



CPT/Inf (2003) 39

**Response of the Authorities of the
Kingdom of the Netherlands
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visits to the Kingdom in Europe
and the Netherlands Antilles**

in February 2002

The Government of the Netherlands has requested the publication of this response. The visit report drawn up by the CPT was published in November 2002 (cf. CPT/Inf (2002) 30).

Strasbourg, 27 November 2003

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Ms Silvia CASALE
President of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment
Council of Europe
67075 STRASBOURG Cedex
France

The Hague, 6 November 2003

Dear Mrs Casale,

With reference to article 10 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to present the response of the Dutch authorities to the CPT report on the Committee's visit to the Netherlands from 17 to 26 February 2002. The Dutch Ministers of Justice, the Interior & Kingdom Relations, Health, Welfare & Sport and Defence all contributed to the drafting of this response.

The response of the Netherlands Antillean authorities on the Committee's visit to the Netherlands Antilles is also included. In this regard, it is important to note that the treatment of prisoners is the responsibility of the Netherlands Antilles.

The authorities have responded to the recommendations, comments and requests for information made in the CPT report, following the order used in Appendix I of the report. Please do not hesitate to contact the Dutch authorities if this response gives rise to any further questions from the Committee.

The Dutch authorities are glad that the CPT was pleased with its reception in the Netherlands and in general with the treatment of detainees, asylum seekers, and patients in the various institutions. Wherever possible, and where thought necessary or desirable, the recommendations of the CPT have been taken to heart and implemented (or are to be implemented). The authorities will make their response public, once it has been submitted to the CPT.

The Dutch authorities wish to express their appreciation of the Committee's work and look forward to continuing their cooperation with the CPT in the future.

Yours sincerely,

Jaap de Hoop Scheffer
Minister of Foreign Affairs of the Kingdom of the Netherlands

Part I

The Kingdom in Europe

**RESPONSE OF THE DUTCH AUTHORITIES
TO THE REPORT OF THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE
(CPT(2002)28)**

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)*

Response: As indicated in the response to the 1997 CPT report, the policy is always to detain individuals in police cells for as little time as possible.

As regards the recommendation concerning outdoor exercise, the Minister of the Interior & Kingdom Relations can inform you, as he explained in 1999, that the regulations concerning persons being held in police cells state that cell blocks should be equipped with an outdoor exercise area and that detainees should be given the opportunity to use it. The Regional Police Forces (Management) Decree prescribes that detainees should be offered outdoor exercise twice daily, unless the police cell block has no outdoor exercise area. The Police Cell Block Regulations lay down that a police cell block must have an outdoor exercise area measuring at least 30 m², including a square space measuring 10 m². There must be a roof offering adequate shelter from rain and snow and covering no more than one-third of the entire area. The Procurator General may grant exemption from the requirement for an outdoor exercise area, but must give reasons for doing so. An exemption is valid for a maximum period of five years.

These regulations have not changed, but as you yourself point out, the establishment of Regional Supervisory Committees to oversee police detention facilities has improved their enforcement. Whenever it is necessary to detain an individual in a police cell for an extended period of time, an effort should always be made to ensure that the cell block concerned meets all the requirements of the regulations, i.e. that it has an outdoor exercise area.

The Minister of Interior & Kingdom Relations reminded the regional police forces of this policy in 1999, and will do so again now. He shall also draw attention to your recommendation about supplying reading material.

- *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)*

Response: Firstly, it should be noted as of the end of February 2003, Triport II will no longer be used as a holding area. It will be replaced by completely new premises at Schiphol Oost, designed to meet all current standards.

Neither Triport II nor the new premises at Schiphol Oost have medical facilities, since Schiphol has its own medical unit nearby. Schiphol's team of medics is highly skilled and experienced, and is happy to provide medical equipment whenever necessary.

- *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).*

Response: As you rightly remark, the Dutch government's stance on this point has been communicated in response to earlier CPT reports. This stance is unchanged and is as follows:

Under Dutch criminal law, suspects cannot be required to testify against themselves. They have the right to remain silent. They may also engage their own lawyer. Anyone who cannot afford legal fees should notify the police, who will then ensure that the legal aid office assigns them a lawyer. The police notify the legal aid office to this effect as soon as the suspect is remanded in police custody (articles 40 and 59 of the Code of Criminal Procedure). Suspects may also be allowed to consult with their lawyer during their interrogation, in which case the interrogation is postponed. The police are not obliged to wait for the suspect's lawyer to arrive, but may proceed with the interrogation.

Under the Dutch system, each stage of the investigation involves a reconsideration of what types of pressure may be brought to bear on the suspect and what infringements of particular constitutional rights may be permissible in the circumstances. The more serious these infringements, the more safeguards surround them.

For example, suspects may be held for interrogation for no more than six hours. After that, they must either be released or (if they are actually suspected of a crime) placed in police custody. The warrant for police custody is valid for a maximum of three days and can only be issued by the assistant public prosecutor. Within that period, the suspect must be brought before a court. Once the warrant for police custody has been issued, the suspect is entitled to the services of a defence lawyer. Suspects who have not chosen their own defence lawyer are provided with one free of charge via the public rota service. The Dutch legislature has decided that the period of custody for purposes of interrogation is so short that no legal assistance is necessary during it.

The Dutch government is aware that, worldwide, it is precisely during the initial hours of detention that torture and ill-treatment tend to occur. In the Netherlands, however, the system includes so many built-in safeguards that there is little risk of unlawful action being taken against suspects.

