



**Report to the Government of the Netherlands  
on the visit to the Netherlands Antilles  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
from 7 to 11 December 1997**

**and**

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

The Netherlands Government has agreed to the publication of the CPT's report on its visit to the Netherlands Antilles, together with the response of the Government of the Netherlands Antilles. The English version of the response, as submitted by the Netherlands Government, is set out in this document. The dutch version of the response (CPT/Inf (98) 18), as well as the appendices to which reference is made in the response, can be obtained, upon request, from the CPT's Secretariat (Council of Europe, F – 67075 Strasbourg Cedex, tel.: (33) (0)3 88 41 23 88; fax: (33) (0) 3 88 41 27 72; e-mail: [cptdoc@coe.fr](mailto:cptdoc@coe.fr)).

Strasbourg, 10 December 1998



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(CPT)**

**from 7 to 11 December 1997**

(adopted on 12 March 1998)



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Copy of the letter transmitting the CPT's report

Strasbourg, 19 March 1998

Dear Sirs,

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 authorities of the Kingdom of the Netherlands drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to the Netherlands Antilles from 7 to 11 December 1997. The report was adopted by the CPT at its 35th meeting, held from 9 to 12 March 1998.

The CPT is extremely concerned by the gravity of the situation observed by its delegation at Koraal Specht Prison, and in this connection would draw your attention to the remarks made in paragraph 6 of the report.

The CPT has requested that the authorities of the Kingdom of the Netherlands provide, within three months, detailed information on the measures taken to implement the recommendation made in paragraph 18 of its report. Further, the CPT requests that those authorities provide, within six months, a report setting out details of the measures adopted to implement the other recommendations made by the Committee, as well as their reactions to its comments and requests for information (the Committee's recommendations, comments and requests for information are listed in the Appendix to the report).

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 faithfully,

Ivan ZAKINE  
President of the CPT

**Ministry of Foreign Affairs  
Economic Cooperation Department  
Interregional and Regional  
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Bezuidenhoutseweg 67  
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cc. Ms Alma Louise de BODE-OLTON, Head of Treaties Department and Legal Affairs, Bureau of Foreign Affairs of the Netherlands Antilles, Willemstad (Curaçao)



## I. INTRODUCTION

### A. Dates of the visit, composition of the delegation and establishments visited

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to the Netherlands Antilles from 7 to 11 December 1997. The visit was one which appeared to the Committee to be "required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

2. The visit was carried out by the following members of the CPT:

- Mrs Pirkko LAHTI, Head of the delegation;
- Mrs Christina DOCTARE;
- Mr Ole Vedel RASMUSSEN.

They were assisted by:

- Mr James McMANUS (Scottish Prisons Complaints Commissioner) (expert);
- Mr Stanley BRAAFHEID (interpreter);
- Mrs Esther HUHN (interpreter);
- Mrs Wilhelmina VISSER (interpreter);

and accompanied by Mr Jan MALINOWSKI of the CPT's Secretariat.

3. The CPT's delegation focused its attention on **Koraal Specht Prison**. However, it also visited the **police detention facility** and the **Criminal Investigation Department** at Rio Canario, as well as a **centre for immigration detainees** located close to Koraal Specht Prison.

### B. Context of the visit

4. In the report on the 1994 visit, conditions of detention at Koraal Specht Prison were described by the CPT as amounting to inhuman and degrading treatment (cf. CPT/Inf (96) 1, paragraph 65). The ensuing ongoing dialogue between the authorities of the Netherlands Antilles and the CPT suggested that the former were committed to implementing the recommendations made by the Committee in respect of the prison.

Nevertheless, in the second half of 1997, the CPT received reports according to which conditions of detention at Koraal Specht Prison remained very poor. Those reports also referred to a disturbance which took place at the prison in early August 1997. The disturbance was apparently brought to a peaceful end. However, the above-mentioned reports contained allegations of ill-treatment of prisoners by staff after the disturbance had ended.

In the light of the information at its disposal, the CPT felt that it was necessary to carry out a second visit to the Netherlands Antilles, in order to ascertain whether the recommendations made by the Committee concerning Koraal Specht Prison had been implemented.

### C. Cooperation between the CPT and the authorities of the Netherlands Antilles

5. The cooperation received by the delegation during the visit was satisfactory; it was in compliance with Article 3 of the Convention.

The CPT is most grateful to Mr Pedro ATACHO, Minister for Justice of the Netherlands Antilles, for the time he devoted to discussions with its delegation. Further, the delegation had useful talks with Mr Russel URSULA, Director of the Department of Justice, as well as with Mr Dick PIAR, Chief Public Prosecutor, and Mr Van SLOTEN, prosecutor in charge of certain aspects of Koraal Specht Prison. It also met Mr Glenn MINGELI, Head of the prison service of the Netherlands Antilles and Director of Koraal Specht Prison.

More generally, the CPT welcomes the efforts made by the authorities of the Netherlands Antilles to provide the delegation with all the facilities it required to carry out its task. In this connection, the CPT wishes to express its appreciation for the assistance provided to its delegation by Mrs Alma Louise de BODE-OLTON, Head of Treaties Department and Legal Affairs of the Bureau of Foreign Affairs of the Netherlands Antilles.

The reception received by the CPT's delegation at Koraal Specht Prison and the other establishments visited was also on the whole satisfactory.

6. As for cooperation with a view to improving the situation in the light of the CPT's recommendations, the delegation found that, despite certain steps taken by the Netherlands Antilles Government since the June 1994 visit, many inmates at Koraal Specht Prison continued to be held under conditions which could fairly be described as inhuman and degrading. Further, the very poor conditions of detention were now compounded by a serious problem of violence within the establishment.

**The CPT must stress that if such a state of affairs were to persist, it would be obliged to consider having resort to Article 10, paragraph 2, of the Convention.<sup>1</sup>**

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<sup>1</sup> Article 10, paragraph 2 of the Convention reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

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

### A. Koraal Specht Prison

#### 1. Preliminary remarks

7. The essential characteristics of Koraal Specht Prison were described in the report on the June 1994 visit (cf. CPT/Inf (96) 1, paragraph 64). It should be noted, however, that shortly after that visit, a 96 place semi-open unit for men was brought into service.

In the course of the 1997 visit, the delegation was informed that the inmate population at Koraal Specht Prison had been capped at 500 male and 50 female prisoners. The inmate population at the time of the visit was apparently close to the maximum; however, the delegation was unable to obtain a precise figure.

8. The problems associated with Koraal Specht Prison have been recognised by the Government of the Netherlands Antilles for a considerable time. One long-standing project, already mentioned in the Government's replies to the report on the CPT's June 1994 visit, is to reorganise the prison service as a whole; this would involve, inter alia, the construction of several new establishments. However, at the time of the December 1997 visit, this project was still very much on the drawing board.<sup>2</sup> **The CPT would like to receive information about concrete action taken with a view to its implementation.**

#### 2. Ill-treatment

9. As already indicated, certain reports received by the CPT before the visit contained allegations of ill-treatment of prisoners by staff at Koraal Specht Prison (cf. paragraph 4).

