



CPT/Inf (98) 17 [Part 2]

**Response
of the Government of the Netherlands Antilles
to the report of the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)
on its visit to the Netherlands Antilles**

from 7 to 11 December 1997

The Netherlands Government has agreed to the publication of this response.

Strasbourg, 10 December 1998

**Response of the Government
of the Netherlands Antilles**

(transmitted by letter of 17 June 1998)

To: Mr I. Zakine
President of the European Committee
for the prevention of torture and inhuman
or degrading treatment or punishment

**Re: CPT report no. CPT/Inf (98) 17 of 12 March 1998:
prison/detention facilities on the Netherlands Antilles**

Dear Mr Zakine,

In reply to your letter of 19 March 1998, I enclose herewith the response of the Government of the Netherlands Antilles to the recommendations, remarks and questions in the CPT's report on the situation in Koraal Specht Prison, the cells at Rio Canario police station and the centre for immigration detainees.

1. Appendix, section A. Koraal Specht Prison

A. Preliminary remarks

In response to the Committee's request for information on concrete action taken with a view to implementing the project to reorganise the prison service, the Government would submit the following comments.

In view of the disturbances in the Prison in mid-1997 and early 1998, as well as the reports of the CPT, the Paula Commission and the Netherlands Antilles Parliamentary Committee, the project to reorganise the prison service and rebuild the prison has been restarted. The plan of approach (enclosed for your information) was presented to the ministers concerned in May 1998, and has now been approved by the Council of Ministers of the Netherlands Antilles. See the National Decree of 16 June 1998, no. 2 (3232/JAZ).

Under the plan of approach, different regimes will be re-introduced, with a minimum daily programme of activities for all prisoners (6 hours of activities per prisoner per week). Prison staff will be divided into three groups: one unit-based group for general duties, one non unit-based group for security, and one group for special duties, i.e. supervising non unit-based activities. A prisoner registration system will be set up to facilitate regime enforcement.

These regimes will be introduced in the next few months. As a first step, each unit now has its own permanent staff. In addition, a personnel policy is being developed which will provide for special job-related training and the assessment of individual staff members.

New prison regulations will be introduced to support these reforms. To this end, the Ministry of Justice is preparing a new National Ordinance on Prisons in the Netherlands Antilles. New Prison Regulations and Prison Rules have been drafted, and are being discussed by the parties involved. They will enter into force this year.

As far as plans to rebuild the prison are concerned, a new plan has been drawn up which no longer provides for the construction of a separate facility for young offenders, but for the extension and improvement of the existing prison. Building work will start this year, and is expected to take several years.

Once the work has been completed, the prison will provide accommodation for 700 prisoners, grouped into 10 units in cells for 1, 2, 3 and/or 4 persons. Each prisoner will have a minimum of 7m² floor space.

B. Ill-treatment

Recommendations

a. Preventing violence (paragraphs 9-14 and 17)

Measures have now been taken to prevent the use of violence against prisoners. After the disturbances of 1997, the prison's riot squad (*mobiele eenheid*) was on permanent standby for several months. The situation has now returned to normal, i.e. prison officers who are also members of the riot squad are now performing their ordinary duties. In the event of serious disturbances in the prison, the riot squad can be deployed to assist regular staff in maintaining order. However, the prison authorities will use this measure only as a last resort. The riot squad may only be deployed with the permission of the prison authorities and in accordance with guidelines drawn up on a case-by-case basis. The riot squad has not been deployed since December 1997. The prison authorities will devise a policy framework on riot squad deployment, which will be laid down by ministerial order.

The *Landsrecherche* is currently investigating the disturbances of December 1997, and it is expected to publish its findings shortly. The Committee will be kept informed.

The Government of the Netherlands Antilles fully endorses the Committee's observation that prisoners should be protected from other prisoners who wish to cause them harm. To this end, a separate unit is now being established for the detention of prisoners who pose a threat to other prisoners and/or constitute a high security risk. Prisoners who played a leading role in the disturbances of 1997 and early 1998 are now being held in this unit.

In addition, each unit now has its own permanent staff. With the introduction of different regimes in the prison and specific job-related training for prison officers the situation is expected to improve appreciably.

Staff deployment is also being reviewed to ensure coordination with the daily regimes of the various units. The relevant proposals will be submitted in August 1998.

