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**Report to the Authorities of the Kingdom  
of the Netherlands on the visits carried out  
to the Kingdom in Europe and  
to the Netherlands Antilles  
by the European Committee for the Prevention  
of Torture and Inhuman or Degrading  
Treatment or Punishment (CPT)**

**in February 2002**

This report was made public by the Netherlands Government  
on 11 November 2002.

Strasbourg, 15 November 2002



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Copy of the letter transmitting the CPT's report

Strasbourg, 2 September 2002

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 drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its third periodic visit to the Kingdom of the Netherlands. The visit comprised visits to the Kingdom in Europe (17 to 26 February 2002) and to the Netherlands Antilles (17 to 24 February 2002). The report was adopted by the CPT at its 48th meeting, held from 2 to 5 July 2002.

The CPT requests the Dutch authorities to provide **within six months** a response containing an account of the action taken by them to implement the Committee's recommendations and setting out their reactions to its comments and replies to its requests for information. The recommendations, comments and requests for information are set out in **bold type** in the text of the report and are listed in Appendix I to each Part of the report.

The CPT would ask, in the event of the response being forwarded in Dutch, that it be accompanied by an English or French translation. It would also be most helpful if the authorities could provide a copy of the response in a computer-readable form.

Reference should also be made to the proposal made in paragraph 9 of Part 1 of the report, that the question of access to medical records by CPT delegations be the subject of direct talks between the Dutch authorities and representatives of the Committee.

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

Yours faithfully,

Silvia CASALE  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

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cc: Mr Norberto RIBEIRO, Minister of Justice of the Netherlands Antilles (Part 2 of the report)

Mr Johannes LANDMAN, Ambassador Extraordinary and Plenipotentiary,  
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**PART 1 : VISIT TO THE KINGDOM IN EUROPE**



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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 Kingdom in Europe of the Netherlands from 17 to 26 February 2002.<sup>1</sup> The visit formed part of the CPT's third periodic visit to the Kingdom of the Netherlands.<sup>2</sup>

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

- John OLDEN (Head of the delegation)
- Ioanna BABASSIKA
- Andres LEHTMETS.

They were assisted by

- James MacKEITH, forensic psychiatrist, United Kingdom (expert)
- Mike VAN DER VIJVER (interpreter)
- Jos VINCK (interpreter)
- Willy VISSER (interpreter),

and were accompanied by Bojana URUMOVA of the CPT's Secretariat.

### **B. Establishments visited**

3. The delegation visited the following places of detention:

#### **Law enforcement establishments**

- Detention facilities of Amsterdam Police Headquarters
- Various facilities of the Royal Maréchaussée (KMAR) at Schiphol International Airport (Terminal 3, Triport, Elzenhof)

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<sup>1</sup> The visit to the Netherlands Antilles is dealt with separately (cf. Part 2).

<sup>2</sup> The CPT's previous periodic visits to the Kingdom of the Netherlands took place in August/September 1992 and in November 1997. The CPT also carried out ad hoc visits in June-July 1994 (Antilles and Aruba), December 1997 (Antilles) and January 1999 (Antilles).

### **Establishments under the authority of the Ministry of Justice**

- Extra Security Institution (EBI), Nieuw Vosseveld Prison, Vught
- Special Detention Facility, Bloemendaal
- Asylum Application Centre, Schiphol International Airport

### **Establishments under the authority of the Ministry of Health**

- R.K. Sint Jacob Care Centre, Amsterdam
- Wittenberg Nursing Home, Amsterdam.

### **C. Consultations held by the delegation**

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations 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 authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix II.

### **D. Cooperation between the CPT and the Dutch authorities**

5. The degree of cooperation received by the CPT's delegation from the Dutch authorities was very good.

In the course of its activities in the Kingdom in Europe, the delegation met A.H. KORTHALS, Minister of Justice, F. MAJOOR, Secretary General at the Ministry of Foreign Affairs, P.F.M. JÄGERS, Director General of the National Agency of Correctional Institutions, R. VERBOOM, Brigadier-General at the Royal Maréchaussée, R. PETERS, Chief Advocate General in s'Hertogenbosch, as well as numerous other senior officials from the Ministries of Foreign Affairs, Justice, the Interior, Health and Defence, and from the National Agency of correctional Institutions. The delegation also held talks with R. FERNHOUT, the Ombudsman.

The CPT wishes to express its appreciation for the effective coordination and the quality of information provided by its liaison officer, Irith KIST.

At local level, the delegation met with a good reception and obtained the assistance it required from management and staff at all establishments, including those which had not been notified in advance of the CPT's intention to carry out a visit.

6. The sole issue relating to cooperation which gave rise to some difficulty in the course of the visit was the manner in which the delegation was granted access to medical records of persons who were, or had previously been, deprived of their liberty.

7. It should first be recalled that Article 8, paragraph 2. d., of the Convention obliges Parties to provide the Committee with "information available to [them] which is necessary for the Committee to carry out its task." This certainly includes access to medical records of detainees; such information can, for a variety of reasons, clearly be of great relevance to the Committee's task of examining the treatment of persons deprived of their liberty. For instance, medical records can be instructive as a point of comparison with information gathered elsewhere (e.g., via direct medical observations, or from verbal accounts given by a particular detainee or other person) on specific subjects - the occurrence of physical ill-treatment in a given case, the psychological effects of a regime on a given prisoner, etc. More generally, an examination of medical records enables visiting delegations to assess in a thorough manner the organisation of the health care service in a particular establishment of deprivation of liberty (including, *inter alia*, psychiatric establishments).<sup>3</sup>

When seeking such information, the CPT is obliged to have regard to rules of national law and professional ethics. This may well have implications as regards the precise manner in which the information sought is provided to the Committee; however, nothing can justify a refusal to grant access to the information requested, nor access under conditions which would be tantamount to a refusal.

8. During the meetings with the Dutch authorities at the outset of the visit, it emerged that the Ministry of Justice had issued an instruction to the directors of establishments under its authority on 1 February 2002, in anticipation of the CPT's visit. As regards access to medical records, the instruction interpreted Article 8, paragraph 2. d., as meaning "*inter alia* that the CPT can only have access to medical data after having received the consent of the prisoner concerned." Later in the visit, complications arose when medical members of the delegation sought to examine the medical records of a person who had previously been detained in one of the establishments visited. Following an initial refusal to provide the records to the delegation members, the relevant administrators insisted that they would themselves contact the person concerned and seek to obtain his consent to provide the CPT access to his medical files. The delegation declined to accept such an arrangement, on the grounds that it was both cumbersome and could cause distress to the person concerned. Nevertheless, towards the end of the visit, the Dutch authorities provided access to the files requested.

The approach specified in the instruction issued by the Ministry of Justice on 1 February 2002 is unduly restrictive. As illustrated by the above-mentioned example, it encumbers a visiting delegation's access to medical information when a person is difficult to contact, and would preclude access altogether in cases where a person is deceased, unable to give consent, or impossible to contact. Such a state of affairs is not in conformity with Article 8, paragraph 2. d., of the Convention.

9. Similar difficulties concerning access to medical records for CPT delegations have arisen in several countries (with different legal/deontological frameworks). Those difficulties have always been resolved "in the spirit of mutual understanding and cooperation on which the Convention is founded" (cf. paragraph 64 of the Explanatory Report to the Convention), and the CPT is convinced that this will also be the case as regards the Netherlands.

**Consequently, the CPT proposes that the question of access to medical records by CPT delegations be the subject of direct talks between the Dutch authorities and representatives of the Committee.**

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<sup>3</sup> For example, such a general assessment of an establishment's health care service was carried out by examining medical records at Pointe Blanche Prison (cf. also paragraph 62, Part. 2).





## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Law enforcement agencies

#### 1. Preliminary remarks

10. Certain recent developments affecting the legal and regulatory framework for police custody and immigration detainees should be highlighted.

Pursuant to a Decree issued on 6 December 2000, police detention facilities have been made subject to the mandatory oversight of Regional Supervisory Committees. The CPT welcomes this development.

Less encouraging is the decision of the Dutch Parliament to legalise the practice of holding remand prisoners in police cells for a period of up to 10 days, pending their transfer to a penitentiary institution (thereby permitting the detention of criminal suspects in police cells for a total of 16 days).<sup>4</sup> The rationale given for the corresponding amendments<sup>5</sup> to the Criminal Prosecution Act and the Act on Penitentiary Institutions is one of "logistics" (pressure on prison capacity, cf. also paragraph 29). Senior officials in certain of the law enforcement establishments visited expressed their dissatisfaction with the possibility of extended periods of custody on police premises, indicating that they lacked the facilities and human resources to cope with such a situation.

The CPT regrets that the progress noted by the Committee in 1997 towards the ending of the practice of holding persons on remand in police premises (cf. paragraph 29 of CPT/Inf (98) 15) has not been maintained. By virtue of their legal status, remand prisoners should not, in principle, be held in police cells. Such a practice is all the more inappropriate bearing in mind that the detention facilities of law enforcement agencies will often not be suitable for prolonged periods of detention. The CPT understands the logistical difficulties faced by the Dutch authorities. Nevertheless, **the Committee recommends that steps be taken to ensure that every remand prisoner held in a police cell is guaranteed:**

- **at least one hour of outdoor exercise every day;**
- **access to reading material.**

11. Other legislative changes linked to the activities of law enforcement agencies include the enactment of the Aliens Act of 2000 (which entered into force on 1 April 2001), and of emergency legislation concerning drug smuggling (to take effect from 1 March 2002 for a period of one year). The latter has been introduced in response to a "sharp increase in the number of drugs couriers arriving at Amsterdam Airport" and permits the holding of suspected drug couriers over the age of 16 in "specially designated emergency facilities ... not guaranteed to comply with ... [the] Penitentiary Institutions Act"<sup>6</sup> (cf. also paragraph 30).

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<sup>4</sup> The Parliament's decision was taken in the light of a ruling by the Rotterdam District Court in October 2001, which found the practice to be illegal.

<sup>5</sup> The amendments entered into force on 8 February 2002.

<sup>6</sup> Cf. Briefing paper by the Ministry of Justice for the meeting with the CPT on 18 February 2002.

## **2. Ill-treatment**

12. In the course of previous visits to the Kingdom in Europe, CPT delegations received no allegations of ill-treatment of persons detained by the law enforcement agencies, and it should be stated at the outset that the February 2002 visit yielded an equally favourable impression.

The delegation received no credible recent allegations of ill-treatment by law enforcement officials. Further, most persons interviewed stated that they had been correctly treated at the time of their apprehension and during their custody by law enforcement agencies.

## **3. Conditions of detention**

13. Following the previous periodic visit, the Committee assessed conditions of detention in law enforcement establishments in the Kingdom in Europe as being, on the whole, in accordance with its criteria (cf. paragraph 28 of CPT/Inf (98) 15).

The foregoing general assessment continued to be valid in February 2002; specific remarks on the establishments visited, some of which had recently undergone significant changes to their infrastructure and custodial arrangements, are set out in the paragraphs below.

### **a. Amsterdam Police Headquarters**

14. In response to a variety of factors - including staffing workload/problems, criticism about care provided in detention, and recommendations by the Regional Supervisory Committee - the Amsterdam-Amstelland Regional Police had taken a decision in February 1998 to concentrate their detention capacity in three "central" cell blocks in the greater Amsterdam area, and to phase out the use of cells in local (district) police stations by October 2004. Organisational changes have been implemented in tandem with those of a structural nature, based on the sound view that a positive work environment for staff can also be beneficial to detainees. One such change has consisted of entrusting "custody officers" with the exclusive responsibility for the "custody care" and transport of detained persons; staff interviewed appeared to appreciate this arrangement. At the same time, appointments of custody officers are limited to 7 years, followed by a rotation to another post (rather than assigning them to cell blocks on a permanent basis).

15. Conditions of detention offered at the renovated central block<sup>7</sup> at Amsterdam Police Headquarters were very good.<sup>8</sup> The facility contained a total of 51 impressively clean single-occupancy cells, including three used for observation (for detainees who are violent, under the influence of drugs or at risk of self-harm). Fifteen of the cells had television sets with video games in addition to the standard range of furnishings (bed, table, chair) and fixtures (toilet, wash-basin, call-system/intercom). Further positive features were the provision of reading material, access to outdoor exercise facilities (allowed twice a day for 30-minute periods in a large and partly-sheltered yard), and varied dietary options (vegetarian, kosher, low-sodium, etc.).

It should also be mentioned that the professed ethos of "custody care" was perceptible in the dealings between the establishment's staff and detainees, as well as in the attention given to the ongoing training of custody officers in relevant subjects, such as interpersonal communication skills.

b. KMAR detention facilities at Schiphol International Airport

16. Following its November 1997 examination of the KMAR detention facilities at Schiphol International Airport, the CPT recommended that men and women refused entry to Dutch territory and held in Terminal 3 be separated at night. The Committee also invited the Dutch authorities to set aside space for outdoor exercise for such persons (cf. paragraphs 26 to 28 of CPT/Inf (98) 15).

