit.

Although the delegation was able to complete its work in all of the police establishments visited, the CPT again wishes to highlight **the need for State Parties to disseminate to all the relevant authorities, at the appropriate time, detailed information on the Committee's mandate and the obligations of the authorities concerned.**

7. At the (T)EBI and EBI units at Nieuw Vosseveld Prison, which hold prisoners deemed to require particularly secure conditions of detention, difficulties arose as regards the conditions under which prisoners could be interviewed by the delegation.

After lengthy discussions with the Dutch authorities, it was finally agreed that the delegation's interviews with prisoners could take place at an ordinary table placed at one end of the sports hall in the EBI unit; the prisoners would not be handcuffed and three staff members would be present at the other end of the sports hall but would remain out of earshot.

The delegation interviewed eight prisoners under these conditions, completely without incident.

8. However, the Dutch authorities insisted that one particular prisoner, who at the time of the visit had been held for more than a year in a special "handcuffs regime" (under which he was handcuffed whenever in direct contact with prison staff), could not be interviewed under the above-mentioned conditions. It was advanced that - for security reasons - this prisoner could only be interviewed by the delegation through a glass screen or whilst handcuffed and with staff present.

The delegation declined to interview the prisoner concerned under either of these two options. Neither would have permitted the delegation to conduct a meaningful interview with the person concerned and, in particular, to carry out an accurate medico-psychiatric assessment. The making of such an assessment of this particular prisoner, who had been subjected to such a restricted regime for such a lengthy period, was the principal reason for the delegation's interest in interviewing him. Further, the second option was, at least potentially, not compatible with the CPT's power to carry out interviews in private.

9. The CPT recognises that it may exceptionally be necessary to take specific precautions when carrying out an interview with a particular person deprived of his liberty. However, the Committee remains convinced that its delegation could - and should - have been placed in a position to interview all prisoners in the (T)EBI and EBI units, without exception, under the conditions referred to in paragraph 7; those conditions met all legitimate security concerns. Nevertheless, the CPT is confident that in the light of the experience gained during the visit to Vught it should, in the future, prove possible to resolve such situations in a satisfactory manner.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

10. During its second periodic visit to the Netherlands, the CPT visited establishments of the National Police, of the Royal Gendarmerie ("Koninklijke Marechaussée" or KMAR) and of the Immigration and Naturalisation Service (IND) of the Ministry of Justice at Schiphol International Airport.

It should be noted that, since the first periodic visit in 1992, the law enforcement agencies in the Netherlands have been extensively reorganised, following the merging of the National and Municipal Police in 1994.

11. The legal provisions concerning police custody and the detention of illegal aliens have recently been amended in the Netherlands.

The initial period during which a person can be held in police custody has been increased to 3 days; this period can be prolonged by a maximum of 3 more days, by order of a judge (cf. Section 58 of the Code of Criminal Procedure).

Section 84 of the Decree implementing the Aliens' Law provides for the possibility to hold an illegal alien in a police station, a remand prison, or a place specifically designated for that purpose, without any explicit time limit. However, the Decree does stipulate that if detention begins in a police station, the person concerned should be transferred to a remand prison or a specifically designated place as soon as reasonably practicable.

2. Torture and other forms of ill-treatment

12. As in 1992, the CPT's delegation received no allegations of torture and few allegations of other forms of physical ill-treatment by members of the law enforcement agencies. The CPT also obtained numerous documents from a variety of sources (National Ombudsman, Police Complaints Commissions, Commissions for the Supervision of Police Cells etc), which supported this overall impression.

This favourable situation can be attributed to the high-quality training of the law enforcement agencies in the Netherlands, to their management structure as well as to the in-depth work of the various inspection and monitoring bodies, whether internal (National Police and KMAR inspection bodies) or external.

Nevertheless, three recent examples illustrate the need for the Dutch authorities to remain on their guard.

13. The first concerns the use in 1995 by the Zaanstreek-Waterland Police Force of an interrogation technique, known as "de Zaanse verhoormethode". This technique involved a suspect being interrogated intensively for several days, in the course of which he was subjected to different forms of psychological pressure, (shown photographs of the victim's body and the crime scene, on occasion, together with photographs of members of the suspect's family, the suggestion being made that the latter had received telephone threats and the indication being given that they would be protected by the police if a confession was provided). In three cases, the Dutch Courts² ruled that the use of this technique had violated Section 29 of the Code of Criminal Procedure (which prohibits the use of pressure on criminal suspects). Following advice from a special commission ("Recherche Advies Commissie"), the Minister of Justice decided, in November 1996, to prohibit the use of this technique. **The CPT would like to know whether the above-mentioned situation has led the Dutch authorities to take any other measures as regards police training in the conduct of interrogations.**

14. The second example concerns the use of means of restraint during the deportation of persons from the Netherlands. Following various serious incidents at Schiphol International Airport, a special commission (the "Van den Haak Commission") was set up, which made a number of practical recommendations (cf. paragraph 38).

15. The third example concerns the detailed report by the Police Complaints Commission of the Amsterdam-Amstelland Region, regarding the inquiry into police intervention during the European Summit in Amsterdam in June 1997. The following extract from the summary of the report³, on "violence and the treatment of arrested persons", merits quotation:

"The Commission is of the opinion that, across the board, the police exercised restraint throughout the European Summit. Nevertheless, the Commission finds that in a few instances, they acted with undue harshness. Nor did they invariably exercise the same restraint when making the arrests. Contrary to what had been agreed, some of the detainees were blindfolded. The police used plastic handcuffs (tie-rips), which are forbidden. A few female detainees were treated roughly by male police officers. The detainees were not informed, or not properly informed, or they were informed too late, of the reason for their arrest. Transporting them by bus took too long. The Italians were left too long without food and beverages. The police had not prepared sufficiently to explain their actions in English for the benefit of foreign detainees. There were too few lavatories. Goods that had been confiscated were returned in a chaotic fashion. Detainees were not permitted to make telephone calls. Those who were remanded in police custody were denied legal counsel, to which they were in fact entitled".

The CPT would like to receive the Dutch authorities' comments on this report and information on the measures which have been taken subsequently.

² Amsterdam Court, 21 May 1996, and Amsterdam Court of Appeal, 5 March 1997, concerning Bayram S. and Haydar K.; The Hague Higher Court, 5 June 1996, Leeuwarden Higher Court, 26 June 1997, and Supreme Court, 13 May 1997, concerning Harke J.; Groningen Court, 2 September 1996, concerning Hendrik E.

³ "Onderzoek naar politieoptreden Eurotop Amsterdam juni 1997", Commissie voor de politiekachten Amsterdam-Amstelland, Amsterdam, November 1997, pp. 84-85.

16. The above-mentioned report also refers to the fact that “the manner in which detainees were treated in the various detention centres is being investigated by another commission”⁴. **The CPT would like to receive, in due course, the conclusions of this second inquiry, as well as details of the measures which the Dutch authorities have taken as a result.**

3. Conditions of detention

a. introductory remarks

17. The delegation carried out two follow-up visits in Amsterdam, the first to the central police station, Elandsgracht, and the second to the 2nd district police station, Warmoesstraat. Visits were carried out for the first time to establishments of the National Police in Emmen, Groningen and Tilburg, and to various premises of the KMAR and the Immigration and Naturalisation Service of the Ministry of Justice at Schiphol International Airport.

18. At the outset, the CPT wishes to recall the conditions of detention which should be offered to persons in police custody.

All cells should be clean, be of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in custody should be allowed to comply with the needs of nature when necessary in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should, as far as possible, be offered outdoor exercise every day.

b. situation in the establishments visited

i. *follow-up visits*

19. The CPT observed in its report on the 1992 visit that the conditions of detention in Amsterdam Police Headquarters were, except for the size of the older cells (less than 5 m²), adequate for relatively short periods of detention (for a maximum of a few days). It was observed during the 1997 visit that the conditions of detention had not undergone any major change, although some cells were found to be in a more dilapidated state.

⁴ Ibid., p. 84.

20. The delegation was informed that the cell block of Amsterdam Police Headquarters was due to be taken out of service temporarily from May 1998, in order for extensive renovations to be carried out. In this connection, a certain number of new "standard" cells had already been constructed. These cells provided entirely satisfactory material conditions of detention; they measured some 8 m²; were equipped with a bed, a table and stool, a lavatory and washbasin, as well as a combined intercom and radio/TV; had access to natural light and had adequate artificial lighting and ventilation.

The CPT would like to receive confirmation of the temporary closure of the cell block in Amsterdam Police Headquarters and information on the measures taken by the authorities to accommodate persons deprived of their liberty by the police in Amsterdam during the renovation work.

21. Conditions of detention at the Warmoesstraat Police Station in Amsterdam remained acceptable. However, **it would be desirable for persons detained for more than 24 hours at that establishment to be offered outdoor exercise every day.**

ii. establishments visited for the first time

22. The conditions of detention observed in Emmen Police Headquarters were satisfactory. The establishment contained seven cells of an adequate size (approximately 8 m²), which were appropriately furnished (bed, sheets and blankets, table, stool) and had satisfactory lighting and ventilation. There was also an exercise yard of some 60 m².

23. The Regional Police Headquarters in Groningen contained a large number of cells, spread over two levels.

The eleven *sobering up* or *holding* cells, located on the ground floor of the building, were of a satisfactory size and equipped in an acceptable manner given their function (stays of a few hours). **The only shortcoming worthy of mention is that access to natural light was limited.**

The fifteen *detention* cells, used for longer stays, were located on the fourth floor of the building. Their size was entirely sufficient (+11 m²) and they were appropriately furnished (sleeping plinth, full set of bedding, table and stool, lavatory and running water, call system). Access to natural light and artificial lighting was satisfactory and detainees had access to an exercise yard; however, **in-cell ventilation appeared to leave something to be desired.**

24. The Regional Police Headquarters in Tilburg occupied a new building, opened in January 1997. It included some forty detention cells, and a multi-occupancy holding room for persons detained for public order reasons.

The size of the *detention* cells (i.e. 5.5 m²) rendered them only just acceptable for the police custody of criminal suspects, **and quite inadequate for longer-term holding of illegal aliens**. However, they were well equipped (bed, sheets and blankets, table and stool, locker, lavatory, radio/call system). The cells also had access to natural light and artificial lighting was satisfactory (day/night system); however, **ventilation was poor and, in certain cells, the air was fetid**. The detention area also contained two shower rooms and two exercise areas (of roughly 30 m²).

The multi-occupancy *holding* area for persons detained for public order reasons, measured approximately 30 m². It contained no equipment whatsoever; **nor did it have access to natural light**, although it did have satisfactory artificial lighting.

25. The Stationsstraat Police Station in Tilburg had four holding cells - which were used for periods of one to two hours - each equipped with a bench and a call system. Artificial lighting and ventilation in the cells was satisfactory, **but they received no daylight**.

26. The services of the Royal Gendarmerie (KMAR) at Schiphol International Airport had several detention premises at their disposal. In Terminal 3, the delegation visited a "*waiting*" area of roughly 30 m², located immediately next to the Passport Control Office. This area contained some twenty seats, a small play area for children and two automatic drinks dispensers. Lavatories were situated nearby. Staff stated that persons were only kept there for a few hours while an initial identity check was carried out; this was confirmed by an examination of the relevant register.

Terminal 3 also contained an area of approximately 90 m² in which persons who had been refused entry to Dutch territory were detained for a maximum of 48 hours. This area was furnished with seven bunk beds, and the necessary bedding, two tables, thirty or so chairs, a television set, a table tennis table and a small sanitary annexe (lavatory and washbasins). Access to natural light, artificial lighting and ventilation was satisfactory. At the time of the delegation's visit, nine persons (men and women) were being held in the area. In this respect, **the delegation observed that no provision had been made to separate men and women during the night. Nor had any space been set aside for outdoor exercise**.

Two other premises were used by the Deportation Office, located in the same terminal. The premises for men (roughly 50 m²) and for women (approximately 25 m²) were equipped with benches and a sanitary annexe. They do not call for particular comment by the CPT, since persons were only held in them for a few hours prior to deportation.

27. The delegation also visited the building accommodating the KMAR Headquarters at the airport. This building had two distinct detention units, one containing eleven cells and the other premises for asylum seekers.

Ten of the cells in the first detention unit measured just under 6 m²; they were adequately furnished (sleeping plinth, bedding, table, chair, lavatory and call system) and the artificial lighting was satisfactory. However, **they received only a small amount of daylight**. A larger cell (8.5 m²), equipped with a video surveillance camera, was used exclusively for minors; **it received no natural light whatsoever**. This detention unit also contained showers, an exercise area of roughly 15 m² and a small library.

The area used for accommodating asylum seekers whose case files were being assessed by IND officials attached to the Schiphol Registration Centre for Asylum Seekers (“Aanmeldcentrum”) consisted of two distinct areas for men and women. Accommodation conditions were entirely satisfactory, bearing in mind that persons were never kept there for more than one night.

28. To sum up, conditions of detention in the establishments visited were, on the whole, in accordance with the criteria set out in paragraph 18 above. Nevertheless, **the CPT recommends that the Dutch authorities take steps:**

- **to equip the multi-occupancy holding area in the Regional Police Headquarters in Tilburg with a bench fixed to the wall;**
- **to separate, at night, men and women held at Schiphol Airport who have been refused entry to Dutch territory.**

The CPT also invites the Dutch authorities to seek to remedy the other deficiencies identified – which appear in bold in the text – **in the establishments visited.**

29. Despite this overall positive impression of the police/KMAR detention facilities visited, the CPT must stress that they are not suitable for lengthy periods of detention. In this regard, the Committee was pleased to note that the practice - observed in 1992 - of holding persons on remand for considerable periods of time in police premises had now almost been brought to an end.

However, the delegation observed that it was still common for persons deprived of their liberty under the Aliens' Law to be held for many days in police detention facilities. **The CPT recommends that the Dutch authorities persist in their efforts to transfer such persons as soon as possible to more suitably-equipped facilities.**

Further, as already mentioned, a court may authorise the initial period of police custody of a criminal suspect (up to 3 days) to be prolonged to a maximum of 6 days. **The CPT recommends that steps be taken to ensure that any criminal suspect whose police custody is prolonged beyond 3 days is guaranteed at least one hour of outdoor exercise every day**⁵.