The Ministry of Justice is currently preparing new instructions on the use of force by prison officers. These instructions will indicate when and under what conditions force may be used. They will also specify the use of truncheon and handcuffs. A procedure will be introduced for prison officers to report incidents involving the use of force to the prison authorities.

b. Strengthening management (paragraph 15)

The Government of the Netherlands Antilles endorses the need to strengthen prison management, and this will be accomplished in the near future. Instead of a single Director of Prisons, there will now be one director responsible for all detention facilities on the Netherlands Antilles, and another for the day-to-day running of Koraal Specht Prison. Procedures have now been started for the appointment of a governor for Koraal Specht. Management will also be strengthened with the assistance of personnel and financial specialists.

C. Conditions of detention

Recommendations

a. Measures to reduce overcrowding (paragraph 23)

In addition to earlier measures to reduce overcrowding (freedom train), some 50 prisoners of non-Dutch nationality who had served a considerable part of their sentences were recently released and deported. The prison population is now 450 (situation on 23 May 1998).

An agreement has recently been concluded with Venezuela which will make it possible for prisoners of Venezuelan origin to serve their sentences in their own country (Treaty Series 1996, no. 297). This agreement will enter into force throughout the Kingdom as of 1 July 1998. Efforts are now being made to establish whether similar agreements can be reached with other countries in the region. Negotiations are currently under way with Colombia.

The capacity of the semi-open unit will also be increased by 40 places for both adults and juvenile offenders. This extra capacity, which will be created to replace capacity in the secure units, will be available as of September 1998.

In the longer term, the Government has opted to build new extensions to the existing facility. Building work will start this year. 300 extra places will be created, and these will be used both to expand capacity and to reduce overcrowding. The prison will ultimately accommodate approximately 700 prisoners, in cells for one, two, three and four persons. The surface area of the cells will be in accordance with the Committee's recommendations in paragraph 95 of the 1994 report.

b. Improvements to the state of repair of the detention areas (paragraph 23)

Repair work was resumed in 1998. Priority is being given to repairing water pipes and the sanitary facilities. Leaks and drains have now been repaired, and steps are being taken to increase the water pressure. The damage caused during the recent disturbances is also being repaired.

c. Facilities for prisoners (paragraph 23)

Every prisoner now has a mattress. Chairs will be purchased in the near future.

d. Changes to the regime (paragraph 23)

As mentioned above (IA), the reorganisation process was recently resumed. The plan of approach provides for separate facilities for women, adult males and juvenile male offenders. The following facilities will be created:

- a women's unit
- a remand centre for juvenile males
- a remand centre for adult males
- a prison for long-term prisoners
- a prison for juvenile males
- a semi-open unit for convicted adult males
- a semi-open unit for convicted juvenile males
- a forensic observation and supervision unit
- a unit with a restricted regime for prisoners who pose a high security risk or a threat to other prisoners.

A minimum programme of activities will be provided. All prisoners, except those on a restricted regime, will be able to participate in activities for at least six hours a week. More opportunities will be created for them to do paid work.

Further details will be worked out in the draft Prison Regulations and Prison Rules referred to above.

D. Health care services

Recommendations

a. Enlargement of the medical staff (paragraph 28)

In response to the Committee's recommendation that the medical staff be enlarged to ensure the equivalent of one full-time doctor for every 500 prisoners, the Ministry of Justice is negotiating with the two part-time prison doctors to arrange the schedule in such a way that a doctor is always on duty during the day, and on call at other times.

The prison doctors will also increase their consulting hours. Since the early part of this year (1998) well-balanced meals are provided on a daily basis, while dietary meals are only provided for on request.

b. Qualified nurses (paragraph 29)

In the short term, approximately 4 qualified nurses from the Municipal Health Services will be assigned to the prison, to ensure that at least one registered nurse is on duty around the clock.

c. Medical records (paragraph 33)

The Director of Prisons of the Netherlands Antilles is consulting with the medical staff of Koraal Specht to set up a registration and reporting system which will contain information on the points referred to by the Committee.

d. Role of the medical staff with regard to health care (paragraph 35)

The Prison's medical staff will play a central role, for which they will gain the necessary powers, in matters relating to both health (consultations, check-ups, placement in punishment cells, etc.), and hygiene (hygiene measures, advice on clothing etc.). Further details will be set out in the draft Prison Regulations and Prison Rules.