These safeguards include positive peer pressure (due in part to the emphasis on proper interrogation techniques during police training), the police forces' own internal arrangements for handling complaints, the opportunity to take complaints to the National Ombudsman and the courts' evaluation of the evidence obtained (evidence obtained unlawfully cannot be used to obtain a conviction). This last safeguard has proved particularly effective, for example in achieving the rapid abolition of the interrogation technique known as the "Zaanse verhoormethode". After this method was criticised by a defence lawyer during legal proceedings, it was not only condemned by the court but also immediately and explicitly forbidden by the Minister of Justice.

Finally, as mentioned above, an experiment is currently taking place with recording interrogations on video. This will make it possible to assess whether the interrogation was conducted lawfully and whether the official report is a reliable record of what the suspect meant to say.

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).*

Response: Section 64 of the Aliens Act 2000 prohibits expulsion in cases where an alien or a member of his or her family is not medically fit to travel. If an alien invokes his right not to be expelled or if the authorities concerned decide on their own initiative that expulsion would be medically irresponsible, a doctor is consulted as soon as possible. Chapter A4/7 of the Aliens Act implementation guidelines 2000 contains further rules on this matter. A supplement to the Aliens Act implementation guidelines and instructions for the relevant officials of the Immigration and Naturalisation Service are currently being prepared.

requests for information

- *a copy of the report prepared by the independent Supervisory Committee responsible for monitoring detention facilities at Schiphol Airport (paragraph 18)*

Response: A copy of the report is enclosed. In brief, the Supervisory Committee responsible for monitoring KMAR detention facilities at Schiphol Airport (hereafter the Committee) concludes in the report that the holding areas do not comply with the requirements of the Border Holding Area Regime Regulations on all points, but that the courts have nevertheless accepted that aliens are held for short periods at Triport.

It should be added that the courts assumed that a supervisory committee had been established, whereas this is not in fact the case: the Supervisory Committee responsible for monitoring KMAR detention facilities is not a supervisory committee within the meaning of the above regulations. The Committee indicates in the report that it is aware of plans to build new holding areas, and advises that this report be taken into consideration when designing and regulating such areas.

- *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)*

Response:

The Government has the following comments about the practice in this regard in Bloemendaal Special Detention Facility and the former Triport II.

Immediately after they are arrested, suspects are given the opportunity to telephone their family, their lawyer or any other party such as the embassy of their country of origin. One of the questions on the form relating to suspects' appearance before the public prosecutor is whether they wish to notify the embassy of their country of origin of their arrest. A standard faxform has been available for this purpose since March 2003.

Suspects are given a telephonecard worth € on their intake to make private calls. Moreover, detainees may correspond - in principle free of charge - with people outside the facility.

Further inquiries at Bloemendaal Special Detention Facility revealed that detainees are never prevented from telephoning a lawyer. They may only be prevented from making other telephone calls on explicit instructions of the reporting officer. Such cases concern suspects who have been heard by the assistant public prosecutor and placed under a restriction order in the interests of the investigation. A note to this effect is made on the person's remand form.

In view of the above, the Government cannot identify itself with the CPT's observations.

- *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)*

Response: Firstly, it should be noted as of the end of February 2003, Triport II is no longer be used as a holding area. It is replaced by completely new premises at Schiphol Oost, designed to meet all current standards.

Neither Triport II nor the new premises at Schiphol Oost have medical facilities, since Schiphol has its own medical unit nearby. Schiphol's team of medics is highly skilled and experienced, and is happy to provide medical equipment whenever necessary.

- *a copy of the written protocol on procedures for medical screening of persons about to be expelled from Dutch territory (paragraph 28).*

Response: A supplement to the Aliens Act implementation guidelines and instructions for the relevant officials of the Immigration and Naturalisation Service are currently being prepared.

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).*

Response: The Government is aware of the need for a good work environment in prisons. Long and short-term policies aim to improve working conditions. The short-term problems have been tackled by recruiting extra personnel who can be deployed temporarily where the need is greatest. For the long term, the Minister of Justice, after discussing the matter with parliament, published an action plan on 17 April 2002 aimed at improving staff training and terms of employment (see also Parliamentary Papers, House of Representatives, 2001/02 24 587, no. 76). The plan comprises almost 50 measures designed to achieve and maintain high standards. Attention has been given to styles of leadership and professional development, with a strong focus on the training, supervision and coaching of individual staff. The Government expects the action plan to result in an effective and balanced personnel policy for the Custodial Institutions Agency (DJI).

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)*

Response: The Government wishes to stress that when a fight breaks out in the EBI, staff intervene as soon as possible. It goes without saying that rapid intervention is crucial. It is also possible as:

- EBI prisoners are kept under close supervision, allowing inter-prisoner violence to be detected quickly;
- the high staff ratio ensures that sufficient staff can quickly be at the scene of a fight; all rooms are easily accessible;

- prisoners are kept in groups of no more than four persons so that, despite the rule that staff must outnumber prisoners, action can be taken quickly. Moreover, efforts are being made to increase the scope for interaction between staff and prisoners, as this will alert staff to potential trouble or problems between prisoners.