⁵ Preferably, outdoor exercise should be offered to anyone held in police custody for more than 24 hours (cf. paragraph 18 above). In this context, the CPT has noted with interest the information transmitted by the Dutch Ministry of the Interior on 27 November 1997, according to which all police establishments built after 1994 must be equipped with an outdoor exercise area, with a surface area of at least 30 m².

4. Safeguards against ill-treatment

30. In its report on the 1992 visit, the CPT made several recommendations in the area of safeguards for persons deprived of their liberty by the police in the Netherlands. In the light of the observations made during the second periodic visit to the Netherlands, it would like to return to a number of these questions.

a. notification of custody

31. As regards a detainee's right to inform a close relative or third party of his detention, Article 27 of the Service Instructions for the Police and the KMAR establishes such a right of notification, which must be given effect as quickly as possible; it is obligatory for minors, whereas adults must make a specific request. This is certainly a positive development compared to the situation in 1992. Nevertheless, the delegation observed that this procedure was still not always followed to the letter. Similar observations have also been made by various external monitoring bodies (cf., for example, paragraph 15). **The CPT invites the Dutch authorities to remind law enforcement officials of the terms of this Service Instruction.**

32. The delegation also noted that the exercise of the right of notification of custody may be delayed if it is contrary to the "interests of the investigation" (cf. Section, paragraph 2, of the Code of Criminal Procedure). In their reply to the 1992 visit report, the Dutch authorities stated that any such postponement was subject to "strict conditions" (cf. CPT/Inf (93) 20, page 21).

The CPT accepts entirely that the exercise of the right to have the fact of one's custody notified to a close relative or a third party could be subject to certain exceptions, designed to protect the interests of justice. However, any possibility exceptionally to delay the exercise of this right should be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) and strictly limited in time. The CPT considers that the existing legislation is insufficiently precise; **it recommends that the Dutch authorities take steps to remedy this situation.**

b. access to a lawyer

33. The CPT pointed out in its report on the first periodic visit to the Netherlands that "the formal position under Dutch law regarding access to a lawyer at the police custody stage seems quite favourable. However, the situation appears less satisfactory in respect of access during the initial period of detention⁶ by the police for interrogation purposes" (cf. CPT/Inf (93) 15, paragraph 41). In their reply, the Dutch authorities confirmed that a person detained for interrogation purposes does not have access to a lawyer.⁷

⁶ The period of detention is six hours to which must be added, if appropriate, the hours between midnight and 9 am which are not taken into account for this purpose.

⁷ It should be noted that some bodies, including the National Ombudsman, consider that this practice is based on an unduly restrictive interpretation of Section 28, paragraph 1, of the Code of Criminal Procedure.

34. In this respect, the CPT wishes to stress that, in its experience, the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment. The existence of that possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs.

The CPT recognises that in order to protect the interests of justice it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another, independent lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should be arranged.

The right of access to a lawyer must include the right to talk to him in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interrogation conducted by the police (whether this be during or after the initial period of police custody). Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer, nor rule out the replacement of a lawyer who impedes the proper conduct of an interrogation; however, the latter possibility should be strictly circumscribed by appropriate safeguards.

Consequently, the **CPT can only reiterate its 1992 recommendation that any person detained by the police for interrogation purposes should have access to a lawyer as from the very outset of his deprivation of liberty.**

35. It should be added that information in the CPT's possession also suggests that the right of access to a lawyer is not always respected by the police. **The CPT invites the Dutch authorities to remind law enforcement officials of this requirement.**

c. access to a doctor

36. The CPT has no particular comments to make concerning access to a doctor for persons detained by the police. In all the establishments visited, such access was guaranteed under satisfactory conditions. However, **the CPT considers that it might be wise, in respect of high-capacity police detention centres – such as those in Amsterdam (80+ places) and Tilburg (40 places) - to make arrangements for regular visits by a qualified nurse.** This nurse could carry out a number of tasks which are currently carried out by ordinary police officers (distribution of medicines, including psychotropic drugs, etc.).

37. During its visit to the KMAR Headquarters at Schiphol Airport, the delegation examined in detail the procedures followed in respect of persons suspected of carrying drugs *in corpore* (body-pack syndrome). Such persons are first of all requested to take a urine test and, if necessary and on medical opinion, an x-ray. Use is then made of special lavatories, which are designed to collect and clean substances transported *in corpore*.

In the CPT's opinion, given the risks run by any person who is suffering from a "body-pack" syndrome (the risk that the sachet will be burst resulting in acute intoxication and the risk of obstruction of the intestines) such persons should be subject to increased medical supervision, preferably in a medical unit. In this respect, the officers present indicated to the delegation that, as from December 1997, the systematic hospitalisation of persons with "body-pack" syndrome would be possible in a specific seven-bed unit in the Scheveningen Prison Hospital. **The CPT would like to receive confirmation that this latter procedure has now been implemented.**

d. means of restraint during deportation and the principle of non-refoulement

38. The CPT's delegation examined in detail the conditions under which resort was had to means of restraint during deportation procedures at Schiphol Airport. Following the recommendations of the Van den Haak Commission, a detailed procedure had been introduced aimed at reducing to a minimum instances in which such means are used (appointment of an official from the detained person's holding facility with responsibility for escorting him; when indispensable, the progressive use of physical means of restraint, if necessary with medical supervision). The delegation also noted that a system of individual deportation files was in place. The CPT welcomes these procedures; however, it **recommends that a specific register be established, recording cases in which means of restraint are used and all associated information** (in addition to such details being recorded in the individual case file of the person concerned).

39. Finally, the CPT was informed that a new law was planned, under which any request for asylum lodged by a person who is unable to formally establish his identity would be considered as manifestly unfounded. **The CPT would like to receive detailed information on this new law and on all practical measures taken by the Dutch authorities in this area, and in particular on the measures envisaged to ensure that the Dutch authorities continue to comply with the obligation not to send a person to a country where there are substantial grounds for believing that he would run a real risk of being subjected to torture or ill-treatment.**

B. Prisons

1. Preliminary remarks

40. As already indicated, the CPT's delegation carried out visits of a follow-up nature to Unit 4 of Demersluis Prison and Het Veer Prison, both of which are located within the Over-Amstel Prison Complex in Amsterdam.

In addition, the delegation visited the "Extra Security Institution" at the Nieuw Vosseveld Prison Complex in Vught.

2. Torture and other forms of ill-treatment

41. The delegation heard no allegations of torture and hardly any allegations of other forms of physical ill-treatment of prisoners by staff in the establishments visited. Further, the CPT's delegation heard few allegations of ill-treatment having occurred in other prisons in the Netherlands. More generally, staff and prisoners in the establishments visited appeared to be on reasonably good terms.

Notwithstanding this positive finding, **the CPT would like to receive information on the number of complaints of ill-treatment by prison officers in the Netherlands during 1997 and the first half of 1998 and on the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed.**

3. Over-Amstel Prisons

a. Unit 4 of Demersluis Prison

42. Unit 4 of Demersluis Prison, which was visited by the CPT for the first time in 1992, provides 21 places for prisoners held under a restrictive regime - 9 places in Unit 4A for prisoners deemed to represent control and management difficulties, and 12 places in Unit 4B for inmates under pre-trial segregation on the orders of a judge. At the time of the 1997 visit, 5 inmates were being held in Unit 4A, and Unit 4B was operating at full capacity.

Material conditions of detention in both parts of the Unit remained of the high standard observed during the CPT's first periodic visit (cf. paragraph 78 of document CPT/Inf (93) 15).

43. The existence of positive staff-inmate relations is in the interests not only of the humane treatment of prisoners but also of the maintenance of effective control and security and of staff safety. This factor - of great importance in any prison - is of all the more significance in a special detention unit such as Unit 4A. At the time of the first periodic visit, the CPT's delegation "observed that the attitude of staff to prisoners in Unit 4A was markedly antagonistic. In practically all their day-to-day dealings, an "us and them" mentality prevailed; indeed, some of the staff displayed openly contemptuous attitudes towards the inmates in their charge" (cf. paragraph 85 of document CPT/Inf (93) 15). The Committee recommended that an enquiry be carried out into the operation of the Unit, aimed, inter alia, at examining relations between staff and inmates in the Unit with a view to their improvement (cf. paragraph 92 of document CPT/Inf (93) 15).

The response of the Dutch authorities indicated that, following the CPT's visit, "relations between staff and inmates were subjected to close scrutiny, including a review of the composition of the staff. Of the nineteen employed in the Unit at the time of the delegation's visit, seven have been replaced by officers more qualified to work in this environment, and a psychologist has been engaged on a part-time basis" (cf. page 32 of document CPT/Inf (93) 20).

44. The CPT's 1997 delegation was able to confirm that staff-inmate relations in Unit 4A were much improved. Staff had been instructed to make special efforts to communicate with prisoners and the staff-inmate exchanges which the delegation witnessed were informal and evidently relaxed. The Committee welcomes this development, which had served to foster a much more positive atmosphere in that part of the Unit. As regards Unit 4B, the fact that prisoners held there were still offered very limited out-of-cell time meant that they had less contact with staff. Nevertheless, staff-inmate relations remained quite satisfactory.

45. As regards the regime, in the report on its 1992 visit, the Committee noted that most prisoners in Unit 4A spent the bulk of their time locked in their cells (out-of-cell time on a given day being as little as 45 minutes and, at best, no more than 3 to 4 hours), and that remand prisoners in Unit 4B spent all of their time in their cells, with the exception of half an hour of outdoor exercise taken alone. It recommended that the regime in Unit 4A be developed, and that immediate steps be taken to ensure that all prisoners in Units 4A and 4B benefit from one hour of outdoor exercise every day, in areas sufficiently large to enable them to exert themselves physically.

Whilst recognising that prisoners were held in Unit 4B for relatively short periods of time (a matter of weeks), the CPT also invited the Dutch authorities to explore the possibility of providing some additional activities, apart from exercise, for such inmates (cf. paragraph 92 of document CPT/Inf (93) 15).

In their response, the Dutch authorities indicated that the Department of Prison Administration had introduced "measures creating a regime which answers in the broadest sense to the CPT's requirements" and that, in the course of 1994, "the inmates will also be allowed one hour of outdoor exercise every day" (cf. page 32 of document CPT/Inf (93) 20).

46. By the time of the 1997 visit, the facilities made available to inmates held in Unit 4A had been enhanced - a room within the Unit had been equipped with exercise equipment for use during "sports" periods, and a small kitchen area had been installed for inmates' use during recreation periods. These are positive developments; however, the regime remained impoverished and out-of-cell time continued to leave a great deal to be desired.

Prisoners admitted to Unit 4A are subject to a 14-day assessment period, during which they have no contact with other prisoners and their behaviour is monitored by a multidisciplinary team (including the prison doctor, a psychologist, social worker and the head of Unit 4). In addition to one hour of outdoor exercise per day, a newly admitted inmate is offered 1 hour of "sport" and 4 hours of recreation per week. Satisfactory completion of this assessment period results in an inmate being placed on the so-called "Unit 4A regime" which, leaving aside one hour of outdoor exercise every day, involves weekly out-of-cell time of some 7 to 8 hours per week in a group of up to three other prisoners. Thus, on a typical day, an inmate on the Unit 4A regime might be out of his cell for some two to three hours (engaged in "sport"/recreation and outdoor exercise).

The situation of prisoners held in Unit 4B was unchanged since 1992: with the exception of half an hour of outdoor exercise (taken in small rooftop pens), they spent all day locked in their cells. Given that prisoners on remand in Unit 4B must, on the orders of a judge, be kept segregated from other inmates, the Committee recognises that it will be more difficult to offer them a programme of activities. However, compliance with the basic requirement of at least one hour of outdoor exercise every day is indispensable. Further, the CPT remains convinced that this category of prisoner could be provided with additional meaningful activities.

47. In the light of the above remarks, **the CPT recommends that:**

- **by way of compensation for their more severe custodial situation, inmates held in Unit 4A be allowed to mix freely with the small number of fellow prisoners in the unit and to move without restriction within the unit and be granted a good deal of choice about activities. Moreover, the activities provided for such prisoners should be as diverse as possible (education, sport, work of vocational value etc.);**
- **immediate steps be taken to ensure that inmates held on remand in Unit 4B are offered a minimum of one hour of outdoor exercise every day, in areas sufficiently large to enable them to exert themselves physically;**
- **efforts be made by staff with a view to offering additional activities and appropriate human contact to prisoners held in Unit 4B.**

48. Finally, at the time of the visit, of the five inmates being held in Unit 4A, one was a foreigner awaiting expulsion, another had been diagnosed as a manic depressive psychotic and a third was a person whom staff acknowledged could easily have been placed in a more normal regime. It is far from clear to the CPT that the accommodation of such widely-differing categories of prisoners is consistent with the stated purpose of the Unit.

The CPT would like to receive the comments of the Dutch authorities on this subject.

b. Het Veer Prison

49. In the report on its 1992 visit to Het Veer Prison, which houses the Dutch national psychiatric and forensic observation centre for prisoners (the FOBA), the CPT commented that, "as an observation and crisis intervention unit operating within the parameters of a prison environment, the FOBA provides an acceptable level of care" (cf. paragraphs 125 to 128 of document CPT/Inf (93) 15).

By the time of the 1997 visit, the capacity of the establishment had increased from 54 to 60 places (by adding an extra cell on each of the six floors) and the number of annual admissions had doubled (from 148 in 1992 to more than 300 in the first 11 months of 1997). During the same period, the proportion of prisoners being transferred from the FOBA to other psychiatric facilities had sharply declined. Whereas in 1992 some 41 % of FOBA prisoners were discharged to a TBS/forensic psychiatric clinic or psychiatric hospital, by 1996 (the latest year for which figures were available) that figure had fallen to 13 %. This change had been accompanied by a rise in the proportion of prisoners being returned to ordinary prison settings, from 27 % in 1992 to 65 % in 1996.