In the course of the visit, a considerable number of prisoners interviewed by the CPT's delegation alleged that they had been physically ill-treated by custodial staff during the period between the end of the August 1997 disturbance and the delegation's visit. Those allegations concerned mostly - but not exclusively - the so-called mobile or riot squad (the *Mobile Eenheid*), a distinct group of officers drawn from the establishment's staff complement, who benefitted from enhanced physical training, and were discharged from performing most ordinary duties (cf. paragraph 14). The most common form of ill-treatment alleged was beating with batons to various parts of the body.

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<sup>2</sup> The CPT subsequently learned that a 6-year master plan has now been drawn up, which involves inter alia the construction of a new establishment for young offenders and a new section for prisoners serving long sentences, as well as renovation work in existing buildings at Koraal Specht Prison (cf. report of the Director of the Department of Justice forwarded to the CPT by fax of 26 February 1998).

Certain prisoners claimed that, in the days following the August disturbance, they had been made to walk with their hands bound behind their backs between a double line of prison officers who had struck them with batons (the "soul train"). Allegations were also heard of beatings in the prison chapel by prison officers using batons; the most recent such allegation heard related to the month of November. In addition, several inmates claimed that they had been struck in recent times by prison officers engaged in searching premises or counting inmates.

The CPT is particularly concerned about the severity of the physical ill-treatment described in a few cases (repeated baton blows resulting in extensive bruising, bleeding and, on occasion, fractured bones) and the aim allegedly pursued by the prison officers concerned (e.g. by way of exemplary punishment or the obtaining of information).<sup>3</sup>

10. The sheer number and the consistency of the allegations of ill-treatment received lend them credibility. Further, medical members of the delegation met a number of prisoners who displayed marks fully consistent with their allegations.

Reference might be made by way of example to one prisoner who alleged that on 4 November 1997 he had been repeatedly struck on the buttocks with a baton by prison officers. He was examined by the prison doctor on 7 November 1997, who noted that the prisoner in question had started a hunger strike after having been allegedly beaten by two prison officers; the prison doctor recorded "haematomas over both buttocks, right and left nates" and also noted that the prisoner was "not able to sit because of pain". On examination by one of the medical members of the delegation he was found to display a number of roughly parallel horizontal semicrescent-shaped depigmented scars, covering most of his buttocks; muscular and adipose tissue were observed to have hardened areas, suggesting infiltration; the nates were painful on palpation. The above findings are consistent with the ill-treatment alleged.

It should also be noted that, on 14 November 1997, in the context of summary proceedings brought in respect of a number of issues, including allegations of ill-treatment shortly after the August 1997 disturbance, the Court of First Instance of the Netherlands Antilles found that "corporal punishment" was being applied at Koraal Specht Prison; it recalled that such treatment is forbidden by international law and ordered that it be discontinued.

11. Many of the prisoners interviewed at Koraal Specht Prison told the delegation that incidents of inter-prisoner violence were also a frequent occurrence. Reference was made to beatings, stabbings, sexual assault, and masked prisoners who terrorised and robbed fellow inmates. One such incident - a stabbing and theft - occurred during the delegation's visit to the establishment.<sup>4</sup>

The CPT wishes to emphasise that the duty of care which is owed by the prison authorities to prisoners in their charge includes the responsibility to protect them from other prisoners who might wish to cause them harm.

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<sup>3</sup> The CPT has learned that, following the visit, a further three inmates complained that they had been severely ill-treated by custodial staff at Koraal Specht Prison, apparently on 30 December 1997. According to press reports, they were released shortly thereafter.

<sup>4</sup> Further, the CPT has subsequently received reports that an inmate was killed by fellow prisoners during the night of 26 to 27 February 1998.

12. The existence of a problem of violence in Koraal Specht Prison was widely acknowledged by custodial and support staff in the establishment. Further, statistics kept by the health care service showed that the prevalence of violence was rising. Whereas the health care service had recorded only 7 cases of violence in the prison during the year 1996, 46 cases had been recorded during the period January to November 1997, 13 of which in the month of November alone. A number of the medical reports concerning those cases examined by the delegation's medical doctors recorded injuries which were consistent with the infliction of blows with sticks or batons; further, there were certain cases of multiple stab wounds. In most cases, the certificates made reference to allegations of ill-treatment (*mishandling*); however, in only a few cases was it mentioned whether the allegations concerned staff or other inmates.

It should be added that, according to the establishment's health care staff, the above-mentioned cases represented only the tip of the iceberg.

13. The deplorable conditions of detention which prevail at Koraal Specht Prison are certainly an important factor in the culture of violence in the establishment; this issue will be considered later in the report. Nevertheless, in the CPT's view, the problem of violence at Koraal Specht Prison also stems in large part from shortcomings as regards staff and management.

14. The number of staff assigned to each of the detention sections was manifestly inadequate. Often, only one prison officer was allocated to each section holding upwards of 80 prisoners and, on occasion, one officer covered two such sections. A number of officers expressed their reluctance to enter the detention areas while inmates were unlocked. As a result, with the notable exception of the semi-open unit (which was better staffed), effective supervision in the various sections of the prison was limited to periodic visits from the *Mobile Eenheid*, for the purpose of counting the inmates and searching the premises.

15. As regards the prison's management, in the report on the June 1994 visit, the CPT indicated that **only a "governor, possessing the necessary authority, competence and experience and supported by a closely-knit team, would be in a position to instill the right tone and atmosphere into the establishment and be sufficiently motivated to develop policies and plans for the future. In the absence of real management, the establishment will tend to drift. Such an environment is a propitious one for the growth of undesirable practices."** It recommended that the Netherlands Antilles authorities provide the prison with a management team possessing the above-mentioned qualities (cf. CPT/Inf (96) 1, paragraph 103). **This recommendation has not yet been implemented.**

The present Director of the prison stated that he very rarely entered the detention facilities or had any direct dealings with prisoners. Since February 1997, he had even ceased to accept correspondence and/or complaints from prisoners. In the meantime, the resulting gap was being filled to some extent by the social workers (whose salutary presence in the prison is to be welcomed). Complaints of violence made to health care staff were on occasion - but not systematically - reported to the prison's management, though the delegation gained the clear impression that no action was subsequently taken upon them if they concerned ill-treatment by staff.

16. The delegation was informed that the *Landsrecherche* had initiated investigations, under the supervision of the prosecution service, into allegations made by certain prisoners of ill-treatment by staff during the period immediately following the August 1997 disturbance. Such investigations into specific cases are undoubtedly of considerable importance; however, the CPT considers that a more far-reaching approach is required for the problem of violence in all its forms to be tackled effectively.

