

EXECUTIVE SUMMARY

In the course of its seventh periodic visit to the Kingdom of the Netherlands in May 2022, the CPT examined the treatment and safeguards afforded to persons deprived of their liberty by the police as well as the treatment of persons in prison and their conditions of detention. Further, several immigration detention facilities were visited to examine the situation of persons deprived of their liberty under aliens legislation. The visit was carried out to both the European part of the Kingdom and to the constituent countries of Aruba, Curaçao and Sint Maarten.

In many respects, the cooperation received by the delegation during the visit, from both the authorities and staff at all the establishments visited, was very good. However, at Dakota Immigration Detention Centre in Aruba, the delegation was confronted with an openly hostile and aggressive attitude from the officer in charge of the facility at the time of the visit. Moreover, the work of the delegation was once again seriously impeded in the European part of the Kingdom as access to medical records of persons detained in prisons and immigration detention centres was conditioned by an individual written consent of the persons concerned. The Dutch authorities must ensure that CPT delegations be granted ready and unrestricted access to the medical files of all detained persons in the establishments under the Committee's mandate.

The Kingdom in Europe

Police custody

The vast majority of persons interviewed by the delegation made no allegations of ill-treatment by police officers but indicated that they had been treated correctly and with respect. However, the delegation did receive several allegations of unduly tight handcuffing during apprehension by the police.

It is positive that the amended legislative framework now clearly provides for relevant fundamental safeguards against ill-treatment and the CPT also gained a positive impression overall of their practical implementation. Improvements related notably to access to a lawyer for suspects, including juveniles, during questioning by the police. The CPT also welcomes the good practice observed in some police stations to allow minors to spend the night at home. However, not all persons held in police custody were fully informed of their fundamental rights and could effectively benefit from the rights of notification of custody and of access to a doctor from the outset of their detention.

Material conditions in the four police establishments visited were generally good for short periods of detention. At Amsterdam Central Police Station, the padded observation cells which measure about 5 m² in size should not be used for overnight accommodation. On a more general level, the CPT reiterates its recommendation to abolish the possibility of remand detention in police custody.

Moreover, the CPT is critical of the way in which strip searches are being carried out by the police and of the practice of placing detained persons at risk of suicide naked in an observation cell in a police station with no support. Such a practice could be considered as inhuman and degrading treatment. The CPT also requests information on the use of electrical discharge weapons by the police.

Immigration detention

Immigration detention is still not covered by specific rules reflecting its administrative nature and the planned reform of the legislative framework has been further delayed. The CPT reiterates that it is totally inappropriate to apply prison rules to persons held in immigration detention.

The delegation received no allegations of ill-treatment by staff at Schiphol and Zeist Detention Centres (DCs), where it observed a positive environment. However, at Rotterdam DC, a few

allegations were received from persons who claimed that they had been subjected to excessive use of force by custodial staff; it also heard several complaints of verbal abuse, discriminatory and racist language, and disrespectful behaviour by some members of staff on several of the wings visited.

Material conditions ranged from very good (at Schiphol and Rotterdam DCs) to excellent (at the Closed Family Unit (GGV) at Zeist DC), where families with children and women could benefit from a community- and family-type living environment, in a non-carceral setting. Numerous complaints were however received about the food. At Schiphol DC, women should not be accommodated with men who are not their relatives.

At both Schiphol DC and the GGV at Zeist DC, foreign nationals could benefit from an open-door regime throughout the day and make use of activity rooms and various equipment. The number of organised activities on offer remained however limited in both centres. By contrast, at Rotterdam DC, most persons had to remain in their cells for a large part of the day (18 hours). Staffing resources should be significantly increased to enable an open-door regime, with at least two hours of outdoor exercise daily, to be offered and the programme of organised activities should be enhanced.

As regards healthcare services, swifter access to a doctor and to dental care should be ensured for all persons detained at Rotterdam DC. All new arrivals should benefit from a comprehensive medical screening and a dedicated register of injuries should be put in place, in the three centres visited.

Moreover, the specific needs of persons with vulnerabilities should be adequately addressed and meaningful alternatives should be considered for them. Efforts should be vigorously pursued to avoid detaining children and, as a matter of principle, unaccompanied children should not be detained.

The policy and legal framework on the use of segregation as a measure and as a disciplinary sanction in immigration detention centres should be reviewed. At Rotterdam DC, all segregation should be applied proportionately in practice and surrounded by effective safeguards. While the 14-day maximum period should never be exceeded, the aim should be to reduce the resort to solitary confinement as a public order/security measure and to no longer apply solitary confinement as a disciplinary measure in an immigration detention context. The conditions of detention for persons placed in solitary confinement should also be improved at Rotterdam DC.

The report also advocates enhancing contact with the outside world for detained persons and increasing staffing numbers at Rotterdam DC, as well as to reviewing the way in which strip searches are conducted.