Staff indicated that the FOBA is now always filled to capacity and that there are always 5 to 10 top-priority prisoners (i.e. those who are suicidal and/or deemed to require physical restraint) on the waiting list for admission. The delegation itself observed that almost all prisoners held in the FOBA were suffering from serious/acute psychiatric disorders.

The CPT's delegation sought to ascertain whether these developments had affected the quality of care which was being delivered to inmates held in the FOBA.

50. The FOBA is currently managed by the Director of the Het Veer Prison. There is a post for a chief psychiatrist, but the incumbent had been absent for a year, due to illness. Three assistant psychiatrists (who were in psychiatric training) were in post, as were three psychologists, three psychiatric nurses and three social workers.

Most of the staff (102 out of 114) were prison officers who had received special training to act as "forensic wardens". While a number of forensic wardens had originally trained as nurses, most of them were ordinary prison officers who had volunteered to work in the FOBA and had received 13 weeks of training to that end.

Each of the six 10-prisoner units in the FOBA was staffed on a half-time basis by an assistant psychiatrist, psychiatric nurse and social worker and by 17 full-time forensic wardens.

51. This rather modest medical staffing level was accompanied by a scarcity of therapeutic activities and limited treatment goals. Medication was the main therapy used and there was no psychotherapy (although ten prisoners participated in weekly art therapy sessions). At the time of the delegation's visit, 70% of the prisoners were receiving major tranquillisers (neuroleptics) in the medium-dose range and about 20% were receiving anti-depressant medication. It appeared to the delegation that the medical staff were satisfied as long as the prisoners were eating, drinking, sleeping and keeping their cells tidy.

Further, the regime activities offered to prisoners were limited, consisting of little more than playing table tennis/table football and watching television. The only other activity was a daily one-hour exercise period, which took place in a small rooftop exercise yard.

52. Prisoners in the FOBA were seen only once or twice a week for 10 to 20 minutes by an assistant psychiatrist; several patients complained about a lack of access to a psychiatrist. Forensic wardens confirmed that psychiatric interviews were usually on a weekly basis and sometimes even less frequent.

Moreover, on the sole authority of non-medical staff, persons suffering from acute psychiatric disorders were frequently placed in solitary confinement in cells containing only a mattress. In some cases, prisoners placed in such cells had apparently been kept handcuffed for 1-2 days (exceptionally, behind the back). The delegation interviewed two prisoners, both with severe psychiatric disorders, who, according to the relevant records, had been placed in an isolation cell for 30 and 40 hours respectively while suffering from acute psychiatric symptoms.

The imposition of such measures on patients with acute psychiatric disorders is likely to exacerbate rather than alleviate their symptoms.

53. The approach adopted in the FOBA to medical confidentiality provided further evidence that a prison rather than a medical culture predominated in the establishment. Forensic wardens, who were accountable to the Director of Het Veer Prison, had access to detailed and sensitive information on inmates including diagnosis, treatment and assessments of dangerousness. There was no formal policy on medical confidentiality and, as a result, no clear boundary between the information made available to forensic wardens and information which was solely the preserve of medical staff.

54. To sum up, by the time of the CPT's second periodic visit, the FOBA was being called upon to function as a psychiatric hospital, receiving prisoners with severe mental disorders, many of them exhibiting active psychotic symptoms. However, there had been no corresponding increase in trained staff and the establishment's organisational structure was not adapted to that role; as a result, the quality of care which it provided was significantly inferior to that which would be offered to psychiatric patients with similar problems outside the prison system. Clearly there is a need within the Dutch prison system for both an observation and crisis intervention unit and for a secure psychiatric unit for prisoners. However, the one institution should not be expected to fulfil both roles. **The CPT recommends that the FOBA either:**

- **revert to its original role as an observation and crisis intervention unit or,**
- **be provided with the additional resources which it would require in order to provide an acceptable quality of psychiatric care to the prisoners whom it admits.**

If the latter course is chosen, **the CPT recommends that:**

- **the overall management of the FOBA be entrusted to a qualified and experienced psychiatrist;**
- **the number of staff with appropriate professional training be increased significantly;**
- **a system of continuous training for forensic wardens, involving regular contacts with psychiatric services outside the prison system, be established;**
- **the FOBA be subject to the same system of inspection as psychiatric hospitals in the community.**

55. Whichever course is chosen, **the CPT recommends that:**

- **efforts be made to develop additional regime activities for prisoners held in the FOBA;**
- **a clear policy on medical confidentiality be introduced;**
- **all decisions to place prisoners suffering from acute psychiatric disorders in solitary confinement be either made by a doctor or immediately brought to the attention of a doctor with a view to seeking his/her approval.**

56. The Committee also wishes to highlight two specific issues regarding the placement of prisoners in the FOBA, in respect of which urgent action is required.

Firstly, although women formed 6,4% of the total number of admissions to the FOBA, there was no special unit or treatment/activity area for them; consequently, they were kept in their cells for long periods of time. **The CPT recommends that the Dutch authorities consider establishing a separate unit for women prisoners with acute psychiatric problems.**

Secondly, the delegation was concerned to find that adolescents were occasionally admitted to the FOBA. At the time of the visit, a 16 year old boy was being held there. Although the CPT welcomes the fact that the youth in question was subsequently transferred to an appropriate institution, it nonetheless wishes to register its concern about the occasional placement of psychiatrically disturbed adolescents together with adult prisoners. The CPT considers that adolescents (i.e. persons under the age of 18) should not be admitted to the FOBA; **it invites the Dutch authorities to fix a definite lower age limit for admissions to the establishment.**

57. Lastly, the CPT recognises that, in exceptional circumstances, there can be a sound clinical and ethical basis for the treatment of patients without their consent. However, involuntary treatment should always be carried out within a legal and regulatory framework which offers appropriate safeguards for patients.

Such safeguards exist in respect of involuntary treatment in psychiatric hospitals in the Netherlands; however, since the FOBA does not currently have the status of a psychiatric hospital, there is no legal basis for the use of involuntary treatment in the establishment. Nevertheless, the delegation learned that, some three to four times per month, FOBA prisoners who displayed psychiatric symptoms and were severely agitated were restrained by forensic wardens and injected, against their will, with a combination of a rapid acting and depot injection (Acutard, Zuclopentixol, Cisorprinol).

A certain number of practical initiatives had been taken to regularise this situation: involuntary treatment was only carried out on the orders of an assistant psychiatrist, an external medical authority (the district psychiatrist) was notified on every occasion on which such treatment was applied and the FOBA's assistant psychiatrists had produced their own "protocol on medication without consent". However, such measures cannot be a substitute for a formal legal and regulatory framework for involuntary treatment. **The CPT recommends that the administration of involuntary treatment in the FOBA be made subject to formal legal provisions, modelled upon those which apply in psychiatric hospitals.**

4. The "Extra Security Institution" at the Nieuw Vosseveld Prison Complex

a. introductory remarks

58. The Nieuw Vosseveld Prison Complex, which is located in a heavily-wooded area of Vught, began life in 1953 as a prison for some 140 young offenders, and has since expanded to become one of the largest prison complexes in the Netherlands. At the time of the CPT's visit, it had a total capacity of 621 places for young offenders and adult male prisoners.⁸

The focus of the CPT's visit to the establishment was the national "extra security institution" (unit 5), which provides 35 places for prisoners who have been deemed likely to attempt to escape using violence (17 places for remand prisoners and 18 places for convicted inmates). The unit is located in two distinct buildings: the 11-place "temporary extra security institution" (Tijdelijk Extra Beveiligde Inrichting - (T)EBI) opened in August 1993 and is physically located in one wing of unit 1, while the 24-place, custom-built, "extra security institution" (Extra Beveiligde Inrichting - EBI) was completed in August 1996.

b. material conditions

59. The cells seen by the CPT's delegation in both the (T)EBI and EBI buildings were of a reasonable size for single occupancy (some 9 m²), appropriately furnished (bed, chair, storage cupboard and table) and equipped with a lavatory and wash basin.

In-cell artificial lighting was of a good standard in both buildings; however, access to natural light was noticeably poorer in the (T)EBI (where the cell windows are partially obscured by frosted glass panels) than in the EBI. The ventilation in the (T)EBI cells also left something to be desired. A number of the (T)EBI prisoners interviewed by the delegation complained about these shortcomings.

The CPT recommends that steps be taken to improve access to natural light in cells in the (T)EBI. The visiting delegation was informed that work to improve the ventilation system in the (T)EBI was due to begin in January 1998; **the Committee would like to receive confirmation that this work has now been completed, together with details of the improvements involved.**

⁸ Inmate accommodation at the Nieuw Vosseveld Prison Complex is divided between six units - unit 1 has 58 places for adult prisoners subject to disciplinary sanctions and adult males detained for "observation"; unit 2 is a 144-place prison for young offenders serving long sentences and includes a number of drug-free departments; unit 3 holds up to 144 convicted young offenders serving short sentences; unit 4 is a 96-place adult remand prison; unit 5 is the national "extra security institution" with 35 places for adult inmates, and unit 6 has 144 places for convicted adult prisoners.

60. More generally, while the EBI was located in bright and reasonably spacious premises, the (T)EBI (which is also known as the "oud bouw" or "old building") was a markedly more cramped facility. **The CPT would like to be informed of whether the Dutch authorities plan to close the "temporary" extra security institution in the foreseeable future.**

c. regime

61. The CPT's views on the nature of the regime which should be offered to prisoners held in special security units were set out in detail in the report on its 1992 visit to the Netherlands. In that context, the Committee welcomed the recommendation of the Hoekstra Commission that any future EBI should have "as normal a regime as possible".

In its 1992 report, the CPT stressed that prisoners should enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation. Special efforts should be made to develop a good internal atmosphere within such units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. The existence of a satisfactory programme of activities is just as important - if not more so - in a special detention unit as on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value etc.) As regards, in particular, work activities, it is clear that security considerations may preclude many types of work activities which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the Explanatory Memorandum to Recommendation No. R(82)17 of the Committee of Ministers of the Council of Europe.⁹

⁹ Which reads as follows: "Risks to security are reduced if heavy fixed plant, rather than machines and tools, is used. Further processing or assembling of manufactured components eliminates the riskier previous stage of tool or machine work on the components. Highly-mechanised industrial laundry combined with dry-cleaning is regarded as being relatively safe. There is also scope for arrangements with libraries and related institutions for indexing of material. Cleaning and catering chores can be given a greater relevance to working realities outside if they can be structured to conform with industrial and commercial methods. Agricultural work is contra-indicated by the latitude of movement required but not grounds work or gardening and limited horticulture within perimetered precincts. Work for mentally or physically disadvantaged or handicapped or disabled people might be considered. Despite the need, it is rarely undertaken in the private industrial sector and voluntary endeavour is often unable to overtake the need fully. Illustrative is production of Brailled material in sufficient quantity for the visually handicapped; creation in volume of stimulating educational and recreation material for the audio-vocally handicapped or for the mentally handicapped; adaptation of toys, table-games, play and recreational items for the disabled; soft toys. Work of this nature can be uniquely suitable for reinforced security units, and satisfying for prisoners."

62. The current regime in the (T)EBI and EBI units is governed by a circular which was issued by the Director General of Prison Services on 22 August 1997 (cf. document 646189/97/DJI). According to the circular:

“The extra security institution (EBI) at Vught has a limited communication regime. A differentiation of regimes is referred to within the EBI, where a distinction is made between what is known as the A regime, where greater restrictions apply, and the B regime, with less extreme restrictions.

Groups of between two and a maximum of four inmates take part in activities. Under the B regime, a maximum of four inmates takes part in communal activities, while the maximum number is three under the A regime. Communal activities involve only inmates from a single section.

For security reasons, staff in contact with inmates must always outnumber the inmates, or must even be completely separated from them physically by a transparent (glass) wall. Moreover, with a view to the safety of the staff concerned, in those cases covered by Section 15, sub-sections 2 and 3, chapter III, of the internal regulations of the Vught EBI, inmates’ movements are restricted by handcuffs.”

63. The delegation found that, in practice, out-of-cell time in the (T)EBI and EBI on a given day varied from a minimum of one hour (of outdoor exercise) to a maximum of some four and a half hours (of outdoor exercise/recreation and/or sport). Depending upon the regime in which an inmate had been placed (A/B) and the group to which they had been allocated, these activities would take place with between one and three other inmates.

The outdoor exercise yards in the EBI were of a reasonable size and a "running strip" was available for inmates who wished to engage in more strenuous physical activities. The exercise yards in the (T)EBI were also large enough to enable prisoners to exert themselves physically; however, their cage-like design rendered them rather oppressive facilities.

During recreation periods (of one to two hours), inmates were allowed access to communal areas where they could associate with each other, cook and eat their own food, use a computer and/or play games including table tennis.

As regards facilities for sport, each of the four units in the EBI was equipped with an impressive array of exercise equipment, located in a lofty glass atrium. However, inmates only had access to this equipment for one or two 45 minute sessions per week. Again, the equivalent facilities in the (T)EBI were of a lower standard. The EBI also had a large and well-equipped gymnasium but, at the time of the visit, it appeared that comparatively little use was being made of this facility.

There were no organised education activities. There was also no out-of-cell work; some in-cell work was offered to inmates, but it was of a very unchallenging nature (e.g. stringing plastic curtain hooks onto short rods).

64. All inmate activities within the (T)EBI and EBI were subject to a high level of staff surveillance (which is perfectly understandable in a unit of this type); however, direct contacts between staff and inmates were very limited (staff and inmate usually being separated by armoured glass panels). This is not conducive to building positive relations between staff and prisoners. Contact with non-custodial staff - including medical staff - was also subject to a number of very significant restrictions (cf. paragraph 76).

65. It should also be noted that prisoners were regularly strip searched (a practice euphemistically referred to as "visitatie"). Such searches - which included anal inspections - were carried out at least once week on all prisoners, regardless of whether the persons concerned had had any contact with the outside world.

