

Criminal Detention in the EU:

Conditions and Monitoring

Update of FRA's Criminal Detention Database

(FRANET)

Country: The Netherlands

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Part I: National standards

1. Cells

a. Cell space

The national minimum standard for cell space is (with a 10% margin of deviation) a floor area of 10 square meters, a width of 2 meters and a height of 2.5 meters. A cell may accommodate one or two detainees. This standard is laid down in Article 3 of the Ministerial Regulation ‘Rules on requirements accommodations penal institutions’ ([Regeling eisen verblijfsruimte penitentiaire inrichtingen](#)).¹

The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.²

This standard applies to pre-trial detention and post-trial detention.

This standard predates the Dorobantu ruling of the CJEU and is inside the requirements set by this ruling.³

The requirements spelled out in para. 34 of the Commission recommendation of 8.12.2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions⁴ is observed.

b. Access to natural light and fresh air, cell equipment, furniture, and facilities

The national standards for cell equipment, furniture and facilities are laid down in the Ministerial Regulation ‘Rules on requirements accommodations penal institutions’ ([Regeling eisen verblijfsruimte penitentiaire inrichtingen](#)).⁵ These standards apply to pre-trial detention and post-trial detention.

Article 6 of the Regulation stipulates that each cell must have a central heating system that can heat the cell to 20 degrees Celsius and that each cell must have a ventilation system.⁶ Article 10 of the Regulation

¹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 3](#).

² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16, Sub 5.](#)

³ For the CJEU’s calculation requirements, please see: CJEU, [C-128/18, Dorobantu](#) [GC], Judgment of 15 October 2019, oper. part.

⁴ [RECOMMENDATION of 8.12.2022 on procedural rights of suspects and accused persons subject to pre-trial detention and on material detention conditions](#).

⁵ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [1 November 1999](#).

⁶ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 6](#).

stipulates that each cell must have a mirror, a wardrobe, a writing desk, a chair, a notice board, a bed, and two wall sockets.⁷ For a cell housing two detainees, Article 10 stipulates that a cell must have two beds, two chairs and two wardrobes.

Article 4 of the Regulation stipulates that each cell has a secure window in the wall. The window must have a surface area of at least 0.75 square meter unless this cannot be met on the grounds of a statutory provision.⁸

Article 7 of the Regulation stipulates that each cell must have an intercom or bell that enables an official or employee of the penal institution to be called up from the cell at any time, and a radio and TV connection point.⁹

Article 8 of the Regulation stipulates that each cell is provided with lighting of sufficient intensity that can be operated from inside or outside.¹⁰

Article 9 of the Regulation stipulates that each cell must have a toilet and a washing facility (a shower for example) which can be screened off in such a way that the privacy of the detainee is sufficiently guaranteed.¹¹

The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.¹²

c. Video-surveillance of cells

The national standards for video-surveillance of cells are laid down in the Ministerial Regulation ‘Rules on requirements accommodations penal institutions’ institutions’ (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*).¹³ These standards apply to pre-trial detention and post-trial detention.

Article 10a of the Regulation stipulates that a cell may be equipped with an observation camera, so that the whole cell can be observed.¹⁴

Article 10b, subsection 1 of the Regulation stipulates under which conditions video surveillance (day and night) may be used.¹⁵ First of all, video surveillance may only be imposed on detainees placed under an “individual regime” in all institutions or on detainees in institutions with extra security. Secondly,

⁷ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 10](#).

⁸ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 4](#).

⁹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 7](#).

¹⁰ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 8](#).

¹¹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 9](#).

¹² 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>

¹³ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [1 November 1999](#).

¹⁴ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 10a](#).

¹⁵ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 10b](#).

video surveillance (day and night) may be imposed by the governor of a penitentiary institution only under certain conditions: (1) if this is necessary in the interest of maintaining order in the institution, (2) if this is necessary for the undisturbed enforcement of the custodial sentence, (3) if this is necessary in connection with the mental or physical condition of the detainee, (4) if the escape of or the deterioration of the health of the detainee concerned would cause great social unrest or would seriously damage the relations of the Netherlands with other States or with international organisations.

Article 10b, subsection 2 of the Regulation stipulates that, prior to the decision to use video surveillance, the governor of the institution must consult the physician connected to the institute.¹⁶

Article 10b, subsection 3 of the Regulation stipulates that the duration of the video surveillance shall not exceed two weeks. The governor may prolong the video surveillance for a maximum of two weeks each time, if s/he considers that it is still necessary.¹⁷

The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.¹⁸

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023).¹⁹ It covers the year 2021 and some later developments. It contains no recommendations regarding cell space, access to natural light and fresh air, cell equipment, furniture, and facilities, and video-surveillance of cells.

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023. With a question about how it assesses cells in detention facilities concerning cell space, access to natural light, fresh air, cell equipment, facilities available to detainees, as well as the availability of video-surveillance of cells The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Justice and Security Inspectorate.

2. Allocation of detainees

a. Geographical allocation

The process of allocation or placement of detainees is ruled by the Ministerial Regulation 'Rules on Selection, Placement and Transfer of Detainees' (*Regeling selectie, plaatsing en overplaatsing van*

¹⁶ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 10b](#).

¹⁷ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 10b](#).

¹⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16, Subsection 5](#)

¹⁹ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

[gedetineerden](#)).²⁰ Article 24, subsection 1 of this Regulation stipulates that the initial placement of a detainee in post-trial detention shall be in a penitentiary institution located in the district of prosecution, unless there is an increased risk of flight or a social risk.²¹

b. Allocation within detention facilities

The process of allocation or placement of detainees in post-trial detention inside the penitentiary institutions is ruled by the Ministerial Regulation ‘Rules on Selection, Placement and Transfer of Detainees’ (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*).²² Article 25 subsection 1 of this Regulation stipulates that in post-trial detention a special selection officer assesses, on the basis of the information available concerning the behaviour, person and personality traits of the convicted person, which regime is most appropriate for the convicted person, as well as whether the convicted person qualifies for placement or allocation in a special facility or department.²³

c. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²⁴ It covers the year 2021 and some later developments. It contains no recommendations regarding the allocation of detainees.

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question on how it assesses the allocation of detainees. The Inspectorate declined to answer this question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

3. Hygiene and sanitary conditions (note – section 11 contains specific questions concerning female detainees)

a. Access to toilets

The national minimum standard in pre-trial detention and post-trial detention with regard to access to toilets is that each cell must have one toilet that can be screened off in such a way that the privacy of the detainee is sufficiently guaranteed. This standard is laid down in Article 9 of the Ministerial

²⁰ The Netherlands, Rules on selection, placement and transfer of prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [1 November 2020](#).

²¹ The Netherlands, Rules on selection, placement and transfer of prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 24, subsection 1](#).

²² The Netherlands, Rules on selection, placement and transfer of prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [1 November 2020](#).

²³ The Netherlands, Rules on selection, placement and transfer of prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 25, subsection 1](#).

²⁴ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

Regulation ‘Rules on requirements accommodations penal institutions’ ([Regeling eisen verblijfsruimte penitentiaire inrichtingen](#)).²⁵

The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.²⁶

b. Access to showers and warm and running water

The national minimum standard with regard to access to bathing facilities in pre-trial detention and post-trial detention is that each cell must have one washing facility (a shower for example) that can be screened off in such a way that the privacy of the detainee is sufficiently guaranteed. This standard is laid down in Article 9 of the Ministerial Regulation ‘Rules on requirements accommodations penal institutions’ ([Regeling eisen verblijfsruimte penitentiaire inrichtingen](#)).²⁷

The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.²⁸

c. Access to sanitary products

What is the national standard with regard to access to basic sanitary products, such as shampoo or soap?

Article 44, subsection 4 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), stipulates that the Governor of the institution shall provide that the prisoner is enabled to care properly for his appearance and physical hygiene.²⁹

Every penitentiary institution in pre-trial detention and post-trial detention has a set of house rules that stipulate which products, including hygiene products, must be available in penitentiary institutions. The Ministerial Regulation ‘Regulation on Model House Rules for Penitentiary Institutions’ ([Regeling model huisregels penitentiaire inrichtingen](#)) provides a model for these house rules.³⁰ The Regulation specifically mentions shampoo, soap, toothpaste, toothbrush, comb, toilet paper and shaving kit for the male detainee, sanitary towels for the female detainee and hygiene products for children.

d. Hygienic conditions in cells

The national standard with regard to cleaning and cleanliness of cells is laid down in the Ministerial Regulation ‘Rules on requirements accommodations penal institutions’ institutions’ ([Regeling eisen verblijfsruimte penitentiaire inrichtingen](#)).³¹ These standards apply to pre-trial detention and post-trial detention.

²⁵ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 9](#).

²⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16, Subsection 5](#).

²⁷ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 9](#).

²⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16, Subsection 5](#).

²⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 44, Subsection 4](#).

³⁰ The Netherlands, Regulation on Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), [21 August 1998](#).

³¹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [1 November 1999](#).

Article 2 stipulates that, when a detainee is placed in a cell, the cell must be delivered clean and the detainee must keep it clean during his or her stay.³²

The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.³³

e. NPM assessment .

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.³⁴ It covers the year 2021 and some later developments. It contains no assessment or recommendations regarding cell hygiene and sanitary conditions.

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023, with a question on how it assess hygiene and sanitary conditions and access to toilets, showers and sanitary products in detention facilities. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Council for the Administration of Criminal Justice and Protection of Juveniles*) and the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) H which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

4. Nutrition

a. Quality and quantity of food

Article 44, subsection 1 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), stipulates that the Governor of the penitentiary institution shall provide that the prisoner is provided with food.³⁵

Dutch legislation and regulations do not contain any rules about the quality and quantity of the food.³⁶

b. Drinking water

Dutch legislation and regulations do not contain any rules about the availability of clean drinking water.³⁷

As each cell is provided by a washing facility (a shower for example) as stipulated under article 9 of the Ministerial Regulation 'Rules on requirements accommodations penal institutions' (*Regeling eisen*

³² The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 2](#).

³³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16, Subsection 5](#).

³⁴ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

³⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 44, Subsection 3](#).

³⁶ The Netherlands, Knowledge Centre Supervisory Board (*Kenniscentrum Commissie van Toezicht*) (2024), 'Personal care' ([Persoonlijke verzorging](#)), Webpage.

³⁷ The Netherlands, Knowledge Centre Supervisory Board (*Kenniscentrum Commissie van Toezicht*) (2024), 'Personal care' ([Persoonlijke verzorging](#)), Webpage.

verblijfsruimte penitentiaire inrichtingen)³⁸ and in the Netherlands tap water is of such a high quality³⁹ detainees can drink straight from the tap without worrying about quality or safety.

c. Dietary requirements

Article 44, subsection 3 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the Governor of the institution must ensure that the detainee's religion or philosophy is taken into account as much as possible in the provision of food.⁴⁰ On 16 January 2017, the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) decided that the Governor of a penitentiary institution should take into account the specific wishes of a transgender detainee to shower separately.⁴¹

It is clear from case law that food prepared in accordance with the dietary laws of the detainee's religion must be available.⁴² At the same time, a detainee without religious conviction should not be forced to eat food that is in accordance with the dietary laws of a specific religion.⁴³ The Governor of the penitentiary institution should not place a detainee in a multi-occupancy cell with one micro-wave if the detainee in question eats food prepared in accordance with the dietary laws of the detainee's religion.⁴⁴

Article 42, subsection 4 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), stipulates that the Governor of the institution shall ensure that the detainee is supplied with the drugs and diets prescribed by the physician connected with the institution or his or her substitute.⁴⁵ All these standards apply to pre-trial detention and post-trial detention.

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.⁴⁶ It covers the year 2021 and some later developments. It contains no recommendations or assessment regarding nutrition.

³⁸ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), [Article 9](#).

³⁹ The Netherlands, National Institute for Public Health and the Environment (Rijksinstituut voor Volksgezondheid en Milieu) (2024) '[Drinking water](#)', Webpage.

⁴⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 44, Subsection 3](#).

⁴¹ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2017), [Case no. RSJ 16/2399/GA](#), 16 January 2017.

⁴² The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2002), [Case no. RSJ 02/0219/GA](#), 15 April 2002.

⁴³ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2008), [Case no. RSJ 08/1681/GA](#), 15 December 2008.

⁴⁴ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2022), [Case no. RSJ R-20/6988/GA](#), 5 January 2022.

⁴⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 41, subsection 4](#).

⁴⁶ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

On 23 august 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from to 10 to 22 May 2022.⁴⁷

The CPT recommends that the Dutch authorities take the necessary steps to monitor the nutritional quality of the food provided to persons deprived of their liberty in prison in the Netherlands. The CPT would also like to be informed whether the new contract for food supply has been signed, whether the food quality has improved, and whether the different dietary requirements of detained persons are being catered for adequately.⁴⁸

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023, with a question about how it assesses the nutrition standards in detention facilities. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (Council for the Administration of Criminal Justice and Protection of Juveniles) and the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the questions and referred us to the Inspectorate of Justice and Security.

5. Time spent outside the cell and outdoors

a. Time spent outdoors

The national minimum standard for time spent outdoors (within the boundary of the institution) by detainees is at least one hour per day. This standard is laid down in Article 49, subsection 3 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*).⁴⁹ This standard also applies to detainees in solitary confinement and detainees in a punishment cell.

Case law indicates that the right to spend time outdoors is so fundamental that the penitentiary institution must make extra efforts not to restrict a detainee in this right.⁵⁰ Only in very exceptional cases, a detainee may not be given the opportunity to spend time outdoors. If time spent outdoors is restricted by the governor of the penitentiary, the institution must offer appropriate adequate compensation to the detainees.

⁴⁷ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

⁴⁸ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p 42.

⁴⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 49, Subsection 3](#).

⁵⁰ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2020), [Case no. RSJ R-20/6768/GA](#), 12 November 2020.