By February 2002, there had been a reorganisation of the KMAR facilities at the airport. For the sake of clarity, the CPT's remarks on the various facilities at Triport, Terminal 3, and the complex at Elzenhof are grouped together.

17. Persons refused entry to Dutch territory ("inadmissibles") were now being held for up to one week in a detention unit at Triport (rather than in Terminal 3), in premises previously used as overnight accommodation for asylum seekers whose files were being assessed. Men and women were accommodated in two entirely separate areas, each comprising a dormitory (with 12 beds for the men, and 6 for the women), a living area (equipped with tables, chairs and a television) and sanitary facilities. Access to natural light, artificial lighting and ventilation were satisfactory.

The 11 cells in the adjacent unit for criminal suspects had been equipped with a video camera, which could be switched on for the surveillance of persons suspected of carrying drugs in their bodies, subject to special authorisation. Otherwise, the cells displayed conditions identical to those found by the CPT in November 1997 (cf. paragraph 27 of CPT/Inf (98) 15); access to natural light remained inadequate, a deficiency which will be compounded by the possibility to hold criminal suspects for prolonged periods (up to 16 days under the new legislation, cf. paragraph 10).

Reading materials were provided to persons held in each of the two Triport units, but no organised activities.

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<sup>7</sup> It was confirmed to the CPT that the second central block of the Amsterdam-Amstelland Region entered into use on 1 April 2002 at Northwest/Meer en Vaart.

<sup>8</sup> Following previous visits, the CPT described the conditions of detention at Amsterdam Police Headquarters as adequate for relatively short periods of detention, i.e. not exceeding 3 or 4 days (cf. paragraph 31 of CPT/Inf (93) 15 and paragraph 19 of CPT/Inf 98 (15)).

Persons held in the detention premises and in the cell complex had access in turns to a grille-covered "outdoor" area. It was too small (15 m<sup>2</sup>) to permit physical exertion; instead, it served primarily as a place to smoke, if the numerous cigarette butts strewn on the ground were any indication.

**The CPT recommends that more suitable premises for outdoor exercise be found for persons held at Triport and that criminal suspects no longer be held in the cell complex once they are placed on remand.**

18. During the visit, senior KMAR officials referred to a decision taken on 15 August 2001 by an Amsterdam court, which held that the premises for persons refused entry are unsuitable for detention periods exceeding one week. Apparently, the independent Supervisory Committee responsible for monitoring detention facilities at Schiphol Airport was preparing a report on the matter. **The CPT would like to receive a copy of that report.**

19. In Terminal 3, the CPT's delegation visited Plaza Station, which was located in the midst of one of the airport's shopping areas. The station had two small holding cells (less than 4 m<sup>2</sup>), with wooden benches as their sole furnishing; artificial lighting was satisfactory, but there was no access to natural light, and ventilation was problematic. Given their size and equipment, the cells are only suitable for short periods of detention; consequently, the CPT was pleased to learn that persons were apparently kept at the station for a maximum of 6 hours.

The premises for persons awaiting expulsion were unchanged and continued to be used for periods not exceeding a few hours (cf. also paragraph 26, subparagraph 3, of CPT/Inf (98) 15).

20. The Detention Centre at Elzenhof (official capacity: 20), which had entered into service in January 2002, was located a few kilometres away from Terminal 3 and Triport. Although staffed by KMAR officers, it was serving as a relief centre for penitentiary institutions; most of its occupants were men who had been sentenced to relatively short prison terms and were due to be transferred to a prison within 3 days. Accommodation conditions were satisfactory, as were the facilities for outdoor exercise.

#### **4. Safeguards against ill-treatment**

21. The safeguards against ill-treatment offered to persons deprived of their liberty by the law enforcement agencies were examined in detail in the reports drawn up by the CPT following each of the previous periodic visits, and several recommendations were made in this area (cf. paragraphs 34 to 55 of CPT/Inf (93) 15 and paragraphs 30 to 39 of CPT/Inf (98) 15).

##### **a. notification of custody**

22. In principle, the CPT considers that the right of notification of custody should take effect as from the outset of deprivation of liberty. In other words, persons obliged to remain with the police should have the right to notify a third party immediately. Of course, this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed and made subject to appropriate safeguards.

In their interim response to the CPT's 1997 periodic visit report, the Dutch authorities indicated that notification of custody can be postponed in exceptional cases, subject to the authorisation of a public prosecutor, assistant public prosecutor, or examining magistrate (cf. paragraph 10 of CPT/Inf (99) 5).

During the February 2002 visit, it emerged that persons suspected of drugs offences were systematically denied the right of notification of custody, a fact confirmed by officers responsible for investigating such cases. **The CPT would like to receive the comments of the Dutch authorities on this subject.**

23. Further, **the CPT wishes to reiterate the recommendation made in the report on the 1997 visit that the possibility to delay the exercise of the right of notification of custody be more clearly circumscribed.** The current wording of Section 62 (2) of the Code of Criminal Procedure, which may be interpreted as permitting, inter alia, postponement of notification "in the interests of the investigation", is not sufficiently precise. **Section 62 (2) should be amended or developed in subsidiary regulations.**

b. access to a lawyer

24. The right of access to a lawyer for persons detained by the police for interrogation purposes has been a recurrent theme in the ongoing dialogue between the CPT and the Dutch authorities. In each of its previous periodic visit reports, the Committee recommended that this right be guaranteed as from the very outset of deprivation of liberty (cf. paragraph 41 of CPT/Inf (93) 15 and paragraph 34 of CPT/Inf (98) 15).

From the facts found during the 2002 visit, it is clear that this recommendation has still not been implemented. It remains the case that criminal suspects deprived of their liberty by the police are not entitled to have access to a lawyer during the initial period of detention for interrogation purposes of up to 6 hours (a period to which must be added, if appropriate, the hours between midnight and 9 am, as they are not taken into account when calculating the 6-hour period).

25. In their reply to the report on the CPT's 1997 periodic visit, the Dutch authorities advanced a number of arguments in favour of not guaranteeing the right of access to a lawyer during the period persons are detained for interrogation purposes. In particular, whilst acknowledging that "worldwide, it is precisely during the initial hours of detention that torture and ill-treatment tend to occur", it is asserted that "in the Netherlands... the system includes so many built-in safeguards that there is little risk of unlawful action being taken against suspects."<sup>9</sup> The CPT is not able to subscribe to this viewpoint.

Certainly, the facts found by CPT delegations indicate that, at least for the time being, the risk of ill-treatment by the police in the Netherlands is comparatively minor. However, a certain degree of risk will always exist at the stage of initial police interrogation of detained persons; it is inherent in the very nature of that process. It is for this reason that the CPT attaches so much importance to the right of access to a lawyer as from the very outset of police custody.

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<sup>9</sup> Cf. paragraph 11 of CPT/Inf (99) 5.

The CPT is also somewhat troubled by the assertion that "it is in any case not generally in the interests of the investigation that a lawyer should be present during initial police questioning." No doubt, the presence of a lawyer at this stage will not always be welcomed by the police officers concerned. However, properly-trained police officers will be able to cope with the application of this fundamental guarantee against ill-treatment. The CPT also wishes to reiterate that the right of access to a lawyer during the initial period of detention for interrogation purposes should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer (who may not be immediately available), nor from replacing a lawyer who impedes the proper conduct of an interrogation.

In the light of the above, **the Committee once again recommends that the right of access to a lawyer be guaranteed during the initial period of detention by the police for interrogation purposes.**

c. access to a doctor

26. On the whole, access to a doctor for persons in police custody continued to be guaranteed under satisfactory conditions. However, the special situation obtaining at Schiphol International Airport warrants certain remarks.

27. The recent increase in the number of drugs couriers arriving at the airport has presented Dutch law enforcement officials with a variety of difficulties, a major one being the treatment of persons suspected of carrying drugs in their bodies ("body-packers" or "swallowers"/"bolletjeslikkers"). Such persons require appropriate medical supervision due to the serious risks involved.<sup>10</sup> The places in the Scheveningen Prison Hospital (cf. paragraph 37 of CPT/Inf (98) 15 and paragraph 16 of CPT/Inf (99) 5) no longer being sufficient to accommodate the number of those arrested, a specific detention facility for such persons had been opened on 13 February 2002 at Bloemendaal (cf. paragraphs 44 to 47). Nevertheless, many such persons were inevitably held for some time at the detention units at Triport.

The risks involved are well-illustrated by a serious incident which occurred the day before the delegation visited Triport, involving the death of a young woman from acute intoxication; unbeknownst to staff, she had been carrying drugs in her body. This case highlights the need for appropriate arrangements permitting the medical supervision of persons placed in the units at Triport. **The CPT would like to be informed whether such arrangements (which should include specialised medical equipment and the presence of appropriately trained staff) are envisaged at Triport.**

28. Reference should also be made to the medical screening of persons about to be expelled from Dutch territory. Officers in charge of expulsion procedures at Terminal 3 informed the delegation that such screening was, in principle, performed before they were brought to the airport, at the Ministry of Justice/Immigration and Naturalisation Service (IND) establishment where they had previously been accommodated. However, it was pointed out that it was possible to arrange a medical examination for such persons at the airport as well. Apparently, it was planned to formalise those procedures in the shape of a written protocol. **The CPT wishes to receive a copy of the protocol, which it trusts will incorporate appropriate safeguards for persons who may be at special risk (e.g., potential suicide attempts).**

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<sup>10</sup> The risks include acute intoxication and obstruction of the intestines, either of which may lead to death.

## **B. Establishments under the authority of the Ministry of Justice**

### **1. Preliminary remarks**

29. During the February 2002 visit, the General Director of the National Agency of Correctional Institutions (DJI) indicated that rapidly changing opinions about public safety and criminal penalties have resulted in increased pressure upon the existing prison capacity in the Netherlands (cf. in this regard paragraph 10). As particular issues of concern, he highlighted the resulting burdens on staff, as well as a sharp rise in related phenomena, such as absenteeism and sick leave.

The CPT shares the concerns of the General Director. In this connection, the Committee wishes to stress that **it is of crucial importance to maintain a positive work environment for high-quality, well-trained and motivated prison staff; this, in turn, will facilitate better treatment of detainees.**

30. As already indicated (cf. paragraph 11), new emergency legislation concerning suspected drug couriers permits their detention in special facilities. Although these special facilities are formally under the authority of the Ministry of Justice, they may be operated by personnel from KMAR. The largest such facility is a 90-person mobile cellblock, which was being constructed near Schiphol Airport at the time of the CPT's visit.

The emergency law is to apply only for one year, it being expected that regular prison capacity will increase sufficiently during that period so as to absorb any future influx of such persons.

31. Other developments of interest since the CPT's previous periodic visit to the Netherlands include the re-organisation of DJI's management structure to allow for more centralised control of individual establishments, and the introduction of new options as regards conditional release for the rehabilitation and re-integration of adult prisoners and young offenders.<sup>11</sup>

32. The CPT carried out a follow-up visit to the Extra Security Institution (EBI) at the Nieuw Vosseveld Prison Complex. In addition, it visited the Special Detention Facility at Bloemendaal and the Asylum Application Centre at Schiphol International Airport.

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<sup>11</sup> The relevant laws which have been enacted since the CPT's 1997 periodic visit include the Penitentiary Institutions Act (in force since 1 January 1999) and the Youth Custodial Institutions Act (in force since 1<sup>st</sup> September 2001).

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

### a. introduction

33. At the time of the February 2002 visit, the Extra Security Institution (EBI) at the Nieuw Vosseveld Prison Complex was being renovated, and the inmates allocated to it were being held in the Temporary Extra Security Institution ((T)/EBI) building nearby (cf. paragraph 58 of CPT/Inf (98) 15).

In addition to paying a brief visit to the facilities undergoing renovation, the CPT's delegation examined the regime currently being applied, and devoted attention to the procedures governing placement and extension of placement in EBI. In the course of the visit, interviews were held with all 14 inmates, the establishment's management and staff, as well as representatives of the EBI Selection Board.

### b. ill-treatment

34. As had been the case during the 1997 visit to the Netherlands, the delegation heard no allegations of any form of physical ill-treatment of prisoners by staff at the EBI. That said, there was considerable room for improving the quality of staff-inmate relations. This subject will be addressed later in the report.

35. In the light of a serious incident which had taken place in the EBI in September 1999, the CPT must also raise the issue of combating inter-prisoner violence. In that incident, a prisoner was killed in a fight (instigated by him) with a fellow inmate which took place during the exercise period in one of the yards. Apparently, guards were not in a position to prevent the prisoner's death, due to several factors: the speed with which the incident occurred; their physical separation from the exercise yard by armoured glass panels; and, finally, security regulations prohibiting them from entering into direct contact with more than one inmate at a time.<sup>12</sup>

The information gathered during the visit was not indicative of the existence of a general environment of inter-prisoner intimidation and violence in the EBI. However, from the delegation's interviews with several inmates, it transpired that the prisoner who died in the above-mentioned case had made threats against the same fellow inmate on a number of occasions.

