



CPT/Inf (93) 15

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

**from 30 August to 8 September 1992**

The Dutch Government has published this report.

Strasbourg, 15 July 1993

**TABLE OF CONTENTS**

	<b>Page</b>
Copy of the letter transmitting the CPT's report.....	5
Preface .....	6
<b>I. INTRODUCTION.....</b>	<b>8</b>
<b>A. Dates of the visit and membership of the delegation .....</b>	<b>8</b>
<b>B. Establishments visited.....</b>	<b>9</b>
<b>C. Consultations held by the delegation.....</b>	<b>9</b>
<b>D. Co-operation between the CPT and the Dutch authorities .....</b>	<b>10</b>
<b>II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED .....</b>	<b>11</b>
<b>A. National and Municipal Police establishments.....</b>	<b>12</b>
1. General information.....	12
2. Torture and other forms of ill-treatment.....	13
3. Conditions of detention in police establishments .....	14
a. introduction .....	14
b. legal basis .....	14
c. situation in the police establishments visited .....	15
4. Safeguards against ill-treatment of detainees .....	18
a. notification of custody.....	18
b. access to a lawyer.....	19
c. access to a doctor .....	20
d. information on rights.....	21
e. conduct of police interviews .....	22
f. custody registers.....	22
g. monitoring of places of detention .....	23
h. complaints procedures.....	23

<b>B. Prisons and Youth Detention Centres.....</b>	<b>24</b>
1. General information.....	24
2. Torture and other forms of ill-treatment.....	24
3. Special detention units.....	26
a. introduction .....	26
b. reinforced security unit (EBI) in De Schie Prison .....	27
i. <i>material conditions of detention</i> .....	27
ii. <i>regime</i> .....	27
iii. <i>staff-inmate relations</i> .....	28
c. unit 4 of Demersluis Prison.....	29
i. <i>material conditions of detention</i> .....	29
ii. <i>regime</i> .....	29
iii. <i>staff-inmate relations</i> .....	30
d. evaluation of the special detention units visited .....	31
e. administrative safeguards.....	34
4. Conditions of detention in general.....	35
a. De Singel Prison.....	35
i. <i>material conditions of detention</i> .....	35
ii. <i>regime</i> .....	35
b. De Schie Prison .....	36
i. <i>material conditions of detention</i> .....	36
ii. <i>regime</i> .....	36
c. Alexandra Youth Detention Centre.....	37
i. <i>material conditions of detention</i> .....	37
ii. <i>regime</i> .....	37
iii. <i>other issues</i> .....	37
d. Het Nieuwe Lloyd Youth Detention Centre.....	38
i. <i>material conditions of detention</i> .....	38
ii. <i>regime</i> .....	38

5.	Medical services in the establishments visited .....	39
a.	introduction .....	39
b.	general medical care.....	39
c.	mother and child units .....	40
d.	HIV related issues .....	40
e.	psychiatric care.....	41
i.	<i>Het Veer Prison</i> .....	41
ii.	<i>other establishments visited</i> .....	41
6.	Other issue of relevance to the CPT's mandate .....	43
a.	outdoor exercise .....	43
b.	contact with the outside world .....	43
c.	solitary confinement.....	44
d.	discipline .....	45
e.	grievance and inspection procedures .....	45
<b>C.</b>	<b>The Grenshospitium .....</b>	<b>47</b>
1.	General information.....	47
2.	Torture and other forms of ill-treatment.....	47
3.	Material conditions of detention and regime .....	48
4.	Information provided to detainees .....	48
5.	Return to a country where there is a risk of ill-treatment .....	49
<b>III.</b>	<b>RECAPITULATION AND CONCLUSIONS .....</b>	<b>50</b>
<b>A.</b>	<b>National and Municipal Police establishments.....</b>	<b>50</b>
<b>B.</b>	<b>Prisons and Youth Detention Centres.....</b>	<b>51</b>
<b>C.</b>	<b>The Grenshospitium .....</b>	<b>52</b>
<b>D.</b>	<b>Action on the CPT's recommendations, comments and requests for information .....</b>	<b>53</b>
<b>APPENDIX I:</b>		
	SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION .....	54
<b>APPENDIX II:</b>		
	LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE DELEGATION HELD CONSULTATIONS .....	62

Copy of the letter transmitting the CPT's report

Strasbourg, 11 June 1993

Dear Mr van Banning,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Dutch Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to the Netherlands from 30 August to 8 September 1992. The report was adopted by consensus by the CPT at its seventeenth meeting, held from 24 to 27 May 1993.

I would draw your attention in particular to paragraph 168 of the report, in which the CPT requests the Dutch authorities to provide an interim and a follow-up report on action taken upon its report. The CPT would be most grateful if it were possible, in the event of the reports forwarded being in Dutch, for them to be accompanied by an English or French translation.

More generally, the CPT is keen to establish an ongoing dialogue with the Dutch authorities on matters of mutual interest, in the spirit of the principle of co-operation set out in Article 3 of the Convention. Consequently, any other communication that the Dutch authorities might wish to make would also be most welcome.

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

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

Yours sincerely,

Antonio CASSESE  
President of the European Committee for  
the prevention of torture and inhuman  
or degrading treatment or punishment

Mr Th. R.G. VAN BANNING  
Deputy Human Rights Co-ordinator  
Ministry of Foreign Affairs (DGIS/CM)  
P.O. Box 20061  
NL - 2500 EB THE HAGUE

## Preface

As the European Committee for the prevention of torture and inhuman or degrading treatment or punishment is a new institution, knowledge of its mandate and functions is inevitably limited. The CPT has therefore deemed it appropriate to begin the first of its reports to each Party by setting out some of the Committee's salient features. This should prove particularly helpful in differentiating the basis and aims of the CPT from those of two other Council of Europe supervisory bodies within the field of human rights: the European Commission and European Court of Human Rights.

Unlike the Commission and the Court, the CPT is not a judicial body empowered to settle legal disputes concerning alleged violations of treaty obligations (i.e. to determine claims *ex post facto*).

The CPT is first and foremost a mechanism designed to **prevent ill-treatment from occurring**, although it may also in special cases intervene after the event.

Consequently, whereas the Commission's and Court's activities aim at "conflict solution" on the legal level, the CPT's activities aim at "conflict avoidance" on the practical level.

This being so, the guiding maxim for the CPT when performing its obligations must be to "extend the widest possible protection against abuses, whether physical or mental" (quotation from the 1979 UN Code of conduct for law enforcement officials as well as from the 1988 Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, both adopted by the General Assembly).

The CPT's activities are based on the concept of co-operation (Article 3 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment). The CPT's task is not to publicly criticise States, but rather to assist them in finding ways to strengthen the "cordon sanitaire" that separates acceptable and unacceptable treatment or behaviour. In fulfilling this task the CPT is guided by the following three principles:

- i) that the prohibition of ill-treatment of persons deprived of their liberty is absolute,
- ii) that ill-treatment is repugnant to the principles of civilised conduct, even if used in milder forms, and
- iii) that ill-treatment is not only harmful to the victim but also degrading for the official who inflicts or authorises it and ultimately harmful to the national authorities in general.

The CPT first of all explores the prevailing factual situation in the countries it visits. In particular it:

- i) examines the general conditions in establishments visited;
- ii) observes the attitude of law enforcement officials and other staff towards persons deprived of their liberty;
- iii) interviews persons deprived of their liberty in order to understand how they perceive i) and ii) and hear any specific grievances they may have;
- iv) examines the legal and administrative framework on which the deprivation of liberty is based.

Subsequently, the CPT reports to the State concerned, giving its assessment of all the information gathered and providing its observations. In this regard, it should be recalled that the CPT does not have the power to confront persons expressing opposing views or to take evidence under oath. If necessary, it recommends measures designed to prevent the possible occurrence of treatment that is contrary to what reasonably could be considered as acceptable standards for dealing with persons deprived of their liberty.

In carrying out its functions, the CPT has the right to avail itself of legal standards contained in not only the European Convention on Human Rights but also in a number of other relevant human rights instruments (and the interpretation of them by the human rights organs concerned). At the same time, it is not bound by the case law of judicial or quasi-judicial bodies acting in the same field, but may use it as a point of departure or reference when assessing the treatment of persons deprived of their liberty in individual countries.

To sum up, the principal differences between the CPT and the European Commission and European Court of Human Rights are:

- i) the Commission and the Court have as their primary goal ascertaining whether breaches of the European Convention of Human Rights have occurred. By contrast, the CPT's task is to prevent abuses, whether physical or mental, of persons deprived of their liberty from occurring; it has its eyes on the future rather than the past;
- ii) the Commission and Court have substantive treaty provisions to apply and interpret. The CPT is not bound by substantive treaty provisions, although it may refer to a number of treaties, other international instruments and the case law formulated thereunder;
- iii) given the nature of their functions, the Commission and the Court consist of lawyers specialising in the field of human rights. The CPT consists not only of such lawyers but also of medical doctors, experts in penitentiary questions, criminologists, etc;
- iv) the Commission and Court only intervene after having been petitioned through applications from individuals or States. The CPT intervenes ex officio through periodic or ad hoc visits;
- v) the activities of the Commission and Court culminate in a legally binding finding as to whether a State has breached its obligations under a treaty. The CPT's findings result in a report and, if necessary, recommendations and other advice, on the basis of which a dialogue can develop; in the event of a State failing to comply with the CPT's recommendations, the CPT may issue a public statement on the matter.

## I. INTRODUCTION

### A. Dates of the visit and membership of the delegation

1. In accordance with Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter "the Convention"), a delegation of the CPT carried out a visit to the Netherlands from 30 August to 8 September 1992. The visit formed part of the CPT's programme of periodic visits for 1992.

2. The delegation consisted of the following members of the CPT:

- Mr Petros MICHAELIDES (Head of delegation)
- Mr Constantin ECONOMIDES
- Mr Günther KAISER
- Mrs Pirkko LAHTI
- Mr Michael MELLETT.

It was assisted by:

- Mr Fernand GOFFIOUL, Neuropsychiatrist, Senior lecturer (Maître de conférences) at the University of Liège (expert)
- Dr Catherine HAYES, General Practitioner, Secretary to the North Dublin Faculty of the Irish College of General Practitioners (expert)
- Mr Lucas DE CRITS (interpreter)
- Mrs Esther HUHNS (interpreter)
- Mrs Wilhelmina VISSER (interpreter).

The delegation was also accompanied by the following members of the Secretariat of the CPT:

- Mr Fabrice KELLENS
- Mr Mark KELLY.



**B. Establishments visited**

3. The delegation visited the following places of detention:

Almelo

- Alexandra Youth Detention Centre
- Headquarters of the Municipal Police

Amsterdam

- Over-Amstel Prisons (Demersluis, De Singel, Het Veer)
- Headquarters and 1st, 2nd and 4th district stations of the Municipal Police
- Het Nieuwe Lloyd Youth Detention Centre
- Grenshospitium Holding Centre for Asylum Seekers and Illegal Immigrants

Rotterdam

- De Schie Prison
- 5th district station of the Municipal Police

Volendam

- National Police Station.

**C. Consultations held by the delegation**

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

A list of the authorities and organisations with which the delegation held talks is set out in Appendix II to this report.

**D. Co-operation between the CPT and the Dutch authorities**

5. The talks with the national authorities, both at the beginning and at the end of the visit, took place in a spirit of close co-operation. Fruitful discussions were held with the Minister for Foreign Affairs and the Secretary of State for Justice, with numerous senior officials of the ministries concerned (Foreign Affairs, Justice, Interior) and with the Deputy National Ombudsman.

The delegation wishes to express its appreciation for the considerable assistance provided by Mr van Banning, Deputy Human Rights Co-ordinator at the Ministry for Foreign Affairs, not only during but also before and after the CPT's visit to the Netherlands.

6. With two exceptions, the delegation received a very satisfactory reception from both management and staff in all the places of detention visited, including those which had not been notified in advance. It found that management and junior staff were aware of the possibility of a CPT visit and had at least some knowledge of the Committee's terms of reference.

Particular reference should be made to the delegation's visit to De Schie Prison in Rotterdam, which began immediately after the escape from the prison's reinforced security unit (EBI) of four prisoners, who took hostages among the staff. Despite the inevitable tensions and difficulties which such an incident creates in a prison environment, the delegation's visit was marked by an atmosphere of willing co-operation from both management and staff.

7. The two exceptions mentioned above concerned the Headquarters of the Municipal Police in Almelo and Demersluis Prison, one of the Over-Amstel prisons in Amsterdam.

8. When the delegation visited the Headquarters of the Municipal Police in Almelo, at night, several Kurdish detainees had been detained there for three days. According to the police officer with whom the delegation spoke, contact with the detainees could not be allowed without the permission of the public prosecutor concerned because of the detainees' nationality and the reasons for their detention. The police officer contacted the public prosecutor, who refused to authorise access to the detainees and also refused to meet the delegation. She said that she had not been informed of the possibility of a CPT visit or of the Committee's terms of reference.