Recent case law indicates that the governor of a penitentiary institution may limit the national minimum standard of one hour per day for time spent outdoors by detainees in order to prevent the spread of infectious diseases such as COVID-19.⁵¹

All these standards apply to pre-trial detention and post-trial detention.

b. Time spent indoors

The national minimum standard for time spent indoors in the common area by detainees is at least six hours per week for recreational purposes. This standard is laid down by Article 49, second subsection, of the Penitentiary Principles Act (*Penitentiare beginselenwet*)⁵². All these standards apply to pre-trial detention and post-trial detention.

c. Recreational facilities

Article 48, subsection 2 of the Penitentiary Principles Act (*Penitentiare beginselenwet*) entitles every detainee in pre-trial detention and post-trial detention to physical exercise and sporting activities for a period of at least two times three quarters of an hour per week.⁵³

Article 49, subsection 1 of the Penitentiary Principles Act (*Penitentiare beginselenwet*) entitles every detainee in pre-trial detention and post-trial detention to participate in recreational activities for at least six hours a week.⁵⁴

The Penitentiary Order (*Penitentiare maatregel*), a General Administrative Order (*Algemene maatregel van Bestuur*) which implements part of the Penitentiary Principles Act, stipulates that a daily programme of activities and visits must be available to detainees in pre-trial detention and post-trial detention.⁵⁵ The Penitentiary Order distinguishes between two types of daily programmes: a basic programme and a plus programme.⁵⁶

The basic programme comprises 42.5 hours per week, of which at least 22.5 hours are offered for activities and visits.⁵⁷ The programme consists of the statutory basic activities as laid down in the Penitentiary Principles Act, such as recreation, exercise and work.

The plus programme comprises 59 hours per week, of which 28 hours per week are offered for activities and visits.⁵⁸ The plus programme consists of the same components as the basic programme, but the programme is expanded by adjusting the content, freedoms and intensity of the programme. Activities aimed at a return to society are more intensively dealt with. More training, return activities and behavioural interventions are offered than in the basic programme.

Each penitentiary institution in pre-trial detention and post-trial detention has a set of house rules, in which the content of the daily programmes is laid down. The Ministerial Regulation 'Regulations on

⁵¹ The Netherlands, Complaints Commission -Supervisory Committee of Penitentiary Institution of Krimpen aan den IJssel (*Beklagcommissie - Raad van Toezicht van Penitentiare Inrichting Krimpen aan den IJssel*) (2021), [Case no. KC 2021/032](#), 9 April 2021.

⁵² The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 49, Subsection 2](#).

⁵³ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 48, Subsection 2](#).

⁵⁴ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), Article 48, Subsection 2.

⁵⁵ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#) and [Article 5](#).

⁵⁶ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#).

⁵⁷ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#).

⁵⁸ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#).

Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiaire inrichtingen*) provides a model for these house rules.⁵⁹ It specifies the activities that must be included in the daily programme: airing (time spent outdoors), labour, physical exercise and or sport, education, recreation, library, shopping, receiving visits, making telephone calls, contacts with the media. The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.⁶⁰

d. Educational activities

Article 48, subsection 1 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*)⁶¹ entitles every detainee in pre-trial detention and post-trial detention to follow educational courses and to participate in other educational activities in so far as these are compatible with the nature and duration of the detention. This article⁶² also entitles every detainee to use a library facility once a week.

Article 48, subsection 4 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*)⁶³ stipulates that the government shall establish rules concerning the conditions under which a compensation can be given for the possible costs incurred by the prisoner in following educational courses and participating in other educational activities if these are not provided in the institution.

The Penitentiary Order (*Penitentiaire maatregel*), a General Administrative Order (*Algemene maatregel van Bestuur*) which implements part of the Penitentiary Principles Act, stipulates that a daily programme of activities and visits must be available to detainees in pre-trial detention and post-trial detention.⁶⁴ The Penitentiary Order distinguishes between two types of daily programmes: a basic programme and a plus programme.⁶⁵

The basic programme comprises 42.5 hours per week, of which at least 22.5 hours are offered for activities and visits.⁶⁶ The programme consists of the statutory basic activities as laid down in the Penitentiary Principles Act, such as recreation, exercise and work. In addition to the statutory basic activities, detainees may participate in extra activities.

The plus programme comprises 59 hours per week, of which 28 hours per week are offered for activities and visits.⁶⁷ The plus programme consists of the same components as the basic programme, but the programme is expanded by adjusting the content, freedoms and intensity of the programme. Activities aimed at a return to society are more intensively dealt with. More training, return activities and behavioural interventions are offered than in the basic programme.

Each penitentiary institution in pre-trial detention and post-trial detention has a set of house rules, in which the content of the daily programmes is laid down. The Ministerial Regulation 'Regulations on Model House Rules for Penitentiary Institution (*Regeling model huisregels penitentiaire inrichtingen*)

⁵⁹ The Netherlands, Regulations on Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), [21 August 1998](#).

⁶⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16, Subsection 5](#).

⁶¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 48, Subsection 1](#).

⁶² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 48, Subsection 1](#).

⁶³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 48, Subsection 4](#).

⁶⁴ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#) and [Article 5](#).

⁶⁵ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#).

⁶⁶ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#).

⁶⁷ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#).

provides a model for these house rules.⁶⁸ It specifies the activities that must be included in the daily programme: airing (time spent outdoors), labour, physical exercise and or sport, education, recreation, library, shopping, receiving visits, making telephone calls, contacts with the media. The legal basis for this Regulation is Article 16, subsection 5, of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.⁶⁹

e. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.⁷⁰ It covers the year 2021 and some later developments. It contains no recommendations regarding nutrition.

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from to 10 to 22 May 2022.⁷¹ The report of the CPT contains the following recommendations on time spent outside the cell and outdoors: The CPT encourages the Dutch authorities to make further efforts to provide additional out-of-cell recreational time for all sentenced prisoners, especially in the evenings.”⁷²

“The CPT recommends that the Dutch authorities take the necessary steps to ensure that persons on remand are offered a range of purposeful activities of a varied nature (work, preferably with vocational value, education, sport, recreation/association). Further, at Dordrecht Prison, persons on remand should be allowed to have additional out-of-cell recreational time (at least two hours a day) to cater for their basic needs (such as preparing their own food, taking a shower, cleaning their cells and clothes, or making phone calls).”⁷³

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question on how it assesses of adequacy and meaningfulness of the time spent outside the cell The Inspectorate declined to answer the questions. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de*

⁶⁸ The Netherlands, Regulations on Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), [21 August 1998](#).

⁶⁹ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 16, Subsection 5](#).

⁷⁰ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

⁷¹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

⁷² Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 42.

⁷³ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).. p. 43.

Mens), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

6. Solitary confinement

a. Placement in solitary confinement

The national standards regarding solitary confinement in pre-trial detention and post-trial detention are laid down in Article 24⁷⁴ and Article 51⁷⁵ of the Penitentiary Principles Act (*Penitentiare beginselenwet*) and by the Ministerial Regulation ‘Rules punishment cell and isolation cell in penitentiary institutions’ (*Regeling straf- en afzonderingscel penitentiare inrichtingen*)⁷⁶, in which further rules are laid down concerning solitary confinement.

Article 24 of the Penitentiary Principles Act (*Penitentiare beginselenwet*) provides for solitary confinement for a period of two weeks as an order measure that the governor of a penitentiary institution may impose on a detainee.⁷⁷ The Governor may extend this period each time by a maximum period of two weeks if he or she concludes that the need for solitary confinement still exists. Article 24 of the Penitentiary Principles Act does not stipulate a maximum of times this measure can be extended. The article does also not foresee a judicial review in case of a number of extensions either.

Article 51 subsection 1 of the Penitentiary Principles Act (*Penitentiare 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 penitentiary institution.⁷⁸ A disciplinary solitary confinement has a maximum limit of two week and cannot be ordered sequentially.

The legal basis of the Ministerial Regulation ‘Rules on punishment cell and isolation cell in penitentiary institutions’ (*Regeling straf- en afzonderingscel penitentiare inrichtingen*)⁷⁹ are Article 24, subsection 7,⁸⁰ and Article 55, subsection 3,⁸¹ of the Penitentiary Principles Act (*Penitentiare beginselenwet*) on the basis of which the Minister for Legal Protection may lay down rules concerning the requirements that a cell accommodation must meet.⁸²

Recent case law provides that detainees diagnosed with COVID-19 may be placed in solitary confinement as a measure to prevent the spread of the Coronavirus.⁸³

b. Monitoring of detainees

National standards with regard to the checking and monitoring of the well-being of detainees in solitary confinement in pre-trial detention and post-trial detention are laid down in the Penitentiary Principles Act (*Penitentiare beginselenwet*) and the Ministerial Regulation ‘Rules on punishment cell

⁷⁴ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 24](#).

⁷⁵ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 51, subsection 1](#).

⁷⁶ The Netherlands, Rules on punishment cells and isolation cells in penitentiary institutions (*Regeling straf- en afzonderingscel penitentiare inrichtingen*), [14 July 1999](#).

⁷⁷ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 24, subsection 6](#).

⁷⁸ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 51, subsection 1](#).

⁷⁹ The Netherlands, Rules on punishment cells and isolation cells in penitentiary institutions (*Regeling straf- en afzonderingscel penitentiare inrichtingen*), [14 July 1999](#).

⁸⁰ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 24, subsection 7](#).

⁸¹ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 55, subsection 1](#).

⁸² The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 16, Subsection 5](#).

⁸³ The Netherlands, Supervisory Committee of Penitentiary Institution of Arnhem (*Raad van Toezicht van Penitentiare Inrichting Arnhem*) (2021), [Case no. C 2021/027](#), 12 March 2021.

and isolation cell in penitentiary institutions' ([Regeling straf- en afzonderingscel penitentiaire inrichtingen](#)) ⁸⁴.

Article 24 subsection 6 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) stipulates that if the solitary confinement lasts longer than 24 hours, the governor of the institution must notify the Supervisory Committee (*Raad van Toezicht*) and the physician connected with the institution immediately.⁸⁵ The physician may visit the detainee and examine whether there are medical reasons to extend or terminate the measure.⁸⁶ The institution doctor therefore supervises the measure.

c. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.⁸⁷ It covers the year 2021 and some later developments. It contains a reference to the advice 'Disciplinary punishment and isolation in detention' published by the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) in January 2022.⁸⁸ In the report the Council questions the humanity of confining people in isolation and states that this isolation can lead to traumas and hinder proper rehabilitation. It contains 14 recommendations for the responsible Minister:

1. Swiftly develop a policy on disciplinary punishments and separation in detention to supplement existing policies, based on the resocialisation principle and the principle of minimum restrictions.
2. Ensure that the policy on disciplinary punishments and separation, including the yet to be developed additional policy, are known to everyone concerned with detention practice. Also ensure that it is possible to consult this policy online via official publications.
3. Ensure that the basic principles of proportionality, subsidiarity and effectiveness are set out explicitly in the Penitentiary Principles Act
4. Add a greater obligation to state reasons for disciplinary punishments and public order measures that lead to far-reaching restrictions on the freedoms of prisoners to Chapters V and IX of the Penitentiary Principles Act. This applies to separation in particular.
5. Work together with the Governors of the penitentiary institutions to achieve a situation in which separation is only used as a public order measure and not as a disciplinary punishment
6. Ask governors of the penitentiary institutions to jointly formulate indication points for the use of disciplinary punishments
7. To prevent solitary confinement, ask governors of the penitentiary institutions to put provisions in place for a prisoner in separation to have contact with a behavioural expert on a daily basis, after which

⁸⁴ The Netherlands, Rules on punishment cells and isolation cells in penitentiary institutions (*Regeling straf- en afzonderingscel penitentiaire inrichtingen*), [14 July 1999](#) .

⁸⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 24, subsection 6](#) .

⁸⁶ The Netherlands, Knowledge Centre Supervisory Board (*Kenniscentrum Commissie van Toezicht*) (2020), 'Medical care for detainees' (['Medische zorg voor gedetineerden'](#)), Webpage.

⁸⁷ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

⁸⁸ The Netherlands, Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2022), Disciplinary punishment and isolation in detention (['Disciplinair straffen en afzonderen in detentie'](#)).

the behavioural expert advises the governors of the penitentiary institutions on a daily basis on whether or not separation should be continued

8. Ask the governors of the penitentiary institutions to focus more on the use of inventive and restorative special conditions when imposing suspended disciplinary punishments.

9. Take steps to review the role and duties of prison officers.

10. Ensure that prison managements boards are provided with good-quality (legal) support and that the imposed disciplinary punishments have an adequate underlying reasoning

11. Invest in training that will enable prison staff to recognise behaviour caused by psychological problems and problems prompted by a slight mental impairment. Ensure that the training provided also improves knowledge of ethnic and intercultural aspects.

12. Ensure that a sufficient number of places are available in specialist facilities like extra care facilities and forensic psychiatric centres for prisoners with psychological problems

13. Improve the management information system so that it becomes a source of reliable figures.

14. Analyse, monitor and evaluate the number of separations and the reasoning that has led to the separation in order to reduce the number of separations.

