



Report of Various Size – Fieldwork research (FRANET)

Criminal Detention in the EU – Conditions and Monitoring

Country Report The Netherlands

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1. Cell space

- a) What is the national standard for cell space available to prisoners in m²? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a) The national minimum standard for cell space is (with a margin of deviation of 10%) a floor area of 10 square meters, a width of 2 meters and a height of 2.5 meters. This standard is laid down in article 3 of the ministerial decree 'Rules on requirements accommodations penal institutions' (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*).¹ The legal basis of this decree is article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) which allows the Minister of Justice and Security to lay down rules concerning the requirements that a cell accommodation must satisfy.²

b) The national minimum standard concerning cell space is not applicable to penal institutions with a very limited security (*Zeer Beperkt Beveiligde Inrichtingen*) or a limited security (*Beperkt Beveiligde Inrichtingen*).³ The Penitentiary Principles Act (*Penitentiaire beginselenwet*) distinguishes between five types of penal institutions with increasing degrees of security: institutions with a very limited security; institutions with a limited security; institutions with a normal security; institutions with an extensive security; institutions with extra security.⁴ The national minimum standard for cell space of 10 square meters, a width of 2 meters and a height of 2.5 meters only applies for penal institutions institutions with a normal security; institutions with an extensive security; institutions with extra security. Article 12, subsection 3 of the ministerial decree 'Rules on requirements accommodations penal institutions' stipulates that for these institutions accommodation spaces are designed and arranged in such a way that they offer the individual detainee sufficient space, daylight, heating and ventilation.⁵

¹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 3, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=3&z=2005-01-01&g=2005-01-01>

² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 16, Subsection 5, available at :

<http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=IV¶graaf=1&artikel=16&z=2017-03-01&g=2017-03-01>

³ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 12, subsection 1, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=4&artikel=12&z=2005-01-01&g=2005-01-01>

⁴ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 13, available at :

http://wetten.overheid.nl/BWBR0009709/2017-03-01#HoofdstukIII_Artikel13

⁵ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 12, subsection 1, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=4&artikel=12&z=2005-01-01&g=2005-01-01>

c) Reports of the National Preventive mechanisms covering the years 2015⁶ and 2016⁷ do not contain any information or recommendations on cell space.

2. Sanitary Facilities

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?
- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?
- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a) The national minimum standard with regard to access to toilets is that each cell has one toilet which can be screened in such a way that the privacy of the detainee is sufficiently guaranteed. This standard is laid down in article 9 of the ministerial decree 'Rules on requirements accommodations penal institutions' (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*).⁸ The legal basis of this decree is article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) which allows the Minister of Justice and Security to lay down rules concerning the requirements that a cell accommodation must satisfy.⁹

b) The national minimum standard with regard to access to bathing facilities is that each cell has one washing area which can be screened in such a way that the privacy of the detainee is sufficiently guaranteed. This standard is laid down in article 9 of the ministerial decree 'Rules on requirements accommodations penal institutions' (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*).¹⁰ The legal basis of this decree is article

⁶ The Netherlands, National Preventive Mechanism (2016), *Annual Report 2015. Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2016/11/02/annual-report-npm-jaarverslag-2015/Annual+Report+%28NPM+jaarverslag+2015%29.pdf

⁷ The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf

⁸ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 9, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=3&z=2005-01-01&g=2005-01-01>

⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 16, Subsection 5, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=9&z=2005-01-01&g=2005-01-01>

¹⁰ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 9, available at:

16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) which allows the Minister of Justice and Security to lay down rules concerning the requirements that a cell accommodation must satisfy.¹¹

c) The provision of sanitary facilities is regulated by article 9 of the ministerial decree 'Rules on requirements accommodations penal institutions' (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*).¹² The legal basis of this decree is article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) which allows the Minister of Justice and Security to lay down rules concerning the requirements that a cell accommodation must satisfy.¹³

d) The national minimum standard concerning sanitary facilities is not applicable to penal institutions with a limited security (*Beperkt Beveiligde Inrichtingen*).¹⁴ Article 12, subsection 4 of the ministerial decree 'Rules on requirements accommodations penal institutions' (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*) stipulates that in case the accommodation spaces in penal institutions with a limited security do not have sanitary facilities (toilet, washing area) then it is sufficiently available elsewhere in the building.¹⁵

e) Reports of the National Preventive mechanisms covering the years 2015¹⁶ and 2016¹⁷ do not contain any information or recommendations on sanitary facilities.

