



CPT/Inf (2012) 19

## **Report**

**to the Governments of Belgium and  
the Netherlands on the visit to Tilburg Prison  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 17 to 19 October 2011**

The Governments of Belgium and the Netherlands have requested the publication of this report.

Strasbourg, 26 June 2012



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**Copies of the letters transmitting the CPT's report**

TRANSLATION

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Strasbourg, 29 March 2012

Dear Mr Flore,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Tilburg Prison from 17 to 19 October 2011. The report was adopted by the CPT at its 77<sup>th</sup> meeting, held from 5 to 9 March 2012.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix of the report. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Belgian authorities to provide within **six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Belgian authorities to provide, in the above-mentioned response, reactions and replies to the comments and requests for information.

The visit report has also been transmitted to the Dutch authorities (see paragraph 3 of the report).

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

Yours sincerely,

Latif Hüseyinov  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

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Directorate of Legislation  
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NL - 2500 EH The Hague

Strasbourg, 29 March 2012

Dear Professor Kuijer,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Tilburg Prison from 17 to 19 October 2011. The report was adopted by the CPT at its 77<sup>th</sup> meeting, held from 5 to 9 March 2012.

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Yours sincerely,

Lətif Hüseynov  
President of the European Committee for the  
Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## I. INTRODUCTION

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"), and in the context of a periodic visit to the Netherlands, a CPT delegation made a visit to Tilburg Prison from 17 to 19 October 2011. This prison, which stands in the territory of the Netherlands, houses prisoners sentenced by Belgian courts in pursuance of a convention concluded on 31 October 2009 between the authorities of the Kingdom of the Netherlands and those of the Kingdom of Belgium, "on the making available of a prison in the Netherlands for the execution of criminal sentences imposed in Belgium under Belgian law" (hereinafter referred to as the "Interstate Convention").

2. The visit was carried out by Timothy DALTON, a member of the CPT and head of the delegation, assisted by Fabrice KELLENS, Deputy Executive Secretary of the Committee, and by Julien ATTUIL-KAYSER, of the Secretariat of the Committee. They were assisted by Timothy HARDING, a psychiatrist and former Director of the University Institute of Forensic Medicine (IUML) in Geneva, and by Josephus VINCK and Wilhelmina VISSER (interpreters).

3. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, of 1989, provides that "Each Party shall permit visits, in accordance with this Convention, to any place within its jurisdiction where persons are deprived of their liberty by a public authority" (Article 2). In application of the Interstate Convention, the Netherlands makes available the prison premises and the prison and medical staff and transfers the prisoners. Dutch criminal law is applicable within the prison. On the other hand, all the inmates present in the prison are serving final sentences imposed by Belgian courts, in pursuance of Belgian legislation, and the prison regime is Belgian. All the staff working in the prison are Dutch with the exception of the Prison Director, two Deputies and the staff from the Penitentiary Psychosocial Service. Taking account of the Interstate Convention, and particularly the aforementioned elements, there is clearly shared jurisdiction where Tilburg Prison is concerned. Consequently, the visit to this prison was notified to the Netherlands and Belgium in pursuance of Article 8, paragraph 1 of the Convention. Furthermore, the visit report has been forwarded to both States Parties, and it is for the authorities of these two States to reply, each in respect of the matters for which they are responsible.

4. The delegation held consultations with the responsible authorities of the two States Parties to the Convention. Where the Kingdom of the Netherlands was concerned, it had discussions, in the context of the periodic visit of the CPT to the Netherlands, with Ivo Willem OPSTELTEN, Minister of Security and Justice, and Fredrik TEEVEN, State Secretary of Security and Justice. Where the Kingdom of Belgium was concerned, the delegation met, in the course of its visit to Tilburg Prison, Stefaan DE CLERCK, Minister for Justice, Nicole DE CLERCQ, Regional Director of Flemish prison establishments, and Luc STAS, Adviser to the Minister. The two States' liaison officers, namely Martin KUIJER, accompanied by Joyce DREESSEN, for the Netherlands, and Philippe WERY, accompanied by Stéphanie GRISARD, for Belgium, did much to facilitate the delegation's visit to Tilburg Prison. The CPT wishes to express its appreciation for the assistance provided.

5. The delegation benefited from excellent co-operation from all the staff concerned throughout its visit to Tilburg Prison. It obtained immediate access to the prison and to all the documents needed to carry out its task, including medical information. It was also able to interview in private persons deprived of their liberty. In addition, it had detailed discussions with members of the prison staff, both Belgian and Dutch. The delegation was also able to attend the scheduled six-monthly evaluation meeting between the two States Parties to the Interstate Convention, a meeting at which a range of issues associated with the implementation of that Agreement was discussed.

By letter of 8 February 2012, the authorities informed the Committee of several measures taken at Tilburg Prison following the delegation's visit. The CPT will consider this information later in the report.



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

### A. Preliminary remarks

6. Belgium has for many years been experiencing a high level of prison overcrowding<sup>1</sup>. Facing this situation on a recurrent basis, the Belgian authorities decided to start a wide-ranging renovation and building programme, the "2008-2012 Master Plan". In the meantime, they decided to introduce a temporary solution. They opted to use a method never adopted before in Europe, renting an already staffed and equipped prison in the Netherlands, namely Tilburg Prison. The provision of this prison is based on the aforementioned Interstate Convention of 31 October 2009. This came into force on 1 February 2010 and will remain in effect until 31 December 2012. Its initial duration may, however, be shortened or lengthened by one year. This Agreement has been supplemented by a Co-operation Agreement<sup>2</sup> which specifies the conditions concerning the prison, the staff, the material resources and other duties to be performed by the host State in respect of the functioning of the prison and the transport of prisoners.

