
Committee against Torture

List of issues prior to submission of the eighth periodic report of the Netherlands*

Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

Follow-up to questions from the previous reporting cycle

1. In its previous concluding observations (CAT/C/NLD/CO/7, para. 58),¹ the Committee requested the State party to provide information on the follow-up to its recommendations on: non-refoulement, medical examinations as part of the asylum procedure and the National Agency for the Prevention of Torture (see paras. 12(a) and (b), 14 (a) and (b) and 23 respectively). Noting that replies concerning the information sought by the Committee were provided on 6 December 2019 (see CAT/C/NLD/FCO/7), and with reference to the letter dated 30 April 2020 from the Committee's Rapporteur for follow-up to concluding observations, the Committee considers that the recommendations included in 12 (a) and (b), 14 (a) and 23 respectively of the previous concluding observations have not yet been implemented. The recommendation in paragraph 14 (b) has been implemented.

Articles 1 and 4

2. Noting that the crime of torture defined in section 8 of the International Crimes Act, read in conjunction with section 1 (d) and (e) of the same Act, can be punished by a fifth category fine, and that the crime of torture defined in the National Ordinance of 13 October 1995 of Curaçao can be punished by a fine of up to 100,000 guilders, please indicate if the State party will consider amending the current legislation so that the crime of torture is harmonized in all the constituent countries and is punishable by appropriate penalties that take into account its grave nature, in accordance with article 4, paragraph 2, of the Convention. Please provide the Committee with the exact provisions criminalizing torture in Curaçao, Sint Maarten and Aruba. Please clarify if the State party has taken the necessary legislative measures in all the constituent countries to ensure that, whenever the crime of torture does not amount to a crime against humanity: (i) statutes of limitations for criminal and civil proceedings are not applicable; and (ii) an order from a superior officer or a public authority cannot be invoked as a justification.

* Adopted by the Committee at its seventy-second session (8 November – 3 December 2021).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

Article 2²

3. With reference to the Committee's previous concluding observations (paras. 9–10), please indicate the measures taken by the State party to incentivize the presence of lawyers in the Caribbean part of the Kingdom, in order to effectively guarantee access to an *ex officio* lawyer from the moment of deprivation of liberty.³ Clarify if the State party has put in place a new legal aid system and explain how the most vulnerable can benefit from it.⁴ Please also indicate whether police training or other control measures, such as disciplinary sanctions, have been taken in all the constituent countries to ensure that all detainees can enjoy in practice all their fundamental legal safeguards, and in particular, their right to contact a next of kin or a person of their own choosing within 24 hours.⁵ Indicate as well the measures taken to ensure the provision of qualified and independent legal aid to children in conflict with the law, irrespective of the offences, at an early stage of the procedure and throughout the proceedings, as well as the presence of their parents during the interrogations, as recommended previously by the Committee (paras. 36-37 (b)).

4. Further to the Committee's previous concluding observations (paras. 22-23), the information provided by the State party in its follow-up report⁶ and the letter of the Rapporteur for the follow-up to concluding observations,⁷ please indicate whether the State party will reconsider withdrawing the declaration on the exclusive territorial application to the European Netherlands of the Optional Protocol to the Convention.⁸ Please also indicate whether any steps have been taken to apply the Optional Protocol to Curaçao, and to accede the Protocol on behalf of Sint Maarten and Aruba.⁹ Noting that the three inspectorates integrating the national preventive mechanism are still attached to the executive branch, and the reports of undue influence, please indicate if the State party will take the administrative and budgetary measures necessary to achieve the financial, operational and organizational independence of the national preventive mechanism, in accordance with article 18 (1) of the Optional Protocol and the guidelines on national preventive mechanisms of the Subcommittee on Prevention of Torture.¹⁰ Please also clarify if the national preventive mechanism is empowered to monitor military detention facilities. Explain also if the Royal Military and Border Police Detention Facilities Supervisory Committee,¹¹ the Law Enforcement Council,¹² the Commission for the Supervision of Detainee Care,¹³ and the Inspection of Law Enforcement¹⁴ are attached to the Executive. Please provide statistical data, disaggregated by year, constituent country, institution and age group (minor/adult), sex and ethnic origin or nationality of the victim, on the number of complaints of torture and ill-treatment received by the National Preventive Mechanism, the Netherlands Institute for Human Rights, the National Ombudsman, the Royal Military and Border Police Detention Facilities Supervisory Committee, the Law Enforcement Council, the Commission for the Supervision of Detainee Care, and the Inspection of Law Enforcement since 2018, and on the outcome of those complaints.