66. Concerning contact with the outside world, it should be noted that the house rules for the (T)EBI and EBI units provide that prisoners have the right to receive one visit of one hour per week from family members and other persons approved in advance by prison management. In principle, visits took place under "closed" conditions (i.e. through an armoured glass panel in a visiting booth). Prisoners also had the right to request one "open" visit per month from family members; however, physical contact during such visits was limited to a handshake on arrival and leaving. Prisoners and their families remained separated by a table equipped with a chest-high barrier and prison staff stood directly behind the prisoner throughout the visit. A number of inmates interviewed by the delegation indicated that, given the upsetting effects which these restrictions had had upon their families, they no longer requested "open" visits.

67. To sum up, prisoners held in the (T)EBI and EBI units were subject to a very impoverished regime. They spent too little time out of their cells; when out of their cells they associated with only a small number of fellow inmates and their relations with staff and visitors were very limited; consequently, they did not have adequate human contact. Further, the programme of activities was underdeveloped. This was particularly the case as regards education and work. However, even as regards sport, inmates had insufficient access to the very good facilities available. Moreover, certain aspects of the regime (in particular, systematic strip searching) did not appear to respond to legitimate security needs, and are humiliating for prisoners.

68. The delegation's lengthy interviews with eight prisoners held in the (T)EBI and EBI indicated that the regime as a whole was having harmful psychological consequences for those subjected to it. Indeed, the interviews revealed a consistent association of psychological symptoms which appeared to have been induced by the regime. The inmates concerned displayed the following symptom profile:

- feelings of helplessness, which took the form of a disturbance of normal identity and severe difficulty of projection into the future; in certain cases, the loss of identity was associated with definite episodes of depersonalisation;
- feelings of powerlessness, closely linked to helplessness, and leading to regression and excessive pre-occupation with bodily functions;
- anger, the predominant emotion being one of rage (clearly linked to feelings of powerlessness) and directed against self (with expressions of low esteem, lack of confidence and associated depressive symptoms) and others;
- communication difficulties, associated with the above-mentioned depersonalisation symptoms.

The delegation's concerns about the harmful psychological consequences of the regime were reinforced during its subsequent visit to the Dr S. van Mesdag Clinic, where it interviewed a number of patients who had previously been held in the (T)EBI or EBI, in whom persistent psychological sequelae (insomnia; anxiety symptoms; disturbance of identity; emotional liability and psychosomatic symptoms) were clearly present.

The CPT would add that it is aware that the psychologist employed in the (T)EBI and EBI has publicly expressed the conviction that the regime has led to "no significant harmful effects on prisoners". However, this opinion has never been subject to any form of peer review or professional assessment. It should be added that the Psychiatric Adviser to the Ministry of Justice Forensic Health Bureau expressed a contrary view to the delegation, citing as an example a case of a prisoner who had developed a florid paranoid psychosis while held in the (T)EBI.

69. In the light of all of the information at its disposal, the CPT has been led to conclude that the regime currently being applied in the (T)EBI and EBI could be considered to amount to inhuman treatment. To subject prisoners classified as dangerous to such a regime could well render them more dangerous still.

70. The facilities in the extra security institution are of a high standard. They are quite capable of offering a regime meeting the criteria set out in paragraph 61 without jeopardising legitimate security concerns.

The CPT recommends that the regime currently applied in the extra security institution be revised in the light of the remarks set out in paragraphs 61 to 67. In particular, the existing group system, if not discarded, should at least be relaxed and inmates should be allowed more out-of-cell time and a broader range of activities. Further, the current searching policies should be reviewed in order to ensure that they are strictly necessary from a security standpoint. Similarly, current visiting arrangements should be reviewed; the objective should be to have visits taking place under more open conditions.

Finally, the CPT recommends that the Dutch authorities commission an independent study of the psychological state of current and former inmates of the extra security institution.

5. Health care services

71. Prior to the CPT's second periodic visit, prison health care services in the Netherlands had been reorganised, pursuant to recommendations made by a review body (the Dinte Commission), which had been formed in the aftermath of a serious incident involving the death of a prisoner in need of urgent surgery. Under the new arrangements, prison doctors at local level had been granted greater autonomy from Ministry of Justice medical advisors. In addition, prison directors had been authorised directly to recruit the health care staff working in their establishments.

The CPT would like to receive more information on the new procedures for appointment of medical and nursing staff, and on the extent of the involvement, if any, of independent medical authorities (e.g. municipal health authorities, medical or nursing associations, or the national health authorities).

72. The health care service at the Over-Amstel Prisons was responsible for the care of 585 prisoners. The chief doctor worked 17 hours per week (i.e. half-time) at the prison, dividing his time between supervisory duties and work as a general practitioner. He supervised eight half-time general practitioners and 14 nurses occupying the equivalent of 11 full-time posts. Staff were allocated between the six prisons in the complex, all of which had fully-equipped medical consulting rooms.

The CPT's delegation was pleased to find that the quality of primary health care delivered to prisoners appeared to be of an equivalent standard to that in the community.

73. In addition to primary health care, prisoners had access to regular consultations with specialists, including dermatologists, neurologists and physiotherapists. Further, each of the prisons in the complex were visited by a psychiatrist for four hours per week (as regards the FOBA, cf. paragraphs 49 to 57).

Requests for dental care formed one quarter of the total number of requests for health care by prisoners. Two part-time dentists performed urgent interventions such as fillings, repairs of prostheses, extractions and treatment of abscesses. **However, some prisoners had to wait for more than a month to receive non-urgent dental care.**

74. Medical screening of prisoners upon entry was found to be satisfactory. All newly-arrived inmates were seen by a qualified nurse within 24 hours and by a doctor 24 to 48 hours thereafter. There was systematic testing for tuberculosis.

However, prisoners were not given written information on the prison's health care service or on related issues such as preventive measures and health promotion. **The CPT recommends that such written information systematically be provided to inmates upon arrival in the prison.**

75. Medical confidentiality was respected during consultations and patient files were solely the responsibility of health care staff. However, the distribution of medicines was entrusted to custodial staff. With a view to preventing the unnecessarily wide diffusion of information about a given prisoner's medical condition, **the CPT considers that, whenever possible, medicines should be distributed by nursing staff.**

76. Inmates held in the (T)EBI and EBI units at the Nieuw Vosseveld Prison had access to a medical service which, in principle, was well-equipped to provide an appropriate level of medical care. However, the quality of the medical service which was actually delivered to inmates was compromised by the security arrangements which surrounded consultations with members of the health care team. In particular:

- custodial staff were always present when inmates were physically examined by the doctor and, in consequence, medical confidentiality was not being respected;
- prisoners in the "handcuffs" regime remained handcuffed during medical examinations;
- other consultations with doctors took place behind a glass screen.

77. In the view of the CPT, all medical examinations should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a given case - out of the sight of prison officers. Moreover, for inmates to be examined in handcuffs or interviewed behind glass are ethically questionable practices which are inimical to the construction of a proper doctor-patient relationship.

The Committee recommends that the manner in which medical care is delivered to inmates held in the (T)EBI and EBI units at the Nieuw Vosseveld Prison be reviewed in the light of these remarks.

C. Centres for Foreigners

1. Preliminary remarks

78. The CPT has been informed by the Dutch authorities that, in the near future, it is intended that all persons deprived of their liberty under the Aliens Law ("immigration detainees") will be held in one of two centres: the King Willem II Detention Centre for Foreigners in Tilburg and a remand prison to be located close to the Ter Apel Departure Centre near Emmen.

79. The King Willem II Detention Centre for Foreigners is officially classified as a "Judicial Complex" and falls under the authority of the Dutch Prison Service. The Centre is a closed holding facility used principally for immigration detainees being held under Article 26 of the Aliens Law; the vast majority of whom are accommodated in Units B, C and D.

Detained foreigners requiring "special care" (i.e. those who have behaved in a violent/disruptive manner either at Willem II or in other establishments) and foreigners awaiting the execution of a deportation order are held in a quite distinct building - Unit X. That building also accommodates a small group of remand prisoners, who do not come into contact with the immigration detainees.

80. The Centre had a capacity of 438 places: 366 in dormitory accommodation in Units B, C and D (of which 22 places were apparently reserved for juveniles) and 72 in single cells in Unit X (32 for "special care", 20 for deportation cases and 20 for remand prisoners).

At the time of the visit, a total of 417 inmates were being held, 397 immigration detainees (including 36 juveniles aged between 16 and 18) and 20 remand prisoners. Lengths of stay at the Centre under the Aliens Act ranged from five days to nine months, the average length of stay being some 45 days.

81. The Ter Apel Departure Centre ("Vertrek Centrum" or VC) is located in the north of the Netherlands, near Emmen on the German-Dutch border. Opened in May 1996, its sole purpose is to accommodate asylum seekers in respect of whom the asylum procedure in the Netherlands has been exhausted and who are due to be deported. The Centre has developed a specific deportation procedure, designed to eliminate obstacles to deportation (chiefly through obtaining sufficient information to establish the real identity/nationality of the person to be deported). In theory, the length of time allocated for this procedure is three months. The Centre has a maximum capacity of 306 places and at the time of the delegation's visit accommodated 305 residents (of whom 40% were children). About fifty people had been living there for six months or more.

82. The Departure Centre was run by the Immigration and Naturalisation Service (IND) of the Ministry of Justice, in cooperation with the KMAR and the Central Reception Organisation for Asylum Seekers (COA). The staff consisted of about fifty officials from the IND, approximately the same number of KMAR officers, some thirty officials from COA, a score of employees of a private security company (PreNed), four officials from the Legal Aid Board in Asylum Procedures and a number of volunteers.

83. Initially, the Dutch authorities presented the Ter Apel Departure Centre to the CPT as an “open centre”. However, the delegation had information which led it to believe that the Centre might fall within the CPT’s mandate. This information turned out to be correct, as the delegation discovered, within the Centre itself, eight detention cells used by the KMAR for security and public order reasons (cf. paragraph 104).

2. Torture and other forms of Ill-treatment

84. The delegation heard no allegations of torture or other forms of deliberate physical ill-treatment by staff of persons deprived of their liberty at either of the centres for foreigners visited, nor did it gather any other evidence of the existence of such treatment.

85. However, the delegation met a number of inmates at the King Willem II Detention Centre who had been wearing unsuitable clothing for weeks on end. In one case, the person concerned (who had been transferred from another prison) was still wearing the same set of lightweight Summer clothes in which he had been received some two months before. His own clothes were apparently being held in a Prison Service depot in the Hague. Another inmate who had no serviceable clothes of his own had been wearing pyjamas since his admission one and a half months earlier.

The Director of the establishment recognised that there was a serious problem, both as regards the delivery of inmates' own clothes and the provision of clothes to inmates who have no suitable clothing of their own. On the latter point, the Dutch authorities subsequently informed the Committee that they were seeking an alternative to the standard package of clothes as some people (apparently including the two inmates referred to above) objected to wearing them.

The CPT recommends that measures be taken to ensure that all persons held at the King Willem II Detention Centre for Foreigners have appropriate clothing.

86. During its visit to the Ter Apel Departure Centre, the delegation observed a certain amount of tension in relations between residents. This state of affairs was confirmed by detailed consultation of the list of "public order" incidents maintained by the KMAR and the PreNed register. This is scarcely surprising, considering both the diversity of nationalities and ethnic groups held in the Centre and its specific purpose. In this respect, the CPT attaches considerable importance to the careful selection and appropriate training of staff in centres of this kind. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action (cf. also paragraph 107).

The CPT's delegation found that the staff of the Ter Apel Centre complied on the whole with these requirements. However, it did hear allegations that some employees of PreNed had a tendency to make racist remarks about the residents. Clearly, this kind of attitude would do nothing to alleviate the tense atmosphere described above. **The CPT invites the Dutch authorities to examine this issue and to take appropriate action.**

3. Conditions of detention

a. King Willem II Detention Centre for Foreigners

i. *staff-inmate relations*

87. The staff of a centre such as King Willem II, whose inmate population includes nationals of nearly 60 different countries, have a particularly challenging task. Firstly, there are inevitable communication difficulties caused by linguistic and cultural barriers. Secondly, immigration detainees who are not suspected of any criminal offence will often resent the fact that they have been deprived of their liberty. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups.

Consequently, as already indicated in paragraph 86, the CPT places a premium upon the supervisory staff in such centres being carefully selected and receiving appropriate training.

88. The delegation noted that staff at Willem II had received language education and training in inter-cultural skills; further, the composition of the staff appeared to reflect the ethnic diversity of Dutch society. Most members of staff made considerable efforts to engage in a constructive dialogue with inmates.

A majority of inmates with whom the delegation spoke considered that they had good relations with the staff. However, the delegation did hear some complaints about certain members of staff in Unit D; in particular, a number of inmates alleged that the staff in question insulted them and, on occasion, appeared to be reluctant to forward their complaints to the establishment's Complaints Commission.

The delegation itself gained the impression that at least certain members of staff working in Unit D adopted a rather offhand approach in their dealings with detainees. The Director of the establishment accepted that staff-inmate relations were more strained in Unit D, advancing that this might be because that Unit had previously housed the establishment's punishment facility. He informed the delegation that, on completion of a new 96-place Unit, it was intended to disperse the staff members concerned throughout the establishment.

The CPT doubts whether this would be the most appropriate way to tackle the issue. **It recommends that steps be taken to ascertain whether certain staff members at the King Willem II Detention Centre lack the necessary qualities to work with detained foreigners and, should that prove to be the case, that appropriate remedial action be taken.**

89. At Willem II, "repatriation officers" perform a certain number of social welfare functions for detainees (e.g. facilitating contact with the outside world); however, those staff members are also called upon to perform a range of other roles, including working alongside custodial staff and assisting the Immigration and Nationality Department and/or the Aliens Police in their efforts to persuade detainees that it is in their best interests to return to their home countries.

The net result was that the repatriation officers had insufficient time to devote to the welfare of inmates. An effort was made to see every inmate shortly after admission but, thereafter, meetings with repatriation officers took place only if individual detainees so requested. Moreover, the delegation's detailed examination of a number of cases in which detainees had requested repatriation officers to intervene on their behalf (including that of one of the inmates to whom reference was made in paragraph 85, above) suggested that they had little real authority to influence matters on a detainee's behalf. Discussions with repatriation officers served to confirm the delegation's impression that they had great difficulty in reconciling the different roles into which they had been cast.