In the interests of co-operation, the delegation decided to withdraw, contact the appropriate Netherlands liaison official and return on the following day. The second visit took place without incident. In particular, the delegation was able to have free access to the detainees concerned.

Despite the positive outcome of the visit to Almelo, **it must be stressed that such delayed access to detainees is clearly in breach of Article 8 of the Convention.**

9. Difficulties of a more serious nature arose during the visit to Demersluis Prison. It was clear from the very start of the visit to this prison that the Director - unlike his colleagues in the other prisons in the Over-Amstel complex - had not informed his staff or the prison doctor of the nature and aims of the CPT's visit. As a result, the delegation was unable to rely on the co-operation of the staff during the visit. The chief barriers to co-operation were the continually obstructive attitude of the staff of unit ("Paviljoen") 4 and difficulties encountered in respect of the prison's medical service.

In unit 4 (which held inter alia detainees considered by the prison authorities to present extreme control problems), the task of the delegation's sub-group responsible for interviewing prisoners and examining conditions of detention was made more difficult by the staff's obvious unwillingness to be available at times fixed in advance. Despite repeated requests to the Director of the prison and the Head of the unit concerned, no appreciable improvements occurred over three days. The delays experienced impeded the sub-group from carrying out its scheduled visit to other units of the prison.

Similarly, the medical experts accompanying the delegation were unable to meet the prison doctor or consult detainees' medical files for three days because none of the medical staff had been informed of the Committee's mandate. The steps taken by the delegation to resolve the problem by contacting the Prison Administration Health Inspector proved fruitless. Finally, only a few hours before leaving the Over-Amstel complex, the delegation was able to consult some medical files (in the presence of the prison doctor and subject to the informed and written consent of the prisoners concerned).

**Such impediments represent a serious breach of the principle of co-operation laid down in Article 3 of the Convention.**

10. More generally, the difficulties which the delegation encountered highlight **the need for State Parties to disseminate to all the relevant authorities, at the appropriate time, detailed information on the CPT's mandate and the obligations of the authorities concerned.**

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

### A. National and Municipal Police establishments

#### 1. General information

11. The delegation visited a National Police ("Rijkspolitie") establishment and several Municipal Police ("Gemeente Politie") establishments (see paragraph 3). It did not visit any establishments of the Gendarmerie ("Koninklijke Marechaussee").

12. In the Netherlands anyone apprehended in flagrante delicto (Section 53 of the Code of Criminal Procedure - CCP) or suspected of committing one of a class of offences in respect of which pre-trial detention may apply (Section 54 of the CCP) may be **held by the police for no more than six hours for interrogation**<sup>1</sup>. After that period the person held may be placed in police custody.

13. **Police custody** ("de inverzekeringstelling") is a detention measure provided for by Section 57 of the CCP. It is decided by the Crown Counsel ("Officier van Justitie") or his deputy ("Hulpofficier van Justitie") in the interests of the judicial investigation and specifies the place where the person will be held in custody. This measure may be taken only after the suspect has been questioned by the Crown Counsel or his deputy, and only in respect of an offence subject to pre-trial detention (Section 58 of the CCP). It must end as soon as the interests of the investigation permit. Police custody may last up to **two days**. It may be extended by **no more than two days**, by decision of the Crown Counsel, in cases of urgency.

14. Persons held for interrogation and in police custody are detained in police establishments. All detention measures subsequently decided by the judicial authorities are normally executed in remand prisons. It is nevertheless a common occurrence in the Netherlands for persons on remand to remain in police establishments for several days, because of lack of space in remand prisons.

15. Reference should also be made to the Aliens Act, which provides that a person may be held for six hours as part of the procedure for establishing his identity. This period may be extended by no more than 48 hours by the chief of the local police if it is presumed that the person is unlawfully residing in the country (Section 19 of the Aliens Act). The person is held in the same establishments as those in which police custody takes place (Section 74 of the Decree on Aliens).

---

<sup>1</sup> It should be noted, however, that any period of custody between midnight and 9am is not taken into account in this calculation (Section 61 of the CCP). In effect this could mean that the total period for which a detainee may be held by the police for interrogation may extend to 15 hours.

A period of administrative detention of no more than one month may be imposed in respect of a foreigner in the interests of public peace, public safety or national security. This measure is initially carried out in the establishments where police custody takes place (Section 26 of the Aliens Act). If it cannot be terminated within four days, the foreigner is normally held in a remand prison ("huis van bewaring") (Section 84 of the Decree on Aliens).

## **2. Torture and other forms of ill-treatment**

16. It should be stated at the outset that the CPT delegation heard no allegations of torture and few allegations of other forms of ill-treatment in police or gendarmerie establishments in the Netherlands; no other indication of such treatment was found by the delegation during the visit.

17. The information received by the CPT delegation during its visit suggests that there is little likelihood of a person deprived of his liberty by the police or gendarmerie in the Netherlands being physically ill-treated.

Notwithstanding this finding, **the CPT wishes to receive the following information for 1991 and 1992:**

- **the number of complaints of ill-treatment lodged against police or gendarmerie officers and the number of criminal/disciplinary proceedings brought as a result of such complaints;**
- **an account of criminal/disciplinary penalties imposed following complaints of ill-treatment.**

18. After the visit to the Netherlands, the CPT received reports containing, inter alia, allegations of ill-treatment of a Turkish national (Mr Köksal) who was arrested in Venlo on 7 January 1993. According to those reports, Mr. Köksal died on 8 January 1993.

**The CPT would like the Dutch authorities to provide it with information about this case, including on any enquiries which may have been set up.**

The CPT has also received information containing allegations of ill-treatment of persons by the gendarmerie, in the course of their expulsion from the Netherlands. It understands that a Commission has been set up to look into the procedures in this area.

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

### 3. Conditions of detention in police establishments

#### a. introduction

19. All police cells should be of reasonable size in relation to the number of people they are supposed to accommodate and have adequate lighting (sufficient to read by, sleeping periods excluded) and ventilation; they should preferably receive natural light. They should also be equipped with a means of rest (eg a fixed seat or bench) and persons obliged to spend the night in custody should be provided with a mattress and clean blankets.

Persons held by the police should be able to satisfy the needs of nature when necessary, in clean and decent conditions, and should have adequate washing facilities. They should be given food at normal mealtimes, including a full meal (ie something more substantial than a sandwich) at least once a day. Persons held in police custody for extended periods should, as far as possible, be allowed a daily period of exercise in the open air.

#### b. legal basis

20. Section 62, paragraph 3, of the CCP provides that the requirements to be met by premises intended for police custody are laid down by general implementing regulations ("algemeen maatregel van bestuur"). Section 220 of the Act of 29 June 1925 implementing the CCP stipulates that the layout of premises intended for police custody must afford basic but adequate conditions of detention by day and by night. Section 1, paragraph 1, of the general implementing regulations of 4 December 1925, amended on 4 May 1932, concerns in particular the implementation of Section 62 of the CCP. The regulations empower the Minister of Justice to issue the necessary instructions. By ministerial circular of 20 August 1952 (amended on 30 September 1959) the Minister of Justice laid down the compulsory and optional requirements to be met by premises used for police custody<sup>2</sup>.

21. In 1992, according to the information supplied to the delegation by the Office of the National Ombudsman, the Minister of Justice was preparing draft amendments to the 1952 and 1959 provisions. Likewise, in 1991, the Principal Crown Counsels apparently proposed instructions concerning the procedure for withdrawal from service of cells that did not satisfy ministerial requirements.

---

<sup>2</sup> Cells which do not meet one or more of these compulsory requirements cannot be used for police custody purposes. In exceptional circumstances, however, the Principal Crown Counsel may waive this prohibition. The National Ombudsman has conducted a detailed study of the matter, which was published in part in 1991 (report 91/050). It showed that a number of cells were in use although they did not comply with the compulsory criteria and no authorization had been requested from the Principal Crown Counsel concerned. In his view, there was no legal basis for the use of such cells.

**The CPT wishes to be informed of any new legislative provisions or regulations on police cells adopted by the Netherlands authorities as a result of the draft amendments proposed by the Minister of Justice. It also wishes to receive information on the implementation of the proposals for instructions put forward by the Principal Crown Counsels.**

In this respect the CPT would point out that it has established an approximate guideline on the size of individual police cells. The following criterion (seen as a desirable objective rather than a minimum standard) is currently used when assessing police cells intended for single occupancy for stays in excess of a few hours: in the order of 7m<sup>2</sup>, with 2m or more between walls and 2.5m between floor and ceiling.

c. situation in the police establishments visited

22. On the whole, the material conditions of detention observed by the delegation in police establishments in the Netherlands were adequate and in some cases could even be described as good. However, the practice noted in Amsterdam Police Headquarters of holding persons on remand or in administrative detention for considerable periods of time is a cause of concern to the CPT (cf. also paragraph 31); **the premises in question are not suitable for detention for lengthy periods.**

23. The detention facilities of the National Police Station at Volendam had been recently constructed and were in very good condition. There were five single cells which were adequately furnished (bed; mattress, blankets, sheets and pillows available; table and chair; WC; call system) and had satisfactory artificial lighting and ventilation. A shower and a small exercise yard were located near the cells.

The duty police officer told the delegation that people could be held in these cells only from 8am to 6pm on weekdays (ie during the police station opening hours) and that, when necessary, detainees were transferred to other police stations (the five persons held at the police station on the day of the delegation's visit had been transferred elsewhere for the night).

Given their comparatively small size (around 5m<sup>2</sup>), the cells did not provide ideal accommodation for detainees required to remain in custody overnight. **The CPT therefore considers that the current practice of transferring such detainees elsewhere should continue.**

24. The cellular accommodation at the Headquarters of the Municipal police at Almelo was also satisfactory. It consisted of 9 single cells of reasonable size (6.5m<sup>2</sup>) and a waiting room. The cells were adequately furnished (bed; mattress; clean blankets and sheets; table and chair; WC) and the lighting and ventilation were satisfactory.

25. Conditions of detention in the cells of the 1st and 2nd district police stations of the Amsterdam Municipal Police were also of an acceptable standard. That said, **the cells in the 1st district police station were hardly suitable for stays of more than a few hours, because of their size (less than 5m<sup>2</sup>).**

The visit to the 4th district police station was very brief. The cells and the main building had been withdrawn from service on that day for substantial renovation. **The delegation's observations on the spot showed that renovation on that scale was indeed essential, and the CPT would like to receive details of the changes which are envisaged.**

26. In Rotterdam, the delegation visited the 5th district Municipal Police station, which dated from 1990 and provided good material conditions of detention. The cells were of an acceptable size (6m<sup>2</sup>) and were adequately furnished (bed; mattress, blankets, sheets; table and chair; artificial lighting and ventilation; WC and sink; call system). A shower and an exercise yard were located next to the cells.

27. Amsterdam Municipal Police Headquarters was by far the largest police establishment visited by the CPT's delegation. It had 84 single cells on three floors. At the time of the visit the establishment was holding 81 people in various categories (persons held for interrogation, persons in police custody, persons held on remand awaiting transfer to a prison, and persons held under the Aliens Act).

28. Some of the cellular accommodation was old and some very new. The old cells were small (less than 5m<sup>2</sup>) and a derogation had had to be obtained from the Principal Crown Counsel to use them for holding persons in police custody. The newest cells were larger (more than 6m<sup>2</sup>). On this point **the CPT wishes to stress that because of their size the older cells are hardly suitable for stays of more than a few hours.**

All of the cells were adequately furnished (bed; mattress, blankets, sheets and pillows distributed for the night; table and chair; WC and sink; intercom and radio). The lighting and ventilation were satisfactory.

29. There were also three observation cells equipped with a call system but with no furnishings except a mattress provided for the night. It was said that the maximum period of detention in these cells was 24 hours - carried out only pending a doctor's arrival or at the doctor's request. They were under permanent surveillance by a video camera linked to a central monitoring point.

**The CPT would like to receive information on the categories of detainees placed in these cells and on any special measures taken to supervise or assist them. It would also like to receive information on the frequency with which these cells have been used over the past twelve months.**



30. Five showers were available for use by detainees (one shower was allowed per day). The cell area was also equipped with a modern kitchen in which meals provided by an outside firm were reheated. There was also an exercise yard on the roof of the building, including a sheltered area for use in inclement weather. It was said that the normal period of open-air exercise was at least 30 minutes.

31. In short, apart from the size of the older cells, general conditions of detention at Amsterdam Police Headquarters were adequate for comparatively short stays (no more than 3 or 4 days).

However, some detainees were obviously held there for longer periods. According to police officers, a person detained under the orders of a judge could remain at the Police Headquarters for a total of 9 days, before being transferred to a remand prison, while a person in administrative detention could remain there for up to 10 days. According to the delegation's findings on the spot, longer stays sometimes occurred (the delegation met a person who had been held for 14 days under the Aliens Act).