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<sup>12</sup> The National Health Inspectorate examined whether the victim, who was suffering from a mental disorder, but was refusing medication, was receiving adequate psychiatric care and whether he was fit to be placed in the unit. The Inspectorate concluded that "although compulsory treatment would have been preferable, it cannot be said... that this is a case of [medical] carelessness or irresponsible action".



36. It is axiomatic that the duty of care which is owed by prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm. This requires that prison staff be alert to signs of trouble, and both in a position and resolved to intervene where necessary. The existence of positive relations between staff and prisoners is a decisive factor in this context; regular interaction between staff and inmates will enable prison officers to detect situations which are different from the norm and may present a threat to security.

Clearly, until recently at least, the arrangements at the EBI did not meet the above requirements. Direct contacts between staff and inmates were very limited; in fact, during most stages of the day, they were separated by armoured glass panels. Obviously, this is far from conducive to building positive relations between staff and prisoners, and also makes it difficult to intervene in good time when an incident of inter-prisoner violence occurs.

The CPT is pleased to note that the above-mentioned renovation of the EBI involves in particular the adaptation of the exercise yards so as to allow for more interaction between staff and inmates. In order to achieve this, walkways for staff were being created by constructing fences along the edges of the existing yards. This is in general a positive development and should facilitate, inter alia, the combating of inter-prisoner violence. However, **the CPT recommends that appropriate steps be taken to ensure that it is physically possible for staff to enter rapidly any part of the EBI in order to deal with incidents of inter-prisoner violence. Similarly, the regulatory framework should be reviewed in order to ensure that it permits rapid staff intervention in such cases.**

c. regime

37. Following its first visit to the EBI, the CPT expressed considerable concern about the regime applied within the institution. It recommended that the regime be revised, in particular as regards certain of its features: the group system (if not discarded, to at least be relaxed and inmates to be allowed more out-of-cell time and a broader range of activities); searching policies (to be reviewed in order to ensure that they are strictly necessary from a security standpoint); and visiting arrangements (to be reviewed, the objective being to have visits take place under more open conditions) (cf. paragraphs 61 to 70 of CPT/Inf (98) 15).

However, in their response (dated 1 March 1999) to the CPT's visit report, the Dutch authorities defended point by point the different aspects of the regime being applied in the EBI (cf. paragraph 29 of CPT/Inf (99) 5).

38. In the course of the February 2002 visit, the Director of the Nieuw Vosseveld Prison Complex and the Acting Director of the EBI informed the CPT's delegation that a limited number of modifications to the regime and its implementation had taken place. For instance, steps were being taken to increase staff/inmate communication through a training programme known as "Safety at the door", as well as by the previously-mentioned adaptations of the exercise yards. Further, a slight expansion of the types of activities offered had made it possible for inmates to practice playing musical instruments in their cells. Another positive development was that the special "handcuffs regime" (cf. paragraph 8 of CPT/Inf (98) 15) had not been applied in respect of any inmate since 1999.

However, despite these welcome developments, the regime in the unit was essentially the same as in 1997, and the prison's management acknowledged that there had been "no change in most of the rules". Although the official allowance for activities was generous (50 or more hours per week), in practice, most inmates' out-of-cell time did not appear to have increased (averaging 2 to 4 hours per day). The stringing of plastic curtain hooks on short rods, which was performed individually in the cells, continued to be the only work offered. It remained the case that body searches - including anal inspections - were performed on each prisoner at least once a week,<sup>13</sup> a process which was invariably perceived as humiliating. Conditions under which visits and sessions with non-custodial staff took place also continued to be very restrictive. Inmates' remarks to the delegation (e.g. "losing positivity", lacking "future feelings", "beginning to hate people from the heart", and/or having to cope by being "mentally separate") frequently echoed those made in November 1997.

To sum up, inmates held in the EBI remained subject to a very impoverished regime.

39. In an environment which is potentially hazardous to the mental health of prisoners, it is of critical importance to provide a varied programme of appropriate stimulating activities (including education, sport, work of vocational value, etc.). **The CPT calls upon the Dutch authorities to make further efforts with a view to increasing out-of-cell time, allowing for more human contact, expanding the range of activities (work and education), and alleviating searching measures for prisoners held in the EBI. Less constrained contact should be encouraged with all staff.**

Following a recommendation made by the CPT in its previous periodic visit report (cf. paragraph 70 of CPT/Inf (98) 15), the Dutch authorities commissioned the University of Nijmegen to carry out an independent study of the psychological state of current and former inmates of the EBI. A preliminary study completed on 17 April 2000 concluded that "an empirical examination of the possible effects of a maximum security regime on the mental conditions of prisoners is feasible." The Dutch authorities have indicated that such an empirical examination has in fact commenced and would be completed by Summer 2003. **The CPT trusts that it will receive the results of the study in due course.**

One point raised by the preliminary study may be noted, i.e. that the lack of influence of detainees on the severity of the regime being applied to them constitutes a "contradiction in the policy" of the EBI. **The Committee would like to receive the views of the Dutch authorities on this statement** (cf. in this regard paragraph 41).

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<sup>13</sup> Each prisoner was also subjected to such a search before and after being interviewed by members of the CPT's delegation.

d. procedures for placement and extension of placement in the EBI

40. The entity responsible for screening EBI placements<sup>14</sup> is the EBI Selection Board, which is based in the Hague. If a prison director deems that an inmate should be transferred to the EBI, he may submit a proposal to the Board. Persons consulted in the context of placement decisions include a psychiatrist or psychologist,<sup>15</sup> a prosecutor, the head of the prisons allocation and classification department, a police liaison officer from the Criminal Intelligence and Investigation Department (GRIP), the prison director making the proposal for EBI placement, and the director of the Nieuw Vosseveld Prison Complex. The prisoner concerned is also given the opportunity to express his views. Further, prisoners subject to placement in an EBI were kept fully informed of the reasons for their placement and, if necessary, of the reason for its renewal. Prisoners may appeal (via their lawyers) to the Council for the Application of Criminal Law (*Raad voor de Strafrechtstoepassing en Jeugdbescherming*) against decisions to place them in the EBI; however, the appeals have no suspensive effect. Given the importance of the issue at stake, the CPT considers that each prisoner should benefit from legal representation at every stage of EBI placement procedures; **it would like to receive confirmation that this is indeed the case.**

41. The CPT considers it axiomatic that a prisoner should not be held in a special security unit any longer than the risk which he presents makes necessary. This calls for regular reviews of placement decisions. Such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such an assessment.

EBI placements are reviewed once every 6 months. However, the CPT is concerned by the rationale frequently given for decisions to extend the placement. A review of the files of each inmate in the EBI revealed that such decisions often cited reasons identical to those for the initial placement (typically, the nature of the offence and the public outcry which would be caused by an escape). Even if the behaviour displayed by a particular inmate was evaluated as cooperative, friendly, etc., that did not appear to carry much weight as far as the decision to renew placement was concerned. This is a highly questionable approach, which provides no incentive to detainees and, as such, may augment the potential hazards to their mental health. **The CPT recommends that the criteria for the prolongation of placement in the EBI be defined more precisely.**

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<sup>14</sup> Candidates for placement in the EBI include: prisoners who have escaped or attempted to escape through violent means; those who have displayed violence against prison staff; organised crime leaders, whose organisations have the means to help them to abscond; and prisoners whose escape would cause a major public outcry.

<sup>15</sup> In its report prepared following the death of an EBI inmate (cf. paragraph 35 above), the National Health Inspectorate recommended that an independent expert on behaviour (i.e., a psychologist from the prisons allocation department) examine persons before a decision is taken on placement in the EBI, as well as in the context of periodic reviews. If necessary, the expert should also seek the opinion of a forensic psychiatrist.

- e. health care and other professional services

42. Medical facilities and staffing in the EBI remained generous. However, the delegation was informed that the social worker would be withdrawn from the institution by the Probation Service. The Council for the Application of Criminal Law has expressed the view that the role of the social worker is indispensable. The CPT shares that view, and **recommends that a post of social worker continue to be assigned to the EBI; more generally, the Committee considers that a developed social service structure should be maintained throughout the prison system.**

43. As in 1997, the security arrangements surrounding consultations with members of the health services team compromised the quality of the medical care delivered. In particular, it remained the case that all physical examinations by a doctor took place in the presence of custodial staff. The CPT disagrees with the assertion made in the response of the Dutch authorities to the 1997 visit report that "there is no evidence that prisoners are disturbed by this lack of privacy or that the security measures impede the development of good doctor-patient relations" (cf. paragraph 34 of CPT/Inf (99) 5); on the contrary, many prisoners interviewed during the 2002 visit asserted that the lack of confidentiality did inhibit consultations.

Consequently, **the CPT must reiterate its recommendation that the manner in which medical care is delivered to inmates held in the EBI be reviewed; more specifically, 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.**

### **3. Other establishments**

- a. Special Detention Facility, Bloemendaal

44. As already indicated (cf. paragraphs 11 and 30), concerns about the increased number of drug couriers arriving in the Kingdom in Europe had recently led to the enactment of emergency legislation (valid for one year) permitting the detention of such persons in special facilities.

One such facility had entered into service on 13 February 2002 (only 10 days before the delegation visited it) in the town of Bloemendaal (near Haarlem), in a single-story building which had previously served as a psychiatric clinic within a larger hospital complex. The facility had an official capacity of 56, and its 9 occupants at the time of the visit - all adult men suspected of carrying drugs in their bodies - were due to be transferred to another penitentiary institution as soon as staff could ascertain that any drug sachets had been passed.

45. The facility has the potential to provide material conditions of a good standard. Its cells (intended for double occupancy) were clean and had good access to natural light and artificial lighting. However, the ventilation in them was less than satisfactory and, at the time of the visit, they were only furnished with beds. **The CPT invites the Dutch authorities to make the necessary improvements on these two points.**

Sanitary facilities (lavatories and showers) were located in areas separate from the cells. In order to collect drug-filled sachets which may have been ingested by the persons concerned, special lavatories were used. Surveillance of the lavatory area was possible through video cameras, which had also been installed in each of the cells. Such an arrangement is arguably necessary given the risks involved (and in order to protect evidence). However, this cannot be said for the practice of obliging detainees to strip and walk naked through a corridor to the shower area; **the CPT recommends that this practice be abandoned.**

Although the facility's courtyard was suitable for outdoor exercise, detainees were not allowed access to it until staff was convinced that they no longer had drugs in their system (the proof being the "production" of 3 "clean" stools). The CPT has difficulty understanding the necessity for this rule. **It would like to receive the comments of the Dutch authorities on this matter.**

46. The officers assigned to the Bloemendaal facility indicated that they had no special training for the custody of the particular category of persons detained at the establishment, many of whom found themselves in detention for the first time, and certain of whom were unable to communicate with staff due to linguistic barriers. **The CPT would like to be informed whether special training for staff is now being provided.**

In this context, it also transpired that it was planned to provide detainees with written information on the facility's regulations, as well as other reading material, in a variety of languages. **The CPT would like to receive confirmation that this has now been implemented. It would also like to receive a copy of the written information provided to detainees.**

47. Health care staffing arrangements at the Bloemendaal facility were satisfactory. Through a system of three shifts, the presence of two specialised nurses was ensured at all times. The initial screening by a doctor was performed at Schiphol Airport, i.e. before detainees were brought to Bloemendaal. In the event of an emergency, persons held at the facility may be taken to the hospital nearby.

However, the nurses indicated that KMAR officers were present when they interviewed detainees. **The CPT recommends that steps be taken to ensure that all consultations with members of the establishment's health care team are conducted out of the hearing and - unless the health care professional concerned requests otherwise in a given case - out of the sight of custodial staff.**

b. Asylum Application Centre, Schiphol International Airport

48. The Asylum Application Centre (*Aanmeldcentrum*), located in a building near Schiphol Airport, entered into service at the beginning of 2001. It is used for the accommodation of asylum seekers whose case files are being assessed following an accelerated procedure. Although the processing time of asylum applications is officially limited to 48 working hours (i.e. the hours between 8 am and 10 pm), the delegation was informed that persons could remain at the centre for as long as 10 days.

The official capacity of the centre is 130; at the time of the delegation's arrival, it had 40 occupants (including several women and children).

49. The delegation's interviews with various persons accommodated at the centre would suggest that they are being treated correctly by staff.

50. The material conditions at the centre were reasonably good. In daytime, the asylum applicants remained in two large dining/waiting areas (each of them connected to an outdoor yard), which were furnished with tables, chairs and television sets; in addition, reading materials were provided to persons held at the centre. The areas had good access to natural light and artificial lighting.

Separate dormitories for men and women (the children being accommodated together with the women) were furnished with bunk beds. They were kept locked during the day.

All the above-mentioned facilities were in an acceptable state of cleanliness and repair.

51. Detailed procedural information for asylum seekers was made available in writing in a variety of languages by non-governmental organisations (in particular, the Dutch Refugee Council) present and active in the centre. This is a positive feature; nevertheless, **the CPT would encourage further efforts designed to facilitate asylum seekers' awareness of their rights and of procedures applicable to them** (e.g., via the appointment of a counsellor for persons with special problems).