The CPT invites the Dutch authorities to review the manner in which welfare services are delivered to inmates at the King Willem II Detention Centre for Foreigners, with a view to ensuring that they are provided by suitably-qualified staff who are genuinely in a position to respond to the legitimate needs of detainees.

ii. material conditions

90. The majority of rooms in Units B, C and D measured between 45 and 51 m² and held eight detainees. In principle, this is an adequate size for such a number of persons. They were furnished with four bunk beds, a table, chairs, shelves, and a small corner kitchen area. All rooms were equipped with a lavatory (located in a separate sanitary annexe), had adequate lighting (natural and artificial) and ventilation and, in general, were in a good state of repair and cleanliness. To sum up, material conditions were, on the whole, quite satisfactory. However, **the delegation noted that some rooms in Unit D were not adequately heated.**

91. The CPT does have some misgivings as regards the manner in which detainees are allocated to rooms in Units B, C and D. The delegation noted that, in a certain number of rooms, detainees were being held cheek by jowl with other persons with whom they had neither linguistic nor cultural affinity. In this respect, the delegation was informed by staff at Willem II that an effort was made to group detainees in an ethnically heterogeneous fashion, in an attempt to avoid the formation of groups which might pose management difficulties. The CPT is not convinced by this rationale; the approach being followed was -in itself - capable of generating tension. Further, there was always the option of placing detainees who posed management difficulties in Unit X.

The delegation was also concerned to note that, contrary to the impression given by staff at the outset of the delegation's visit, juveniles (aged 16 to 18) were interspersed with adults in various parts of the establishment. The so-called "J" section of Unit D, which purportedly contained 22 places in 4-person rooms reserved for juveniles, actually accommodated only six juveniles, who were sharing their rooms with nine adults. This was apparently the case elsewhere in the establishment, for example six other juveniles were placed among the adults in another part of Unit D.

The CPT recommends that the existing detainee placement policy at the King Willem II Detention Centre be reviewed, in order to ensure that, to the greatest possible extent, detainees are accommodated with other persons with whom they can communicate. Further, persons under the age of 18 should not be held together with adults with whom they have no family connection.

92. The single-occupancy cells in Unit X, which were of an adequate size and appropriately equipped, call for no particular comment from the CPT.

iii. regime

93. All inmates held in Units B, C and D were offered the possibility of working a 22 hour week, carrying out a range of activities, including laundering clothes, assembling television aerials, car parts and chimney cowls, pipe-cutting and packing pencils. Moreover they were offered the opportunity to take outdoor exercise for at least an hour every day, and had access to a wide variety of other activities: recreation (6 hours per week); sport (3 hours per week); use of the library (1 hour per week); language or computer education, music/handicrafts (1 hour per week).

This is exactly the kind of varied and stimulating regime which the CPT would wish to see being offered to immigration detainees. It is particularly noteworthy that the establishment was in a position to offer a job to all detainees in Units B, C and D.

94. Nevertheless, it should be borne in mind that foreigners held under Article 26 of the Aliens Law are not detained because they have been convicted of a criminal offence. It follows that they should not, under any circumstances, be obliged to work.

Consequently, the delegation was concerned by the complaints of a number of detainees to the effect that they felt coerced to attend work and pressured to produce a maximum level of output whilst at work. As one such inmate expressed it, "sometimes you get the impression that we're detained to work". The delegation itself - from its discussions with staff and inmates and other on-site observations - gathered the impression that the ethos of the establishment included an expectation that persons held there would fully participate in work activities.

It was also alleged that a failure to work could lead to the withdrawal of other activities (with the exception of sport/outdoor exercise). The delegation found no evidence to suggest that access to regime activities was contingent upon an inmate's willingness to work, and this does not flow from the establishment's internal rules. Nevertheless, the mere fact that certain detainees should be under this impression is a source of concern.

The CPT invites the Dutch authorities to verify that detainees at the King Willem II Detention Centre are not - whether directly or indirectly - being obliged to work.

95. Some detainees also alleged that the quantity of food provided by the establishment was insufficient and that they needed the income from work in order to have an adequate diet. The Chairman of the establishment's Complaints Commission intimated that such complaints might not be entirely without foundation.

The CPT has examined the detailed contract under which an outside catering company provides food to Willem II. The contract provides for a balanced and varied diet which includes an adequate daily energy intake for adult inmates who do not engage in strenuous physical activities. Further, according to information subsequently forwarded by the Dutch authorities "the quantity of food provided is 10% higher than that laid down by law". Nevertheless, **the CPT invites the Dutch authorities to verify whether detainees at the King Willem II Detention Centre are indeed receiving the diet foreseen by the contract.**

96. There was no separate regime of activities for the juveniles being held at Willem II. In this respect, **the CPT wishes to emphasise that the regimes offered to juveniles should be adapted to their specific needs; in particular, they should include a significant element of physical education and be supervised by carefully-selected staff who have been trained in working with the young.**

97. The regime in Unit X appeared to be more restrictive. Although the Dutch authorities have informed the CPT that "prisoners in the "special care" unit are offered a full programme of activities (including sports, exercise, work, recreation, spiritual counselling, library facilities, shop and showers)", this was little in evidence at the time of the visit. A limited number of workplaces were available; however, the majority of immigration detainees appeared to spend most - if not all - of the day locked in their cells. Nevertheless, all immigration detainees held in Unit X - including those placed in the Unit for up to fourteen days to serve a disciplinary penalty, or for reasons of good order and discipline - were offered one hour of outdoor exercise every day.

The Committee would like to receive further and better particulars about the regime which is currently being offered to immigration detainees being held in Unit X at the King Willem II Detention Centre for Foreigners.

98. Unit X also held the establishment's remand prisoners, all of whom were subject to judicial restrictions. These prisoners were offered only half an hour of outdoor exercise per day in a small metal cage, spending the remaining 23 ½ hours locked in their cells.

As already indicated (cf. paragraph 46) it is far from easy to offer a programme of activities to inmates whom judges have ordered be kept segregated from other inmates. However, all inmates - including those in this situation - must be offered at least one hour of outdoor exercise every day. Efforts should also be made to provide this category of prisoner with additional meaningful activities.

The CPT recommends that:

- **immediate steps be taken to ensure that inmates held on remand in the King Willem II Detention Centre - and all inmates subject to judicial restrictions in other prisons in the Netherlands - are offered a minimum of one hour of outdoor exercise every day, in areas sufficiently large to enable them to exert themselves physically;**
- **efforts be made by staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under judicial restrictions.**

b. Ter Apel Departure Centre

99. All asylum seekers in respect of whom the asylum procedure had been exhausted in the Netherlands (i.e. including all avenues of appeal) and whose deportation from Dutch territory presents technical difficulties were required to go to the Ter Apel Departure Centre within 48 hours. The persons concerned received a travel ticket for this purpose.

100. On arrival, such persons were briefly questioned by the KMAR, which informed them that they were required to report to the KMAR every day (cf. paragraph 101 below) and issued them with a resident's special identity card. Their stated identity was checked and a photograph and fingerprints were taken. The following day, residents were given their first full interview, conducted jointly by officers from the IND and the KMAR, intended mainly to explain the planned procedure which was to be applied to them and their possible return to their country of origin with the help of the International Organisation for Migration. In subsequent weeks, residents were frequently called to attend further interviews, generally conducted by the KMAR's Investigation Department in order to establish their real identity/nationality.

101. Residents were required to report to the KMAR twice a day (every morning between 9.30 am and 11 am and every afternoon between 2.30 pm and 4 pm). This procedure had both a visual element (production of a resident's special identity card) and a dactyloscopic component (electronic examination of fingerprints). In exceptional cases, it was possible to submit a request to the KMAR, in advance and giving good reason, for exemption from this procedure. Residents were also required to be available for questioning by the IND and/or the KMAR at any time.

Any failure to comply with these two obligations was punishable, under Article 44 of the Aliens Act, with detention of a maximum of six months or a second category fine. Therefore, in practice, the freedom of residents to come and go was subject to significant restrictions.

102. Accommodation conditions in the Ter Apel Departure Centre were generally satisfactory. Residents were divided between five blocks, each containing a number of flats, which were adequately, albeit modestly, furnished. Each flat could accommodate up to 8 people, if necessary, in family groups.

103. The Centre offered residents a variety of educational, recreational and sports activities. These included language courses (English and French) as well as computer and sewing classes. The attendance rate for these courses was high (approximately 80%). Diplomas and/or attendance certificates were awarded at the end of the programme. A creche was also provided to take care of young children during classes. If necessary, other children could attend schools outside the Centre.

Residents were divided into groups of ten or so people, each of which was allocated a “mentor” from the COA, who was responsible for them during their stay at the Centre.

104. As already indicated, the Centre contained a small detention unit consisting of eight cells, located on the ground floor of the administrative building. These cells were used by the KMAR in two distinct sets of circumstances: to isolate a person who was causing security or public order problems or, on the eve of deportation, to separate the persons concerned from other residents. The detention unit comprised one double cell and seven individual cells, all of a satisfactory size, with adequate natural and artificial light and fitted with call bells. It also contained a small sanitary annexe (lavatory and shower). Nevertheless, **the CPT invites the Dutch authorities to supplement the furniture in the cells (which consisted of a bed and mattress) with a table and chair, if necessary fixed to the floor.**

The delegation observed that the use of these cells was only recorded in the KMAR’s daily register; there was no specific custody register. However, the CPT is pleased to note, from information subsequently provided by the Dutch authorities, that such a specific register is now maintained.

4. Health care services

105. The medical care provided to the 417 persons detained at the King Willem II Detention Centre for Foreigners was of a satisfactory level. The medical staff included three doctors, supplemented by a 24 hour on-call arrangement with the local emergency services. Two nurses were present every morning and one every evening. In addition, there were regular consultations with visiting specialists, including a dentist, a psychiatrist, and a physiotherapist. The delegation was pleased to note that the Centre also employed a full-time psychologist, who worked closely with the medical team.

The procedures for medical examination upon arrival appeared to be administered properly. Each person who was admitted was seen by a nurse on the first day. Tests included routine screening for certain transmissible diseases (e.g. tuberculosis) and optional screening for HIV. In cases of newly-arrived inmates who had been detained elsewhere in the Netherlands, medical files were automatically transferred.

106. At the Ter Apel Departure Centre, consultations were held by a medical doctor every day (between 9 am and 10 am) except on Sundays, and the doctor could be contacted in emergencies¹⁰. Two nurses were present during the day and another in the evenings.

All new residents were given a full medical examination upon admission (unless such an examination had already been carried out in another COA centre, in which case the medical files of the person concerned were transferred). This medical examination included a routine check for tuberculosis - performed by a mobile team - and other transmittable diseases (Hepatitis B and Hepatitis C, HIV), the three last being conducted on a voluntary basis. Vaccinations were also available, if necessary, particularly for young children.

The medical service's general organisation, premises and equipment and the protection of medical confidentiality do not call for any particular comment by the CPT. To sum up, the Centre's medical service was, on the whole, satisfactory. However, the delegation detected room for improvement in three areas.

107. In spite of the particularly difficult situation of the Centre's residents - awaiting deportation on an unspecified date - which created an atmosphere of perceptible tension throughout the establishment, they were offered no real psychological support and psychiatric consultations were only available in emergencies. In this connection the delegation noted that a number of suicide attempts/threats of suicide had been recorded by KMAR officers in 1997.

The Dutch authorities subsequently informed the CPT that arrangements had been made to organise a training course for the staff at Ter Apel Departure Centre, so that they would be better equipped to deal with complex and deviant behaviour (observation, intervention and behavioural analysis techniques), and that medical staff would keep a close watch on residents who threatened to commit suicide or displayed symptoms of distress. Whilst welcoming these developments, **the Committee considers that the Centre should have the services of one or more consultant psychologists and would benefit from having a fully-fledged suicide-prevention policy.**

108. The delegation also noted that, in spite of the large number of young children in the Centre, paediatric consultations were not available on site, but only in a town some 40 km away. The same applied in respect of dental consultations. This state of affairs could not fail to undermine access to care.

The CPT invites the Dutch authorities to take steps to remedy this situation.

¹⁰ A group of doctors were on call on Sundays and in the event of the Centre's doctor being absent.

5. Information on rights

109. Foreigners deprived of their liberty should be expressly informed, without delay and in a language which they understand, of all their rights and of the procedure applicable to them.

On this question, the situation at both centres was quite satisfactory. At Willem II, the establishment's internal rules had been translated into a wide variety of languages and were routinely given to inmates on arrival. At Ter Apel, an introductory booklet in Dutch and English had been produced to inform residents of the Centre's regulations.

D. The Dr S. van Mesdag Clinic

1. Preliminary remarks

110. The Dr S. van Mesdag Clinic is a State institution for patients detained under a "terbeschikkingstelling" (or "TBS") order¹¹. Such an order is designed to respond to the special needs created by mentally disordered persons who have committed serious offences and who are considered likely to re-offend if no treatment is applied.

A number of specific institutions have been set up to accommodate such persons, both under the direct control of the Ministry of Justice and in the private sector, offering a total of approximately 850 places. Exceptionally, persons under a TBS order can also be placed in a civil psychiatric hospital.

111. Since the beginning of the 1990's, the Dutch authorities have been confronted by a significant increase in TBS orders, a problem which has been exacerbated by the prolonged stays - for more than six years - of some 160 persons within the TBS system. As a result, the number of persons waiting in prisons for admission to TBS establishments rose from 26 in 1991 to over 200 at the time of the CPT's second periodic visit. In response to this situation, the Dutch authorities have decided to increase the number of TBS places, in order to reach a capacity of 1,000 in 1999. However, the CPT notes that, in a letter sent to the Lower House of the Parliament on 2 April 1998, Mrs SORGDRAGER, the Minister for Justice, indicated that the shortage of TBS places in 2002 is estimated at 340.