- *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)*

Response: Prisoners in the EBI spend a total of about 52 hours a week on out-of-cell activities, and these activities are no less varied than in other prisons. They include exercise, visits, sport, work, education and recreation. Not all prisoners take part in all activities. What they do depends partly on interest and ability. The work in the EBI is simple. However, it is difficult to provide work that is more varied and yet meets security requirements. In principle, work in the EBI is done jointly. The Government refutes the claim that, on average, prisoners participate in activities for no more than between two and four hours a day. In fact they spend an average of four to five hours a day in out-of-cell activities.

The Government agrees that prisoners and staff should have more contact. Fenced-off walkways for staff have now been erected in the exercise yards. They provide more opportunities for informal contact and interaction between prisoners and staff.

The number of searches has been sharply reduced since the opening of the EBI. Besides a weekly search during cell checks, searches are carried out after visits to areas containing potentially dangerous objects, such as the hairdresser's or the doctor's or dentist's surgery, and after contact with the outside world, such as visits. Searches are still necessary from the point of view of security. The Government would point out that searches are also conducted in ordinary prisons.

On 4 February 2003, in two separate cases against the Netherlands, the European Court of Human Rights ruled that: "the combination of routine strip-searching with the other stringent security measures in the EBI amounted to inhuman or degrading treatment in violation of article 3 of the Convention. There has thus been a breach of this provision. (Van der Ven v. the Netherlands, Application no. 50901/99, ECtHR 4 February 2002, §63; see also Lorse et al v. the Netherlands, Application no. 52750/99, ECtHR 4 February 2002, §74). These judgments and other considerations have prompted the Government to stop routine weekly searches in the EBI over a long period of time. The EBI's regulations will be amended.

- *the criteria for the prolongation of placement in the EBI to be defined more precisely (paragraph 41)*

Response: The Government has taken this recommendation to heart and changed the procedure. From 1 December 2002 the following procedure will apply.

Placement

Reasons must be given for any decision to place a prisoner in the EBI. They must be substantiated by facts demonstrating that the prisoner is highly likely to abscond or poses a danger to the community.

Extension

Reasons must be given for any decision to extend a prisoner's placement in the EBI, with reference to the original placement decision. This might involve confirming or amending the original reasons for the placement, or producing new facts or motives. Although prisoners are assigned to the EBI solely on the grounds of their risk that they will abscond or pose a threat to the community, the decision to extend a placement also takes account of their behaviour in detention. This is important when prisoners are transferred from the EBI, since it influences the selection of the prison to which they are to be transferred.

- *a post of social worker should continue to be assigned to the EBI (paragraph 42)*

Response: The Government endorses this recommendation and will ensure that it is carried out.

- *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)*

Response: The principle that care should be provided to patients out of sight and earshot of third parties, unless the patient permits otherwise, is enshrined in article 459 of Book 7 of the Civil Code. This right extends to patients in prisons, insofar as the legal relationship permits (article 7:464). Given the extra strict security rules that apply in the EBI, a patient's rights as enshrined in article 7:459 of the Civil Code do not apply. The danger that EBI prisoners will abscond is so great that even when they are being given medical care (which gives them access to objects that could be used as weapons) a prison officer must be present.

comments

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

Response: The social service structure in Dutch prisons takes the following form. Prison staff are expected to help prisoners to deal with day-to-day difficulties and solve minor social problems. The social services department assists prisoners with more complex problems (both social and practical). If necessary, it can mediate between prisoners and third parties. The medical service, the psychiatrist, the psychologist and spiritual counsellors are part of the social service structure.

For some years, the Probation Service has provided more systematic care with a view to influencing prisoners' behaviour. As a consequence, short, supporting tasks (such as listening to problems, intervening in crises) can no longer be carried out by the Probation Service if they are not part of a systematic procedure. The introduction of a new funding system has made the consequences of this policy clearer. To fill this gap, prisons need social workers. This is currently being discussed by the Sanctions, Probation and Victim Support Department and DJI (both of which fall under the Ministry of Justice) and the Dutch Probation Service.

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)*

Response: The study is expected to be completed by autumn 2003 as indicated. As soon as the findings are available, the Government will forward them to the Committee.

- *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)*

Response: The Government understands the point made in the preliminary study concerning the lack of influence that prisoners have on the regime. However, opportunities to exercise influence are necessarily more restricted in the EBI than in other prisons because of the nature of the system. The facility is exclusively for prisoners who are highly likely to abscond or who pose a serious threat to society. Placement in the EBI is mainly determined by considerations of safety and security. In this sense the EBI differs from other prisons. The emphasis on safety and security means that placement in the EBI does not depend on a prisoner's behaviour but on the risk he represents.

- *confirmation that each prisoner has the benefit of legal representation at every stage of EBI placement procedures (paragraph 40).*

Response: The Government can assure the Committee that EBI prisoners have access to legal representation at every stage of every procedure. Counsel can help them lodge objections or appeals against decisions to extend their placement in the EBI, or request a transfer to another prison or wing. Many EBI prisoners engage a lawyer themselves. Those who cannot afford legal fees qualify for legal aid under the terms of the Legal Aid Act.

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)*

Response: Prisoners are issued with tracksuits, which they wear to the shower area. The showers are closed off by a chest-high screen. Prisoners can undress behind the screen. They are kept under surveillance while showering, but from the other side of the screen. In other words their entire bodies are not in direct view. The head must be visible above the screen, for both medical and security reasons.