Prison establishments

No allegations of deliberate physical ill-treatment of detained persons by staff were received in any of the establishments visited and relations with staff appeared to be generally positive. However, the delegation did receive several complaints concerning abusive language and disrespectful behaviour by some members of staff at both Dordrecht and Vught Prisons. Moreover, the management of Dordrecht Prison should take steps to reduce tensions among prisoners held in the remand section. Further, staff in the BPG unit at Vught Prison and in the TA unit at Zwolle Prison should remain vigilant as regards incidents of inter-prisoner violence and intimidation.

Material conditions were of a high standard at Dordrecht Prison, in the TA unit at Zwolle Prison and at the EBI and EZV (extra care facility) units at Vught Prison, and they were good in the BPG and TA units at Vught Prison. However, the conditions of detention observed in the old buildings of Vught Prison (particularly units 6 and 7) were of a lower standard. Persons in all prisons visited complained about the poor quality, taste and insufficient quantity of the food.

The daily programme and activities provided to sentenced persons held under the ordinary regime in the establishments visited were generally satisfactory. The delegation also gained a positive impression of the newly created limited security unit (BBA unit) for reintegration at Dordrecht Prison and of the EZV units at Dordrecht and Vught Prisons. The situation was however less satisfactory

for persons held on remand as most of them continued to be confined to their cells for up to 21 hours a day. Action should be taken to allow them to have additional out-of-cell recreational time (at least two hours a day) to cater for their basic needs and they should be offered a range of purposeful activities.

The delegation paid specific attention to the situation of persons placed in the high-security units, including the maximum-security institution (EBI unit), BPG and TA units at Vught Prison and the TA unit at Zwolle Prison. While the CPT acknowledges the need for adequate security measures for those who pose an enhanced security risk, the highly restrictive regimes and various security measures applied in the EBI units and in some parts of the BPG and TA units at Vught Prison appeared to be excessively restrictive. For instance, there can be no justification for the routine handcuffing of persons held in these units. Further, persons placed in the BPG unit at Vught Prison might initially spend several weeks or months confined to their cells for 23 hours a day which is not appropriate. Special efforts should be made to improve the regime and provide sufficient meaningful human contact to avoid conditions akin to *de facto* solitary confinement. As regards the two TA units at Vught and Zwolle Prisons, additional support and de-radicalisation activities should be provided to persons placed therein.

As regards the new policy framework for the enforcement of life sentences, the CPT notes that the gradual reassessment of persons sentenced to life imprisonment is still carried out in the context of a pardon procedure, which is based on ministerial discretion. Consequently, the CPT recommends that a judicial review mechanism for persons sentenced to life imprisonment be developed. Further, persons with life-sentences should benefit from individual sentence-planning objectives from the outset of their imprisonment and should be offered a real and effective possibility of conditional release into the community.

Healthcare services were of a high quality and healthcare staffing levels were adequate in all establishments visited. Nevertheless, improvements should be made regarding medical screening upon admission, the systematic recording and reporting of injuries, access to specialist medical care and medical confidentiality and restraint during medical consultations for persons held in the high-security units at Vught Prison, and swift access to enhanced psychological and trauma support services for women held at the TA unit in Zwolle Prison.

The report also makes recommendations to improve the disciplinary process and contact with the outside world as well as to review the operation of strip-searches and to abandon the resort to restraint beds in prison.

Aruba, Curaçao and Sint Maarten

Police custody

The majority of persons interviewed during the visit who were – or had recently been – in police custody made no allegations of physical ill-treatment by police officers. However, the delegation did receive a few isolated allegations of ill-treatment of persons in police custody and some allegations of excessive use of force at the moment of apprehension, of excessively tight handcuffing and of verbal abuse of persons in police custody by police officers.

Most persons interviewed during the visit confirmed that they had been informed of their rights in writing shortly after their arrival at a police facility. However, several persons complained that their request to be examined by a medical doctor during their time in police custody had been delayed for several days. The delegation also heard some allegations that the possibility to inform a third person of one's detention and the right of access to a lawyer had been delayed during the initial stages of police custody. The CPT recommends that the authorities ensure that detained persons may effectively benefit from the right of access to a lawyer and to a doctor and the right to have a third person notified of the fact of their detention from the very outset of the deprivation of liberty.

While the CPT noted the refurbishments made in some of the police establishments, it nevertheless found that the material conditions in the facilities visited remained poor in general. This was

particularly true for the police detention facility located at Curaçao Prison (SDKK) and of Shaba Police Station in Aruba.

Moreover, the CPT once again found that detained persons were regularly held in these poor conditions for up to 10 days, and sometimes longer. The CPT reiterates its recommendation that persons should not be detained in these establishments in excess of some three days (that is, the initial period of police custody).

Immigration detention

The CPT received no allegations of deliberate physical ill-treatment of persons in immigration detention by staff in the immigration facilities visited. However, a few allegations were received of verbal abuse of detained persons, as well as of physical abuse of migrants at the moment of apprehension and of excessively tight handcuffing by the police.

Material conditions at Simpson Bay Immigration Detention Facility in Sint Maarten were acceptable in several respects and the regime provided to detained persons was found to be adequate.