Concern has been expressed in the Netherlands about the position of inmates waiting in prison for admission to a TBS institution. During this waiting period, currently averaging 9 months, the persons concerned do not receive the treatment they require, a situation which, it has been pointed out, is likely to provoke feelings of anxiety, self doubt and anger in the persons concerned. Further, as they are considered dangerous, those inmates run a serious risk of being placed in restrictive regimes in the prison establishments where they are temporarily being held.

The CPT would like to be informed of the measures which the Dutch authorities intend to take in order to overcome these difficulties, and of the steps taken to ensure that persons awaiting admission to a TBS establishment receive at least minimally adequate treatment in the meantime.

¹¹ Under Book I, Section IIa, Subsection 2 of the Dutch Criminal Code (Sections 37b and 38c), a judge may issue a TBS order in respect of anyone who has committed a serious crime and is found to have "defective development" or "a pathologic disturbance of his mental faculties".

112. The Dr S. van Mesdag Clinic is the largest and most secure TBS establishment in the Netherlands. It accommodates only male patients, all of them having committed serious offences, mainly of a violent and/or sexual character, whilst under the influence of serious mental disturbance.

The current capacity of the Clinic is 159 places, and there are plans to increase it to 180. 153 patients were present in the institution during the delegation's visit, divided into the following categories: 140 under a TBS order, 10 under a combined measure TBS/prison sentence and 3 placed under Section 120 of the Prison Act (sentenced prisoners referred to the clinic for urgent psychiatric care). The youngest patient was 21 years old, and the eldest 61. Some 20 patients had been in the institution for more than six years.

Each patient is assigned to one of the Clinic's three departments: the "psychosis" department (two very intensive care units and six intensive care units); the "personality disorders" department (one very intensive care and six intensive care units) and the "resocialisation" department (one in-house resocialisation unit and two half-way houses). An intensive care unit can accommodate up to 11 patients, while the very intensive care units each accommodate no more than 5 patients.

113. It should be emphasised at the outset that the delegation heard no allegations of torture or other forms of deliberate ill-treatment of persons deprived of their liberty at the Dr S. van Mesdag Clinic, nor did it gather any other evidence of the existence of such treatment.

2. Material conditions

114. The Clinic's premises consisted of the "old remand prison", which had been in service for more than a century; the buildings used for general purposes (offices, workshops, gym, swimming pool, etc.), built in the seventies; and the recently-opened (1996) accommodation for patients, built in a "horse-shoe" design. The premises were surrounded by a secure perimeter.

115. The material conditions in the new building, which accommodated the great majority of the residents, were excellent. In a typical intensive care unit, each patient had his own room which was of a satisfactory size (12 m²), fully equipped (bed, table, chair, cupboard, partitioned sanitary annexe with shower and W.-C.) and personalised. Moreover, each unit had several communal facilities (recreation room, hobby room, kitchen, etc.) and a visiting room. In the very intensive care units, the size of the patients' rooms was even larger, to take account of their more restrictive regime.

However, the first signs of overcrowding were evident in some of the units (Dollard 2 and 3, and Hunze 2). In those units, the cells designed for the segregation of patients were being used as ordinary accommodation. **The CPT invites the Dutch authorities to bring this practice to an end.**

116. The conditions in the "old remand prison", which was accommodating some 30 residents, were less good. The cells¹² were of an adequate size (10+ m²) and well equipped. However, they were not equipped with a lavatory; consequently, patients were obliged to make use of a bucket to comply with the needs of nature during the night (the number of staff present at night in the Clinic being extremely limited, it was not possible to have a cell door opened in order to allow access to the unit's sanitary annexe). Nor were cells equipped with running water.

117. The CPT does not like the practice of persons discharging human waste in buckets in their cells. Either a toilet facility should be located in cellular accommodation (preferably in a sanitary annexe) or means should exist enabling those who need to use a toilet facility to be released from their cells without undue delay at all times (including at night). **The CPT recommends that the Dutch authorities take the necessary steps to meet this requirement.**

Further, it would also be desirable for running water to be available within the cells of the "old remand prison".

3. Regime/treatment/staff

118. The Dr S. van Mesdag Clinic has a high reputation for the original therapeutic approaches it has developed for offenders with serious psychiatric and psychological disturbances. Therapy is aimed at removing or reducing the dangerousness of the patients and preparing them for their return to society. A four factor model is followed, aiming at changing the personality of the patient concerned, but also teaching him social, personal and recreative skills. Numerous types of therapy were available within the clinic: sociotherapy, non-verbal therapies (psychomotor, creative and music therapies), vocational therapy, psychotherapy, community work, education and development, mental development and socio-cultural work.

In pursuit of this somewhat ambitious goal, the Clinic had a high staff/patient ratio. The medical team was composed of 9 psychiatrists and 9 psychologists. Some 40 other staff members were involved in the different types of therapeutic and education activities, while 233 sociotherapeutic workers (40 % with a nursing or psychosocial background, 60 % being former prison officers with 3 months specific training) remained in close contact with the patients. The Clinic also benefitted from an adequate medical service (a visiting general practitioner and dentist, nurses, etc.), which had three sick rooms at its disposal.

119. The delegation's observations confirmed that a wide variety of treatments were being offered to patients in the Clinic and that the above-mentioned staff were skilled and motivated. Moreover, the imaginative and open approach to conflict resolution within the units and the excellent information given to patients about their treatment and medication are but two examples of the high standard of care.

¹² The 33 cells concerned were "noodcellen" (i.e. cells brought back into service to cope with a recent rise in patient numbers).

However, both staff and patients stressed that the significant increase in the number of patients in recent years had not been matched by an equivalent increase of staff and other resources. As a result, the intervals between interviews with psychiatrists and psychologists had become much longer, patients spent significantly less time engaged in purposeful work (with waiting lists to obtain a post in the workshops), and access to other therapeutic activities was less good than in the past. Moreover, the increase in cases of staff sickness, mainly among sociotherapeutic workers, could be considered to be symptomatic of the growing pressure put on the Clinic.

120. The CPT considers it essential that increasing the number of TBS places in the Dr S. van Mesdag Clinic - as in other such establishments in the Netherlands - should not be achieved at the expense of compromising the quality of care. This is particularly important since the intensity of therapeutic interviews has a direct bearing on patient progress and therefore on the length of the placement.

The CPT recommends that the Dutch authorities take appropriate steps to ensure that the quality of care and treatment at the Dr S. van Mesdag Clinic is maintained.

121. Several patients met by the delegation referred to an increase in the number of suicides and suicide attempts among patients at the Clinic; three of them were obviously traumatised by the suicides of fellow patients. The Clinic's Chief psychiatrist confirmed that there had been an increase in suicides in recent times (five suicides over the last 4 years).

The CPT would like to receive information on the suicide-prevention measures taken at the Dr S. van Mesdag Clinic and, more generally, at TBS establishments in the Netherlands. In addition, it would like to receive information on any such measures taken with regard to persons subject to a TBS order waiting in prison for admission to a TBS establishment.

4. Segregation/isolation

122. Section 34 of the Hospital Order Placement (Nursing) Act (or "BVBG")¹³ provides for two types of control measures vis-à-vis residents in a TBS institution: segregation ("afzondering") and isolation ("separatie"). Both measures are to be imposed by the Director of the institution (though in an emergency case, isolation could also be imposed by a head of department for a maximum period of 15 hours). Segregation on the inmate's request is also foreseen.

¹³ The "BVBG" is the "Beginselenwet verpleging ter beschikking gestelden", which came into force on 1 October 1997. This Act is supplemented by Hospital Order Placement (Nursing) Regulations ("Reglement verpleging ter beschikking gestelden or RVBG"), which ensures its implementation, and came into force on 2 October 1997.

123. A segregation measure can initially only be imposed for a maximum of 4 weeks; however, it can be prolonged by 4 week terms with the authorization of the Minister for Justice. A patient under such a measure is forbidden to leave a certain area (his own cell or the unit's segregation cell, the latter being very similar to a normal cell). After two days in involuntary segregation, the patient concerned has the right to complain to the institution's Complaints Commission.

124. An isolation measure can also be imposed for the same period and be prolonged under the same conditions. However, the medical doctor attached to the Clinic and the Supervisory Commission are to be informed, if the measure is imposed for more than 24 hours. After one day in isolation, the patient concerned has the right to make a complaint to the Clinic's Complaints Commission.

Such a measure implies that the patient concerned is confined in one of the six isolation cells situated in the new building, next to the medical service facilities. Those cells were of a adequate size (10+ m²) and reasonably equipped (bed fixed to the floor, mattress, blankets, sheets and pillow; lavatory; intercom, and infra-red video camera). Further, access to natural light and artificial lighting were satisfactory.

Patients in isolation received visits from members of staff of their unit at least 5 times a day; during these periods they were taken out of their cells and allowed to stay in the isolation's unit day-room (to smoke cigarettes, eat etc.). They also received regular visits from the nurses working in the nearby medical service. However, outside exercise was only allowed for half an hour a day.

125. There was no central registration of the segregation/isolation measures in the Dr S. van Mesdag Clinic. However, a careful examination of the patients' individual files revealed that isolation - the most severe measure - was commonly used (nearly 300 cases since 1 January 1997). In the majority of cases (75 %), the period of isolation did not exceed 24 hours; however, in 5 cases, isolation had lasted more than one month (in one case for 7 weeks).

126. **The CPT recommends :**

- **that measures of segregation/isolation be recorded in a central register** (in addition to the record in the individual file of the patient concerned). **The entry should include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure;**
- **that every patient, including those subject to segregation/isolation, be offered at least one hour of outdoor exercise every day.**

127. During its visit to the "old remand prison", the delegation also noted the existence of two other isolation cells and one padded cell. Staff stated that the padded cell was no longer used, and the isolation cells used only in case of emergency. In the light of a number of deficiencies observed (absence of, or poor, natural light; lack of call and fire alarm systems; video surveillance camera out of order, etc.), **the CPT recommends that all of these cells be taken out of service.**

5. Instruments of physical restraint

128. Sections 21 to 30 of the BVBG stipulate in some detail the different measures which can be taken in a TBS institution in the context of "control and use of force". Detailed regulations (including relevant safeguards) are applicable in cases of searches, intimate body searches, urine tests, use of instruments of physical restraint, etc.

As regards the last-mentioned, Section 27 stipulates that the Director of the institution (or, in case of emergency, a head of department) can impose the use of instruments of physical restraint ("Swedish bandages") on a patient in isolation, for a maximum of 24 hours. The prolongation of such a measure, for a new 24 hour period, is only possible after consultation of the institution's medical doctor. In addition, the delegation was shown the draft of a very detailed regulation on the use of instruments of physical restraint, due to enter into force shortly.

129. The CPT welcomes the detailed provisions on this sensitive subject. Further, as regards more particularly the Dr S. van Mesdag Clinic, the Committee notes that no resort had been made to instruments of physical restraint during 1997.

Nevertheless, **the CPT recommends that any use of instruments of physical restraint be recorded in a central register** (in addition to the record in the individual file of the patient concerned). **The entry should include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure.**

6. Discipline

130. The BVBG (cf. Section 49) provides for a certain number of disciplinary sanctions:

- segregation in the patient's cell during meal times or particular hours, for a maximum of two weeks;
- confinement in the patient's unit, for a maximum of two weeks;
- denial of access to a particular visitor (or group of visitors), if the latter had been associated with a violation of the house rules, for a maximum of two weeks, etc.

The sanction can only be imposed by the Director of the institution and must be preceded by a hearing of the patient. Further, the sanction can be appealed against to the Complaints Commission. Whilst welcoming these safeguards, **the CPT recommends that a central register of disciplinary sanctions be established in every TBS institution.**

7. Forced medication/consent to treatment

131. A patient can be treated against his will following a decision by the Director of the Clinic if, on the opinion of a medical doctor, such treatment is considered necessary in order to prevent a serious risk to the health or security of the patient or other persons. Such treatment is administered by a medical doctor or, under his instructions, by a nurse (Section 26 BVBG). In emergency cases, such forcible treatment may be imposed by the head of department (Section 25 BVBG).

In this connection, a detailed procedure has been drawn up (cf. Sections 33 to 35, RVBG). It foresees in particular: an obligatory consultation procedure between the Director of the Clinic, the treating doctor, and the head of department and, if the treatment relates to the mental health of the patient, the intervention of a psychiatrist; the subsidiarity principle (having first tried all other methods of voluntary treatment); recording in an ad hoc register and in the patient's file, notification being made to the Ministry of Justice and to the Complaints Commission and, if need be, to the competent regional Health Inspector; etc. Consequently, such involuntary treatment measures are accompanied by safeguards for the patient.

However, during the CPT's visit, the above-mentioned register had not yet been opened; consequently, centralised oversight of the involuntary treatment measures applied at the Clinic was not possible. **The CPT recommends that such a register be opened without delay.**

132. It should also be noted that the delegation interviewed two patients who were refusing any form of treatment. Such patients could be subject to measures which have a clearly punitive aspect e.g. solitary confinement, no outside exercise, restricted visits. Furthermore, they were informed that no positive recommendation about release could be made.

The CPT invites the Dutch authorities to actively seek alternative approaches to end this medico-legal impasse. In addition, it should be recalled that all patients held at the Clinic are to be offered at least one hour of outdoor exercise every day (cf. paragraph 126).

8. Complaints procedure and external supervision

133. The new BVBG provides for a detailed mediation (Section 55) and complaints (Sections 56 to 66) procedure. Moreover, an appeal procedure is set up for patients who contest the result of the existing complaints mechanism (Sections 67 to 69). The CPT welcomes these new procedures; however, at the time of the visit they were not yet in use, the Clinic's revised internal rules not having been adopted by the competent authorities. **The CPT recommends that the Clinic's revised internal rules be adopted without delay, and that they be made available to patients.**

134. The CPT has noted the important role given by the new legislation to the regional Health Inspector, in particular concerning supervision of the use of means of physical restraint, of segregation/isolation measures, and of involuntary treatment. **The CPT would like to be informed whether the Dr S. van Mesdag Clinic has been inspected by the competent regional Health Inspector in 1997-1998 and, if so, to receive copies of any reports drawn up by the Inspector.**

III. RECAPITULATION AND CONCLUSIONS

A. Police establishments

135. As had been the case during the CPT's 1992 visit to the Netherlands, the Committee's delegation received no allegations of torture and few allegations of other forms of physical ill-treatment by members of the security forces.

