Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Eighth Periodic Report

Response of the Kingdom of the Netherlands to the list of issues (CAT/C/NLD/QPR/8) transmitted to the State Party under the optional reporting procedure (A/62/44, paras. 23 and 24)

THE KINGDOM OF THE NETHERLANDS

Introduction

The Kingdom of the Netherlands has chosen to use the optional reporting procedure adopted by the Committee at its 38th session and therefore submits this report under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on the basis of the list of issues adopted by the Committee at its 72th session (CAT/C/NLD/QPR/8).

The Committee has set a limit on the number of words that the replies to the 27 issues on the list may contain. Wishing to inform the Committee as clearly and fully as possible, and bearing in mind the scope of the questions and sub-questions, the Kingdom of the Netherlands has therefore incorporated the requested statistical data and the accompanying explanation in an annexe.

Issue 2.

All constituent countries have ratified and implemented the Convention, making the crime of torture punishable by appropriate penalties.

The Netherlands

In the Netherlands (including Bonaire, St Eustatius and Saba (BES)) torture is a criminal offence under the International Crimes Act (section 8), which entered into force in 2003. The definition of the crime of torture is based on the definition in the Convention. The crime of torture is punishable by life sentence or temporary imprisonment for a term not exceeding 30 years and/or a fine not exceeding €90,000. In practice, long prison sentences are imposed for international crimes and fines are never imposed alone.

There is no statute of limitation for the crime of torture (section 13 of the International Crimes Act). Nor is there any such statute of limitation for civil claims for damages relating to torture(article 3:310 of the Civil Code).

Section 11, subsection 1 of the International Crimes Act further provides that an international crime committed pursuant to a regulation issued by the legislature of a State or pursuant to an order of a superior remains a criminal offence.

Issue 3.

The rights of suspects are laid down in the Code of Criminal Procedure and are explained in a leaflet given to all suspects.

The police officer draws up an official arrest report. The (assistant) public prosecutor monitors compliance with the rules. This constitutes an important element in the checks and balances built into the Dutch criminal justice system. During basic training candidate police officers become acquainted with the fundamental principles of the Code of Criminal Procedure, including suspects' rights. The public prosecutor makes an independent decision as to whether pre-trial detention is to be imposed.

Minor suspects are subject to juvenile criminal law. They are all assigned a lawyer immediately after arrest. Minors who are invited for questioning by the police are assigned a lawyer prior to the police interview. He provides legal assistance r throughout the criminal proceedings. The police also inform their parents, who are allowed to be present during questioning if the minor so requests.

During basic training candidate police officers also become acquainted with the specific rights of minors as laid down in the Code of Criminal Procedure.

Legal aid in criminal cases on the BES islands is regulated by law. As an independent administrative body, the Legal Aid Board is responsible for the implementation of subsidised legal aid in the Netherlands and the BES islands. Suspects in criminal cases from Saba and St Eustatius are usually transferred to Bonaire for trial and detention. In practice, they are assisted by lawyers from Bonaire and/or Sint Maarten.

Issue 4.

The Dutch National Preventive Mechanism (NPM) consists of all the organisations that play a supervisory or advisory role in respect of persons whose liberty has been restricted. Currently, an exploratory study into how the NPM can be organized in a different way is being conducted . This exploratory study also includes the financial, operational and organizational independence of the NPM.

With regard to the monitoring of military detention facilities, the Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee, appointed by ministerial regulation of the Ministry of Defense, supervises all detention facilities managed and used by the Royal Military.

As for the NPM and the organisations that take part in the NPM's periodic consultations[1], the Netherlands Institute for Human Rights, the National Ombudsman, and the Law Enforcement Council, no statistical data on the number of complaints on the specific category of 'torture and inhumane treatment' is gathered in the systems of these organizations.

Issue 5.

Issue 6.

Measures taken to combat all forms of violence against women and girls

The Netherlands has launched a number of action plans[2] and is investing in measures to combat domestic violence, sexual harassment, sexual violence, harmful practices and online (gender-based) violence. The 2021-2025 coalition agreement promises robust action to tackle misogyny, both online and offline, domestic violence and sexual exploitation. In 2015 the Netherlands ratified the Istanbul Convention and is working on the follow-up to recommendations made by the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO).