- *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)*

Response: The Government has adopted this recommendation. The medical screening procedure has been changed. Screening now takes place in privacy in one of the medical service's rooms. A KMAR officer is posted at the door.

comments

- *the Dutch authorities are invited to make the necessary improvements as regards ventilation and furnishings in the cells at Bloemendaal (paragraph 45)*

Response: The Government agrees that, at the time of the Committee's visit, ventilation in the cells was unsatisfactory. This was because the ventilation grilles were shut. The grilles are now open, resulting in satisfactory ventilation. The cells are indeed only furnished with beds. As indicated above, the Special Facility also functions as a hospital. Drug ingesters are usually ill and require bed rest. Their stay at the Special Facility is short. They transferred as soon as they are fit and the drugs have been expelled.

- *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)*

Response: The Government notes as follows.

On arrival at the KMAR desk, i.e. before the application centre procedure begins, asylum seekers are given a booklet, if possible in a language they are likely to understand, explaining the procedure and their legal rights. The booklets are available in 14 languages. At the application centre at Schiphol (hereafter AC), the Aliens Police check whether applicants have indeed been given a booklet, and if not supply them with one. Minors are given an extra booklet containing information of specific relevance to them. At the beginning of the AC procedure, usually before the first interview, the Dutch Refugee Council briefs applicants on AC regulations and procedures.

A diagram is displayed in each interview room, showing the various steps of the procedure. At the beginning of every interview, an Immigration and Naturalisation Service officer uses the diagram to explain which step the applicant has reached. Asylum seekers also receive information from counsellors at various times.

Taking the above into account, the Government believes that asylum seekers receive more than sufficient information and assistance.

- *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)*

Response: The Government would note that access to medical care at Schiphol AC is unrelated to capacity. Asylum seekers receive medical attention at their request. A nurse from Schiphol's medical centre holds a daily surgery at the AC for asylum seekers with health problems. Anyone requiring urgent attention outside surgery hours is guaranteed speedy access to medical care. An ambulance can be called at night, if necessary.

- *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)*

Response: The Government notes that a traumatic experience in the asylum seeker's country of origin may constitute grounds for issuing a residence permit. For this and other reasons, Immigration and Naturalisation Service officers are always aware that an asylum seeker may be traumatised. If legal or other advisers suspect this to be the case, their findings are taken into account when dealing with the asylum application. Officers also consider whether an application can still be dealt with satisfactorily through the AC procedure. They may decide that an applicant with psychological or physical problems possibly resulting from trauma should not be questioned at the time, or cannot be expected to make consistent statements. In order to reach an objective judgment, a doctor from the Municipal Health Service (GG&GD) may be called in. Staff are trained to identify traumatised people.

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)*

Response: A prisoner who might still have packets of drugs in his body may not exercise communally for both security and medical reasons. If a fight were to break out, a packet might rupture, endangering the carrier's health. In any event, most prisoners are too ill to take exercise.

- *whether special training for staff at Bloemendaal is now being provided (paragraph 46)*

Response: As noted above, the Committee visited the Special Facility when it had only been in operation for a week. The situation has now changed. Each wing now has a TEO officer (a fully trained prison officer seconded to the Special Facility on a temporary basis), a KMAR officer and three private security guards. The Ministry of Defence is responsible for a proper training of the KMAR-officers. They are in charge of the prisoners. The private security guards have had a brief course of training as prison workers and are responsible for supervising the exercise yard, lawyers' visits, and the distribution of meals. About half the prisoners speak Dutch (roughly the norm in ordinary prisons).

- *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)*

Response: The Special Facility's regulations have been translated into English and Spanish. As indicated above, the Special Facility had only been operational for a week at the time of the Committee's visit, and there had as yet been no opportunity to provide prisoners with reading matter. The situation was remedied the day after the Committee's visit. Magazines are now available.

- *a copy of the written information provided to detainees at Bloemendaal (paragraph 46).*

Response: A copy of the English version of the House Rules 'Drug Smuggling Emergency Measures' is enclosed. A Spanish version is also available.

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)*

Response: In 2001 the Health Care Inspectorate (IGZ) noted that while measures had been taken to shorten waiting lists and waiting times for nursing home care, the quality of care did not always receive sufficient attention. Especially in residential care homes, where separate wards had been created for people requiring nursing home care in so-called psychogeriatric substitution projects, the expertise of staff seemed to be substandard and there was too little harmonisation between disciplines (IGZ Annual Report for 2001, pp. 23-24).

A study of the medical care provided in these projects was completed in November 2002. Its main finding was that there was a need to improve the harmonisation between family doctor and nursing home physician. An urgent appeal was made to umbrella and professional organisations to give their full support to measures aimed at improving quality (IGZ report *Medische zorg onder druk*, (“Medical care under pressure”), November 2002).

In response to reports of inadequate care as a result of staff shortages, the IGZ published a report in 2000 noting that the quality of care was substandard especially in the summer months (because of staff shortages in the holiday season) and recommending that criteria for proper care be formulated and implemented.

These recommendations were followed up in 2001 in the form of round-table talks between umbrella and professional organisations and the national organisation of client councils, which drew up indicators making it possible to identify substandard care promptly.

An evaluation published in 2002 charted the progress that had been made. A total of 71 cases had been reported to the umbrella organisation, the Health Care Inspectorate, the National Organisation of Client Councils (LOC) or professional workers involving irresponsible care where staff shortages had led to stopgap measures being introduced. The appropriate umbrella organisation has undertaken to draw up a definition of “responsible care”. The report also notes a shortage of qualified staff in nursing homes. In response to this report, preparations began in November 2002 for a study of nurses in nursing homes and ways of keeping them in the profession.

