



PENITENTIARY INSTITUTION SINT MAARTEN

FOLLOW-UP INSPECTION INTO THE LEGAL STATUS AND PERSONNEL AND ORGANISATION

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ORGANISATION**

Law Enforcement Council
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List of abbreviations used

CPT	European Committee for the prevention of torture and inhuman or degrading treatment or punishment
Cvt	Supervisory Committee (<i>Commissie van Toezicht</i>)
IJenV	Justice and Security Inspectorate (<i>Inspectie Justitie en Veiligheid</i>)
JIS	Judicial Information System (<i>Justiteel Informatie Systeem</i>)
JVO	Judicial Quadripartite Consultations (<i>Justitieel Vierpartijenoverleg</i>)
MvJ	Minister of Justice (<i>Minister van Justitie</i>)
TO	Public Prosecutor's Office (<i>Openbaar Ministerie</i>)
P.i.	Penitentiary Institution (<i>Penitentiare Inrichting</i>)
Pointe Blanche prison	Pointe Blanche prison and detention (<i>Pointe Blanche gevangenis en huis van bewaring</i>)
Council	Law Enforcement Council (<i>Raad voor de rechtshandhaving</i>)
VI	Conditional release (<i>Voorwaardelijke invrijheidsstelling</i>)

Foreword

In 2016 and 2017, the Council carried out inspections of the detention system. This was done at the request of the Ministers of Justice of the Kingdom (JVO) and in connection with the monitoring of the recommendations made by *the European Committee for the prevention of torture and inhuman or degrading treatment or punishment* (CPT). The inspections include recommendations from the CPT. The inspections were based on six sub-topics contained in three sub-reports, namely: legal status and personnel and organisation (sub-report 1; 2016), internal safety and social security (sub-report 2; 2017) and dealing with detainees and social reintegration (sub-report 3; 2017). In accordance with the Kingdom Act Law Enforcement Council, all three sub-reports were sent by the Council to the Minister of Justice.¹ The same act also provides that the Minister of Justice is to send the inspection report and his response thereto to the representative body of the country concerned within six weeks.² It is not evident to the Council that the Minister has complied with this requirement with regard to the sub-report on the legal status and personnel and organisation.

By means of this review inspection, the Council is monitoring the follow-up of the recommendations formulated by the Council and the CPT on the legal status of prisoners and personnel and organisation for the year 2018.

In the 2016 report, the Council expressed serious concerns about the situation of the prison and detention center. The Council concluded that the establishment was far from a level that could be said to meet the requirements of the institution, both in terms of the legal status of prisoners and in terms of personnel and organisation, (inter)nationally set laws and regulations and (CPT) standards. Administrative attention and the realisation that the prison could not solve the problems alone was urgently needed.

In the 2017 State of Law Enforcement, the Council reports the following:

"The Council believes that law enforcement on Sint Maarten is currently so vulnerable that continuing unchanged in this way is no longer defensible and therefore irresponsible. The organisations within law enforcement that work daily for a safe(r) Sint Maarten deserve the same dedication from the government and the administration. For that reason, the Council is using this 2017 State of Law Enforcement as a call to the government to give the attention it needs to law enforcement. In this context, the Council considers it important to emphasise that administrative attention to law enforcement has priority, after which structural solutions must then be provided for the major challenges facing Sint Maarten. Cooperation within the Kingdom is paramount as far as the Council is concerned."

This passage applies in full to the prison at Pointe Blanche. Now, two years later, it appears that the situation observed in 2016 has changed almost nothing (for the better). Indeed, the Council should sound the alarm, because the overall situation, and more specifically the situation with regard to the two aspects examined, has worsened to such an extent that it must be concluded that the prison in its present state is completely unsuitable both in terms of *humane detention* and in terms of *the workplace*. In this context, the Council also refers to

¹ Article 30(4) of the Kingdom Act of 7 July 2010 regulating the establishment, tasks and powers of the Law Enforcement Council of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (Kingdom Act Law Enforcement Council), Stb. 2010, 338.

² Article 30(5) of the Kingdom Act of 7 July 2010 regulating the establishment, tasks and powers of the Law Enforcement Council of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (Kingdom Act Law Enforcement Council), Stb. 2010, 338

its review report *'Penitentiary institution Sint Maarten. Follow-up inspection into internal safety and social security'*. In that report, the Council concludes, among other things, that the prison is (or has been) completely unprepared for the prevention and management of calamities and that, in view of the state of the security facilities and supervision, there are irresponsibly increased risks to society.

The Council notes that since the passage of the hurricanes, (more) attention has been paid to the prison, but that the degree of urgency has not yet been sufficiently highlighted. The Council is therefore of the opinion that the situation of the prison is so deplorable and alarming that not only the Country of Sint Maarten, but also the Kingdom must ensure that the prison and detention center in Pointe Blanche will comply with the (inter)national laws and regulations and (CPT) standards to which the countries within the Kingdom have committed themselves as soon as possible.

As was the case with previous Council inspections, the organisations and individuals involved cooperated constructively with the inspection. Once again, the Council would like to thank the persons who have been approached for their cooperation.

THE LAW ENFORCEMENT COUNCIL,

mr. F.E. Richards, Chairman,
mr. G.H.E. Camellia,
mr. Th. P.L. Bot.

Summary and recommendation

Summary

Introduction

In 2016 and 2017, the Council carried out inspections of the detention system in Sint Maarten at the request of the Ministers of Justice of the Kingdom (JVO) and in connection with the monitoring of the recommendations of the *European Committee for the prevention of torture and inhuman or degrading, treatment or punishment*. The inspections covered the Point Blanche prison and detention center. Recommendations from the CPT are included in the inspections.

The studies were based on six sub-topics contained in three sub-reports, namely: legal status and personnel and organisation (sub-report 1; 2016), internal safety and social security (sub-report 2; 2017) and dealing with detainees and social reintegration (sub-report 3; 2017). In accordance with the Kingdom Act Law Enforcement Council, all three sub-reports were sent by the Council to the Minister of Justice.³ That act also provides that the Minister for Justice is to send the inspection report and his response thereto to the representative body of the country concerned within six weeks.⁴ It is not evident to the Council that the Minister has complied with this requirement with regard to the sub-report on the legal status and personnel and organisation.

In this follow-up inspection, the Council assesses whether the recommendations formulated by the Council and the CPT with regard to the first of the three published sub-reports have been followed up. It concerns the sub-report: Legal status and personnel & organisation (2016).

State of affairs recommendations

The Council concludes that out of a total of eighteen Council recommendations, only two have been implemented. In addition, none of the twelve recommendations of the CPT appear to have been followed. The Council is deeply concerned about this because many of the recommendations touch on the very core of the detention system.