[1] The Inspectorate of Justice and Security, Health and Youth Care Inspectorate, Commissions of Oversight for Penitentiary Institutions, Commissions of Oversight for Police Custody and Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee.
[2] 'Violence has no place in the home' (a national action programme on domestic violence against women and girls), the Agenda for Action on Harmful Practices, the National Action Plan on Sexually Inappropriate Behaviour and Sexual Violence, and measures under equal opportunities policy.

The government is working to prevent people becoming perpetrators or victims, improve timely reporting of gender-based violence, end the violence and find lasting solutions to the problem. The Domestic Violence and Child Abuse Impact Monitor keeps track of the effect and progress of measures in this field. The government is also working towards a national action plan on sexual harassment and sexual violence focused on long-term commitment and sustainable change, with the help of an independent government commissioner. The government commissioner will advise the government and work to encourage a public debate to bring about the cultural changes needed to combat sexual harassment in the workplace and elsewhere, and sexual violence.

The Public Prosecution Service's Instructions on Sexual Offences, which provide a framework and rules governing measures under the criminal law regarding sex offences, give a detailed description of how the police and the Public Prosecution Service are meant to respond to reports and criminal complaints and how they take account of the interests of the victim.[3]

In 2018 the Netherlands launched a National Plan entitled 'Together against Human Trafficking' (*Samen tegen Mensenhandel*). The programme targets various types of human trafficking: sexual exploitation, labour exploitation, criminal exploitation and organ harvesting. The Netherlands pursues an integrated approach: prevention, identification, detection, shelter and international cooperation are considered jointly.

The government has taken various measures as part of the plan.

- A project (launched January 2019) to further improve support for victims of 'loverboys' (Romeo pimps) in youth care. A study is being carried out concerning the effectiveness of care for underage victims of human trafficking.[4] In addition, two organisations that work with people with intellectual disabilities have developed a detection tool, aimed at identifying girls with a mild intellectual disability who are at risk of falling victim to Romeo pimps.

[3] wetten.nl - Regeling - Aanwijzing zeden - BWBR0037821 (overheid.nl) (in Dutch). More specifically:
- Section 1.2 explains that, by law, people who report that they are victims of a sexual offence have all the rights accorded to victims as soon as the police are informed of their situation.
- Chapter 2 describes the requirements that the investigation of a sexual offence must meet and outlines the criminal investigation process, consisting of:
  - an initial, informative interview explaining the implications of lodging a criminal complaint
  - a forensic medical examination
  - investigation of data devices, and
  - action taken in the event of a deliberately false report of a sexual offence.
- Chapter 4 deals with responsibilities vis-à-vis the victims of sexual offences with regard to:
  - guaranteeing their safety
  - protecting their privacy
  - preventing secondary victimisation.

This chapter also discusses responsibilities vis-à-vis minor victims and victims with special needs. Safety and risk assessment are the guiding principles in all stages of investigation and prosecution.

[4] Effectiviteit en bereik van zorgprogramma's voor slachtoffers van loverboys en mensenhandel - Verslagen - ZonMw (in Dutch).

- A study is being conducted by an NGO into the criminal exploitation of minors in relation to other forms of crime, including drug crime.[5]
- Together with stakeholders a plan is being formulated as part of the revised National Plan that focuses on combating and preventing sexual exploitation of young victims and perpetrators up to the age of 23.
- A study is being conducted into whether existing low-threshold (online) support for victims of human trafficking meets victims' needs, is sufficiently accessible, and whether victims recognise themselves in the terminology used.[6]

For an overview of statistical data the Government refers to the Annexe.

Issue 7.

Measures taken to ensure that the risk of torture and other acts of cruel, inhuman or degrading treatment and punishment is prevented

In the asylum procedure the risk of a violation of Article 3 of the European Convention on Human Rights (ECHR) is assessed. If an asylum seeker whose application has been rejected believes that there are new grounds to fear such a violation, they can always lodge a new asylum application during the return procedure.[7]

All unaccompanied minors are appointed a legal guardian from the moment they arrive in the Netherlands. Guardians always act in the best interests of the minor. In addition, all persons in the asylum procedure receive legal aid, unaccompanied minors included.

It is possible to lodge an appeal against an extradition or expulsion decision to an independent authority. If it is combined with a request for protection (an asylum application) the appeal will have suspensive effect.