Notwithstanding this broadly favourable impression, the CPT has requested further information about certain recent events which would suggest that the Dutch authorities should remain on their guard.

136. Conditions of detention in the police and Royal Gendarmerie (KMAR) establishments visited were, on the whole, in accordance with the CPT's basic criteria. However, the Committee has recommended improvements to material conditions in a multi-occupancy holding area at **Tilburg Central Police Station**, and that men and women held at **Schiphol Airport** who have been refused entry to Dutch territory be separated at night. It has also invited the Dutch authorities to seek to remedy a number of other deficiencies identified in the establishments visited.

137. The CPT has noted with approval that the practice of holding persons on remand for considerable periods of time in police premises has now almost been brought to an end. However, its delegation observed that it was still common for persons deprived of their liberty under the Aliens Law to be held for many days in police detention facilities. Given that the police / KMAR detention facilities visited are not appropriate for lengthy periods of detention, the CPT has recommended that the Dutch authorities persist in their efforts to transfer such persons as soon as possible to more suitably-equipped facilities.

The Committee has also recommended that steps be taken to ensure that any criminal suspect whose police custody is prolonged beyond 3 days is guaranteed at least one hour of outdoor exercise every day.

138. Returning to a theme which was raised in its 1992 report, the CPT has made several recommendations in the area of safeguards for persons deprived of their liberty by the police.

As regards the right to notify a close relative or third party of the fact of one's detention, the Committee has noted that the exercise of this right may be delayed if it is deemed to be contrary to the "interests of the investigation". The CPT accepts entirely that the exercise of the right could be made subject to certain exceptions, designed to protect the interests of justice. However, it has stressed that any possibility exceptionally to delay the exercise of this right should be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) and strictly limited in time. The existing legislation in this area is insufficiently precise; the CPT has recommended that steps be taken to remedy this situation.

The possibility for persons taken into police custody to have access to a lawyer is another fundamental safeguard against ill-treatment. The existence of such a possibility will have a dissuasive effect on those minded to ill treat detained persons; moreover, a lawyer is well placed to take appropriate action if ill-treatment actually occurs. In this connection, the CPT has reiterated its 1992 recommendation that any person detained by the police for interrogation purposes be granted access to a lawyer as from the very outset of his deprivation of liberty.

Access to a doctor for persons detained by the police was guaranteed under satisfactory conditions. However, the CPT has expressed the view that it might be wise in high-capacity police detention centres – such as those in **Amsterdam** and **Tilburg** - to make arrangements for regular visits by a qualified nurse.

139. A detailed examination of the conditions under which resort is made to means of restraint during deportation procedures at **Schiphol Airport** has led the CPT to recommend that a specific register be established, recording cases in which means of restraint are used and all associated information (in addition to such details being recorded in the individual case file of the person concerned).

Further, having regard to the principle of non-refoulement, information has also been requested regarding a new law which will govern the processing of asylum requests from persons who are unable to formally establish their identity.

B. Prisons

140. The CPT's delegation heard no allegations of torture and hardly any allegations of other forms of physical ill-treatment of prisoners by staff in the establishments visited. Further, the delegation heard few allegations of such treatment having occurred in other prisons in the Netherlands. More generally, staff and prisoners in the establishments visited appeared to be on reasonably good terms.

Particular reference should be made to **Unit 4A at Demersluis Prison**, where staff-inmate relations were found to be much improved as compared to the situation observed during the Committee's first visit to that establishment in 1992. The Committee has welcomed this development, which has served to foster a much more positive atmosphere for both staff and prisoners.

141. Almost without exception, the material conditions of detention seen in the establishments visited were of a high standard. However, the Committee has recommended that steps be taken to improve access to natural light in cells in the "**temporary extra security institution**" (the (T)EBI) at the Nieuw Vosseveld Prison Complex.

142. The Committee is most concerned by the shortcomings observed by its delegation as regards the regimes being offered to inmates being held in the "special security units" visited: **Unit 4A at Demersluis Prison** and the "**extra security institution**" (the **EBI and (T)EBI units**) at the **Nieuw Vosseveld Prison Complex**.

143. Although the facilities made available to inmates held in **Unit 4A** have been enhanced, the regime remained impoverished and out-of-cell time continued to leave a great deal to be desired. The CPT has recommended that, by way of compensation for their more severe custodial situation, inmates held there be allowed to mix freely with the small number of fellow prisoners in the unit and to move without restriction within the unit and be granted a good deal of choice about activities. Moreover, the activities provided for such prisoners should be as diverse as possible (education, sport, work of vocational value etc.).

144. Prisoners held in the **(T)EBI and EBI units** were also subject to a very impoverished regime. They spent too little time out of their cells; when out of their cells they associated with only a small number of fellow inmates and their relations with staff and visitors were very limited; consequently, they did not have adequate human contact. Further, the programme of activities was underdeveloped. This was particularly the case as regards education and work. However, even as regards sport, inmates had insufficient access to the very good facilities available. Moreover, certain aspects of the regime (in particular, systematic strip searching) did not appear to respond to legitimate security needs, and are humiliating for prisoners.

Moreover, the delegation's interviews with prisoners held in the (T)EBI and EBI revealed a consistent association of psychological symptoms which appeared to have been induced by the regime. The CPT's concerns about the harmful psychological consequences of the regime were reinforced during its subsequent visit to the Dr S. van Mesdag Clinic, where it interviewed a number of patients who had previously been held in the (T)EBI or EBI, in whom persistent psychological sequelae were clearly present.

145. The CPT's report sets out detailed criteria regarding the regime which should be applied in units such as the (T)EBI and EBI. The facilities in the extra security institution are of a high standard and quite capable of offering a regime meeting those criteria, without jeopardising legitimate security concerns. Consequently, the Committee has recommended that the current regime be revised.

More particularly, it has recommended that the existing group system, if not discarded, should at least be relaxed and that inmates should be allowed more out-of-cell time and a broader range of activities. The present searching policies should also be reviewed in order to ensure that they are strictly necessary from a security standpoint. Similarly, current visiting arrangements should be reviewed, the objective being to have visits taking place under more open conditions.

Lastly, the CPT has recommended that the Dutch authorities commission an independent study of the psychological state of current and former inmates of the extra security institution.

146. Concern has also been expressed about the regimes being offered to prisoners held on remand under judicial restrictions. Such prisoners were seen in **Unit 4B of Demersluis Prison** and in **Unit X of the King Willem II Detention Centre for Foreigners**. The CPT has recognised that it is far from easy to offer a programme of activities to prisoners in this category; however, it has recommended that immediate steps be taken to ensure that all such prisoners - throughout the Netherlands - are offered a minimum of one hour of outdoor exercise every day, in areas sufficiently large to enable them to exert themselves physically. It has also recommended that efforts be made by staff with a view to offering additional activities and appropriate human contact to remand prisoners subject to judicial restrictions.

147. Taken as a whole, the health care services offered to inmates at the **Over-Amstel Prisons** were of a good standard. Inmates held in **the (T)EBI and EBI** units also had access to a medical service which, in principle, was well-equipped to provide an appropriate level of medical care. However, the quality of the medical service which was actually delivered to inmates held in those units was compromised by the security arrangements which surrounded consultations with members of the health care team.

In this respect, the CPT has recalled that all medical examinations should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a given case - out of the sight of prison officers. Moreover, it has stressed that for inmates to be examined in handcuffs or interviewed behind glass are ethically questionable practices which are inimical to the construction of a proper doctor-patient relationship. A review of the manner in which medical care is delivered to inmates held in the (T)EBI and EBI units has been recommended.

148. The delegation's visit to the Over-Amstel Prison complex included a follow-up visit to **Het Veer Prison**, which houses the Dutch national psychiatric and forensic observation centre for prisoners (the FOBA). At the time of the visit, the FOBA was being called upon to function as a psychiatric hospital, receiving prisoners with severe mental disorders, many of them exhibiting active psychotic symptoms. However, there had been no corresponding increase in trained staff and the establishment's organisational structure was not adapted to that role; as a result, the quality of care which it provided was significantly inferior to that which would be offered to psychiatric patients with similar problems outside the prison system.

The Committee has recommended that the FOBA either revert to its original role as an observation and crisis intervention unit or be provided with the additional resources which it would require in order to provide an acceptable quality of psychiatric care to the prisoners whom it admits.

Whichever course is chosen, the CPT has recommended that efforts be made to develop additional regime activities for prisoners held in the FOBA; that a clear policy on medical confidentiality be introduced; and that all decisions to place prisoners suffering from acute psychiatric disorders in solitary confinement be either made by a doctor or immediately brought to the attention of a doctor with a view to seeking his/her approval. It has also invited the Dutch authorities to fix a definite lower age limit for admissions to the FOBA, and recommended that consideration be given to establishing a separate unit for women prisoners with acute psychiatric problems.

149. Attention is also given to the issue of the treatment of patients without their consent. In this respect, the CPT has recognised that, in exceptional circumstances, there can be a sound clinical and ethical basis for such treatment. However, it has stressed that involuntary treatment should always be carried out within a legal and regulatory framework which offers appropriate safeguards for patients. In the light of its delegation's findings during the visit to the FOBA, the Committee has recommended that the administration of involuntary treatment in that establishment be made subject to formal legal provisions, modelled upon those which apply in psychiatric hospitals.

C. Centres for Foreigners

150. The CPT's delegation heard no allegations of torture or other forms of deliberate physical ill-treatment by staff of persons deprived of their liberty at either the King Willem II Detention Centre for Foreigners or the Ter Apel Departure Centre. Nor did it gather any other evidence of the existence of such treatment.

However, the delegation did meet a number of inmates at the **King Willem II Detention Centre** who had been wearing unsuitable clothing for weeks on end. The CPT has recommended that measures be taken to ensure that all persons held at that establishment have appropriate clothing.

151. The CPT has recalled the importance which it attaches to the careful selection and training of staff in centres for foreigners. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

The staff of the **Ter Apel Centre** complied on the whole with these requirements. However, the CPT's delegation did hear allegations to the effect that some employees of a private security company working at the Centre had a tendency to make racist remarks about the residents. The Committee has invited the Dutch authorities to examine this issue and to take appropriate action.

A majority of inmates with whom the delegation spoke at the **King Willem II Detention Centre** considered that they had good relations with the staff. However, the delegation heard some complaints about certain staff members in Unit D, and itself noted that at least some such members of staff tended to adopt a rather offhand approach in their dealings with detainees. The CPT has recommended that steps be taken to ascertain whether certain staff members at that establishment lack the necessary qualities to work with detained foreigners and, should that prove to be the case, that appropriate remedial action be taken.

152. Material conditions and the regime were of a good standard in both of the establishments visited. However, the CPT has expressed some misgivings about the manner in which detainees are allocated to rooms in Units B, C and D at the **King Willem II Detention Centre**, and emphasised that the regimes offered to juveniles should be adapted to their specific requirements.

Medical services in the two establishments were also, on the whole, satisfactory. Nevertheless, the CPT has pointed out that the **Ter Apel Departure Centre** should have the services of one or more consultant psychologists and would benefit from having a fully-fledged suicide-prevention policy.

D. The Dr S. van Mesdag Clinic

153. The CPT's delegation heard no allegations of torture or other forms of deliberate ill-treatment of persons deprived of their liberty at the Dr S. van Mesdag Clinic, nor did it gather any other evidence of the existence of such treatment.

154. The material conditions in the "new building", which accommodated the great majority of the residents, were excellent. However, conditions in the "old remand prison", were less good. Although the cells were of an adequate size and well equipped, they were not fitted with a lavatory; consequently, patients were obliged to make use of a bucket to comply with the needs of nature during the night. The CPT has recommended that the necessary steps be taken to ensure that patients have ready access to a toilet facility at all times (including at night).

155. The delegation observed that a wide variety of treatments were being offered to patients in the Clinic and that the staff were skilled and motivated. However, it appears that the significant increase in the number of patients in recent years has not been matched by an equivalent increase of staff and other resources. The CPT has recommended that the Dutch authorities take appropriate steps to ensure that the quality of care and treatment at the Clinic is maintained.

156. There was no central registration of the use of segregation/isolation measures in the Clinic. Nevertheless, a careful examination of the patients' individual files revealed that isolation was commonly used. The CPT has recommended that measures of segregation/isolation be recorded in a central register (in addition to the record in the individual file of the patient concerned); that entry should include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure. Further, every patient, including those subject to segregation/isolation, should be offered at least one hour of outdoor exercise every day.

157. The CPT has recommended a range of other measures designed to enhance the procedural safeguards made available to patients held at the Clinic (and in other TBS establishments), including central registers of: the use of means of restraint, the imposition of disciplinary sanctions and the application of involuntary treatment measures. It has also recommended that the Clinic's revised internal rules be adopted without delay, and that those rules be made available to patients.

E. Action on the CPT's recommendations, comments and requests for information

158. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

159. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Dutch authorities:

- i. to provide within six months an interim report giving details of how it is intended to implement the CPT's recommendations and, as the case may be, providing an account of action already taken;
- ii. to provide within twelve months a follow-up report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Dutch authorities to provide in the above-mentioned interim report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX I

**SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS
AND REQUESTS FOR INFORMATION**

A. Law enforcement agencies

1. Torture and other forms of ill-treatment

requests for information

- whether the use of the "Zaanse verhoormethode", and its subsequent prohibition, has led the Dutch authorities to take any other measures as regards police training in the conduct of interrogations (paragraph 13);
- comments on the report drawn up by the Police Complaints Commission of the Amsterdam-Amstelland Region regarding the inquiry into police intervention during the European Summit in Amsterdam in June 1997, as well as information on the measures which have been taken subsequently (paragraph 15);
- the conclusions of the investigation into the manner in which persons detained during the European Summit were treated in the various detention centres in which they were held, as well as details of the measures which the Dutch authorities have taken as a result (paragraph 16).