However, material conditions offered to men at Dakota Immigration Detention Facility in Aruba, who were accommodated in shipping containers, and at the “Illegalen Barakken” Immigration Detention Facility in Curaçao were very poor. At the end of the visit, the delegation requested the relevant authorities to cease to use the shipping containers in Aruba for the accommodation of persons and to take the facility in Curaçao out of service. The authorities subsequently informed the CPT of the steps taken to comply with these requests.

Moreover, the regime in both the aforementioned immigration detention facilities was impoverished. There was a lack of any purposeful activities and detained persons spent their days in idleness.

The CPT formulates several recommendations with a view to remedying the shortcomings observed as regards legal safeguards accompanying immigration detention. In particular, a maximum time limit for immigration detention should be introduced and all persons placed in immigration detention should be fully informed of their rights and of the procedures applicable to them. Further, a systematic medical screening of all persons newly admitted to an immigration detention facility should be introduced.

Prisons

The majority of persons in prison with whom the delegation spoke made no allegations of ill-treatment by prison officers. Nevertheless, the delegation received some allegations of excessive use of force and rude behaviour; this concerned in particular members of special intervention teams in Aruba and Curaçao when they carried out cell searches, as well as by custodial officers in Sint Maarten when dealing with recalcitrant prisoners or instances of inter-prisoner violence.

The CPT points out that the recording of use of force by staff was deficient and recommends that a comprehensive dedicated register be maintained in the prisons visited.

Despite the commendable efforts made by staff in the establishments visited to prevent inter-prisoner violence, such as the identification of incompatible prisoners upon admission and during their stay in prison and their subsequent allocation to safe wards, as well as limiting interaction between prisoners from different wards, episodes of inter-prisoner violence still occurred. Efforts to tackle this phenomenon should be continued.

Material conditions were on the whole acceptable at Point Blanche Prison in Sint Maarten, although signs of wear and tear were visible in many parts of the prison. Despite some refurbishments, material conditions at Aruba Correctional Institution (KIA) and at the Centre for Detention and Correction Curaçao (SDKK) remained poor in general. The majority of prisoners were accommodated in dilapidated dirty cells which were infested with vermin; sanitary annexes in

multiple-occupancy cells were not fully partitioned and a number of them had black mould on the walls. Moreover, most cells at KIA held three prisoners in some 9.5 m² and provided cramped conditions. The conditions were particularly deplorable in the EBA unit at SDKK and in the segregation unit at Point Blanche Prison. In addition, at KIA and SDKK, no suitable arrangements exist for disabled persons who depended on the good will of other prisoners when they needed to use the toilet or take a shower. The CPT formulates a series of recommendations to improve the material conditions and to ensure that disabled persons are held in conditions which enable them to uphold their dignity.

The CPT notes positively that most prisoners were allowed to spend between six and eight hours a day out of their cells. A number of prisoners were engaged in work (albeit, in the vast majority of cases, for a few hours a day only) and a few leisure and sports activities were also offered. However, it remained the case that the majority of prisoners spent most part of the day in idleness. The CPT reiterates that the aim should be to ensure that all prisoners (including those on remand) spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature. This will require the hiring of specialist staff to provide organised activities.

Healthcare staffing levels were insufficient in the three prisons visited and prisoners were not systematically medically screened upon admission. Moreover, healthcare staff continued to be involved in security-related tasks, including urine testing for drugs and cavity searches in relation to illicit items.

The FOBA unit at SDKK and the IBA unit at KIA were intended to accommodate primarily persons with mental health problems but neither unit provided a suitable therapeutic environment to address the needs of these persons, in particular due to the lack of specifically trained staff and an almost total lack of therapeutic activities. The CPT recommends, *inter alia*, that the staffing levels of various categories of healthcare staff and/or their presence in the establishments be increased and that adequate care and support be provided to prisoners with mental health problems.

Prisoners deemed at risk of self-harm or suicide were usually put alone in a cell and were either provided with a rip-proof gown or kept there naked until the arrival of mental health team. The CPT underlines that the treatment and care of such persons should be overseen by healthcare staff. Further, *de facto* isolation, resulting from a combination of confinement to a cell for most of the day, little or no contact with staff, and a poor regime, is the exact opposite of the care required for persons presenting a risk of suicide or self-harm; instead, they should be afforded increased contact with other persons. Only when there is an evident suicide risk or case of self-harm should the person have to remove their clothes and, in such cases, they should be provided with rip-proof clothing and footwear. The removal of clothes should follow an individual risk assessment and be recommended by healthcare staff. The CPT recommends that the authorities draw up a care protocol for prisoners who are deemed to be at risk of self-harm or suicide, in light of these principles.

As regards custodial staff, the situation remained problematic at KIA and SDKK, with low staffing levels, vacancies, frequent sick leaves and deployment of officers to other duties for various reasons. A new staffing table which was expected to increase the staffing levels was being prepared for Point Blanche Prison and the CPT requests up-to-date information in this respect.