

# CPT report

## Parts about Migrant Prisons in the Netherlands

**Report to the authorities of the Kingdom of the Netherlands on the visits carried out to the Kingdom in Europe, Aruba and the Netherlands Antilles by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in June 2007; Strasbourg, 05.02.2008.**

### SUMMARY

page 39: recommendations

- the Netherlands authorities to take appropriate measures to minimise the time detained persons have to spend in **police cells**. Particular efforts should be made to ensure that juveniles are not detained in police cells for prolonged periods and are transferred to appropriate juvenile detention facilities expeditiously. Further, immigration detainees should be **promptly transferred to suitable accommodation** in keeping with their needs and status (paragraph 9).

page 43: recommendations

- the Netherlands authorities to **cease**, at the **earliest opportunity**, to use **boats** as facilities for immigration detainees (paragraph 58);
- measures to be taken in the meantime to decrease the **humidity** on the Stockholm and Kalmar detention boats, to allow detainees in solitary confinement to have access to more suitable outdoor exercise yards and to install shelters against inclement weather in all the exercise yards (paragraph 58);
- the Netherlands authorities to reconsider their approach towards the detention of immigration detainees, in the light of the remarks in paragraph 62. Immigration detainees should have access to a **full community regime** and the additional restrictions for detainees in the admission departments should be reviewed (paragraph 62);
- the Netherlands authorities to cease **immediately** the **practice of applying physical means of restraint** to detained persons who tamper repeatedly with the sprinkler system on the Kalmar and Stockholm detention boats; such detainees should be transferred to a suitable alternative facility without delay (paragraph 69);
- someone competent to provide **first aid**, preferably a person with a recognised nursing qualification, should always be present on the premises of the detention boats and the Rotterdam Airport Expulsion Centre, **including at night**. Further, a medical **doctor** should always be on call (paragraph 70);
- the Netherlands authorities to verify the situation regarding the cost of **telephone calls** and the possibility of other communications (paragraph 72).

### comments

- the Netherlands authorities are invited to introduce an **absolute time limit** for the detention of all foreign nationals under alien legislation (paragraph 56);
- the delegation observed that there was not always an NACI-prison officer on duty in every unit (paragraph 66);
- if deemed successful, the use on the Stockholm of external volunteers to visit immigration detainees who would otherwise not receive visits should certainly be considered by other immigration detention facilities (paragraph 72);
- the Netherlands authorities are invited to explore the possibility of increasing the visiting entitlement to at least two hours a week (paragraph 72).

### requests for information

- detailed information concerning the plans to relocate the Rotterdam Airport Expulsion Centre (paragraph 55);
- clarification as to the reason(s) for the decision to classify immigration detention centres as remand prisons (paragraph 61);
- comments on the training given to private security staff currently working in the detention facilities for immigration detainees (paragraph 67);
- comments on the arrangements for psychiatric care for immigration detainees (paragraph 71).

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### **PARTS OF THE TEXT**

NACI = National Agency of Correctional Institutions

Page 5: The CPT visited the detention boats “Kalmar” in Dordrecht and “Stockholm” in Rotterdam and the Expulsion Centre at Rotterdam Airport.

Page 7: The findings during the CPT’s 2007 visit suggest that police cells are being used as surplus capacity for remand prisons and alien holding facilities. The CPT notes that a shortage of remand capacity, combined with a policy of keeping prison occupation rates below 100% (see paragraph 25) may encourage prolonged detention in police facilities. However, the fact remains that police facilities do not offer suitable accommodation for lengthy periods of detention, particularly as concerns juveniles. The CPT has already commented in previous reports<sup>[11]</sup> on the unsuitability of such arrangements. **The CPT recommends once again that the Netherlands authorities take appropriate measures to minimise the time detained persons have to spend in police cells. Moreover, particular efforts should be made to**

**ensure that juveniles are not detained in police cells for prolonged periods and are transferred to appropriate juvenile detention facilities expeditiously. The CPT also recommends that immigration detainees be promptly transferred to suitable accommodation in keeping with their needs and status.**