² The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by State parties, the obligation to prevent torture in article 2 is wide-ranging. The obligation to prevent torture and other cruel, inhuman and degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

³ See also CCPR/C/NLD/CO/5, paras. 46-47.

⁴ See also CCPR/C/NLD/CO/5, paras. 46-47.

⁵ See also CCPR/C/NLD/CO/5, paras. 38-39.

⁶ CAT/C/NLD/FCO/7, paras. 24-37.

⁷ Letter dated 30 April 2020 from the Rapporteur for follow-up to concluding observations.

⁸ CAT/C/NLD/FCO/7, para. 25.

⁹ *Ibid.*, paras. 34, 36-37.

¹⁰ CAT/OP/NLD/R.1 (2016), paras 36-38 46-48.

¹¹ CAT/C/NLD/FCO/7, paras. 26 and 31.

¹² CAT/C/NLD/FCO/7, para. 26.

¹³ CAT/C/NLD/FCO/7, para. 34.

¹⁴ CAT/C/NLD/FCO/7, para. 37.

5. With reference to the Committee's previous concluding observations (24-25, and CAT/C/NLD/CO/5-6, para. 29), please indicate what steps have been taken by the governments of Aruba, Curaçao and Sint Maarten to deliver on their commitment and establish separate national human rights institutions.¹⁵

6. With regard to the Committee's previous concluding observations (paras. 46-48 and CAT/C/NLD/CO/5-6, paras. 25 and 30), please provide information on the measures taken by the State party in each constituent country to adopt a comprehensive and coordinated policy on violence against women and combat all forms of violence against women and girls,¹⁶ including honour-related crimes, and the crime of trafficking in human beings,¹⁷ particularly with regard to cases that involve the actions or omissions of State authorities or others that engage the State party's international responsibility in accordance with the Convention. Please also specify the measures taken to better protect victims who report sexual violence, including by ensuring that all reports are promptly and effectively investigated, and that perpetrators are prosecuted and punished. In this regard, please include annual statistical data for each part of the Kingdom, including in the Dutch Caribbean, disaggregated by the age group (minor/adult), sex and ethnicity or nationality of the victims, on the number of complaints lodged and reports registered by the police regarding domestic and gender-based violence¹⁸ and trafficking in persons,¹⁹ the number of those that were investigated, how many led to prosecutions and convictions and the punishment imposed in these cases, since the consideration of the previous periodic report. Please update the Committee on any new measures adopted since 2018 to improve the assistance and protection measures to victims in the different constituent countries, including to women in irregular migration situations, to indigent women and to victims of domestic violence during and after the COVID-19 pandemic and future pandemics, particularly with regard to access to medical and legal services, counselling and safe emergency accommodation.²⁰ Indicate how the State party intends to improve the data collection and monitoring at the local level to ensure that there is adequate support for women.

Article 3

7. With reference to the Committee's previous concluding observations (paras. 11-12), the information provided by the State party in its follow-up report,²¹ the letter of the Rapporteur for the follow-up to concluding observations,²² and the information about forced returns where the treatment upon return to the country of origin amounted to torture, please indicate the measures taken to ensure that, at all stages in the asylum procedure, including during the return process, the risk of torture and other acts of cruel, inhuman or degrading treatment and punishment is prevented. Clarify if the State party has taken any measure in the European Netherlands and in Aruba to increase the time provided to asylum seekers in the fast-track procedure to indicate the reasons for their application and to obtain and present crucial evidence. Please also indicate if the State party has adopted any measures to ensure that all appeals to courts against deportation orders have a suspensive effect and to ensure that unaccompanied children asylum seekers have adequate access to appropriate assistance, including legal aid, as recommended previously by the Committee (paras. 18-19). With regard to Curaçao and Sint Maarten, please indicate whether the principle of non-refoulement is recognized in the legislative framework regulating extradition and expulsion of undocumented migrants.²³ Please also clarify if, in these countries, there is an effective legislative procedure for people to seek asylum and if the authority deciding whether a person is to be extradited or expelled has a legal obligation to consider in each case the personal and foreseeable risk of the person concerned being subjected to torture in the country of

¹⁵ See also CCPR/C/NLD/CO/5, paras. 11-12; A/HRC/44/57/Add.2, para. 97 b).