3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
 - a. Outdoors (within the boundary of the prison)?
 - b. Indoors in the common area?
- b) Are sports or other recreational and educational facilities available to prisoners? If so what types?
- c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=3&z=2005-01-01&g=2005-01-01>

¹¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 16, Subsection 5, available at :

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=9&z=2005-01-01&g=2005-01-01>

¹² The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 9, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=3&z=2005-01-01&g=2005-01-01>

¹³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 16, Subsection 5, available at :

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=9&z=2005-01-01&g=2005-01-01>

¹⁴ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 12, subsection 1, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=4&artikel=12&z=2005-01-01&g=2005-01-01>

¹⁵ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 12, subsection 4, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=4&artikel=12&z=2005-01-01&g=2005-01-01>

¹⁶ The Netherlands, National Preventive Mechanism (2016), *Annual Report 2015. Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2016/11/02/annual-report-npm-jaarverslag-2015/Annual+Report+%28NPM+jaarverslag+2015%29..pdf

¹⁷ The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf

- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a) The national minimum standard prisoners can spend outdoors is one hour each day. This standard is set by article 49, subsection 3 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*).¹⁸ This standard also applies for prisoners in solitary confinement and prisoners in a punishment cell. The national minimum standard for time spent indoors in the common area is six hours a week for recreation purposes. This standard is set by article 49, subsection 2 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*).¹⁹ These are minimal standards set by the Penitentiary Principles Act (*Penitentiaire beginselenwet*). Article 48, subsection 2 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) entitles each prisoner to physical exercise and practice of sports for a minimum period of twice three quarters of an hour per week.²⁰

The Penitentiary Order (*Penitentiaire maatregel*), a General Administrative Order (*Algemene maatregel van Bestuur*) which implements part of the Penitentiary Principles Act, stipulates that a day programme of activities and visits should be available to prisoners. The Penitentiary Order differentiates between two types of day programmes: one for prisoners in unrestricted association, and one for prisoners in restricted association.²¹ The day programme for prisoners in unrestricted association has a minimum duration of 59 hours a week and includes activities and visits.²² The day programme for prisoners in restricted association consists of activities and visits lasting between 18 and 63 hours a week.²³

b) Sports and other recreational and educational facilities are available. Each penitentiary institution has a set of house rules in which the content of the day programmes is laid down. The ministerial decree 'Regulations on Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiaire inrichtingen*) gives a model for these house rules.²⁴ It stipulates the following activities of which a day programme consists (*programma-onderdelen*): airing; labour; physical exercise and or sport; education; recreation; library; shopping; visits; making telephone calls; contacts with the media.

¹⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 49, Subsection 3, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VIII¶graaf=2&artikel=49&z=2017-03-01&g=2017-03-01>

¹⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 49, Subsection 2, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VIII¶graaf=2&artikel=49&z=2017-03-01&g=2017-03-01>

²⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 48, Subsection 2, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VIII¶graaf=2&artikel=48&z=2017-03-01&g=2017-03-01>

²¹ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), Article 3, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009398&hoofdstuk=2&artikel=3&z=2015-01-01&g=2015-01-01>

²² The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), Article 3, subsection 2, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009398&hoofdstuk=2&artikel=3&z=2015-01-01&g=2015-01-01>

²³ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), Article 3, subsection 3, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009398&hoofdstuk=2&artikel=3&z=2015-01-01&g=2015-01-01>

²⁴ The Netherlands, Regulations on Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiaire inrichtingen*), 21 August 1998, available at: <http://wetten.overheid.nl/BWBR0009805/2015-12-01>

c) Time spent in prison is regulated by the following legal instruments: Penitentiary Principles Act (*Penitentiaire beginselenwet*)²⁵; The Penitentiary Order (*Penitentiaire maatregel*)²⁶; Regulations on Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiaire inrichtingen*)²⁷; and Regulation for Selection, Placement and Transfer of Prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*)²⁸.