Application of the exclusion clauses

The exclusion clauses of Article 1F of the Refugee Convention are only applied if, after a full assessment of the individual circumstances by a specialised unit, there are serious reasons to believe that the person concerned knew, or should have known, that the acts in question were committed and that the person concerned personally participated in these acts. The burden of proof lies with the State. This unit assesses the risk of a violation of Article 3 ECHR if the person concerned is removed to their country of origin. If there is a serious risk, the State will not remove the person concerned. However, the obligation to leave the territory remains.

[5] https://www.hetckm.nl/mediadepot/30137e251765/CKMRapportKijkenmetandereogen(2022).pdf (in Dutch).
[6] Online Outreach Programma - CKM (hetckm.nl) (in Dutch).
[7] The asylum procedure is not an accelerated procedure but a general procedure which can be extended under certain circumstances. Please see the annexe for a detailed description of the asylum procedure.

Compliance with the principle of non-refoulement by the Dutch armed forces operating overseas

The Dutch armed forces deployed overseas have no standard authorisation to detain. Factors that play a role include the legal basis, the political mandate for the operation, and the goal and objectives of the operation, as well as relations with both the host State and other States participating in the operation.

In operations in which detention is authorised, the Netherlands will detain persons only if a number of conditions are met: (1) guaranteed availability of adequate detention facilities; (2) a system of registration and reporting of any detention and persons detained; (3) availability of adequate medical care; (4) availability of a reviewing authority independent from the chain of command responsible for the detention; (5) availability of a supervisory authority; (6) guarantees from the State to which detainees are to be transferred that their human rights will be protected and (7) follow-up visitation rights for the Netherlands. In previous operations in which detention was authorised, the conditions under 6 and 7 were set out in written agreements between the Netherlands and the receiving State, and follow-up visits to transferred detainees were carried out either by units of the Netherlands armed forces or the Dutch embassy.

In addition, the Netherlands takes into account human rights standards and the overall human rights situation in the receiving State, including overall standards and practices in the detention facilities of that State.

The Dutch Ministry of Defence is in the process of drafting a standard operating procedure on the issue of detention in military operations, which in future will apply to all operations overseas.

Issue 8.

Early identification[8]

The referral system for human trafficking is based on cooperation and the sharing of information between the authorities (including the Public Prosecution Service, police, local government, the Royal Military and Border Police, the Netherlands Labour Authority (NLA), the Dutch Immigration and Naturalisation Department (IND), the Central Agency for the Reception of Asylum Seekers (COA), youth services, etc.) and NGOs such as women's shelters and CoMensha (the Coordination Centre against Human Trafficking) with the purpose of identifying victims of human trafficking and, where necessary, providing support and shelter. Agreements on cooperation are frequently actualised and updated.

[8] Please see the answer to question 9 for an explanation of the training of immigration officers in identifying human trafficking.

Since 2019 the following measures have been taken to ensure the provision of protection:

- Thirty-six additional sheltered accommodation units for victims with multiple issues had been set up and were in operation by the end of 2019. Monitoring and evaluation is ongoing.
- The aim is to appoint a care coordinator in every region for female victims. The national coverage for care coordination has increased from 85% to 94% since 2019.
- NGOs Koraal, Pretty Woman, Sterk Huis, Fier and Lumens are developing prevention, support and after-care for boys and men who are the victim of sexual exploitation. To this end, case studies are conducted to learn about the background and personal history of victims, their experiences with support agencies and the outcome of any treatment. The results will be used to develop methodologies and care programmes.
- There are various national and regional reporting and advice centres. With financial support from the government, CoMensha has invested in expertise on human trafficking within the Veilig Thuis ('Safe at Home') organisations. Veilig Thuis can refer victims to regional youth care. Youth care is provided at both municipal and national level. For young people with severe and complex care needs, youth expert teams have been established in each region. These teams work with municipalities and providers to find appropriate solutions. Supra-regional expertise networks support expert teams in terms of development and where necessary in providing solutions for parents and children. Furthermore, municipalities can utilise extended youth assistance. Some municipalities have developed special tailor-made budgets for vulnerable young people aged 16 to 27.[9] In the past four years, under the Care for Youth and Homeless Youth programmes, there have been over 22 pilot projects launched in the field of continued care.
- Victims of Romeo pimps are usually entitled to free legal assistance. The government can collect court-ordered compensation for victims from offenders, and victims can receive advance payments on the remaining amount eight months after the final judgment was handed down. Victims can also apply to the Criminal Injuries Compensation Fund.
- A pilot project to provide crisis beds for large groups seriously disadvantaged persons without having an indication of human trafficking was launched on 1 April 2022.