7. In pursuance of the Interstate Convention, the Netherlands undertake to accommodate male prisoners whose convictions in Belgium are final, in return for periodical payments by the Belgian government<sup>3</sup>, and taking account of the prison places available. Deprivation of liberty for reasons other than a Belgian conviction or for persons other than prisoners is explicitly prohibited. The Interstate Convention lays down a number of strict criteria in respect of the type of prisoners who can be accommodated in Tilburg. They must, inter alia, be persons serving prison sentence of at least one year, and who present a risk of escape and a risk to society which correspond to the prison's security level. Furthermore, they cannot be nationals or residents of the host State, have been declared undesirable there, or be the subject of an arrest warrant or under suspicion of criminal activity in the Netherlands. The Directorate General of Prisons (DGP) has opted to select prisoners not in frequent need of transfers to Belgium for medical or family reasons, and "in respect of whom pressure in terms of rehabilitation is low"<sup>4</sup>. **The CPT wishes to receive clarification of this last criterion.**

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<sup>1</sup> See the CPT's report concerning the visit to Belgium in 2009 (CPT/Inf 2010 (24), paragraphs 77-80).

<sup>2</sup> The Co-operation Agreement concerned is not a public document. It was handed to the delegation when it arrived on the spot.

<sup>3</sup> The rental cost almost 40 million Euros in 2011 according to the analysis of the Belgian *Cour des Comptes* in its report on the measures to fight prison overpopulation, December 2011.

<sup>4</sup> Federal Justice Department, Directorate General of Prisons, 2010 Activity report, p.16.

8. The delegation found that, for the majority of inmates, including those who had arrived recently, transfer had been affected on a non-voluntary basis. The transfer notice had, in most cases, been seen as an arbitrary decision, or even an injustice. The CPT appreciates that the aim of the Interstate Convention is to provide a necessary short-term answer to serious prison overcrowding in Belgium. However, as a matter of principle, a prisoner who has been sentenced to imprisonment in one State should not, on the basis of an administrative decision, be forced to serve the sentence in another State.<sup>5</sup> **The Committee recommends that all prisoners whose transfer to Tilburg Prison is envisaged should have the opportunity to discuss the matter with the Director of the sending Prison, or a Deputy, so as to put forward any legitimate concerns they might have about such a transfer.**

In addition, most of the prisoners had been notified in the morning or the night before their transfer, except in a few cases when they had been informed two or three days previously. **The Committee recommends that prisoners being transferred to Tilburg Prison always have sufficient advance notice of the transfer – at least two weeks – together with adequate information about the general conditions prevailing in that establishment.**

9. The Interstate Convention details a number of aspects of the relations between the two Contracting Parties, and particularly, where the general provisions are concerned, the applicable law, the protection of privacy, and the Belgian director's powers and general responsibilities. It also covers the placement of prisoners within Tilburg Prison, arrangements for sentence enforcement, prisoners' complaints and actions, medical care outside the prison, transport, escapes, deaths, and security. Lastly, the Interstate Convention includes provisions on criminal matters and provisions relating to inviolability and immunities.

10. Mainly for administrative reasons, Tilburg Prison is considered by the Belgian federal authorities to be an annexe of Wortel Prison, a prison for sentenced prisoners across the border in Belgium, approximately 40 km from Tilburg. The prisoners are administratively attached to that prison. Thus it is via that prison that all transfers to or from Belgium take place. With a maximum capacity of 681 places, Tilburg Prison is in fact Belgium's largest prison for sentenced prisoners. Its capacity is considerably greater than that of the prison to which it is attached, Wortel, which has approximately 150 places.

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<sup>5</sup> By way of example, the principle of consent is one of the necessary conditions for a prisoner's transfer between two States parties to the Council of Europe 1983 Convention on the transfer of Sentenced prisoners (ETS no 112, article 3, d).

11. Following the entry into force of the Interstate Convention in the spring of 2010, Tilburg Prison gradually took in 500 prisoners, the total number of inmates initially planned. In the spring of 2011, the Belgian authorities increased the number of prisoners up to a total of 650, because of the continuing overcrowding in Belgian prisons. The unexpected evacuation of Verviers Prison, which took place in the autumn, further increased the pressure on the Belgian prison system<sup>6</sup>.

At the time of the delegation's visit, in mid-October 2011, 675 prisoners were administratively registered at Tilburg Prison, with an effective number of approximately 650 prisoners<sup>7</sup> present each day. More than 50 % of the prisoners have been sentenced to a prison term of up to five years; persons sentenced to a term of 10 years or more represented almost 10 % of the prison population. Belgian nationals represented 40% of the prison population and 353 out of the 390 foreign nationals had no residence permit in Belgium.

12. It should lastly be noted that this visit was not the first one by the CPT to Tilburg. Indeed, before the prison was rented to the Belgian authorities, the establishment was used as a detention centre for foreigners, in which capacity it had been the subject of a visit in 1997 (see CPT/Inf (98) 15). At that time, the foreigners had been housed in buildings B, C and D, as well as in unit X. The detention centre then had a total capacity of 438 places. Since that last visit, detention units H, T and U have been created, in order to increase the total capacity of the prison and to serve as a Dutch remand prison. Before the detention centre, the Tilburg site was home to the Willem II barracks, which partly explains the general architecture of the premises and facilities, and particularly the presence of numerous collective dormitories (see paragraph 14).

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<sup>6</sup> At the six-monthly consultative meeting between the representatives of the parties to the Interstate Convention which the delegation attended, the Dutch representatives emphasised the need to maintain the occupation of the prison at a "manageable" level, which in their view was a maximum of 640 inmates.