d) Different standards are applicable to different regimes. As already mentioned above, the day programme for prisoners in unrestricted association²⁹ is different from the day programme for prisoners in restricted association.³⁰ Article 19 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that for each prisoner a custodial sentence or detention order shall be carried out in an institution in unrestricted or restricted association, unless placing in an individual regime is required.³¹ Prisoners placed in an individual regime are not entitled to the same programmes as prisoners or prisoners in restricted association. The governor of the penitentiary institution decides the extent to which the prisoner is allowed to participate in individual or group activities offered by the day programme as laid down in the house rules of the penitentiary institution.³²

e) Reports of the National Preventive mechanisms covering the years 2015³³ and 2016³⁴ do not contain any information or recommendations on time out of cells.

4. Solitary confinement

- a) What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

²⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), 18 June 1998, available at: <http://wetten.overheid.nl/BWBR0009709/2017-03-01>

²⁶ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), 23 February 2009, available at: <http://wetten.overheid.nl/BWBR0009398/2015-01-01>

²⁷ The Netherlands, Regulations on Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), 21 August 1998, available at: <http://wetten.overheid.nl/BWBR0009805/2015-12-01>

²⁸ The Netherlands, Regulation for Selection, Placement and Transfer of Prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), 15 August 200, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0011558&z=2017-09-01&g=2017-09-01>

²⁹ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), Article 3, subsection 2, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009398&hoofdstuk=2&artikel=3&z=2015-01-01&g=2015-01-01>

³⁰ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), Article 3, subsection 3, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009398&hoofdstuk=2&artikel=3&z=2015-01-01&g=2015-01-01>

³¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 19, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=V¶graaf=1&artikel=22&z=2017-03-01&g=2017-03-01>

³² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 22, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=V¶graaf=1&artikel=22&z=2017-03-01&g=2017-03-01>

³³ The Netherlands, National Preventive Mechanism (2016), *Annual Report 2015. Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2016/11/02/annual-report-npm-jaarverslag-2015/Annual+Report+%28NPM+jaarverslag+2015%29..pdf

³⁴ The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf

- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a). Article 24 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) provides for solitary confinement for a period of two weeks as an order measure which the governor of a penitentiary prison can impose on a prisoner.³⁵ The governor may extend this period each time by a maximum period of two weeks if he or she concludes that the necessity for solitary confinement still exists.

Article 51 subsection 1 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) provides for confinement in a punishment cell for a maximum period of two weeks as a disciplinary punishment to be imposed by the governor of the prison.³⁶

In the penitentiary institutions the same cells are used as punishment cells and cells for solitary confinement.³⁷

Solitary confinement is regulated by articles 24³⁸ and 51³⁹ of the Penitentiary Principles Act and by the ministerial decree 'Rules punishment cell and isolation cell in penitentiary institution (*Regeling straf- en afzonderingscel penitentiaire inrichtingen*)'⁴⁰ which lays down further rules concerning punishment cells and isolation cells.

b) Between the detention regimes no different standards concerning solitary confinement are applicable.

c) Reports of the National Preventive mechanisms covering the years 2015⁴¹ and 2016⁴² do not contain any information or recommendations on solitary confinement.

³⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 24, available at : <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=V¶graaf=2&artikel=24&z=2017-03-01&g=2017-03-01>

³⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 51, subsection 1, available at : <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=IX&artikel=51&z=2017-03-01&g=2017-03-01>

³⁷ The Netherlands, Inspectorate of Security and Justice (*Inspectie Veiligheid en Justitie*) (2012), Plaatsing in isolatie. Inspectierapport Themaonderzoek, available at: www.inspectie-jenv.nl/binaries/inspectie-venj/documenten/rapporten/2012/06/13/plaatsing-in-isolatie/Plaatsing+in+isolatie.pdf

³⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 24, available at : <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=V¶graaf=2&artikel=24&z=2017-03-01&g=2017-03-01>

³⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 51, subsection 1, available at : <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=IX&artikel=51&z=2017-03-01&g=2017-03-01>

⁴⁰ The Netherlands, Rules punishment cells and isolation cells in penitentiary institutions (*Regeling straf- en afzonderingscel penitentiaire inrichtingen*), 14 July 1999, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0010524&z=1999-07-15&g=1999-07-15>

⁴¹ The Netherlands, National Preventive Mechanism (2016), *Annual Report 2015. Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2016/11/02/annual-report-npm-jaarverslag-2015/Annual+Report+%28NPM+jaarverslag+2015%29..pdf

⁴² The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf

5. Access to healthcare

- a) What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)
- b) Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)
- c) Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes.
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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a).Article 42 subsection 1 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) entitles a prisoner to the care of a physician or a substitute physician connected with the institution.⁴³ The act only mentions the physician but the explanatory memorandum to the Penitentiary Principles Act (*Penitentiaire beginselenwet*) also mentions that a prisoner should have access to a dentist and a psychiatrist connected with the institution.⁴⁴

⁴³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 41, subsection 1, available at : <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VIII¶graaf=1&artikel=42&z=2017-03-01&g=2017-03-01>

⁴⁴ The Netherlands, Minister of Justice (*Minster van Justitie*) (1995), Explanatory memorandum to Penitentiary Principles Act (*Memorie van toelichting bij Penitentiaire beginselenwet*), available at: <https://zoek.officielebekendmakingen.nl/kst-24263-3.pdf>

The ministerial decree 'Regulation Model House Rules for Penitentiary Institutions' (*Regeling model huisregels penitentiaire inrichtingen*) stipulates that each penitentiary institution has a physician/general practitioner, dentist and psychiatrist.⁴⁵

Article 42 subsection 4 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the governor of the institution shall provide that (a) the prisoner is provided with the drugs and diets prescribed by the physician connected with the institution; (b) the prisoner is given the treatment on the direction of the physician; (c) the prisoner is transferred to a hospital or other establishment if for the treatment prescribed by the physician.⁴⁶

b). In the Dutch health care system a person with health complaints goes first to his or her general practitioner who refers him or her to specialist care. This system also applies to the penitentiary institutions where prisoners go first to the physician connected to the institution. This physician will prescribe specialist care if necessary. Article 42 subsection 4 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the governor of the institution shall ensure that (a) the prisoner is provided with the drugs and diets prescribed by the physician connected with the institution; (b) the prisoner is given the treatment on the direction of the physician; (c) the prisoner is transferred to a hospital or other establishment if for the treatment prescribed by the physician.⁴⁷ The legal framework for placing prisoners into a psychiatric hospital, addiction treatment clinic or hospital are articles 30, 31, 32, 33 of the ministerial regulation 'Regulation for Selection, Placement and Transfer of Prisoners' (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*).⁴⁸

Article 47 of the Penitentiary Order (*Penitentiaire maatregel*) stipulates that the State shall bear the costs of medical care of the prisoner sentenced to or detained in an institution if as a compulsory insured the prisoner cannot claim benefits under the Health Insurance Act.⁴⁹

c). Access to health care is regulated by the following legal instruments: Penitentiary Principles Act (*Penitentiaire beginselenwet*)⁵⁰; The Penitentiary Order (*Penitentiaire maatregel*)⁵¹; Regulation Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiaire inrichtingen*)⁵²; Regulation for Selection, Placement and Transfer of Prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*)⁵³.

d.) Between the detention regimes no different standards concerning access to health care are applicable.