In fact, shortly before the delegation's visit, a commission of enquiry (the "Paula Commission") had examined the situation in the prison, including the causes of and the events which followed the August 1997 disturbance, and had made a number of useful recommendations; however, the concrete effects of those recommendations were not yet visible. From the facts found by the CPT's delegation in the course of its visit, **it is clear that decisive action is called for urgently to address the roots of the problem of violence at Koraal Specht Prison.**

17. **The fundamental requirement is to ensure that prison officers are placed in a position to exercise their authority in an appropriate manner.**

Prison officers will not be able to carry out their duties satisfactorily if they fear for their own safety. In such a situation, staff are likely to be prone to abuse or ill-treat prisoners in their charge; moreover, they will be poorly placed to protect prisoners from violence from other inmates. Consequently, the level of staffing must be sufficient to enable prison officers effectively to support each other in the exercise of their supervisory tasks.

Adequate staffing levels must be accompanied by a clear message to prison officers that the ill-treatment of prisoners is unacceptable and will be severely punished. Further, if complaints of ill-treatment by staff do emerge, the prison's management and other relevant authorities must take swift and effective action to address them. More generally, it should be underlined that ready access to an efficient complaints system, preferably with an independent element, is crucial to ensure the maintenance of good order in prison.

Tackling the phenomenon of inter-prisoner violence requires of a prison's staff that it be alert to signs of trouble and both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and prisoners, based on the notions of secure custody and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. Further, management must be prepared fully to support staff in the exercise of their authority. Specific security measures adapted to the particular characteristics of the situation encountered (including effective search procedures) may well be required; however, such measures can never be more than an adjunct to the above-mentioned basic imperatives. In addition, the prison system needs to address the issue of the appropriate classification and distribution of prisoners.

If prison officers as a whole receive training in the handling of violent incidents, it should be possible to reduce to a minimum interventions by a "riot squad". Certainly, such a squad should not be routinely involved in such operations as the counting of prisoners and searches. Further, any such squad should be suitably trained and equipped; it should be resolutely committed to using the minimum degree of force necessary through recourse to modern intervention techniques. **Such techniques do not include meeting violence with violence.**



18. The CPT recommends that immediate steps be taken to draw up a comprehensive strategy to combat violence in all its forms at Koraal Specht Prison, and that this strategy be vigorously implemented without delay. This should involve a thorough and independent review of the tasks of the *Mobile Eenheid* and the methods used by its members in the performance of their duties. Further, full account should be taken of the remarks set out in paragraphs 9 to 17 of this report.

The CPT would like to receive within three months detailed information on the measures taken to implement this recommendation.

### 3. Conditions of detention

#### a. introductory remarks

19. In June 1994, conditions of detention at Koraal Specht Prison were unacceptable, in terms of both material aspects and activities available. The establishment displayed a pernicious combination of overcrowding, an impoverished regime and a poor level of cleanliness and hygiene; these three problems were compounded by the generally run-down state of the establishment. The CPT concluded that to subject prisoners to such conditions of detention amounted to inhuman and degrading treatment.

The CPT made a number of recommendations concerning these and other issues related to its mandate. In their responses, the Government of the Netherlands Antilles affirmed that they were determined to take action upon the Committee's recommendations.

In the following paragraphs, the CPT will examine the action taken by the authorities of the Netherlands Antilles, and its effect on the well-being of prisoners held at Koraal Specht Prison.

#### b. material conditions of detention

20. The priority of priorities identified by the CPT was - through one means or another - to reduce significantly the level of overcrowding in Koraal Specht Prison. The Committee emphasised that, if this were not achieved, attempts to improve the conditions of detention of persons imprisoned in Curaçao would inevitably flounder. The CPT also indicated that, in the long term, major improvements (including, possibly, new buildings) would be required to render the situation acceptable. The overall state of repair of the detention areas and sanitary facilities, cell equipment, bedding and hygiene also called for more attention.

In the Government's responses, reference was made to short-term measures taken to address the problem of overcrowding (reduction of sentences by 5%, subsequently increased to 10%; possibility of suspending sentences or imposing alternative sanctions; at a later stage, capping of Koraal Specht's population and introduction of early release (the "freedom train")) and to improve the material environment (e.g. provision of mattresses and extensive maintenance and renovation work). In the medium term, new detention facilities were to be built for habitual and young offenders (both to be completed in 1997). In the longer term (within 5 to 7 years), new prisons were to be built in Curaçao and Bonaire; it was anticipated that this would provide a lasting solution to the problem of overcrowding.

21. By December 1997, some of the short term - but none of the medium and long-term - measures had been implemented. These measures, together with the entry into service of the semi-open unit, had alleviated to some extent the situation of overcrowding in the prison. However, despite the ceiling placed on the establishment's population, cell occupancy levels observed during the December 1997 visit remained unacceptable; in many parts of the prison they were comparable to those seen in June 1994 - e.g. triple occupancy of cells measuring 8 m<sup>2</sup>; up to 15 prisoners in multi-occupancy cells measuring approximately 23 m<sup>2</sup> (cf. CPT/Inf (96) 1, paragraphs 72 et seq. and paragraph 95). Further, the authorised capacity of the new dormitory accommodation in the semi-open unit (i.e. 24 prisoners in some 70 m<sup>2</sup>) was rather high.

22. As for other aspects of the material environment, the overall state of repair of the detention areas and cell equipment had not improved. Certain of the shortcomings observed could be attributed to the August 1997 disturbance. However, the delegation gained the impression that, in many respects, the situation immediately before the disturbance was not markedly different to that observed during the 1994 visit.

Many parts of the prison were in an advanced state of dilapidation and disrepair: the walls were flaking; the water supply was unreliable and sanitary facilities were rendered frequently unusable (including at the three year old semi-open unit); water leaks from the mains and seepage from the sanitary facilities/lavatories flooded exercise areas and cells; the artificial lighting did not work, etc. Further, not all prisoners had their own bed and some had not been supplied with a mattress. Complaints were also heard about insufficient supply of personal hygiene products.

In addition, the problem of insect infestation had not been solved, though fewer complaints were heard concerning the presence of rats.

23. In view of the delegation's findings, **the CPT calls upon the authorities of the Netherlands Antilles to redouble their efforts:**

- **to reduce overcrowding at Koraal Specht prison; in this regard, reference should be made to the suggested cell occupancy levels referred to in paragraph 95 of the report on the 1994 visit;**
- **to improve significantly the overall state of repair of the detention areas (including the sanitary facilities) and to provide every prisoner with appropriate furnishings (bed, table, chair and cupboard) and personal hygiene products.**

**The CPT also recommends that immediate steps be taken to ensure that every prisoner is supplied with a mattress at night.**

c. regime

24. Following the June 1994 visit, the CPT was informed of the existence of a "carefully thought-out programme of daily activities" drawn up for every unit of the prison, that women prisoners took part in recreational and other activities, that two classrooms had been laid out for minors held in the prison, and that prisoners serving life sentences could take part in various activities (work, education, sport).