Overall conclusion

In 2016 and 2017, the Council (once again) called for urgent attention to be paid to the situation in the Pointe Blanche prison and detention center in three different (sub-)reports on the detention system. At that time, the Council considered the situation to be so serious and untenable that rapid changes were needed. A bottom line had already been crossed at that time. It was time for action and the Council urged the prison, the Ministry of Justice and the Country of Sint Maarten to take up their responsibility. The Council was in favor of a new detention facility and considered that cooperation should be a priority in tackling the problems of the prison. In the various reports, the Council made numerous recommendations for

³ Article 30(4) of the Kingdom Act of 7 July 2010 regulating the establishment, tasks and powers of the Law Enforcement Council of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (Kingdom Act Law Enforcement Council), Stb. 2010, 338.

⁴ Article 30(5) of the Kingdom Act of 7 July 2010 regulating the establishment, tasks and powers of the Law Enforcement Council of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (Kingdom Act Law Enforcement Council), Stb. 2010, 338.

improvement.

Although the Council assumed that a low point had been reached with regard to the prison at the beginning of 2017, the situation turned out to be even worse in 2018. Partly as a result of the natural disaster in September 2017, the Council is forced to conclude that not much has changed substantially as a result of the deplorable situation already observed in 2016 and that the situation in the prison has even deteriorated. There have been serious violations of (inter)nationally applicable legislation and standards. In the meantime, the conditions under which people have to live and work are so bad that it is absolutely irresponsible to continue in this way. In addition, the prison is (or has not been) at all prepared for the prevention and management of calamities and, given the state of the security facilities and supervision, there are irresponsibly high risks to society. The Council also draws attention to the serious and unacceptable risks to society if the detainees are released. At the moment, there is no resocialization at all. According to the Council, the fact that some of the detainees are temporarily staying abroad ensures that the situation does not get even more out of hand. However, the Council stresses that this is a special and temporary situation and that a structural solution must be provided.

Therefore, in view of the overall state of the prison and its impact on daily practice, the Council must conclude that the prison is currently unfit for detention and is also unsuitable as a place to work. There is no question of a *humane* detention climate and a safe workplace. Several (international) bodies have already sounded the alarm, but according to the Council, there is insufficient momentum behind the necessary decisions and their implementation. The Council therefore once again urges those responsible to take the necessary decisions and to take structural measures. The Council also sees an active role for the Kingdom in this. According to the Council, neither the prison, nor the Ministry of Justice or the Country of Sint Maarten can solve the complex problem independently. The Council emphasizes once again that cooperation is required so that the prison will comply with the (inter)national laws and regulations and (CPT) standards to which the countries within the Kingdom have committed themselves as soon as possible.

The Council refers to its review inspection called '*Penitentiary institution Sint Maarten. Follow-up inspection on internal safety and social security*', which is best read in conjunction with this report.

The repeated findings lead to the conclusion that the Council's recommendations are systematically not being followed. The Council notes that although the issues are being discussed - even for a long time - the constitutional system of control, supervision and safeguarding within the Country and the Kingdom is not functioning.

In the meantime, the Council has learned in detail that the Ministry of Justice is again working on a plan for the reconstruction and renovation of the prison, as well as plans for staffing, rehabilitation, alternative punishments and, in general, an improved regime. Although there have been several action plans (2010, 2014, 2016, 2017) that have not been implemented or have only partially been implemented, the limited renovation

work from 2014 that has already been carried out has now been undone, the Council is cautious about its optimism about the intentions on the basis of history (see also the Council's 2017 report). Nevertheless, the situation of reconstruction lends itself to giving the government of Sint Maarten, the Minister of Justice in particular, the benefit of the doubt. In addition, the Council notes that the deadlines agreed between Sint Maarten and the Netherlands of August 1st for the repair of the outer wall and mid-September 2018 respectively regarding the Plan will be monitored. The Council also expresses the expectation that a comprehensive and concrete feasible plan will be in place before or at that deadline, also with guarantees for continuity after implementation. If no significant progress has been made by then, the Council's mechanism for conducting inspections and making recommendations has been exhausted.

Recommendation

Follow up and implement the recommendations of the Law Enforcement Council and the CPT that have not yet been implemented as a matter of priority.

1. Introduction

1.1 Introduction and background

In 2016 and 2017, at the request of the Ministers of Justice of the Kingdom of the Netherlands (JVO) and in connection with the monitoring of the CPT recommendations, the Council carried out inspections of the detention system in Sint Maarten. The inspections concerned the Point Blanche prison and the House of Detention (hereinafter referred to as Point Blanche prison). Recommendations from the CPT are included in the inspections.

The inspections were based on six sub-topics contained in three sub-reports, namely: legal status and personnel and organisation (sub-report 1; 2016), internal safety and social security (sub-report 2; 2017) and dealing with detainees and social reintegration (sub-report 3; 2017).

In this follow-up inspection, the Council assesses whether the recommendations formulated by the Council and the CPT with regard to the first of the three published sub-reports have been followed up. It concerns the sub-report:

- Legal status and personnel & organisation (2016).

1.2 Objective

By means of this inspection, the Council wishes to determine whether and how its recommendations and those of the CPT regarding the Point Blanche prison have been followed up.

1.3 Problem definition and research questions

The central research question is as follows:

How have the recommendations of the Council and the CPT been followed up with regard to the legal status and personnel and organisation?

These are 18 recommendations of the Council and 12 recommendations of the CPT with regard to the sub-topics of legal status and personnel and organisation, respectively.

1.4 Assessment framework

The starting point of this follow-up study is the recommendations as included in the 2016 report (sub-study 1). The Council assesses the follow-up to the recommendations formulated: these form the framework.

1.5 Research approach and method

In accordance with the Kingdom Act Law Enforcement Council, all three sub-reports were sent by the Council to the Minister of Justice.⁵ That act also provides that the Minister of Justice is to submit the inspection report and his response thereto within six weeks.

⁵ Article 30(4) of the Kingdom Act of 7 July 2010 regulating the establishment, tasks and powers of the Law Enforcement Council of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (Kingdom Act Law Enforcement Council), Stb. 2010, 338.

representative body of the country concerned.⁶ It was not evident to the Council that the Minister had complied with this requirement with regard to the sub-report on the legal status and personnel and organisation.

The Council conducted observations in the institution and interviews with prison officials, prisoners and employees of the Public Prosecutor's Office, Supervisory Committee and the Legal Profession. In accordance with the Kingdom Act, the Council gave the prison's interim management team the opportunity to respond to the inspection report within a reasonable period set by the Council. No response was received from the MT.

1.6 Demarcation

This inspection is a follow-up inspection, in which the inspection is primarily focused on the way in which the Minister of Justice and the service or institution to which the recommendations were directed responded to the Council's considerations and recommendations.

The inspection covers the period from January 2017 to June 2018.

1.7 Reading guide

After this introductory chapter 1, chapters 2 and 3 contain the research results of the respective topics: legal status and personnel and organisation. Chapter 4 contains a conclusion on both the recommendations of the Council and those of the CPT.

⁶ Article 30(5) of the Kingdom Act of 7 July 2010 regulating the establishment, tasks and powers of the Law Enforcement Council of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba (Kingdom Act Law Enforcement Council), Stb. 2010, 338.