<sup>7</sup> The difference is accounted for by the number of prisoners temporarily transferred to Belgium for various reasons (medical examinations, visits, court appearances, etc.).

## **B. Ill-treatment**

13. During its visit, the delegation received no allegations of ill-treatment of prisoners by prison staff. On the contrary, the great majority of prisoners emphasised the professional attitude and respect shown to them by the prison staff, making particularly favourable comments about the difference in attitude - characterised by dialogue and constant contact - between the staff at Tilburg and those at other Belgian prisons<sup>8</sup>. There is no doubt whatsoever that this proactive attitude developed by the Tilburg staff, who endeavour to put into practice the concept of dynamic security<sup>9</sup>, is such as to keep frustrations and outbursts among the prisoners to a minimum, particularly in the dormitories.

14. The delegation nevertheless collected some information, mainly from prison staff on the spot, indicating clearly that the prison was experiencing a serious problem of inter-prisoner violence. This problem is, inter alia, linked to the enforced crowding in what were formerly soldiers' dormitories, with eight beds each (a total of 360 places), and the combination of different kinds of sentenced prisoners in these cells. Indeed, those who are forced to live together in these dormitories are prisoners serving long and short sentences, young and old, of all origins and nationalities, and with different cultural, religious and dietary customs. This situation causes frustrations to build up, regularly leading to incidents, some of them violent. During its visit to one of the dormitories, for instance, the delegation itself witnessed a violent altercation between two prisoners which could have had very serious consequences had the staff present not intervened promptly, with the support from the special intervention brigade. In order to combat this problem, the prison management uses two stratagems. The first is to entrust each dormitory to a "mentor" prison officer, a system which has stood the test of time, for it enables conflict situations to be detected at an early stage - and usually to be defused in time. In addition, the prison management tries, when assigning prisoners to dormitories, to avoid grouping inmates together in a way likely to create groups which might exert pressure on the more vulnerable prisoners. This latter solution is, however, to a large extent thwarted by the considerable pressure placed on the prison in terms of capacity. The drawing up of a long waiting list making prisoners wait for a year, or even longer, for a place in one of the prison's single or double cells is further evidence of this.

**The CPT recommends that absolute priority be given to reducing the number of beds in the dormitories as places become available with the entry into service of new prisons in Belgium, the objective being to return to the use made of the dormitories when Tilburg Prison was opened<sup>10</sup>. In the meantime, there should be further development of the specific measures taken to identify and protect the more vulnerable prisoners, including the granting of priority on the waiting list for Tilburg's single and double cells. In certain cases, speedy return of the prisoner concerned to a prison in Belgium should be envisaged.**

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<sup>8</sup> This impression was also reinforced by the exceptional nature of the use within the prison by the special intervention brigade (on only two occasions since the prison opened) of means of restraint, such as pepper spray, and by the discerning use made of disciplinary procedures and sanctions.

<sup>9</sup> The development of positive relations with the prisoners must go hand-in-hand with knowledge of inmates' individual situations and of the risks which each of them may pose.

<sup>10</sup> When the prison opened, each of the dormitories contained four beds. Incidents became more frequent as the capacity of the dormitories increased.

## C. Conditions of detention

### 1. **Material conditions**

15. Tilburg Prison is on the edge of the city of Tilburg, beside a ring road. Most of the buildings date from the time when the barracks were built, in the thirties, with a number having been added subsequently. It is a medium-security prison, with a generous amount of space and numerous facilities, both for sports and workshop activities.

16. Accommodation units H, T, U and X house single and double cells measuring between 8 and 10 m<sup>2</sup>, as well as communal rooms, including kitchens. Material conditions in these units are adequate, particularly in the cells accommodating only one person. The furniture is in good condition, each cell having the necessary equipment, including a refrigerator, a microwave oven and a television set. However, the use of these cells for two prisoners through the provision of a bunk bed is not without discomfort in terms of living space and access to natural light. **The CPT wishes to receive the authorities' comments on this issue.**

17. Accommodation units B, C and D each comprise 15 dormitories containing eight beds (in this case, four bunk beds) and various communal rooms, including washrooms. The dormitories measure approximately 45 m<sup>2</sup> and contain, inter alia, a washroom (with a shower and WC). Living space per prisoner is therefore limited (in the same way as in the double cells). It is therefore hardly surprising that many prisoners complained to the delegation about lack of privacy, particularly for elderly prisoners or those serving long sentences. For some of the prisoners who were previously accommodated in individual cells, this represents a real setback. A recommendation intended to reduce the occupancy rate has already been made by the Committee (see paragraph 14).

Furthermore, as in 1997, there is a lack of ventilation in these dormitories. According to the information collected by the delegation, it is not unusual, in summer, for daytime temperatures to be difficult to bear. The fitting of fans at the windows does not seem to have brought a lasting solution to the ventilation problem in the dormitories. **The CPT wishes to receive the authorities' comments on this subject.**

18. The delegation received a large number of complaints about the quality and method of preparation of the food served in the establishment. As in the Dutch prison system, prisoners receive, in addition to breakfast, two meals per day, one of which is a frozen main dish. This method of preparation differs radically from that used in Belgian prisons, where dishes cooked on the spot are the norm. The delegation was told that a large proportion – up to 30% – of the frozen food was immediately thrown away by the prisoners. Aware of the problem, the authorities have taken the initiative of fitting small kitchens in the accommodation units, where possible, so as to enable the prisoners to cook for themselves<sup>11</sup>. Furthermore, the prisoners who have the necessary funds may purchase food products from the canteen. **The CPT wishes to be informed of any other steps taken to solve the above-mentioned issue.**

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<sup>11</sup> By letter of 8 February 2012, the authorities informed the CPT that the kitchens in units B, C and D have been refurbished.