The CPT is pleased to note that, in December 1997, the conditions of detention of prisoners serving life sentences had indeed changed as compared to those observed in 1994 (cf. CPT/Inf (96) 1, paragraphs 90 to 92). In particular, they were no longer permanently confined to their unit, and their situation was equivalent to that of other prisoners. The CPT trusts that this is not just a temporary measure.

As regards other categories of prisoners, the CPT's delegation saw little or no improvement. Only 50 to 60 prisoners were offered work on a given day (several of the prison's workshops had been closed); the sports hall was out of service, though some prisoners used makeshift physical fitness and body-building facilities set up in the exercise yards; and educational activities for the younger prisoners had been discontinued. Apart from outdoor exercise (cf. however, paragraph 36) and on occasion reading or watching television, prisoners had nothing to occupy their time; the great majority of them led a monotonous and purposeless existence, a situation which they deeply resented.

25. The delegation was told that the developed activity programmes referred to in the previous paragraph had been due to come into operation in August 1997; however, the disturbance in the establishment had prevented this from occurring. Despite this setback, both the authorities at central level and the prison's Director expressed their commitment to providing a decent regime for prisoners. In this connection, the Director mentioned an ambitious project, involving the development of a full range of activities for inmates, expected to come into operation in January/February 1998; at the outset it would involve some 200 inmates. Information provided to the CPT after the visit suggests that steps have now been taken to bring back into service certain of the workshops and the sports hall.

26. In view of all the information set out above, **the CPT recommends that the authorities of the Netherlands Antilles persevere in their efforts to develop the regime offered to persons detained at Koraal Specht Prison, having regard to the recommendations and remarks made in paragraphs 97 to 99 of the 1994 visit report.**

#### 4. Health care services

##### a. staff and facilities

27. The CPT is pleased to note that the material conditions and the level of equipment and hygiene in the prison's medical service had improved as compared to the situation found in June 1994. Progress had also been made as regards the records kept by health care staff. As regards staffing, a full-time nursing assistant and a part-time psychiatrist have reinforced the health care team. However, little or no progress had been made in respect of a number of other issues.

28. Following the 1994 visit, the CPT recommended that immediate steps be taken with a view to increasing the presence of general practitioners in the prison and ensuring the regular presence of a dentist. It also recommended a significant increase in the number of qualified nurses. The delegation which carried out the visit in December 1997 observed that none of these recommendations had been implemented: two medical doctors continued to provide between them the equivalent of 15 hours of general practitioners' presence in the prison per week, the part-time post of a dentist was vacant (a dentist only attended the prison from time to time), and the envisaged recruitment of a further qualified nurse referred to in the Government's follow-up report had not yet occurred.

Medical staff expressed concern about the provision of dental care in the prison, but suggested that the health care service was otherwise adequately staffed. This was also the view expressed by Dr de Haan who, at the request of the authorities, in January 1996 produced an independent report on the prison's health care service. The CPT is not of the same opinion; it wishes to underline once again (cf. CPT/Inf (96) 1, paragraph 126, first sub-paragraph) that an establishment with a population of some 500 remand and sentenced prisoners should have the equivalent of at least one full-time general practitioner. As had been the case in 1994, many prisoners complained about the service provided to them and about requests to see a doctor not being attended.

29. **The CPT recommends that steps be taken without further delay to reinforce the health care service at Koraal Specht Prison, in the light of the above remarks.**

Further, **it wishes to reiterate its recommendation that someone qualified to provide first aid, preferably with a recognised nursing qualification, should always be present in the prison, including at night and weekends.** The implementation of this recommendation is all the more important in the light of the level of violence which currently prevails in the establishment.

b. medical screening on admission

30. The CPT wishes to stress once again (cf. CPT/Inf (96) 1, paragraph 141) that every newly arrived prisoner should be properly interviewed and physically examined by a medical doctor as soon as possible after his admission; save for exceptional circumstances, the interview/examination should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor.

The delegation's findings suggest that significant delays continue to occur before a newly arrived inmate has a first contact with health care staff at Koraal Specht Prison. However, full implementation of the recommendation made in paragraph 29 should enable this shortcoming to be remedied.

c. the role of prison health care services in the prevention of violence

31. Prison health care services can make a significant contribution to the prevention of violence, through the systematic recording of injuries and, when appropriate, the provision of general information to the relevant authorities. Information could also be forwarded on specific cases, though as a rule such action should only be undertaken with the consent of the prisoner concerned.

32. The doctors at Koraal Specht Prison recorded the injuries displayed by prisoners, albeit in a rather succinct manner; on occasion, they also recorded the allegations made by the person concerned. However, they did not note their conclusions. Further, at their own discretion, they reported some cases to the prison's management (in cases of alleged ill-treatment by prison staff or inter-prisoner violence) or to the prosecution service (in cases of alleged ill-treatment by the police).

33. In this connection, the CPT considers that the record drawn up following a medical examination of a prisoner should contain: (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment); (ii) an account of objective medical findings based on a thorough examination; and (iii) the doctor's conclusions in the light of (i) and (ii).

**The CPT recommends that steps be taken to ensure that practice in the Netherlands Antilles is brought into line with the above considerations. Further, the results of the medical examination referred to above should be made available to the prisoner concerned and to his lawyer.**

d. health promotion

34. The task of prison health care services should not be limited to treating sick patients (cf. CPT/Inf (96) 1, paragraph 131). It also lies with such services - as appropriate acting in conjunction with the competent authorities - to supervise catering arrangements (quantity, quality, preparation and distribution of food) and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration. Prison medical services should also be concerned with mental hygiene, i.e. with preventing the harmful psychological effects of certain aspects of detention.

Insalubrity, overcrowding, prolonged isolation and inactivity may necessitate either medical assistance for an individual prisoner and/or general medical action vis-à-vis the responsible authority.

35. In this respect, the delegation was concerned to note that, although medical staff at Koraal Specht Prison readily recognised that the conditions prevailing in the establishment had a negative effect on the health of prisoners, they did not consider it incumbent upon themselves to intervene.

**The CPT recommends that the prison health care service at Koraal Specht Prison assume a more active role in monitoring living conditions in the establishment and, if necessary, advocate appropriate measures with a view to promoting the health of prisoners.**

## 5. Other issues related to the CPT's mandate

36. The requirement that prisoners be allowed at least one hour of outdoor exercise every day is a fundamental safeguard for such persons.

Following the 1994 visit, the CPT recommended that immediate steps be taken to ensure that female prisoners enjoy proper outdoor exercise at least once a day. In their interim report, the authorities of the Netherlands Antilles indicated that "women prisoners may take the air in the open courtyard of the prison at any time from 07.00 onwards". Certainly, at the time of the 1997 visit, they continued to have access during the day to a roofed courtyard. However, the women interviewed indicated that they were only allowed to take proper outdoor exercise at best once a week; this is not acceptable.