52. Medical care resources at the Asylum Application Centre at Schiphol appeared to be of a satisfactory level, having regard to the number of detainees at the time of the visit. A nurse attended the centre every day, and a doctor could be called if necessary. However, **the resources would have to be reinforced if the centre were to operate closer to its official capacity.**

53. Particular attention should be paid to the physical and psychological state of asylum seekers, some of whom may have been tortured or otherwise ill-treated in the countries from which they have come. In this connection, **the CPT trusts that the Dutch authorities are ensuring that staff working with asylum seekers are appropriately trained to identify potential torture victims/traumatised persons, so that appropriate treatment and conditions can be provided for them.**

### C. Nursing homes

54. For the first time in the Netherlands, a CPT's delegation briefly visited two nursing homes ("*verpleeghuis*") accommodating elderly persons with dementia: the R.K. Sint Jacob Care Centre and the Wittenberg Nursing Home, both of them in Amsterdam.

The 1992 Psychiatric Hospitals Compulsory Admissions Act (*Bijzondere opnemingen in psychiatrische ziekenhuizen*, or BOPZ) sets out the procedures for compulsory admissions in nursing homes (in addition to psychiatric hospitals and institutions for the mentally handicapped) and for compulsory medical treatment, as well as the rights of patients placed in the relevant establishments. A request for compulsory admission must be submitted by a public prosecutor; a court may grant an "interim authorisation" (*rechterlijke machtiging*) for such placement if it finds that the person is suffering from a mental disorder or mental illness (the assessment must be made by a psychiatrist), that the disorder or illness constitutes a danger to the persons concerned or to others, and that the danger cannot be averted outside an institutional setting. Compulsory placement in an institution does not imply authorisation of compulsory treatment; the latter may take place only if there is a grave danger to the patient or other persons.

55. The Sint Jacob Care Centre, which is affiliated with a 150-year old Roman Catholic foundation, accommodated 180 residents, including 90 elderly persons with dementing illnesses. The Lutheran Wittenberg Nursing Home has a capacity of 166 residents, with 50 places reserved for persons with dementia.

Most of the patients with dementia who were residing in the homes had been admitted on a compulsory basis.

56. The delegation heard no allegations of deliberate ill-treatment of residents in either home visited. Further, staff members appeared to be committed and devoted to the care and well-being of all residents.

57. Material conditions in both of the nursing homes were of a very high standard. Careful attention was given to detail (e.g., by including antique furniture and decorative objects at the Sint Jacob Care Centre) to impart a domestic rather than an institutional impression to the environment for residents. The rooms of all residents were personalised and equipped with lockable personal storage space; the premises in general were spacious, well lit and ventilated, comfortably furnished and nicely decorated. The equipment and infrastructure (including sanitary facilities) were adapted to the specific needs of residents and their handicaps.

58. The level of nursing and other care provided to residents appeared to be of a very good standard; no doubt, this was due in large part to the high level of training of the staff.

However, it transpired that difficulties as regards the recruitment and retention of trained staff at times interfered with the aim of offering the optimal quality of care.<sup>16</sup> **The CPT would like to receive further information in this regard.**

59. The delegation was able to verify that where resort to means of restraint (e.g., wrist bands, closed bed cot, etc.) was considered necessary for safeguarding the interests of a resident, the advice of a doctor was sought before implementation.

Staff at both homes indicated that there had been very rare instances, involving younger residents (suffering from Huntington's chorea or another organic brain disease), of imposing a brief period of seclusion. **The CPT would like to be informed of the formal legal basis for the resort to such a measure.**

60. Each institution had appropriate arrangements to facilitate contact with patient advocates and for lodging complaints.

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<sup>16</sup> Cf. in this regard the report of the Health Inspectorate "Care in the Summer: an Inventory of Staffing Problems in Nursing Homes in the Summer of 2000."



## APPENDIX I

### LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

#### A. Law enforcement agencies

##### recommendations

- steps to be taken to ensure that every remand prisoner held in a police cell is guaranteed:
  - at least one hour of outdoor exercise every day;
  - access to reading material.  
(paragraph 10);
- more suitable premises for outdoor exercise to be found for persons held at Triport and criminal suspects no longer to be held in the cell complex at Triport once they are placed on remand (paragraph 17);
- the possibility to delay the exercise of the right of notification of custody to be more clearly circumscribed. Section 62 (2) of the Code of Criminal Procedure should be amended or developed in subsidiary regulations (paragraph 23);
- the right of access to a lawyer to be guaranteed during the initial period of detention by the police for interrogation purposes (paragraph 25).

##### comments

- the CPT trusts that the written protocol on medical screening of persons about to be expelled from Dutch territory will incorporate appropriate safeguards for persons who may be at special risk (e.g., potential suicide attempts) (paragraph 28).

##### requests for information

- a copy of the report prepared by the independent Supervisory Committee responsible for monitoring detention facilities at Schiphol Airport (paragraph 18);
- the comments of the Dutch authorities concerning the systematic denial of the right of notification of custody to persons suspected of drugs offences (paragraph 22);
- whether arrangements permitting the medical supervision of persons placed in the units at Triport (which should include specialised medical equipment and the presence of appropriately trained staff) are envisaged (paragraph 27);
- a copy of the written protocol on procedures for medical screening of persons about to be expelled from Dutch territory (paragraph 28).

**B. Establishments under the authority of the Ministry of Justice**

**Preliminary remarks**

comments

- it is of crucial importance to maintain a positive work environment for high-quality, well-trained and motivated prison staff; this will facilitate better treatment of detainees (paragraph 29).

**The "Extra Security Institution" at the Nieuw Vosseveld Prison Complex**

recommendations

- appropriate steps to be taken to ensure that it is physically possible for staff to enter rapidly any part of the EBI in order to deal with incidents of inter-prisoner violence (paragraph 36);
- the regulatory framework should be reviewed in order to ensure that it permits rapid staff intervention in cases involving inter-prisoner violence (paragraph 36);
- the Dutch authorities to make further efforts with a view to increasing out-of-cell time, allowing for more human contact, expanding the range of activities (work and education), and alleviating searching measures for prisoners held in the EBI. Less constrained contact should be encouraged with all staff (paragraph 39);
- the criteria for the prolongation of placement in the EBI to be defined more precisely (paragraph 41);
- a post of social worker should continue to be assigned to the EBI (paragraph 42);
- the manner in which medical care is delivered to inmates held in the EBI to be reviewed; more specifically, 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 (paragraph 43).

comments

- a developed social service structure should be maintained throughout the prison system (paragraph 42).

requests for information

- the results of the "empirical examination of the possible effects of a maximum security regime on the mental conditions of prisoners", being conducted by the University of Nijmegen (paragraph 39);
- the views of the Dutch authorities on the statement, made in the preliminary study carried out by University of Nijmegen, to the effect that the lack of influence of detainees on the severity of the regime being applied to them constitutes a "contradiction in the policy" of the EBI (paragraph 39);
- confirmation that each prisoner has the benefit of legal representation at every stage of EBI placement procedures (paragraph 40).

**Other establishments**

recommendations

- the practice of obliging detainees to strip and walk naked through a corridor to the shower area to be abandoned at the Bloemendaal Special Detention Facility (paragraph 45);
- steps to be taken at Bloemendaal to ensure that all consultations with members of the establishment's health care team are conducted out of the hearing and - unless the health care professional concerned requests otherwise in a given case - out of the sight of custodial staff (paragraph 47).

comments

- the Dutch authorities are invited to make the necessary improvements as regards ventilation and furnishings in the cells at Bloemendaal (paragraph 45);
- the CPT would encourage further efforts at the Asylum Application Centre at Schiphol International Airport designed to facilitate asylum seekers' awareness of their rights and of procedures applicable to them (paragraph 51);
- medical care resources at the Asylum Application Centre would have to be reinforced if the centre were to operate closer to its official capacity (paragraph 52);
- the CPT trusts that the Dutch authorities are ensuring that staff working with asylum seekers are appropriately trained to identify potential torture victims/traumatised persons, so that appropriate treatment and conditions can be provided for them (paragraph 53).

requests for information

- the comments of the Dutch authorities as regards the denial of access to outdoor exercise to detainees at Bloemendaal until staff are convinced that they no longer have drugs in their system (paragraph 45);
- whether special training for staff at Bloemendaal is now being provided (paragraph 46);
- confirmation that written information on the facility's regulations as well as other reading material in a variety of languages is now available at Bloemendaal (paragraph 46);
- a copy of the written information provided to detainees at Bloemendaal (paragraph 46).

**C. Nursing homes**

requests for information

- further information on difficulties as regards recruitment and retention of trained staff, and the related effects on the quality of care (paragraph 58);
- the formal legal basis for the resort to the measure of imposing a brief period of seclusion (paragraph 59).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND OTHER PERSONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

**National authorities**

**Ministry of Interior**

- J.P. DIRKSE Director General of Constitutional Affairs and Kingdom Relations Department
- M.H.J.M. Van HEZIK Deputy Head of Kingdom Relations Department
- L.M.C. ONGERING Police Director
- A. OLTHOF Head of the International Police Cooperation Department, Police Directorate
- Han BLAUWHOF Team Leader for Custody Care, Amsterdam-Amstelland Regional Police Corps
- J.W. SCHUILING Director Kingdom Relations
- L. KNULST Senior Policy Adviser
- R. P. MUIZER Head of the Administrative and Legal Department

**Ministry of Foreign Affairs**

- Frank MAJOOR Secretary General
- Michiel van der ZEE Director of Economic Cooperation
- Renee Jones BOS Human Rights Ambassador
- Roeland BÖCKER Agent of the Government of the Netherlands to the European Court of Human Rights
- Irith KIST Policy Officer  
Liaison Officer to the CPT

**Ministry of Defence**

- S.B. YBEMA Director of Legal Affairs
- J.J. BUIRMA Public Administration, Criminal and Disciplinary Law Department
- Th. J.W. SNEEK Acting Head, Department of International and Legal Policy
- Patricia COOMANS Policy Adviser

**Royal Netherlands Military Police**

- R. VERBOOM Brigadier-General, Royal Maréchaussée
- M. N. van PELT

**Ministry of Justice**

- A.H. KORTHALS Minister
- H.W.M. SCHOOF Managing Director, Immigration and Naturalisation Service
- E.J. MULOCK HOUWER Director General, Prevention, Youth and Sanctions
- Jacob STRUYKER BOUDIER Legal Adviser, Directorate of Legislation
- E. RIKS Senior Policy Adviser, Directorate of Aliens Policy
- Rein PETERS Chief Advocate General, Office of the Public Prosecutor in s'Hertogenbosch
- I. DOUDE van TROOSTWIJK Policy Officer, Immigration Policy Department
- L. LING KET ON Senior Legal Adviser, Directorate of Legislation
- M. de GROOT Senior Adviser, Directorate of Legislations
- J. F. ABMA Senior Policy Adviser, Directorate of International Criminal Affairs and Drugs Policy

### **National Agency of Correctional Institutions**

- P.F.M. JÄGERS General Director
- P.J.M. van der SANDE Sector Director of Prison Service
- J.J. MARTINI Sector Director of Custodial Clinics
- R.E. BEEK Director, Staff Policy Implementation
- H.T.A. VREDENDAAL Project Manager, Long-term Policy Sector (Juvenile Institutions)
- J.J.L.M. VERHAGEN Manager, Department for Information Analysis and Documentation
- R.W.M. Van der ZON Manager, Legal Department
- A.J.G. DAANS Portfolio Manager, Regimes Development and Programs for Social Integration

### **Ministry of Health, Welfare and Sports**

- Ir. A. P. M. BERSEE Director, Mental Health and Addiction Policy Department
- E.M. BALLERING Senior Policy Adviser, Mental Health and Addiction Policy Department
- P.J.M. HARTOG International Affairs
- J.M. SCHUITE Department of Residential and Domiciliary Care and Seniors' Policy
- E. GORTER Policy on the Disabled Department

### **Office of the Ombudsman**

- Roel FERNHOUT National Ombudsman
- Stephan SJOUKE Senior Adviser

### **Non-governmental organisations**

Dutch Section of the International Commission of Jurists (NJCM)

Dutch Refugee Council

Client & Raad

Amsterdam Regional Platform (APCP) / Federation of Patients and Consumers Organisations in the Netherlands (NP/CF)





## **PART 2 : VISIT TO THE NETHERLANDS ANTILLES**



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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 Antilles from 17 to 24 February 2002. The visit formed part of the CPT's third periodic visit to the Kingdom of the Netherlands.

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

- Petros MICHAELIDES (Head of the delegation)
- Ole Vedel RASMUSSEN
- Rudolf SCHMUCK.

They were assisted by:

- James McMANUS, Chairman of the Parole Board for Scotland (expert)
- Stanley BRAAFHEID (interpreter)
- Judith GORSIRA (interpreter)

and were accompanied by Fabrice KELLENS, Head of Unit in the CPT's Secretariat.