⁴⁵ The Netherlands, Regulations Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), 21 August 1998, available at: <http://wetten.overheid.nl/BWBR0009805/2015-12-01>

⁴⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 41, subsection 1, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VIII¶graaf=1&artikel=42&z=2017-03-01&g=2017-03-01>

⁴⁷ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Article 41, subsection 1, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VIII¶graaf=1&artikel=42&z=2017-03-01&g=2017-03-01>

⁴⁸ The Netherlands, Regulation for Selection, Placement and Transfer of Prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), Articles 30-33, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0011558&hoofdstuk=VII&z=2017-09-01&g=2017-09-01>

⁴⁹ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), Article 47, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009398&hoofdstuk=11&artikel=47&z=2015-01-01&g=2015-01-01>

⁵⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), 18 June 1998, available at: <http://wetten.overheid.nl/BWBR0009709/2017-03-01>

⁵¹ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), 23 February 2009, available at: <http://wetten.overheid.nl/BWBR0009398/2015-01-01>

⁵² The Netherlands, Regulations Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), 21 August 1998, available at: <http://wetten.overheid.nl/BWBR0009805/2015-12-01>

⁵³ The Netherlands, Regulation for Selection, Placement and Transfer of Prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), 15 August 200, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0011558&z=2017-09-01&g=2017-09-01>

e) Reports of the National Preventive mechanisms covering the years 2015⁵⁴ and 2016⁵⁵ do not contain any information or recommendations on access to health care.

6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)
- b) What age category falls under this specific juvenile prison regime?
- c) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- d) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

Please cite any relevant sources

a). Juvenile prisoners are detained in special youth custodial institutions. The Dutch penitentiary system is ruled by two acts: the Penitentiary Principles Act (*Penitentiaire beginselenwet*)⁵⁶ that applies for institutions detaining adults and the Youth Custodial Institutions Act (*Beginnselenwet justitiële jeugdinrichtingen*)⁵⁷ that applies for institutions detaining persons held under the juvenile criminal code.

⁵⁴ The Netherlands, National Preventive Mechanism (2016), *Annual Report 2015. Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2016/11/02/annual-report-npm-jaarverslag-2015/Annual+Report+%28NPM+jaarverslag+2015%29.pdf

⁵⁵ The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf

⁵⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), 18 June 1998, available at: <http://wetten.overheid.nl/BWBR0009709/2017-03-01>

⁵⁷ The Netherlands, Youth Custodial Institutions Act (*Beginnselenwet justitiële jeugdinrichtingen*), 2 November 2000, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0011756&z=2017-03-01&q=2017-03-01>

b.) Juveniles aged 12 to 17 who commit an offence are penalised under juvenile criminal law.⁵⁸ The court may also apply juvenile criminal law to adults aged 18 to 22 years because on 1 April 2014 an act amending the Criminal Code and the Code of Criminal Proceedings took effect which extended the upper age limit for sentencing a young adult under juvenile criminal law to 22 years.⁵⁹ When minors of 16 or 17 years old are sentenced by adult criminal law, they will be detained in a Youth Custodial Institution as long as they are still a minor.

c.) The Youth Custodial Institutions Act (*Beginselenwet justitiële jeugdinrichtingen*) differentiates between a variety of regimes addressing the special needs of the detainee.⁶⁰

7. Special measures in place to protect prisoners from violence

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)
- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?
- c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmby-regions-and-countries/>

Please cite any relevant sources

a). The legal framework for the maintenance of order and safety in penitentiary institutions is laid down in chapter VI (articles 29-35) of the Penitentiary Principles Act.⁶¹ All prison staff members follow training courses at the training institute of the Custodial Institutions Agency (this is the Dutch Prison Service). Training includes aggression regulation, detection of psychiatric disorders and in taking action to achieve de-escalation. These courses form part of the compulsory initial training. Some are repeated every year, others once every two years.⁶² At each penitentiary institution, prisoners are screened at arrival. At this screening an assessment will

⁵⁸ The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2018), 'Penalties for juvenile offenders', Web page, available at: <https://www.government.nl/topics/sentences-and-non-punitive-orders/penalties-juvenile-offenders>

⁵⁹ The Netherlands, Bulletin of Acts and Decrees (2013), 'Wet van 27 november 2013 tot wijziging van het Wetboek van Strafrecht, het Wetboek van Strafvordering en enige andere wetten in verband met de invoering van een adolescentenstrafrecht', Volume 2013, No. 485, available at: <https://zoek.officielebekendmakingen.nl/stb-2013-485.pdf>