- *the formal legal basis for the resort to the measure of imposing a brief period of seclusion (paragraph 59)*

Response: Whether treatment may be applied in institutions with resort to coercion or restraint, and if so on what legal basis, depends on the kind of treatment and the setting involved.

Two acts of parliament are relevant in this context: the Medical Treatment Contracts Act (WGBO) part of the Dutch Civil Code (BW), and the Psychiatric Hospitals (Compulsory Admission) Act (BOPZ).

The WGBO

The WGBO prescribes general statutory regulations for the conclusion of contracts between patients and care workers relating to treatment. It deals primarily with “treatment in the medical sphere”. But it also covers “auxiliary activity” by nurses and care workers.

The WGBO regulates the rights and obligations of patients and care workers. Pursuant to the WGBO, the patient’s consent is in principle required for any kind of medical procedure or treatment.

There are some cases in which medical procedures or treatment are permissible without the patient’s consent:

- In the case of a patient who is under 12 years of age or legally incapable (i.e. incapable of making a reasonable assessment of what is in his or her best interests), a representative is empowered to consent to medical procedures or treatment on the patient’s behalf (art. 7:465 para. 3 BW). Treatment may be given in such cases, but only if the patient does not oppose it.
- If a legally incapable patient opposes a radical procedure to which his representative has consented, the intervention may be carried out anyway if it is manifestly necessary to prevent serious adverse consequences for the patient (art. 7:465 para. 6 BW).
- If there is no time to obtain the consent of the representative of a legally incapable patient, it is permissible to intervene under the terms of the WGBO if an immediate radical procedure is manifestly necessary to prevent serious harm to the patient (art. 7:466 BW).

In the case of a legally capable patient over 12 years of age, under the WGBO it is inadmissible to perform any procedure whatsoever without that person’s consent.

The WGBO thus provides a statutory basis for treatment without the consent of a legally incapable patient if the treatment is radical in nature and must be administered even without the representative’s consent because of the pressure of time, and despite the patient’s opposition, if it is evidently necessary to prevent serious harm to the patient. Although the provisions of the WGBO do not legitimise the use of restraint, it had been universally accepted that in order to provide good care, which in this case means the actual application of compulsory treatment, restraint may sometimes be necessary. However, the provisions of the WGBO do not provide any scope for placing patients in seclusion or binding them to a chair or bed. Although the BOPZ provides a basis for this, this Act is only applicable, as the following section explains, in certain specific cases.

The BOPZ

In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the Constitution, the legislature has introduced specific regulations governing the committal and in some circumstances the compulsory treatment of persons who are mentally disturbed and consequently pose a threat to others. Three procedures exist for such committals under the terms of the BOPZ:

- by court order, if the person concerned displays an unwillingness to be committed and is 12 or more years of age;
- by authorisation of the mayor, where there is such an acute danger that it is impossible to wait for a court order;
- by invoking section 60 of the BOPZ, if the person concerned does not actively oppose committal but shows no willingness to cooperate and is unable to maintain himself or herself outside an institution for the mentally handicapped or a hospital or clinic. This latter committal procedure is frequently used in psychogeriatrics and in the mental handicap sector.

The provisions listed above may only be invoked to commit a patient to a special care institution or ward designated for this purpose by the Minister of Health, Welfare and Sport. This is also important from the vantage point of quality, since designated BOPZ institutions and wards have to fulfil a range of statutory requirements that guarantee their suitability for the treatment of this category of patients.

Aside from committal procedures, the BOPZ also defines the specific rights of these patients, once they have been committed against their will.

It is compulsory to draw up a treatment plan for any patient who has been committed against his or her will under the terms of the BOPZ. The objective pursued by this plan is to correct the disorder such as to remove the danger on the basis of which the patient is being kept in an institution against his or her will, and may include elements of restraint. In the case of mentally handicapped or psychogeriatric patients, a care or nursing plan will be drawn up, the aim being to stabilise the disorder. Any form of restraint such as the use of bed rails or Posey Belts must also be included in the plan.

In principle, the treatment plan cannot be implemented if no agreement has been reached about it with the patient, or with the legal representative if the patient is incapable of making a reasonable assessment of his or her interests. Nor can it be implemented if the patient or representative opposes it after having initially agreed to it.

Implementing treatment compulsorily (where consent is withheld or where the patient or his or her representative opposes it) or applying measures restricting a patient's liberty are possible under the BOPZ in the following cases:

- If the person concerned opposes the implementation of the treatment plan, but its implementation is absolutely essential in order to avert grave danger to the patient or to others, arising from the mental disorder (section 38, subsection 5, third sentence of the BOPZ). In contrast to the WGBO, the person's legal capability is not relevant to the application of compulsory treatment under the BOPZ.
- Certain measures (such as seclusion, immobilisation etc.) outside the treatment plan may be used in temporary emergencies for which the treatment plan makes no provision (section 39 of the BOPZ and the BOPZ Means and Methods of Treatment Decree.
- The attending physician is permitted to restrict a patient's freedom of movement in and around an institution if there is a risk of serious adverse consequences for the patient's health or if it is necessary to prevent a disturbance or a criminal offence in the institution (section 40, BOPZ).