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from 10 to 22 May 2022.⁸⁹ The report of the CPT contains the following assessments and recommendations on solitary confinement:

“As regards the disciplinary procedure, several detained persons interviewed both at Dordrecht and Vught Prisons indicated that they were not given the opportunity to defend themselves effectively or obtain legal advice or representation when placed in disciplinary solitary confinement. Some persons who had been held in disciplinary solitary confinement for more than seven days had not been allowed by prison officers to exercise their right to complain within the time-limit required by the complaints procedure (see paragraph 176). Further, foreign nationals also complained that the disciplinary decisions were only written in Dutch language and had not been translated to them. The CPT recommends that these shortcomings be remedied.”⁹⁰

“The CPT is of the view that healthcare staff should be very attentive to the situation of detained persons placed under solitary confinement and should visit them immediately after placement and, thereafter, at least once per day to provide them with prompt medical assistance and treatment as required. The CPT reiterates its recommendation that the Dutch authorities take the necessary steps,

⁸⁹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

⁹⁰ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 55.

including at the legislative level, to ensure that the role of healthcare staff vis-à-vis persons held in solitary confinement be reviewed, in light of the above remarks.”⁹¹

“The CPT reiterates its recommendation that cells used for disciplinary solitary confinement, at Dordrecht Prison and Vught Prison and, if appropriate, in other prisons of the country, be equipped with a table and chair, if necessary fixed to the floor, in addition to a proper bed. Further, when it is deemed necessary to place detained persons under video-surveillance, steps should be taken to ensure that their privacy is preserved when they are using a toilet, for example by pixelating the image of the toilet area.”⁹²

“In respect of the solitary confinement cells in the BPG unit at Vught Prison, the delegation received multiple complaints about the poor cleaning and ventilation of the cells. Detained persons previously held there told the delegation that they were asked to clean the cells in which they had been placed after their stay. During the delegation’s visit, the cells smelled of urine. The CPT recommends that the cells be cleaned properly after each use and that the ventilation system is maintained.”⁹³

“Further, the management of Dordrecht Prison informed the delegation about the plan to create time-out rooms at the EZV unit to allow agitated persons to calm down without the need to have recourse to placement in disciplinary solitary confinement. The CPT encourages the Dutch authorities to promote the use of time-out rooms in all prisons in the Netherlands.”⁹⁴

“The CPT recommends that the Dutch authorities ensure that persons placed in solitary confinement can effectively exercise their right to complain within the required timelines. Further, it encourages the Dutch authorities to explore whether the Complaints Committees still have the necessary resources to effectively deal with the high number of complaints submitted.”⁹⁵

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question on how it assesses the practice of placing detainees in solitary confinement. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We have incorporated these reports into this

⁹¹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 55.

⁹² Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 55.

⁹³ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 55-56.

⁹⁴ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 56.

⁹⁵ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 59.

report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the questions and referred us to the Inspectorate of Justice and Security.

7. Work and education of detainees to promote social reintegration

a. General measures to promote social reintegration

The Penitentiary Order (*Penitentiaire maatregel*), a General Administrative Order (*Algemene maatregel van Bestuur*) which implements part of the Penitentiary Principles Act (*Penitentiaire beginselenwet*), stipulates that a daily programme of activities and visits must be available to detainees in pre-trial detention and post-trial detention.⁹⁶ The Penitentiary Order distinguishes between two types of daily programmes: a basic programme and a plus programme.⁹⁷ The basic programme comprises 42.5 hours per week, of which at least 22.5 hours are offered for activities and visits.⁹⁸ The programme consists of the statutory basic activities as laid down in the Penitentiary Principles Act, such as recreation, exercise and work. In addition to the statutory basic activities, detainees may participate in extra activities.

The plus programme comprises 59 hours per week, of which 28 hours per week are offered for activities and visits.⁹⁹ The plus programme consists of the same components as the basic programme, but the programme is expanded by adjusting the content, freedoms and intensity of the programme. Activities aimed at a return to society are more intensively dealt with.¹⁰⁰ More training, return activities and behavioural interventions are offered than in the basic programme. The plus programme has an evening programme two evenings a week. Additional activities are offered on the weekend. If no activities are offered in the morning or afternoon, the detainees are allowed to stay on the wing outside the cell.

In the final stage of their imprisonment, detainees with a sentence shorter than 1 year can participate in the penitentiary programme.¹⁰¹ A penitentiary programme consists of several activities through which the prison sentence is carried out outside the prison walls.¹⁰² The prisoner is outside the prison walls and is supervised by the probation service (possibly with an ankle bracelet). Conditions may be attached to the penitentiary programme.¹⁰³ The penitentiary programme may last up to one-sixth of the imposed sentence.¹⁰⁴ A penitentiary programme can therefore last up to eight weeks. The activities in a penitentiary programme are aimed at teaching social skills, increasing the chances of employment after release, providing education, offering specialist care, or otherwise give substance to the preparation for return to society.

⁹⁶ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#) and [Article 5](#).

⁹⁷ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#).

⁹⁸ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#).

⁹⁹ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 3](#).

¹⁰⁰ The Netherlands, Rules on the selection, placement and transfer of prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 1](#).

¹⁰¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 2](#).

¹⁰² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 1](#).

¹⁰³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 4](#).

¹⁰⁴ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 2](#).

Resocialisation or social reintegration is further given form by granting reintegration leave under article 26 of the Penitentiary Principles Act (*Penitentiare beginselenwet*).¹⁰⁵ The statutory regulations concerning this leave are laid down in the Regulation on Temporary Leaves from the Institution (*Regeling tijdelijk verlaten van de inrichting*).¹⁰⁶ The legal basis for this Regulation is Article 26, subsection 3, of the Penitentiary Principles Act (*Penitentiare beginselenwet*), on the basis of which the responsible minister may lay down rules concerning the requirements that a cell accommodation must meet.¹⁰⁷

b. Access to work

Article 47 of the Penitentiary Principles Act (*Penitentiare beginselenwet*), stipulates that the detainee is entitled to participate in paid work and that the Governor shall provide that work is available for the detainees in so far as the nature and duration of the detention does not prevent it.¹⁰⁸ The statutory regulations concerning remunerated work are laid down in the Regulation on Employment Detainees (*Regeling arbeid gedetineerden*).¹⁰⁹ The legal basis for this Regulation is Article 47, subsection 4, of the Penitentiary Principles Act (*Penitentiare beginselenwet*), on the basis of which the responsible Minister may lay down rules concerning the requirements that a cell accommodation must meet.¹¹⁰

c. Access to education

The Penitentiary Order (*Penitentiare maatregel*), a General Administrative Order (*Algemene maatregel van Bestuur*) which implements part of the Penitentiary Principles Act (*Penitentiare beginselenwet*), stipulates that a daily programme of activities and visits must be available to detainees in pre-trial detention and post-trial detention.¹¹¹ The Penitentiary Order distinguishes between two types of daily programmes: a basic programme and a plus programme.¹¹² The basic programme comprises 42.5 hours per week, of which at least 22.5 hours are offered for activities and visits.¹¹³ The programme consists of the statutory basic activities as laid down in the Penitentiary Principles Act, such as recreation, exercise, work and education. In addition to the statutory basic activities, detainees may participate in extra activities. The basic programme has no evening programme and a limited weekend programme. If there are no activities, the detainees stay in their cells.

The plus programme comprises 59 hours per week, of which 28 hours per week are offered for activities and visits.¹¹⁴ The plus programme consists of the same components as the basic programme, but the programme is expanded by adjusting the content, freedoms and intensity of the programme. Activities aimed at a return to society or reintegration into society are more intensively dealt with.¹¹⁵ More training or education, return activities and behavioural interventions are offered than in the basic programme. The plus programme has an evening programme two evenings a week. Additional activities

¹⁰⁵ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 26](#).

¹⁰⁶ The Netherlands, Regulation on Temporary Leaves from the Institution (*Regeling tijdelijk verlaten van de inrichting*), [6 November 1998](#).

¹⁰⁷ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 26, subsection 3](#).

¹⁰⁸ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 47](#).

¹⁰⁹ The Netherlands, Regulation on Employment Detainees (*Regeling arbeid gedetineerden*), [27 April 1998](#).

¹¹⁰ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 47, Subsection 4](#).

¹¹¹ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#) and [Article 5](#).

¹¹² The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#).

¹¹³ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#).

¹¹⁴ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 3](#).

¹¹⁵ The Netherlands, Rules on the selection, placement and transfer of prisoners (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 1](#).

are offered on the weekend. If no activities are offered in the morning or afternoon, the detainees are allowed to stay on the wing outside the cell.

In the final stage of their imprisonment, detainees with a sentence shorter than one year can participate in the penitentiary programme.¹¹⁶ A penitentiary programme consists of several activities through which the prison sentence is carried out outside the prison walls.¹¹⁷ The detainee during the penitentiary programme is outside the prison walls and is supervised by the probation service (possibly with an ankle bracelet). Conditions may be attached to the penitentiary programme.¹¹⁸ The penitentiary programme may last up to one-sixth of the imposed sentence.¹¹⁹ A penitentiary programme can therefore last up to eight weeks. The activities in a penitentiary programme are aimed at teaching in social skills, increasing the chances of employment after release, providing education, offering specialist care, or otherwise give substance to the preparation for return to society.

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.¹²⁰ It covers the year 2021 and some later developments. It contains no recommendations on work and education of detainees to promote social reintegration.

On 26 June 2023 the Inspectorate of Justice and Security published a report about so-integration of detainees.¹²¹ The Inspectorates concludes that the cooperation between the penitentiary institutions, the probation services and municipalities in the context of reintegration has improved since the a major reform in 2021, but that intensified cooperation is necessary. This is to prevent detainees from running into problems after their detention because, for example, they lack housing or income. There are still factors that hinder cooperation that should be tackled. These are: (1) Too many tasks for the number of hours available causing a big workload for people working for the reintegration of detainees, and (2) poor information sharing between the penitentiary institutions, the probation services and municipalities

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 202 with a question on how it assesses your assessment of the availability and usefulness of work and education available to detainees. The Inspectorate declined to answer this question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

¹¹⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 2](#).

¹¹⁷ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 1](#).

¹¹⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 4](#).

¹¹⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 4, subsection 2](#).

¹²⁰ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

¹²¹ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), Working together for a fresh start. Report on reintegration during and after detention ([Samen werken aan een nieuwe start. Rapport re-integratie tijdens en na detentie](#)).

8. Healthcare (note – section 11 contains specific questions concerning female detainees)

a. Access to healthcare

The national standard with regard to access to medical services in in pre-trial detention and post-trial detention is laid down in the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) and delegated legislation like the Penitentiary Order ([Penitentiare maatregel](#)) and the Regulation on Model House Rules for Penitentiary Institutions ([Regeling model huisregels penitentiaire inrichtingen](#)). [The standard is comparable to the general population. In the Dutch health care system a person with health complaints first goes 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, if necessary, prescribe specialist care, if necessary.]

Article 42 subsection 1 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) entitles a detainee to treatment by a physician or a substitute physician connected with the institution.¹²² The Act only mentions the physician but the explanatory memorandum to the Penitentiary Principles Act also states that a prisoner must have access to a dentist and a psychiatrist connected with the institution.¹²³

The Ministerial Regulation ‘Regulation on Model House Rules for Penitentiary Institutions’ ([Regeling model huisregels penitentiaire inrichtingen](#)) stipulates that in every penitentiary institution a detainee must have access to a physician/general practitioner, dentist and psychiatrist.¹²⁴

Article 42 subsection 3 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that the governor of the institution ensures that the physician connected with the institution or his or her substitute a) is regularly available for consultation, b) is available at other times, if this is necessary in the interest of the health of the detainees, c) examines the detainees for their suitability to participate in work, sport or other activities.¹²⁵

Article 42 subsection 4 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that the governor of the institution shall ensure that a) the medicines and diets prescribed by the physician connected with the institution or his or her substitute are administered to the detainee, b) the treatment prescribed by the physician connected with the institution or his or her substitute is given to the detainee, c) the detainee is transferred to a hospital or other establishment, if the treatment referred to in b is carried out there.¹²⁶

¹²² The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 42, subsection 1](#).

¹²³ The Netherlands, Minister of Justice (*Minster van Justitie*) (1995), Explanatory memorandum to Penitentiary Principles Act (*Memorie van toelichting bij Penitentiare beginselenwet*).

¹²⁴ The Netherlands, Regulation on Model House Rules for Penitentiary Institutions (*Regeling model huisregels penitentiaire inrichtingen*), [21 August 1998](#).

¹²⁵ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 42, subsection 3](#).

¹²⁶ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 42, subsection 4](#).

Article 47 of the Penitentiary Order ([Penitentiare maatregel](#)) stipulates that the State shall bear the costs of medical care of the detainee.¹²⁷

b. Availability of medical staff

National standards in pre-trial detention and post-trial detention concerning the availability of qualified medical and nursing personnel are laid down in the Penitentiary Order ([Penitentiare maatregel](#)).

Article 21a, subsection 2 of the Penitentiary Order ([Penitentiare maatregel](#)) stipulates that in institutions designated for the care of detainees with special needs in relation to their mental health condition, a sufficient number of psychiatric trained nursing staff must be present twenty-four hours a day, seven days a week.¹²⁸

Article 21a, subsection 3 of the Penitentiary Order ([Penitentiare maatregel](#)) stipulates that medical treatment must be carried out by a physician or nurse who has sufficient expertise to carry out this treatment and if sufficient facilities are available for this purpose.¹²⁹

c. Medical examination upon admission

Upon arrival at a penitentiary institution in pre-trial detention and post-trial detention, the detainee has an interview with a nurse from the institution's medical service. The nurse examines the mental and physical condition of the detainee, determines what care is needed and prepares a medical file.¹³⁰

d. Preventive care

There are no standards concerning preventive care laid down in law or regulations.

The Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) or the Dutch prison implements a policy aimed at preventing, detecting and treating infectious diseases.¹³¹ Detainees at increased risk of tuberculosis are screened upon entry into the penitentiary institution are screened for the presence of tuberculosis (TB) by taking a lung X-ray. Detainees receive screening and possibly treatment of hepatitis C.

e. Specialised care

National standards relating to the provision of specialist care in pre-trial detention and post-trial detention are laid down in the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) and the Ministerial Regulation 'Rules on Selection, Placement and Transfer of Prisoners' ([Regeling selectie, plaatsing en overplaatsing van gedetineerden](#)).

In the Dutch health care system, a person with health complaints first goes 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, if necessary, prescribe specialist care, if necessary.

¹²⁷ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 47](#).

¹²⁸ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 21a, subsection 2](#).

¹²⁹ The Netherlands, Penitentiary Order (*Penitentiare maatregel*), [Article 21a, subsection 3](#).

¹³⁰ The Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2021), 'Procedure arrival detainee' (['Procedure binnenkomst gedetineerde'](#)), Web page.