Page 16: The alleged **ill-treatment** at the Rotterdam Airport Expulsion Centre took place in the early morning of 27 June 2006. Officials of the transport service of NACI attempted to move a detainee from his cell to a vehicle in order to be taken on a plane and deported. A struggle ensued, during which an official from the transport service apparently used excessive force against the detainee, including kicks to the head. By some accounts, the detainee temporarily lost consciousness as a result. Later that morning, employees from the Expulsion Centre, who had witnessed the incident, drew up a report for the Centre's management. Significant parts of the incident, in particular those related to the use of excessive force, were apparently left out of the report and the management of the Expulsion Centre only became aware of allegations of excessive use of force at a later stage. After the report was rewritten, it was handed over to the transport service for investigation. The transport service concluded that there were no indications for any wrongdoing by its staff. However, the management of the Expulsion Centre considered that the investigation had not been thorough, as the staff who had been on duty on 27 June 2006 had never been interviewed about the incident. Therefore, on 3 April 2007 the NACI-Bureau for Safety and Integrity was asked to carry out an investigation into the events on 27 June 2006. The investigation is still ongoing.

Page 36: In a letter of 25 July 2006, a spiritual adviser attached to the Stockholm detention boat, informed the management of an account of **ill-treatment** by staff during an aborted expulsion attempt on 20 July 2006. He reported that an immigration detainee claimed to have been kicked, and hit on the head with a helmet while being transported to the airport. Documentation sent to the CPT's delegation by the authorities indicates that this detainee was examined by a doctor when he returned to the Stockholm immediately after the failed expulsion and that during the examination he made allegations of having been beaten. From the files available to the CPT's delegation, it was unclear whether any investigation had taken place.

When asked about the follow-up to the spiritual adviser's letter, the director of the Stockholm told the CPT's delegation that an investigation had been carried out by a head of department, and that the allegations had been found to be untrue. It should be noted that due to the holiday period, the investigation had taken place two months after the alleged incident, by which time the immigration detainee had already been expelled. Further, there was **no written report** on the investigation.

Page 37: It is noteworthy that the three cases referred to above were **not** revealed through a **formal reporting mechanism**. Also, efforts appeared to have been made to either "soften" (at the Rotterdam Airport Expulsion Centre) or conceal (at De Noordsingel remand prison) the incidents. In the case of the detainee from the Stockholm, the alleged ill-treatment was not properly reported and no trace could be found of the investigation that had apparently taken place.

**Page 23: 4. Facilities for immigration detainees**

a. introduction

page 54. As stated above, the CPT's delegation visited the Stockholm detention boat in Rotterdam, the Kalmar detention boat in Dordrecht and the Rotterdam Airport Expulsion Centre. On the detention boats, aliens are held for the purpose of establishing their identity and nationality. In principle, immigration detainees for whom there are no remaining administrative impediments to expulsion, are transferred to the Expulsion Centre at Rotterdam Airport or Schiphol Airport.

At the time of the visit, the two detention boats, both moored to the quay, were holding male detainees, while the Rotterdam Airport Expulsion Centre was accommodating single women and couples, as well as men. The CPT's delegation was pleased to note that it did not encounter children in any of the facilities visited, in conformity with a recent decision by the State Secretary of Justice.

Page 55: According to the Netherlands authorities, the two detention boats serve as temporary accommodation in cases of unexpected overcrowding; the Stockholm will close in 2010 and the Kalmar in 2012. The boats were selected for the detention of immigration detainees as they could be made operational more quickly and with fewer administrative formalities than any land facility.

The location of the Rotterdam Airport Expulsion Centre is also considered temporary and should move from its current site in about two years. **The CPT would like to receive detailed information concerning the plans to relocate the Rotterdam Airport Expulsion Centre.**

**Page 56: At present, the legislation governing the administrative detention of immigration detainees does not provide for an absolute time limit for detention pending deportation for certain categories of detained aliens<sup>[27]</sup>.** The CPT invites the Netherlands authorities to introduce an **absolute time limit** for the detention of all foreign nationals under aliens legislation **(as is already the case in the majority of European countries).**

b. material conditions

Page 57: The detention boats were originally designed as floating hostels, providing accommodation for professionals working away from home. The official capacity of the **Stockholm is 472 detainees**, and for the Kalmar, 496. At the time of the visit, they were holding **422** and 107 detainees, respectively. Both boats have a similar layout: they are three storeys high, with the immigrant detainees accommodated in two, four or six-person rooms. The rooms for four persons contained a sleeping area and a living area, the latter being equipped with a table and four chairs; the rooms were sufficient in size. The two and six-person rooms were also adequate in size, with seating facilities in the centre. All rooms were equipped with toilet facilities and a refrigerator. The rooms were grouped into eight units; each of which had a recreation room.