2. Search results: Legal status

2.1 Introduction

Using nine criteria from an assessment framework established by the Council, the Council assessed in the 2016 report the legal status of detainees at Pointe Blanche Prison and House of Detention (hereafter also referred to as Pointe Blanche Prison). In this context, the Council made *thirteen* recommendations to the Minister of Justice. It was also recommended to follow the recommendations formulated by the CPT that had *not yet been followed*.

The Council assesses the follow-up to the recommendations made. First, the Council sets out the criterion and then the resulting recommendation(s) of the Council. If applicable, the related and unfollowed recommendation(s) of the CPT are also displayed. After that, the findings are displayed, followed by an analysis. Finally, the Council also provides a schematic color assessment of the status of follow-up to the recommendation(s) compared to 2016. If nothing has changed in the situation, the assessment will remain the same as in 2016. If it has worsened or the recommendation has not been followed, the rating has been adjusted downwards. In the event that the situation has improved, or the recommendation has been followed, the assessment has been adjusted upwards.

2.2 Lawful detainment

Detainees should be detained on the basis of a lawful title. It is therefore important that an institution properly checks all documents relating to detention and identity and records them in the detainee file.

2.2.1 Recommendations 2016

The Council's recommendations under the criterion of lawful detainment are:

- Make sure that the prison can actually start working with the JIS in the short term so that this benefits the incarceration process, the registration and the calculation of the end date, among other things.
- Promote the timely availability of all detainment documents.
- Record the process of establishing or verifying the identity of the detainee, including the manner in which and the means by which this takes place.

The CPT's related recommendation that was not followed is:

- The CPT recommends that all prisoners be accurately informed of their release date from prison as soon as possible after their admission to prison (...).

2.2.2 Findings 2018

Judicial Information System (JIS)

The penitentiary institution (p.i.) has the JIS business process system, but it did not function properly in 2017. Furthermore, there were no payments of bills, which meant that the 'teething problems' already identified in 2016 could not be resolved. The bills were paid in the first quarter of 2018, but the system still does not work, according to interviewees.

Detainment Documents

There are no changes to the timely availability of the necessary detainment documents. An employee of the detention care department indicates that it still occurs that the verdict is not available when a new detainee arrives.

Intake

The process of establishing or verifying the identity of the detainee is not recorded in writing.

Release Date

An employee of the detention care department indicates that this department always calculates the release date for each inmate, but that the inmate must take the initiative to be informed of his or her exact release date. In such cases, it shall be communicated to the detainee.

2.2.3 Conclusion 2018

Both the situation regarding the JIS and the situation regarding the detainment documents and intake have remained unchanged. The Council concludes that three of the Council's recommendations have not been implemented.

The CPT considers it important that detainees are informed about the date of release as soon as possible after arrival. The Council is of the opinion that the initiative should not lie with the detainee, but with the p.i. to actively inform the detainee. The Council concludes that the CPT's recommendation on the date of release has still not been implemented.

2.2.4 Assessment 2018

Table 1: Assessment of the Council for lawful detainment

Aspect	Criterion	2016		2018	
Legal status	Lawful detainment	Orange	Light green	Orange	Orange

Orange: meets the relevant standards and expectations to a limited extent

Light green: Meets mostly, but not completely, the relevant standards

2.3 House rules

An inmate must be informed, as far as possible, of his rights and obligations in a language that he understands when he enters an institution. It must also be clear how he can file a complaint. For this reason, the director of an institution is obliged to establish house rules on the basis of the law. It is also important that staff of the institution conduct an intake interview with each newly arrived inmate, in which an explanation is given, among other things, about the internal state of affairs and applicable rules.

2.3.1 Recommendations 2016

The recommendations made by the Council in the context of the criterion of house rules are:

- Draw up the house rules in Spanish in accordance with the law.
- When describing the intake process, pay attention to informing the inmate and registering it.

2.3.2 Findings 2018

House rules

It is apparent from the interview with the prisoners that they are informed about the most important rules upon arrival and then also receive the house rules in writing. The house rules have not been translated into Spanish.

Informing detainee and registration

As stated in section 2.2.2. the intake process is entirely undocumented.

2.3.3 Conclusion 2018

The house rules still need to be translated into Spanish to comply with this legal requirement. Furthermore, there is no written description of the intake process. The Council concludes that the two recommendations of the Council have not been implemented.

2.3.4 Rating 2018

Table 2: Assessment house rules

Aspect	Criterion	2016		2018	
Legal status	House rules	Light green	Light green	Light green	Orange

Orange: meets the relevant standards and expectations to a limited extent

Light green: Meets mostly, but not completely, the relevant standards

2.4 Program

Prisoners are entitled to a number of activities, such as two hours of airing every day, sports at least twice a week for three quarters of an hour, weekly library visits, education and recreation (at least six hours per week, of which at least two blocks of two hours consecutively).

2.4.1 Recommendations 2016

The recommendations made by the Council in the context of the criterion of the work program are:

- Update the library with at least up-to-date legal sources and explore the possibility of a partnership with the local library.
- Investigate whether it is desirable to establish a policy on (financial) compensation for the inmate in the event that the work is cancelled through no fault of his own. If it is found desirable, then also establish the policy.

The CPT's related recommendation that was not followed is:

- The CPT reiterates its recommendation that activities for prisoners be further developed, with a view ensuring that all prisoners (including those on remand) can spend a reasonable part of the day (i.e. 8 hours or more) outside their cells engaged in purposeful activities of a varied nature: work, preferably with vocational value; education; sport; recreation/association.

2.4.2 Findings 2018

Whereas in 2016 it was noted that the program was becoming increasingly austere, and the prisoners were offered fewer opportunities than before, now the possibilities are virtually nil, partly as a result of the hurricanes. As a result, from September 2017 onwards, the prisoners spend even more hours in their cells, as far as possible, according to interviewees. On the day of the inspection, only three staff members are available for deployment in the male prisoners' ward.

Airing, recreation and sports

The male prisoners are given the opportunity to air twice a day. Only one airing space is in use, because the other two airing spaces cannot be used due to flight risks. Some of the concrete walls adjacent to the two airing spaces have been missing since the hurricane and have not (yet) been rebuilt.

All interviewees indicate that no activities are offered. Recreation for the male prisoners consists of the possibility to be unlocked from their cell and to have more space to move and have contact with other prisoners in the corridor adjacent to the cells. Furthermore, the inspectors observed that a few are given the opportunity to play games in another prisoner's cell. The prison staff indicates that the recreation rooms are still in use. In 2016, the Council already indicated that these spaces needed to be taken care of.

During the current inspection, the inspectors noticed leaks and broken equipment in the

recreation rooms. Since September 2017, it is no longer possible to watch television from the cells, because the cable connection is out of order. The church building is so damaged that it cannot be used.

There is one inmate in the women's ward and no activities are offered to her. The door of her cell is unlocked for a large part of the day and during these times she can walk outside to air herself.

Library

Except for a local water leak, the library has remained virtually unscathed. However, the library has not been updated and the possibilities of cooperation with the local library have not been investigated. A few make use of the opportunity to borrow a book, says the staff member in charge of the space.