### **B. Context of the visit**

3. The visit, which was the CPT's fourth<sup>1</sup> to the Netherlands Antilles, focused on two prison establishments: Bon Futuro Prison (formerly Koraal Specht) in Curaçao, where the CPT followed up the implementation of its recommendations after the January 1999 visit, and Pointe Blanche Prison in Sint-Maarten, an establishment visited for the first time. The delegation also visited the Police Detention Unit at Bon Futuro Prison and Philipsburg Central Police Station in Sint-Maarten.

The visit to Bon Futuro Prison took place at the very moment the last representatives of Wackenhut Corrections Corporation were leaving the prison. This American based company has been leading the vast construction/renovation programme at Bon Futuro Prison, as well as holding senior management and training functions in the establishment.

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<sup>1</sup> The previous visits to the Netherlands Antilles were organised in June 1994, December 1997 and January 1999. The CPT's reports on these visits and the Government's responses have been published (cf. CPT/Inf (96) 1, CPT/Inf (98) 17 and CPT/Inf (2000) 9 and 10).

**C. Consultations held by the delegation**

4. In the course of the visit, the delegation met Miguel POURIER, Prime Minister, Rutsel MARTHA, Minister of Justice, Marcel GUMBS, State Secretary for Justice, Alvin DAAL, Director at the Department of Justice, Alba MARTIJN, Office of the Monitor, and Ben SWAGERMAN, Acting Attorney-General of the Netherlands Antilles. A subsequent meeting was organised on 26 February 2002, with Minister MARTHA and State Secretary GUMBS.

The delegation also held meetings with the local authorities in charge of the establishments visited. A list of the authorities and non-governmental organisations with which the delegation held consultations is set out in Appendix I.

**D. Cooperation between the CPT and the Netherlands Antilles authorities**

5. The cooperation received by the delegation before, during and after the visit was excellent, in full compliance with Article 3 of the Convention. In particular, the delegation received prompt access to the Police Detention Unit at Bon Futuro Prison and to Philipsburg Central Police Station, two places of deprivation of liberty not notified in advance of the CPT's intention to carry out a visit. In this context, the Committee would like to highlight the excellent preparatory work performed by Louise DE BODE-OLTON, liaison officer to the CPT for the Netherlands Antilles.

At local level, the delegation met with a very good reception and obtained the assistance it required from management and staff at all establishments visited.

The CPT is grateful to the Netherlands Antilles authorities for this level of cooperation.

**E. Immediate observation under Article 8, paragraph 5, of the Convention**

6. Before its departure from The Hague on 26 February 2002, the CPT's delegation had a final meeting at the Royal Ministry of Foreign Affairs of the Kingdom of the Netherlands with the participation of representatives of the Netherlands Antilles authorities, in order to acquaint them with the main facts found during the visit. On this occasion, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention, concerning the situation observed at Philipsburg Central Police Station. Detainees were being held there for weeks, sometimes for months, in cramped and unhygienic conditions, with only exceptional access to outdoor exercise. Furthermore, they were deprived of mattresses, blankets or sheets. In summary, their conditions could only be described as inhuman and degrading.

The delegation requested the authorities to take urgent steps to:

- reduce the maximum occupancy rate to two detainees per cell;
- ensure that all detainees are provided with mattresses and appropriate bed coverings at night;
- ensure that all detainees held for an extended period (that is to say, more than 24 hours) are allowed one hour of outside exercise per day;
- ensure that remand prisoners placed in the police station are given a medical examination. This should also be the case for persons detained for prolonged periods under the Aliens Legislation.

The above-mentioned immediate observation was subsequently confirmed in a letter of 18 March 2002 from the President of the CPT. The CPT requested the Netherlands Antilles authorities to submit, within three months, a report on the action taken in response.

7. By letter of 11 July 2002, the Netherlands Antilles authorities informed the CPT of the measures taken<sup>2</sup>. Those measures will be considered in detail later in this report. The CPT wishes to emphasise already at this point the constructive spirit in which the authorities took note of and reacted to its delegation's observations.

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<sup>2</sup> In the same letter, the Netherlands Antilles authorities informed the CPT of measures taken concerning Bon Futuro and Pointe Blanche Prisons. It has not been possible to consider this information in the context of the present report, which was adopted on 3 July 2002. However, the information will be taken into account during the CPT's ongoing dialogue with the Netherlands Antilles authorities.





## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police establishments

#### 1. Ill-treatment

8. As already indicated, the CPT visited two important police detention facilities, Philipsburg Central Police Station in Sint-Maarten and the Police Detention Unit at Bon Futuro Prison. It should be emphasised at the outset that no allegations of any forms of physical ill-treatment of detainees by police custodial staff working in these two establishments were received. It should also be noted that relations between staff and inmates at Bon Futuro Police Detention Unit appeared to be quite relaxed. The situation was less favourable at Philipsburg Central Police Station, where relations between staff and inmates were kept to a strict minimum.

9. The delegation did receive a certain number of allegations of intimidation and rough treatment by police officers at the time of the arrest and/or questioning. In this connection, **the CPT reiterates its recommendation that senior police officers remind their subordinates at regular intervals that ill-treatment is not acceptable and will be the subject of severe sanctions.**

10. **The CPT would also like to receive for the years 2001-2002:**

- **the number of complaints lodged of ill-treatment by police officers and the number of criminal/disciplinary proceedings initiated as a result of those complaints;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment.**

#### 2. Philipsburg Central Police Station

11. Philipsburg Central Police Station is situated in the eastern part of the city, close to Pointe Blanche Prison. The police station, built some ten years ago, had two different sets of cells: 15 cells, situated on the first floor of the building, were used to accommodate criminal suspects and illegal aliens for prolonged periods of time<sup>3</sup>; two holding cells, situated on the ground floor, were in principle used for short term detention.

On the evening of the visit, 42 persons<sup>4</sup> (40 men and 2 women) were held in the first-floor cell complex. Half of the detainees had been there for weeks, in pursuance of the Aliens Law (i.e. waiting for deportation), while the other half was detained on remand (waiting for a transfer to Pointe Blanche Prison). In addition, two prisoners had been held at the station at their own request, for safety reasons, since respectively 5 June and 4 September 2001.

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<sup>3</sup> Under the current provisions of the Code of Criminal Procedure, criminal suspects can be held in police detention facilities for up to 18 days; as concerns illegal aliens, the delegation was informed that there is no legal limit.

<sup>4</sup> Up to 55 detainees had been held in the cell complex in the days before the CPT's visit, the minimum being 34.

12. Each cell measured some 10 m<sup>2</sup> and, in principle, was designed for single occupancy. Despite this, up to four detainees were being accommodated per cell. The cells were equipped with a concrete platform and a semi-partitioned lavatory and shower. However, many sanitary annexes were in an advanced state of dilapidation; toilet-flush and water supply for the showers did not work properly and buckets had to be used. Moreover, none of the cells was equipped with mattresses or bedding or any piece of furniture, and detainees had to sleep on the concrete platform or on the floor, using some clothes to protect them from the cold at night. Further, the cells had no access to natural light and artificial light was weak. Ventilation in the cell complex was also poor; a fetid smell emanating from the toilets permeated the whole detention area. In addition, the cells were filthy and full of rubbish; as a consequence, small rodents were said to be found in the cell complex at night.

The cells were not equipped with call bells and staff were not continuously present within the cell complex. This being said, a police officer entered the cell area at least every hour (a fact registered in the log book).

13. No activities whatsoever were offered to the detainees on remand or the illegal aliens. Access to the existing semi-outdoor exercise yard (70 m<sup>2</sup>) was only granted when the cleaning team was working once a week in the cell area.

14. The two holding cells on the ground floor measured each some 0,65 m<sup>2</sup>. They were said to be used for very short periods of time (i.e. a few hours). However, observations made by the delegation on the spot made clear that, on occasion, they had been used to accommodate detainees for longer periods, in particular when co-accused were detained in the police station. In the CPT's opinion, cells measuring as little as 0,65m<sup>2</sup> are inappropriate for any form of detention, regardless of its duration; **it recommends that the cells be taken out of service as areas for accomodating detained persons.**

15. At the end of its visit to Philipsburg Central Police Station, the delegation discovered a person held, allegedly since the day before, in a so-called interrogation room ("verhoorkamer" N° 2.23). The room measured some 8 m<sup>2</sup> and was totally bare and dark. The reason for the person's presence was somewhat unclear (for certain members of staff, he was a suspected "body-packer"; for others, he suffered from a transmissible disease). In any event, the delegation made clear to the Police Commissioner that, in its present state, the room in question was totally unsuitable for holding a person, for whatever reason; **the CPT would like to be informed of the action taken by the Commissioner concerning this matter.**

16. No medical screening was organised on admission in the cell complex, but a local doctor was said to be on twenty-four hour call in case of need. Detainees complained about long delays before requests to see a doctor were met; a few of them alleged that their request to see a doctor had not been met at all.

17. In the light of the above, the delegation made an immediate observation, in pursuance of Article 8, paragraph 5, of the Convention (cf. paragraph 6), requesting the Netherlands Antilles authorities to take urgent steps to:

- reduce the maximum occupancy rate in the cell complex to two detainees per cell;
- ensure that all detainees are provided with mattresses and appropriate bed coverings at night;
- ensure that all detainees held for an extended period (that is to say, more than 24 hours) are allowed one hour outside exercise per day;
- ensure that remand prisoners placed in the police station are given a medical examination. This should also be the case for persons detained for prolonged periods under the Aliens Legislation.

18. In their letter of 11 July 2002, in response to the immediate observation, the Netherlands Antilles authorities informed the Committee that the renovation activities planned for Philipsburg Central Police Station and scheduled to last approximately eight weeks were taking place and that police detainees were in the meantime being held in Pointe Blanche Prison. Furthermore, they indicated that measures would be taken after the renovation of the cell complex to comply with the above recommendations.

19. Reference has already been made to the fact that persons could be - and frequently were - held in the cell complex for up to 18 days (cf. paragraph 11) or even more. Prolonged periods of detention of criminal suspects on police premises may lead to high-risk situations. Consequently, in the interests of the prevention of ill-treatment, persons remanded in custody by a judge should be placed, as a general rule, in an establishment administered by the prison authorities and staffed by prison officers.

Given the overcrowding observed at Pointe Blanche Prison (cf. paragraph 38), the CPT would not wish for the time being to call into question the present arrangement, all the more so as material improvements are being made to Philipsburg Central Police Station cell complex (cf. paragraph 18). Nevertheless, having regard to the length of time during which one could be detained, **the CPT recommends that the authorities of the Netherlands Antilles explore the possibility of offering additional forms of activities (e.g. reading matter, radio/television) to persons held in the cell complex for a prolonged period.**

20. At the end of its visit, the delegation met Mr Derrick E. Holiday, the Police Chief Commissioner for Sint-Maarten, Saba and Sint-Eustatius, who informed the delegation that, in 2000, he had introduced a request for the renovation and extension of the cell complex and that his request had been very recently examined and approved by the Council of Ministers. The CPT welcomes the plans concerning the renovation and extension of the cell complex and the steps now being taken to implement them. **The CPT would like to receive confirmation that the renovation of the cell complex has been completed.**

### 3. The Police Detention Unit at Bon Futuro Prison

21. The Police Detention Unit at Bon Futuro Prison entered into service on 2 February 2002, after Rio Canario Police Detention Facility was taken out of service<sup>5</sup>. Consequently, all persons deprived of their liberty by the police in Curaçao and required to spend the night in custody were systematically brought to this new Unit. The Unit was located in the former women's section of the Prison (cf. CPT/Inf (96) 1, paragraph 77).

The Unit was run totally separately from Bon Futuro Prison, with two exceptions: it benefited from the services of the prison's kitchen and medical service.

22. The Unit comprised 15 cells, offering an official capacity of 50 places. At the time of the visit, it accommodated 38 male detainees<sup>6</sup>.

The material conditions offered to the detainees were satisfactory. Cell occupancy rates were reasonable; further, the cells were equipped with beds and bedding, a sanitary annexe and furniture.

Detainees could have access to an open space (albeit relatively small) to get fresh air, for one hour a day. However, no other activities were offered; **the recommendation made in paragraph 19 above is also applicable here.**

23. The Unit was staffed by specially recruited and trained security personnel ("The Guards Mark Security Services"), under the command of a senior police officer. Five guards were present during the day and four at night.

24. It is also noteworthy that the Unit was visited every day by the public prosecutor on duty and that many legal activities (meeting with lawyers, police interviews, prosecutor hearings) were conducted within the Unit compound.

To sum up, the Police Detention Unit at Bon Futuro Prison offered on the whole reasonable conditions of detention, subject to the recommendation made in paragraph 22.

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<sup>5</sup> The authorities informed the delegation that Rio Canario Police Detention Facility would be renovated and converted into an Alien Detention Centre in 2003.

<sup>6</sup> Female criminal suspects were held in the new Women's Unit at Bon Futuro Prison.

## **B. Prison establishments**

### **1. Preliminary remarks**

25. As already indicated (cf. paragraph 3), the fourth visit by the CPT to the Netherlands Antilles focused on Bon Futuro Prison (formerly Koraal Specht), the largest prison in the Netherlands Antilles, and on Pointe Blanche Prison in Sint-Maarten.