¹⁶ See also CCPR/C/NLD/CO/5, paras. 32-33.

¹⁷ See also CCPR/C/NLD/CO/5, paras. 26-27.

¹⁸ See also CCPR/C/NLD/CO/5, paras. 32-33.

¹⁹ See also CCPR/C/NLD/CO/5, paras. 26-27.

²⁰ See also CCPR/C/NLD/CO/5, paras. 32-33.

²¹ CAT/C/NLD/FCO/7, paras. 1-15.

²² Letter of 30 April 2020 from the Rapporteur for follow-up to concluding observations.

²³ See also CCPR/C/NLD/CO/5, paras. 18-19.

destination.²⁴ In addition, please clarify whether it is possible to appeal an extradition or expulsion decision to an independent authority and whether appeals have a suspensive effect on expulsion and extradition decisions.²⁵ Please also clarify if, in Curaçao, Aruba and Sint Maarten, persons facing deportation or extradition are informed of their rights to seek protection against refoulement, to appeal a deportation/extradition decision and to access free legal assistance, in a language they understand.²⁶ Please also indicate if the State party has reviewed the application of the exclusion clauses of the Convention relating to the Status of Refugees, so that they are applied only when there are serious reasons to believe that a refugee may have been involved in an excludable act and only after a full assessment of the individual circumstances of the case. Please also clarify how the Dutch armed forces operating overseas comply in practice with the principle of non-refoulement with regard to the transfer of detainees to other countries, and on the basis of which criteria compliance is determined.

8. In light of the Committee's previous concluding observations (paras. 13-14, CAT/C/NLD/CO/5-6, para. 12), the information provided by the State party in its follow-up report²⁷ and the letter of the Rapporteur for the follow-up to concluding observations,²⁸ please indicate whether the State party has taken new specific measures, such as a standard operating procedure, for the early identification and protection of persons in vulnerable situations, including victims of torture and ill-treatment, gender-based violence or trafficking, regardless of their legal/migratory status, in all the constituent countries, with a view to providing them with immediate treatment and rehabilitation.²⁹ Clarify if the mechanism includes a thorough forensic medical examination of potential torture victims when signs of torture or trauma have been detected during personal interviews of asylum seekers or undocumented migrants, even in cases when the applicant has given inconsistent, incoherent or vague statements.

9. Please provide statistical data for each constituent country and for the period under review, disaggregated by year and the sex, country of origin or nationality and age group (minor/adult) of the person concerned,³⁰ on: (a) the number of asylum applications registered; (b) the number of applications for asylum or other forms of subsidiary protection approved and the number of asylum seekers whose applications were granted because they had been tortured or ran the risk of being tortured if returned; (c) the number of persons who were returned, extradited or expelled, indicating the grounds on which they were returned, extradited or expelled and providing a list of the countries of destination; and (d) the number of appeals filed against expulsion decisions on the basis that the applicants could be in danger of being subjected to torture and ill-treatment in their countries of origin, and the results of these appeals. Please indicate the number of refoulement, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances where the State party has offered such diplomatic assurances or guarantees. Indicate what measures have been taken in these and other forced returns cases with regard to the subsequent monitoring and investigation of allegations of ill-treatment. Please also explain the measures taken to provide redress to rejected asylum seekers that suffered torture as a result of being expelled.

Article 10

10. With reference to the Committee's previous concluding observations (paras. 20-21), please provide information on educational programmes developed by the State party since 2018 in all the constituent countries to ensure that all public officials, in particular law enforcement officials, prison staff and immigration and border control officers: (a) are fully aware of the provisions of the Convention and the absolute prohibition of torture, and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted; (b) treat persons under their custody in an appropriate manner and according to their specific needs, in accordance with the United Nations Standard Minimum Rules for the

²⁴ See also CCPR/C/NLD/CO/5, paras. 18-19.