In practice, institutions or wards are sometimes confronted with unforeseen situations in which an acute danger arises but it is impossible to take action on the basis of the BOPZ because no authorisation has yet been obtained under the BOPZ or because the patient cannot (yet) be transferred to a BOPZ ward. Some professionals maintain that care workers are not just entitled to take action in the interim but *must* do so, on the basis of their legal obligations as care workers, obligations explicitly set forth in section 7:453 of the WGBO. In any case, measures must always be proportionate and the responsible medical practitioner must seek immediate authorisation under the BOPZ to take action in respect of the patient concerned. In most cases this would mean seeking authorisation from the mayor. Furthermore, the patient concerned must be transferred to a BOPZ ward at the earliest opportunity.

Institutions that do not have a designated BOPZ ward but do apply compulsory treatment to, and/or restrict the liberty of, patients with mental disorders are instructed by the public authorities and umbrella organisations to seek authorisation under the BOPZ and to regulate the legal status of such patients in accordance with the provisions of the Act.

In the case of patients who have been admitted voluntarily, the BOPZ in principle has no role to play. If a patient who has initially been admitted voluntarily later opposes treatment, some courts interpret this as unwillingness to remain in the institution. On these grounds they will then order committal against the person's will (even if the patient had displayed a clear willingness to be admitted) making it possible to administer compulsory treatment and to impose restrictions on the person's liberty under the BOPZ. Case law dating from before 2000 reveals, however, that some courts considered this to be an improper use of the BOPZ, and found that the scope provided by the WGBO should be exhausted first.

In passing the BOPZ, the legislature set out to make exhaustive regulations to provide comprehensive legal protection for individuals with mental disorders who are committed to an institution and may subsequently be subjected to compulsory treatment and/or restrictions to their liberty. The above references to court rulings and the literature suggest that the grounds for restrictions to liberty or restraint outside the scope of the BOPZ are unclear. Because of this, the government is taking steps to clear up the existing problems in order to improve still further the legal protection of these vulnerable patients.

Part II

The Netherlands Antilles

**RESPONSE TO THE OBSERVATIONS AND COMMENTS
OF THE COMMITTEE FOR THE PREVENTION OF TORTURE
IN CONNECTION WITH THEIR VISIT
TO THE NETHERLANDS ANTILLES
IN FEBRUARY 2002**

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).*

Response: Senior police officers are complying with the recommendation that senior police officers should remind their subordinates at regular intervals that ill-treatment is not acceptable and will result in severe sanctions.

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).*
 - The Police Corps of the Netherlands Antilles is divided into three sections: the Police Corps of Curaçao, the Police Corps of Sint Maarten, Saba and Sint Eustatius and the Police Corps of Bonaire. In 2001-2002 only one complaint was lodged concerning ill-treatment by a police officer of the Police Corps of Sint Maarten, Saba and Sint Eustatius.
 - There was only one reported case of criminal/disciplinary proceedings initiated as a result of complaints of ill-treatment by police officers in 2001-2002. The police officer in question, a member of the Police Corps of Sint Maarten, Saba and Sint Eustatius, received a disciplinary sanction.

Philipsburg Central Police Station

recommendations

- *the two ground floor holding cells measuring some 0,65 m² to be taken out of service as areas for accommodating detained persons (paragraph 14);*

Response: In accordance with the recommendation that the ground-floor holding cells (0.65 sq m) be taken out of service, this floor is being used for registration and visiting. The Police Commissioner is engaged in negotiations with the relevant government department concerning the renovation of the ground-floor holding cells.

- *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).*

Response: The introduction of reading matter and radio/television for persons held in the first-floor cell complex for a prolonged period is being further explored.

requests for information

- *the action taken by the Police Commissioner concerning the interrogation room ("verhoorkamer" N° 2.23) (paragraph 15);*

Response: The recommendation concerning the interrogation room has been taken into consideration, and the Police Commissioner is negotiating the construction of a new facility. In the meantime, however, the current interrogation room ("verhoorkamer" n° 2.23) is still being used.

- *confirmation that the renovation of the cell complex has been completed (paragraph 20).*

Response: The Government hereby confirms that the renovation of the cell complex has been completed and that it is now in service.

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).*

Response: The introduction of reading matter and radio/television for persons held in the first-floor cell complex for a prolonged period is being further explored.

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;*

Response: The Netherlands Antilles is in the process of finalising the appointment of a prison governor. Further implementation of the policies and procedures is taking place at the moment and should be completed by the end of 2003.

- *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;*

Response: The problem of staff shortages still remains. It is therefore still not always possible to ensure that sufficient prison officers are in direct contact with the prisoners at all times. The government of the Netherlands Antilles will continue to seek prison staff of high integrity in the Netherlands Antilles and in other parts of the Kingdom. At the beginning of 2003 a group of eleven prison guards were inducted and a new group of eleven applicant guards are being screened at the moment. The staff shortage is therefore being addressed, though it still remains a problem.

- *ensure that every case of inter-prisoner violence is subject to disciplinary - and, if necessary, criminal - investigation and adequately punished (paragraph 32).*

Response: The policy and procedures that were adopted by the cabinet incorporate the necessary mechanisms to ensure that every case of inter-prisoner violence is subjected to correct disciplinary investigation and can be punished appropriately. Furthermore, national legislation provides mechanisms for adequate criminal investigation of criminal inter-prisoner violence.