32. Admittedly, most people held for lengthy periods had access to recreational areas during the day. However, the facilities were very basic. The physical surroundings and the standard of activities offered (mainly card games) fell distinctly short of what a detainee held for a lengthy period is entitled to expect.

33. The CPT understands that the situation observed at Amsterdam Police Headquarters, in respect of those held on remand or in administrative detention, is not confined to Amsterdam and that the authorities are considering steps to remedy the shortcomings identified above.

**The CPT recommends that a high priority be given to this matter and wishes to be kept informed of the steps taken in this connection.**

#### 4. Safeguards against ill-treatment of detainees

34. The CPT attaches particular importance to three rights for persons detained by the police or gendarmerie:

- the right of those concerned to have the fact of their detention notified to a close relative or a third party of their choice,
- the right of access to a lawyer,
- the right to a medical examination by a doctor of their choice (in addition to any medical examination carried out by a doctor called by the police authorities).

The CPT considers that these three rights are fundamental safeguards against the ill-treatment of persons in detention, which should apply from the very outset of the deprivation of liberty (i.e. from the moment when those concerned are obliged to remain with the police).

35. Furthermore, in the view of the CPT, persons detained by the police should be expressly informed without delay of all their rights, including those referred to in paragraph 34, in a language which they understand.

##### a. notification of custody

36. In the Netherlands, the right of a person held for interrogation or in police custody to inform a relative or third party of his detention is not expressly recognised<sup>3</sup>. However, Section 62 of the CCP provides that a person held in police custody may not be subjected to restrictions other than those strictly required for the purpose of custody or in the interests of order.

37. The CPT considers that a detainee's right to inform a relative or third party of his choice of his detention should be expressly guaranteed. The exercise of this right could be made subject to certain exceptions designed to protect the interests of justice. However, any such exceptions should be clearly defined and they should be applied for as short a time as possible.

---

<sup>3</sup> In the case of administrative detention the person concerned is entitled to have his relatives, as well as his diplomatic or consular representative, informed without delay of his detention through the local Police Chief (Section 84, paragraph 2, of the Decree on Aliens). In the case of the detention of a minor, Section 490 of the CCP provides that the parents or guardians shall have unrestricted access to such a detainee.

**38. The CPT recommends:**

- **that persons detained by police or gendarmerie officers be entitled to inform, without delay, a relative or third party of their choice of their situation;**
- **that any possibility exceptionally to delay the exercise of the right to have the fact of one's custody notified to a relative or third party should be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) and strictly limited in time.**

b. access to a lawyer

39. The general rule which applies to persons detained by the police is set out in Section 28 (Part II: The suspect) of the CCP, which provides that:

"The suspect may, in accordance with Part III (Legal counsel), request the assistance of one or more legal counsel. As far as possible, he shall thus be granted the opportunity, whenever he so requests, to communicate with his legal counsel".

40. As regards more particularly the stage of police custody, according to Section 57 of the CCP a person in respect of whom such a measure is being considered has the right to be assisted by legal counsel during the interrogation preceding possible custody (which is conducted by the Crown Counsel or his deputy). The lawyer is permitted to make any comments which may be necessary (Section 24).

The procedure for the official appointment of a lawyer (if the person concerned has not requested a lawyer of his choice) is laid down in Section 40. The Crown Counsel or his deputy must inform the lawyer on duty that the person has been placed in police custody. From then onwards the lawyer has free access to the detainee, may speak to him in private and may exchange correspondence with him without anyone being entitled to know the content of such correspondence; this must be done under the necessary supervision, account taken of the internal regulations (in force at the police station), and it must not be detrimental to the investigation (Section 50).

41. The formal position under Dutch law regarding access to a lawyer at the police custody stage seems quite favourable. However, the situation appears less satisfactory in respect of access during the initial period of detention by the police for interrogation purposes (up to six hours). The official interpretation, which is said to be widely applied, is apparently that access to a lawyer may be granted, but is not a right.

In this connection the CPT wishes to stress that the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. The CPT therefore considers it essential that a detainee's right to have access to a lawyer be guaranteed from the very outset of his detention by the security forces.

**The CPT recommends that persons held for interrogation by the security forces be entitled to have access to a lawyer as from the very outset of their deprivation of liberty. This right should include both the right to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right for the person concerned to have the lawyer present during interrogation.**

42. The CPT notes that Section 50 empowers the Crown Counsel or the investigating judge, under certain circumstances, to prohibit or restrict contact between a detainee and a lawyer, and, in particular, to prohibit conversations in private. The reasons for the decision have to be stated. The prohibitions and restrictions may not be applied for longer than necessary and may on no account exceed six days.

The CPT has reservations about this provision. While acknowledging that, in order to protect the interests of justice, it may exceptionally be appropriate - for a certain period - to delay (or restrict) access by a person under arrest to a lawyer of his choice, the CPT finds it hard to understand why an exception of this kind should apply to access to any lawyer (and also, therefore, to an officially appointed lawyer).

**The CPT recommends that steps be taken to ensure that every person detained by the security forces has the right to consult in private with a lawyer (where necessary, an officially appointed lawyer), without delay.**

43. Finally, it should be added that, despite the above-mentioned provisions, many detainees met by the delegation alleged that they had had no contact with a lawyer until the end of their second day in police custody or even until their third day (ie just before they were brought before a judge).

**The CPT wishes to receive the comments of the Dutch authorities on this subject.**

c. access to a doctor

44. The CCP does not regulate the matter of detainees' access to a doctor. However, ministerial instructions on this subject were issued jointly by the Ministers of Justice and the Interior, in coordination with the Minister of Health and the Dutch Medical Association, on 21 October 1987.

45. According to these instructions, the medical officer on duty (eg the local authority medical officer) shall be called to a police station, either by the officer in charge (if a detainee appears to require medical care) or at the request of a detained person. The same applies if the detainee is in possession of, or requests, medication.

If the detainee requests medical assistance by a doctor of his choice (eg the family doctor), the latter must be notified by the police, unless this is precluded by other circumstances. If the family doctor is unable to attend or does not live near the police station, the medical officer on duty must be called.

Recourse to a doctor makes it mandatory for the police officer in charge to monitor the detainee more frequently (every fifteen minutes). The observations made on these occasions must be recorded in writing.

Lastly, during the consultation, the doctor must be entirely free to examine and treat the detainee. The necessary facilities must be made available to him and no restrictions may be imposed during the examination and treatment of the detainee.

**46. The CPT wishes to receive information from the authorities on the circumstances referred to above which might preclude access by a detainee to a doctor of his choice.**

Moreover, even though it may already be the effect of the instructions referred to above, **the CPT recommends that the Dutch authorities expressly provide for:**

- **all medical examinations of detainees to be conducted out of the hearing and -unless the doctor concerned requests otherwise - out of the sight of police or gendarmerie officers;**
- **the results of every examination as well as any relevant statements by the detainee and the doctor's conclusions, to be recorded in writing by the doctor and made available to the detainee and his lawyer.**

d. information on rights

47. The CPT has already indicated the importance it attaches to persons held by the police or gendarmerie being expressly informed, without delay, of all their rights, including those referred to in paragraphs 34 to 46 above.

48. In 1989 the Dutch Ministry of Justice published a booklet entitled "You have been arrested, and are now in police custody". This booklet, which is in Dutch, briefly describes the obligations of the police and the rights of the detainee (the right not to answer questions, to request legal advice etc.) and outlines the procedure followed during the first few days of detention. An information sheet reproducing a selection of key extracts from the booklet is also available in various widely used languages. However, the delegation found that the distribution of the booklet and information sheets was far from systematic, at least in some of the district police stations visited. When asked about this, the staff replied that most of the detainees were regular customers and knew their rights.

While welcoming the existence of such information material, **the CPT recommends that a form setting out the rights of detainees in a straightforward manner be given systematically to detainees at the outset of their custody. Further, the detainee should be asked to sign a statement attesting that he has been informed of his rights in a language which he understands.**

e. conduct of police interviews

49. Section 29 of the CCP specifies that the judge or official conducting an interrogation must refrain from any act intended to elicit from the suspect a statement which he could not be considered to have made of his own free will. The suspect must also be informed before the interrogation of his right not to answer questions. This must be mentioned in the record.

50. The police officers whom the delegation met during the visit said that they did not have more specific instructions concerning the conduct of interrogations. The CPT considers that there should be formal guidelines on a number of specific points.

**The CPT recommends that the Dutch authorities draw up a code of practice for interrogations.** The code should cover the following points, among others: the systematic informing of the detainee of the identity (name and/or number) of those present at the interrogation; the permissible length of an interrogation; rest periods between interrogations and breaks during an interrogation; places in which interrogations may take place; whether the detainee may be required to remain standing while being questioned; the questioning of persons who are under the influence of drugs, alcohol, medicine, or who are in a state of shock. It should also be required that a record be systematically kept of the time at which interrogations start and end, of the persons present during each interrogation and of any request made by the detainee during the interrogation.

The position of particularly vulnerable persons (for example, the young, those who are mentally disabled or mentally ill) should be the subject of specific safeguards.

f. custody registers

51. The delegation noted that the principal events of detention in the police stations visited in Amsterdam, Rotterdam and Volendam were recorded on a police computer system. Each detainee was monitored individually from the moment he entered the premises to his departure (admission; appearance before the Deputy Crown Counsel; personal possessions; meals; distribution of bedding; controls by supervisory staff; time spent in recreational area; shower; exercise; police interviews; interview with a lawyer; visit by a doctor; date of appearance before the judge; etc.).

The CPT welcomes the existence of such a system for recording aspects of detention in the Netherlands and **would like to know whether the authorities intend to use it more widely. The CPT also wishes to know whether such information held in the computer system is made available to the detainee and his lawyer.**

g. monitoring of places of detention

52. In 1988 the Mayor of Amsterdam set up a Commission for the Supervision of Police Cells ("Commissie van toezicht Amsterdamse politiecellen"). This was the first initiative of its kind in the Netherlands (an identical commission was apparently set up recently in Rotterdam). The Commission, which is composed of independent experts, supervises the treatment of detainees and ensures compliance with standards laid down by the municipality. Its members have free access to places of detention and may talk to detainees and police officers. The Commission is also empowered to give opinions to the Mayor on all matters relating to police cells. It performs a preventive function and is distinct from the Commission set up to deal with complaints against the police (see paragraph 54), which is the only one empowered to consider individual complaints. The Commission for the Supervision of Amsterdam Police Cells has published annual reports on its activities since 1988.

The CPT considers that the Commission's activities are an effective means of preventing the ill-treatment of persons held by the police and, more generally, ensuring satisfactory conditions of detention in places of detention. **The CPT invites the Dutch authorities to consider extending a supervisory system of this kind to all police and gendarmerie detention areas.**

53. According to various provisions of the CCP (Section 140 et seq.), criminal investigations by the police are performed under the authority and control of the judicial authorities (principally the Crown Counsel). In this respect the CPT considers that regular visits to police detention areas by the judicial authorities concerned could have a significant impact in terms of the prevention of ill-treatment.

**The CPT wishes to know whether the competent judicial authorities exercise such on the spot supervision of detention measures in police premises.**

h. complaints procedures

54. In addition to the usual judicial and administrative remedies, all citizens wishing to complain about the activities of a particular police unit may apply to the Complaints Commissions which have been set up in Amsterdam and other cities in the Netherlands. The commissions are partially or entirely composed of lay persons, who can conduct inquiries and make recommendations to the Head of the police force in question (usually the Mayor). The CPT understands that the Complaints Commissions produce annual reports **and would like to receive copies of the reports produced in 1991 and 1992.**

In addition, any citizen may apply to the National Ombudsman and to the Complaints Committees of the two Houses of Parliament.

55. In other words, any person in the Netherlands who may wish to complain about ill-treatment whilst detained by the police benefits from access to an extensive range of complaints procedures. In the CPT's view, this is an essential factor in preventing ill-treatment of persons held by the security forces.

## **B. Prisons and Youth Detention Centres**

### **1. General information**

56. The CPT delegation visited three establishments in the Over-Amstel Prison Complex, near Amsterdam, namely Demersluis, Het Veer and De Singel Prisons. It also visited De Schie Prison in Rotterdam and two Youth Detention Centres, the Alexandra Y.D.C. for girls in Almelo and Het Nieuwe Lloyd Y.D.C. for boys close to Amsterdam.

57. The Over-Amstel Prison Complex is made up of seven autonomous establishments and constitutes the largest prison complex in the Netherlands. This recent (1978-1979) complex consists of six tower blocks and a low-lying building which are linked by a central corridor. The total capacity of the complex is 670 prisoners, subdivided as follows: 120 male prisoners in each of the remand prisons (Demersluis, De Schans, Het Schouw and De Weg), to which was added the De Amstel Section in 1987 (48 male prisoners on remand) ; 87 female prisoners, both on remand and sentenced, in the De Singel Prison and 54 patients in the Het Veer Prison (Forensic Observation and Guidance Unit for men).