Protection of vulnerable persons

The Criminal Injuries Compensation Fund and the IND have both developed assessment frameworks to gauge the plausibility of human trafficking victimisation claims and of personal human trafficking accounts within their respective work processes.

[9] If a minor is receiving mental healthcare and the institution providing this care has a contract with their health insurer, the treatment can continue after age 18.

Before conducting interviews the IND assesses whether these will have added value. In this regard, relevant issues include whether the existing information in the file is sufficient to issue a decision and whether interviewing the possible victim could be too distressing for them.

Forensic medical examination

The IND has drawn up a number of work instructions related to protecting persons in vulnerable situations. At the beginning of the asylum procedure an assessment is made as to whether a person needs special procedural guarantees. If so, a medical adviser assesses an individual to see if they are fit enough to be interviewed, or if this can be done only under certain conditions. IND staff are also trained to recognise and take into account signs of medical problems/trauma that could affect the statements made by the asylum seeker.

Issue 9.

Forced return only takes place after a thorough and careful asylum procedure. Asylum seekers are not monitored after their return. When certain signals were received in one specific case an investigation was conducted to verify them. They proved to be unsubstantiated. If a court decides in an individual case that such a causal link between ill-treatment and forced return in fact exists, the Government will pay appropriate compensation.

Please see the Annexe.

Issue 10.

Law enforcement officials

The presumption of innocence, the prohibition on coercion and torture, the right to a fair trial and the principle that the purpose of an interview is to establish the truth are basic principles and observed in interview training at the Police Academy. Training for custody officers focuses on correct and appropriate treatment of detainees in line with the National Regulations on the Treatment of Persons in Police Custody.

The new basic training course for police officers, launched in 2021, distinguishes between community policing and investigative policing. The yet-to-be-launched Investigation profile focuses on conducting a criminal investigation, which also gives the basics of interrogation a place in the new basic training. As part of in-service training and professional development, the Police Academy holds seminars on interviewing once every two years.

Interview training is constantly updated. In addition, each Regional Unit has a local 'criminal investigation college' in which officers provide workshops and training courses for colleagues, including about interrogation.

Prison staff

All prison staff and policy advisors at the Dutch Custodial Institutions Agency (DJI) are trained in the application of national and international law, legislation and conventions.[10]

Basic training devotes considerable attention to the legal status of detainees (in the Constitution and in international law) and staff are tested on their knowledge of the statutory safeguards. Other topics include dealing with use of force (including the forced administration of medication) and restoring contact, mental resilience and (throughout basic training) the importance of healthy alliances in the workplace.

These training courses are mandatory. Every new staff member receives training within their first year. During their career, and in the event of new or amended rules and regulations, staff members will take additional training courses to stay up-to-date.

Immigration officers

The principle of *non-refoulement* is the foundation of the entire asylum system. It is embedded in every training course, in the decision-making process, in the judicial review procedure and more. All IND staff are therefore aware of the legislation and procedures underpinning this principle. Additionally, the IND trains its staff to recognise signs of human trafficking and has a specialised human-trafficking office at all asylum centres. The IND aims to hold an annual workshop on human trafficking for staff members. Additional workshops relating to human trafficking, sexual orientation and gender identity are also available.

The COA provides basic training in recognising signs of human trafficking for its own staff. All COA sites have at least one liaison officer specialising in human trafficking who has attended several days of training on this issue. Biannual one-day refresher courses are organised to keep participants' knowledge up to date. In addition, the e-learning module on human trafficking and recognising signs[11] is available to staff of the Repatriation and Departure Service (DT&V).

DT&V also has a contact person at each local branch who is trained to detect and respond to signs of human trafficking in departure interviews. In such cases, the presumed victim is informed of the option of filing a report with the Aliens Police, Identification and People

[10] For instance through the Custody and Detention Orientation module which sets out the reasoning behind the current setup of Dutch prisons and emphasises the safeguards in place against ill-treatment and violence in detention.
[11] Developed by the Netherlands Red Cross, the Dutch Council for Refugees and the COA.