In many aspects living conditions could be considered acceptable. However, the narrow corridors and low ceilings on both boats led to an oppressive environment and the boats were poorly ventilated, resulting in problems of humidity. In addition, none of the four outdoor yards on each boat provided shelter from inclement weather and the outdoor exercise yards used by inmates in solitary confinement were totally unsuitable, providing very little access to fresh air.

Page 58: The CPT is aware of the ongoing discussions with respect to the suitability of boats as detention facilities in the Netherlands. For instance, the Stockholm was inspected jointly by the Inspectorate for the Implementation of Sanctions and the Council for the Application of Criminal Law and Youth Protection in April 2006. Their report made several recommendations, such as the installation of more spacious outdoor exercise yards. The report also referred to the maximum length of stay on the boats; it stated that, due to the conditions, immigration detainees should not be held on the boats for longer than six months. Following the report, several improvements were made. Nevertheless, judicial decisions of 11 December 2006 and 26 April 2007 laid down that immigration detainees should not be accommodated on the boats for longer than six months. The NACI has also applied the rulings to detainees held on the Kalmar. Indeed, the delegation did not meet any detainees who had stayed on the boats for longer than six months.

The CPT agrees that the boats are unsuitable for long-term detention and that they cannot easily be transformed into acceptable detention facilities. **The CPT recommends that the Netherlands authorities cease, at the earliest opportunity, to use boats as facilities for immigration detainees. In the meantime, it recommends that measures be taken to decrease the humidity on the Stockholm and Kalmar, to allow detainees in solitary confinement to have access to more suitable outdoor exercise yards and to install shelters against inclement weather in all the exercise yards.**

Page 59: The Rotterdam Airport Expulsion Centre is housed in a former hangar directly adjacent to Rotterdam Airport. With a capacity of 212, on the day of the delegation's visit, the Centre was accommodating 110 detainees in single and double rooms, grouped into several units. Overall the material conditions in the Centre were significantly better than on the detention boats. That said, the outdoor exercise yards were not ideal; they were long, narrow cages, shielded from public view by plastic sheeting, which resulted in a somewhat confined atmosphere. The Expulsion Centre has a medical unit with three rooms, where detainees with mental disorders are accommodated. This unit has been allocated additional time from a nurse.

c. regime

Page 60: In the past, the Netherlands authorities have been commended by the CPT for providing a varied and stimulating regime for immigrant detainees, including work, recreation, language or computer education, sports, library, music and handicraft<sup>[28]</sup>. In 2007 the findings were markedly different; many activities were no longer available while others were reduced to a strict minimum. The regime on the two detention boats was particularly meagre, with detainees having a total of 18 hours of activities a week, including one hour of

daily outdoor exercise, library visits (one hour a week), outdoor activity (three hours a week) and the option of visiting the shop three times a week. There were no educational activities, and work (cleaning and laundry) was available for only a few detainees. However, on the Kalmar the regime was slightly more developed as detainees could benefit from the presence of a sports instructor during outdoor exercise and there was a full-time librarian.

Within their units, detainees were generally free to leave their rooms and visit the unit's recreation room. However, a more restrictive regime was in operation in the admission department of both boats. In these departments, detainees were required to remain in their rooms for 10 days when they were not participating in activities, in order to be available for administrative arrangements linked to their expulsion. Consequently, they spent some **21 hours or more per day confined to their rooms.**

Page 61: It has been over **10 years** since the CPT **last visited** an immigration detention centre in the Netherlands and the delegation noted the extent to which the Dutch approach to the administrative detention of immigration detainees has changed, largely duplicating the transformation in the prison system. Indeed, both forms of detention are linked by Article 9 of the Penitentiary Principles Act. Facilities used for the administrative detention of immigration detainees, such as the two detention boats, are classified as remand prisons; thus, the regime applied to immigration detainees is similar to that of remand prisoners. Moreover, the CPT understands that immigration detainees are **normally held under a limited community regime**<sup>[29]</sup> in conformity with Article 21 of the Penitentiary Principles Act and Article 3 of the Penitentiary Order.