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);*

Response: The planned purchase of mattresses made of fire-retardant material has not gone ahead, as the financial situation of the Netherlands Antilles has not improved. No incidents of incineration have been reported since the Committee's visit. Prisoners receive cleaning materials and a pest control company is hired on a regular basis to combat the cockroaches. The rat problem is being tackled by laying poison and raising standards of cleanliness, especially around the kitchen. The prisoners are also constantly instructed not to throw food on the floor of their living quarters.

- *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);*

Response: The protective custody unit at Bon Futuro Prison is no longer being used as such. The cells in this part of the prison are used as segregation cells, and in such cases the regime is adapted to this situation.

- *measures should be taken at Bon Futuro Prison to ensure that every prisoner in the "protective custody" unit has a proper bed (paragraph 36).*

Response: As stated above, these cells are used only for segregation of prisoners and all cells have a bed.

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);*

Response: The old "cachots" are no longer in use. The intention is to rebuild this section to accommodate prisoners serving life sentences, so that their stay at Bon Futuro Prison is a little more pleasant.

- *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);*

Response: The introduction of flexible and appropriately designed forms of protection from sun and wind, which does not permanently eliminate access to natural light, has been considered. However, such a measure would pose a major security problem because it would greatly increase the possibility that illegal actions by prisoners would go unnoticed. This situation can most probably be improved by offering more prisoners the chance to participate in day programmes. At the moment, however, this solution cannot be offered to all prisoners, as the number of prison staff is still too low.

- *efforts should be made at Pointe Blanche Prison to reduce the maximum level of occupancy to two prisoners per cell (paragraph 38);*

Response: In spite of all efforts made to reduce the occupancy level at Bon Futuro to two prisoners per cell, our financial situation and the high prison population in the Netherlands Antilles mean it will be quite impossible to achieve this for the time being.

- *the CPT trusts that the extensive construction and renovation programme at Pointe Blanche Prison will be completed in good time (paragraph 39);*

Response: The renovation programme at Point Blanche Prison has been completed. A new visiting room (air-conditioned) has been added to the premises. The prisoners now have longer weekly contact visits.

- *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).*

Response: The problem of the quality of drinking water has been solved as of April 2002 by the installation of filters on all taps. Furthermore, the water quality has been tested and found to be good.

requests for information

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

Response: A regular update on the progress made concerning the construction and renovation programme at Point Blanche Prison is hereby provided. Welding, carpentry and car workshops are ready. The visiting room has been completed. Three offices for the workers being constructed with the help of prisoners are near completion.

Regime

recommendations

- *a proper classification and allocation system for prisoners to be introduced without delay at Bon Futuro and Pointe Blanche Prisons (paragraph 41);*

Response: A proper classification and allocation system for prisoners has been introduced at both Bon Futuro Prison and Point Blanche Prison.

- *vigorous efforts to be made at Bon Futuro Prison to fully implement the regime commissioned in May 2001 (paragraph 43).*

Response: Efforts are being undertaken to implement the regime commissioned in May 2001, including a complete day programme for prisoners. The policies and procedures document has been translated in its entirety into Dutch and certain parts have also been translated into Papiamentu and Spanish. During the course of this year all staff members will receive proper training in the Policies and Procedures in accordance with the WCC method. A rehabilitation plan has also been presented. It will be implemented in the second half of 2003.

comments

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

Response: The CPT can rest assured that efforts to provide a full regime for prisoners at Point Blanche Prison will continue. Prisoners participate in a variety of activities, including English classes, computer classes, sewing classes, carpentry, welding, outside work, cooking, cleaning, sports and handicrafts. They are also able read newspapers, watch television and listen to the radio until 23.00 hours.

Staff issues

recommendations

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

Response: The CPT can be assured that the authorities will continue their endeavours to increase the number of staff at Point Blanche and Bon Futuro. Eighteen new staff members have joined Point Blanche Prison and further recruitment is taking place.

comments

- *the authorities are encouraged to pursue and diversify their efforts concerning the recruitment of new prison staff at Bon Futuro Prison (paragraph 48);*

Response: Due to the fact that, as things stand, the prison staff must have Dutch nationality, the government is unable to pursue and diversify its efforts to recruit new prison staff in neighbouring countries. Continuing efforts are being made to recruit staff in the Netherlands Antilles. Recruitment efforts have therefore been amplified and diversified to include the European part of the Kingdom. The Committee will be aware that there is a major international shortage of prison staff capable of performing their duties in accordance with international standards. Notwithstanding this fact, the government will persist in its endeavours to increase the level of staffing in prisons.

- *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);*

Response: The increase in the number of prison officers is solely intended for redeployment in the living units and for the support of the activities of prisoners.

- *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);*

Response: The WCC training manuals have been translated from English to Dutch and Papiamentu. The staff training programmes have been completed and it is expected that all staff will have received training by the second half of this year.

- *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).*

Response: It is expected that implementing the WCC policies and procedures will enable the situation in the establishment to be kept on course and or set on course where necessary. As mentioned above, implementation is expected to take effect in the second half of 2003. Furthermore, the prison governor is to sign a management contract that will give the government the necessary tools to supervise his efforts to address the situation at the prison.

requests for information

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

Response: The Minister of Justice is regularly informed of staff changes at Bon Futuro Prison. The latest development is that, as of September 2002, eleven members of staff have started working at the prison, and four have been dismissed. It is expected that another group of eleven applicants will be added to the staff by July 2003. 42 applications for a position at Bon Futuro Prison have been received from the Netherlands. A number of these applicants are expected to be able to start work at Bon Futuro Prison in the second half of 2003.