Sport

The sports instructor is no longer available to guide the prisoners in sports. From conversations with prisoners, it follows that it is not possible to play sports, for example, the gym contains defective equipment.

The material in the women's ward works according to the custodian on duty. The inspectors are of the opinion that the fitness equipment looks very dated.

Labor

Since September 2017, work is only possible in the kitchen (6 people), the housekeeping service (a number of people) and the library (1 person). The maintenance work by the prisoners has come to a standstill. The workshop and sewing workshop are closed, due to damage and for safety reasons. The prisoners who worked there do not receive any wages. It has also not been investigated whether compensation or other compensation is offered in the event of a loss of work.

At the moment there is no inmate's association. The prisoners still have to elect new members.

Education

In 2016, the inspectors were very pleased with the training program, teaching methods and available materials for convicted young adults up to the age of 24. Since September 2017, this special training program is no longer available. For the other prisoners, there is currently no range of training courses on offer.

2.4.3 Conclusion 2018

In 2016, the Council concluded that there was only a very limited or no balanced range of activities for all prisoners. In 2018, the Council was forced to conclude that no meaningful activities were offered at all. There is no program of activities, there are virtually no sports facilities and there is no training at all. Some of the prisoners can no longer work.

The Council considers it completely unacceptable that national and international laws, regulations and standards are violated. The right of prisoners to a program of activities is being violated and there is no question of resocialization at all.

The Council concludes that the recommendation of the CPT on the development of a program of activities for prisoners has not been followed. In addition, the Council concludes that the recommendation on (financial) compensation in the event of work loss has not been followed.

2.4.4 Assessment 2018

Table 3: Assessment of the program of activities

Aspect	Criterion	2016		2018	
Legal status	Program				

Orange: Meets the relevant standards and expectations to a limited extent

Red: Does not meet the relevant standards and expectations

2.5 Accommodation and cleanliness

The accommodation where prisoners are staying must meet the applicable standards and the living conditions in the institution must be hygienic.

2.5.1 Recommendations 2016

The recommendations made by the Council in the context of the accommodation and hygiene criterion are:

- Promote that the new build takes place, so that the Sint Maarten prison (better) complies with the (inter)nationally applicable laws and regulations and standards.
- Ensure that the defects with regard to the cell locks are actually remedied in the very short term.
- Provide chairs in the cells.

The recommendations of the CPT related to this and not followed are:

- The CPT recommends that cells of 10 m² do not accommodate more than two prisoners, and ideally that they only hold one prisoner. Further, the Committee would like to be informed of the state of repair of the prison following the renovation work, including as regards the association and exercise rooms.
- The CPT recommends that the authorities of Sint Maarten adopt and implement a coherent strategy designed to combat prison overcrowding, taking due account of the relevant Council of Europe recommendations in this area, such as Recommendation R (99) 22 concerning prison population inflation; Rec (2000) 22 of 29 November 2000 on improving the implementation of the European rules on community sanctions and measures; Rec (2003) 22 on conditional release (parole); Rec (2006) 13 on the use of remand in custody; and Recommendation CM/Rec (2010)1 on the Council of Europe Probation Rules.

2.5.2 Findings 2018

The building is in very poor condition. A lot of damage is visible, both in and around the building. A crucial point within any prison is properly functioning locks. Interviewees indicate that in 2017 the cylinders of the locks were replaced, but that the locks still do not work properly. This has been observed several times by the inspectors, both in the men's and women's wards. Both detainees and staff point out the great danger to the safety of all those present in the event of emergencies.

After the hurricanes, about sixty prisoners were temporarily transferred to prisons in Curaçao and the Netherlands for six months on the basis of the Mutual Arrangement for the Provision of Detention Capacity.⁷ Despite its own capacity problems, Curaçao was willing to help. The formally agreed deadline has expired. An interviewee indicates that the country of Sint Maarten must ensure that an extension is requested in time or that provisions are made to bring back the prisoners. Otherwise, it may undermine the purpose and the resulting solidarity of the Mutual Arrangement and put pressure on the working relationship of the various implementing organisations in the countries.

In addition, one interviewee notes that the state of the prison and the security situation of and in the prison may pose such a threat that the prisoners would not be able to return.

At the moment, a total of 70 places are *available*,⁸ in the Pointe Blanche prison, of which 58 places have been filled. For the prison in Sint Maarten, this means a temporary alleviation of the problems with regard to overcrowding, placement of prisoners in the wards (for security reasons) and the number of prisoners per cell. Due to the temporary transfer, there is room to place two prisoners per cell and there can be more differentiation in the wards.

The prisoners and staff interviewed agree that overall hygiene within the prison has deteriorated compared to 2016. They point out dirt, cracks, leaks, mold and dirt on the site. The inspectors also observe this during the inspection. There are also a relatively large number of birds (pigeons) on the site and in the wards. A staff member of the maintenance department indicates that there is certainly a desire to clean up loose debris on the site, for example, but that there is currently no money for this and other maintenance work.

Furthermore, the detainees indicate that the sanitary facilities do not always work and that few cleaning products are available. The company that was hired to periodically clean inside the prison is also no longer coming. In the cells and corridors, it is clear that maintenance and repairs need to take place.

Since last year, the prisoners have had chairs in their cells.

The kitchen, which was completely renovated, was damaged by the hurricanes. The extractor, the air conditioning and the oven do not work. According to interviewees, this does not benefit the hygiene.

⁷ Mutual arrangement as referred to in Article 38, paragraph 1, of the Charter for the Kingdom of the Netherlands regulating the cooperation between Curaçao, Sint Maarten and the Netherlands in the field of the mutual provision of detention capacity, AB 2014, 20.

⁸ The term available means that these places exist as such under current practice. The Council is of the opinion that under the present circumstances no place is 'actually available'.

2.5.3 Conclusion 2018

In its 2016 report, the Council already indicated that it was in favor of new construction and made a recommendation in this regard. If the Council takes into account the current state of the building and its consequences, this further strengthens the Council's position. The accommodation where the prisoners are staying does not meet the applicable standards. The general state of hygiene has deteriorated, and it is necessary to guard against the outbreak of diseases.

In addition, the Council once again urges those responsible to provide the prison with the necessary working locks. The Council reiterates its grave concerns with regard to staff and detainees in the event of an emergency.

Due to the temporary transfer of part of the detainee, the prison is currently able to meet the requirement of a maximum of two people per cell and does not suffer from overcrowding. The Council notes, however, that this is a special and temporary situation. This is not a decision to structurally improve the prisoner's living space, but a temporary 'improvement' as a result of the transfers. The Council emphasizes that this 'improvement' is only temporary. A structural solution is still needed.

The Council concludes that the Council's recommendations on new construction and replacement of locks have not been followed. However, the recommendation on the provision of seats has been followed.

The CPT's recommendations on prison overcrowding and inmate living space have been met at the moment. The Council reaffirms that the follow-up is of a temporary nature.