As regards persons held in the disciplinary unit, following the CPT's first visit, the Netherlands Antilles authorities had formally decided that such persons should be allowed at least one hour of outdoor exercise every day. However, at the time of the 1997 visit, this decision was not being respected.

**The CPT recommends that immediate steps be taken to ensure that all prisoners are offered at least one hour of outdoor exercise every day.**

37. As regards disciplinary matters, the CPT is pleased to note that its recommendation concerning the abolition of the sanctions of confinement in a punishment cell on a bread and water regime and of placement in irons has been implemented.

However, the delegation's in situ observations suggest that the recommendations made in paragraph 112 of the report on the 1994 visit concerning the disciplinary procedure had not been fully implemented. **The CPT recommends that this shortcoming be remedied.**

Further, material conditions of detention in the prison's disciplinary units - including in the cells brought into service after the 1994 visit - were much the same as those described in paragraph 113 and 117 of the report on the 1994 visit, though cells had been equipped with a fixed table and stool. **The CPT reiterates its recommendation that significant improvements be made to the material conditions (general state of repair and cleanliness, lighting, ventilation) in the prison's disciplinary cells, and that they be equipped with a call system.**

In the light of its delegation's findings, **the CPT wishes also to reiterate its recommendation that all persons placed in a disciplinary cell be allowed to have access to reading matter.**

38. Certain positive developments concerning contacts with the outside world were noted by the delegation, particularly as regards improved access to a telephone and the possibility offered to some prisoners to have supervised open visits. Nevertheless, many complaints were heard from prisoners about lengthy delays before they were granted access to a telephone and about such access often being refused arbitrarily; complaints were also heard about the distribution and/or forwarding of correspondence being unduly delayed.

**The CPT invites the authorities of the Netherlands Antilles to continue to pay attention to these issues. Further, it recommends that visiting arrangements be reviewed, with a view inter alia to establishing more open arrangements for ordinary visits, having regard to the remarks made in paragraph 106 of the report on the 1994 visit.**

39. The question of the provision of food to prisoners has been the subject of a review by a dietician, which has led to certain improvements. In particular, a menu has been established to ensure that the food supplied is of a varied nature and provides appropriate nourishment. The CPT trusts that these improvements will be maintained.

However, the kitchen continued to display a number of deficiencies: it was under-equipped, too small for the number of meals that had to be prepared and it was in a poor state of repair. Hygiene also left a great deal to be desired, due inter alia to the presence of pigeons in the kitchen and to cockroach infestation. Conditions of hygiene in the bread store were also sub-standard. **The CPT recommends that urgent steps be taken to remedy the above mentioned shortcomings.**

40. Following the visit, the CPT received information from the authorities of the Netherlands Antilles concerning the creation of the office of ombudsman for prisoners held at Koraal Specht Prison. **The CPT would like to receive further information on the precise functions and powers of the ombudsman.**

Further, in the interest of the prevention of ill-treatment, **the CPT recommends that a system of regular visits by an independent body to Koraal Specht Prison be introduced, having the characteristics described in paragraph 123 of the report on the June 1994 visit.** At the time of the December 1997 visit, no such system was operational.

41. Finally, the delegation observed that most prison officers working inside the prison carried firearms. In the view of the CPT, the carrying of firearms by staff who are in direct contact with prisoners is a dangerous and undesirable practice. It could lead to high-risk situations for both prisoners and prison officers. In this respect, reference might also be made to the provisions of Rule 63 (3) of the European Prison Rules, which stipulate that:

"Except in exceptional circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been fully trained in their use."

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



## **B. Police establishments**

### **1. Ill-treatment**

42. In the course of the visit, the delegation had the opportunity to speak with many detained persons about the manner in which they had been treated by the police. A number of them alleged that they had been intimidated in one way or another by police officers during questioning; a few claimed that they had been physically ill-treated on police premises (slaps, punches, twisting of the arm or the leg).

The delegation also heard certain allegations of excessive use of force (blows with hands or fists, pistol whipping) by police officers at the time of arrest.

43. The most serious allegation heard by the delegation was made by a woman held at Koraal Specht Prison. She alleged that, some six months previously, a police officer belonging to the drugs squad had inflicted two electric shocks to the outer side of her right thigh using a baton-type device in the course of an interrogation (the third in two days) at the Criminal Investigation Department (*Recherche*) in Rio Canario. The woman described the device in some detail - a black baton, approximately 50 cm long and 5 cm in diameter - and the place from which it had been taken - a closet with a grey door. Apparently another police officer had entered the room at this stage of the interrogation and had remonstrated with his colleague for his behaviour.

The woman in question stated that the shocks left, in the first place, red marks which later turned black (there had been no bleeding); the skin subsequently peeled off and, within one week, the lesions had healed with new skin but leaving marks which she still displayed. On examination, a medical member of the delegation observed a sharply demarcated bluish line, 1 mm across, forming a complete circle 5 mm in diameter, and a second mark of similar characteristics, completing only two thirds of a circle; they were situated some 5 cm apart. Both the woman's description of her lesions and the marks she bore at the time of the delegation's visit were consistent with the ill-treatment alleged.

The credibility of the woman's allegations was reinforced by a visit subsequently carried out by the delegation to the Criminal Investigation Department at Rio Canario. It found two instruments closely corresponding to the description which had been given by the prisoner in question<sup>5</sup>; further, the end of each instrument had a screw of the same dimensions as the marks observed on the prisoner's body. The instruments were kept in the grey-doored armoury of the drugs squad, which opened on to an office fitting the description given by the prisoner of the place where the questioning and ill-treatment had taken place.

The woman claimed that she had brought her allegations to the attention of the judge to whom she was presented, but had finally decided not to pursue the matter because she thought that this might prejudice her case.

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<sup>5</sup> The instruments were black 18 inch (46 cm) stun guns, delivering 150.000 Volt discharges.

The above case was discussed with the Chief Public Prosecutor. He stated that he had not received any notice of a formal complaint concerning the matter. However, he did say that he had read reports about a man who had alleged that he had been threatened by police officers with an electric shock delivering device some two months earlier.