¹³¹ The Netherlands, Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) (2022), Care in detention ([Zorg in detentie](#)).

Article 42, subsection 4 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that the Governor of the institution shall ensure that a) the detainee is supplied with the drugs and diets prescribed by the physician connected with the institution or his or her substitute, b) the detainee is given the treatment prescribed by the physician connected with the institution or his or her substitute, c) the detainee is transferred to a hospital or other establishment, if the treatment referred to in b takes place there.¹³²

Article 14 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) allows for the designation of special institutions or special departments within institutions for the care of detainees who have special needs in connection with age, personality, or physical or mental health condition, as well as the offence for which the detainee is incarcerated.¹³³

The legal framework for the placement of detainees in a psychiatric hospital, addiction treatment clinic or hospital is laid down in articles 30, 31, 32, 33 of the Ministerial Regulation 'Regulation for Selection, Placement and Transfer of Prisoners' ([Regeling selectie, plaatsing en overplaatsing van gedetineerden](#)).¹³⁴ These provisions stipulate that when the treatment prescribed by the physician or psychiatrist connected with the institution must take place in a psychiatric hospital, an addiction treatment clinic or a hospital, the Governor of the institution shall order the transfer of the detainee to a psychiatric hospital, an addiction treatment clinic or a hospital.

f. Treatment of the detainee's choosing

Article 42 subsection 2 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that a detainee in pre-trial detention and post-trial detention has the right to consult, at his or her own expense, a physician of his or her own choice. The Governor of the institution determines the place and time of the consultation, in consultation with the chosen physician.¹³⁵

g. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.¹³⁶ It covers the year 2021 and some later developments. It states this about the quality of care in the penitentiary institutions:

"Over 2021, the joint inspections [Health and Youth Care Inspectorate and Inspectorate of Justice and Security], concluded that the quality of care in the different penitentiary institutions is being increasingly pressured. Reasons that play an important role are the increased labour market shortage, the complication of problems of youths and pressured staff capacity. In addition, the Health and Youth Care Inspectorate sees that the ageing population issue is present in different sectors in different degrees."

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¹³² The Netherlands, Penitentiary Principles Act ([Penitentiare beginselenwet](#)), [Article 41, subsection 4](#).

¹³³ The Netherlands, Penitentiary Principles Act ([Penitentiare beginselenwet](#)), [Article 14, subsection 4](#).

¹³⁴ The Netherlands, Rules on Selection, Placement and Transfer of Prisoners ([Regeling selectie, plaatsing en overplaatsing van gedetineerden](#)), [Chapter VII, Articles 30-34](#).

¹³⁵ The Netherlands, Penitentiary Principles Act ([Penitentiare beginselenwet](#)), [Article 41, subsection 3](#).

¹³⁶ The Netherlands, Inspectorate of Justice and Security ([Inspectie Justitie en Veiligheid](#)) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

¹³⁷ The Netherlands, Inspectorate of Justice and Security ([Inspectie Justitie en Veiligheid](#)) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from to 10 to 22 May 2022.¹³⁸ The report of the CPT contains the following recommendations on health care:

“The CPT recommends that the Dutch authorities ensure that all persons in the EBI, BPG and TA units at Vught Prison in need of specialist medical care are able to access the care they require.”¹³⁹

“The CPT recommends that all newly arrived prisoners are systematically examined within 24 hours of their arrival at Dordrecht Prison. Further, all newly admitted persons in Dutch prisons should benefit from a comprehensive physical examination and screening of transmissible diseases. Particular attention should be paid to the identification of any vulnerabilities and possible signs of substance use and psychiatric disorders.”¹⁴⁰

“The CPT reiterates that the Dutch authorities must take the necessary steps, including at a normative level, to ensure that these precepts are respected during medical consultations to guarantee medical confidentiality, subject to an individual risk assessment. Detained persons should not be systematically handcuffed/restrained when transferred to, or examined in, external healthcare facilities or examined in a secure environment; the practice of handcuffing a detained person to a prison officer should be ceased forthwith.”¹⁴¹

“The CPT reiterates its recommendation that the practice of distribution of medication be reviewed accordingly in the establishments visited and, if applicable, in all prisons in the Netherlands.”¹⁴² “The CPT recommends that the Dutch authorities take further steps to provide support to detained persons in dealing with substance-use issues as well as various treatment options, including opioid agonist therapy, rehabilitative programmes and harm reduction measures (including needle-exchange programmes).”¹⁴³

“The CPT reiterates its recommendation that the healthcare units at Dordrecht Prison and at Vught Prison and, if applicable, in other prisons in the Netherlands, be provided with dedicated premises for

¹³⁸ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

¹³⁹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

¹⁴⁰ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 51.

¹⁴¹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 52.

¹⁴² Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 52.

¹⁴³ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 52.

this purpose.”¹⁴⁴ “CPT again invites the Dutch authorities to consider the possibility of bringing prison healthcare services under the responsibility of the Ministry of Health.”¹⁴⁵

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses the access to healthcare in detention and its quality... The Inspectorate declined to answer this question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (Raad voor Strafrechtstoepassing en Jeugdbescherming) and the Netherlands Institute for Human Rights (College voor de Rechten van de Mens), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the questions and referred us to the Inspectorate of Justice and Security.

9. Prevention of violence and ill-treatment

a. Protection from violence by prison staff.

The legal framework for maintaining order and security in pre-trial detention and post-trial detention is laid down in chapter VI (articles 27-35) of the Penitentiary Principles Act (*Penitentiare Beginselenwet*).¹⁴⁶ 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 management, detection of psychiatric disorders and measures to achieve de-escalation. These courses are part of the compulsory basic training. Some are repeated every year, others every two years.¹⁴⁷ In every penitentiary institution, detainees are screened upon arrival. During this screening an assessment will be made whether there is a risk for fellow detainees or for self-destructive behaviour.¹⁴⁸ Each cell is equipped with an intercom system through which the detainee can contact a prison officer 24 hours a day.¹⁴⁹

The legal framework for the use of violence by prison staff is laid down in the Ministerial Regulation ‘Geweldsinstructie penitentiare inrichtingen’ (*Instruction on the use of violence in Penitentiary Institutions*).¹⁵⁰ The legal basis of the Instruction is Article 35 of the Penitentiary Principles Act

¹⁴⁴ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 53.

¹⁴⁵ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 53.

¹⁴⁶ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Chapter VI, Articles 27-35](#).

¹⁴⁷ 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.

¹⁴⁸ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2015), Assessment Framework Penitentiary Institutions ([Toetsingskader Doorlichtingen Penitentiare Inrichtingen](#))

¹⁴⁹ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiare inrichtingen*), [Article 7](#).

¹⁵⁰ The Netherlands, *Geweldsinstructie penitentiare inrichtingen (Instruction on the use of violence in Penitentiary Institutions)*, [1 January 2013](#).

([Penitentiaire Beginselenwet](#)).¹⁵¹ The Instruction sets standards for the use of violence by prison officers: which weapons may be used and under which conditions.

Detainees can complain about their treatment and conditions of detention to the Complaints Commission (*Beklagcommissie*) of the Supervisory Committee (*Raad van Toezicht*) which, pursuant to article 7 of the Penitentiary Principles Act ([Penitentiaire Beginselenwet](#)), exists in every penal institution in the Netherlands.¹⁵² The proceedings of the complaints commission are laid down in chapter XI (articles 60-68) of the Penitentiary Principles Act ([Penitentiaire Beginselenwet](#)).¹⁵³ If a detainee lodges a complaint against a decision of the Governor concerning his or her treatment in or the conditions of his or her detention, the complaint must be lodged within seven days of the Governor's decision. The decisions of the Complaints Commission overrule the decisions of the Governor. Pursuant to Article 69 of the Penitentiary Principles Act ([Penitentiaire Beginselenwet](#)), appeals against decisions of the Complaints Commission may be lodged with the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*).¹⁵⁴ An appeal must be lodged within seven days of the decision of the Complaints Commission. The decisions of the Appeals Board are binding and final. The decisions of the Appeals Board overrule the decisions of the Complaints Commission. The Appeals Board may award financial compensation to the detainee.

b. Protection from violence by other detainees

The legal framework for maintaining order and security in pre-trial detention and post-trial detention is laid down in chapter VI (articles 27-35) of the Penitentiary Principles Act ([Penitentiaire Beginselenwet](#)).¹⁵⁵ All prison staff members follow training courses at the training institute of the Custodial Institutions Agency (this the Dutch Prison Service). Training includes aggression management, detection of psychiatric disorders and measures to achieve de-escalation. These courses are part of the compulsory basic training. Some are repeated every year, others every two years.¹⁵⁶ In every penitentiary institution, detainees are screened upon arrival. During this screening an assessment will be made whether there is a risk for fellow detainees or for self-destructive behaviour.¹⁵⁷ Each cell is equipped with an intercom system through which the detainee can contact a prison officer 24 hours a day.¹⁵⁸

Detainees can complain about their treatment and conditions of detention to the Complaints Commission (*Beklagcommissie*) of the Supervisory Committee (*Raad van Toezicht*) which, pursuant to article 7 of the Penitentiary Principles Act ([Penitentiaire Beginselenwet](#)), exists in every penal institution

¹⁵¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Articles 35](#).

¹⁵² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7](#).

¹⁵³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Chapter XI, Articles 60-68](#).

¹⁵⁴ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 69](#).

¹⁵⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Chapter VI, Articles 27-35](#).

¹⁵⁶ 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.

¹⁵⁷ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (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>

¹⁵⁸ The Netherlands, Rules on requirements accommodations penal institutions (*Regeling eisen verblijfsruimte penitentiaire inrichtingen*), Article 7, available at: <https://wetten.overheid.nl/jci1.3:c:BWBR0010175&z=2005-01-01&g=2005-01-01>

in the Netherlands.¹⁵⁹ The proceedings of the complaints commission are laid down in chapter XI (articles 60-68) of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*).¹⁶⁰ If a detainee lodges a complaint against a decision of the Governor concerning his or her treatment in or the conditions of his or her detention, the complaint must be lodged within seven days of the Governor's decision. The decisions of the Complaints Commission overrule the decisions of the Governor. Pursuant to Article 69 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*), appeals against decisions of the Complaints Commission may be lodged with the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*).¹⁶¹ An appeal must be lodged within seven days of the decision of the Complaints Commission. The decisions of the Appeals Board are binding and final. The decisions of the Appeals Board overrule the decisions of the Complaints Commission. The Appeals Board may award financial compensation to the detainee.

c. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023).¹⁶² It covers the year 2021 and some later developments. It contains no recommendations on the prevention of violence and ill treatment.

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from 10 to 22 May 2022.¹⁶³ The report of the CPT contains the following general assessment and recommendations on prevention of violence and ill-treatment:

“Inter-prisoner violence did not seem to be a major problem in the prisons visited, and when some tensions and occasional incidents occurred among persons in prison, they were generally dealt with appropriately by staff.”¹⁶⁴

“The CPT recommends that prison staff at Dordrecht and Vught Prisons be reminded regularly and in an appropriate manner that any form of ill-treatment – including verbal abuse – of detained persons is not acceptable and will be sanctioned accordingly.”

¹⁵⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7](#).

¹⁶⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Chapter XI, Articles 60-68](#).

¹⁶¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 69](#).

¹⁶² The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

¹⁶³ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

¹⁶⁴ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 40.

¹⁶⁵ “The CPT recommends that the management of Dordrecht Prison take the necessary steps to reduce tensions among persons detained in the remand section and effectively reduce instances of inter-prisoner violence.” ¹⁶⁶

“The Committee also encourages staff in the BPG unit at Vught Prison and in the TA unit at Zwolle Prison to remain vigilant as regards incidents of inter-prisoner violence and intimidation and ensure that all persons both feel and are kept safe.” ¹⁶⁷

“The CPT has repeatedly stated that every strip-search is a very invasive and potentially degrading measure. To minimise embarrassment, detained persons who are searched should not normally be required to remove all their clothes at the same time, that is a person should be allowed to remove clothing above the waist and put it back on before removing further clothing, based on an individual risk assessment. Further, both frisk and strip searches should only be carried out by custodial staff of the same sex. It is time for the Dutch authorities to adhere to these principles. The CPT recommends that the Dutch authorities take the necessary steps to ensure that these precepts are effectively implemented in all prisons. To this end, the regulations and practice applicable to strip searches should be changed accordingly.” ¹⁶⁸ “In the Committee’s view, the practice of using restraint beds in prisons should be ended. Agitated persons who pose a serious danger to themselves or to others could be temporarily isolated in a secure time-out room (if necessary equipped with soft padded walls and floor) until they restore behavioural control. If they do not calm down, they should be transferred to a suitable healthcare facility; restraint beds should not, in principle, be used in a non-medical setting. The CPT recommends that the Dutch authorities abandon the resort to restraint beds in prison and that these beds be removed from all prison establishments.” ¹⁶⁹

“The CPT recommends that the current rules concerning the use of handcuffs be reviewed to ensure that they are applied in a proportionate way and only based on an individual risk assessment. Prison

¹⁶⁵ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 40.

¹⁶⁶ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 41.

¹⁶⁷ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 41.

¹⁶⁸ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 56.

¹⁶⁹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 56.

staff should be trained and encouraged to use other methods for controlling detained persons, such as verbal instruction and manual control techniques.”¹⁷⁰

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses the protection of detainees from violence from staff members and other detainees. The Inspectorate declined to answer the question. The inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (Raad voor Strafrechtstoepassing en Jeugdbescherming) and Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

10. Contact with the outside world

a. Visits

Article 38, subsection 1 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the detainee has the right to receive visitors for at least one hour per week at the times and places laid down in the prison rules.¹⁷¹

Article 38, subsection 7 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) specifies several categories of persons which have special access to detainees.¹⁷² Article 38, subsection 7 stipulates that two categories of persons have access to the detainee at any time: members of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor strafrechtstoepassing en jeugdbescherming*); and members of the Complaints Commission (*beklagcommissie*) or Supervisory Committee (*Commissie van Toezicht*) of the penitentiary institution in question.