## 2. Regime

19. The typical daily programme of activities in the prison runs from 8 a.m. to 9.30/10 p.m. Each prisoner benefits from four hours of work per day in a workshop, two hours of outdoor activities (in the exercise yard/on the sports ground), and two hours of recreation (during which the doors within the units are kept open). Once a week there are two hours of organised sport supervised by a coach, and provision is made for two hours of access to the library. These arrangements apply to all the prisoners subject to the ordinary detention regime.

However, the delegation found that a far more limited regime is available to the vulnerable prisoners, and more particularly those accommodated in Unit X. In that unit, all activity ceases by 5 p.m. The prisoners work in their cells, and this only on alternate weeks. If work inside the cell may be justified by the need to protect these prisoners (although it is conceivable that a workshop could be reserved for them at certain times of the day), the delegation was unable to obtain convincing justification for the reduced hours of activities. Furthermore, the reduced time-slots for activities available to this particularly vulnerable group seem to run counter to the initial aim pursued, that of helping them to recover their ability to adapt and to socialise. In practice, they need more attention and an individualised approach. **The CPT recommends that the programme of activities available to the vulnerable prisoners in Unit X be reviewed, in the light of the above comments.**

Finally, a number of prisoners complained of a considerable wage reduction - in some cases to one-third - as compared to the pay that can be received in prisons in Belgium. This reduction stems, in part, from the fact that the number of hours of work in the workshops is limited to 4 hours per working day. Aware of the situation, the Dutch prison management has said that it was seeking ways of increasing the supply of work. **The CPT wishes to receive information about the results subsequently achieved in this respect.**

20. At Tilburg Prison, educational activities, vocational training and cultural activities are extremely limited. This situation stems directly from the refusal of the Flemish community authorities to provide services in the Tilburg Prison. The arrangement whereby Tilburg Prison is attached to Wortel Prison has apparently been insufficient to convince the departments concerned that they should intervene for the benefit of the 650 prisoners at Tilburg. Consequently, Belgium's largest prison has for two years had no organised educational, vocational training or cultural activities<sup>12</sup>. Aware of the problem, the Dutch prison management has arranged some basic activities (Dutch-language, computing and literacy courses), albeit for limited numbers.

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<sup>12</sup> By letter of 8 February 2012, the authorities informed the CPT that Public Employment Service of Flanders (VDAB) opened a job vacancy for a consultant at Tilburg Prison.

When he met the delegation, Minister DE CLERCK shared its concern about this subject. While acknowledging the political aspects thereof, he sought to deal with the problem in consultation with the responsible community authorities. The CPT recalls that the European Prison Rules (Rule No. 103) provide for deprivation of liberty to be enforced in the context of a strategy for preparation for release. To this end, prisons must, in the context of individual sentence plans, be able to offer programmes of activities appropriate to sentenced persons, particularly in terms of vocational training and education to obtain qualifications. **The CPT recommends that immediate steps be taken to end the situation of inadequate educational and cultural activities and vocational training at Tilburg Prison.**

21. In addition, the CPT is obliged to stress that, for prisoners who have already served long prison sentences, a compulsory transfer to Tilburg Prison may cause real difficulty, or even constitute a step backwards, in terms of life plan and future rehabilitation. This category of prisoner, more than any other, needs stability and long-term investment by the departments responsible, especially where work and rehabilitation are concerned, not forgetting the importance of the maintenance of contact with relatives and family members. In the view of all the prisoners of this category whom the delegation met, transfer to Tilburg is felt to be an additional hardship. Indeed, not only are they almost inevitably placed in a dormitory for one year (whereas such prisoners generally benefited from single cells in Belgium), but they also receive a much lower wage in most cases and suffer disruption to their training courses and rehabilitation plans, and difficulties in respect of family visits. The CPT feels that Tilburg Prison is not an appropriate place to accommodate prisoners who have already served a large part of their sentences in Belgium, and **recommends that such prisoners should ideally not be transferred there.**

22. Despite the fact that detainees have been transferred, in most cases, to Tilburg Prison without their consent, most of the prisoners spoken to expressed, after having spent some weeks in the establishment, a preference to remain in Tilburg Prison rather than serve time in a prison in Belgium. Many prisoners indicated that the staff / prisoner relations in Tilburg Prison are much better than in Belgian Prisons (see paragraph 13 above). However, this expressed preference does not provide justification for compulsory transfers to Tilburg Prison; it underlines the need for better prisoner / staff relations in Belgian prisons.

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

23. In accordance with the Interstate Convention, medical care at Tilburg Prison is provided by the Dutch departments responsible. The medical department is managed by a nurse who holds a Masters Degree in public health administration. He heads a team of four general practitioners, external service providers, who take turns to hold surgeries every day of the week<sup>13</sup>. However, the total amount of time for which these doctors are present is less than one full-time equivalent (FTE) post, which is clearly insufficient for a prison accommodating 650 inmates. Some prisoners told the delegation that there was often a wait of several days to see a doctor. **The CPT recommends that the amount of time for which a GP is present at Tilburg Prison be increased to two full-time equivalent posts.**

24. The medical team has the support of four full-time and eight part-time nurses. The prison has a total of 9.7 full-time equivalent posts. One of the full-time posts, however, was vacant at the time of the visit. Furthermore, according to the information supplied to the delegation, reinforcement of the nursing team (by one FTE post) is planned for the end of the year. In the CPT's opinion, a dozen FTE nursing posts are necessary to meet the needs of a prison of this size and this type. **The CPT invites the authorities to take the necessary steps to increase the nursing staff accordingly.**