44. Following the visit, the CPT was informed by the authorities of the Netherlands Antilles that an enquiry by the *Landsrecherche* led to instructions being issued to the effect that electric batons can only be used to "frighten dogs" in the course of police operations, and that any other recourse to such weapons by police officers will be regarded as professional misconduct. Further, those authorities indicated that a decision would soon be taken as to whether the case referred to in the previous paragraph should be the subject of criminal proceedings. **The CPT would like to be kept informed of developments in this respect.**

45. In the light of all the delegation's findings, **the CPT recommends that senior police officers remind their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions. This message should be recalled in an appropriate form at suitable intervals.**

As regards more particularly the allegations of ill-treatment at the time of arrest, the CPT fully recognises that the arrest of a suspect is often a hazardous task, in particular if the person concerned resists and/or is someone the officers concerned have good reason to believe may be armed and dangerous. The circumstances of an arrest may be such that injuries are sustained by the person concerned (and possibly also by police officers), without this being the result of an intention to inflict ill-treatment. However, no more force than is reasonably necessary should be used when effecting an arrest. Further, once arrested persons have been brought under control, there can never be any justification for them being struck by police officers. **The CPT recommends that police officers be reminded of these precepts.**

46. Finally, it is self-evident that the existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment. **The CPT would like to receive for the years 1995 to 1997:**

- **the number of complaints lodged of ill-treatment by police officers and the number of criminal/disciplinary proceedings initiated as a result of those complaints;**
- **an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police.**

In this connection, the delegation was told that the effectiveness of the *Landsrecherche* (a body which has responsibility for inquiring into complaints against persons employed by the State, including police officers) was being jeopardised by a lack of adequate resources, in particular in terms of man-power. **The CPT would like to receive the comments of the authorities of the Netherlands Antilles on this subject.**

## 2. Conditions of detention

47. The delegation observed that some progress had been made since the 1994 visit as regards conditions in police detention facilities. In particular, the detention facility at Rio Canario had been brought into service (cf. paragraph 48), the cells at Punda Police Station (which had been severely criticised in the report on the CPT's first visit) had been withdrawn from service, and the cells at the Criminal Investigation Department were not being used to hold persons overnight. Further, immigration detainees were no longer being held in police cells (cf. paragraph 58).

48. As already indicated, the police detention facility at Rio Canario was operational in December 1997. It is a quite distinct establishment from Rio Canario Police Station, and was staffed by especially recruited and trained security personnel (*Guardsmark N.V.*). It possessed eighteen cells designed for single occupancy and one for multi-occupancy, and at the time of the visit was holding 26 detainees. In accordance with the current provisions of the Code of Criminal Procedure, persons could be held in the detention facility for up to 18 days<sup>6</sup>, and the delegation observed that it was quite common for criminal suspects to be held at the detention facility for such a period.

49. The cells designed for single occupancy measured just over 6 m<sup>2</sup>, and were equipped with a concrete sleeping platform, and a semi-partitioned lavatory and shower. Further, mattresses were supplied to detainees. As far as the delegation could judge, the cells had some access to natural light and artificial lighting was satisfactory. However, the ventilation system was both noisy and ineffective.

Subject to improvements to the ventilation system, the cells described above could be considered as quite adequate for one detainee. However, most of the cells which were occupied at the time of the visit were accommodating three detained persons overnight (one person sleeping on the platform, the others on the floor). Such an occupancy level is totally unacceptable.

As for the multi-occupancy cell, measuring some 20 m<sup>2</sup>, it was equipped in a similar manner to the cells designed for single occupancy; however, it was out of service at the time of the visit, having been damaged by its last occupants.

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<sup>6</sup> It should be noted however that persons detained by the police are brought before a judge within the first four days of custody (cf. page 6 of the Government's interim report in response to the CPT's 1994 visit report).

50. Certainly, the overcrowding observed at the time of the visit was due in part to one section of the facility being under repair. However, even if the whole of the detention facility had been in use, it is most likely that some of the detainees would have been held two to a cell. **The CPT recommends that steps be taken to ensure that, in future, the cells measuring 6 m<sup>2</sup> are not used to accommodate overnight more than one detainee; further, no more than 5 detainees should be held overnight in the facility's multi-occupancy cell. If necessary, police detention facilities should be extended in order to ensure that the above recommendations are complied with.**

Moreover, having regard to the remarks made above, **the CPT recommends that appropriate steps be taken to improve the ventilation system in the police detention facility at Rio Canario.**

51. Persons held at the detention facility were allowed access to a fair-sized exercise yard for at least one hour a day and, depending on security considerations, for several hours. Further, they were entitled to send and receive correspondence and to receive visits from family members and friends (two visitors for half an hour each per week) and from lawyers; the visiting facilities were quite satisfactory.

Nevertheless, having regard to the length of time during which one could be detained, **the CPT recommends that the authorities of the Netherlands Antilles explore the possibility of offering additional forms of activities to persons held in the facility (e.g. reading matter, radio/television).**

52. Conditions of detention in the general affairs, drugs and juveniles sections of the Criminal Investigation Department in Rio Canario remained unsatisfactory. Certain of the cells were dirty, the artificial lighting was not working in all of them and the ventilation system left a lot to be desired. **The CPT recommends that those shortcomings be remedied. Further, the Committee trusts that it will remain the case that the Department's cells are not used to accommodate persons who are required to spend the night in custody; they are quite unsuitable for use as overnight accommodation.**

### 3. Safeguards against the ill-treatment of detained persons

53. Following the June 1994 visit, the CPT made a number of recommendations concerning safeguards against ill-treatment offered to persons detained by the police in the Netherlands Antilles (cf. CPT/Inf(96) 1, paragraphs 43 et seq.). In response, the authorities of the Netherlands Antilles made reference inter alia to new guidelines which were to be issued on the treatment of detained persons and the use of police cells; the guidelines came into force on 1 January 1996. Further, a new Code of Criminal Procedure, enacted in 1996, came into force in the course of 1997. Taken together, they meet many of the concerns of the CPT.

In particular, the Code provides for the right of access to a lawyer as from the outset of custody, and the guidelines for notification of custody to a third party and access to a doctor (including one of the detainee's own choice). The guidelines contain a number of other provisions (concerning custody records, conduct of interrogations, conditions of detention, etc.).

54. It should be noted however that, in the course of the visit, the delegation received conflicting information about the effectiveness in practice of the rights to notification of custody and access to a doctor. As regards more particularly the latter, several persons interviewed by the delegation at Koraal Specht Prison indicated that they had requested to see a doctor while in police custody, but that such a request had been refused.

In this connection, **the CPT would like to be informed of the legal status of the guidelines on the treatment of detained persons and the use of police cells, and more particularly as to whether a failure to comply with the guidelines amounts to an offence.**

55. As for information on rights to be provided to detained persons, an information sheet for detainees was available at the Criminal Investigation Department at Rio Canario in several languages (Dutch, Papiamentu, English, French). The sheet informed detained persons of their rights to remain silent and of access to a lawyer, and made reference to the requirement that such persons be informed of the reasons for their arrest (cf. Article 82 of the Code of Criminal Procedure). Further, in conformity with Section 17 of the guidelines, relevant information was displayed in the police detention facility at Rio Canario.