26. At the end of its 1999 visit, made on the invitation of the Netherlands Antilles authorities, the CPT listed the further measures required - and a proposed timetable - to redress the very difficult situation prevailing at Bon Futuro Prison (see CPT/Inf (2000) 9, paragraphs 36 to 46). These measures concerned mainly the fight against overcrowding and ill-treatment, clarification about the Prison Director's position, vigorous action to be taken to address staff issues (absenteeism, training, organisational structure, recruitment), the introduction of a classification and allocation system for prisoners, the fulfilment of prisoners' basic needs, and the health care situation. These questions will be examined later in the report.

27. After having examined the CPT's proposed measures and timetable, Mr Rutsel Martha, the Minister of Justice, decided to abandon the "step by step" method used by his predecessors and to follow a more radical "big bang approach". Convinced that the necessary resources and competence to plan and implement the changes were not present at local level, an invitation was sent to private sector companies to bid for a build/manage project for Bon Futuro Prison, with a possibility of full privatisation. The Wackenhut Corrections Corporation (WCC), based in the United States, was then contracted to lead the vast construction/renovation programme at Bon Futuro Prison, as well as to hold senior management and training functions in the establishment (from 1 October 2000 to 30 September 2001). Three senior Wackenhut representatives prolonged their stay until 28 February 2002, as consultants to the new management and the Minister of Justice.

28. In addition to the measures taken as regards Bon Futuro Prison, the Minister of Justice decided to order a full review of all places of deprivation of liberty under his authority, in particular as regards compliance with national and international standards. As a result, some establishments were closed (Bonaire Prison, Curaçao Illegal Alien Detention Facility), while some others had been considered to be in need of fundamental restructuring (Philipsburg Central Police Station Cell Complex) or of considerable improvement (Pointe Blanche Prison). The CPT welcomes this proactive approach followed by the Minister of Justice.

29. Pointe Blanche Prison is situated in the outskirts of Philipsburg, on a secluded hilltop, accessible only by an extremely steep and narrow road. Built in the 90's, its design is very similar, if not identical, to the one seen by the CPT at the Aruba Correctional Institute (KIA) (cf. CPT/Inf (96) 27, paragraphs 233 and 236-240).

The prison has a theoretical capacity of 135 places: 120 for male and 15 for female prisoners. At the time of the visit, it accommodated 122 male and 7 female prisoners. All categories of prisoners were held in the prison: convicted prisoners serving long and short terms, remand prisoners and young offenders.

## 2. Ill-treatment

30. Further progress had been made in Bon Futuro Prison as concerns the treatment of inmates by custodial staff. No allegations of physical ill-treatment were received by the delegation during its visit; moreover, the data collected from the prison management and the prison medical service confirmed this favourable evolution (cf. however, Section 7).

This being said, it would be premature to unconditionally consider this as being the result of a developed attitude or more efficient training of staff. Indeed, the number of staff working in direct contact with the prisoners was so low<sup>7</sup> and their position so weakened, that they were tending to yield control to inmates, to tolerate disruptive behaviour and to avoid challenging situations. To maintain a minimum of control and influence on the internal structures of the inmate population with such a low presence of staff is an almost impossible task. It is therefore scarcely surprising that the problem of inter-prisoner violence remained unresolved.

31. The CPT is extremely concerned by the numerous cases of inter-prisoner violence reported to the delegation which carried out the 2002 visit; there was even an instance of such violence (a stabbing in Unit 2) during the delegation's visit. The frequent absence of staff in the units invariably left the prisoners – and, in particular, the foreign prisoners - vulnerable to the depredations of the stronger inmates. As a former Koraal Specht prisoner met in Pointe Blanche said: "In Koraal Specht, when locked up at five o' clock, I said to my cellmate: we have survived another day". The situation was particularly striking in Units 2, 7 and 8; furthermore, some signs of at least acquiescence on the part of prison officers vis-à-vis this phenomenon were observed.

32. The CPT has already addressed the subject of inter-prisoner violence in its report on the December 1997 visit (cf. CPT/Inf (98) 17, paragraphs 11 to 18) and made some comments and recommendations. Shortcomings as regards management and staff were - and still are - essentially responsible for the current situation.

The CPT wishes to emphasise once again that the duty of care which is owed by the State to prisoners in its charge includes the responsibility to protect them from other prisoners who might wish to cause them harm.

In the light of the above, **the CPT recommends that the Netherlands Antilles authorities:**

- **appoint a prison governor, possessing the necessary authority, competence and experience and supported by a close-knit team, who would be in a position to instil the right tone and atmosphere into the establishment and be sufficiently motivated to implement further the policies and plans already developed during the Wackenhut Corrections Corporation management period;**
- **ensure that prison officers - in sufficient numbers and adequately trained - are in direct contact with the prisoners at all times, in a position to exercise their control and authority in an appropriate manner;**

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<sup>7</sup> During the CPT's visit, the presence of even one member of staff in each unit during the day was not guaranteed at all times. At night, the situation was even worse.

- **ensure that every case of inter-prisoner violence is subject to disciplinary - and, if necessary, criminal - investigation and adequately punished.**

33. No allegations of ill-treatment of prisoners by staff were received at Pointe Blanche Prison; on the contrary, many prisoners underlined the correct attitude and behaviour of the staff towards inmates. Although, like in Bon Futuro Prison, the shortage of staff was of serious concern, the highly devoted attitude of the director and his staff, the professional and skilful internal organisation, the inmates' participation in every day life decisions (through an "Inmate's Association") and a more favourable architectural design, articulated around small detention units, made it possible to maintain a relatively relaxed atmosphere in an establishment operating at its full capacity.

### 3. Material conditions

34. On 14 February 2002, 549 prisoners<sup>8</sup> were held at Bon Futuro Prison, compared to an official capacity of 656 places<sup>9</sup>. The CPT's delegation was very impressed by the extensive renovation and construction work performed during the last two years in the prison; several new units and departments had been built (Units 7 and 8, FOBA, vocational building, administration building, kitchen and laundry, open visits area) and the remaining units (including the gym and the medical building) had been the subject of major renovation. Moreover, a new water supply system had been installed in the prison, as well as public telephones in the detention units.

The delegation was particularly pleased to note that, as result of the above, the severe overcrowding problem had been brought to an end, albeit with an imprisonment rate still higher than most of Europe.

35. The fundamentals of imprisonment under satisfactory material conditions were now on the whole guaranteed; cell occupancy rates were acceptable and the basic furniture had been renewed. However, several issues remained to be addressed:

- the new "mattresses" provided to prisoners on their arrival in the newly built/renovated units were no more than thin pieces (5 cm) of non fire-retardant foam. Furthermore, it was clear that not all detainees had mattresses, while others had several at their disposal. A similar situation prevailed as regards blankets and sheets;
- rubbish was found, thrown in empty cells or even in the middle of the courtyard, in nearly all units. The prisoners and some staff members informed the delegation that the necessary equipment (brooms, buckets, bins, etc.) was lacking, because of a shortage of funds;
- cockroach infestation and the presence of rats were still problems in some units, even if the scale of the problem was less significant than in the past.

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<sup>8</sup> 481 male prisoners (354 on remand, 127 sentenced) and 68 female prisoners (66 on remand and 2 sentenced).

<sup>9</sup> Unit 1 (male orientation unit: 42), Unit 2 (sentenced long term: 76), Unit 3 (female unit: 68), Unit 4 (protective custody: 38), Unit 5 (male juvenile: 29), Unit 6 (smu:28), Unit 7 (144), Unit 8 (144), Old FOBA (25), HOI Barracks (96).

**The CPT recommends that measures be taken to address these problems; in particular, all prisoners should be provided with proper mattresses (if possible, offering fire-retardant characteristics) as well as cleaning material. Additional measures should also be taken to combat the presence of cockroaches and rats.**

36. The situation prevailing in the "protective custody" unit constituted a blemish on an otherwise generally positive situation. Located in the newly built disciplinary block and totally isolated from the rest of the prison, this unit consisted of two storeys, each with a row of five cells designed for individual occupancy (+ 9 m<sup>2</sup>) that opened on a large inner corridor (60 m<sup>2</sup>). Three major problems were observed by the delegation. First, the unit was not permanently staffed, a serious lacuna considering the absence of any call system and the isolated situation of the unit; such an absence of means of communication between prisoners and staff may lead to high-risk situations, particularly in emergencies. Secondly, the prisoners held in the unit did not benefit from any outdoor exercise. Thirdly, some prisoners had to sleep on their mattress on the floor.

**The CPT recommends that immediate measures be taken to address the security problem highlighted above and to ensure that all prisoners in the "protective custody" unit are offered at least one hour of outdoor exercise each day. Furthermore, measures should be taken to ensure that every prisoner in the unit has a proper bed.**

37. Two other issues relating to material conditions at Bon Futuro Prison should be raised. Firstly, the CPT's delegation was informed that the old Koraal Specht "cachots" had recently been used on at least one occasion. The CPT would like to reiterate that, **in their present condition, the cells in question are totally unsuitable for use, even for the shortest period of time.**

Secondly, the delegation noted that many prisoners were trying to protect their cells from direct sunlight or the dust which blows in through the bars, by hanging sheets and towels; **consideration should be given to introducing some flexible and appropriately designed form of protection from sun and wind which does not permanently eliminate access to natural light.**

38. The material conditions at Pointe Blanche Prison were generally satisfactory and can even be qualified as good in the female unit. That said, in the male units, up to three prisoners were accommodated in 10 m<sup>2</sup> cells (sanitary annexe included). The beds (one single and one bunk bed) and the furniture left very little living space indeed in the cells. Admittedly, prisoners were not confined to their cells during the major part of the day (the establishment followed an "open door policy" within each wing). Further, the CPT has taken note with satisfaction of the prison director's decision to increase, as from 27 February 2002, the length of the outdoor exercise period, to alleviate the detrimental effects of overcrowding<sup>10</sup>. Notwithstanding this, **the CPT considers that efforts should be made to reduce the maximum level of occupancy to two prisoners per cell.**

39. The delegation was informed that an extensive construction and renovation programme had been scheduled in the near future and that some parts of the programme were already being implemented. This involved, in particular, workshops (carpentry, welding, car repair, etc.) already in construction, a planned renovation of all sanitary annexes and the kitchen, and new visiting facilities. **The CPT trusts that this programme will be completed in good time and would like to receive regular updates on its progress.**

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<sup>10</sup> Letter from Mr R.C. Ricardo, Director of Pointe Blanche Prison, to the CPT, confirming all measures taken following the CPT's delegation visit to his establishment.



40. Reference should also be made to the problem of the quality of drinking water inside the prison. During the visit, the delegation observed the presence of sediment in the water. The Director, Mr R.C. Ricardo, informed the delegation that the prison water pipe system was deficient but that tests made by a laboratory confirmed the drinkable character of the water, even if its appearance was unattractive. Mr Ricardo also confirmed that several possibilities were under scrutiny, among which was the installation of filtering systems. **The CPT invites the authorities to pursue their efforts with a view to remedying this problem without delay.**

#### **4. Regime**

41. A *system of classification and allocation of prisoners* is a pre-requisite for the organisation of any meaningful regime; furthermore, it is essential for the safe running of an establishment. Basic classification can be done in accordance with objective factors, such as the age and legal situation of a prisoner. A more sophisticated classification system will take longer to develop and require a greater level of staff involvement. However, even objectively-based classification can create the opportunity for developing specialised regimes in each of the individual living units.

The CPT's delegation observed that no such classification and allocation system of prisoners was in force at Bon Futuro Prison, although a proper classification and allocation procedure had been developed by WCC. Except in Units 3 (women) and 9 (protective custody), each unit accommodated a mixture of remand and convicted inmates, short and long term sentenced prisoners, first offenders and recidivists. At Pointe Blanche Prison, the situation was very similar; with the exception of the female unit, the units accommodated a mixture of prisoners.

The CPT must therefore insist once more on the need - in particular at Bon Futuro Prison, having in mind the security environment - for a proper classification and allocation system for prisoners. **The CPT recommends that such a system be introduced without delay in both prisons.**

42. The new regime for Bon Futuro Prison had been finalised on 1 February 2001 and commissioned on 1 May 2001; it offered, in principle, a variety of purposeful activities (vocational education-theory, academic education (basic and high school level, correspondence courses, substance abuse awareness, life skills and arts). However, its implementation has been lagging behind since September 2001, when responsibility for the prison reverted to local management.

The CPT's delegation was particularly impressed with the efforts made as concerns *educational activities*, responsibility for which had been entrusted to a local partner, FEFYK. In order to implement its programme, the FEFYK team had at its disposal a new vocational building, offering modern and well-equipped classrooms as well as a large library, both suited for this purpose. However, the delegation was informed that due to severe staff shortage (for escorts), only some 35 prisoners were attending such activities in the morning and/or afternoon of most days.

As concerns *work*, the situation had remained generally unchanged. A limited number of prisoners were engaged in maintenance, cleaning and kitchen work; the modest upholstery shop seen in 1999 had been closed.

