

EXECUTIVE SUMMARY

The Netherlands Antilles ceased to exist on 10 October 2010, when Curaçao and Sint Maarten acquired the status of countries within the Kingdom, alongside the Netherlands and Aruba. The three other islands, Bonaire, Sint Eustatius and Saba became part of the Netherlands with the equivalent status of a municipality. Collectively, the six islands are now known as the Caribbean part of the Kingdom of the Netherlands.

The CPT's delegation visited Bonaire, Aruba, Curaçao and Sint Maarten. It examined the treatment of inmates and the conditions of detention in the prison establishments located on each of the four islands visited. It also focussed on the situation of persons deprived of their liberty by the police. In addition, on Aruba and Curaçao, the delegation looked at the treatment of involuntary patients placed in psychiatric facilities and of irregular migrants in immigration detention centres. The situation of juveniles deprived of their liberty was also examined.

The delegation received very good co-operation from the relevant authorities during the visit. Nevertheless, the principle of cooperation also requires that decisive action be taken to improve the situation in the light of the CPT's key recommendations, and the findings of the 2014 visit suggest that while progress could be identified on a number of issues, continued efforts are needed to ensure full implementation of all its recommendations.

Policing

No allegations of ill-treatment by police officers of arrested persons were received in Bonaire. However, in Aruba, Curaçao and Sint Maarten some allegations of ill-treatment of persons, including of juveniles, were received, which usually consisted of kicks and punches to the body after the person had been handcuffed and brought under control. The authorities should regularly remind police officers to use no more force than is strictly necessary and that ill-treatment will be punished accordingly. Further, the duration of remand detention on police premises, which may last up to 10 days, should be reduced to the shortest amount of time possible. As regards more specifically Curaçao, full authority for the care of police detainees placed in Block 1 of the Centre for Detention and Correction in Curaçao (SDKK) should be transferred to the prison authorities.

In relation to safeguards against ill-treatment by police officers, most detained persons interviewed only met with their lawyer for the first time when appearing before a judge, which could be up to three days and 16 hours after the initial arrest. Steps should be taken to guarantee the right of access to a lawyer in practice, including during any police interview, as from the very outset of deprivation of liberty. Further, steps should be taken to guarantee that all detained persons are able to notify a third party of their deprivation of liberty and receive feedback from police officers when such notification has been carried out by the police.

Material conditions were poor in many of the police stations visited as well as in Block 1 at SDKK. In Aruba, the CPT's delegation had been informed that San Nicolas Police Station was not used for overnight detention which turned out to be incorrect. Persons were being detained for several days in this station, including a 15-year old boy who spent ten days in conditions that could be considered as amounting to inhuman and degrading treatment. The CPT recommends that the detention cells at San Nicolas Police Station be taken out of use until such time as they have been fully refurbished and the sewage problems properly resolved. More generally, juveniles should not be held overnight in police stations. Further, in Aruba and Curaçao, the current practice of keeping detained persons, deemed to be at risk of suicide, naked in their cells should be ended; instead, such persons should be the subject of a specific care protocol.

In Sint Maarten, urgent measures should be taken to improve conditions at Philipsburg Police Station, and steps taken to ensure that persons are not detained in excess of three days and in any event never longer than 10 days at this station. In Curaçao, two persons had been held in police stations for some eight months in conditions akin to solitary confinement; every effort should be made to find alternative solutions to long-term detention at police stations.

Prisons

The CPT's delegation found that the Dutch Caribbean Correctional Institution (JICN) in Bonaire was well-managed and provided a safe environment with good staff-prisoner relations. Some progress had been made at the three other prisons visited compared to previous visits. However, at the Correctional Institution in Aruba (KIA), SDKK and Point Blanche Prison in Sint Maarten, a number of allegations of ill-treatment of prisoners by staff were received and a clear message should be delivered to prison officers that all forms of ill-treatment, including verbal abuse, are not acceptable and will be punished accordingly. Further, inter-prisoner violence continued to represent a serious threat to prisoners' safety in these three prisons. The prison management in each of these establishments should develop a strategy to address the challenge of inter-prisoner violence, including adequate monitoring of the situation and identification of risks.

As regards material conditions, they were generally very poor at KIA and in several blocks of SDKK, with crumbling walls, dilapidated accommodation areas, leaking pipes and serious sewage problems. Urgent action to improve conditions in the vulnerable persons' unit (IBA) and the segregation unit at KIA and in Block 1 of SDDK is recommended. The CPT raises several concerns with regard to the extensive expansion works at Pointe Blanche Prison and recommends that a coherent strategy to combat overcrowding be put in place, which includes alternative sanctions, conditional release and reduced use of remand custody. Similar proposals are put forward in relation to Bonaire where a new much larger prison facility is being built. More needs to be done in all the prisons visited to ensure prisoners, male and female, are engaged in purposeful activities of a varied nature. As regards contact with the outside world, the CPT recommends that prisoners be granted a minimum of one visit of one hour per week and that inmates be able to receive visits without physical separation in the absence of specific security concerns. Prisoners who are visited infrequently, notably foreign nationals, should be allowed to accumulate visiting time and be granted increased access to the telephone.