**The CPT recommends that the above-mentioned information sheet be amended so as to refer explicitly to the rights to have one's custody notified to a third party and to have access to a doctor.**

56. Finally, reference has already been made to the fact that persons could be - and frequently were - held in the police detention facility at Rio Canario for up to 18 days (cf. paragraph 48). Prolonged periods of detention of suspects on police premises may lead to high risk situations. Consequently, in the interests of the prevention of ill-treatment, as a general rule persons remanded in custody by a judge should be placed in an establishment administered by the prison authorities and staffed by prison officers. However, given the situation found at Koraal Specht Prison, the CPT would not wish to call into question the present arrangements.

Nevertheless, if investigating officers require to question a detained person after his/her admission to the detention facility at Rio Canario, **it would be far preferable for the questioning to take place at that facility rather than on other police premises** (e.g. the Criminal Investigation Department).

### C. Immigration detainees

57. As already indicated in the report on the 1994 visit (cf. CPT/Inf (96) 1, paragraph 15), the CPT considers that persons deprived of their liberty for an extended period under aliens legislation should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel.

Obviously, such centres should provide accommodation which is adequately furnished, clean and in a good state of repair, and which offers sufficient living space for the numbers involved. Further, care should be taken in the design and layout of the premises to avoid as far as possible any impression of a carceral environment. As regards regime activities, they should include outdoor exercise, access to a day room and to radio/television and newspapers/magazines, as well as other appropriate means of recreation (e.g. board games, table tennis). The longer the period for which persons are detained, the more developed should be the activities which are offered to them.

58. In June 1994, immigration detainees were being held on police premises, particularly at Barber Police Station. The CPT indicated in this connection that the material environment and the regime offered in a police station will often, if not always, be inappropriate for this type of administrative detention.

By December 1997, the detention of such persons on police premises had ceased. Instead, they were being accommodated in facilities specifically designated for that purpose, located close to Koraal Specht Prison. The detainees had no contact whatsoever with inmates in Koraal Specht Prison and the centre was not staffed by prison officers (save for a female officer) but by immigration service personnel. This in itself is a very positive development.

59. The centre's premises were capable of offering adequate material conditions of detention. Detainees were accommodated in four dormitories, equipped with beds, cupboards, tables and other items of furniture. The dormitories had access to natural light and were adequately ventilated. Further, ready access to sanitary facilities was guaranteed. However, at the time of the visit, most of the furniture and mattresses were damaged, the sanitary facilities were in a poor state of repair and cleanliness, and the premises as a whole were dirty. Further, the dormitories were not equipped with a call system; this is a significant failing given that the office occupied by the staff on duty was located in a different building. Although there was no overcrowding at the time of the visit - only 7 persons, 4 women and 3 men, being detained - the dormitories would only offer limited living space when operating at their envisaged capacity (i.e. 26 persons per dormitory).

As for the regime applied to persons accommodated in the centre, it was quite unsatisfactory. The immigration detainees were locked in their dormitories throughout the day, and were not offered any activities or means of recreation. They were not even offered outdoor exercise despite the fact that a suitable area for exercise was available at the centre. The delegation was told that detainees who possessed a television set or a radio were allowed to keep it; however, none of the persons held in the centre at the time of the delegation's visit was in such a position.

**The CPT recommends that steps be taken as a matter of urgency to remedy the above-mentioned shortcomings at the centre for immigration detainees, as regards both material conditions and activities. Immediate steps must be taken to ensure that persons held in the centre are offered at least one hour of outdoor exercise every day.**

60. Immigration detainees should - in the same way as other categories of persons deprived of their liberty - be entitled, as from the outset of their detention, to inform a person of their choice of their situation and to have access to a lawyer and a doctor. Further, they should be expressly informed, without delay and in a language they understand, of all their rights and of the procedure applicable to them.

In this context, following the 1994 visit, the authorities of the Netherlands Antilles informed the CPT that immigration detainees were going to be issued with an information leaflet. However, certain of the detained foreigners interviewed by the delegation during the 1997 visit claimed that they had not been informed in writing of their rights, nor of their legal situation.

**The CPT recommends that immigration detainees be systematically provided with a document explaining the procedure applicable to them and setting out their rights. This document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of an interpreter.**

61. Finally, **the CPT would like to receive information about the procedures and safeguards which are applied in the context of detention under aliens legislation (under whose authority is a foreigner detained? is there independent control or supervision of a detention measure? what is the maximum duration of detention? are avenues available to challenge such a measure or to request that it be reviewed? etc.).**





## **APPENDIX**

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

#### **A. Koraal Specht Prison**

##### **1. Preliminary remarks**

###### requests for information

- information about concrete action taken with a view to the implementation of the project to reorganise the prison service (paragraph 8).

##### **2. Ill-treatment**

###### recommendations

- immediate steps to be taken to draw up a comprehensive strategy to combat violence in all its forms at Koraal Specht Prison, and this strategy to be vigorously implemented without delay. This should involve a thorough and independent review of the tasks of the *Mobile Eenheid* and the methods used by its members in the performance of their duties. Further, full account should be taken of the remarks set out in paragraphs 9 to 17 of the report (paragraph 18).

##### **3. Conditions of detention**

###### recommendations

- the authorities of the Netherlands Antilles to redouble their efforts:
  - . to reduce overcrowding at Koraal Specht prison; in this regard, reference should be made to the suggested cell occupancy levels referred to in paragraph 95 of the report on the 1994 visit;
  - . to improve significantly the overall state of repair of the detention areas (including the sanitary facilities) and to provide every prisoner with appropriate furnishings (bed, table, chair and cupboard) and personal hygiene products (paragraph 23);

- immediate steps to be taken to ensure that every prisoner is supplied with a mattress at night (paragraph 23);
- the authorities of the Netherlands Antilles to persevere in their efforts to develop the regime offered to persons detained at Koraal Specht Prison, having regard to the recommendations and remarks made in paragraphs 97 to 99 of the 1994 visit report (paragraph 26).

#### **4. Health care services**

##### recommendations

- steps to be taken without further delay to reinforce the health care service at Koraal Specht Prison, in the light of the remarks made in paragraph 28 (paragraph 29);
- someone qualified to provide first aid, preferably with a recognised nursing qualification, always to be present in the prison, including at night and weekends (paragraph 29);
- steps to be taken to ensure that the record drawn up following a medical examination of a prisoner contains: (i) an account of statements made by the person concerned which are relevant to the medical examination (including his description of his state of health and any allegations of ill-treatment); (ii) an account of objective medical findings based on a thorough examination; and (iii) the doctor's conclusions in the light of (i) and (ii). Further, the results of such a medical examination to be made available to the prisoner concerned and to his lawyer (paragraph 33);
- the prison health care service at Koraal Specht Prison to assume a more active role in monitoring living conditions in the establishment and, if necessary, advocate appropriate measures with a view to promoting the health of prisoners (paragraph 35).