⁶⁰ The Netherlands, Youth Custodial Institutions Act (*Beginselenwet justitiële jeugdinrichtingen*), Paragraph 1, articles 22-23a, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0011756&hoofdstuk=VI¶graaf=1&z=2017-03-01&g=2017-03-01>

⁶¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), Articles 29-35, available at: <http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=VI&z=2017-03-01&g=2017-03-01>

⁶² Kingdom of Netherlands, (2017), *The Netherlands. Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure. Seventh periodic reports of States parties due in 2017*, Genève, Committee against Torture, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fNLD%2f7&Lang=en

be made whether there is a risk for fellow prisoners or for self-destructive behaviour.⁶³ Each cell is provided with an intercomsystem by which the prisoner can contact a prison officer 24 hours a day.⁶⁴ Each penitentiary institution has its own Supervisory Committee nominated by the Minister of Justice and Security which, among other things, handles complaints lodged by prisoners.⁶⁵ The complaints procedure is laid down in chapter X1 (articles 60-68) of the Penitentiary Principles Act.⁶⁶

b). No special measures are in place to protect LGBTI prisoners. The Dutch government has stated in its latest report submitted under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that prison officers and medical personnel are alert to issues related to violence against persons because of their sexual orientation and gender but it adds that this subject has not yet been explicitly incorporated into official training or courses.⁶⁷

c). Measures to protect prisoners from violence are regulated by the following legal instruments: (*Penitentiare beginselenwet*)⁶⁸; The Penitentiary Order (*Penitentiare maatregel*)⁶⁹; Regulations on Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiare inrichtingen*)⁷⁰; ; and Rules on requirements accommodations penal institutions' (*Regeling eisen verblijfsruimte penitentiare inrichtingen*).⁷¹

d.) Between the detention regimes no different standards apply concerning the protection of prisoners.

e.) Reports of the National Preventive mechanisms covering the years 2015⁷² and 2016⁷³ do not contain any special measures in place to protect prisoners from violence.

8. Responsible authorities

⁶³ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2015), *Toetsingskader Doorlichtingen Penitentiare Inrichtingen* (Assessment Framework Penitentiary Institutions), available at: <https://www.inspectie-jenv.nl/binaries/inspectie-venj/documenten/toetsingskaders/2015/02/05/toetsingskader-doorlichtingen-penitentiare-inrichtingen---onderlegger/Toetsingskader+Doorlichtingen+penitentiare-inrichtingen+--Onderlegger.pdf>

⁶⁴ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiare inrichtingen*), Article 7, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=7&z=2005-01-01&g=2005-01-01>

⁶⁵ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), Article 7, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=II&artikel=7&z=2017-03-01&g=2017-03-01>

⁶⁶ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), Articles 60-68, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0009709&hoofdstuk=XI&z=2017-03-01&g=2017-03-01>

⁶⁷ Kingdom of Netherlands, (2017), *The Netherlands. Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure. Seventh periodic reports of States parties due in 2017*, Genève, Committee against Torture, available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fNLD%2f7&Lang=en

⁶⁸ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), 18 June 1998, available at:

<http://wetten.overheid.nl/BWBR0009709/2017-03-01>

⁶⁹ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), 23 February 2009, available at:

<http://wetten.overheid.nl/BWBR0009398/2015-01-01>

⁷⁰ The Netherlands, Regulations on Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiare inrichtingen*), 21 August 1998, available at: <http://wetten.overheid.nl/BWBR0009805/2015-12-01>

⁷¹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiare inrichtingen*), Article 3, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0010175¶graaf=2&artikel=3&z=2005-01-01&g=2005-01-01>

⁷² The Netherlands, National Preventive Mechanism (2016), *Annual Report 2015. Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2016/11/02/annual-report-npm-jaarverslag-2015/Annual+Report+%28NPM+jaarverslag+2015%29..pdf

⁷³ The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? *(Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website, physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)*
- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

Please cite any relevant sources

a). The Dutch Extradition Act (*Overleveringswet*) transposes the EAW Framework Decision. Article 47 of the Dutch Extradition Act (*Overleveringswet*) stipulates that the public prosecutor who issues the European Arrest Warrants shall provide the executing judicial authority with further information on request.⁷⁴ This means that additional information requests about European Arrest Warrants issued by the Netherlands are handled not by one central authority. These request are handled but by the public prosecutors who issued the EAW and work at one of the 10 regional sections of the Dutch Public Prosecution Service (*Openbaar Ministerie*).