25. Medicines are delivered to the Prison in sealed pre-packed transparent plastic bags (the so-called "Baxter" system) and their delivery to the decentralised infirmaries within each accommodation unit is carried out by the nursing staff. In contrast, the distribution of medicines to prisoners is carried out by the prison staff, including specific medicines such as psychotropic substances and methadone. Consequently, medication and its dosage are clearly visible to the custodial staff. Such a practice could compromise medical confidentiality requirements and does not contribute to the proper establishment of a doctor-patient relationship. In the CPT's view, medication should preferably be distributed by health-care staff. **The Committee recommends that steps be taken to ensure that this is the case at Tilburg Prison.**

Furthermore, **the authorities are invited to draw up a list of medication that should in every case be distributed by health-care staff (such as anti-psychotics, methadone and antiretroviral drugs).**

26. Specialised care, with the exception of dental, ophthalmological and orthopaedic care and physiotherapy, is provided in Belgium. Where the specialised care provided on the spot is concerned, real difficulties were observed in respect of dental care. This is in fact organised only on two half-days per week (i.e. one-fifth of an FTE dentist's post). A waiting list of almost six months exists for a dental consultation, except in emergency situations. Appropriate dental care for inmates and regular check-ups are not provided. By letter of 8 February 2012, the authorities informed the CPT that two dentists – including one specialised in orthodontics – are now working in the Prison for a total of 14 hours per week. The CPT welcomes the above mentioned improvement.

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<sup>13</sup> A check of the consultations register showed that approximately 70 medical consultations take place per week. By way of comparison, three FTE general practitioners were available for 417 foreign nationals in detention when the CPT visited in 1997.



27. On the subject of the medical procedure on admission to Tilburg Prison, the delegation noted that every newly arrived prisoner is seen within hours of admission by a member of the nursing staff, who, if necessary, refers the prisoner concerned to the doctor. Only a short note summarising the prisoner's medical history and treatments is faxed in advance, from Belgium, to the medical department. The medical file arrives a long time after the transfer of the prisoner concerned. Furthermore, the medical files sent from Belgium are frequently incomplete (particularly in respect of the prisoners' attitude to their treatment and their psychological state) and are sometimes sent in French, which causes an additional difficulty for the local health-care staff. The above difficulties could be partly resolved if the "Epicure" computerised system for the management of Belgian prisoners' medical files did not continue to show worrying signs of weakness<sup>14</sup>. The introduction of the new "Epicure" programme announced by the Belgian authorities for early 2011 does not yet seem to have borne fruit as expected, particularly in Tilburg. Consequently, some computerised information from prisoners' medical files is in both the Belgian and Dutch systems, with the medical departments of Tilburg and Wortel needing to exchange faxes on a daily basis in an attempt to keep the respective files up to date.

The CPT considers that the management of two computerised systems, operating in parallel, and the sending of medical information by fax appreciably increase the risks of incorrect care and of breaches of medical confidentiality. **The CPT recommends that the authorities find a permanent solution to these difficulties.**

28. The delegation noted that the medical department at Tilburg Prison made an evaluation of the treatments being followed by prisoners on their arrival. The medical staff had the clear impression that many newly admitted prisoners were receiving excessive psychotropic medicines in Belgian prisons and had the objective to reduce, or even eliminate antipsychotic and tranquillising treatments. Such an approach deserves to be commended. The medical staff nevertheless said that, when prisoners were temporarily transferred outside the prison, for example for medical examinations in Belgium, it was not unusual for them to come back with an increased antipsychotic or tranquillising treatment. Such fluctuation of treatments is harmful to the prisoners concerned. **The Committee invites the authorities to take appropriate steps in light of the above comments.**

29. Another difficulty in terms of medical confidentiality concerns the system for requesting a medical appointment. In order to obtain an appointment, a prisoner has to complete a request form (comprising three parts) which is used for all kinds of reasons (requests for medical appointments or other appointments, requests for training enrolment, etc.). As well as having various boxes to tick, this form has one part in which the prisoner is expected to set out the reasons for his request. The prisoner keeps one of the parts and hands the other two to the prison officer present in the unit. The latter then sends one of the parts to the department concerned (medical, educational, etc.) and retains the third part. In the medical sphere, it is the nurses in each unit who receive the forms. By requiring one part of medical requests to be passed on, and a copy to be kept, by prison officers, this system breaches the confidentiality required to be given to requests submitted to the nursing staff. **The CPT recommends that the current procedure be reviewed in order to ensure medical confidentiality.**

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<sup>14</sup> See CPT/Inf (2010) 24, paragraph 128.

30. Where the organisation of medical transfers is concerned, Article 10 of the Interstate Convention provides that prisoners are not to be transferred to the city of Tilburg's Sint-Elisabeth civilian hospital - which is close to the prison - except in the event of a "situation which, according to medical opinion, places the prisoner's life at risk". According to the information collected by the delegation, such hospitalisations take place in the event of imminent danger (in practice meaning a risk of death within two hours). This kind of transfer was said to take place two or three times a year. In non-urgent situations, when the prisoner cannot be treated within the prison, the Interstate Convention stipulates that treatment takes place in Belgium, in the appropriate medical establishments. Consequently, those prisoners who need a medical examination, such as an X-ray, an MRI or other scan or a surgical operation are transferred to a civilian medical establishment, usually the hospital in Turnhout, or to a prison medical centre, such as the one in Bruges.