<sup>[29]</sup> Under a limited community regime, inmates are **only allowed to associate during organised activities.**

**The CPT would like to receive clarification as to the reason(s) for the decision to classify immigration detention centres as remand prisons.**

Page 62: The CPT is aware that it may be necessary to deprive persons of their liberty for a period under aliens legislation in order to facilitate their expulsion. However, it is concerned by the linkage of two dissimilar forms of detention and sees **no reason** for immigration detainees to be held in **prison facilities under a limited community regime.** In the view of the CPT, such persons should be accommodated in **specifically designed centres,** offering material conditions and a regime appropriate to their legal status. The CPT recognises that special precautions might have to be taken vis-à-vis certain foreign nationals detained under aliens legislation (e.g. for disciplinary, health or security reasons). However, to apply a limited community regime indiscriminately to all detained aliens cannot be justified.

**The CPT recommends that the Netherlands authorities reconsider their approach towards the detention of immigration detainees, in the light of the above remarks. Immigration detainees should have access to a full community regime and the additional restrictions for detainees in the admission departments should be reviewed.**

Page 63: The Rotterdam Airport Expulsion Centre has a slightly different regime, as it is governed by the Border Accommodation Regime Regulations Decision (*Reglement Regime Grenslogies*). Immigration detainees are allowed to move around their unit freely for most of the day, and have a well-equipped recreation room at their disposal. Further, each unit has

access to a large interior court for half the day. In addition, one hour of outdoor exercise per day is guaranteed. Although **few activities** were organised, the regime was more lenient and therefore somewhat better adapted to the needs and status of migrant detainees.

d. staffing

Page 64: The staff of centres for immigration detainees have a particularly onerous task. Firstly, there will inevitably be communication difficulties caused by language barriers. Secondly, many detained persons will find the fact that they have been deprived of their liberty when they are not suspected of any criminal offence difficult to accept. Thirdly, there is a risk of tension between detainees of different nationalities or ethnic groups. Consequently, the CPT places a premium upon the supervisory **staff** in such centres being **carefully selected** and receiving **appropriate training**. Staff should possess both **well-developed qualities** in the field of **interpersonal communication** and **cultural sensitivity**, given the diverse backgrounds of the detainees. Further, at least some of them should have relevant **language skills**. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons and to take appropriate action.

Page 65: On the two detention boats and in the Rotterdam Airport Expulsion Centre, the staff consisted of both employees of a private security company and regular prison officers attached to the so-called NACI-prison officers pool, a unit that provides officers to prisons with a staff shortage. On the day of the visit, the Stockholm had 220 custodial staff (110 prison officers from the pool and 110 employees from a private security company), and the Kalmar had a complement of around 155 (of whom 66% were employed by a private security company). Of the 130 custodial staff at the Rotterdam Airport Expulsion Centre about 50% were employed by a private security firm. Each of the three facilities also employed specialised staff, such as social workers, spiritual counsellors and psychologists.

Page 66: There is a certain division of tasks between regular prison officers and private security staff and some senior posts are reserved for regular NACI-staff. However, in principle all functions could be carried out by any custodial staff. As a rule, on every unit, there should always be at least one NACI-prison officer on duty; nevertheless, **the delegation observed that this was not always the case.**

Page 67: **Private security staff** told the delegation that before taking up their duties, they had to complete **two courses**: one was on **self-defence** and the other was an **induction course** on prison work. However, the latter course did not cover the intercultural and interpersonal aspects of working in a detention facility for immigration detainees.