E. Other issues related to the CPT's mandate

Recommendations

a. Outdoor exercise (paragraph 36)

Prisoners in all units except punishment cells may take at least one hour's outdoor exercise every day.

b. Sanctions procedure (paragraph 37)

The disciplinary procedure applicable to prisoners and scope to lodge complaints against sanctions are outlined in the aforementioned National Ordinance on Prisons. The governor of a facility is authorised to impose sanctions on any prisoner breaking the rules of conduct (to be specified in the Prison Regulations referred to above), i.e. he may suspend the rights to which the prisoner is normally entitled. The prisoner may lodge a complaint against such sanctions with a Complaints Committee, which comprises members of the Supervisory Committee (see under f below). The decision of the Complaints Committee is binding. In special cases, the Committee may grant the prisoner compensation.

c. Changes to the regime for punishment cells (exercise and reading matter), improvements to punishment cells (paragraphs 36 and 37).

Once the new building and conversions are completed, the current punishment cells will be taken out of service, and new facilities created in another part of the prison to meet the Committee's requirements with regard to exercise.

As a temporary solution, one of the punishment cells will shortly be converted into an exercise area for prisoners in punishment cells. It should be noted that the draft Prison Regulations specify that the prison doctor must examine prisoners as soon as possible after they have been placed in the punishment cell. The doctor's opinion will weigh heavily in deciding whether a prisoner may be held in such a cell.

d. Visiting arrangements (paragraph 38)

The Government of the Netherlands Antilles endorses the view expressed by the Committee that more open arrangements should be established for ordinary visits. However, it must be possible to search visitors and prisoners both before and after the visit for contraband goods. This is not possible at present. Appropriate conditions will be created once the new building and conversions are completed. The draft Prison Regulations and Prison Rules will include comprehensive guidelines, complete with the necessary safeguards, governing visits from and correspondence with family members, lawyers and social workers etc.

e. Improvements to the kitchen (paragraph 39)

The Government of the Netherlands Antilles agrees that hygiene in the kitchens needs improving. New kitchen equipment has been ordered, which will be installed in the old kitchen for the time being. A new kitchen will be built in the first stage of the new building project (1998/1999).

f. Independent supervisory committee (paragraph 40)

The Government of the Netherlands Antilles agrees entirely that an independent committee is needed to supervise prisons. Indeed, such a committee already exists. The current chairman is a member of the Joint Court of Justice of the Netherlands Antilles and Aruba. The National Ordinance on Prisons and the draft Prison Regulations will contain far more details on the committee's powers (e.g. the right to inspect documents, conduct on-the-spot investigations and question the parties concerned), and will provide for the establishment of a permanent secretariat. As is the case at present, only people who have no direct links with the prisons service will be appointed to the committee. As mentioned above, the supervisory committee will also act as Complaints Committee.

Request for information

a. Ombudsman (paragraph 40)

The ombudsman's tasks are laid down in the National Ordinance on Prisons, and will be elaborated in the draft Prison Regulations. Each month, the supervisory committee will designate one of its members to hold a weekly consultation hour for prisoners, conduct inquiries, if necessary on their own initiative, interview the parties and submit recommendations. The prison governor will be required to submit regular reports on follow-up to such recommendations.

The supervisory committee will also be required to submit an annual report on its activities and findings, including those of the Complaints Committee and its designated members, to the Minister of Justice of the Netherlands Antilles and, through the Minister, to Parliament.

b. Armed prison officers (paragraph 41)

As mentioned above, the new prison regulations will be accompanied by new instructions on the use of force by prison officers. Of course, these should be in line with the European Prison Rules referred to by the Committee. However, account should be taken of the specific circumstances as well as developments in Koraal Specht Prison. During the reorganisation, inquiries will be conducted into the need for prison officers to carry firearms. The Committee will be kept informed.

II. Appendix, section B, Police establishments

B. Ill-treatment

Recommendations

a. Regular monitoring of treatment of prisoners and use of force (paragraph 35)

The Netherlands Antilles police are issued with adequate instructions on the use of force, and attention is devoted to the matter during training. Nonetheless, the Government of the Netherlands Antilles endorses the views of the Committee that long-serving police officers may forget what they learned in training. The Minister of Justice of the Netherlands Antilles has therefore requested senior police officers to devote regular attention to this problem during briefing sessions.

The Public Prosecutions Service will not hesitate to instruct the *Landsrecherche* to investigate police conduct, either at the request of the police force itself or in response to complaints lodged, for example, by the Complaints Committee, and, where necessary, to prosecute offenders.