During the visit to Demersluis Prison, the delegation concentrated its attention on the treatment of the 21 prisoners detained in unit 4, and more particularly on unit 4A.

58. De Schie Prison in Rotterdam is a relatively new establishment, having been brought into operation on 1 January 1989. It is a four storey building designed to accommodate 252 prisoners on remand. The prison is divided into 11 units (10 x 24 cells, and one reinforced security unit (EBI) of 12 cells).

59. The Alexandra Y.D.C. is a privately-run institution for delinquent girls with an official capacity of 42 places. It is located near Almelo, in a complex of modern buildings in a semi-open compound, with one unit in an older house outside the perimeter of the Centre. The three units within the compound - Sluis, Vuurtoren and Ankar - are used for secure to semi-open custody of small groups and the older house for the implementation of a programme of progressively more frequent leave and a more open regime.

60. Het Nieuwe Lloyd Y.D.C. is a state-run closed institution for delinquent boys. This Centre is located in modern buildings, next to the Grenshospitium (Holding Centre for Asylum Seekers and Illegal Immigrants), on the outskirts of Amsterdam. The buildings are divided into six units, each of which provide single-cell accommodation for 10 inmates.

61. The policy of one person per cell is applied in all the above establishments (and is apparently the norm throughout the Netherlands). At the time of the delegation's visit, the establishments were at their full capacities, but none of them were overcrowded.



## **2. Torture and other forms of ill-treatment**

62. The delegation heard no allegations of torture and few allegations of other forms of physical ill-treatment of prisoners by staff in the establishments visited. Further, the CPT's delegation heard few allegations of such treatment having occurred in other prison establishments or Youth Detention Centres in the Netherlands. More generally, with the exception of the EBI at De Schie Prison and unit 4A in Demersluis Prison, staff and prisoners in the establishments visited appeared to be on reasonably good terms.

Notwithstanding this finding, **the CPT would like to receive information on the number of complaints of ill-treatment by prison officers or members of the staff in youth detention centres made in the Netherlands during 1991 and 1992 and on the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed.**

63. One incident of which the delegation did hear was alleged to have taken place on 11 August 1992 in unit 4A of Demersluis Prison. The CPT's delegation was told by inmates in the unit that a prisoner there had been badly beaten by a number of the unit's staff after he punched a prison officer. It should be noted that the special nature of the regime applied to those detained in this unit (on which, see paragraphs 79 to 84) meant that some of the inmates spoken to had had no contact whatsoever with each other. Nevertheless, they gave congruent accounts of an incident which they said they had witnessed through the apertures in their cell doors.

It was alleged that, following an altercation with a staff member, an inmate was restrained by a group of officers. He was then handcuffed and, whilst being held upside down by his legs, punched and kicked by officers, including in the face. It was said that the inmate was then removed from the unit, apparently to a discipline cell on the top floor of the Demersluis tower block. The prisoner concerned recounted a similar version of events, and the records of the use of the disciplinary cells attested to his placement in such a cell on 11 August 1992. His medical records contained an entry for that date which read, "fought with guard, placed on roof", but no notes had been made about whether he had sustained injuries or required treatment.

64. Regardless of the behaviour of the prisoner concerned - he freely admitted that he had punched a prison officer - a concerted attack of the kind described above could not under any circumstances be considered to be an acceptable response on the part of prison staff.

**The CPT wishes to receive a full account of the incident which took place on 11 August 1992 in unit 4A of Demersluis Prison, together with the results of any enquiries which may subsequently have been carried out and details of disciplinary proceedings which may have resulted.**

65. Although the delegation heard few allegations of physical ill-treatment, it was inundated with complaints concerning the regime applied in two types of special detention units : the reinforced security units (E.B.I.'s) and a new type of unit, recently created, of which unit 4A of Demersluis Prison is an example. In view of the number and significance of these complaints, the delegation examined in detail the situation in the two such units which it visited.

### 3. Special detention units

#### a. introduction

66. The concept of reinforced security units (EBIs) was instituted on 12 January 1990, with the intention of providing a kind of detention suitable for prisoners representing an extremely high escape risk ("vluchtrisico"<sup>4</sup>) or presenting pronounced management and control problems ("beheersrisico"<sup>5</sup>) for the prison authorities. It was decided to set up five EBIs for men, each with a capacity of twelve places, in various parts of the country<sup>6</sup>. The scheme was coupled with the introduction of a carousel system ("carrouselstelsel") under which the prisoners concerned were to be transferred from one EBI to another every six months. The units were to function under a "normal restricted group regime" ("normaal regiem van beperkte gemeenschap").

67. After the system had been in operation for a year, the prison authorities decided that it was unwise to hold prisoners with such widely different characteristics in the same units. They felt that the approach to prisoners representing an extremely high escape risk could not be identical to that required for hard-to-control prisoners, who needed more individualised treatment. As a result, different, smaller units, in theory subject to an individualised, highly structured, restricted group regime were set up for the latter prisoners (J unit in Overmaze Prison, Maastricht, in September 1991 and unit 4A in Demersluis Prison, Amsterdam, in April 1992).

68. The prison authorities' security policy, and more specifically the EBIs, were assessed by the Hoekstra Commission ("Evaluatiecommissie Beveiligingsbeleid Gevangeniswezen"), which recommended building two new EBIs of 24 places each. Their layout was to be such that all the prisoners' activities could be carried out inside the EBI and the regime was to be as close to normal as possible. The Secretary of State for Justice subsequently accepted this recommendation and decided to build the new EBIs at Vught and Lelystad.

---

<sup>4</sup> A prisoner who has escaped or attempted to escape from a closed prison by using (or threatening to use) force.

<sup>5</sup> A prisoner who is aggressive, threatens his fellow-prisoners or staff members, is subversive (eg. work strike), etc.

<sup>6</sup> The EBIs were originally planned in the following establishments: De Marwei in Leeuwarden, De Schie in Rotterdam, De Grittenborgh in Hoozevee, De Geerhorst in Sittard and in Arnhem. The Arnhem EBI was withdrawn from service in 1991.

b. reinforced security unit (EBI) in De Schie Prison

i. *material conditions of detention*

69. The De Schie EBI had two sections of six single cells, the first for prisoners on remand and the second for convicted prisoners. However, a ministerial circular of 11 June 1991 restricted the original capacity of all EBIs to a maximum of four prisoners per section. The two sections, which form a "prison within a prison", are located at the top of A Block, some distance away from the other cell areas. There are two staff members on duty in each section, except at night.

70. A standard cell was of a good size (10m<sup>2</sup>) and adequately furnished (bed, table, chair, cupboard, shelf, WC, sink, heating, call system, percolator). Prisoners could also rent a television and a refrigerator. The lighting and ventilation in the cells were satisfactory.

In other words, material conditions of detention were, on the whole, quite acceptable.

ii. *regime*

71. The ministerial circular of 20 February 1990 describes the regime which was in force at the time of the visit by the CPT's delegation. As indicated above, both remand and convicted prisoners were held under a restricted group regime - groups of no more than 4 inmates. Contact with anyone outside the group was prohibited. For security reasons, activities outside the area of the EBI were reduced to a bare minimum (open-air exercise, visits, sport). Half the day was spent working (compulsory for convicted prisoners) and the other half engaged in various other activities (as far as possible in keeping with the prisoners' wishes). Any prisoner who did not take part in this daily programme remained confined in his cell.

72. The delegation noted that the work offered to prisoners in the unit was very basic and tedious. Security reasons were adduced to justify this state of affairs.

Sentenced prisoners had access to recreational activities (card games, cooking, television) every day for 2½ hours. Remand prisoners were given access to these activities every other day.

Prisoners were allowed to follow an educational course once a week (no more than 3½ hours), during a work period. They could borrow books from the library once a week and had free access to newspapers/magazines.

Prisoners had five 45-minute periods of sports activities a week. These could be practised in an indoor sports area or in the open air.

Prisoners had an hour of open-air exercise a day in the facilities used by prisoners from the rest of De Schie Prison.

73. A few days after the delegation's visit an additional ministerial circular dated 25 September 1992 placed substantial restrictions on several features of the EBI regime. This was a consequence of the repeated escapes of EBI prisoners in the Netherlands. The new regime reduced all recreational activities by half. Open-air sport was abolished. The period of open-air exercise was reduced to 45 minutes a day. Prisoners could be required to take this exercise in a special security area ("luchtboxen"). As a result of these measures, the time prisoners could spend out of their cells was reduced to around five and half hours per weekday; and that period was considerably shorter at weekends (a maximum of three and a half hours).

74. A further escape, on 23 October 1992, in which prisoners resorted to violence and took prison staff hostage in the EBI of De Grittenborgh Prison at Hoogeveen, prompted the Minister of Justice to announce, on 3 November 1992, a series of restrictive measures in addition to those already ordered on 25 September 1992. One of these empowered the directors of EBIs to apply a minimal restricted group regime (two prisoners) on their own initiative.

*iii. staff-inmate relations*

75. The delegation noted that relations between staff and prisoners were reduced to a minimum. Most of the time the staff remained inside their monitoring room. They appeared unable to establish any kind of dialogue with the prisoners. The latter, for their part, made no attempt to communicate with the staff ("we talk to them only if we need something").

76. Some of the officials in charge of the establishment advocated an approach to EBIs based almost exclusively on control and security, while others claimed that only adequate contact between staff and the inmates concerned (together with a slightly more flexible regime) could significantly reduce tension and the risk of violence. At the time of the visit the former trend undeniably prevailed.

c. unit 4 of Demersluis Prison

i. *material conditions of detention*

77. Unit 4 was a two storey area providing 21 places for prisoners held under a restrictive regime, the lower (4A) accommodating 9 prisoners who presented control and management difficulties and the upper (4B), 12 prisoners who were held under pre-trial segregation on the orders of a judge.

78. The cells in both parts of the unit were very similar to those elsewhere in the Over-Amstel complex. They were of a good size (11 m<sup>2</sup>) and equipped with a bed, desk and two chairs. Every prisoner in this unit was provided with a television set and every cell had its own sanitary annexe, containing a flush lavatory and a washbasin. In short, the material conditions of detention were very good.

ii. *regime*

79. The regime applicable in unit 4A is set out in a ministerial circular of 4 February 1992, which provides as follows :

"The regime for this category of detainee will be firmly structured and of an individualised nature. It will be a very restrictive regime.

Certain activities shall, in principle, take place in groups. The activities concerned being outdoor exercise, philosophical discussions, sporting and recreational activities.

To the extent that, in the Director's judgement, circumstances permit, the number of activities which take place in groups may be extended.

For security and control reasons, no more than 4 detainees may take part in an activity programme at the same time.

In principle, the programme of activities shall only take place within the unit itself. The exceptions to this shall be visits, outdoor exercise and sport".

80. It was clear from discussions with the Director of Demersluis Prison that the already restrictive conditions foreseen by the above-mentioned circular had been further tailored by him in accordance with his personal ideas about effecting behavioural change.

The key feature of the regime in operation at the time of the visit of the delegation was a "point system" whereby incoming prisoners "started at zero" and, apparently based upon pre-determined behavioural responses, were awarded privileges. The award and removal of such privileges was entirely at the discretion of the unit's staff and a common sanction for the failure to display what staff had been instructed to consider an appropriate attitude was for a prisoner "to be returned to zero". All of the nine prisoners spoken to stated that the reasons behind such decisions were rarely explained to them and never given to them in writing.

81. The internal rules for unit 4A existed only in draft form at the time of the delegation's visit. However, as far as the delegation could ascertain, a prisoner on the first level (i.e. "zero") could expect to be allowed a half to three quarters of an hour exercise alone every day and three one hour periods of recreation alone per week; a prisoner on the second level could take daily exercise with one other prisoner and spend three two-hour periods of recreation with that prisoner every week; a prisoner on the third level could spend the same periods of time with two other prisoners.

82. The range of recreation possibilities was very limited (table tennis and access to a cell which had been converted into a creative area, where prisoners could, and were expected, to engage in paper folding and artistic activities).

Exercise was taken in the enclosures belonging to the disciplinary unit located on the top floor of the prison. There was one large and three smaller areas, from all of which the only view was the open sky through the metal grid roof. Apart from the visiting rooms - located elsewhere in the prison - they were the only places outside unit 4A in which those detained there ever spent time.

As regards work opportunities, the delegation was shown a work room (converted from a cell), in which it was said that detainees might produce plant pot holders; however, prisoners spoken to alleged that the room was not in regular use and had not been used at all during the previous four weeks. It was not in use at the start of the visit but had been brought into operation by the third day.