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

##### recommendations

- immediate steps to be taken to ensure that all prisoners are offered at least one hour of outdoor exercise every day (paragraph 36);
- the recommendations made in paragraph 112 of the report on the 1994 visit concerning the disciplinary procedure to be fully implemented (paragraph 37);
- significant improvements to be made to the material conditions (general state of repair and cleanliness, lighting, ventilation) in the prison's disciplinary cells, and those cells to be equipped with a call system (paragraph 37);

- all persons placed in a disciplinary cell to be allowed to have access to reading matter (paragraph 37);
- visiting arrangements to be reviewed, with a view inter alia to establishing more open arrangements for ordinary visits, having regard to the remarks made in paragraph 106 of the report on the 1994 visit (paragraph 38);
- urgent steps to be taken to remedy the shortcomings observed in the prison's kitchen (paragraph 39);
- a system of regular visits to Koraal Specht Prison by an independent body to be introduced, having the characteristics described in paragraph 123 of the report on the June 1994 visit (paragraph 40).

#### comments

- the authorities of the Netherlands Antilles are invited to continue to pay attention to the question of prisoners' contact with the outside world, in the light of the remarks set out in paragraph 38 (paragraph 38).

#### requests for information

- further information on the precise functions and powers of the ombudsman for prisoners (paragraph 40);
- comments on the subject of the carrying of firearms by staff who are in direct contact with prisoners (paragraph 41).

### **B. Police establishments**

#### **1. Ill-treatment**

#### recommendations

- senior police officers to remind their subordinates that ill-treatment is not acceptable and will be the subject of severe sanctions; this message to be recalled in an appropriate form at suitable intervals (paragraph 45);
- police officers to be reminded that no more force than is reasonably necessary should be used when effecting an arrest and that, once arrested persons have been brought under control, there can never be any justification for them being struck by police officers (paragraph 45).

### requests for information

- developments concerning the decision as to whether the case referred to in paragraph 43 should be the subject of criminal proceedings (paragraph 44);
- for the years 1995 to 1997:
  - . the number of complaints lodged of ill-treatment by police officers and the number of criminal/disciplinary proceedings initiated as a result of those complaints;
  - . an account of criminal/disciplinary sanctions imposed following complaints of ill-treatment by the police (paragraph 46);
- whether the effectiveness of the *Landsrecherche* is being jeopardised by a lack of resources (paragraph 46).

## **2. Conditions of detention**

### recommendations

- steps to be taken to ensure that, in future, the cells measuring 6 m<sup>2</sup> in the police detention facility at Rio Canario are not used to accommodate overnight more than one detainee; further, no more than 5 detainees to be held overnight in the facility's multi-occupancy cell. If necessary, police detention facilities should be extended in order to ensure that these recommendations are complied with (paragraph 50);
- appropriate steps to be taken to improve the ventilation system in the police detention facility at Rio Canario (paragraph 50);
- the authorities of the Netherlands Antilles to explore the possibility of offering other activities to persons held in the facility, in addition to outdoor exercise and visits (e.g. reading matter, radio/television) (paragraph 51);
- the shortcomings observed as regards cleanliness, lighting and ventilation in the cells at the Criminal Investigation Department in Rio Canario to be remedied (paragraph 52).

### comments

- the CPT trusts that it will remain the case that the cells in the general affairs, drugs and juveniles sections of the Criminal Investigation Department in Rio Canario are not used to accommodate persons who are required to spend the night in custody (paragraph 52).

### **3. Safeguards against the ill-treatment of detained persons**

#### recommendations

- the information sheet for persons detained by the police to be amended so as to refer explicitly to the rights to have one's custody notified to a third party and to have access to a doctor (paragraph 55).

#### comments

- if investigating officers require to question a detained person after his/her admission to the detention facility at Rio Canario, it would be far preferable for such questioning to take place at that facility rather than on other police premises (paragraph 56).

#### requests for information

- the legal status of the guidelines on the treatment of detained persons and the use of police cells, and more particularly whether a failure to comply with the guidelines amounts to an offence (paragraph 54).

### **C. Immigration detainees**

#### recommendations

- steps to be taken as a matter of urgency to remedy the shortcomings observed as regards both material conditions and activities at the centre for immigration detainees; immediate steps to be taken to ensure that persons held in the centre are offered at least one hour of outdoor exercise every day (paragraph 59);
- immigration detainees to be systematically provided with a document explaining the procedure applicable to them and setting out their rights; this document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of an interpreter (paragraph 60).

#### requests for information

- the procedures and safeguards which are applied in the context of detention under aliens legislation (under whose authority is a foreigner detained? is there independent control or supervision of a detention measure? what is the maximum duration of detention? are avenues available to challenge such a measure or to request that it be reviewed? etc.) (paragraph 61).



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

(transmitted by letter of 17 June 1998)





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

**Re: CPT report no. CPT (98) (6) of 12 March 1998:  
prison/detention facilities on the Netherlands Antilles**

Dear Mr Zakine,

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



## **1. Appendix, section A. Koraal Specht Prison**

### **A. Preliminary remarks**

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

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

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

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

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

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

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

## **B. Ill-treatment**

### **Recommendations**

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

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

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

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

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

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

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

**h. Strengthening management** (paragraph 15)

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

**C. Conditions of detention**

**Recommendations**

**a. Measures to reduce overcrowding** (paragraph 23)

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

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

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

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

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

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

**c. Facilities for prisoners (paragraph 23)**

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

**d. Changes to the regime (paragraph 23)**

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

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

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

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

#### **D. Health care services**

##### **Recommendations**

##### **a. Enlargement of the medical staff (paragraph 28)**

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

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

b. Qualified nurses (paragraph 29)

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

c. Medical records (paragraph 33)

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

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

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

**E. Other issues related to the CPT's mandate**

**Recommendations**

a. Outdoor exercise (paragraph 36)

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

b. Sanctions procedure (paragraph 37)

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



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

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

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

- d. Visiting arrangements (paragraph 38)

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

- e. Improvements to the kitchen (paragraph 39)

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

f. Independent supervisory committee (paragraph 40)

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

**Request for information**

a. Ombudsman (paragraph 40)

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

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

b. Armed prison officers (paragraph 41)

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

## **II. Appendix, section B, Police establishments**

### **B. Ill-treatment**

#### **Recommendations**

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

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

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

#### **Request for information**

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

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

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

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

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

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

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

**B. Conditions of detention; recommendations/comments**

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

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

### **C. Safeguards against ill-treatment**

#### **Recommendations**

##### **a. Information sheet for detained suspects (paragraph 55)**

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

#### **Comments**

##### **a. Questioning of suspects (paragraph 56)**

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

#### **Request for information**

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

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

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

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

### **III. Appendix, section C, Immigration detainees**

#### **Recommendations**

##### **a. Regime for immigration detainees (paragraph 59)**

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

##### **b. Information on procedures (paragraph 60)**

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

I hope I have supplied the information you need.