²⁵ See also CCPR/C/NLD/CO/5, paras. 18-19.

²⁶ See also CCPR/C/NLD/CO/5, paras. 18-19; A/HRC/44/57/Add.2, para. 87.

²⁷ CAT/C/NLD/FCO/7, paras. 16-23.

²⁸ Letter of 30 April 2020 from the Rapporteur for follow-up to concluding observations.

²⁹ CAT/C/NLD/FCO/7, para. 18.

³⁰ See also CCPR/C/NLD/CO/5, paras. 18-19.

Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, in particular regarding the conduct of interrogations in respect of juvenile offenders, witnesses or victims, as recommended previously by the Committee (para. 37 (c)); (c) are aware of legislation and procedures to guarantee the principle of non-refoulement and of the arrangements for the identification of victims of torture, trafficking in persons and gender-based violence among asylum seekers; (d) are trained on non-coercive investigation techniques and on countering racial prejudice and gender stereotypes, as recommended previously by the Committee (paras. 44-45). Please indicate whether these training courses are mandatory or optional, how often they are run, how many officials have already completed them in relation to the total number of law-enforcement and prison personnel and what measures have been taken to train the remaining officials. Please also indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing the number of cases of torture and ill-treatment, in line with the recommendation in the Committee's previous concluding observations (para. 21 d)).

11. In light of the Committee's previous concluding observations (paras. 14 b) and 47 b)), please provide detailed information on the training programmes for medical professionals and other public officials involved in work with persons deprived of their liberty, such as law-enforcement officials, prison staff, judges and prosecutors, on detecting and documenting the physical and psychological sequelae of torture, as well as on monitoring, reporting and investigating torture, trafficking in persons³¹ and all forms of domestic and gender-based violence, including whether they contain specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). Please indicate whether these training courses are mandatory or optional, how often they are run and whether any research was conducted into the impact of preventive measures and criminal justice responses.

Article 11

12. Taking note of the Committee's previous concluding observations (paras. 26-27, 36-37 (b), and CAT/ C/NLD/CO/5-6, para. 20), please describe the measures taken since 2018 to promote the use of alternatives to imprisonment,³² both before and after trial, particularly in relation to children in conflict with the law, and to ensure that the decisions imposing and extending pre-trial detention are duly substantiated, so that pretrial detention is used as a last resort and for the shortest possible time.³³ Please also indicate if the State party has amended, or is considering amending, the legislation in the Netherlands, Curaçao and Aruba to limit the grounds for pretrial detention³⁴ and reduce its duration,³⁵ particularly in Aruba and Curaçao. In this regard, please indicate how the application rate of alternative measures has evolved annually since 2018 in each of the constituent countries, as well as the average and maximum duration of pretrial detention. Please also provide statistical data since 2018, disaggregated by year, constituent country and sex, age group (minor/adult) and ethnic origin or nationality of the detained person, on the capacity and occupancy rate of all places of detention and the number of pre-trial detainees and convicted prisoners.

13. Bearing in mind the Committee's previous concluding observations (paras. 30-31), please indicate what steps have been taken since 2018 to improve the detention conditions in the Caribbean part of the Kingdom,³⁶ in particular, the material conditions at the police stations and prison of Point Blanche and the Philipsburg in Sint Maarten, the correctional institution in Aruba and block 1 of the Centre for Correction and Detention in Curaçao. Inform as well about the measures to improve access to medical care, particularly mental

³¹ See also CCPR/C/NLD/CO/5, paras. 26-27.

³² See also CCPR/C/NLD/CO/5, paras. 44-45.

³³ See also CCPR/C/NLD/CO/5, paras. 44-45.

³⁴ See also CCPR/C/NLD/CO/5, paras. 44-45.

³⁵ See also CCPR/C/NLD/CO/5, paras. 44-45.