b)The Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) is the authority which monitors the conditions in the Netherlands and makes recommendations to improve these conditions.⁷⁵ For the monitoring of detention conditions it uses a special assessment framework.⁷⁶

Besides the Inspectorate for Justice and Security there is the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*). This is an independent body established by a special act.⁷⁷ The Council has two tasks: giving advice and administering justice. As a Court of Appeal, the Council reviews decisions made regarding persons serving a prison sentence or custodial measure: prisoners, offenders under a hospital order and juveniles in young offenders' institutions and secure youth care centres.

We want to make the following observations about the Dutch National Preventive Mechanism (NPM) and its latest reports. In the Netherlands the following bodies are designated as the National Preventive Mechanism : the Inspectorate of Justice and Security (*Inspectie Justitie en veiligheid*) which also acts as coordinating body; the Health and Youth Care Inspectorate (*Inspectie Gezondheidszorg en Jeugd*); and the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*). The first two bodies are integral part of the national government. The Inspectorate of Justice and Security is integral part of the Ministry of Justice and Security. The Health and Youth Care Inspectorate is integral part of the Ministry of Health, Welfare and Sport. Both Inspectorates are housed with their respective ministries and are connected to them financially, logistically and in terms of supervision. The Council for the Administration of Criminal Justice and Protection of Juveniles is an independent body established by a special act. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the UN expressed exressed its concern about the autonomy of the

⁷⁴ The Netherlands, Extradition Act (*Overleveringswet*) , Article 47, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0016664&hoofdstuk=III&artikel=47&z=2017-06-17&g=2017-06-17>

⁷⁵ The Netherlands, Decree for the Organisation of the Ministry of Justice and Security (*Organisatiebesluit Ministerie van Justitie en Veiligheid*), Article 60, available at:

<http://wetten.overheid.nl/jci1.3:c:BWBR0040293&hoofdstuk=9&artikel=60&z=2018-01-01&g=2018-01-01>

⁷⁶ The Netherlands, Inspectorate of Security and Justice (*Inspectie Veiligheid en Justitie*) (2015), Toetsingskader Doorlichtingen Penitentiaire Inrichtingen (*Assessment Framework Penitentiary Institutions*), available at: <https://www.inspectie-jenv.nl/binaries/inspectie-venj/documenten/toetsingskaders/2015/02/05/toetsingskader-doorlichtingen-penitentiaire-inrichtingen---onderlegger/Toetsingskader+Doorlichtingen+penitentiaire+inrichtingen+-+Onderlegger.pdf>

⁷⁷ The Netherlands, Act Establishing the Council for the Administration of Criminal Justice and Protection of Juveniles 2015 (*Instellingswet Raad voor strafrechtstoepassing en jeugdbescherming 2015*), 1 April 2015, available at: <http://wetten.overheid.nl/BWBR0036510/2015-07-01>

Dutch NPM in a report made of its first visit to the Netherlands. The Subcommittee states that “the NPM on the whole is largely invisible. Without a separate legislative mandate, specified NPM tasks, specially allocated resources and systematic cooperation with other national and international stakeholders.”⁷⁸ The latest reports of the Dutch NPM are very small. The latest report, covering 2016, was published in December 2017 and contains 2 pages of information on monitoring issues.⁷⁹

⁷⁸ United Nations, Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2016), Report on the visit made by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the purpose of providing advisory assistance to the national preventive mechanism of the Kingdom of the Netherlands. Report to the State Party, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fNLD%2f1&Lang=en

⁷⁹ The Netherlands, National Preventive Mechanism (2017), *Annual Report 2016 : Annual review of the Dutch National Preventive Mechanism*, available at: www.inspectievenj.nl/binaries/inspectie-venj/documenten/jaarverslagen/2017/12/04/annual-report-national-preventive-mechanism-2016/Annual+Report+National+Preventive+Mechanism+2016.pdf