

"Article 10. Convicted prisoners serving an actual sentence of less than three months as a rule serve it in a House of Detention. As it is not feasible at present to have very short sentences served only in prisons, a reservation must be entered concerning the provisions of article 10, paragraph 2 (a).

"Since the provisions in question were drawn up, major changes have taken place in opinions on the treatment of prisoners; it is increasingly thought that there is a need for a selection criterion based on personality rather than on age. The Kingdom of the Netherlands does not wish to cut itself off from this development by binding itself to the provisions of article 10, paragraph 2 (b) and paragraph 3 (second sentence).

"Article 12, paragraphs 1, 2 and 4. The Kingdom of the Netherlands, a party to the Covenant, consists constitutionally of the countries of the Netherlands and the Netherlands Antilles.

"Admission and residence are regulated differently in these two countries. The Kingdom of the Netherlands wishes to establish beyond doubt that article 12 does not imply that legal residence in one of the countries confers a right of entry to the other.

"Article 14, paragraph 3 (d). Legislation of the Kingdom of the Netherlands in general accords with the principles set out in this article regarding the treatment of persons against whom criminal proceedings have been instituted.

"On some points, however, the provisions of this legislation do not accord with the precise wording of part of this article.

"The provision of article 14, paragraph 3 (d) that everyone must be tried in his presence is also a principle in the legislation of the Kingdom, but there are some exceptions. Under article 292 of the Code of Criminal Procedure of the Netherlands the presiding judge of the court may order a witness to be heard in the absence of the person charged with a criminal offence, provided the person charged is informed immediately of what has taken place in his absence; under article 303 a person charged with a criminal offence who disturbs the silence or order of the court and is warned by the presiding judge to no avail may be removed; under article 304 questions concerning the mental faculties of the person charged may be dealt with in his absence; and under article 500j questions concerning the personality or living conditions of the person charged may be dealt with in his absence.

"The Code of Criminal Procedure of the Netherlands Antilles contains provisions to the same effect. The Kingdom of the Netherlands takes the view that these provisions facilitate the proper administration of justice and they should therefore be retained.

"Article 14, paragraph 5. The principle of article 14, paragraph 5 that everyone convicted of a criminal offence must have the right to have his conviction and sentence reviewed by a higher tribunal is also found in the legislation of the Kingdom. Serious offences committed in the discharge of a public office by a specific small group of persons with governmental responsibilities, however, under article 178 of the Constitution are judged by the Supreme Court of the Netherlands as the tribunal having sole jurisdiction. The safeguarding of the individual's rights under the law, which is also the rationale behind article 14, paragraph 5 of the Covenant is here sought in the doubling of the number of judges which the Court normally comprises (ten instead of five). The prosecution in such cases is undertaken by the Procurator General to the Supreme Court, who, unlike ordinary public prosecutors, is appointed for life and is thus independent of the Government.

"Article 14, paragraph 7. It is not clear whether article 14, paragraph 7, lays down only the national or also the international application of the *ne bis in idem* principle. Under article 68 of the Criminal Code of the Netherlands and article 70