2.5.4 Assessment 2018

Table 4: Assessment Accommodation and hygiene

Aspect	Criterion	2016		2018	
Legal status	Accommodation and hygiene	Orange	Orange	Orange	Red

Orange: Meets the relevant standards and expectations to a limited extent

Red: Does not meet the relevant standards and expectations

2.6 Food & Shop

The food provided by the establishment must be adequate, responsibly composed, of sufficient quality and sufficiently varied. Food distribution should take into account the medically prescribed diets and with wishes arising from the religion or belief of prisoners. The institutions shop offers a reasonable range at prices that are not substantially higher than in free society.

2.6.1 Recommendation 2016

The recommendation of the CPT related to the criterion of food and shopping, which was not followed, is:

- The CPT recommends that the current approach to employing outside workers in the kitchen be reviewed, with a view to replacing them with prisoners, thus enabling more funding to be spent on food stuffs and as a result providing a more varied diet to prisoners.

2.6.2 Findings 2018

The hot meal is currently the 'highlight' of the day for the prisoners. The interviewed prisoners rate the quantity and quality of the hot meal as good. The inspectors tasted a (chicken) meal. In addition, the prisoners indicate that they want more variety.

The prisoners still make use of the opportunity to order products from the 'canteen'. The interviewees indicate that the order round and delivery do not (anymore) always take place every two weeks. A staff member explains that this has to do with staff shortages. The prisoners also report that sometimes things go wrong with the payments and that it happens that products are out of date. In addition, a member of staff observes that, as a result of the cessation of certain activities, the prisoners working there are no longer able to generate income for themselves and are therefore unable to order products or have to order fewer products in the event that they do not receive support from their families.

The kitchen staff still consists partly of prisoners and partly of externally hired workers. As indicated earlier in section 2.5.2, the extractor, the air conditioning system and the oven do not work.

The water tank on the prison grounds is damaged to such an extent that it cannot be used.

2.6.3 Conclusion 2018

According to the Council, the provision of food and the possibility of purchasing products are sufficient. The Council does advise that the prison ensures that the prisoners can order products every two weeks.

The staff in the kitchen is still composed of prisoners and hired staff. The Council concludes that the CPT's recommendation to staff the kitchen only with prisoners has not been followed.

2.6.4 Assessment 2018

Table 5: Assessment accommodation and hygiene

Aspect	Criterion	2016		2018	
Legal status	Food & Shop				

Dark green: Fully compliant with relevant standards and expectations

2.7 Social contact

National and international regulations stipulate that detainees can have contact with relatives, relations and representatives of external agencies. This can be done through visits, telecommunications and correspondence. Pursuant to Article 24 of the Prison Measure, prisoners can receive visitors for one hour once every two weeks.

2.7.1 Recommendations 2016

The recommendation of the CPT, which is related to the criterion of social contact and was not followed is:

The CPT recommends that the card phones at Pointe Blanche be repaired. Further, access to a telephone should be improved at Simpson Bay.

2.7.2 Findings 2018

Visit

Both the visitor's room and the adjacent area (usually the room where the lawyers speak with their clients) have been damaged but are still in use. Prisoners can receive visitors once a week at fixed times for 30 minutes.

Telephone

The paid telephone system is completely out of service in both the women's and men's wards. The only possibility to call is by appointment through the social workers. The detainees are not happy about the lack of contact with the outside world.

Media

Prisoners can only keep up to date with current events in free society through newspapers. The cable connection is defective, which means that it is not possible to watch television from the cells.

2.7.3 Conclusion 2018

The visiting opportunities offered formally meet the requirements. The possibilities of contact by means of telecommunications are very limited.

The Council concludes that the CPT's recommendation on the repair of paid telephones has not been followed.

2.7.4 Assessment 2018

Table 6: Assessment of social contact

Aspect	Criterion	2016		2018	
Legal status	Social contact				

Light green: Predominantly but not fully compliant with the relevant standards

Dark green: Fully compliant with relevant standards and expectations

2.8 Access to care

The facility provides qualified medical care, including psychosocial and dental care. Spiritual care is also available that is in line with the religion/belief of the prisoners.

2.8.1 Recommendations 2016

The recommendations made by the Council in the context of the criterion of access to care are:

- Investigate whether a chaplain can be employed in the short term.

The related and non-implemented recommendations of the CPT concern:

- The CPT recommends that the presence of the doctor at the prison be increased to the equivalent of a half-time position. Further, provision should be made for a dentist to visit the prison once a week and for the dentist's surgery to be properly equipped.
- The CPT recommends that the authorities 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) and to put in place procedures for the distribution of other medication that guarantees confidentiality. Further, the health-care service should ensure that the drugs chart, showing which prisoner was provided with which medication and when, is properly maintained, and that all missed medication dosages are recorded.
- The CPT recommends that the Sint Maarten authorities take the necessary steps to ensure that prisoners suffering from a serious mental disorder are cared for in an adequately equipped hospital environment. Further, it would like to receive details of the treatment afforded to the above-mentioned prisoner since the time of the visit.

2.8.2 Findings 2018

Medical service

The three qualified and experienced nurses are present during office hours during the week. Outside of that, they work picket shifts. The doctor visits the prison once a week for half a day. According to the prisoners, the nurses never enter the ward.

The nurses indicate that they dispense the medication to prisoners in the office of the health care service. The health care service uses the same procedure as in 2016. As in 2016, there is no list of medication that can only be administered by the medical service.

There are two non-sick prisoners in the infirmary, one for security reasons and one for physical disabilities.

Dentist

Access to the dentist is still a bottleneck. The prison does not employ a dentist and visits by a dentist to the prison do not take place either. The Supervisory Committee indicates that it receives complaints about dental care in particular. The dentists only want to provide their services if unpaid bills are paid first or only if payment is made in advance. In addition, transportation problems from the prison make it difficult to visit a dentist.

The defective dental chair is still in the medical staff's room.

Behavioral disorders

The situation in which severely behaviorally disturbed people are mixed with the 'normal' prison population has not changed.

Spiritual care

There is no chaplain employed by the prison. There are no services or Bible lessons at all. The church has been damaged to such an extent that it is no longer in use.

2.8.3 Conclusion 2018

The Council is of the opinion that the provision of psycho-medical care is partly adequate but has deteriorated compared to 2016. The latter applies in terms of access to dental care and mental health care. Both female and male prisoners cannot profess and practice their religion or belief in the absence of representatives of different denominations. In 2016, this only applied to men, but now also to women. The Council's recommendation has not been followed.

The Council has already established in previous reports that the non-payment or delay in paying bills is beyond the control of but has consequences for the organisation. In this inspection, it appears that it has consequences for prisoners to be able to make use of specialist help. The Council believes that a solution must be found.

Finally, it appears that the infirmary is (still) not used exclusively for medical purposes. The Council has already referred to this undesirable situation.

The Council concludes that the Council's recommendation on the employment of a chaplain has not been followed.