Request for information

a. Inquiries into incidents at the Criminal Investigation Department at Rio Canario (paragraph 44)

The detainee in question informed the public prosecutor that she does not wish to lodge a complaint about the incident. As a result, the Public Prosecutions Service ultimately decided not to instruct the *Landsrecherche* to conduct an inquiry. However, in confirmation of orders issued verbally, the Police Commissioner for Curaçao issued an order explicitly banning the use of such objects on detainees (see appendix).

b. Complaints about police misconduct in 1995, 1996 and 1997 (paragraph 46)

With regard to complaints about police misconduct in the 1995-1997 period, reference is made to the letter of the Complaints Committee on acts performed by police officers, which is enclosed as appendix 2. On the instructions of the Public Prosecutions Service, the investigations department of the Curaçao force recently conducted inquiries into the treatment of detainees at Rio Canario police station. The investigators concluded that in some cases police officers had taken firm action, but that they had not infringed the rules on the use of force. The Public Prosecutions Service therefore decided not to prosecute.

c. Effectiveness of the *Landsrecherche* (paragraph 46)

The *Landsrecherche* has been operational since mid-1996. Its effectiveness depends, however, on the availability of both staff and funds, and these are in short supply. Consultations are under way with various bodies, including the National Investigations Department, with a view to expanding capacity. Priorities have to be established, and attention has recently focused on investigating the disturbances at Koraal Specht Prison in December 1997.

The Procurator-General is now drawing up criteria to identify the situations in which the *Landsrecherche* may be deployed.

B. Conditions of detention; recommendations/comments

a. The police detention facility at Rio Canario (paragraphs 50, 51 & 52)

The repairs and maintenance work recommended by the Committee have now been completed. The Commissioner of Police for Curaçao has also been requested to act in accordance with the Committee's recommendations when detaining suspects in the police cells and the cells of the Criminal Investigation Department. In view of the financial situation of the Netherlands Antilles, capacity will not be expanded for the time being.

C. Safeguards against ill-treatment

Recommendations

a. Information sheet for detained suspects (paragraph 55)

The information sheet is being adapted in accordance with the Committee's recommendations.

Comments

a. Questioning of suspects (paragraph 56)

The Commissioner of Police for Curaçao has been asked to act in accordance with the Committee's recommendations when questioning suspects. However, if, for example, several suspects have to be questioned at the same time, this may be impossible.

Request for information

a. Legal status of the guidelines on the treatment of detainees (paragraph 54)

The instructions on the treatment of detained persons and the use of cells are based on a number of regulations. Those concerning police officers and detention at police stations are based on the Police Regulations. In accordance with article 4, authority over the police is vested in the Minister of Justice of the Netherlands Antilles, unless otherwise specified by or pursuant to the provisions of a country ordinance; (under article 6, the Procurator-General is the competent authority with regard to police responsibilities in the field of criminal justice; for matters relating to public order article 5 specifies that the competent authority is the local chief of police/ police commander). In accordance with article 5, the local chief of police (police commander) is responsible for ensuring that the police comply with instructions. The instructions referred to by the Committee are laid down by ministerial order, in accordance with article 4.

The provisions applicable to persons detained in a remand centre or prison are contained in the National Ordinance of 6 October 1930 designating institutions as prisons or remand centres, and establishing the prison service (Official Bulletin of the Netherlands Antilles, 1930, no. 73), the National Decree of 6 February 1931, referred to in article 26 of the Criminal Code of the Netherlands Antilles (Official Bulletin of the Netherlands Antilles, 1958 no. 18) and the Disciplinary Regulations for the Prison and remand centres (Official Bulletin of the Netherlands Antilles, 1958, no. 19). These regulations will be replaced in the course of 1998 by the National Ordinance on Prisons and the regulations implementing it.

Violations of these and other regulations may constitute a disciplinary offence. The competent authority (the Government of the Netherlands Antilles) may decide to initiate a disciplinary procedure on the basis of the National Ordinance on the law governing public service. Penalties may take the form of a reprimand, financial sanction or dismissal.

III. Appendix, section C, Immigration detainees

Recommendations

a. Regime for immigration detainees (paragraph 59)

The Government of the Netherlands Antilles endorses the need to alter the regime for immigration detainees to ensure that they can take at least one hour's outdoor exercise a day and participate in other activities. Opportunities to carry out this recommendation will be investigated as part of the reorganisation project. The Government will decide in the matter on the basis of the recommendations the project team will be submitting shortly to the Minister of Justice of the Netherlands Antilles.

b. Information on procedures (paragraph 60)

The Immigration Service has been requested to issue an information sheet in accordance with the Committee's recommendations.

I hope I have supplied the information you need.