Trafficking Department and of applying for a residence permit under the Trafficking in Human Beings (Residence Permit) Scheme.

Methodology to assess effectiveness

The Police Academy incorporates the results of research (carried out by the Academy or other research institutions) in its training courses. Interview training courses are designed by teaching staff and periodically updated on the basis of academic research, social developments and case law.

The Netherlands is about to expand the evaluation system to improve insight into changes/increases in knowledge and skills and changes in behaviour in the workplace.

Issue 11.

Training programmes on recognising trafficking in persons

All first-line police officers are trained to recognise the signs of human trafficking. By the end of 2021 almost every first-line officer had received such training, which is now integrated in the regular education programme. Additionally, dozens of detectives have followed courses in recent years to become certified human-trafficking detectives.

Medical professionals

CoMensha and the Royal Dutch Medical Association (KNMG) hold awareness and detection sessions for a diverse range of physicians and other medical professionals. Together with CoMensha, FairWork is also developing accredited training courses for GPs focusing on knowledge and awareness of human trafficking and on the skills needed to respond to signs or suspicions, which took place for the first time in 2021.

Training for medical professionals in compulsory care

People can be deprived of their liberty if they need care because they pose a threat to themselves or others but refuse to accept it. Careful procedures have been laid down in Dutch law to reduce the risks associated with any violation of fundamental rights, such as compulsory care/involuntary admission. The Compulsory Mental Healthcare Act (Wvggz) and the Care and Compulsion (Psychogeriatric and Intellectually Disabled Patients) Act (Wzd) provide a legal basis, as well as strict criteria and safeguards, for such care/admission. Before someone can be admitted on an involuntary basis, judicial review has to take place. Health professionals are trained to complete a number of careful procedures before compulsory care is given and to avoid compulsion wherever possible.

The statutory safeguards (prior multidisciplinary consultations or an application to the court) are complemented by the standards laid down by the professional bodies.[12]

Domestic violence training

The Police Academy has introduced a range of domestic violence training courses, paying explicit attention to interaction with both offenders and victims and to the cycle of abuse that typifies offenders. There is a course designed for officers in the field, as well as one for officers with special responsibilities.

As a learning organisation, the police, together with its partners (Public Prosecution Service, Dutch Probation Service, Child Protection Board and *Veilig Thuis*), are permanently engaged in enhancing the expertise of officers and other staff.

Issue 12.

Measures related to the imposition and extension of pre-trial detention

The judiciary is taking steps to improve the substantiation of decisions on pre-trial detention. The professional standards explicitly endorse the importance of proper substantiation of decisions.[13] In addition, the new Code of Criminal Procedure has a more detailed provision on the suspension of pre-trial detention. In all cases the court is required by law to examine whether the pre-trial detention order can be suspended.

Please see the Annexe.

Issue 13.

Material conditions in custodial institutions

In 2018 the Caribbean Netherlands Correctional Institution (JICN) moved to new premises. The new JICN meets the standards laid down by DJI, with over 113 cells that meet CPT standards. The residential areas of the prison are divided into small units with differing regimes. In addition, there is are workshops, an activities complex and a sports field.

Access to mental healthcare and harm reduction programmes

[12] For the mental health services this is the general module on assertive and compulsory care, see (in Dutch) https://www.ggzstandaarden.nl/generieke-modules/assertieve-en-verplichte-zorg/introductie. For older and disabled people the *Vilans* centre of expertise specifically focuses on increasing knowledge and expertise on this subject among medical professionals.
[13] See the professional standards for criminal justice (in Dutch only), published by the National Committee on Criminal Law Matters on www.rechtspraak.nl.

Every detainee has access to mental healthcare: a psychologist or psychiatrist is available and can offer the necessary therapy. Where necessary specialised care, for example for drug-dependent detainees, will be provided.

If needed, substitution therapy using methadone is provided, there are special detox units for GHB abuse in two custodial institutions and the use of nicotine (tobacco) is discouraged and substitutes are available. Alcohol is strictly prohibited in prisons.