³⁶ See also A/HRC/44/57/Add.2, para. 67.

health care and harm reduction programmes for drug-dependant detainees, and to food.³⁷ Please also indicate if the State party has conducted a review of its prison health-care services in the European part of the Kingdom, with a view to bringing the system into line with the recommendations made by the Committee for the Prevention of Torture (CPT/Inf (2017) 1, para. 55).³⁸ In this regard, please specify the measures taken since 2018 to ensure that medical screenings are promptly conducted and that: (i) the record of the medical examination contains a full account of objective medical findings, an account of statements made by the detained person that are relevant to the medical examination (including his or her state of health and any allegations of ill-treatment) and the doctor's observations evaluating those statements, indicating the consistency between any allegations made and the objective medical findings; (ii) the results of every examination is made available to the detained person and, upon request, to his/her lawyer. Please clarify if health-care professionals are requested to report suspected cases of torture and ill-treatment to the relevant authorities and whether there are guidelines for healthcare professionals regarding the procedure of reporting signs of torture and ill-treatment without risk of reprisals.

14. Further to the Committee's previous concluding observations (paras. 28-29), please indicate the measures taken by the State party to ensure that the placement of individuals suspected or convicted of terrorism in high-security units is based on a prior, individualized risk assessment, based on specific and objective criteria determined by law, which is supported by sufficient up-to-date information, determining that placement in a high-security facility is necessary and proportionate. Please clarify if such assessments are subject to reviews, and if so, how frequently and according to which criteria. Clarify if persons in pretrial detention on suspicion of terrorist offences, or awaiting trial at first instance, are still held in the high-security units with those convicted of terrorism offences. Please also explain the measures taken since 2018 to ensure that the conditions in the high-security units are in line with the Nelson Mandela Rules, in particular concerning solitary confinement and contact with the outside world. Indicate if any measures have been taken to limit the practice of strip searches to the level necessary for security reasons and clarify if body searches are performed by officers of the same sex as the detainee concerned.³⁹ Provide information on the complaint mechanisms available to detainees in high-security units and provide annual statistical data since 2018 on the number, nature and outcome of the complaints filed by those detainees.

15. In the light of its previous concluding observations (paras. 32-33 and CAT/C/NLD/CO/5-6, para. 23), please indicate what measures have been taken by the State party to prevent and reduce inter-prisoner violence, such as increased number of prison staff, training of prison staff and monitoring and protection of vulnerable prisoners,⁴⁰ particularly in the Caribbean part of the Netherlands and in Aruba, Sint Maarten and Curaçao. Please provide annual statistical data regarding incidents of inter-prisoner violence and deaths in custody since 2018, including in police detention centres, disaggregated by constituent country, place of detention, the sex, age and ethnicity or nationality of the injured person or deceased and the cause of injury or death (ex. death resulting of violence between or against persons deprived of liberty, suicide, natural death, disease), together with information on the number of deaths or violence attributed to assaults committed or tolerated by public officials and injuries or deaths due to the use of excessive force or to lack of timely medical assistance and treatment. Please indicate whether any criminal investigation was initiated ex officio with regard to instances of inter-prisoner violence and give details on any cases in which administrative inquiries and/or criminal investigations have been launched to determine whether public officials bore any responsibility for inter-prisoner violence or deaths, the results of those investigations and the measures taken to prevent similar cases from occurring in the future. Please indicate whether, in any of the cases, relatives of the deceased or injured person were awarded compensation.

16. Further to the Committee's previous concluding observations (paras. 34-35), please indicate whether an independent judicial mechanism has been established in each of the

³⁷ See also CCPR/C/NLD/CO/5, paras. 40-41.

³⁸ See also CCPR/C/NLD/CO/5, paras. 40-41.

³⁹ See also A/HRC/44/57/Add.2, para. 66.

⁴⁰ See also CCPR/C/NLD/CO/5, paras. 40-41.

constituent countries to periodically review the situation of prisoners serving life sentences, so that they may have the prospect of release, or a reduction in their sentence, after a reasonable period of time. If so, please clarify if these prisoners are informed of the possibility of a review or reduction in their sentences at the earliest possible time, and how many permissions to work on reintegration have been granted per year.

17. With regard to the Committee's previous concluding observations (paras. 36-37), please indicate if the State party has taken the necessary legislative amendments to ensure that children below the age of 18 are not tried under the adult criminal law, irrespective of the gravity of the charges brought against them, and do not serve their sentences in adult penitentiary institutions, in particular in the Caribbean part of the Netherlands. Please also explain the steps taken to ensure that children are not detained with adults in police custody. Please also indicate the protocols applicable in places of detention in each of the constituent countries to meet the needs of other groups of prisoners, such as women, older persons, persons with disabilities and lesbian, gay, bisexual, transgender and intersex persons.