83. It follows from the above that the majority of prisoners in unit 4A spend the vast majority of their time locked in their cells. Out-of-cell time on a given day might be as little as 45 minutes and, at best, would not be more than 3 to 4 hours.

84. Prisoners held in unit 4B under pre-trial segregation spent all of their time in their cells, except for half an hour of exercise taken alone. No regime activities were offered to those detainees.

*iii. staff-inmate relations*

85. Reference has already been made to the fact that unit 4A accommodates prisoners considered to present pronounced management and control difficulties. The CPT recognises that working with such prisoners is a particularly demanding task for prison staff and, with that consideration in mind, its delegation paid particular attention to the quality of staff-inmate relations in the unit.

The delegation observed that the attitude of staff to prisoners in unit 4A was markedly antagonistic. In practically all their day-to-day dealings, an "us and them" mentality prevailed; indeed, some of the staff displayed openly contemptuous attitudes towards the inmates in their charge.

86. The delegation spoke with every prisoner detained in unit 4A and without exception they complained about the provocative attitude which staff adopted towards them. It should be noted that the accounts given by detainees who had been held in isolation from each other were consistent, as were their descriptions of which officers were the worst offenders in this respect.

There were repeated allegations that, based on knowledge about them gleaned from their files, staff would often seek to prey upon what they perceived as the particular weaknesses of individual prisoners. It was also claimed that officers of the unit used assumed names in their contacts with detainees, in order both to conceal their identities and, by sporadically changing those names, to disorientate prisoners. Staff members themselves confirmed that they did not use their own names in contacts with the inmates, stating that this was because of fears of reprisals from family members or friends of the inmates.

87. Many prisoners also complained that the staff were very slow to respond to requests to see a doctor, social worker or lawyer. In particular, it was claimed that it was often necessary to request such visits in writing several times before any action would be taken upon them. This was said to be especially marked in relation to attempts to communicate with the Director or the Complaints Board.

As regards these complaints, the delegation found notes in the staff offices which indicated that several prisoners had made the same request three or four times over a period of a week or more. Staff in the unit were unable to produce evidence that any of these requests had been processed.

88. Perhaps the most striking of the observations made by the delegation was that the same staff adopted a quite different attitude in their dealings with those detained in unit 4B, for which they also had responsibility. Prisoners spoken to there were satisfied with their treatment by the staff. This would suggest that the antagonistic and unco-operative attitude adopted towards those detained in unit 4A formed part of a deliberate policy.

d. evaluation of the special detention units visited

89. In every country there will be a certain number of so-called "dangerous" prisoners (a notion which covers a variety of individuals) in respect of whom special conditions of custody are required. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population - this was indeed the case in the Netherlands. However, it is a group that is of particular concern to the CPT, in view of the fact that the need to take exceptional measures concerning such prisoners brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

Staff who work with such prisoners have the difficult task of reconciling the often conflicting demands which their presence can place upon a prison establishment. This is well described in the following extract from the Explanatory Memorandum to the Recommendation (No. R (82)17) on the custody and treatment of dangerous prisoners adopted by the Committee of Ministers of the Council of Europe on 24 September 1982:

"40. Control and custody have to be acknowledged but, simultaneously, human dignity and acceptability of conditions and social positiveness have also to be recognised. Control of something that potentially imperils both the internal prison community and the larger external community interfaces with moderation to be exercised over incidence and duration as well as level of maximised custody."

90. The general principle followed in most countries - and of which the CPT approves - is that prisoners who present a particularly high security risk should, within the confines of their special detention unit, enjoy a relatively relaxed regime (able to mix freely with the small number of fellow prisoners in the unit; allowed to move without restriction within what is likely - as at both the De Schie EBI and unit 4A of Demersluis Prison - to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation.

Special efforts should be made to develop a good internal atmosphere within such units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. Success in this area requires that the staff assigned to work in such units must be very carefully chosen. They should be appropriately trained, possess highly developed communication skills and have a genuine commitment to the exercise of their skills in a more than usually challenging environment.

The existence of a satisfactory programme of activities is just as important - if not more so - in a special detention unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value etc.) As regards, in particular, work activities, it is clear that security considerations may preclude many types of work activities which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the above-mentioned Explanatory Memorandum to Recommendation No. R(82)17.

91. It is quite clear that the situations encountered in the De Schie EBI and unit 4A in Demersluis do not meet the criteria set out above. Certainly, the material conditions in the cells were of a high standard; however, the overall quality of life of detainees left a great deal to be desired. Prisoners lives were governed by unduly restrictive group systems, out-of-cell time was very limited, the activities available were both few in number and unstimulating in nature and, above all, staff-inmate relations were of a poor quality. Although these criticisms are applicable to both units, they apply with particular force in respect of unit 4A.



92. **The CPT recommends that an enquiry be carried out without delay into the operation of unit 4A of Demersluis Prison. The aims of this enquiry should be, inter alia, to examine relations between staff and inmates in the unit with a view to their improvement and, more generally, to develop a regime along the lines indicated in paragraph 90.**

**Further, the CPT recommends that steps be taken immediately to ensure that all prisoners in both units 4A and 4B are allowed at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically.**

Moreover, although the information received by the delegation suggested that persons held under pre-trial segregation on the orders of a judge were kept under such a regime for relatively short periods of time, **the CPT invites the Dutch authorities to explore the possibility of providing some additional activities, apart from exercise, for such prisoners.**

93. As already indicated (cf. paragraph 68) the Dutch authorities have decided to build two new EBI units (which the CPT presumes will replace the four existing EBI units). This is potentially a positive development, on condition that the Hoekstra Commission's proposal that they should have as normal a regime as possible is implemented.

**The CPT recommends that this project be given a high priority and that the remarks made in paragraph 90 be taken fully into account in the design of the regimes to be applied within those units.**

94. The CPT would like to be informed of the projected timescale for the bringing into service of these units, of the regimes to be applied within them and whether the existing system of regular transfers between EBIs will continue to apply.

The CPT also understands that the Dutch authorities are preparing a draft law on the EBI system **and would like to receive a copy of that law.**

95. Pending the bringing into operation of the new EBI Units, **the CPT recommends that measures be taken immediately to ensure that all prisoners held in EBI units are allowed at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically.**

e. administrative safeguards

96. It is axiomatic that a prisoner should not be held in a special detention unit any longer than the risk which he presents makes necessary. This calls for regular reviews of the placement decision. Further, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will inter alia enable them to make effective use of avenues for challenging the measure.

**The CPT recommends:**

- **that a prisoner who is placed in a special detention unit or whose placement is renewed be informed in writing of the reasons for that measure, unless significant security requirements dictate otherwise;**
- **that a prisoner in respect of whom such a measure is envisaged be given an opportunity to express his views on the matter;**
- **that the placement of a prisoner in a special detention unit be fully reviewed at least every three months.**

**The CPT would also like to be informed of the avenues open to a prisoner for the purposes of challenging a decision to place him in a special detention unit or to renew his placement.**

#### 4. Conditions of detention in general

##### a. De Singel Prison

##### *i. material conditions of detention*

97. As already indicated, De Singel Prison accommodates various categories of women prisoners: it has three units for convicted prisoners (40 places) and three for those on remand (30 places), as well as a small semi-open detention centre for prisoners nearing the end of their sentences (5 places). The top storey, the twelfth, contains the isolation and punishment cells (three cells).

98. Each detention storey contains ten cells of good size (11m<sup>2</sup>, including the adjoining toilet facilities), a recreational area and showers. The furnishings are satisfactory (bed; table and chair; shelf and cupboard; sink and WC; intercom; radio and television; etc.). Lighting and ventilation in the cells is more than adequate.

##### *ii. regime*

99. The whole prison population works, under the supervision of 7 workshop leaders. Inmates are offered a variety of work activities, including garment manufacture, laundry, sewing etc., organised on a half-day basis on the ground floor of the prison. Recreational and community activities are organised in each unit by the supervisory staff and educational activities (including language courses) are also offered.

On this last point it should be noted that about 50% of the inmates are foreigners, some of whom speak neither Dutch nor English. Although some language courses are provided, **the CPT considers that it would be appropriate to increase their number in respect of the above-mentioned prisoners.**

100. It should be added that the prison has two areas for open-air exercise (an hour a day for each prisoner), used both for walking and for sport. There is also a sports hall to which detainees have ready access. At least two hours of sport are included in the weekly programme of activities.

101. The programme of activities available to inmates of De Singel Prison is compatible with the objective set out in the prison law of preparing them to regain their place in society and strengthening their human relationships and sense of responsibility.

b. De Schie Prison

i. *material conditions of detention*

102. De Schie Prison is a fairly recently constructed establishment, consisting of a number of blocks linked at right angles in the form of a figure eight. Communal facilities (workshops, kitchens etc.) are located on the ground floor. The quadrangles inside the "8" are used for sports activities and open-air exercise. The units of 24 cells, which are the establishment's basic living areas, are on three floors on both sides of the 8. Each connecting building serves a different purpose (administrative and management premises, visiting rooms, medical and social support; showers and recreation rooms equipped with a telephone; areas for educational activities, library, canteen, sports rooms). Special units are set aside for the EBI (see paragraphs 69 et. seq.) and for the admission of new inmates, for prisoners in need of special attention (psychological problems, etc.) and for prisoners in solitary confinement or serving disciplinary penalties.

103. Each cell is of satisfactory size (around 10m<sup>2</sup>), adequately furnished and properly lit and ventilated.

ii. *regime*

104. The prison management aims to run detention units with regimes which differ according to the needs and abilities of the inmates (a unit holding prisoners receiving training, units in which special attention is paid to creative activities and sports, etc.). Under the basic prison regime a half-day's work alternates with a half-day of sport, recreational activities etc. The work provided is of various types (workshops for manufacturing sacks, assembling lamps, assembling electrical parts; ironwork; laundry etc.). Some jobs require certain qualifications or skills. Recreational and community activities are available in the evenings (craftworking etc.). Educational activities mainly involve courses in industrial techniques and computer training.

105. The prison's sports facilities are excellent (two gymnasias, an outdoor sports ground covered with artificial grass, two good sized body-building rooms etc.). All these facilities are readily available (at least 3 hours a week). There is also a large open-air exercise area with trees.

106. In short, the material conditions of detention and the regime are satisfactory and call for no special comment from the CPT.

c. Alexandra Youth Detention Centre

107. The Alexandra Y.D.C. has an official capacity of 42 places and normally accommodates inmates aged fourteen to sixteen who have been in other juvenile institutions before. It is an "end of line" institution ; the Director commented that "before us is the whole panoply of care, after us there is nothing".

i. *material conditions of detention*

108. Conditions of detention were very good throughout the establishment. Inmates lived in single rooms, all of which measured in excess of 8m<sup>2</sup>. They were well equipped (bed, table, chair, built-in cupboard, wardrobe and wash-basin) and benefitted from adequate lighting (both natural and artificial) and heating. The delegation was also impressed by the large recreation rooms in each of the units, which were noticeably bright and airy.

109. The cells did not contain lavatories but they were equipped with call bells and an electronic locking and unlocking system was in operation. According to the inmates with whom the delegation spoke, a request to be released from one's cell in order to use a lavatory would normally be met within, at most, twenty minutes. As regards shower facilities, the delegation was told by staff that inmates might take a shower every day and no complaints were heard from inmates about access to those facilities.

ii. *regime*

110. Inmates in the Alexandra Y.D.C. benefit from a range of support and assistance programmes structured in four semi-autonomous groups, one in each of the four buildings. Each group receives twenty hours of assistance per week from an educationalist ("orthopedagoog") and twenty hours of work per week with their unit co-ordinator. For those who are soon to be released, there is a programme of social skills training, designed to facilitate their return to society.

The programme for a normal weekday includes five and a half hours of education in the school located within the compound of the Centre and a range of other recreation and leisure activities.

111. In general, the delegation gained a very positive impression of the regime and of the relations between staff and inmates. However, a striking lacuna was that there seemed to be very little provision for sport in the establishment. Despite the extensive grounds in which the unit was located, there was no playing field marked out for sports and the Centre did not possess a gymnasium. Bearing in mind the age ranges of those detained, this is a serious shortcoming in an otherwise positive range of activities. **The CPT recommends that facilities for sport in the establishment be improved.**

*iii. other issues*

112. At the time of the visit two educationalists were employed on a full-time basis and a psychologist was present for twenty-four hours per week. The treatment programmes were structured around three phases - an initial "resistance" period (usually two months), a "treatment" phase (four months) and a "pre-release" period (usually two months). It appeared to the delegation that, although these programmes had a high educational value, they did not always respond fully to the gravity of the psychological problems experienced by some of the inmates.