The discussions held with both nursing staff and prisoners showed that the aforementioned transfers to Belgium posed considerable problems. Prisoners could thus spend several days, or even weeks, away from Tilburg Prison, often for a minor medical examination. The organisation of the transfer to Wortel, and subsequently within Belgium, and the slowness of the medical departments concerned are factors which account for this state of affairs. The prisoners transferred to Tilburg, who are aware of these difficulties, increasingly refuse to undergo medical examinations or to go for treatment outside the prison. **The CPT recommends that steps be taken to review the organisation of outside care for the inmates of Tilburg Prison. The possibility to expand the scope for using the services of the nearby Sint-Elisabeth hospital, while maintaining the requisite security conditions, should be considered.**

## E. Other issues

### 1. Staff

31. At the time of the visit, Tilburg Prison had 480 Dutch prison staff members and 18 members from the Belgian prisons administration (see paragraph 3). A Belgian director was responsible for management of the prison, with the support of a Dutch director. There was daily interaction between the Belgian and Dutch staff, and the delegation had a clear impression that integration between the two groups had taken place without major difficulties. Furthermore, as already stated (see paragraphs 13 and 22), the inmates made it clear that the prison staff seemed concerned for their well-being, respectful and eager to solve their problems. The staff were described as proactive, receptive and willing to listen to the prisoners.

32. That said, the delegation noted that a limited number of prison staff (17 officers) were present in the prison at night. Consequently, a strict procedure had been introduced, particularly where intervention in the "dormitories" was concerned. Thus, in the event of a medical emergency or a security breach, the procedure provides that, before staff enter the dormitory, each prisoner present must agree to be handcuffed - by passing their hands through the hatch - before two prison officers can enter the dormitory and intervene. Such a procedure, albeit understandable in security terms, may jeopardise the life of a prisoner or prevent rapid and effective intervention in the event of violence. It might well also unnecessarily delay intervention by the medical staff. **The CPT recommends that the authorities review the procedures in force in respect of intervention in the dormitories at night. Ideally, the night team should be reinforced, in order to make possible speedy and effective intervention throughout the prison.**

33. One of the major shortcomings for which the authorities were criticised when the prison opened was a lack of staff within the Belgian "Psychosocial Service" (SPS). These staff have the very important duties of assessing the psychosocial situation of each prisoner and giving the statutory opinions about release on parole and provisional release. They play a crucial role in the sentence plan. This team originally comprised four staff to deal with 500 prisoners<sup>15</sup>. The CPT took note of the recent increase in SPS staff from four to 10<sup>16</sup>, and of their commitment to the well-being of the prisoners. However, this recent reinforcement mainly involved staff with little experience. **The CPT invites the authorities to take due account of this aspect when making future appointments of staff to the Tilburg Prison SPS.**

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<sup>15</sup> By way of comparison, the 150 prisoners in Wortel Prison are dealt with by 8.75 FTE staff according to the 2010 activity report of the Directorate General of Prisons.

<sup>16</sup> By letter of 8 February 2012, the authorities informed the CPT that a Dutch-speaking psychologist joined the Prison SPS on 1 December 2011, as well as a French-speaking psychologist on 2 January 2012.

34. At the time of the 2009 periodic visit, the Belgian authorities had stated that, in principle, French-speaking prisoners were not considered for transfer to Tilburg Prison. Two years later, it has to be said that almost 20% of the prisoners - Belgian or foreign - in Tilburg are French speakers. Consequently, a not inconsiderable proportion of the prison's inmates find it difficult to communicate on a day-to-day basis with the Dutch staff, most of whom speak little or no French. The delegation also noted that the instructions on what to do in the event of fire breaking out, displayed in the cells, appear in Dutch, Arabic, Turkish and English, but not in French. Such communication difficulties are not without significant consequences during official administrative procedures, particularly of a disciplinary (see paragraph 36) or medical nature. The delegation took note of the efforts made by the Dutch prison staff to improve their knowledge of French. However, **the CPT invites the authorities to limit as far as possible the transfer of French-speaking prisoners to Tilburg Prison.**

35. Lastly, all new inmates arriving at Tilburg Prison received an admission booklet produced by the DGEF. At the time of the visit, this was available only in Dutch, mainly because of the need to adapt it to the new legal situation stemming from the entry into force of the final parts of the Prison Principles Act. **The CPT recommends that an updated version of this booklet be rapidly made available to the prisoners in the languages habitually in use within the prison population, starting with French, English and Arabic.**

## **2. Means of restraint, discipline and segregation**

36. According to the Interstate Convention, the use of force and the use of means of restraint are governed by Dutch law<sup>17</sup>, while disciplinary procedures are governed by Belgian law. It is thus possible for the staff of Tilburg Prison's special intervention brigade to use special methods (such as pepper spray), whereas these are not allowed in Belgium. That said, as already stated (see paragraph 13), such use is extremely rare, proportionate to the situation and to the aim pursued, and well-documented.

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Including by the circular on the use of violence in prisons entered into force on 1 January 1999.