The Council concludes that the CPT's three recommendations on the doctor and dentist (instruments) (1), the list of medication and the procedure with regard to medication (2) and behavioral disorders (3) have still not been (fully) followed.

2.8.4 Assessment 2018

Table 7: Assessment of access to care

Aspect	Criterion	2016		2018	
Legal status	Access to care	Orange	Light green	Orange	Orange

Orange: meets the relevant standards and expectations to a limited extent

Light green: Meets mostly, but not completely, the relevant standards

2.9 Sanctions and measures

The maintenance of order and safety in the establishment must be proportionate and in accordance with national and international regulations and standards. Detainees must be heard before sanctions. A sanction to be imposed must be comprehensible to the detainee and must be imposed by an authorized official.

2.9.1 Recommendation 2016

The Council's recommendation under the criterion on sanctions and measures is:

- Ensure that sanctions are always imposed by an authorized official.

2.9.2 Findings 2018

Both the CvT and prison staff point out that sanctions are imposed by a person authorized to do so. The acting head of housekeeping gives advice on the sanction to be imposed and (one of) the directors take the formal decision. In the absence of the directors, the head of the detention unit is specifically appointed to be able to take decisions on sanctions.

2.9.3 Conclusion 2018

Sanctions are imposed by a person authorized to do so.

The Council concludes that the Council's recommendation has been complied with.

2.9.4 Assessment 2018

Table 8: Assessment of sanctions and measures

Aspect	Criterion	2016		2018	
Legal status	Sanctions and measures				

Light green: Predominantly but not fully compliant with the relevant standards

Dark green: Fully compliant with relevant standards and expectations

2.10 Complaint handling and supervision

Prisoners can complain to the complaints committee of the Supervisory Committee about sanctions and/or measures imposed on them and about their psycho-medical care. In principle, the complaints will be dealt with within two weeks. In doing so, the CvT can make use of mediation by the monthly commissioner, who examines the extent to which the complaint can be met outside of a formal complaint procedure.

2.10.1 Recommendations 2016

The recommendation made by the Council in the context of the criterion of complaint handling and supervision is:

- Encourage the Supervisory Committee to report biennially on its activities.

The CPT's related recommendation that was not followed is:

- The CPT recommends that the Sint Maarten authorities review the current system of complaints, (...).

2.10.2 Findings 2018

The Supervisory Committee currently consists of seven members, of which one new member has yet to be formally appointed. There is a lack of clarity from prison about the interpretation of the chairmanship of the CvT. The chairman of the CvT has been transferred to another island. At the moment, the possibilities are being looked at to better fulfil this role. The new situation has a particular impact on the frequency of meetings. These no longer take place monthly, but usually once every six to eight weeks. If necessary, the Chairman shall be substituted. Participation of the directors (or one of them) in the meeting is not yet proceeding as intended. This item will be discussed at the next meeting.

The external communication by the management of the prison is mentioned as a bottleneck by several interviewees. Among other things, the communication between (the complaints committee) of the CvT and the prison is not going well. Information requested for the handling of a complaint is not being handled energetically enough, according to the chairman.

The Committee often has to send several reminders and sometimes strong language before receiving a reply. The answer often falls short of the Committee's expectations. Furthermore, the Committee would like the prison MT to report in writing to the CvT, as already requested.

The monthly commissioner visits every month and has access to the prisoners. The mailbox, of which only the CvT has a key, is still used by the prisoners. The prisoners interviewed have the impression that they do not always have access to the monthly commissioner. The CvT states that it has not received any signals in this regard.

The complaint's procedure has not been revised.

The Committee points out that there is currently relatively little peace as far as complaints are concerned. The complaints received included complaints about medical care, admission of the lawyer to prison and return of funds after release (CvT unauthorized). There was also a complaint about the temporary transfer of a detainee and a number of complaints from prisoners that prison staff show little willingness to take the detainee(s) into account. In some situations, it is difficult for the Committee to form a clear picture of what actually happened because the information position is not optimal.

The legal requirement to report in writing to the Minister of Justice twice a year has not been met. The chairman indicated that the deadline for issuing a report had also passed. The reasons given are: the transfer of the chairman, the search for a new member and the lack of a point of contact at the Ministry of Justice.

2.10.3 Conclusion 2018

The current situation with regard to the presidency, the difficult communication and the lack of proper provision of information are causing a malfunctioning (internal) complaints procedure. The Council reiterates the role and responsibilities of each individual with regard to the handling of complaints.

The frequency of visits by the monthly commissioner has been changed from once a week to once a month. The Council notes that in both 2017 and 2018, the Supervisory Committee did not report to the Minister on its activities once every six months.

The Council concludes that no progress has been made in the handling and monitoring of complaints. The Council's recommendation on compliance with the legal requirement on reporting has not been followed.

The Council concludes that the CPT's recommendation on the review of the complaint's procedure has not been followed.

2.10.4 Assessment 2018

Table 9: Assessment complaint

Aspect	Criterion	2016		2018	
Legal status	Complaint	Orange	Orange	Orange	Red

Orange: Meets the relevant standards and expectations to a limited extent

Red: Does not meet the relevant standards and expectations

3 Search results: Personnel and organisation

3.1 Introduction

In the 2016 report, the Council assessed the state of personnel and organisation on the basis of four criteria. In this context, the Council made *four* recommendations to the Minister of Justice. It was also recommended to follow the recommendations formulated by the CPT that had not been followed.

The Council assesses the follow-up to the recommendations made. First, the Council sets out the criterion and then the resulting recommendation(s) of the Council. If applicable, the related and unfollowed recommendation(s) of the CPT are also displayed. The findings are then presented, followed by a conclusion and schematic assessment of the state of affairs regarding the follow-up of the recommendation(s).

3.2 Personnel care

The institution should have the personnel deployment in place qualitatively and quantitatively and encourage employee involvement in the organisation. The occupancy of posts should be in accordance with the formation. Employees must be job-trained and able to perform their job optimally. Managers check in with employees and show commitment to the primary process. Absenteeism does not exceed 5% on average on an annual basis.

3.2.1 Recommendations 2016

The recommendations made by the Council in the context of the criterion of personal care are:

- Clean up the workforce in the foreseeable future.
- Make sure to have a working sick leave policy.

The recommendations of the CPT related to this and not followed are:

- The CPT recommends that the Sint Maarten authorities take the necessary measures to increase the number of prison officers employed as well as to develop the capacity and role of prison officers, in the light of the above remarks. In parallel, the amounts of overtime should be reduced and the levels of, and reasons for, absenteeism tackled.
- The CPT recommends that all prison officers be offered regular in-service training.

3.2.2 Findings 2018

The director of the prison is on leave for an indefinite period of time. The two-person team appointed by the Minister of Justice in the first half of 2017 to assume the position of Director for a period of three months has held this position to date. The directors indicate that not all aspects of their temporary management have yet been formally regulated. They also indicate that there is a lack of the necessary support and finances from the administration.

It was also decided that the temporary management would be supported by a task force. The inspection shows that the task force has not met for months. In June 2018, the meetings started again.