Besides these two aforementioned categories, article 38, subsection 7 Penitentiary Principles Act stipulates that nine categories of persons or bodies have access to the detainee under special conditions, but at the times and places laid down in the prison rules.¹⁷³ During this visit they can freely converse with the detainee, except when the governor is of the opinion, following consultation with the visitor in question, that the prisoner poses a serious risk to the visitors safety. In that case, the governor shall reveal before the visit which supervisory measures will be taken, so that the conversation can take place as undisturbed as possible. The supervisory measures may not result in confidential statements made in the conversation between the prisoner and his legal aid provider becoming known to third parties. These nine categories are: member of the members of the Royal Family; members of national Parliament and Dutch members of European Parliament; Minister of Justice and Security; National

¹⁷⁰ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 56.

¹⁷¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, Subsection 1](#).

¹⁷² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, Subsection 7](#).

¹⁷³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, Subsection 7](#).

Ombudsman; inspectors of Health and Youth Care Inspectorate; probation officer of the detainee; legal counsel of the detainee; and other persons or bodies designated by the Minister of Justice and Security

b. Correspondence

Article 36, subsection 1 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that the detainee has the right to send and receive letters and items by post.¹⁷⁴ The costs involved shall be for the prisoner's account unless the governor determines otherwise.

Article 39, subsection 1 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that the detainee has the right to conduct one or more phone conversations with persons outside the institution for ten minutes at least once a week at the times and places laid down in the prison rules and with the aid of a telephone designated for that purpose.¹⁷⁵

Under article 40 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#))¹⁷⁶ the Governor of the penitentiary institution may give the detainee permission to conduct a conversation with a media representative if this has no adverse effect on to the following interests: (a.) the maintenance of order or safety in the institution; (b) the protection of the public order and common decency; (c) the protection of the rights and liberties of persons other than the prisoner; (d) the prevention or investigation of criminal offences. With a view to the protection of the these interests referred the governor may attach conditions to a media representative's access to the institution.

c. Visits with children

Article 38, subsection 1 of the Penitentiary Principles Act ([Penitentiare beginselenwet](#)) stipulates that the detainee has the right to receive visitors for at least one hour per week at the times and places laid down in the prison rules.¹⁷⁷ This article applies also for children.

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023).¹⁷⁸ It covers the year 2021 and some later developments. It contains no recommendations on the contact with the outside world.

On 23 august 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from to 10 to 22 May 2022.¹⁷⁹ The CPT states in this report that "Persons in prison had, in principle, unrestricted access to a lawyer. However, the delegation was informed about plans to significantly restrict and supervise contact with lawyers.¹⁸⁰ This included, for instance, the possibility of (visual) CCTV-monitoring of interviews between lawyers and their clients. Having in mind the

¹⁷⁴ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 36, Subsection 1](#).

¹⁷⁵ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 39, Subsection 1](#).

¹⁷⁶ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 40](#).

¹⁷⁷ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 38, Subsection 1](#).

¹⁷⁸ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

¹⁷⁹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

¹⁸⁰ The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2022), 'Additional measures against organised crime in detention' (['Aanvullende maatregelen tegen georganiseerde criminaliteit tijdens detentie'](#)), Letter to House of Representatives, 26 September 2022.

importance of the fundamental right to access to a lawyer and the confidentiality of the lawyer-client relationship, the CPT recommends that the confidentiality of the lawyer-client consultations be guaranteed. recommends that the Dutch authorities.”¹⁸¹

This report contains the following recommendations on contact with the outside world

“Steps should be taken to reduce the waiting time for parent-child visits at Vught Prison.”¹⁸²

“The CPT recommends that the Dutch authorities take the necessary steps to enable all persons on remand to benefit from sufficient out-of-cell time to make phone calls.”¹⁸³

We have contacted the Inspectorate of Justice and Security (Inspectie Justitie en Veiligheid) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses the quality and adequacy of contacts with the outside world made available to detainees? The Inspectorate declined to answer this question. The inspectorate referred to the official reports it published during this period. We have incorporated these reports, into this report. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Council for the Administration of Criminal Justice and Protection of Juveniles*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*) which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the questions and referred us to the Inspectorate of Justice and Security.

11. Special measures for female detainees

a. General conditions of detention for women and girls

Are there any general national standards for conditions of detention of women? If so, what do they require?

All national standards for the conditions of detention apply to men and women. There are no standards specifically applying to women detainees except for the standards presented below.

b. Separation from men

The national standard, in pre-trial detention and post-trial detention, for keeping male and female detainees separate and accommodating male and female detainees separate is laid down in Article 11 of the Penitentiary Principles Act (*Penitentiare beginselenwet*).¹⁸⁴ This article stipulates that male and

¹⁸¹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 58.

¹⁸² Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 57.

¹⁸³ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 57.

¹⁸⁴ The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 11](#).

female detainees must be accommodated separately and that the responsible Minister must designate institutions or wings as exclusively intended for the accommodation of women detainees.

c. Hygiene

Every penitentiary institution in pre-trial detention and post-trial detention has a set of house rules that stipulate which products, including hygiene products, must be available in penitentiary institutions. The Ministerial Regulation 'Regulation on Model House Rules for Penitentiary Institutions ([Regeling model huisregels penitentiaire inrichtingen](#))' gives a model for these house rules.¹⁸⁵ The Regulation specifically mentions sanitary towels for female detainees and hygiene products for children.

The legal basis of this Regulation is article 5, subsection 1, of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), pursuant to which the responsible Minister may lay down rules regarding the requirements to be met by a cell accommodation.¹⁸⁶

d. Healthcare

Article 12 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) allows for the designation of special institutions or special departments inside institutions in pre-trial detention and post-trial detention for the care of detainees who have needs in connection with age, personality, or physical or mental state of health, as well as in connection with the offence for which the detainee has been confined.¹⁸⁷ The explanatory memorandum to the Penitentiary Principles Act explicitly mentions that under this article special facilities can be designated for the care of pregnant detainees or for the care of young mothers in detention.¹⁸⁸ The explanatory memorandum specifies that in view of the small number of pregnant women or young mothers in detention, the facilities will be individual in nature.

e. Pregnancy and women with babies or young children

Article 14 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) allows for the designation (by the responsible Minister) of special institutions or special departments inside institutions for the care of detainees who have needs in connection with age, personality, or physical or mental state of health, as well as in connection with the offence for which the detainee is incarcerated.¹⁸⁹ The explanatory memorandum to the Penitentiary Principles Act explicitly mentions that under this article special facilities can be designated for the care of pregnant detainees or for the care of young mothers in detention.¹⁹⁰ The explanatory memorandum specifies that in view of the small number of pregnant women or young mothers in detention, the facilities will be individual in nature.

Article 12 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) allows for the designation (by the responsible Minister) of special institutions or special departments as places in which children may

¹⁸⁵ The Netherlands, Regulation on Model House Rules for Penitentiary Institutions ([Regeling model huisregels penitentiaire inrichtingen](#)), [21 August 1998](#).

¹⁸⁶ The Netherlands, Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), [Article 5, Subsection 1](#).

¹⁸⁷ The Netherlands, Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), [Article 14, subsection 4](#).

¹⁸⁸ The Netherlands, Minister of Justice (*Minster van Justitie*) (1995), Explanatory memorandum to Penitentiary Principles Act ([Memorie van toelichting bij Penitentiaire beginselenwet](#)).

¹⁸⁹ The Netherlands, Penitentiary Principles Act ([Penitentiaire beginselenwet](#)), [Article 14](#).

¹⁹⁰ The Netherlands, Minister of Justice (*Minster van Justitie*) (1995), Explanatory memorandum to Penitentiary Principles Act ([Memorie van toelichting bij Penitentiaire beginselenwet](#)).

be accommodated.¹⁹¹ The website of the Custodial Institutions Agency (*Dienst Justitiele Inrichtingen*) or the Dutch prison service indicates that children are allowed to stay with their mothers until the age of six months.¹⁹² In exceptional circumstances until the age of nine months.

All these standards apply to pre-trial detention and post-trial detention.

f. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023).¹⁹³ It covers the year 2021 and some later developments. It contains no recommendations regarding special measures for female detainees.

On 31 May 2022, the Inspectorate of Justice and Security published an investigative report about the penitentiary institution of Nieuwersluis.¹⁹⁴ This is one of the three penitentiary institutions in the Netherlands that houses women. The investigation was initiated after a former employee was arrested in June 2022 for sexually transgressive behaviour. In its report the Inspectorate concluded that there is a culture on the work floor within the penitentiary institution of Nieuwersluis that makes it possible for the prison staff to exhibit transgressive behaviour. Reports from detainees about sexually transgressive behaviour are not always properly addressed. And prison staff do not always address each other's behaviour. The report contains the following general recommendations for the Custodial Institutions Agency (the Dutch Prison Service):

- To add a separate, dedicated officer for sexually transgressive behaviour to the Supervisory Committee at all penitentiary institutions. That officer must be accessible and visible to the detainees.
- Prison staff members must follow training courses at the training institute of the Custodial Institutions Agency (this the Dutch Prison Service)

The report contains the following recommendation for penitentiary institution in Nieuwersluis:

- Establish clear standards and frameworks outlining what is and is not acceptable in contact with female detainees and monitor on this
- Encourage a culture in which prison staff dare to speak out and dare to address each other.
- Formulate clear frameworks for the training programme of new staff and make sure they are followed in practice.
- Map out which competences and skills are required for working with female detainees. Where possible, select new staff and, where necessary, ensure that current staff members develop these skills.
- Bring the balance between male and female staff within all teams. Until then, make sure that on each ward at least one female employee during the daytime programme is present.

¹⁹¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 12](#).

¹⁹² The Netherlands, Custodial Institutions Agency (*Dienst Justitiële inrichtingen*) (2024), 'Women in the prison' (['Ook vrouwen in de gevangenis?'](#)), Web page.

¹⁹³ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

¹⁹⁴ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), PI Nieuwersluis. Investigation ([PI Nieuwersluis. Incidentenonderzoek](#)).

In his reply to the investigative report, the Minister for Legal Protection informed the House of Representative that all the recommendations for the penitentiary institution in Nieuwersluis will also be implemented in the other two penitentiary institutions that house women.¹⁹⁵

We have contacted with the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses the special measures provided for women and girls in detention. The Inspectorate declined to answer this question. The inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

12. Special measures for foreign nationals

a. General measures for foreign nationals

Article 56, subsection 3 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) stipulates that a detained foreign national or alien shall, upon entering the penitentiary institution, be informed of his right to have the consular representative of his country notified of his or her detention.¹⁹⁶

b. Interpretation and translation

Article 56, subsection 3 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) stipulates that the Governor shall provide that upon entering the penitentiary institution, the detainee shall be informed of his or her rights and obligations under the Penitentiary Principles Act in writing and as much as possible in a language he understands.¹⁹⁷ In particular, the prisoner shall, upon entering the penitentiary institution, be informed of his power to: lodge an objection or a petition; to turn to the visiting officer of the Supervisory Committee (*Raad van Toezicht*) ; and to lodge a complaint or appeal.

Article 57 subsection 1 of the Penitentiary Principles Act ([Penitentiaire beginselenwet](#)) stipulates that the Governor shall give the detainee the opportunity to be heard in a language that as much as possible he or she understands before taking a decision concerning: the refusal or withdrawal of permission to accommodate a child in the institution; the refusal or withdrawal of permission to accommodate a child in the institution; the exclusion from participation in activities and the prolongation, the placing in solitary confinement and the prolongation thereof, the restriction and the cancellation of leave; the internal examination of the body; the submission to a medical intervention; the application of mechanical devices to the body and the prolongation thereof; the imposition of disciplinary

¹⁹⁵ The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2023), 'Additional measures against organised crime in detention' (['Aanvullende maatregelen tegen georganiseerde criminaliteit tijdens detentie'](#)), Letter to House of Representatives, 31 May 2024.

¹⁹⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 56, subsection 3](#).

¹⁹⁷ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 56, subsection 3](#).

punishment; camera observation, and the transfer to another wing of the penitentiary institution.¹⁹⁸ If necessary, the hearing of the prisoner shall take place with the assistance of an interpreter.¹⁹⁹

Article 61, subsection 4 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that if a detainee does not have sufficient command of the Dutch language, he may lodge the complaint in another language.²⁰⁰ The chairman of the Complaints Committee may determine that the complaint is translated into the Dutch language. The costs of the translation shall be compensated in accordance with Article 45 of the Penitentiary Order.²⁰¹ The Penitentiary Order (*Penitentiaire maatregel*) is a General Administrative Order (*Algemene maatregel van Bestuur*) which implements part of the Penitentiary Principles Act.

c. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²⁰² It refers to a report about foreign nationals in the criminal justice chain published by the Inspectorate for Justice and Security on 6 September 2021.²⁰³ The report shows that organisations that have to inform each other about suspected or convicted foreign nationals do not all do so according to the agreed methodology. Proper information transfer is necessary to prevent criminal aliens from staying in the Netherlands when they should and could leave the Netherlands. To make up for the information shortfall, organisations start looking for necessary data themselves. As a result, most criminal foreign nationals qualify for departure. Sometimes someone does stay. The recent report of the National Preventive Mechanism (NPM) contains the following recommendation²⁰⁴: “To improve the transfer of information, the Inspectorate for Justice and Security makes a number of recommendations to ensure that everyone keeps to the work agreements and shares information on time. For example, institutions should examine how to manage the further development of the Chain Process Description for foreign nationals in the criminal justice chain and its implementation. The Inspectorate recommends a periodic evaluation of the Chain Process Description to see if it should be amended. In addition, it makes specific recommendations to involved organisations to better perform their tasks.”

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from 10 to 22 May 2022.²⁰⁵ It contains the following assessment and recommendation on special measures for foreign nationals: “However, many foreign nationals detained in both Dordrecht Prison and Vught Prison complained that they had not been provided with information on their rights in a language that they could understand. The CPT encourages the Dutch authorities to ensure that care

¹⁹⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 57, subsection 1](#).