Custodial staffing on the two detention boats reflected the temporary nature of these facilities and their qualification as remand prisons. In particular, the CPT has some misgivings about the training given to private security staff currently working in the detention facilities for immigration detainees. In the CPT's view, that **training is insufficient** to enable such staff to undertake **other than passive security duties**, thus reinforcing the **carceral atmosphere**

already very evident on the boats. **The CPT would like to receive the comments of the Netherlands authorities on this point.**

e. use of restraints

Page 68: On the detention boat Kalmar, the delegation found that an immigration detainee, placed in isolation as a punishment for tampering with the sprinkler installation, had had his arms and legs restrained after he had once again tampered with the fire safety devices in the isolation cell itself. He remained restrained until transferred to the isolation department at Vught Prison, some 24 hours later. Although, the isolation cells were equipped with CCTV, in order to ensure visual supervision, there was no continuous and direct monitoring by staff of the detained person whilst restrained.

The director confirmed the delegation's findings and explained that restraining a detainee until his transfer to Vught Prison was standard practice on both the Kalmar and the Stockholm, whenever a detainee placed in isolation was found tampering with the sprinklers. She also stated that the length of time a detainee would be kept restrained depended on how long it took to transfer him to Vught Prison.

Page 69: The CPT is seriously concerned by the practice of restraining detainees in isolation for lengthy periods without medical justification; such a practice could very well be considered as ill-treatment. In the Committee's view, means of restraint in addition to placement in an isolation cell should only be applied to an agitated or violent prisoner and should rarely last for more than a few hours, unless there is a medical condition requiring this. And in the latter case, the decision to resort to the use of means of restraint should be taken by a doctor and there must always be a constant, direct personal supervision of the person restrained. Means of restraint should be removed at the earliest opportunity; it should never be applied, or its application prolonged, as a punishment.

**The CPT recommends that the Netherlands authorities immediately cease the practice of applying physical means of restraint to detained persons who tamper repeatedly with the sprinkler system on the Kalmar and Stockholm detention boats; such detainees should be transferred to a suitable alternative facility without delay.**

f. medical care

Page 70: In general, the level of medical care provided on the boats and at the Rotterdam Airport Expulsion Centre was acceptable. There was access to a wide range of health care staff (a medical doctor, nurses, a dentist and a psychiatrist, as well as other medical specialists) and they were sufficient in number. Further, all new arrivals were medically examined within 24 hours. However, during the night neither a doctor nor a nurse was present or even on call in any of the three facilities visited. Instead, in the event of a medical necessity, an external emergency service was called.

**The CPT recommends that someone competent to provide first aid, preferably a person with a recognised nursing qualification, always be present on the premises of the detention boats and the Rotterdam Airport Expulsion Centre, including at night. Further, a medical doctor should always be on call.**

Page 71: The delegation was somewhat concerned by the arrangements in place with respect to detainees with psychiatric illnesses. For instance, on the Stockholm, the delegation met a man who appeared to be suffering from a serious psychiatric disorder. Due to his erratic behaviour, he was kept in isolation and visited daily by a medical doctor and psychologist and weekly by a psychiatrist. There were ongoing attempts by the management of the Stockholm to arrange a transfer to a more suitable environment, such as an Individual Support Department (*Individuele Begeleidingsafdeling*) in a regular prison. However, due to lack of space elsewhere, this man was finally accommodated in the medical unit of the Rotterdam Airport Expulsion Centre. Here, the CPT's delegation met with him a few days later; his condition was unchanged.

In the light of the above remarks, **the CPT would like to receive the comments of the Netherlands authorities on the arrangements for psychiatric care for immigration detainees.**

- g. contact with the outside world

Page 72: On the two boats, as well as in the Rotterdam Airport Expulsion Centre, detainees were entitled to a one-hour weekly visit. The CPT's delegation was told that, on the Stockholm, the initiative had been taken to make use of external volunteers to visit immigration detainees who would otherwise not receive visits. This is a very welcome initiative **which, if deemed successful, should certainly be considered by other immigration detention facilities. The CPT also invites the Netherlands authorities to explore the possibility of increasing the visiting entitlement to at least two hours a week.**

There was unlimited access to a telephone to make a ten-minute call. However, there was no possibility to make a reverse-charge call, limiting considerably the possibilities for contact for detainees without sufficient means. **The CPT recommends that the Netherlands authorities verify the situation regarding the cost of telephone calls and the possibility of other communications.**

#### **See Also**

- \* [the article 'Council of Europe Criticizes Dutch Migrant Prisons'](#)
- \* [complete CPT report from 5 February 2008](#)