**The CPT considers that it would be desirable to supplement the therapeutic content of the psychological services available at Alexandra Y.D.C. by employing a psychologist at the Centre on a full-time basis.**

d. Het Nieuwe Lloyd Youth Detention Centre

113. Het Nieuwe Lloyd Y.D.C. has an official capacity of 60 places. The majority (80%) of those detained are being held on remand and the average length of stay is around six weeks.

*i. material conditions of detention*

114. Material conditions of detention were very good. Imaginative use had been made of modern building materials in order to create an atmosphere which was markedly relaxed, considering the closed nature of the establishment. The cells themselves were of an acceptable size and properly equipped (bed, table, chair) and each contained a sanitary annexe with a lavatory and washbasin. Light, heating and ventilation were adequate.

There was a recreation room with a television in each of the ten-cell accommodation units, to which detainees had access during the day. The ten cells in the "reception unit", in which newly-admitted inmates were accommodated, also had televisions. Staff stated that these were designed to "ease the transition" from freedom to custody.

*ii. regime*

115. The programmes of activities for inmates at Het Nieuwe Lloyd Y.D.C. appeared to be of a reasonable standard. There was a well-equipped library and large and well-lit workrooms, including an "art therapy" studio. Facilities for sports were also of a satisfactory standard.

116. However, the delegation was surprised to learn that inmates received only one hour of formal teaching per week. In the view of the CPT, this is manifestly insufficient in an establishment designed for the detention of school-age inmates.

**The CPT invites the Dutch authorities to review the programmes of education provided at the Het Nieuwe Lloyd Youth Detention Centre, with a view to their intensification.**

## 5. Medical services in the establishments visited

### a. introduction

117. The Netherlands prison administration applies the system of part-time external medical officers in all establishments for which it is responsible. Some basic rules about the system's role and functions are laid down in Section 44 et seq. of the Prison Regulations. Some 65 doctors are attached to the 55 prisons in operation in the Netherlands. There are also 175 qualified nurses, about a quarter of whom are employed part-time. The ratios applied in the matter are as follows: one full-time doctor for 300 prisoners and 1 nurse for 50 male or 35 female prisoners (or young offenders).

118. The exact status of doctors within the prison administration remained unclear to the CPT's delegation. Regardless of the regulatory framework within which a doctor may operate, the CPT considers that his clinical decisions should be governed only by medical criteria. Further, the quality and the effectiveness of medical work should be assessed by a qualified medical authority.

**The CPT wishes to receive information from the Dutch authorities about the current position in the Netherlands on these matters.**

### b. general medical care

119. It should be emphasised at the outset that the delegation had a generally favourable impression of the medical services provided in the establishments visited. It noted that the establishments were suitably equipped in terms of both staff and material resources. At the De Singel Prison, for example, there was a part-time doctor as well as two nurses. They had spacious and well equipped premises at their disposal. There was a similar situation at the De Schie Prison, where a doctor, helped by five nurses was working. Access to specialised medical care did not raise any particular problem. Lastly, a good patient/medical staff relationship was, in general, observed by the delegation in all the establishments.

The delegation was unable to obtain an overview of medical care in the Demersluis Prison (where there were one doctor and two nurses), as serious obstacles were encountered in terms of co-operation (cf. paragraph 9).

120. In each establishment visited there was an on-call medical service; in particular, a doctor was always on call at night and during weekends. However, the delegation was not sure that someone with the necessary knowledge to provide first aid was routinely present at night and during weekends.

**The CPT recommends that a person capable of providing first aid - preferably someone with a recognised nursing qualification - should always be present on prison premises, including at night and during weekends.**

121. At the De Singel Prison and the Het Nieuwe Lloyd Y.D.C., the prisoners' medical files were kept in a satisfactory manner. In other establishments, however, inspection of the medical files revealed some shortcomings (for example, in the Alexandra Y.D.C., three young female prisoners had empty medical files and some other medical questionnaires for new arrivals were completed in a very superficial manner). In two cases, the complete absence of a medical file was observed (the two prisoners concerned were inmates of the EBI in the De Schie Prison).

122. Mention has already been made (cf. paragraph 63) of a prisoner in unit 4A of Demersluis Prison whose medical file did not contain any particulars concerning his state of health or any treatment provided after having been restrained by staff. In this connection, **the CPT recommends that whenever a prisoner is medically examined following a violent incident in a prison, the results of that examination (including any relevant statements by the prisoner and the doctor's conclusions) should be expressly recorded and made available to the prisoner.**

c. mother and child units

123. Although the De Singel Prison occasionally receives mothers with their babies, the CPT observed that there were no special facilities for mothers and children. In this connection it should be emphasised that mothers and children form a particularly vulnerable group in prisons. They should be placed in conditions equivalent to those of a creche and be provided with specialised assistance (nursery nurse, etc).

The CPT understands that there are plans to create such a unit in De Singel Prison, **and wishes to receive information from the Dutch authorities about the progress being made in this respect.**

d. HIV related issues

124. An HIV test is not compulsory, and the result of any such test is protected by medical confidentiality. The provision of appropriate preventive advice upon arrival is the responsibility of the prison doctor. The delegation noted that no discriminatory policy was pursued in respect of HIV positive prisoners.

**The CPT would like to receive copies of any instructions or guidelines drawn up by the national authorities regarding the approach to be adopted towards HIV positive prisoners and prisoners who have developed AIDS. It also wishes to emphasise the importance of an on-going programme of information for prisoners in general and for prison staff concerning transmittable diseases (risks of transmission and means of protection).**



e. psychiatric care

i. *Het Veer Prison*

125. This prison houses the Dutch national psychiatric and forensic observation centre (F.O.B.A.), specialising in monitoring and assisting prisoners showing signs of mental illness or serious behavioural disorders. The prison is intended for male prisoners on remand and is designed to accommodate up to 54 prisoners. The CPT's delegation noted the high staff/prisoner ratio (3:1) in force in the establishment, due mainly to the difficulty and complexity of the cases. The average length of a prisoner's stay in the F.O.B.A. is ten weeks, but it may exceed a year in certain cases.

126. The F.O.B.A. units are divided into two main categories: three units are intended for the reception, observation and stabilisation of prisoners (one being reserved for intensive psychiatric care) and three others perform a function of liaison with prisons, Ministry of Health establishments and the "Terbeschikkingstelling" (T.B.S.) establishments (offenders placed at the Government's disposal)<sup>7</sup>.

127. Each detention floor in the F.O.B.A. comprises nine properly equipped cells of adequate size. The tenth floor consists solely of six isolation cells. At the time of the delegation's visit, all of the 54 ordinary cells in the F.O.B.A. were occupied.

128. The F.O.B.A. provides differentiated activity programmes, drawn up by the multi-disciplinary team responsible for each unit. A psychiatrist, an assistant doctor, a social worker, a nurse and a psychologist prepare an individualised treatment plan implemented by the specialised surveillance staff ("forensic guards"). Further, the facilities for outdoor exercise and sport activities are satisfactory.

In short, it can be said that, as an observation and crisis intervention unit operating within the parameters of a prison environment, the F.O.B.A. provides an acceptable level of care.

ii. *other establishments visited*

129. In the other establishments visited, a part-time psychiatrist carried out regular examinations. The delegation did not receive any complaints concerning access to a psychiatrist in the prisons and youth detention centres visited.

---

<sup>7</sup> Under the Penal Code, offenders who, at the moment when they committed a crime or offence, displayed "insufficient development or a pathological impairment of their mental faculties" may be "held in order to be provided with care".

130. On the other hand, the delegation did notice the presence of prisoners with severe mental disorders in several of the ordinary detention establishments visited. **The CPT wishes to emphasise that mentally-ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff.**

In this respect, the Committee wishes to draw attention to two worrying situations encountered by its delegation:

- during its visit to the De Singel Prison, the delegation met some female prisoners whose condition necessitated constant psychiatric care. All of them were adversely affected by the unsuitable environment in which they were placed and by the prison staff's lack of training. Indeed, one of them was kept almost continuously in a cell in the isolation unit. In this context the Director drew attention to the lack of a F.O.B.A. facility for women in the Netherlands.

**The CPT recommends that the Dutch authorities take steps to ensure that the above-mentioned prisoners are transferred to an appropriate hospital facility without delay.**

- the delegation also met (for instance, in the De Schie Prison, the De Singel Prison and the F.O.B.A.) some male and female prisoners in respect of whom treatment measures (eg. a T.B.S placement) had been decided, in some cases a long time before, but who had not yet been transferred because of a lack of places.

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

**6. Other issue of relevance to the CPT's mandate**

a. outdoor exercise

131. The CPT has already made recommendations to the effect that prisoners held in special detention units should have at least an hour of exercise in the open air a day (see paragraphs 92 and 95). The CPT notes that Rule 41 of the Prison Rules provides for prisoners to have outdoor exercise for at least half an hour a day.

**It recommends that the Prison Rules be amended in order to increase the minimum period of outdoor exercise for prisoners in the Netherlands to one hour a day.**

b. contact with the outside world

132. It is very important for prisoners to maintain reasonably good contact with the outside world. Above all, a prisoner must be given the means of safeguarding his relationships with his family and close friends. The guiding principle should be the promotion of contact with the outside world; any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations.

This is in the spirit of several recommendations made in the 1987 European Prison Rules, especially in Rule 43, paragraph 1 and Rule 65, paragraph c.

133. The Dutch Prison Rules (Rules 90 et seq.) provide for at least an hour's visit every two weeks and the delegation noted that prisoners were in practice offered wider possibilities. Since 1983 a circular issued by the Minister of Justice has entitled sentenced prisoners to a monthly unsupervised visit from members of their family or other close friends (including sexual partners). Prisoners are allowed to write to, and receive letters from, anyone they wish and, subject to certain restrictions, telephone persons outside the prison.

To sum up, prisoners in the Netherlands have satisfactory possibilities to maintain contact with the outside world.

134. EBI prisoners are subject to special rules on contact with the outside world. Substantial restrictions were introduced in 1992 in respect of visits and telephone calls. The CPT was informed that some EBI prisoners had appealed to the courts against these measures, and that the Hague District Court had made a number of observations concerning the easing of restrictions on visits and on contact with lawyers/social workers. The Minister of Justice subsequently expressed agreement on these points.

**The CPT wishes to receive information from the authorities on the current situation and the measures planned in this respect.**

c. solitary confinement

135. The solitary confinement regime is described in Rule 24 of the Prison Rules. The main cases are:

- solitary confinement ordered by the judicial authorities under Sections 222 and 225 of the CCP, for a period of no more than twelve days, renewable for the same period;
- solitary confinement for observation purposes, for a maximum of two weeks, ordered in respect of a prisoner newly admitted to a prison establishment;
- solitary confinement for reasons of order and security, for a period of no more than two weeks, renewable once only, which may be decided by the Director of an establishment;
- solitary confinement at the request of a prisoner.

To these should be added solitary confinement for disciplinary reasons (see paragraph 140).

136. The delegation visited the isolation units of the various establishments concerned. Material conditions of detention in these units do not call for any special comment by the CPT.

137. As indicated earlier, during its visit to the isolation unit at De Singel Prison the delegation met a prisoner in need of constant psychiatric care (cf. also paragraph 130). The prison Director himself admitted that she was a serious psychiatric case who was hard for the prison staff to control and spent most of her time in the isolation unit.

**It should be stressed that such an isolation unit is not an appropriate place to accommodate prisoners in need of psychiatric care.** In particular, the physical surroundings were inappropriate and the staff there had not received suitable training.

138. Special attention should be paid to the mental and physical state of a prisoner placed in solitary confinement. In particular it is an essential safeguard that whenever the prisoner concerned, or a prison officer on the prisoner's behalf, requests a medical doctor, such a doctor should be called without delay with a view to carrying out a medical examination of the prisoner. The results of this examination, including an account of the prisoner's physical and mental condition as well as, if need be, the foreseeable consequences of continued isolation, should be set out in a written statement to be forwarded to the competent authorities.

**The CPT would like to know whether practice in this area in the Netherlands is consistent with the above considerations.**

139. On the specific point of solitary confinement imposed for reasons of order and security, the CPT considers that this procedure should be accompanied by effective safeguards. The prisoner should be informed of the reasons for the measure taken against him (unless significant security requirements dictate otherwise), be given an opportunity to present his views on the matter and be able to contest the measure before an appropriate authority.

**The CPT wishes to know whether such safeguards exist in the Netherlands.**

d. discipline

140. The disciplinary regime in force in prisons in the Netherlands is prescribed by Sections 44 and 45 of the Prisons Act and Rules 100 to 106 of the Prison Rules. The most severe sanctions are: confinement in a disciplinary cell for a maximum of two weeks and confinement in a cell (other than a disciplinary cell) for the whole day, or part of the day, for a maximum of two weeks.

The law provides for procedural safeguards. No sanctions may be imposed without the prisoner concerned being heard by the disciplinary authority. The prisoner is notified in writing of the penalty and the reasons for it within 24 hours of its application. The notification mentions that the prisoner may appeal against the decision to the prison's Supervisory Board and indicates the procedure and time-limits for doing so (see paragraph 144).