18. With regard to the Committee's previous concluding observations (paras. 18-19), please indicate the measures taken to increase the use of non-custodial accommodation for migrant unaccompanied children and families with children awaiting deportation, such as care arrangements and community-based programmes, and describe the type of establishment and regime applied to them, including the educational and recreational opportunities available.⁴¹ Please also inform the Committee about the number of accompanied and unaccompanied children detained or accommodated in the immigration detention centres every year since 2018, disaggregated by age, gender, nationality and legal status of these children. Explain also the measures taken to investigate and address the phenomenon of missing unaccompanied children from State-run asylum reception centres.⁴²

19. In the light of its previous concluding observations (paras. 15-16; CAT/C/NLD/CO/5-6, paras. 14-16), please explain the legislative and other measures taken by the State party to ensure that asylum seekers are not automatically detained, particularly those arriving at Amsterdam's Schiphol airport, and whether an individual assessment of the need and proportionality of the detention is now conducted in each case.⁴³ Please also indicate the percentage of cases per year in which alternatives to detention have been applied to asylum seekers arriving at Amsterdam's Schiphol airport.⁴⁴ Bearing in mind that the COVID-19 pandemic led many governments to close the borders and there were no prospects for migrants of being removed within a reasonable time, please explain the necessity and proportionality of applying administrative detention during this period, in particular, in light of the COVID-19 restrictions imposed in immigration detention centres, namely locking up migrants in multi-persons cells for 21 hours a day. Explain the efforts taken since 2018 to significantly reduce the use of migrant detention and its duration, and indicate the percentage of cases per year in each constituent country in which each of the alternatives foreseen in the law and guidelines have been applied in practice, as compared with the percentage of cases in which detention was imposed.⁴⁵ Indicate as well the percentage of cases per year in which undocumented migrants have been detained during repeated periods longer than 18 months.⁴⁶

20. Noting that the Repatriation and Detention of Aliens bill still provides for a very restrictive regime for all newly arriving migrants, including asylum seekers, for up to two weeks, which is reportedly already applied ahead of the adoption of the bill, please indicate which measures the State party intends to take to avoid subjecting migrants and asylum seekers to unnecessary restrictions. In view of a draft addition to the bill that introduces a collective lock down penalty of up to four weeks to maintain order and safety, as well as the possibility of placing migrants in an isolation cell as a disciplinary measure for consecutive periods of 14 days, please explain how the State party will ensure that detained asylum seekers and undocumented migrants are not subjected to collective punishments in cells or

⁴¹ See also CCPR/C/NLD/CO/5, paras. 20-21; A/HRC/44/57/Add.2, para. 85.

⁴² See also CCPR/C/NLD/CO/5, paras. 20-21.

⁴³ See also CCPR/C/NLD/CO/5, paras. 24-25.

⁴⁴ See also CCPR/C/NLD/CO/5, paras. 24-25.

⁴⁵ See also CCPR/C/NLD/CO/5, paras. 24-25.

⁴⁶ See also CCPR/C/NLD/CO/5, paras. 24-25.

to solitary confinement as a punitive measure.⁴⁷ Explain also the measures envisaged to ensure in practice that the use of restraints while transporting undocumented migrants is only allowed when an individual risk assessment shows that restraints are necessary. Indicate the measures taken by the Government of Curaçao to avoid detaining migrants and those applying for protection, including minors, in police cells, prisons and detention centres during migration detention, and to monitor alleged cases of ill-treatment and excessive use of force in these institutions, including the shooting of detainees from close range with rubber bullets by prison guards in June 2019. Please also explain the mechanisms for reporting ill-treatment in the reception and detention centres for migrants and for guaranteeing the safety of LGBTI asylum seekers in asylum centres, including in the quarantine facilities. Provide the number of complaints lodged since 2018 in each of the constituent countries and the outcome of the investigations.⁴⁸