37. The disciplinary procedure in force at Tilburg Prison reflects the very recent coming into force of all the provisions of the Prison Principles Act of 12 January 2005, concerning prison administration and the legal status of prisoners (*Moniteur Belge*, 1 February 2005). However, according to the observations made by the delegation, final disciplinary decisions to place a prisoner in solitary confinement for disciplinary reasons or under the "strict regime" are issued to the persons concerned only in the Dutch language, and this is done by a Dutch member of staff with little knowledge of French. As it is impossible to explain the management's decision to the French-speaking prisoners concerned, the latter often refuse to sign the decisions in question. Replying to this finding, the prison management stated that prisoners received explanations in French at the time of the disciplinary hearing. Whatever the case may be, depriving the prisoner concerned of the right to read in a language which he understands the disciplinary decision taken against him - and the ways in which it may be possible to appeal - is unacceptable. During discussions with prisoners who had recently been the subject of disciplinary sanctions, it appeared that they had not fully understood either the sanctions imposed on them or their possibilities to appeal. **The CPT recommends that the necessary steps be taken to ensure that every prisoner who is the subject of a disciplinary procedure may read his file and the related decisions in a language which he understands. If necessary, the use of interpreters (including by telephone) should be considered.**

38. Tilburg Prison has nine cells for solitary confinement as a disciplinary measure, located in units A and T. In unit X there are 16 "strict regime" cells which have six fenced-in exercise yards. These yards are, rightly, known as "cages". However, they are not the major cause of concern to the CPT. Indeed, Unit T, for its part, comprises a prefabricated structure containing four of the cells used for solitary confinement as a disciplinary measure. Each cell measures slightly less than 7 m<sup>2</sup> and contains a mattress laid on the ground, a pillow, an intercom and toilets. Alongside these cells, two "disused" cells are used as "open-air" exercise areas. Half of the ceiling of one of them has been removed, and the space covered by a grille. These two cells, as well as being cramped and having little access to natural light, have none of the features that would enable them to be described as open-air exercise areas worthy of the name. By letter of 8 February 2012, the authorities informed the CPT that the metal plate covering the ceiling of one of these exercise areas has been removed. In the CPT's view, this step does not modify the assessment made above. Therefore, **the CPT recommends that these two "disused" cells be definitively taken out of use as outdoor exercise facilities.**

39. At the time of its visit, the CPT delegation interviewed a prisoner who was "on hunger strike". On account of acts committed prior to his decision to stop taking food, he had been placed in Unit X, in one of the cells reserved for the "strict regime". The prisoner concerned was apparently protesting about his transfer to Tilburg Prison, which, in his view, cut him off from his family and prevented him from following the vocational training to which he was entitled. At the first meeting with this prisoner, the heating in the cell was not working, and the temperature there was low. The other cells on the same corridor, in contrast, were all being heated. Following intervention by the delegation, the heating was immediately switched on. **The CPT invites the authorities to take the necessary steps to ensure that such a situation does not recur.**

### 3. Contact with the outside world

40. At Tilburg Prison, it is possible for prisoners to maintain contact with their families and relatives thanks to visits, telephone calls and mail. Every exercise yard is equipped with telephone boxes, so these can be used during the two hours of open-air activities each day. Furthermore, the rates charged have been aligned with those in force in other Belgian prisons. Similarly, as the mail transits via Wortel Prison, the postage rates are those applicable in Belgium. However, the distance of the prison from Belgian territory does entail some problems for prisoners and their families, particularly those whose relatives live a long way away.

41. The prisoners are entitled to three visits per week, each lasting 1 1/2 hours, in rooms which are bright and well-equipped, and allow physical contact between prisoners and visitors. However, the system differs from that applied in the other Belgian prisons, as these visits take place at set times, after the prisoner has reserved a time slot with the prison management. Several prisoners described this procedure as awkward and complex. **The CPT invites the authorities to take steps to harmonise, as far as possible, the procedure in force with that applied in other Belgian prisons.**

42. That said, the CPT's main concern relates more to the geographical location of Tilburg Prison. It is relatively easy for the families of prisoners who live in the part of Belgium near the border to travel to Tilburg Prison. The same does not apply to the families from Brussels or the Walloon Region. For these visitors, the journey to the prison may take several hours, especially if they use public transport. Thus the length of the visit seems short relative to the travelling time required. The CPT has always emphasised the need for a certain amount of flexibility in the application of the rules on visits to prisoners whose families live a long way from the prison. Consequently, the delegation suggested that the authorities adjust the rules in force at Tilburg Prison so that the prisoners concerned may accumulate several visits. This proposal was favourably received by the authorities. By letter of 8 February 2012, the authorities informed the CPT that such accumulation is now possible for afternoon visits. The CPT welcomes this positive development.

43. Two-hour family visits are authorised once a month, in two small family rooms. These rather cramped rooms contain a double bed, two small sofas and a coffee table, as well as a shower and washbasin area. They are badly ventilated. **The CPT invites the authorities to improve the ventilation system of these rooms.**

#### 4. Complaints and inspection procedures

44. Tilburg Prison being administratively attached to Wortel Prison, all the inmates may - at least in principle - use all the complaints channels open to prisoners in the other Belgian prisons. It is the supervisory board responsible for Wortel and Hoogstraten Prisons that is theoretically responsible for Tilburg Prison. In its report on the visit to Belgium in 2009, the CPT had already requested a copy of the first reports to be drawn up by the Wortel supervisory board, once Tilburg Prison had been opened. Unfortunately no action was taken on this request at the time. That said, the CPT has read with interest the 2010 annual report of the Central Prison Monitoring Council (CCSP), which refers, inter alia, on several occasions, to Tilburg Prison. Furthermore, appended to the report in question are the minutes of the meeting of 27 April 2010 between the CCSP and its Dutch counterpart, the RSJ. This refers, inter alia, to a failure to process complaints made by Tilburg Prison inmates, at least during the early months of the prison's functioning. This state of affairs apparently came about because of the need to clarify some points relating to the respective responsibility of the Belgian and Dutch supervisory bodies for complaints made by prisoners at Tilburg.