¹⁹⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 57, subsection 2](#).

²⁰⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 61, subsection 4](#).

²⁰¹ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 45](#).

²⁰² The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²⁰³ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2021), Foreign nationals in the criminal justice chain ([Vreemdelingen in de Strafrechtketen](#)).

²⁰⁴ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²⁰⁵ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

is taken to ensure that all detained foreign nationals are effectively informed of their rights, both orally and in writing, in a language that they can understand.”²⁰⁶

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with question about how it assess the measures provided for foreign national in detention. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

13. Special measures relating to detention of children and young adults/juvenile detention regime

a. Age groups

Juveniles aged 12 to 17 who commit an offence are punished under juvenile criminal law.²⁰⁷ 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.²⁰⁸ When minors of 16 or 17 are sentenced under the adult criminal law, they are detained in a Youth Custodial Institution until they reach majority at the age of 18.

b. General measures for detained children and young adults

The national standards relating to detention of children/young detainees are laid down in the Youth Custodial Institutions Act (*Beginselenwet justitiële jeugdinrichtingen*)²⁰⁹, which applies to institutions, in which persons are detained on the basis of the juvenile criminal code (Youth Custodial Institutions).

c. Separation from adults

Juvenile detainees are held in special youth penitentiary institutions. The Dutch penitentiary system is governed by two acts: the Penitentiary Principles Act (*Penitentiaire beginselenwet*)²¹⁰, which applies to institutions, in which adults are detained, and the Youth Custodial Institutions Act (*Beginselenwet*

²⁰⁶ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 59.

²⁰⁷ The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2024), '[Penalties for juvenile offenders](#)', Web page.

²⁰⁸ The Netherlands, Bulletin of Acts and Decrees (2013), 'Act of 27 November 2013 amending the Criminal Code, the Code of Criminal Procedure and some other laws in connection with the introduction of an adolescent criminal law' ('[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. ,

²⁰⁹ The Netherlands, Youth Custodial Institutions Act (*Beginselenwet justitiële jeugdinrichtingen*), 2 November 2000.

²¹⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [18 June 1998](#).

[justitiële jeugdinrichtingen](#))²¹¹, which applies to institutions, in which persons are detained on the basis of the juvenile criminal code (Youth Custodial Institutions).

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²¹² It covers the year 2021 and some later developments. The report states about the Youth Custodial Institutions:

“In October 2021, in response to the progress report of the inspectorates, the Minister for Legal Protection provided a hefty aid package to solve the capacity and staff shortage in the Young Offenders Institutions. The progress statement of the inspectorates stated that extra capacity was realised and the external waiting list was reduced, but a shortage of personnel and suitable places still remained. One consequence is that internal waiting lists are not solved. Youths cannot always move on to a place that is suited for them, because departments are full. The legal requirements for day programmes were also not met for the majority of the institutions in the summer of 2021. As a result, youths spent more time in their rooms than what is legal. The security for staff and youths is not in order, because employees have insufficient time to get to know the juveniles and gauge their mood. Several violent incidents took place. Collaboration with the schools is also under pressure.”

“In 2022, the [responsible] inspectorates indicated that a critical threshold has been reached. The inspectorates state that the Young Offenders Institutions and the responsible Custodial Institutions Agency [the Dutch prison service] have an impracticable task. No matter the effort of their employees. As a result, court judgments and the legal requirements of juvenile criminal law cannot be adequately enforced for all youths. The four inspectorates therefore state that from now on, placement in a Young Offenders Institutions can only be ordered if a suitable treatment and a responsible stay are guaranteed. In their view, placement is only possible if there are at least a full-fledged day programme, a minimum of two qualified group leaders for each group, as well as no internal waiting list. This is in the interest of the youths and the security of the staff, which works under great pressure. They have called on the responsible Minister for Legal Protection to act immediately and to ensure a responsible stay in accordance with the law. “

The four Inspectorates are: the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*), Health and Youth Care Inspectorate (*Inspectie Gezondheidszorg en Jeugd*), Inspectie van het Onderwijs (*Inspectorate of Education*), Netherlands Labour Authority (*Nederlandse Arbeidsinspectie*).

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question on how it assesses the measures provided for children and young detainees. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de*

²¹¹ The Netherlands, Youth Custodial Institutions Act (*Beginselenwet justitiële jeugdinrichtingen*), 2 November 2000.

²¹² The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

Mens), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the questions and referred us to the Justice and Security Inspectorate.

14. Special measures to protect detainees with disabilities or serious medical conditions

a. Care in detention

The Governor of the Penitentiary Institution may under article 16 of the Penitentiary Principles Act²¹³ place a detainee because of his specific needs in an Extra Care Facility (*Extra Zorgvoorziening*). Each penitentiary institution has an Extra Care Facility (*Extra Zorgvoorziening*). The Extra Care Facility (EZV) offers detainees who cannot function in the regular daily programme because of their physical or mental problems a special programme that gives them more structure and protection.

Article 14 subsection 1 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the responsible Minister may designate institutions and wings thereof as places for accommodating detainees that require special care (the so called Extra Care Facilities or *Extra Zorgvoorzieningen*).²¹⁴ Article 46b of the Penitentiary Principles Act stipulates that the Governor of the penitentiary institution shall ensure that a medical treatment plan is drawn up in consultation with the detainee who, due to his or her mental state of health or disability, is staying in an Extra Care Facility.²¹⁵ The medical treatment plan is aimed at removing the danger caused by the mental disorder or mental disability to such an extent that the detainee no longer needs to stay in in the Extra Care Facility. If possible, this shall be done by treating the disorder. If this is not possible, this shall be done by otherwise removing the danger.

The process of allocation or placement of detainees is ruled by the Ministerial Regulation 'Rules on the Selection, Placement and Transfer of Detainees' (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*).²¹⁶ Under Chapter VI (articles 32 and 33) of the Rules on Selection, Placement and Transfer of Detainees detainees who need medical may be placed in the Judicial Centre for Somatic Care (*Justitieel Centrum voor Somatische Zorg*) or in a general hospital.²¹⁷ In Chapter IV of the Rules on Selection, Placement and Transfer of Detainees several special institutions or wings of institutions have been established in which detainees who need appropriate care may be placed. These are: the Judicial Centre for Somatic Care (*Justitieel Centrum voor Somatische Zorg*) in the Hague and the Penitentiary Psychiatric Centres (*Penitentiair psychiatrisch centra*) present at four penitentiary institutions.²¹⁸

Article 2.3 of the Forensic Care Act (*Wet forensische zorg*) provides the criminal court judge with the opportunity to issue a care authorization for compulsory mental healthcare for detainees in post-trial detention.²¹⁹ Forensic care is provided by specialized psychiatric care institutions. The most important institution is the Forensic Care Institutions. These are part of the Dutch prison service.

²¹³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16](#).

²¹⁴ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 14, subsection 1](#).

²¹⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 46b](#).

²¹⁶ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [1 November 2000](#).

²¹⁷ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Chapter VII](#).

²¹⁸ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Chapter IV](#).

²¹⁹ The Netherlands, Forensic Care Act (*Wet Forensische Zorg*), [Article 2.3](#).

b. Continuity of care

Article 46b of the Penitentiary Principles Act stipulates that the Governor of the penitentiary institution shall ensure that a medical treatment plan is drawn up in consultation with the detainee who, due to his or her mental state of health or disability, is staying in an Extra Care Facility.²²⁰ The medical treatment plan is aimed at removing the danger caused by the mental disorder or mental disability to such an extent that the detainee no longer needs to stay in in the Extra Care Facility. If possible, this shall be done by treating the disorder. If this is not possible, this shall be done by otherwise removing the danger.

c. Reasonable accommodation and accessibility

Article 14 subsection 1 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the responsible Minister may designate institutions and wings thereof as places for accommodating detainees that require special care (the so called Extra Care Facilities or *Extra Zorgvoorzieningen*).²²¹ Article 14 subsection 2 of the Penitentiary Principles Act specifies that detainees may require special care because of their age, personality, or physical or mental state of health of the detainees as well as the offence for which they have been.²²² Each penitentiary institution has an Extra Care Facility (*Extra Zorgvoorziening*). The Extra Care Facility (EZV) offers detainees who cannot function in the regular daily programme because of their physical or mental problems a special programme that gives them more structure and protection. The Governor may under article 16 of the Penitentiary Principles Act²²³ place a detainee in an Extra Care Facility (*Extra Zorgvoorziening*).

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²²⁴ It covers the year 2021 and some later developments. It contains a reference to a an “investigation into the functioning of the four Penitentiary Psychiatric Centres in the prison system. In this investigation, the Inspectorate of Justice and Security looks at how the rights of detained patients are ensured, at how they are treated and at the status of internal safety for staff and patients. It also takes into account personnel aspects, such as whether there is enough properly trained staff.” This report was published on 17 May 2023. This report²²⁵ shows that the four Penitentiary Psychiatric Centres treat their detained patients respectfully and humanely. Treatment is fully in line with standards in terms of intake, screening and selection, treatment and reporting. With regard to the legal position of detained patients, internal security and personnel care and deployment, the Penitentiary Psychiatric Centres do not fully meet all standards. The report contains the following recommendations:

- Ensure that all detained patients have house rules in a language they understand
- Provide sanction policies that, in addition to allowing for customisation, curb the risk of arbitrariness and legal inequality.

²²⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 46b](#).

²²¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 14, subsection 1](#).

²²² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 14, subsection 2](#).

²²³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16](#).

²²⁴ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²²⁵ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [Penitentiary Psychiatric Centres. Review \(*Penitentiair Psychiatrische Centra. Doorlichting*\)](#).

- Ensure that the Internal Assistance Teams meet the requirements set by the Custodial Institutions Agency or the Dutch prison service
- Provide complete instructions regarding use of force.

The most recent report²²⁶ of the National Preventive Mechanism (NPM) published on 12 June 2023 contains the following passage on forensic care: “ In 2021, the Inspectorate of Justice and Security looked at the effect of improvement measures applied by a forensic clinic after two forensic patients successfully fled the clinic in 2020. The Forensic Psychiatric Centre in question [De Kijvelanden] took steps to improve the internal security of the clinic. It has tightened its access policy and the method for bringing in goods, among other things. However, the Inspectorate of Justice and Security still observes major points for improvement. For example, there is insufficient attention to team development in the department for extremely difficult to manage and highly likely to escape forensic patients, in part due to staff shortage, and employees do not work in a uniform manner. There is also no modified policy for dealing with hostage situations. The Inspectorate is keeping watch on these points for improvement as part of their regular monitoring since this inspection.” On 30 October 2023, the Inspectorate of Justice and Security sent a letter about a follow-up investigation on the Forensic Care Institution De Kijvelanden.²²⁷ In this letter the Inspectorate of Justice and Security concludes that the Forensic Psychiatric Centre De Kijvelanden has done a lot in recent years to improve internal security within the institution. According to the Inspectorate, De Kijvelanden has done enough to reduce the risk of a similar incident. It is therefore scaling down its supervision.

On 13 June 2023 the Inspectorate of Justice and Security published a report on Forensic Care Institution the Pompe Foundation.²²⁸ Immediate cause for this report was the escape, on 21 June 2022, of two detainees who were placed under the Forensic Care Act (*Wet forensische zorg*) in the institute. The Inspectorate of Justice and Security concludes that detainees were able to escape because the clinic was not sufficiently focused on security. This was secondary to care. Both forensic acuity (alertness to possible risks) and material security (such as fences) were not in order. In addition, the clinic did not learn enough from previous escapes in 2017 and 2019. The report contains recommendations to the Pompe Foundation and to the Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) or the Dutch Prison Service.²²⁹ The recommendation to both organisations is to cooperate better in addressing on how to improve at the focus on safety the Pompe Foundation. The recommendation to the Pompe Foundation is to ensure that security becomes central to the organisation. And in doing so, ensure that forensic acuity is given a more prominent role within the organisation. The recommendation to the Custodial Institutions Agency is to monitor how the Pompe Foundation is improving its focus on safety.

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses provided for detainees with disabilities or serious medical conditions. The

²²⁶ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²²⁷ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), 'Follow-up investigation to incident investigation FPC de Kijvelanden (01-03- 2020)' (['Vervolgonderzoek op incidentonderzoek FPC de Kijvelanden \(01-03-2020\)'](#)), Letter, 30 October 2020.

²²⁸ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), Incident investigation FPC Pompe Foundation ([Incidentonderzoek FPC Pompestichting](#)).

²²⁹ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), Incident investigation FPC Pompe Foundation ([Incidentonderzoek FPC Pompestichting](#)), p. 58.

Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

15. Specific measures to protect detainees with special needs or other vulnerabilities

a. Protection of LGBTI detainees

No standards exist for the protection of LGBTI detainees in law or other regulations.

The Dutch government has stated in its 2017 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.²³⁰

On 16 January 2017, the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) decided in favour of a detainee, a trans woman in transition, who wanted to shower separately.²³¹ The Appeals Board stated that the Governor of a Penitentiary Institution should take into account the individual interests of the detainee. In this case the wish of a transgender detainee to shower separately should be heeded. The Appeals Board stressed that transgender detainees are in a vulnerable position.

b. Protection of trans detainees

Are there any special measures in place with regard to the allocation (placement) of trans detainees within the detention facilities?

In law and other regulations no standards exist with regard to the allocation (placement) of trans detainees within the detention facilities. Article 11 of the Penitentiary Principles Act (*Penitentiare beginselenwet*) stipulates that male and female detainees are housed separately.²³² The Penitentiary Principles Act only specifies these two genders (male and female).

The process of allocation or placement of detainees is ruled by the Ministerial Regulation 'Rules on the Selection, Placement and Transfer of Detainees' (*Regeling selectie, plaatsing en overplaatsing van*

²³⁰ Kingdom of the 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.