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);*

Response: Efforts are being made to secure a full-time doctor's position. There is a doctor who is interested in this position.

- *relevant medical forms to be translated into the languages of the Netherlands Antilles (paragraph 56);*

Response: All medical forms have already been translated from English to Dutch, and some parts have also been translated into Papiamentu.

- *the lack of medical supervision of the general conditions of hygiene at Bon Futuro Prison to be remedied (paragraph 58);*

Response: The local Health and Medical Service (GGD) inspects hygiene conditions at Bon Futuro Prison at least once every three months, and staff members have been given responsibility for the general supervision of hygiene.

- *the attendance time of the doctor at Pointe Blanche Prison to be increased to at least two hours per working day (paragraph 59);*

Response: At Point Blanche Prison, the attendance time of the doctor will be increased to an equivalent of at least two hours per working day in the contract to be signed in the second half of 2003. In emergency situations, the doctor comes immediately.

- *strict measures to be taken at Pointe Blanche Prison to ensure that the medical files are kept according to professional standards (paragraph 61);*

Response: Strict measures have been taken at Point Blanche Prison to ensure that medical files are kept according to professional standards. A computer is being used to register all prisoners' medical files.

- *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).*

Response: In the Netherlands Antilles the local Health and Medical Service (GGD) has the specific task of supervising general hygiene conditions. Notwithstanding this fact, the government will consider including this task in the doctor's contract.

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);*

Response: The state of health of inmates who are interned in the sickbay at Bon Futuro Prison does not generally permit daily outdoor exercise. Inmates who are sick but still able to take daily exercise are not usually housed in the sickbay. Given the way the Bon Futuro Prison facility has been constructed, and for security reasons, alternative solutions for inmates who are interned in the sickbay will be possible only after a considerable increase in staff numbers. As explained in other sections, the government's policy is to increase the number of staff as soon as possible.

- *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);*

Response: At the moment there are five nurses working at Bon Futuro Prison, allowing for a nursing presence 12 hours a day. Although Bon Futuro Prison has been able to employ two new nurses, two unfortunately resigned at the same time. Nonetheless, an on-call duty system ensures that a nurse can be present at any time if necessary. Nevertheless, the government is in the process of recruiting more nurses.

- *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);*

Response: As mentioned above, the government's policy is to achieve an increase in prison staff in the very near future.

- *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);*

Response: Injuries are consistently recorded on arrival at Bon Futuro Prison, particularly as concerns the medical conclusions associated with the injuries. However, weekend arrivals are not registered until Monday morning since the doctors do not normally work at the weekend.

- *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);*

Response: Efforts are being made to improve the situation concerning the attendance hours of social assistants in the FOBA at Bon Futuro Prison, although there is still of course room for improvement. FOBA inmates do participate in work and educational activities.

- *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);*

Response: The practice of placing inmates who do not require psychiatric treatment in the FOBA has been abolished.

- *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);*

Response: The authorities will consider modifying 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. As indicated above, this is the responsibility of the local Health and Medical Service.

- *the authorities are invited to ensure that the psychiatrists' availability at Pointe Blanche Prison is in accordance with the current arrangements (paragraph 59);*

Response: The availability of the psychiatrist at the Pointe Blanche Prison is in accordance with the current arrangements with the psychiatrists.

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).*

Response: Under the guidance of the Deputy Director in charge of security, CERT members are trained and instructed once a week in accordance with the WCC policies and procedures.

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).*

Response: Since 1 March 2003, “open” visits lasting 30 minutes have been allowed to all inmates at Bon Futuro Prison. A special team has been assigned this sole task. The Bon Futuro Prison authorities now also allow the visiting entitlement of inmates from other countries or islands whose families occasionally visit the island to be accumulated. Relatives are allowed to visit inmates on days other than the appointed visiting day. These visits may last more than the standard 30 minutes.

comments

- *all detentions should be covered by proper warrant orders, readily available in the prison where the person concerned is being held (paragraph 69);*

Response: At Bon Futuro Prison this is still a problem due to understaffing at the Prosecutor’s Office and at the Court of Justice, not because of the situation at the prison itself. Attempts are being made to remedy this situation.

- *the authorities are invited to increase their efforts to offer all interested prisoners the possibility to attend religious activities (paragraph 69);*

Response: At present prisoners who wish to do so may attend Catholic religious ceremonies. Given the limited presence of some religious groups, especially the non-conventional ones, it may not be possible for prisoners of those religions to attend religious activities.

- *the authorities are invited to remedy the unfavourable situation at Bon Futuro Prison as regards the availability of "open" visits (paragraph 70).*

Response: Since 1 March 2003, "open" visits lasting 30 minutes have been allowed to all inmates at Bon Futuro Prison. A special team has been assigned this sole task. The Bon Futuro Prison authorities now also allow the visiting entitlement of inmates from other countries or islands whose families occasionally visit the island to be accumulated. Relatives are allowed to visit inmates on days other than the appointed visiting day. These visits may last more than the standard 30 minutes

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).*

Response: The internal rules document drawn up by WCC has been translated into Dutch, Papiamento and Spanish. In the second quarter of 2003 prison staff will receive training on this subject and in the third quarter of this year all inmates will receive a copy of the internal rules. This will mark the start of the implementation of the Policies and Procedures as proposed by WCC and adopted by the government of the Netherlands Antilles.