Every unit in the prison included a large yard with open and shaded areas, equipped with tables. Furthermore, the total out of cell time per day was quite generous (8 am to 5 pm). However, opportunities for *sports activities* within the units were very limited, as no adequate equipment seemed to be at the inmates' disposal. Prisoners were restricted to individual gymnastic exercises, such as knee-flexing and push-ups. In contrast, the prison gym was rather well equipped; however, it could only be visited by a few prisoners a day.

43. To sum up, a substantial number of prisoners at Bon Futuro Prison had no or very limited structured activities; the severe lack of staff often resulted in cancellation of even the modest programmed activities available, with the result that prisoners spent the majority of the day with nothing to do of a purposeful nature. Obviously, such a state of affairs left ample opportunities for those wishing to engage in bullying and intimidation.

It is essential that prisoners are provided with constructive activities for a substantial part of each day; **the CPT recommends that vigorous efforts be made at Bon Futuro Prison to fully implement the regime commissioned in May 2001.**

44. At Pointe Blanche Prison, the situation was somewhat different, even if far from ideal. The Director and his staff had been inventive in establishing something resembling a genuine prison regime.

Twenty prisoners participated in *educational programmes*, while 53 others *worked* on a regular basis, even if it was in part-time posts. Most of them were deployed in the kitchen and laundry, as well as in general maintenance activities. In addition, a group of inmates was doing construction work at the site of the future workshops, just outside the perimeter wall. The delegation was also informed that until the not-too-distant past, a considerable number of prisoners worked outside the prison, in community work placement programmes. *Sports activities* were organised on a regular basis in the biggest open yard and a small fitness room was available on the ground floor of the main building. However, as was the case in Bon Futuro Prison, the severe shortage of staff limited the scope and the intensity of the activities offered to the prisoners at Pointe Blanche Prison.

By letter of 10 April 2002, the Director of Pointe Blanche Prison informed the CPT of further measures taken to improve the regime prevailing in the establishment, among which the purchase of eleven computers to open a computer class and the provision of "anger management" training to prisoners involved in violent crimes.

The CPT welcomes these measures and **encourages the authorities to continue their efforts to offer a full regime to prisoners at Pointe Blanche Prison.**

## 5. Staff issues

45. In the report on its 1999 visit, the CPT listed several priorities (cf. CPT/Inf (2000) 9, paragraphs 38 to 41) concerning staff issues at Bon Futuro Prison. They related to the fight against absenteeism, the deployment of staff in the units, staff training, the structure of middle management, and the position of the Prison Director.

46. The Minister of Justice informed the CPT's delegation that radical measures had been taken to fight absenteeism and corruption amongst staff. Some 14 suspensions from active service had been announced vis-à-vis staff members in June 2001 and 175 more had been suspended on 15 October 2001, as a result of the "Kibbelaar Report"<sup>11</sup>. Since then, some 75 staff members had been reintegrated into the active service, after having been screened by two different scrutiny committees.

47. Notwithstanding this reintegration, the present level of staff at Bon Futuro Prison was so low that the safety of staff and prisoners was routinely compromised. In practice, the absence of staff in the prisoner's living areas on a regular basis meant that units were *de facto* run by prisoners. Consequently, there was a considerable amount of bullying, "taxing" and stealing among prisoners, as well as inter-prisoner violence (cf. also paragraphs 31 and 43). Moreover, the appropriate surveillance of prisoners' activities and movements within the prison was impeded. As already indicated, there was effectively no engagement between staff and prisoners; the very best that could be managed being the presence of one member of staff in the secured area of each unit during the day.

48. At the end of the visit, the Minister of Justice informed the CPT's delegation of various efforts made to recruit new prison staff, in particular a 25% salary increase and new recruitment campaigns, to be launched in March 2002 (including in the European part of the Kingdom). **The CPT encourages the authorities to pursue and diversify their efforts in this domain; it would like to be kept regularly informed of the evolution of the staff situation at Bon Futuro Prison.**

49. The CPT would also like to highlight that **any increase in the number of prison officers should be accompanied by a redeployment of such officers in the living units (cf. also the recommendation made in paragraph 32, third sub-paragraph, second indent)**. In this context, the CPT recalls that many tasks not directly concerned with the control and supervision of prisoners can be carried out by clerical or other specifically selected staff, freeing prison officers to spend the vast majority of their time working in direct contact with prisoners (cf. CPT/Inf (2000) 9, paragraph 39).

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<sup>11</sup> "Integriteitsonderzoek Gevangeniswezen - Konstruyendo un bon futuro", Nederlandse Antillen, September 2001.

50. In its report on the 1999 visit, the CPT stressed that measures needed to be taken concerning the prison middle management. The delegation observed that some efforts were underway in this context, in particular as concerns training. **The CPT invites the authorities to pursue their efforts in this area and would like to stress the importance of translating the WCC training manuals into the languages of the Netherlands Antilles.**

51. The move for change at Bon Futuro Prison has been impeded by successive changes of management. The CPT does not doubt that the current management team is trying to do its best to implement parts of the project initiated by Wackenhut Corrections Corporation; however, the initial coherence of the project has been lost. As already indicated (cf. paragraph 32), **only a qualified and experienced prison director can redress the situation in the establishment, which appears to have started to drift again.**

The CPT greatly welcomes the statement made by the Minister of Justice, Mr Martha, on 26 February 2002 in The Hague, to the effect that the Netherlands Antilles Government's main objectives during the coming ten months will be to restore the initial coherence of the Bon Futuro Prison project by retaining adequate management and expertise, and to consolidate the achievements and pursue the change of culture by recruiting and training staff.

The CPT has also taken note of the Government's proposal to change the status of the Netherlands Antilles Prison Service; this may well assist in addressing the staffing issues.

52. In Pointe Blanche Prison, the situation as concerns staff was also critical. When examining the number of prison staff in direct contact with the inmates, the delegation noted that it comprised in total 47 prison officers (of whom six were on long term sick-leave and 10 were suspended). Consequently, the number of prison staff on each shift was extremely limited.<sup>12</sup> However, the architectural design of the prison (little wings separated by grilles) made it possible for staff to keep a better control on prisoners than in Bon Futuro Prison and to be engaged at all times with them, though at a level which renders the interaction less than significant.

In a letter dated 10 April 2002, Mr Ricardo informed the CPT that he had already received the authorisation from the Department of Justice to recruit some 18 additional prison staff and that his intention was to request some 24 more staff members. The CPT welcomes this approach and **recommends that the authorities persist in their efforts to increase the present staff complement at Pointe Blanche Prison.**

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<sup>12</sup> The delegation noted that some night shifts were composed of only 3 members of staff.

## 6. Medical services

53. The medical service at Bon Futuro Prison had been restructured on 1 April 1999, after the CPT's last visit. It had also moved into new premises, offering a clean and well equipped infrastructure - even if some rooms had no access to natural light. The delegation noted, however, that the medical unit had no dedicated outdoor exercise yard and that the prisoners held in the infirmary were not offered daily outdoor exercise. **Alternative solutions have to be found in order to offer such a possibility to prisoners if their state of health permits.**

54. As regards medical staff resources, the situation remained generally unchanged. In particular, although two medical doctors regularly visited the establishment, the equivalent of a full time doctor's position was still not secured. Such a state of affairs, in an establishment holding nearly 600 prisoners, is not acceptable. **The CPT recommends that efforts be made to secure the equivalent of at least a full time doctor's position.**

Some improvements had been made as concerns the nurse staffing level. Six nurses were now working in the establishment; however, this number still did not allow the Head Nurse to organise a 24-hour nursing presence. The delegation understood that requests for two additional nurses had been made by the Head Nurse on 31 May 2001, supported by WCC. **The CPT trusts that the authorities will take all necessary measures to meet these requests and to ensure a 24 hour a day nursing presence in the establishment.**

Efforts had also been made concerning specialised medical staff. A dentist with an assistant visited the prison every working day and a psychiatrist worked half time in the prison (except in the FOBA, which benefited from specific staff arrangements). Other specialised treatments were available on appointment at local hospitals.

55. The delegation was informed that due to the severe shortage of escort staff, prisoners might have to wait a considerable time before being seen by a doctor or receiving outpatient treatment and that, similarly, the initial medical examination on arrival was subject to considerable delays (up to a month). The situation was considered to be so critical that both the Head Nurse and the doctor had written letters to the relevant authorities, including the Health and Justice Ministries, on 4 November and 7 December 2001, calling for immediate action. The doctor stated in particular that under the present conditions, he could not take any more responsibility for the prisoners' care.

The CPT has already emphasised the risks - in terms of both prisoners' and staff security - flowing from the severe shortage of prison staff in the establishment. This situation had also clear adverse consequences as regards the quality of health care for prisoners, despite the genuine efforts made by the medical team. **This highlights once again the crucial importance of the recruitment and deployment of staff within the prison.**

56. On a more positive tone, the CPT's delegation noted that medical confidentiality was guaranteed and that efforts had been made to open a detailed medical file for each prisoner; however, all WCC medical forms were in English. **The CPT recommends that the relevant medical forms be translated into the languages of the Netherlands Antilles.**

In this context, the CPT would also like to stress that even if important improvements have been made as concerns the recording of injuries on arrival (origin and description of the injuries), **some room for improvement still exists, in particular, as concerns the medical conclusions.**

57. The CPT's delegation was impressed by the new FOBA arrangements. The FOBA moved to new buildings in June 2001, offering good material conditions. Moreover, the staff levels were generally satisfactory, **even if the attendance hours of social assistants could be increased. Efforts should also be made concerning the regime, in particular work and educational activities.**

The delegation was concerned by the presence in the FOBA of certain prisoners whose behaviour had reportedly caused control problems and who could easily manipulate weaker prisoners. **An end should be put immediately to this undesirable practice of placing in the FOBA, for control purposes, prisoners who do not require psychiatric treatment.**

58. Finally, the CPT recalls that it lies within the medical service's responsibility to promote health in the prison system and, more particularly, to supervise the general conditions of hygiene. No such supervision was taking place at Bon Futuro Prison during the visit. **The CPT recommends that this deficiency be remedied.**

59. The medical service at Pointe Blanche Prison comprised two full time nurses, present in the institution every working day from 7.30 am to 5 pm; one of the nurses was on call during the nights and week-ends. Such a level of nursing staff can be considered as adequate for the prison.

The attendance hours of the medical doctor was, on the contrary, far too low; he only visited the prison every Monday, for one to two hours. **The CPT recommends that the total attendance time of the doctor be increased to at least two hours per working day.**

Such a level of attendance should also allow the doctor to assume the responsibility of Head of the medical service in the prison; indeed, this role cannot be left to a nurse, however qualified he/she may be. The CPT welcomes the steps already taken by Mr Ricardo in this respect and **trusts that the authorities will modify the terms of the doctor's contract accordingly.**

Other services provided (dentist, physiotherapist) were on the whole satisfactory. The arrangements concerning psychiatric care were also, in principle, satisfactory; however, the delegation received indications that they were not always fully applied in practice. **The CPT invites the authorities to ensure that the psychiatrists' availability is in accordance with the current arrangements.**

60. As was the case in Bon Futuro Prison, prisoners faced considerable delays before receiving outpatient treatment in the local medical centres, mainly because of a shortage of escort staff. **Implementation of the recommendation made in paragraph 52 should make it possible to remedy this problem.**

61. The material infrastructure and the equipment of the prison medical service were satisfactory and do not call for specific comments. The medical files were, however, very poorly kept. **The CPT recommends that strict measures be taken to ensure that the medical files are kept according to professional standards.**

62. Serious deficiencies were also observed concerning the initial medical examination on admission. 22 prisoners had never been examined by a nurse (let alone the doctor) since their arrival in the institution (for some of them, more than six months before). The CPT welcomes the decision of the Prison Director to introduce, as from 1 April 2002, a systematic medical examination - performed by a nurse reporting to the doctor - for all newly admitted prisoners. As the CPT's delegation already explained during the visit, the purpose of such an examination is not only to identify diseases, some of which can be contagious, or suicide risk prisoners, but also to record any injuries on admission (something that was very rarely done at Pointe Blanche Prison).

63. Finally, **the recommendation made in paragraph 58 concerning the medical service's responsibility to promote health in the prison system and, more particularly, to supervise the general conditions of hygiene is also applicable here. This task should also be reflected in the terms of the doctor's contract.**

## **7. Correctional Emergency Response Team**

64. In its report on the 1999 visit, the CPT stressed the importance of avoiding, as far as possible, using police officers or other law enforcement officials (rather than prison officers) to perform tasks requiring contact with prisoners; the intervention of outside agencies - such as the police "Mobiele Eenheid" - should, in principle, be avoided and limited to the direst of emergencies (cf. CPT/Inf (2000) 9, paragraph 40).

In this connection, the CPT's delegation was pleased to hear that the police "Mobiele Eenheid" was no longer involved in the daily activities of the prison; however, it was informed that a "Correctional Emergency Response Team" (CERT), composed of prison officers who had received specific training, had been set up a few weeks before the visit.