²³¹ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2017), [Case no. RSJ 16/2399/GA](#), 16 January 2017.

²³² The Netherlands, Penitentiary Principles Act (*Penitentiare beginselenwet*), [Article 11](#).

gedetineerden).²³³ Under Article 22, subsection 1 of the Rules on the Selection, Placement and Transfer of Detainees, selection officer establishes the risk profile of the detainee for the purpose of the first placement of the detainee.²³⁴ To determine the risk profile, pursuant to Article 22, subsection 2 of the Rules on the Selection, Placement and Transfer of Detainees account is taken of the characteristics and background of the offence of which the detainee is suspected or for which he has been convicted.²³⁵ According to a research paper published in Dutch criminal law magazine 'Nederlands Tijdschrift voor Strafrecht' there is no information on whether, in practice, being trans is considered as a personal characteristic in determining the risk profile.²³⁶ The research paper (for which 17 professionals with experience of dealing with trans detainees were interviewed)²³⁷ found that is very likely that, in practice, trans detainees are placed by the Governor (under article 16 of the Penitentiary Principles Act²³⁸) in an Extra Care Facility (*Extra Zorgvoorziening*) that is present in each penitentiary institution.

The Dutch government has stated in its 2022 report submitted under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that "transgender prisoners are asked whether they prefer to be placed in the men's wing or the women's wing. Where possible, an additional care facility is also offered to vulnerable detainees. In this unit, detainees are placed in smaller groups with more structure and protection."²³⁹

On 1 August 2016, the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) decided in favour of a detainee, a trans woman in transition, who requested to be placed in a low security facility.²⁴⁰ The Appeals Board stated that if a selection officer decides negatively about the request by a transgender detainee to be transferred to low security facility because the facility apparently cannot guarantee sufficient privacy, this should not lead to the refusal of the request but to an adaptation of the facility such as using a separate shower or separately using a shared shower.

On 16 January 2017, the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) decided that the Governor of a penitentiary institution should take into account the Governor of a

²³³ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 1](#).

²³⁴ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 22, subsection 1](#).

²³⁵ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 22, subsection 2](#).

²³⁶ Jacobs, P. (2022), 'Transgender behind the door: A study of and recommendations for the treatment of transgender detainees' (['Transgender achter de deur: Een onderzoek naar en aanbevelingen voor de behandeling van transgender gedetineerden'](#)), *Nederlands Tijdschrift voor Strafrecht*, 2022 (5), pp. 268-278.

²³⁷ Jacobs, P. (2022), 'Transgender behind the door: A study of and recommendations for the treatment of transgender detainees' (['Transgender achter de deur: Een onderzoek naar en aanbevelingen voor de behandeling van transgender gedetineerden'](#)), *Nederlands Tijdschrift voor Strafrecht*, 2022 (5), pp. 268-278.

²³⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16](#).

²³⁹ Kingdom of the Netherlands, (2022), [Eighth periodic report submitted by the Netherlands under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2022](#), Genève, Committee against Torture, p. 12.

²⁴⁰ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2016), [Case no. RSJ 16/1591/GB](#), 1 August 2016.

penitentiary institution should take into account the specific wishes of a transgender detainee to shower separately.²⁴¹

c. Protection of other vulnerable detainees

Under article 16 of the Penitentiary Principles Act²⁴², the Governor of a penitentiary institution may place vulnerable detainees in an Extra Care Facility (*Extra Zorgvoorziening*) that is present in each penitentiary institution. The Extra Care Facility (EZV) offers detainees a special programme that gives them more structure and protection.

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²⁴³ It covers the year 2021 and some later developments. It contains no recommendations or assessment regarding specific measures to protect detainees with special needs or other vulnerabilities.

On 7 June 2022, the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor de Strafrechtstoepassing en Jeugdbescherming*) published an advisory report on racism and discrimination in penitentiary institutions.²⁴⁴ In its report, the Council gives a number of recommendations to the Minister for Legal Protection. Detainees have a range of options available to them when it comes to reporting racism and discrimination. However, the Council has doubts as to the efficiency and effectiveness of these options. The Council recommends giving detainees the opportunity to talk to a confidential counsellor about the discrimination they experience.

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses the measures provided for detainees in vulnerable situations. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

²⁴¹ The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2017), Case no. RSJ 16/2399/GA, 16 January 2017.

²⁴² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 16](#).

²⁴³ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²⁴⁴ The Netherlands, Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor de Strafrechtstoepassing en Jeugdbescherming*) (2022), [Summary Advisory report on Racism and discrimination in penal institutions](#).

16. Specific measures to address radicalisation in prisons

a. General measures to prevent radicalisation

Article 20a of the Rules on Selection, Placement and Transfer of Detainees allows for the establishment of special terrorism units (*Terroristenafdelingen*) at penitentiary institutions.²⁴⁵ In these terrorism units detainees suspected or convicted of a terrorist offence are placed.²⁴⁶ Detainees suspected or convicted of other crimes are also transferred to a terrorism unit if they proclaim and/or spread radical messages before or during their detention.²⁴⁷

b. Risk assessments

The process of allocation or placement of detainees is ruled by the Ministerial Regulation 'Rules on the Selection, Placement and Transfer of Detainees' (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*).²⁴⁸ Under Article 22, subsection 1 of the Rules on the Selection, Placement and Transfer of Detainees, selection officer establishes the risk profile of the detainee for the purpose of the first placement of the detainee.²⁴⁹ To determine the risk profile, pursuant to Article 22, subsection 2 of the Rules on the Selection, Placement and Transfer of Detainees account is taken of the characteristics and background of the offence of which the detainee is suspected or for which he has been convicted.

If a detainee is suspected or convicted of a terrorist offence, that detainee will be placed in a terrorism unit (*Terroristenafdeling*) of a penitentiary institution.²⁵⁰ Detainees suspected or convicted of other crimes are also transferred to a terrorism unit if they proclaim and/or spread radical messages before or during their detention. This also happens when they recruit fellow detainees for activities that endanger order and security, both inside and outside the Penitentiary Institution.

c. Training of staff

All prison staff members follow training courses at the training institute of the Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) or the Dutch Prison Service. Part of this training institute is the National Training Institute against Radicalisation (*Rijksopleidingsinstituut tegengaan radicalisering*) that offers training programmes on how to prevent and recognise radicalisation.²⁵¹

d. Deradicalisation measures

In the terrorism unit (*Terroristenafdeling*) of a penitentiary institution counseling is more intensive than on regular wards and there are more safety regulations. The regime there is humane and focuses on

²⁴⁵ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 20a](#).

²⁴⁶ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Chapter VII](#).

²⁴⁷ The Netherlands, Custodial Institutions Agency (*Dienst Justitiële inrichtingen*) (2024), 'Terrorist Unit' (['Terroristenafdeling \(TA\)'](#)), Website.

²⁴⁸ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 1](#).

²⁴⁹ The Netherlands, Rules on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*), [Article 22, subsection 1](#).

²⁵⁰ The Netherlands, Custodial Institutions Agency (*Dienst Justitiële inrichtingen*) (2024), 'Terrorist Unit' (['Terroristenafdeling \(TA\)'](#)), Website.

²⁵¹ The Netherlands, Custodial Institutions Agency (*Dienst Justitiële inrichtingen*) (2024), 'National Training Institute against Radicalisation (Rijksopleidingsinstituut tegengaan radicalisering)', Website.

resocialisation. For each detainee in the terrorism unit a tailor-made individual resocialisation plan focusing on risks, requests for help and responsiveness is developed.²⁵²

e. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²⁵³ It covers the year 2021 and some later developments. It contains no recommendations or assessment regarding specific measures to address radicalisation in prisons.

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from 10 to 22 May 2022.²⁵⁴ The report of the CPT contains the following recommendations on measures to address radicalisation:

“The CPT encourages the Dutch authorities to increase their efforts by providing additional support and de-radicalisation activities to persons detained in the TA units [Terrorist Units].”²⁵⁵

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question about how it assesses the measures provided to address radicalisation in detention. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the questions and referred us to the Inspectorate of Justice and Security.

17. Inspections and monitoring

a. Inspections

Under article 7 of the Penitentiary Principles Act a Supervisory Committee (*Commissie van Toezicht*) is set up for each penitentiary institution, which carries out regular visits.²⁵⁶ All Supervisory Committees submit annual reports in which their relevant findings are presented.²⁵⁷ Furthermore, the Inspectorate of Justice and Security can also carry out inspections

²⁵² The Netherlands, Custodial Institutions Agency (*Dienst Justitiële inrichtingen*) (2022), ‘Terrorist Unit’ ([‘Terroristenafdeling \(TA\)’](#)), Factsheet.

²⁵³ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²⁵⁴ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

²⁵⁵ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 47.

²⁵⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7](#).

²⁵⁷ The Netherlands, Penitentiary Order (*Penitentiaire maatregel*), [Article 19](#).

b. Access to detention facilities by national authorities

Article 38, subsection 7 of the Penitentiary Principles Act stipulates members of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and members of the Complaints Committees of the penitentiary institution in question shall have access to the detainee at any time.

Article 38, subsection 7 of the Penitentiary Principles Act stipulates that the responsible Minister, judicial authorities, the National Ombudsman; public health inspectors, his legal aid provider, his probation officer, members of the national Parliament and Dutch members of European Parliament have access to the detainee under special conditions, at the times and places laid down in the prison rules.²⁵⁸ During this visit they can freely converse with the detainee, except when the governor is of the opinion, following consultation with the visitor in question, that the detainee poses a serious risk to the visitors safety. In that case, the governor shall reveal before the visit which supervisory measures will be taken, so that the conversation can take place as undisturbed as possible. The supervisory measures may not result in confidential statements made in the conversation between the prisoner and his legal aid provider becoming known to third parties.

c. Access to detention facilities by international bodies

Coordinating member of the National Preventive Mechanism is the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) which has under Article 38, subsection 7 of the Penitentiary Principles Act as one of the judicial authorities the power the detainee under special conditions, at the times and places laid down in the prison rules.²⁵⁹

Article 38, subsection 7 of the Penitentiary Principles Act, ontbreekt hier iets? The responsible and Dutch members of European Parliament have access to the detainee under special conditions, but at the times and places laid down in the prison rules.²⁶⁰

d. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²⁶¹ It covers the year 2021 and some later developments. It contains no recommendations or assessment on inspections and monitoring.

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question on how it assesses the accessibility of detention facilities for the purposes of inspections and monitoring of detention conditions. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Inspectorate of Justice and Security.

²⁵⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, Subsection 7](#).

²⁵⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, Subsection 7](#).

²⁶⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, Subsection 7](#).

²⁶¹ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

18. Access to remedy

a. Legal remedies

Under article 17 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*) detainees in pre-trial detention and post-trial detention may lodge an objection to the decision of the selection officer to place or transfer him or her in the institution or wing of institution that he or she is actually placed. Complaints must be lodged to the responsible Minister.²⁶² Detainees may also lodge an objection to the decision to terminate his or her participation in a penitentiary programme. Pursuant to article 72 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*), appeals against decisions of the responsible Minister may be lodged with the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*).²⁶³

Detainees in pre-trial detention and post-trial detention may lodge a complaint about their treatment in and the conditions of their detention with the Complaints Commission (*Beklagcommissie*) of the Supervisory Committee (*Raad van Toezicht*), which exists in every penitentiary institution in the Netherlands pursuant to article 7 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*).²⁶⁴ The proceedings of the complaints commission are laid down in chapter XI (articles 60-68) of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*).²⁶⁵ If a detainee lodges a complaint against a decision of the Governor concerning his or her treatment in or the conditions of his or her detention, the complaint must be lodged within seven days of the Governor's decision. The decisions of the Complaints Commission overrule the decisions of the Governor. Pursuant to Article 69 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*), appeals against decisions of the Complaints Commission may be lodged with the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*).²⁶⁶ An appeal must be lodged within seven days of the decision of the Complaints Commission. The decisions of the Appeals Board are binding and final. The decisions of the Appeals Board overrule the decisions of the Complaints Commission. The Appeals Board may award financial compensation to the detainee.

b. Legal assistance

Pursuant to article 65 subsection 1 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*), detainees in pre-trial detention and post-trial detention who lodge a complaint have the right to be assisted by a legal adviser.²⁶⁷ If the complainant has been provided with a lawyer, payment of his fees and reimbursement of the costs will be taken care of.

Article 37, subsection 1 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*) guarantees the confidentiality of correspondence between the detainees and his or her legal adviser.²⁶⁸ Article 38, subsection 7 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*) guarantees the confidentiality of the meetings between the detainees and his or her legal adviser.²⁶⁹

²⁶² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 17](#).

²⁶³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 72](#).

²⁶⁴ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7](#).

²⁶⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Chapter XI, Articles 60-68](#).

²⁶⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 69](#).

²⁶⁷ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 65, subsection 1](#).

²⁶⁸ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 37, subsection 1](#).

²⁶⁹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 38, subsection 7](#).

c. Request and complaints

Article 56, subsection 3 of the Penitentiary Principles Act (*Penitentiaire beginselenwet*) stipulates that the Governor shall provide that upon entering the penitentiary institution, the detainee shall be informed of his or her rights and obligations under the Penitentiary Principles Act in writing and as much as possible in a language he understands.²⁷⁰ In particular, the prisoner shall, upon entering the penitentiary institution, be informed of his power to: lodge an objection or a petition; to turn to the visiting officer of the Supervisory Committee (*Raad van Toezicht*) ; and to lodge a complaint or appeal.

A Supervisory Committee (*Raad van Toezicht*) exists in every penitentiary institution in the Netherlands pursuant to article 7 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*).²⁷¹ Article 7, subsection 3, stipulates that the Supervisory Committee shall maintain regular and personal contact with detainees to ensure that the Committee is acquainted with their wishes and needs.²⁷² Each member of the Committee shall act as visiting officer on a monthly rota basis.