141. According to the delegation's findings, the most severe sanctions were applied with circumspection in the establishments visited. More generally, the delegation heard no complaints during its visit about disciplinary sanctions or their application.

142. Material conditions in the cells in which disciplinary penalties were carried out do not call for any special comment by the CPT.

e. grievance and inspection procedures

143. Effective grievance and inspection procedures are fundamental safeguards against ill-treatment in prisons. Prisoners should have avenues of complaint open to them both within and outside the context of the prison system, including the possibility of confidential access to an appropriate authority. The CPT attaches particular importance to regular visits to each prison establishment by an independent body (eg a board of visitors or supervisory judge) empowered to hear (and if necessary take action upon) complaints from prisoners and to inspect the establishment's premises.

144. The CPT notes that a system of this kind has been established in the Netherlands. Existing bodies include:

- a Supervisory Board (an independent body composed of members from different professions) set up for each prison establishment. Its task is to supervise the treatment of prisoners and ensure that the relevant legislation and regulations are applied. At the Board's monthly meeting the Director reports on the general situation in the prison. The Board maintains regular contact with the Director and monitors the situation in the establishment on the spot. It has free access to the establishment, to the prisoners, with whom it is in direct contact, and to the documents and information required for the performance of its task. One of its members is on duty in the prison at least once a month for consultation by prisoners. Letters addressed to the Board by prisoners are not subject to inspection;
- a Complaints Commission formed of three members of the Supervisory Board. Its task is to examine complaints submitted by prisoners (concerning disciplinary sanctions, censorship of mail, prohibition of visits etc). The Commission arranges for the management and the complainant (where necessary accompanied by his lawyer) to discuss the matter. The complainant is notified of the decision, together with a statement of the reasons, within three weeks. He may appeal against it to the Prison Administration Section of the Central Advisory Council; the Director may also appeal against the Commission's decisions.
- the Central Advisory Council for Prison Administration, Assistance to Psychopaths and After Care, a national body which supervises the treatment of prisoners in prison establishments in general and, in particular, the differentiation of establishments and guidance for prisoners. Its Prison Administration Section examines appeals by prisoners: against placement or transfer measures relating to them; against rejection of their applications for transfers; against decisions to place them in solitary confinement in another establishment than that in which they are held; and against decisions of the Complaints Commission.

Detainees also benefitted from other avenues of complaint such as to the National Ombudsman, both Houses of Parliament and to the ordinary Courts for the purpose of judicial review.

145. In short, the complaints and inspection procedures in the Netherlands would appear to be of a satisfactory standard. **Nevertheless, the Committee would like to receive from the Dutch authorities any available information on the application in practice of these procedures.**

## C. The Grenshospitium

### 1. General information

146. The Grenshospitium is a holding centre located near Schiphol (Amsterdam International Airport). It was opened in April 1991 and accommodates asylum seekers (both those seeking asylum and those appealing against rejection of their applications) and illegal immigrants (who have been brought there by the police). Asylum seekers were accommodated in building "A" and illegal immigrants in building "B", on opposite sides of an enclosed courtyard. The Centre has a capacity of 108.

### 2. Torture and other forms of ill-treatment

147. The delegation heard no allegations of torture or other forms of ill-treatment of those deprived of their liberty during its visit to the Grenshospitium.

However, allegations were subsequently received about an incident which was said to have occurred on 30 November 1992. It is alleged that, on that date, two detainees were injured during a police operation which took place inside the Grenshospitium and that certain inmates were transferred to discipline units in the Over-Amstel prisons.

**The CPT would like to receive from the Dutch authorities a full account of the incident which is said to have taken place inside the Grenshospitium on 30 November 1992, together with their comments on the above-mentioned allegations. The CPT would also like to receive details of any judicial and/or administrative enquiries which may have been carried out into the incident in question.**

148. The intervention of outside security forces in a place of detention can often engender a high risk of ill-treatment of detainees, and therefore calls for special safeguards. More specifically, it is desirable that any such interventions should take place in the presence of the civil and legal authorities responsible for public order. **The CPT would welcome the comments of the Dutch authorities on this subject.**

### 3. Material conditions of detention and regime

149. The name Grenshospitium means "border hostel", and the delegation was told by the Director of the establishment that it was the intention of the Dutch authorities that conditions should more closely resemble those in a hotel than in a prison. Accommodation was provided in sets of cells joined by connecting doors. A set consisted of two cells, each of which measured around 9 m<sup>2</sup>. The cells were well-equipped (bunk bed, table, chair and cupboard) and each contained a sanitary annexe with a lavatory, washbasin and shower. There was a central radio system (which could be controlled by the occupant(s)) and inmates were allowed to rent televisions.

150. From the delegation's observations it was clear that the Grenshospitium was more of a prison than a hotel. It should be said, however, that the material conditions were very good. The only criticism which can be made is that cells were somewhat cramped for two occupants. **The CPT considers that it would preferable for detainees to be accommodated as far as possible one to a cell, unless they request otherwise (in order to share a cell with a member of their family/friend who is also detained).**

151. Inmates were allowed a considerable amount of out-of-cell time (only being locked in between 9.00 pm and 7.30 am). They were also offered a wide range of activities including sports, computer training, language courses (for example English and French) and work in a bicycle repair shop. In addition a range of other facilities - such as a shop selling second-hand clothes at token cost - were at their disposal.

### 4. Information provided to detainees

152. Almost every inmate with whom the delegation spoke complained that they had received no information concerning the rules of the establishment or about their legal status. Some sixteen months after it opened, the Centre's rules existed only in a draft form and it transpired that inmates were given no written information on arrival. This meant that the majority of the inmates were unsure about their rights and about how long they might be obliged to remain in the Centre.

The delegation considered that the positive effects of the good material conditions and regime activities in the Grenshospitium tended to be undermined by the failure to provide inmates with the necessary information.

153. The Director of the establishment recognised that the existing situation was not acceptable and stated that a final version of the establishment's rules was soon to be approved.

**The CPT recommends that a high priority be given to the adoption of those rules and that they be made available to inmates on arrival in an appropriate range of languages, together with relevant information about their rights.**



**5. Return to a country where there is a risk of ill-treatment**

154. The delegation heard allegations that persons who were refused asylum were sometimes returned to countries where they ran a risk of being ill-treated. Many of the asylum seekers met in the Grenshopitium expressed considerable fear about the fates which might await them in their countries of origin.

**The CPT would like to receive information on the practical arrangements and safeguards which exist in order to ensure that persons are not sent to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment.**

### III. RECAPITULATION AND CONCLUSIONS

155. During its visit to the Netherlands, the CPT's delegation heard no allegations of torture; nor was any other evidence of torture found. Moreover, few allegations of other forms of ill-treatment in places of detention were heard. The information received by the CPT suggests that there is little likelihood of a person deprived of his liberty in the Netherlands being physically ill-treated.

156. Notwithstanding this finding, the CPT has requested information on the number of complaints of ill-treatment lodged in 1991 and 1992 against police or gendarmerie officers, prison officers or members of staff in youth detention centres, and on criminal/disciplinary penalties imposed during these two years in respect of such complaints.

157. Further, the CPT has requested information about three specific incidents, two which apparently took place in Amsterdam (one on 11 August 1992 in unit 4A of Demersluis Prison and the other, on 30 November 1992, in the Grenshospitium) and the third which apparently occurred in Venlo on 7 January 1993.

#### A. National and Municipal Police establishments

158. On the whole, the **conditions of detention** observed in the police establishments were adequate. In some cases, they could even be described as good. The CPT's main concern relates to the practice noted in Amsterdam Police Headquarters of holding people there for lengthy periods of time on remand or in administrative detention - a state of affairs which is apparently not confined to Amsterdam. It should be stressed that the physical surroundings and the standard of activities offered at the Headquarters fell distinctly short of what a detainee held for a lengthy period is entitled to expect. The CPT has recommended that the Dutch authorities accord a high priority to measures designed to remedy this situation.

159. The CPT considered the **safeguards against ill-treatment** offered to persons detained by the police. It noted that the right for a person detained by the police to inform a relative or third party of his detention is not expressly recognised. It has recommended that this should be the case and that any possibility exceptionally to delay the exercise of that right should be clearly circumscribed, made subject to appropriate safeguards and strictly limited in time.

Another fundamental safeguard, the right of access to a lawyer, is already formally provided by law. However, this right is not expressly recognised during the initial period of detention by the police for the purposes of interrogation (up to six hours). The period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. The CPT has therefore recommended that persons detained by the security forces be entitled to have access to a lawyer as from the very outset of their deprivation of liberty. This right should include both the right to contact the lawyer and to be visited by him and, in principle, the right to have the lawyer present during interrogation.

Moreover, the CPT has reservations about the possibility, under certain circumstances, to prohibit or restrict contact between a detainee and a lawyer for a maximum period of six days, and, in particular, to prohibit conversations in private. It may exceptionally be appropriate - in order to protect the interests of justice - to delay or restrict the possibility for a detained person to have access to a lawyer of his choice; however, the application of such an exception to any lawyer (of the detainee's choice or officially appointed) is difficult to justify. The CPT has recommended that steps be taken to ensure that every person detained by the security forces has the right to consult in private with a lawyer (where necessary, an officially appointed lawyer) without delay.

160. The CPT has also made recommendations on other points, for example: the systematic issuing of a form to persons held by the security forces, setting out their rights; the drafting of a code of practice for police interrogations.

The CPT wishes to underline that it was favourably impressed by the range of complaints procedures offered to persons who allege that they have been ill-treated by the police in the Netherlands, as well as by the system for monitoring places of detention.

## **B. Prisons and Youth Detention Centres**

161. Both the **material conditions of detention** and the **regimes** in the prison and youth detention establishments visited were satisfactory, and on occasion were of a very high standard. The CPT's delegation was favourably impressed by the policy of one person per cell applied in the establishments. It should be added that staff and prisoners appeared to be on reasonably good terms.

162. This positive conclusion did not extend to the situation found by the delegation in the **reinforced security unit (EBI) of De Schie Prison** and **unit 4A of Demersluis Prison**. Although the material conditions in the cells were of a high standard, the overall quality of life of prisoners left a great deal to be desired. Prisoners lives were governed by unduly restrictive group systems, out-of-cell time was very limited, the activities available were both few in number and unstimulating in nature, and, above all, staff-inmate relations were of a poor quality.

Although these criticisms are applicable to both units, they apply with particular force in respect of unit 4A of Demersluis Prison. The CPT has recommended that an enquiry be carried out without delay into the operation of that unit. The aims of this enquiry should be, inter alia, to examine relations between staff and inmates in the unit with a view to their improvement and, more generally, to develop a less restrictive and more stimulating regime.

Further, the CPT has noted that the Dutch authorities have decided to build two new EBI units, in Vught and Lelystad. This is a potentially positive development, on condition that the Hoekstra Commission's proposal that they should have as normal a regime as possible is implemented. The CPT has recommended that this project be given a high priority and has highlighted some considerations which should be taken into account in the design of the regimes to be applied within those units.

The CPT has also recommended that steps be taken immediately to allow prisoners in special detention units to benefit from at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically.

Finally, the CPT has made recommendations on the administrative safeguards to be offered to prisoners held in special detention units.

163. The CPT's delegation had a generally favourable impression of the **medical services** provided in the establishments visited. Nevertheless, it has recommended that a person capable of providing first aid - preferably someone with a recognised nursing qualification - should always be present on prison premises, including at night and during weekends.

The CPT has also underlined that mentally-ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. In this respect, reference is made to certain female prisoners in De Singel Prison, whose condition necessitated constant psychiatric care and who were adversely affected by the unsuitable environment in which they were placed and by the prison staff's lack of training. The CPT has recommended that the prisoners in question be transferred without delay to an appropriate hospital facility.

The above-mentioned incident in unit 4A of Demersluis Prison (cf. paragraph 157) led the CPT to recommend that whenever a prisoner is medically examined following a violent incident in a prison, the results of the examination (including any relevant statements by the prisoner and the doctor's conclusions) should be expressly recorded and made available to the prisoner.

164. Some **other issues of relevance to the CPT's mandate** are dealt with in the report: outdoor exercise, contact with the outside world, solitary confinement, grievance and inspection procedures. A certain number of recommendations, comments and requests for information have also been made on these matters.

### C. The Grenshospitium

165. The conditions of detention at the Grenshospitium were, on the whole, adequate. However, the quality of information given to the inmates on reception left a great deal to be desired. The CPT has recommended that a high priority be given to the adoption of the internal rules of the establishment and that they be made available to newly arrived inmates in an appropriate range of languages, together with relevant information about their rights.