With the exception of JICN Bonaire, high levels of staff absenteeism were noted which affected staffing ratios and also led to excessive overtime worked by some prison officers. In order to improve relations between prisoners and staff and increase staff motivation, the reasons for the high levels of absenteeism should be tackled and the capacity and role of prison officers further developed. Further, there is a need to recruit additional staff. The CPT also recommends that in the event of a strike by staff, an agreement guaranteeing a minimum service for inmates should be in place. More generally, the delegation observed gaps in the documentation held by the prison administration, particularly at SDKK. For example, personal custody records were incomplete and no registers were kept with regard to incidents, complaints, use of force and means of restraint.

As regards discipline and segregation, procedural safeguards for prisoners suspected of having committed a disciplinary offence should be strengthened and solitary confinement as a disciplinary punishment should not exceed 14 days. The disciplinary unit of KIA was found to be unfit for holding human beings and, while acknowledging the steps taken by the Aruban authorities to improve the cleanliness and hygiene in this unit, the CPT considers that further action is still required before these cells are adequate for accommodating prisoners. The situation of prisoners segregated for their own protection, notably in Curaçao, should be improved and a specific policy for managing these persons should be drawn up.

The health-care services at KIA and SDKK prisons suffered from financial insecurity, resulting in delays or no access to external specialist care and laboratory testing. Further, at SDKK the situation was more critical as health-care staff and pharmacy bills had not been paid for many months. The provision of health-care services in KIA, SDKK and Pointe Blanche Prisons should be reviewed: medical screening upon admission was generally inadequate, the recording of injuries poor and medical confidentiality not fully respected.

The forensic psychiatric support unit (FOBA) at SDKK offered good material conditions and a positive atmosphere. By contrast, a similar unit at KIA (IBA) offered poor conditions and provided minimal psychological and psychiatric treatment. These units cannot be considered as proper psychiatric institutions appropriate for offenders who have been ordered to undergo psychiatric treatment. Indeed, in all four prisons, the delegation encountered prisoners who were in need of improved mental health care or even placement in a hospital.

Foreign nationals held under aliens legislation

Targeted visits were carried out to the immigration detention facilities of Centro Dakota in Aruba and of Illegalen Barakken in Curaçao. Material conditions could generally be considered as adequate. However, the regime at Illegalen Barakken was particularly restrictive and in both facilities there was a lack of purposeful activities offered to persons held longer than a few days. Further, staff at both facilities had not received any specific training on working with irregular migrants and safeguards, such as a medical screening upon arrival and receiving information in a language an immigration detainee understands, were lacking. Appropriate regulations for the detention of irregular migrants, including the introduction of an effective legal remedy entailing legal assistance, should be developed and adopted.

Juveniles

The situation for young persons at JICN was largely positive; staff were trained to work with juveniles and treated them in a correct and respectful manner, and several programmes were in place to provide meaningful activities for the young prisoners. Nevertheless, care should be taken not to place juveniles with young adults. By contrast, at KIA, the conditions of detention and activities in place for juveniles were not conducive to developing a supportive environment to assist their educational development and the enhancement of their social skills. Moreover, the situation of juveniles held on remand at Philipsburg Police Station in Sint Maarten was totally inappropriate and the CPT trusts that the new 20-place juvenile detention unit will provide suitable alternative arrangements.

At the time of the visit, the closed department of the Judicial Youth Institute of Curaçao (JJIC) was in a very poor state of repair and offered extremely limited purposeful activities. Further, the report is critical of the placement of juveniles in solitary confinement for disciplinary purposes and the lack of safeguards surrounding disciplinary sanctions. The CPT welcomes the subsequent closing down of this unit and the opening of the new Incastraat unit with eight single-occupancy rooms and looks forward to receiving further information on its functioning.

Psychiatric establishments

The CPT's delegation also undertook targeted visits to the psychiatric department (PAAZ) at Dr Horacio Oduber Hospital in Aruba and Klínika Capriles in Curaçao with a focus on involuntarily placed patients. Both facilities were considered to be caring, well-run and supportive, therapeutic establishments. The conditions at PAAZ were generally good whereas the building housing the closed Pico Plata unit at Klínika Capriles was in a state of disrepair and decay.

The procedures regulating involuntary placement at both facilities need to be strengthened, in order to ensure independence, impartiality, and objective medical expertise. Patients should have a right to be heard and be entitled to legal assistance during such procedures as well as a right to appeal any placement decisions. Further, safeguards during placement should be improved, particularly with regard to forced treatment and the possibility to address complaints to an independent external monitoring body. The provision of a patient's rights brochure to all patients at Klínika Capriles was considered a positive practice. More generally, as neither facility was equipped to accept dangerous forensic psychiatric patients and prison is not a suitable environment for them, the authorities are requested to provide information on where such patients can be treated.