Article 60 subsection 3 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*) stipulates that the Governor of the penitentiary institutions shall ensure that a detainee wishing to make a complaint is given the opportunity to do so as soon as possible.²⁷³

d. Independent authority

Detainees in pre-trial detention and post-trial detention may lodge a complaint about their treatment in and the conditions of their detention with the Complaints Commission (*Beklagcommissie*) of the Supervisory Committee (*Raad van Toezicht*), which exists in every penitentiary institution in the Netherlands pursuant to article 7 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*).²⁷⁴ The proceedings of the complaints commission are laid down in chapter XI (articles 60-68) of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*).²⁷⁵ If a detainee lodges a complaint against a decision of the Governor concerning his or her treatment in or the conditions of his or her detention, the complaint must be lodged within seven days of the Governor's decision. The decisions of the Complaints Commission overrule the decisions of the Governor.

Pursuant to Article 69 of the Penitentiary Principles Act (*Penitentiaire Beginselenwet*), appeals against decisions of the Complaints Commission may be lodged with the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*).²⁷⁶ The Council for the Administration of Criminal Justice and Protection of Juveniles is an independent body established by law. An appeal must be lodged within seven days of the decision of the Complaints Commission. The decisions of the Appeals Board are binding and final. The decisions of the Appeals Board overrule the decisions of the Complaints Commission. The Appeals Board may award financial compensation to the detainee.

²⁷⁰ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 56, subsection 3](#).

²⁷¹ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7](#).

²⁷² The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7, subsection 3](#).

²⁷³ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 60, subsection 3](#).

²⁷⁴ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 7](#).

²⁷⁵ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Chapter XI, Articles 60-68](#).

²⁷⁶ The Netherlands, Penitentiary Principles Act (*Penitentiaire beginselenwet*), [Article 69](#).

e. NPM assessment

The most recent report of the National Preventive Mechanism (NPM) was published on 12 June 2023.²⁷⁷ It covers the year 2021 and some later developments. It contains no recommendations or assessment regarding access to remedy.

On 23 August 2023, the CPT published its report to the government about its visit to the Kingdom of Netherlands from 10 to 22 May 2022.²⁷⁸ The report of the CPT contains the following assessment and recommendation on access to remedy:

“The delegation gained the impression that, overall, the complaints system seemed to function effectively.”²⁷⁹

“ In this regard, the delegation was informed that the Complaints Committees reportedly did not have sufficient resources to deal with the steadily increasing number of incoming complaints. Moreover, none of the persons met in prison were informed about the possibility to contact or complain to the National Ombudsman and/or the NPM. The CPT recommends that the Dutch authorities ensure that persons placed in solitary confinement can effectively exercise their right to complain within the required timelines. Further, it encourages the Dutch authorities to explore whether the Complaints Committees still have the necessary resources to effectively deal with the high number of complaints submitted. The CPT would also like to receive statistical data on the number and breakdown of complaints by topic for the years 2021 and 2022. Moreover, the CPT recommends that steps should be taken to inform persons in prison about the possibility to contact and/or complain to the National Ombudsman and/or the NPM.”²⁸⁰

We have contacted the Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) as the coordinating member of the Dutch National Preventive Mechanism from 2011 to 2023 with a question on how it assesses the existence and use of effective remedy dealing with detention conditions. The Inspectorate declined to answer the question. The Inspectorate referred to the official reports it published during this period. We have incorporated these reports into this report. We also contacted the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) and the Netherlands Institute for Human Right (*College voor de Rechten van de Mens*), which has been assigned as the new Dutch National Preventive Mechanism since April 2024. Both declined to answer the question and referred us to the Inspectorate of Justice and Security.

²⁷⁷ The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2023), [2021 Annual Report. Annual review of the Dutch National Preventive Mechanism](#).

²⁷⁸ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#).

²⁷⁹ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 58.

²⁸⁰ Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) (2023), [Report to the Government of the Netherlands on the periodic visit to the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\) from 10 to 25 May 2022](#), p. 59.

Part II: National case-law

Please provide the information requested on the national case-law referenced in Part I by completing the following table. Please make sure that you use a separate table for each ruling and indicate the respective topic and question of Part I in the context of which the particular ruling was referenced.

The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*), The Hague / RSJ 16/1591/GB, 01/08/2016.

Thematic area	Protection of trans detainees - Are there any special measures in place with regard to the allocation (placement) of trans detainees within the detention facilities?
Decision date	1 August 2016
Reference details	The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (<i>Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming</i>) (2016), Case no. RSJ 16/1591/GB , 1 August 2016
Key facts of the case	This case concerns a transgender woman in transition. She identifies as a woman. She is still registered as a man in the Personal Records Database (BRP). She had asked for a transfer to a low security facility at the Ter Peel Penitentiary Institution. The selection officer declined her request because little privacy could be offered there in connection with a shared shower and toilet area. In the opinion of the Appeals Board, the selection officer did not sufficiently substantiate this argument. There was no evidence that alternatives were examined for joint use of the shower and toilet room. In view of this, it must be held that the selection officer's contested decision is insufficiently substantiated. The board quashed the decision by the selection officer and ordered him to take a new decision in compliance with this judgment.
Main reasoning/argumentation	When a selection officer decides about the request by a transgender detainee to be transferred to low security facility because the facility apparently cannot guarantee sufficient privacy, this should not lead to the refusal of the request but an adaptation of the facility should be sought such as using a separate shower or separately using a shared shower
Key issues (concepts, interpretations) clarified by the case	Request for transfer to low security facility by a transgender detainee must be considered in a substantive way and not lead to the refusal of the request because apparently the facility does not meet the required privacy standards.
Results (sanctions) and key consequences or implications of the case	The decision by selection officer to refuse the request for placement by the complainant in the low security facility of the Penitentiary Institution is quashed. The selection officer is ordered to take a new decision in compliance with this judgment.
Key quotation in original language and translated into English with reference details	"De selectiefunctionaris heeft aangevoerd dat plaatsing in de b.b.i. van de locatie Ter Peel tevens op bezwaren stuit, omdat daar weinig privacy geboden kan worden in verband met een gezamenlijke douche- en toiletruimte. Naar het oordeel van de beroepscommissie heeft de selectiefunctionaris deze stelling onvoldoende onderbouwd. Daarbij is niet gebleken dat alternatieven zijn onderzocht voor het gezamenlijk gebruik maken van de douche- en toiletruimte.

	<p>Gelet daarop moet worden geoordeeld dat de bestreden beslissing van de selectiefunctionaris onvoldoende is onderbouwd. De beslissing van de selectiefunctionaris kan, bij afweging van alle in aanmerking komende belangen, als onredelijk of onbillijk worden aangemerkt. Derhalve dient de bestreden beslissing te worden vernietigd."</p> <p>"The selection officer argued that placement in the low security facility of the Penitentiary Institution at the Ter Peel Penitentiary Institution also met with objections because little privacy could be offered there in connection with a shared shower and toilet area. In the opinion of the Appeals Board, the selection officer did not sufficiently substantiate this argument. There was no evidence that alternatives were examined for joint use of the shower and toilet room. In view of this, it must be held that the selection officer's contested decision is insufficiently substantiated. The selection officer's decision may, when all interests taken into consideration, be regarded as unreasonable or unfair. Accordingly, the contested decision should be quashed."</p>
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The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*), The Hague / RSJ 16/2399/GA, 16/01/2017.

Thematic area	<i>Protection of trans detainees - Are there any special measures in place with regard to the allocation (placement) of trans detainees within the detention facilities?</i>
Decision date	16 January 2017
Reference details	The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (<i>Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming</i>) (2017), Case no. RSJ 16/2399/GA , 16 January 2017.
Key facts of the case	This case concerns a transgender woman in transition. She wanted to shower separately. In the shower room in question doors cannot be locked, everyone can walk in and out freely so she asked the Governor to shower separately. The Governor of the penitentiary institution in question did not allow her to do that although a guard had allowed her to shower separately. She lodged a complaint with the Complaints Commission (<i>Beklagcommissie</i>) of the penitentiary institution. The Commission decided in favour of the Governor. The transgender lodged an appeal with the Appeals Board of the Council for the Administration of Criminal Justice and Protection of Juveniles (<i>Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming</i>). The Appeals Board overturned the judgement of the Complaints Commission.

Main reasoning/argumentation	Governor of a penitentiary institution should take into account the specific wishes of a transgender detainee to shower separately.
Key issues (concepts, interpretations) clarified by the case	Governor of a penitentiary institution should take into account the individual interests of the detainee. In this case the wish of a transgender detainee to shower separately should be heeded. The Appeals Board stressed that transgender detainees are in a vulnerable situation.
Results (sanctions) and key consequences or implications of the case	Transgender detainee should be allowed to shower separately. Decision of the Complaints Commission (<i>Beklagcommissie</i>) of the Penitentiary Institution overturned. Complainant awarded € 50,- in compensation.
Key quotation in original language and translated into English with reference details	<p>“De beroepscommissie is van oordeel dat als uiting van goede bejegening de directeur rekening houdt met de individuele belangen van de gedetineerde. Dit vereist, zoals in onderhavige zaak, dat wordt gestreefd naar maatwerk. Klaagster stelt onbestreden dat zij door een personeelslid in de gelegenheid werd gesteld apart te douchen. De beroepscommissie begrijpt hieruit dat het niet onmogelijk is gebleken tegemoet te komen aan de wens van klaagster, terwijl deze wens gelet op de omstandigheden die klaagster heeft geschetst de beroepscommissie niet onredelijk voorkomt. Tegen deze achtergrond moet de beslissing van de directeur om klaagster niet toe te staan separaat te douchen als onredelijk en onbillijk worden aangemerkt.”</p> <p>“The Appeals Board is of the opinion that as an expression of good will, the Governor should take into account the individual interests of the detainee. This requires, as in the present case, that efforts be made to tailor it to the individual. The Complainant states, uncontested, that she was given the opportunity to shower separately by a prison officer. The Appeals Board understands from this that it has not proved impossible to accommodate the complainant's wish, while this wish does not seem unreasonable to the Appeals Committee given the circumstances outlined by the complainant. Against this background, the Governor's decision not to allow the complainant to shower separately must be considered unreasonable and unfair.”</p> <p>The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (<i>Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming</i>) (2017), Case no. RSJ 16/2399/GA, 16 January 2017.</p>

The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (*Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming*), The Hague / [RSJ R-20/6988/GA](#), 5 January 2022

Thematic area	<i>[Please indicate the topic and insert the question number from Part I here]</i>
Decision date	5 January 2022
Reference details	The Netherlands, Appeals Board - Council for the Administration of Criminal Justice and Protection of Juveniles (<i>Beroepscommissie - Raad voor Strafrechtstoepassing en Jeugdbescherming</i>) (2022), RSJ R-20/6988/GA , 5 January 2022.

Key facts of the case	A Jewish detainee in the penitentiary institution was placed in a cell with other detainees without access to a separate microwave to ensure his food is kosher. In addition, he is a non-smoker but was assigned to a cell with smokers. According to prison management, cell transfers are reserved for “compelling medical or psychological” reasons. The prisoner felt the circumstances of his situation were not taken into account and filed a complaint. The Appeals Board of the Council for the Administration of Criminal Justice (RSJ) ruled in his favour.
Main reasoning/argumentation	<p>It is undisputed that the complainant has to share the microwave oven at the cell he shared with other detainee. The complainant wanted to use the microwave to heat up kosher meals in line with his Jewish beliefs. Sharing a microwave oven is not possible according to the regulation that allows a Jewish detainee kosher food. The Appeals Board considers that the Governor of the penitentiary institution should have taken this circumstance into account when considering whether to place the complainant in cell with other detainees.</p> <p>Insofar as the detainee complains about being placed in call with a smoker when he is a non-smoker, the Appeals Board considers the following. According to established case law of the Board, in cases where detainees share a cell, the Governor has a duty of care to protect the non-smoking detainee from unwanted and avoidable harmful influences of tobacco smoke</p>
Key issues (concepts, interpretations) clarified by the case	When placing a Jewish detainee in a cell with other detainees , the Governor of the penitentiary institution should take into account that sharing a microwave is not possible according to the regulation that allows a Jewish detainee kosher food. When placing a non-smoking detainee in a cell with other detainees the Governor has a duty of care to protect the non-smoking detainee from unwanted and avoidable harmful influences of tobacco smoke
Results (sanctions) and key consequences or implications of the case	The Appeals Board of the Council for the Administration of Criminal Justice (RSJ) ruled that the Governor of the penitentiary institution should have considered that the complainant is Jewish and eat kosher and is a non-smoker before deciding to place him in a multiple-occupancy cell. Since the legal consequences of the contested decision can no longer be reversed, the complainant is entitled to compensation. He is awarded €25,-..
Key quotation in original language and translated into English with reference details	<p>“Nu niet is gebleken dat de directeur het feit dat klager koosjer voedsel eet en klagers wens om niet met een roker geplaatst te worden heeft betrokken bij de afweging om klager te plaatsen op een MPC, is de beslissing van de directeur onvoldoende zorgvuldig genomen en wordt– bij deze stand van zaken – als onredelijk en onbillijk aangemerkt. Gelet hierop zal de beroepscommissie het beroep gegrond verklaren, de uitspraak van de beklagrechtter vernietigen en het beklag gegrond verklaren. Nu de rechtsgevolgen van de bestreden beslissing niet meer ongedaan zijn te maken, komt klager een tegemoetkoming toe. De beroepscommissie zal deze vaststellen op €25,-.”</p> <p>“As it has not been shown that the Governor took into account the fact that the complainant eats kosher food and the complainant's wish not to be placed with a smoker when considering whether to place the complainant in a cell with other detainees , the Governor’s decision was not taken with sufficient care and is - on this state of affairs - considered unreasonable and unfair. In view of this, the Appeals Board will uphold the appeal, set aside the decision of the reviewing court and declare the complaint -founded. Since the legal consequences of the</p>

	contested decision can no longer be reversed, the complainant is entitled to compensation. The Appeals Board will set this at €25.”
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