21. Bearing in mind the Committee's previous concluding observations (paras. 41-42 and CAT/C/NLD/CO/5-6, para. 21) and the entry into force in 2020 of the Compulsory Mental Health Care Act (for persons with a psychological disorder) and the Care and Compulsion (Psychogeriatric and Intellectually Disabled Persons) Act, please explain: (i) Whether the State party has lowered the threshold for and improve the quality of outpatient treatment; (ii) whether it has clarified the criteria for admission to mental health-care institutions; (iii) what measures has the State party envisaged to ensure the application of the new legislation and the necessary training. Please also update the Committee on the measures taken to promote alternative measures, such as community-based and peer-led support initiatives, to reduce the number of forcibly interned persons with mental or psychosocial disabilities. Please provide an update of the implementation of the plan to close all the isolation rooms in 12 large mental health institutions by 2020. Please also provide annual data on: (i) the maximum and average duration during which isolation and involuntary restraint measures can be used on persons with mental or psychosocial disabilities, both inside and outside mental health-care institutions; (ii) what other alternative measures are in place as measures of control; (iii) whether there is regular medical supervision of the use of restraints on persons with mental or psychosocial disabilities, both inside and outside mental health-care institutions. Indicate whether the State party has adopted guidance to address the findings of the Health Care and Youth Inspectorate that the COVID-19 restraints imposed in 2020, including keeping patients in their own room, have not been always applied in accordance with the applicable rules and procedures due to a lack of knowledge among staff. Please also clarify: (i) whether persons with psychosocial or intellectual disabilities are fully informed about psychiatric and medical treatment and restraints to be applied to them in psychiatric institutions, including chemical and physical restraints, and are given the opportunity to refuse them; (iii) if the derogations to the principle of free and informed consent are only applied on the basis of exceptional circumstances as measures of last resort, for the shortest possible period of time and when absolutely necessary to protect the health or life of the person concerned, only if he or she is unable to give consent and under independent review. Please also indicate the complaint procedures available for persons with mental or psychosocial disabilities.⁴⁹

Articles 12–13

22. With reference to the preceding concluding observations (paras. 56-57 and CAT/C/NLD/CO/5-6, para. 30), please provide annual statistical data for each constituent country, disaggregated by the service to which the accused person belongs, the crime and the sex, age group (minor/adult) and ethnic origin or nationality of the victim, on complaints or police reports of actual or attempted acts of torture, of ill-treatment and excessive use of force, as well as of complicity, participation or acquiescence in acts of torture, recorded by the State authorities during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, decisions to stay proceedings, convictions and on the criminal or disciplinary sanctions applied. Please indicate how many *ex officio* investigations have been opened into the above-mentioned offences.

⁴⁷ See also CCPR/C/NLD/CO/5, paras. 18-19; 24-25; A/HRC/44/57/Add.2, para. 66.

⁴⁸ See also CCPR/C/NLD/CO/5, paras. 18-19.

⁴⁹ See also CCPR/C/NLD/CO/5, paras. 42-43.

Article 14

23. Taking note of the Committee's previous concluding observations (paras. 54-55), please provide information on redress and compensation measures provided in each constituent country, including the means of rehabilitation, ordered by the courts or other State bodies and actually provided to the victims of torture and/or ill-treatment or their families since the consideration of the previous periodic report, including victims of ill-treatment in psychiatric settings, immigration centres and youth care centres, attacks against minorities, trafficking and domestic and sexual violence. This should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided. Please also provide information on any ongoing reparation programmes, including the treatment of trauma and other forms of rehabilitation, provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 16

24. Bearing in mind the Committee's previous concluding observations (paras. 44-45 and 50-51), please clarify if the State party has conducted any study on the effectiveness of the policy of 2017 on the practice of racial profiling by law enforcement personnel during traffic control stops, identity checks, preventive searches and border stops,⁵⁰ and on the implementation of predictive policing projects, and indicate what measures have been taken in response to curb racial profiling.⁵¹ Indicate if the State party has started to monitor and record how the police are executing their stop-and-search powers,⁵² even if they do not lead to arrests or fines, and indicate how many incidents of racial profiling were still identified per year since 2018.⁵³ Please also provide annual data for each of the constituent countries on cases of violence, hate crimes or ill-treatment against persons of minority communities or from a migrant background,⁵⁴ such as Muslims, Jews, Afro-descendants and Roma, and against lesbian, gay, bisexual and transgender persons, that have occurred since 2018, disaggregated by type of motive/basis of discrimination, sex, age group and ethnic origin or nationality of the victim and by whether the perpetrator was a public official or not. Please provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed. Please also indicate the measures taken to actively respond to intolerant political speech that risks incitement to hostility, discrimination and violence on the basis of race, ethnicity, religion or belief.⁵⁵