65. The CPT's delegation examined in detail the mission, composition, procedures, equipment and weapons of the CERT, as well as recent operations and incident reports. It also examined complaints received from prisoners about the inappropriate use of force (including the use of tear gas in the cells) and threatening behaviour (including with firearms) by members of the CERT.

66. Allegations of ill-treatment of this type are clearly a foreseeable consequence of the main role of the CERT, which is designed to counter, by force if necessary, threats, insubordination and violence; their operational procedures, combat uniforms, equipment and weaponry clearly highlight this role. The CPT welcomes the fact that resort to force by the CERT was obviously a rare event compared to the situation found during previous visits (with the police "Mobiele Eenheid"). However, a number of consistent and credible complaints by inmates, gathered during individual interviews in various units, indicated that at least some members of the squad neither knew nor respected the legal limits of their assignments, nor even the basic rules of interpersonal relations.

67. The use of force is not the only option for members of the CERT when carrying out their duties. However, as long as their actions are not based on thorough and ongoing professional training and are not properly supervised and reviewed, the risk of the use of disproportionate force and violence will always be present. Moreover, to avoid the unnecessary and inadequate use of force, it is essential that senior members of the prison management monitor closely all CERT activities.

The CPT is confident that the incidents reported can be considered initial difficulties resulting from the newly appointed CERT staff's lack of experience; **it recommends that the authorities pay particular attention to the professional training of the CERT members and the supervision of their activities.**

68. It should also be stressed that effectively guaranteeing security within a prison is much more dependent on positive relations and intensive contacts between inmates and staff than on the availability of an emergency response team. A group of prison officers who are feared by inmates for their use of force - and all the more so if such a use of force is disproportionate - may well endanger what it claims to safeguard. Frequent resort to such a team could jeopardise rather than improve the real security in the prison and their actions even strengthen the prison sub-culture and its leaders.

## 8. Other issues

69. The CPT would also like to raise four problems related to the protection of the rights of prisoners.

First, it was surprised to note the absence of a file and/or proper *warrant order* for each prisoner held at Pointe Blanche Prison. **The CPT would like to recall that all detentions should be covered by proper warrant orders, readily available in the prison where the person concerned is being held.** The CPT welcomes the arrangements made subsequently between Pointe Blanche and Bon Futuro Prisons with a view to avoiding such a situation in the future.

Secondly, there was considerable confusion among the prisoners, in both prisons visited, concerning the calculation of their respective *release dates*. The CPT considers that it is of crucial importance that prisoners are well informed in advance (that is to say, more than one month) of the date of their release. The CPT has taken note with satisfaction of the different measures taken by the authorities - including the publication of a Ministerial Decree and the purchase of specialised software - to overcome this difficulty.

Thirdly, each prisoner should be provided with a copy of the *internal rules* which apply in the prison in which he is being held. This leaflet should be at the prisoner's disposal, in a variety of languages commonly spoken in the region. The CPT has noted with satisfaction the measures taken at Pointe Blanche Prison to translate the internal rules into English and Spanish; **it would like to be informed of the measures taken at Bon Futuro Prison in this area.**

Fourthly, the delegation was informed that not all prisoners wishing to attend *religious activities* could participate in the weekly services, organised in the prison chapel. The CPT would like to recall that religious and moral assistance is a fundamental right for prisoners (cf. European Prison Rules, articles 46 & 47) and **invites the authorities to increase their efforts to offer such a possibility to all interested prisoners.**



70. As concerns contact with the outside world, the CPT was pleased to note that the individual visiting rooms had been renovated at Bon Futuro Prison and that "open" visits were now available to prisoners, at least in theory; a "table visit" room had been recently built for that purpose. However, such "open" visits were only very rarely offered to prisoners, admittedly because they required more surveillance from the prison officers. **The CPT invites the authorities to remedy this unfavourable situation.** "Open" visits were the rule at Pointe Blanche Prison, unless security reasons dictated otherwise; the CPT welcomes this approach.

Finally, the delegation received many complaints in both prisons about the impossibility for prisoners whose families live very far from the prison to combine several visit entitlements into one longer session. **The CPT recommends that the Netherlands Antilles Prison Regulations be amended so as to make it possible in appropriate cases to accumulate individual visit entitlements.**



**APPENDIX I**

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

**A. Police establishments**

**Ill-treatment**

recommendations

- senior police officers to remind their subordinates at regular intervals that ill-treatment is not acceptable and will be the subject of severe sanctions (paragraph 9).

requests for information

- for the years 2001-2002:
  - the number of complaints lodged of ill-treatment by police officers and the number of criminal/disciplinary proceedings initiated as a result of those complaints;
  - an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment (paragraph 10).

**Philipsburg Central Police Station**

recommendations

- the two ground floor holding cells measuring some 0,65 m<sup>2</sup> to be taken out of service as areas for accommodating detained persons (paragraph 14);
- the possibility of offering additional forms of activities (e.g. reading matter, radio/television) to persons held for a prolonged period in the first floor cell complex to be explored (paragraph 19).

requests for information

- the action taken by the Police Commissioner concerning the interrogation room ("verhoorkamer" N° 2.23) (paragraph 15);
- confirmation that the renovation of the cell complex has been completed (paragraph 20).

## **The Police Detention Unit at Bon Futuro Prison**

### recommendations

- the possibility of offering additional forms of activities (e.g. reading matter, radio/television) to persons held for a prolonged period in the unit to be explored (paragraph 22).

## **B. Prison establishments**

### **Ill-treatment**

#### recommendations

- at Bon Futuro Prison, the Netherlands Antilles authorities to:
  - appoint a prison governor, possessing the necessary authority, competence and experience and supported by a close-knit team, who would be in a position to instil the right tone and atmosphere into the establishment and be sufficiently motivated to implement further the policies and plans already developed during the Wackenhut Corrections Corporation management period;
  - ensure that prison officers - in sufficient numbers and adequately trained - are in direct contact with the prisoners at all times, in a position to exercise their control and authority in an appropriate manner;
  - ensure that every case of inter-prisoner violence is subject to disciplinary - and, if necessary, criminal - investigation and adequately punished (paragraph 32).

### **Material conditions**

#### recommendations

- measures to be taken at Bon Futuro Prison to address the problems identified in paragraph 35; in particular, all prisoners should be provided with proper mattresses (if possible, offering fire-retardant characteristics) as well as cleaning material. Additional measures should also be taken to combat the presence of cockroaches and rats (paragraph 35);
- immediate measures to be taken in the "protective custody" unit at Bon Futuro Prison, to address the existing security problem highlighted in paragraph 36 and to ensure that all prisoners are offered at least one hour of outdoor exercise each day (paragraph 36);
- measures should be taken at Bon Futuro Prison to ensure that every prisoner in the "protective custody" unit has a proper bed (paragraph 36).

comments

- in their present condition, the old Koraal Specht "cachots" at Bon Futuro Prison are totally unsuitable for use, even for the shortest period of time (paragraph 37);
- at Bon Futuro Prison, consideration should be given to introducing some flexible and appropriately designed form of protection from sun and wind which does not permanently eliminate access to natural light (paragraph 37);
- efforts should be made at Pointe Blanche Prison to reduce the maximum level of occupancy to two prisoners per cell (paragraph 38);
- the CPT trusts that the extensive construction and renovation programme at Pointe Blanche Prison will be completed in good time (paragraph 39);
- the authorities are invited to pursue their efforts at Pointe Blanche Prison with a view to remedying the problem of the quality of drinking water without delay (paragraph 40).

requests for information

- regular updates on the progress made concerning the construction and renovation programme at Pointe Blanche Prison (paragraph 39).

**Regime**

recommendations

- a proper classification and allocation system for prisoners to be introduced without delay at Bon Futuro and Pointe Blanche Prisons (paragraph 41);
- vigorous efforts to be made at Bon Futuro Prison to fully implement the regime commissioned in May 2001 (paragraph 43).

comments

- the authorities are encouraged to continue their efforts to offer a full regime to prisoners at Pointe Blanche Prison (paragraph 44).

## **Staff issues**

### recommendations

- the authorities to persist in their efforts to increase the present staff complement at Pointe Blanche Prison (paragraph 52).

### comments

- the authorities are encouraged to pursue and diversify their efforts concerning the recruitment of new prison staff at Bon Futuro Prison (paragraph 48);
- any increase in the number of prison officers at Bon Futuro Prison should be accompanied by a redeployment of such officers in the living units (paragraph 49);
- the authorities are invited to pursue their efforts concerning the training of prison middle management at Bon Futuro Prison; in this context, the CPT would like to stress the importance of translating the WCC training manuals into the languages of the Netherlands Antilles (paragraph 50);
- at Bon Futuro Prison, only a qualified and experienced prison director can redress the situation in the establishment, which appears to have started to drift again (paragraph 51).

### requests for information

- regular information on the evolution of the staff situation at Bon Futuro Prison (paragraph 48).

## **Medical services**

### recommendations

- efforts to be made at Bon Futuro Prison to secure the equivalent of at least a full time doctor's position (paragraph 54);
- relevant medical forms to be translated into the languages of the Netherlands Antilles (paragraph 56);
- the lack of medical supervision of the general conditions of hygiene at Bon Futuro Prison to be remedied (paragraph 58);
- the attendance time of the doctor at Pointe Blanche Prison to be increased to at least two hours per working day (paragraph 59);

- strict measures to be taken at Pointe Blanche Prison to ensure that the medical files are kept according to professional standards (paragraph 61);
- the recommendation made in paragraph 58 concerning the medical service's responsibility to promote health in the prison system and, more particularly, to supervise the general conditions of hygiene is also applicable to Pointe Blanche Prison. This task should be reflected in the terms of the doctor's contract (paragraph 63).

comments

- alternative solutions have to be found at Bon Futuro Prison in order to offer the possibility of daily outdoor exercise to prisoners, if their state of health permits (paragraph 53);
- the CPT trusts that the authorities at Bon Futuro Prison will take all necessary measures to meet the requests for two additional nurses and to ensure a 24 hour a day nursing presence (paragraph 54);
- the adverse consequences as regards the quality of health care for prisoners flowing from the severe shortage of prison staff at Bon Futuro Prison highlight once again the crucial importance of the recruitment and deployment of staff within the prison (paragraph 55);
- some room for improvement still exists at Bon Futuro Prison as regards the recording of injuries on arrival, in particular, as concerns the medical conclusions (paragraph 56);
- the attendance hours of social assistants in the FOBA at Bon Futuro Prison could be increased. Efforts should also be made concerning the regime, in particular work and educational activities (paragraph 57);
- at Bon Futuro Prison, an end should be immediately put to the undesirable practice of placing in the FOBA, for control purposes, prisoners who do not require psychiatric treatment (paragraph 57);
- the CPT trusts that the authorities will modify the terms of the contract of the doctor at Pointe Blanche Prison, in order to allow him to assume the responsibility of Head of the medical service (paragraph 59);
- the authorities are invited to ensure that the psychiatrists' availability at Pointe Blanche Prison is in accordance with the current arrangements (paragraph 59);

## **Correctional Emergency Response Team**

### recommendations

- the authorities to pay particular attention to the professional training of the CERT members and the supervision of their activities (paragraph 67).

## **Other issues**

### recommendations

- the Netherlands Antilles Prison Regulations to be amended so as to make it possible in appropriate cases to accumulate individual visit entitlements (paragraph 70).

### comments

- all detentions should be covered by proper warrant orders, readily available in the prison where the person concerned is being held (paragraph 69);
- the authorities are invited to increase their efforts to offer all interested prisoners the possibility to attend religious activities (paragraph 69);
- the authorities are invited to remedy the unfavourable situation at Bon Futuro Prison as regards the availability of "open" visits (paragraph 70).

### requests for information

- information on the measures taken at Bon Futuro Prison to ensure the translation of the internal rules into a variety of languages commonly spoken in the region (paragraph 69).



**APPENDIX II**

**LIST OF THE AUTHORITIES AND OTHER PERSONS  
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

Miguel POURIER Prime Minister

**Department of Justice of the Netherlands Antilles**

Rutsel MARTHA Minister for Justice

Marcel GUMBS Secretary of State for Justice

Alvin DAAL Head of the Legal Division

Alba MARTIJN Office of the Monitor

Joan BREWSTER Project Officer and Acting Director of the Directorate of Justice Affairs

John HUNTER Minister's External Advisor on Prison Management

**Bureau of Foreign Affairs of the Netherlands Antilles**

Alma Louise de BODE OLTON Head of Treaties Department and Legal Affairs  
Liaison Officer to the CPT

**Judicial authorities**

Ben SWAGERMAN Acting Attorney General

**Prison Service**

Rutsel RICARDO Director, Pointe Blanche Prison

Urny L. FLORAN Interim Director, Bon Futuro Prison

**Police Force**

Robert ANTONIUS Chief Commissioner for Curacao

Derrick E. HOLIDAY Chief Commissioner for Sint-Maarten, Saba and Sint-Eustasius

**Civil Servants Trade Union (ABVO)**

Roland H. IGNACIO President