The administration has not (yet) approved the function book for the prison. Dissatisfaction with the legal status still leads to reports of illness. The management of the prison believes that absenteeism has decreased, but many still label absenteeism as problematic. Some of the long-term sick have returned to work but are only available for work within the prison to a limited extent. It remains a challenge to find suitable work for these people within the setting of a prison. In addition, there are staff members who have been loaned out to other organisations, but who are still pressing the formation of the prison. A number of people have left the organisation and a few have been fired, but no training of new staff can take place after recruitment because the *Justice Academy* has not been in operation since September 2017. At the moment, no (further) training is offered to the staff. Joint training is a topic of discussion at the prison directors' meeting, but finances remain a stumbling block.

The management indicates that they are working according to a new schedule to tackle the overtime problem, among other things. One interviewee indicates that overtime has decreased, but with fewer people per shift as a result. On the day of the inspection, twelve staff members were scheduled. Of these twelve, four report as sick, two people are on holiday and one person has limited availability. Several interviewees indicate that the staffing is still below par.

3.2.3 Conclusion

The Council notes that no results have been achieved in the areas of sufficient staffing, cleaning up the workforce and a working sick leave policy. A major stumbling block remains the stagnation of the introduction of the function book.

The backlog of staff training is still current and growing. The Council points out that even if new staff are recruited, staff cannot be trained. In view of the above, the Council concludes that there is no prospect of strengthening the staff in the near future. In the Council's view, cooperation is therefore a necessary condition for finding a solution.

The Council's recommendations on cleaning up the workforce and a working sick leave policy have not been followed.

The CPT's recommendations on measures to increase the workforce and regular staff training have also not been followed.

3.2.4 Assessment

Table 10: Assessment of staff care and commitment

Aspect	Criterion	2016		2018	
Personnel and organisation	Personnel care and deployment	Orange	Light green	Orange	Orange

Orange: meets the relevant standards and expectations to a limited extent

Light green: Meets mostly, but not completely, the relevant standards

3.3 Communication

The establishment must actively communicate with its employees and environment. For this reason, employees participate in work consultations. The result of these consultations is recorded and shared. Both inside and outside the organisation, it must be known what course the institution wants to take. For this reason, the management actively communicates with the employees and chain partners.

3.3.1 Recommendations 2016

The Council's recommendation under the communication criterion is:

- Establish a formal communication structure that benefits both internal and external communication.

3.3.2 Findings 2018

During the tour by the Council's inspectors and interviews, it was made known that internal communication in general could still be improved.

A briefing takes place every morning. Other consultations do not take place structurally. According to the prisoners interviewed, communication between the staff can be described as poor, as a result of which the staff is insufficiently aware of, among other things, peculiarities that occurred during their shift. The prisoners believe that their personal safety is at risk as a result.

One interviewee indicates that communication between the prison and the Ministry of Justice is not going well. This applies in particular to the submission (or non-submission) of documents and the provision of information on the part of the Ministry.

In paragraph 2.10, the Council pointed out that several interviewees, including the Supervisory Committee, identified (external) communication from the prison management as a bottleneck. The Public Prosecutor's Office notes that communication with and from the prison is virtually nil. Requests are often not responded to or are delayed by management. As a result of the above, the OM felt compelled to inform (the Secretary-General of) the Ministry of Justice.

The prison does not have a defined formal communication structure.

3.3.3 Conclusion

The lack of communication from the prison management has spread to several chain partners and is a cause for concern for the Council. According to the Council, there should be more active communication from the management. The Council urges the Minister to pay attention to communication with and by the prison from within his own department. Establishing a formal communication structure would be a good first step.

The Council's recommendation on establishing a formal communication structure has not been followed.

3.3.4 Assessment

Table 11: Assessment of communication

Aspect	Criterion	2016		2018	
Personnel and organisation	Communication	Orange	Red	Red	Red

Red: Does not meet the relevant standards and expectations

Orange: meets the relevant standards and expectations to a limited extent

3.4 Integrity

Employees must perform their duties with integrity and within the institution there is constant attention for the theme of integrity.

3.4.1 Recommendations 2016

In its 2016 report, the Council stated that the prison must have an updated and established integrity plan. The Council had already made recommendations on this in previous reports and referred to them.

3.4.2 Findings 2018

The integrity plan for the prison is still in draft form. During the inspection, it was indicated that the integrity of some of the staff is still being questioned. Contraband still finds its way to prison and it is pointed out that the *incentives* to behave in accordance with norms are virtually non-existent.

3.4.3 Conclusion

The Council believes that it is time to adopt the integrity plan and start implementing it. Previous Council recommendations in this regard have not been implemented.

3.4.4 Assessment

Table 12: Assessment of integrity

Aspect	Criterion	2016		2018	
Personnel and organisation	Integrity				

Orange: meets the relevant standards and expectations to a limited extent

3.5 Evaluation

The establishment must regularly evaluate the various aspects of its functioning by, for example, applying the control loop plan, do, check, act. It adjusts policy and implementation on the basis of the results.

3.5.1 Recommendation 2016

The Council's recommendation in the context of the evaluation criterion is:

- Periodically evaluate the various aspects of the functioning of the prison and, if necessary, adjust policy and implementation based on the result.

3.5.2 Findings 2018

There is no periodic evaluation of the functioning of the prison.

3.5.3 Conclusion

The Council's recommendation on evaluation has not been followed.

3.5.4 Assessment

Table 13: Assessment

Aspect	Criterion	2016		2018	
Personnel and organisation	Evaluation				

Red: Does not meet the relevant standards and expectations

4 Conclusion & Recommendation

The Council looked at the follow-up to its recommendations made in 2016 to improve the legal status of prisoners and to improve organisational aspects. In doing so, the Council also took into account the recommendations of the CPT made in 2014. The Council concludes that out of a total of eighteen Council recommendations, only two have been implemented. In addition, none of the twelve recommendations of the CPT appear to have been followed. The Council is very concerned about this, because many of the recommendations touch the core of the detention system.

Overall conclusion

In 2016 and 2017, the Council (once again) called for urgent attention to be paid to the situation in the Point Blanche prison and detention center in three different (sub-)reports on the detention system. At that time, the Council considered the situation to be so serious and untenable that rapid changes were needed. A bottom line had already been exceeded at that time. It was time for action and the Council urged the prison, the Ministry of Justice and the Country of Sint Maarten to take up their responsibility. The Council was in favor of a new detention facility and considered that cooperation should be a priority in tackling the problems of prisons. In the various reports, the Council made numerous recommendations for improvement.

Although the Council assumed that a low point had been reached in early 2017 with regard to prison, the situation in 2018 was even worse. Partly as a result of the natural disaster in September 2017, the Council is forced to conclude that not much has changed substantially as a result of the deplorable situation already observed in 2016 and that the situation in the prison has even deteriorated. There have been serious violations of (inter)nationally applicable legislation and standards. In the meantime, the conditions under which people have to live and work are so bad that it is absolutely irresponsible to continue in this way. In addition, the prison is (or has not been) at all prepared for the prevention and management of calamities and, given the state of the security facilities and supervision, there are irresponsibly high risks to society. The Council also draws attention to the serious and unacceptable risks to society if the prisoners are released. At the moment, there is no resocialisation at all. According to the Council, the fact that some of the prisoners are temporarily staying abroad ensures that the situation does not get even more out of hand. However, the Council stresses that this is a special and temporary situation and that a structural solution must be provided.