25. Taking note of the Committee's previous concluding observations (paras. 52-53), please provide information on the legislative, administrative and other measures taken by the State party to (i) guarantee that full, free and informed consent is ensured in connection with medical and surgical treatments for intersex persons and that non-urgent, irreversible medical interventions are postponed until a child is sufficiently mature to participate in decision-making and give effective consent; (ii) guarantee impartial counselling services and psychological and social support for all intersex children and their parents. Please also inform the Committee about the measures taken to prohibit forced, involuntary or otherwise coercive or abusive treatments, such as so-called "conversion therapies", against lesbian, gay, bisexual, transgender and intersex persons. Please indicate if the State party has initiated investigations on instances of surgical interventions or other medical procedures performed on intersex persons without effective consent and, if so, the result of the investigations. Please indicate what criminal or civil remedies are available against the physical or mental pain and suffering that "conversion therapies" or intersex genital mutilation can inflict. Please also indicate the number of cases in which redress was provided to victims, and the type of redress provided.

⁵⁰ See also A/HRC/44/57/Add.2, para. 50.

⁵¹ See also CCPR/C/NLD/CO/5, paras. 48-49; A/HRC/44/57/Add.2, para. 98 a).

⁵² See also A/HRC/44/57/Add.2, para. 53.

⁵³ See also CCPR/C/NLD/CO/5, paras. 48-49; A/HRC/44/57/Add.2, para. 98 a).

⁵⁴ See also CCPR/C/NLD/CO/5, paras. 15-16.

⁵⁵ See also CCPR/C/NLD/CO/5, paras. 15-16; A/HRC/44/57/Add.2, para. 43; A/HRC/43/48/ADD.1, para.72 e).

26. With reference to the Committee's previous concluding observations (paras. 42-43 and CAT/C/NLD/CO/5-6, para. 27) and the announcement of the minister of Justice and Security in 2019 that 17,000 police officers will be equipped with electronic discharge weapons (Tasers) within the following five years, please explain the operational necessity for the wide distribution of this weapon against the potential risk that it represents, which police officers will be equipped with these weapons and under which conditions its use will be considered legitimate. Bearing the government's evaluation on the use of Tasers by law-enforcement officers, and the alleged excessive use of force with police dogs, please clarify if the State party has amended or envisage amending the 2021 Instruction on the use of force and equipment by law-enforcement officers and further regulate the use of police dogs, the use of Tasers and the use of pepper spray, by explicitly prohibiting their use against vulnerable persons, including minors and pregnant women, in mental health institutions and custodial settings, and ensuring that Tasers are used exclusively in limited situations where there is a real and immediate threat to life or risk of serious injury, as a substitute for lethal weapons, and in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and other relevant standards.⁵⁶ Indicate the type of training provided to law enforcement personnel regarding the use of Tasers, pepper spray and police dogs, whether it is based on the Convention and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, whether it is compulsory and whether it includes techniques for de-escalation of a conflict and information about the risks of using this equipment.⁵⁷ Please also provide information on the measures taken to monitor and review the use of Tasers, pepper spray and police dogs, the number of cases of misuse identified per year and the sanctions imposed.

Other

27. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the Covid-19 pandemic to ensure that its policies and action comply with its obligations under the Convention. Also, please specify the measures taken in relation to persons deprived of their liberty and in other situations of confinement such as homes for the elderly, hospitals or institutions for persons with mental and psychosocial disabilities.

General information on other measures and developments relating to the implementation of the Convention in the State party

28. Please provide detailed information on any other relevant legislative, administrative, judicial or other measure taken since the consideration of the previous periodic report to implement the provisions of the Convention or the Committee's recommendations. Such measures may include institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party may consider relevant.

⁵⁶ See also CCPR/C/NLD/CO/5, paras. 36-37.

⁵⁷ See also CCPR/C/NLD/CO/5, paras. 36-37.