45. At the meeting between the CCSP and RSJ, among the issues dealt with were medical care for the prisoners and the use of force during transfers of prisoners (issues dealt with, in pursuance of the Interstate Convention, under Dutch legislation) and complaints made by the Tilburg prisoners, particularly relating to human rights violations. Clearly, certain questions raised during the discussions between these two bodies highlight the need for them to develop a pragmatic and effective approach to the problems raised by Tilburg inmates which have not found an immediate solution, particularly in the light of the diverging interpretation of the texts in force. **The CPT trusts that the CCSP and the RSJ will display the necessary co-operation in this respect, in the spirit in which the Interstate Convention was concluded between Belgium and the Netherlands.**





## APPENDIX

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

#### **Preliminary remarks**

##### recommendations

- all prisoners whose transfer to Tilburg Prison is envisaged to have the opportunity to discuss the matter with the Director of the sending Prison, or a Deputy, so as to put forward any legitimate concerns they might have about such a transfer (paragraph 8);
- prisoners being transferred to Tilburg Prison to always have sufficient advance notice of the transfer – at least two weeks – together with adequate information about the general conditions prevailing in that establishment (paragraph 8).

##### requests for information

- clarification of the selection criterion, prisoners “in respect of whom pressure in terms of rehabilitation is low” (paragraph 7).

#### **Ill-treatment**

##### recommendations

- absolute priority to be given to reducing the number of beds in the dormitories as places become available with the entry into service of new prisons in Belgium, the objective being to return to the use made of the dormitories when the Tilburg Prison was opened. In the meantime, there should be further development of the specific measures taken to identify and protect the more vulnerable prisoners, including the granting of priority on the waiting list for Tilburg's single and double cells. In certain cases, speedy return of the prisoner concerned to a prison in Belgium should be envisaged (paragraph 14).

## **Conditions of detention**

### **Material conditions**

#### requests for information

- the authorities' comments on the fact that accommodating two prisoners in the cells in Units H, T, U and X is not without discomfort in terms of living space and access to natural light (paragraph 16) ;
- the authorities' comments on the inadequate ventilation in the dormitories of Units B, C and D (paragraph 17) ;
- any other steps taken to solve the problem of the quality and method of preparation of the food served in the prison (paragraph 18).

### **Regime**

#### recommendations

- the programme of activities available to the vulnerable prisoners in Unit X to be reviewed, in the light of the comments in paragraph 19 (paragraph 19) ;
- immediate steps to be taken to end the situation of inadequate educational and cultural activities and vocational training at Tilburg Prison (paragraph 20) ;
- prisoners who have already served a large part of their sentences in Belgium should ideally not be transferred to Tilburg Prison (paragraph 21).

#### requests for information

- the results achieved by the Dutch prison management as regards increasing the supply of work for vulnerable prisoners in Unit X (paragraph 19).

## **Health-care services**

### recommendations

- the amount of time for which a general practitioner is present at Tilburg Prison to be increased to two full-time equivalent posts (paragraph 23) ;
- steps to be taken at Tilburg Prison to ensure that medication is distributed by health-care staff (paragraph 25) ;
- a permanent solution to be found to the difficulties caused by the management of two computerised systems for prisoners' medical files (paragraph 27) ;
- the current procedure to obtain a medical appointment to be reviewed in order to ensure medical confidentiality (paragraph 29) ;
- steps to be taken to review the organisation of outside care for the inmates of Tilburg Prison. The possibility to expand the scope for using the services of the nearby Sint-Elisabeth hospital, while maintaining the requisite security conditions, should be considered (paragraph 30).

### comments

- the authorities are invited to take the necessary steps to increase the nursing staff resources at Tilburg Prison, in the light of the remarks in paragraph 24 (paragraph 24) ;
- the authorities are invited to draw up a list of medication that should in every case be distributed by health-care staff (such as anti-psychotics, methadone and antiretroviral drugs (paragraph 25) ;
- the authorities are invited to take appropriate steps to avoid any fluctuation in medical treatment of prisoners, in the light of the remarks in paragraph 28 (paragraph 28).

## **Other issues**

### **Staff**

#### recommendations

- the procedures in force in respect of intervention in the dormitories at night to be reviewed. Ideally, the night team should be reinforced, in order to make possible speedy and effective intervention throughout the prison (paragraph 32) ;
- an updated version of the admission booklet to be rapidly made available to the prisoners in the languages habitually in use within the prison population, starting with French, English and Arabic (paragraph 35).

#### comments

- the authorities are invited to take due account of professional experience when making future appointments of staff to the Belgian “Psychosocial Service” (SPS) at Tilburg Prison (paragraph 33) ;
- the authorities are invited to limit as far as possible the transfer of French-speaking prisoners to Tilburg Prison (paragraph 34).

### **Means of restraint, discipline and segregation**

#### recommendations

- the necessary steps to be taken to ensure that every prisoner who is the subject of a disciplinary procedure may read his file and the related decisions in a language which he understands. If necessary, the use of interpreters (including by telephone) should be considered (paragraph 37) ;
- the two “disused” cells in Unit T to be definitively taken out of use as outdoor exercise facilities (paragraph 38).

#### comments

- the authorities are invited to take the necessary steps to ensure that all cells in Unit X are always adequately heated (paragraph 39).

## **Contact with the outside world**

### comments

- the authorities are invited to take steps to harmonise, as far as possible, the procedure in force as regards visits with that applied in other Belgian prisons (paragraph 41) ;
- the authorities are invited to improve the ventilation system in the two small family rooms (paragraph 43).

## **Complaints and inspection procedures**

### comments

- the CPT trusts that the Belgian Central Prison Monitoring Council (CCSP) and the Dutch Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ) will display the necessary co-operation concerning medical care for the prisoners and the use of force during transfers of prisoners, in the spirit in which the Interstate Convention was concluded between Belgium and the Netherlands (paragraph 45).