\*

\* \* \*

166. The CPT wishes to recall that cooperation between its delegation and the authorities, both at national and local level, was, in general, very satisfactory. However, it must state that the cooperation received by the delegation during its visit to Demersluis Prison did not reach the level required by the Convention.

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

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

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

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

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

**APPENDIX I**

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

**A. National and Municipal Police establishments**

**1. Torture and other forms of ill-treatment**

requests for information

- in respect of 1991 and 1992:
  - the number of complaints of ill-treatment lodged against police or gendarmerie officers and the number of criminal/disciplinary proceedings brought as a result of such complaints (paragraph 17);
  - an account of the criminal/disciplinary penalties imposed following complaints of ill-treatment (paragraph 17);
- information about the alleged ill-treatment of a Turkish national detained in Venlo on 7 January 1993 (paragraph 18);
- the comments of the Dutch authorities on allegations of ill-treatment of persons in the course of their expulsion from the Netherlands and on the procedures in this area (paragraph 18).

**2. Conditions of detention in police establishments**

recommendation

- a high priority to be given to the problem of the holding of persons on remand or in administrative detention for lengthy periods in police establishments in the Netherlands (paragraph 33).

comments

- the premises of Amsterdam Police Headquarters are not suitable for detention for lengthy periods (paragraph 22);
- the practice of not holding detainees overnight at the Volendam National Police Station should continue (paragraph 23);
- in view of their size, the cells in the 1st district police station of the Amsterdam Municipal Police are hardly suitable for stays of more than a few hours (paragraph 25);

- substantial renovation of the premises at the 4th district police station of the Amsterdam Municipal Police is required (paragraph 25);
- the size of the older cells at Amsterdam Police Headquarters renders them hardly suitable for stays of more than a few hours (paragraph 28).

requests for information

- any new legislative provisions or regulations on police cells adopted by the Dutch authorities as a result of the draft amendments proposed by the Minister of Justice (paragraph 21);
- information on the implementation of the proposals for instructions put forward by the Principal Crown Counsels, concerning the removal from service of cells which do not meet ministerial requirements (paragraph 21);
- details of the planned modifications to the detention areas at the 4th district police station of the Amsterdam Municipal Police (paragraph 25);
- information on the categories of detainees placed in the observation cells at Amsterdam Police Headquarters, on any special measures taken to supervise or assist such persons and on the frequency with which those cells have been used over the past twelve months (paragraph 29).

### **3. Safeguards against ill-treatment of detainees**

recommendations

- persons detained by police or gendarmerie officers to be entitled to inform, without delay, a relative or third party of their choice of their situation (paragraph 38);
- any possibility exceptionally to delay the exercise of the above-mentioned right to be clearly circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior officer or public prosecutor) and strictly limited in time (paragraph 38);
- persons held for interrogation by the security forces to be entitled to have access to a lawyer as from the very outset of their deprivation of liberty. This right to include both the right for the detained person to contact the lawyer and to be visited by him (in both cases under conditions guaranteeing the confidentiality of their discussions) and, in principle, the right to have the lawyer present during interrogation by the security forces (paragraph 41);
- steps to be taken to ensure that every person detained by the security forces has the right to consult in private with a lawyer (where necessary, an officially appointed lawyer), without delay (paragraph 42);

- all medical examinations of detainees to be conducted out of the hearing and -unless the doctor concerned requests otherwise - out of the sight of police or gendarmerie officers (paragraph 46);
- the results of every medical examination as well as any relevant statements by the detainee and the doctor's conclusions, to be recorded in writing by the doctor and made available to the detainee and his lawyer (paragraph 46);
- a form setting out the rights of detainees in a straightforward manner to be given systematically to detainees at the outset of their custody. The detainee to be asked to sign a statement attesting that he has been informed of his rights in a language which he understands (paragraph 48);
- a code of practice for interrogations to be drawn up by the Dutch authorities (paragraph 50).

comment

- the Dutch authorities are invited to consider extending independent supervisory systems to all police and gendarmerie detention areas in the Netherlands (paragraph 52).

requests for information

- the comments of the Dutch authorities on allegations by many detainees that they had had no contact with a lawyer until the end of the second or even third day of police custody (paragraph 43);
- the circumstances which might preclude access by a detainee to a doctor of his choice (paragraph 46);
- whether it is envisaged to use more widely a computerised system for recording aspects of detention (paragraph 51);
- whether such information held in a police computerised recording system is made available to the detainee and his lawyer (paragraph 51);
- whether the competent judicial authorities exercise on the spot supervision of detention measures in police premises (paragraph 53);
- copies of the annual reports produced in 1991 and 1992 by Complaints Commissions (paragraph 54).



## **B. Prisons and Youth Detention Centres**

### **1. Torture and other forms of ill-treatment**

#### requests for information

- the number of complaints of ill-treatment by prison officers or members of the staff in youth detention centres made in the Netherlands during 1991 and 1992 and the number of cases in which disciplinary/criminal proceedings were initiated, with an indication of any sanctions imposed (paragraph 62);
- a full account of the incident which took place on 11 August 1992 in unit 4A of Demersluis Prison, together with the results of any enquiries which may subsequently have been carried out and details of any disciplinary proceedings which may have resulted (paragraph 64).

### **2. Special detention units**

#### recommendations

- an enquiry to be carried out without delay into the operation of unit 4A of Demersluis Prison; the aims of this enquiry to be, inter alia, to examine relations between staff and inmates in the unit with a view to their improvement and, more generally, to develop a regime along the lines indicated in paragraph 90 of the report (paragraph 92);
- steps to be taken immediately to ensure that all prisoners in both units 4A and 4B of Demersluis Prison are allowed at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically (paragraph 92);
- a high priority to be given to the project concerning two new EBI units, and the remarks made in paragraph 90 to be taken fully into account in the design of the regimes to be applied within those units (paragraph 93);
- measures to be taken immediately to ensure that all prisoners held in EBI units are allowed at least one hour of exercise in the open air every day, in areas sufficiently large to enable them to exert themselves physically (paragraph 95);
- a prisoner placed in a special detention unit or whose placement is renewed to be informed in writing of the reasons for that measure, unless significant security requirements dictate otherwise (paragraph 96);
- a prisoner in respect of whom such a placement measure is envisaged to be given an opportunity to express his views on the matter (paragraph 96);
- the placement of a prisoner in a special detention unit to be fully reviewed at least every three months (paragraph 96).

comment

- the Dutch authorities are invited to explore the possibility of providing some additional activities, apart from exercise, for prisoners held under pre-trial segregation on the orders of a judge in unit 4B of Demersluis Prison (paragraph 92).

requests for information

- the projected timescale for the bringing into service of the two new EBI units, details of the regimes to be applied within them and information on whether the existing system of regular transfers between EBIs will continue to apply (paragraph 94);
- a copy of the law on the EBI system (paragraph 94);
- the avenues open to a prisoner for the purposes of challenging a decision to place him in a special detention unit or to renew his placement (paragraph 96).

**3. Conditions of detention in general**

recommendation

- facilities for sport at the Alexandra Youth Detention Centre to be improved (paragraph 111).

comments

- it would be appropriate to increase the number of language courses in De Singel Prison for foreign prisoners who speak neither Dutch nor English (paragraph 99);
- desirability of supplementing the therapeutic content of the psychological services available at Alexandra Youth Detention Centre by employing a psychologist at the Centre on a full-time basis (paragraph 112);
- the Dutch authorities are invited to review the programmes of education provided at the Het Nieuwe Lloyd Youth Detention Centre, with a view to their intensification (paragraph 116).

#### **4. Medical services in the establishments visited**

##### recommendations

- a person capable of providing first aid - preferably someone with a recognised nursing qualification - to always be present on prison premises, including at night and during weekends (paragraph 120);
- whenever a prisoner is medically examined following a violent incident in a prison, the results of that examination (including any relevant statements by the prisoner and the doctor's conclusions) to be expressly recorded and made available to the prisoner (paragraph 122);
- certain female prisoners at De Singel Prison whose condition necessitates constant psychiatric care to be transferred to an appropriate hospital facility without delay (paragraph 130).

##### comments

- an on-going programme of information for prisoners in general and prison staff concerning transmittable diseases (risks of transmission and means of protection) is most important (paragraph 124);
- mentally-ill prisoners should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff (paragraph 130).

##### requests for information

- information on the status of doctors within the prison administration in the Netherlands, on the criteria governing their clinical decisions and on the assessment of the quality and effectiveness of medical work (paragraph 118);
- the progress being made towards the creation of a mother and child unit in De Singel Prison (paragraph 123);
- copies of any instructions or guidelines drawn up by the national authorities regarding the approach to be adopted towards HIV positive prisoners and prisoners who have developed AIDS (paragraph 124);
- comments on the delay in transferring some male and female prisoners met by the CPT's delegation, in respect of whom treatment measures (eg. a T.B.S placement) had been decided (paragraph 130).

## **5. Other issues of relevance to the CPT's mandate**

### recommendation

- the Prison Rules to be amended in order to increase the minimum period of outdoor exercise for prisoners to one hour a day (paragraph 131).

### comment

- the isolation unit at De Singel Prison is not an appropriate place to accommodate prisoners in need of psychiatric care (paragraph 137).

### requests for information

- the current situation and the measures envisaged in respect of contact with the outside world for EBI prisoners (paragraph 134);
- whether practice in the area of the medical supervision of the mental and physical state of prisoners placed in solitary confinement is consistent with the considerations in paragraph 138 (paragraph 138);
- safeguards for prisoners subject to solitary confinement for reasons of order and security (paragraph 139);
- information on the application in practice of the complaints and inspection procedures (paragraph 145).

## **C. The Grenshospitium**

### recommendation

- a high priority to be given to the adoption of the internal rules of the Grenshospitium and those rules to be made available to inmates on arrival in an appropriate range of languages, together with relevant information about their rights (paragraph 153).

### comment

- it would preferable for those held in the Grenshospitium to be accommodated as far as possible one to a cell, unless they request otherwise (in order to share a cell with a member of their family/friend who is also detained) (paragraph 150).

requests for information

- a full account of the incident said to have taken place inside the Grenshospitium on 30 November 1992, together with the comments of the Dutch authorities on allegations that two detainees were injured during that incident and certain inmates were transferred to discipline units in the Over-Amstel prison complex (paragraph 147);
- details of any judicial and/or administrative enquiries which may have been carried out into the above-mentioned incident (paragraph 147);
- the comments of the Dutch authorities on the subject of special safeguards during the intervention of outside security forces in places of detention (paragraph 148);
- information on practical arrangements and safeguards for ensuring that persons are not sent to a country where they run a risk of being subjected to torture or to inhuman or degrading treatment or punishment (paragraph 154).

**APPENDIX II**

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

**National authorities**

Ministry of Foreign Affairs

- Mr H. van den Broek, Minister of Foreign Affairs
- Mr S.I.H. Gosses, Deputy Director General for European Affairs
- Mr K. de Vey Mestdagh, JURA
- Mr Th. van Banning, Deputy Co-ordinator for Human Rights and Liaison Officer to the CPT

Ministry of Justice

- Mr A. Kosto, Secretary of State for Justice
- Mr H.B. Greven, Director General for the protection of young people and the care of offenders
- Mr H.P. Wooldrik, Head, Directorate of Police
- Mr L. Elting, Head, Directorate for the care of offenders and Juvenile Institutions
- Mr Rook, Deputy Head
- Prof. dr. N.W. Salt, Psychiatric Advisor
- Mr Th. J. de Man, Health Inspector
- Ms Epker-Laverman, Legal Bureau
- Ms E.S.G. Jongeneel, Legal Affairs
- Mr J.A.J. Timmers, Group management prison service
- Mr J.F. van Huet, Penitentiary Establishments Over-Amstel
- Mr H.R. Kleinjan, Group management TBS
- Mr G.J. Broeksteeg, TBS Affairs

- Mr C.E.C. Droogendijk, Policy Development TBS
- Mr R.P de Bruijn, Group management Juvenile Institutions
- Ms E.M. Liebbergen, Sector Management Juvenile Institutions
- Mr A.J. van Parijs, Policy Development Juvenile Institutions
- Mr B.C. Kroon, Personnel
- Mr F.J.J. Moné, Economic Affairs
- Mr J.D.D. Heesen, Secretariat
- Ms M.M.W. Barnas, Secretariat

Ministry of Interior

- Mr Th. C. de Graaf, Deputy Head, Directorate of Police
- Ms W.A.J.M. van Doorn, Governmental and Legal Bureau
- Mr. A.K. Jahier, Governmental and Legal Bureau

Office of the Ombudsman

- Mr N.A.M. Schipper, Deputy National Ombudsman

**Non-governmental Organisations**

COORNHERT-LIGA, Vereniging voor Strafrechthervorming

HVO, Welzijnswerk en Strafrechtmoeilijkheden

NCJM, Nederlands Juristen Comité voor de Mensenrechten