Therefore, in view of the overall state of the prison and its impact on daily practice, the Council must conclude that the prison is currently unfit for detention and is also unsuitable as a place to work. There is no question of a humane detention climate and a safe workplace. Several (international) bodies have already sounded the alarm, but according to the Council, there is insufficient momentum behind the necessary decisions and their implementation.⁹

⁹ See, for example, the findings and recommendations of the Progress Committee in the reports relating to the prison. Progress Committee Sint Maarten (May 2018). Twenty-ninth report to the Ministerial Consultation for the period 1 January 2018 – 1 April 2018.

The Council therefore once again urges those responsible to take the necessary decisions and to take structural measures. The Council also sees an active role for the Kingdom in this. According to the Council, neither the prison, the Ministry of Justice nor the Country of Sint Maarten can solve the complex problem independently. The Council emphasizes once again that cooperation is required so that the prison will comply with the (inter)national laws and regulations and (CPT) standards to which the countries within the Kingdom have committed themselves as soon as possible.

The Council also refers to its review inspection called '*Penitentiary institution Sint Maarten. Follow-up inspection on internal safety and social security*', which is best read in conjunction with this report. The findings and conclusions of that report are of the same nature.

The repeated findings lead to the conclusion that the Council's recommendations are systematically not being followed. The Council notes that although the issues are being discussed - even for a long time - the constitutional system of control, supervision and safeguarding within the Country and the Kingdom is not functioning.

In the meantime, the Council has learned in detail that the Ministry of Justice is again working on a plan for the reconstruction and renovation of the prison, as well as plans for staffing, rehabilitation, alternative punishments and, in general, an improved regime. Although there have been several action plans (2010, 2014, 2016, 2017) that have not been implemented or have only been partially implemented, the limited renovation work from 2014 that has been carried out has now been undone, the Council is cautious about its optimism about the intentions on the basis of history (see also the Council's report 2017). Nevertheless, the situation of reconstruction lends itself to giving the government of Sint Maarten, the Minister of Justice in particular, the benefit of the doubt. In addition, the Council notes that the deadlines agreed between Sint Maarten and the Netherlands of 1 August for the repair of the outer wall and mid-September 2018 respectively with regard to the Plan will be monitored. The Council also expresses the expectation that a comprehensive and concrete feasible plan will be in place before or at that deadline, also with guarantees for continuity after implementation. To the extent that proper progress has not been made by then, the Council's mechanism for making examinations and recommendations has been exhausted.

4.1 Recommendations of the Council and the CPT

Legal status

Using nine criteria from an assessment framework developed by the Council, the Council assessed the status of prisoners' legal status in 2016. In this context, the Council made a total of thirteen recommendations in 2016. In 2018, it appears that two recommendations were followed, and eleven recommendations were not followed (see Table 14).

Personnel & organisation

In 2016, the Council assessed the state of the human resources organisation on the basis of four criteria. The Council made four recommendations. The inspection in 2018 shows that none of the recommendations were followed (see Table 14).

CPT Recommendations

In addition, the Council recommended that the twelve recommendations of the CPT not followed should be implemented. In 2018, the Country of Sint Maarten does not appear to have followed any recommendations (see Table 16).

State of affairs recommendations Council and CPT

Table 14 shows the state of affairs regarding the follow-up to the eighteen Council recommendations.

Table 14: State of affairs, follow-up of the Council's recommendations regarding the legal status and personnel and organisation

Council recommendations 2016	State of affairs 2018
<i>Legal status of prisoners</i>	
1. Use of the Judicial Information System	Not followed
2. Detainment Documents	Not followed
3. Recording the intake process	Not followed
4. House rules	Not followed
5. Informing prisoners and recording them	Not followed
6. Library update	Not followed
7. Policy (financial) compensation	Not followed
8. New construction	Not followed
9. Cell locks	Not followed
10. Chairs	Followed
11. Spiritual Counselor	Not followed
12. Sanctioning	Followed
13. Reports of the Supervisory Committee	Not followed
<i>Personnel & organisation</i>	
14. Workforce cleanup	Not followed
15. Working sick leave policy	Not followed
16. Formal communication structure	Not followed
17. Evaluation	Not followed

18. Follow-up of CPT recommendations	Not followed
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Table 15 shows the *overall* assessment of the criteria in 2016 and the assessment based on the findings in 2018.

Table 15: Assessment of the criteria of the Council in relation to the legal status and personnel and organisation

Aspect	Criterion	2016		2018	
<i>Legal status</i>	1. Lawful detainment	Orange	Light green	Orange	Orange
	2. House rules	Light green	Light green	Light green	Orange
	3. Program	Orange	Red	Red	Red
	4. Accommodation and hygiene	Orange	Orange	Orange	Red
	5. Food & Shop	Dark green	Dark green	Dark green	Dark green
	6. Social contact	Dark green	Light green	Light green	Light green
	7. Access to care	Light green	Orange	Orange	Orange
	8. Sanctions and measures	Light green	Light green	Dark green	Dark green
	9. Complaint	Orange	Orange	Orange	Red
<i>Personnel & organisation</i>	Personnel care and deployment	Orange	Light green	Orange	Orange
	Communication	Orange	Red	Red	Red
	Integrity	Orange	Orange	Orange	Red
	Evaluation	Red	Red	Red	Red

Red: Does not meet the relevant standards and expectations

Orange: meets the relevant standards and expectations to a limited extent

Light green: Predominantly but not fully compliant with the relevant standards

Dark green: Fully compliant with relevant standards and expectations

Finally, Table 16 gives an overview of the status of the implementation of the CPT's recommendations.

Table 16: Overview of the state of affairs of the follow-up of CPT's recommendations regarding the legal status of prisoners and personnel and organisation

CPT recommendation	2016	2018
<i>Legal status</i>		

1. Informing about release date	Not followed	Not followed
2. Developing an activity program	Not followed	Not followed
3. Prison overcrowding	Not followed	(temporarily) followed up
4. Living space per prisoner	Not followed	(temporarily) followed up
5. Review kitchen staff	Not followed	Not followed
6. Paid phones	Not followed	Not followed
7. Doctor's deployment and dentist's access/resources	Not followed	Not followed
8. Medication	Not followed	Not followed
9. Provision for psychiatric disorders	Not followed	Not followed
10. Revision of the complaint's procedure	Not followed	Not followed
<i>Personnel & organisation</i>		
11. Staff capacity	Not followed	Not followed
12. Staff training	Not followed	Not followed

4.2 Council Recommendation 2018

The Council urges the Minister of Justice to give priority to the recommendations that have not yet been implemented.

Colophon

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