2. Conditions of detention

recommendations

- steps to be taken:
 - . to equip the multi-occupancy holding area in the Regional Police Headquarters in Tilburg with a bench fixed to the wall;
 - . to separate, at night, men and women held at Schiphol Airport who have been refused entry to Dutch territory (paragraph 28);
- continued efforts to be made to transfer persons held in police detention facilities under the Aliens Law to more suitably-equipped facilities as soon as possible (paragraph 29);
- steps to be taken to ensure that any criminal suspect whose police custody is prolonged beyond 3 days is guaranteed at least one hour of outdoor exercise every day (paragraph 29).

comments

- it would be desirable for persons detained for more than 24 hours at the Warmoesstraat Police Station in Amsterdam to be offered outdoor exercise every day (paragraph 21);
- the Dutch authorities are invited to remedy the other deficiencies in police establishments visited, as identified in bold text in paragraphs 23 to 27 (paragraph 28).

requests for information

- confirmation of the temporary closure of the cell block in Amsterdam Police Headquarters and information on the measures taken by the authorities to accommodate persons deprived of their liberty by the police in Amsterdam during the renovation work in question (paragraph 20).

3. Safeguards against ill-treatment

recommendations

- the possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a close relative or a third party to be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) and strictly limited in time (paragraph 32);
- persons detained by the police for interrogation purposes to have access to a lawyer as from the very outset of their deprivation of liberty (paragraph 34);
- a specific register to be established at Schiphol Airport, recording cases in which means of restraint are used during deportation procedures and all associated information (paragraph 38).

comments

- the Dutch authorities are invited to remind law enforcement officials of the terms of Article 27 of the Service Instructions for the Police and the KMAR, as regards the right of detainees to inform a relative or third party of their detention (paragraph 31);
- law enforcement officials should be reminded that they must respect the right of a detained person to have access to a lawyer (paragraph 35);
- it might be wise, in respect of high-capacity police detention centres - such as those in Amsterdam and Tilburg - to make arrangements for regular visits by a qualified nurse (paragraph 36).

requests for information

- confirmation that persons suffering from "body-pack" syndrome who are detained by the KMAR at Schiphol Airport are now being systematically hospitalised (paragraph 37);
- detailed information on the new law regarding requests for asylum by persons unable to formally establish their identity and on all practical measures taken by the Dutch authorities in this area; in particular, on the measures envisaged to ensure that the Dutch authorities continue to comply with the obligation not to send persons to a country where there are substantial grounds for believing that they would run a real risk of being subjected to torture or ill-treatment (paragraph 39).

B. Prisons

1. Torture and other forms of ill-treatment

requests for information

- the number of complaints of ill-treatment by prison officers in the Netherlands during 1997 and the first half of 1998 and the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed (paragraph 41).

2. Over-Amstel Prisons

recommendations

- by way of compensation for their more severe custodial situation, inmates held in Unit 4A of Demersluis Prison to be allowed to mix freely with the small number of fellow prisoners in the unit and to move without restriction within the unit and to be granted a good deal of choice about activities. Moreover, the activities provided for such prisoners should be as diverse as possible (education, sport, work of vocational value etc.) (paragraph 47);
- immediate steps to be taken to ensure that inmates held on remand in Unit 4B of Demersluis Prison are offered a minimum of one hour of outdoor exercise every day, in areas sufficiently large to enable them to exert themselves physically (paragraph 47);
- efforts to be made by staff with a view to offering additional activities and appropriate human contact to prisoners held in Unit 4B of Demersluis Prison (paragraph 47).

- Het Veer Prison (the FOBA) either to revert to its original role as an observation and crisis intervention unit or to be provided with the additional resources which it would require in order to provide an acceptable quality of psychiatric care to the prisoners whom it admits. If the latter course is chosen:
 - . the overall management of the FOBA to be entrusted to a qualified and experienced psychiatrist;
 - . the number of staff with appropriate professional training to be increased significantly;
 - . a system of continuous training for forensic wardens, involving regular contacts with psychiatric services outside the prison system, to be established;
 - . the FOBA to be subject to the same system of inspection as psychiatric hospitals in the community (paragraph 54);
- Whichever course is chosen for the future of the FOBA:
 - . efforts to be made to develop additional regime activities for prisoners held there;
 - . a clear policy on medical confidentiality to be introduced;
 - . all decisions to place prisoners suffering from acute psychiatric disorders in solitary confinement either to be made by a doctor or immediately brought to the attention of a doctor with a view to seeking his/her approval (paragraph 55);
- the Dutch authorities to consider establishing a separate unit for women prisoners with acute psychiatric problems (paragraph 56);
- the administration of involuntary treatment in the FOBA to be made subject to formal legal provisions, modelled upon those which apply in psychiatric hospitals (paragraph 57).

comments

- the Dutch authorities are invited to fix a definite lower age limit for admissions to the FOBA (paragraph 56).

requests for information

- comments on the accommodation of widely-differing categories of prisoners in Unit 4A at Demersluis Prison (paragraph 48).

3. The "Extra Security Institution" ((T)EBI/EBI) at the Nieuw Vosseveld Prison Complex

recommendations

- steps to be taken to improve access to natural light in cells in the (T)EBI (paragraph 59);
- the regime currently applied in the extra security institution to be revised in the light of the remarks set out in paragraphs 61 to 67. In particular, the existing group system, if not discarded, at least to be relaxed and inmates to be allowed more out-of-cell time and a broader range of activities. Further, the current searching policies to be reviewed in order to ensure that they are strictly necessary from a security standpoint. Similarly, current visiting arrangements to be reviewed; the objective should be to have visits taking place under more open conditions (paragraph 70);
- an independent study to be commissioned of the psychological state of current and former inmates of the extra security institution (paragraph 70).

requests for information

- confirmation that work to improve the ventilation system in the (T)EBI has now been completed, together with details of the improvements involved (paragraph 59);
- whether the Dutch authorities plan to close the "temporary" extra security institution in the foreseeable future (paragraph 60).

4. Health care services

recommendations

- written information on the health care service at the Over-Amstel Prisons, and on related issues such as preventive measures and health promotion, to be systematically provided to inmates upon arrival (paragraph 74);
- the manner in which medical care is delivered to inmates held in the (T)EBI and EBI units at the Nieuw Vosseveld Prison to be reviewed, in the light of the remarks made in paragraph 77 (paragraph 77).

comments

- some prisoners at the Over-Amstel Prisons had to wait for more than a month to receive non-urgent dental care (paragraph 73);
- whenever possible, medicines should be distributed by nursing staff (paragraph 75).

requests for information

- the new procedures for appointment of medical and nursing staff, and the extent of the involvement, if any, of independent medical authorities (e.g. municipal health authorities, medical or nursing associations, or the national health authorities) (paragraph 71).

C. Centres for Foreigners

1. Torture and other forms of ill-treatment

recommendations

- measures to be taken to ensure that all persons held at the King Willem II Detention Centre for Foreigners have appropriate clothing (paragraph 85).

comments

- the Dutch authorities are invited to examine whether some PreNed employees at the Ter Apel Departure Centre are making racist remarks about the residents, and to take appropriate action (paragraph 86).

2. Conditions of detention

recommendations

- steps to be taken to ascertain whether certain staff members at the King Willem II Detention Centre for Foreigners lack the necessary qualities to work with detained foreigners and, should that prove to be the case, appropriate remedial action to be taken (paragraph 88);
- the existing detainee placement policy at the King Willem II Detention Centre for Foreigners to be reviewed, in order to ensure that, to the greatest possible extent, detainees are accommodated with other persons with whom they can communicate. Further, persons under the age of 18 not to be held together with adults with whom they have no family connection (paragraph 90);
- immediate steps to be taken to ensure that inmates held on remand at the King Willem II Detention Centre for Foreigners - and all inmates subject to judicial restrictions in other prisons in the Netherlands - are offered a minimum of one hour of outdoor exercise every day, in areas sufficiently large to enable them to exert themselves physically (paragraph 98);
- efforts to be made by staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under judicial restrictions (paragraph 98).

comments

- the manner in which welfare services are delivered to inmates at the King Willem II Detention Centre for Foreigners should be reviewed, in order to ensure that they are provided by suitably-qualified staff who are genuinely in a position to respond to the legitimate needs of detainees (paragraph 89);
- some rooms in Unit D at the King Willem II Detention Centre for Foreigners were not adequately heated (paragraph 90);
- the Dutch authorities are invited to verify that detainees at the King Willem II Detention Centre for Foreigners are not - whether directly or indirectly - being obliged to work (paragraph 94);
- the Dutch authorities are invited to verify whether detainees at the King Willem II Detention Centre for Foreigners are indeed receiving the diet foreseen by the contract which has been concluded with an outside catering company (paragraph 95);
- the regimes offered to juveniles should be adapted to their specific needs; in particular, they should include a significant element of physical education and be supervised by carefully-selected staff who have been trained in working with the young (paragraph 96);
- the furniture in the cells at the KMAR detention unit at the Ter Apel Departure Centre should be supplemented by a table and chair, if necessary fixed to the floor (paragraph 104).

requests for information

- further and better particulars about the regime which is currently being offered to immigration detainees being held in Unit X at the King Willem II Detention Centre for Foreigners (paragraph 97).

3. Health care services

comments

- the Ter Apel Departure Centre should have the services of one or more consultant psychologists and would benefit from having a fully-fledged suicide-prevention policy (paragraph 107);
- the Dutch authorities are invited to remedy the difficulties observed at the Ter Apel Departure Centre as regards paediatric and dental consultations (paragraph 108).

D. The Dr S. van Mesdag Clinic

recommendations

- the necessary steps to be taken to ensure that patients in the "old remand prison" have ready access to a toilet facility at all times (including at night) (paragraph 117);
- appropriate steps to be taken to ensure that the quality of care and treatment at the Dr S. van Mesdag Clinic is maintained (paragraph 120);
- measures of segregation/isolation to be recorded in a central register. The entry to include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure (paragraph 126);
- every patient, including those subject to segregation/isolation, to be offered at least one hour of outdoor exercise every day (paragraph 126);
- the two isolation cells and the padded cell in the "old remand prison" to be taken out of service (paragraph 127);
- any use of instruments of physical restraint to be recorded in a central register. The entry to include the times at which the measure began and ended, the circumstances of the case and the reasons for resorting to the measure (paragraph 129);
- a central register of disciplinary sanctions to be established in every TBS institution (paragraph 130);
- a central register of involuntary treatment of patients at the Clinic to be opened without delay (paragraph 131);
- the Clinic's revised internal rules to be adopted without delay, and to be made available to patients (paragraph 133);

comments

- the use as ordinary accommodation of cells designed for the segregation of patients should be brought to an end (paragraph 115);
- it would be desirable for running water to be available within the cells of the "old remand prison" (paragraph 117);
- the Dutch authorities are invited to actively seek alternative approaches to end the medico-legal impasse which arises when patients refuse any form of treatment (paragraph 132).

requests for information

- the measures which the Dutch authorities intend to take in order to overcome the difficulties flowing from the large number of prisoners awaiting admission to a TBS establishment, and the steps being taken to ensure that such prisoners receive at least minimally adequate treatment whilst awaiting admission (paragraph 111);
- the suicide-prevention measures taken at the Dr S. van Mesdag Clinic and, more generally, at TBS establishments in the Netherlands. In addition, information on such measures taken with regard to persons subject to a TBS order waiting in prison for admission to a TBS establishment (paragraph 121);
- whether the Dr S. van Mesdag Clinic has been inspected by the competent regional Health Inspector in 1997-1998 and, if so, copies of any reports drawn up by the Inspector (paragraph 134).

APPENDIX II

**LIST OF THE NATIONAL AUTHORITIES, NON-GOVERNMENTAL
ORGANISATIONS AND OTHER BODIES WITH WHICH
THE DELEGATION HELD CONSULTATIONS**

National authorities

Ministry of the Interior

- Mr F.O. Vijselaar Deputy Director-General of Public Order and Safety
- Mr J-C. Goet Police Department
- Mr A.A. Smeels Chief of the Zeeland Regional Police Force
- Ms A.W. Onneveer Police Department

Ministry of Foreign Affairs

- Mr J.M.V.A. count de Marchant et d'Ansembourg Deputy Director-General of Political Affairs
- Mr M.I. van der Zee Director, European Cooperation Department
- Mr R.G. Strikker Head of Division, Asylum and Migration Affairs
- Mrs W.A. van Aardenne Human Rights, Good Governance and Democratisation Department

Ministry of Defence

- Major General D.G.J. Fabius Commander of the Royal Gendarmerie (KMAR)

Ministry of Justice

- Mrs W. Sorgdrager Minister for Justice
- Mrs E.M.A. Schmitz State Secretary for Justice
- Mr W.F.G. Meurs Head of the Prevention, Youth and Sanction Policy Department
- Mr J. Demmink Director-General, International Relations and Aliens Affairs Department
- Mrs J.M. Abels Counsellor

National Agency of Correctional Institutions

- Mr M.A.G. Rutten Deputy Chief Executive
- Mr H.R. Kleinjan Head of the Youth Institutions and TBS Department
- Mr F.J.M. Hoogenboom Head of the Policy Affairs Department
- Mr G.P. Hoekendijk Head of the Policy Planning Section, Policy Affairs Department
- Mr W. Speelman Portfolio Manager, Prison Service
- Mr L.H. Erkelens Project Manager, Youth Institutions and TBS Department
- Mr A.T.J. de Boer Senior Policy Advisor, Policy Affairs Department

Immigration and Naturalization Service (IND)

- Mr G. Versluis Executive Director

Asylum Seekers Reception Services (COA)

- Mr T.G. Veenkamp Director-General
- Mrs J. Sterkman Executive Department

Office of the Ombudsman

- Mr. M. Oosting National Ombudsman

Non-governmental organisations and other bodies

Amsterdam-Amstelland Regional Police Complaint's Commission

Amsterdam Commission for the Inspection of Police Cells

Autonoom Centrum

Coornhert Liga

NCJM