There is no special harm reduction programme based on needle exchange as intravenous drug use in Dutch prisons is uncommon.

Medical screening

The medical screening process has recently been updated. Medical screening focuses on somatic and psychological healthcare needs; it is conducted by a nurse within the first 24 hours of detention. The nurse's assessment is signed off by a doctor or the detainee is seen by a doctor if necessary. Issues addressed include somatic and psychological symptoms, treatment and disorders, both current and in the medical history, infectious diseases, and addiction and abuse. Action will be taken depending on the results of screening and will be discussed with a doctor or another healthcare professional, depending on the medical needs of the detainee. In addition, guidelines have been developed on the questions to be asked and what action is required depending on the issues present.

Access to food

DJI has implemented section 44, subsections 1 and 3 of the Custodial Institutions Act. Subsection 1 states that the governor of the institution must ensure that food and necessary clothing are provided to detainees or that sufficient funds are made available to them to properly provide for themselves. Subsection 2 states that the religion or belief of detainees must be taken into account as much as possible in the meals provided. Diets may be based on advice from the medical service. All food provided complies with the guidelines of the national Nutrition Centre (included as a requirement in the contract with the food supplier). In addition, detainees can purchase items in the prison commissary to which weekly deliveries are made.

Review of prison healthcare services

The government sees no reason to undertake a fundamental review of the role of healthcare services in prisons. Healthcare legislation requires medical staff to act in accordance with professional guidelines and standards and they must be qualified and competent to perform certain procedures. The forensic team of the Health Care Inspectorate (IGZ)[14] exercises strict supervision of the care provided in prisons. As part of

[14] The IGZ is part of the organisational structure of the Ministry of Health, Welfare and Sport.

its regular inspections, the IGZ has visited several locations over the past few years. These visits did not bring to light any structural shortcomings that would call for a fundamental review such as that suggested. Developments continue to be monitored through regular inspections.

Guidelines on registration in medical records in detention

In the last quarter of 2021, guidelines were published on managing and registering patient information in a clear and traceable way, in order to contribute to the continuity of medical care. They are based on guidelines published by the Dutch College of General Practitioners regarding electronic patient records (ADEPD guidelines), adapted to the medical care and medical situations specific to detention.

Reporting suspected cases of torture and ill-treatment

Medical confidentiality can only be waived in highly exceptional circumstances. The situations in which a health professional may be required to share information are laid down by law.[15] All care providers are obliged to report such situations to the Health and Youth Care Inspectorate (IGJ). This concerns situations involving physical or psychological violence, sexual abuse, indecent acts (*ontucht*) or coercion within a care relationship. Health professionals are not obliged to share information if they suspect torture or ill-treatment outside the care relationship.

In cases where there is no obligation to report, health professionals have to decide for themselves whether or not to share information. For example, if the patient has given their consent. If there is a conflict of duties, the health professional may choose to share information if other interests at stake are so compelling that they require medical confidentiality to be waived. In such cases sharing information must be the only way to avert an imminent danger. Finally, a health professional may breach medical confidentiality if there is a statutory right to disclose information (under the Youth Care Act, for example, if they suspect child abuse).

Leaflet on medical data and the Electronic Patient Record

The 2021 leaflet on informing detainees about the medical data included in the Electronic Patient Record explains how health professionals enter medical data in the Electronic Patient Record and sometimes share it with other health professionals. It also describes the rules applicable to patients' medical data, and the responsibility of the patient. Other areas addressed include retention of and access to medical data, and sharing of medical data in general and in specific cases, for example in connection with research or patient transfer.

[15] At issue here is violence or abuse committed by a person employed by a care provider or by another patient receiving care from the same provider.

Issue 14.

Placement of individuals in high-security units

Individuals are placed in special terrorist wings if they are suspected or have been convicted of a terrorist offence.[16] However, from this general rule can be deviated if information from the police or Public Prosecution Service suggests this would not be appropriate, or if there are indications that the individual is suffering from a somatic or mental disorder requiring specialist care. To facilitate tailored care, the Netherlands Institute for Forensic Psychiatry and Psychology (NIFP) has developed an instrument (revised Violent Extremism Risk Assessment) to assess each individual held in a terrorist wing in terms of the risk they present for security and the danger of dissemination of extremist ideas. On this basis a decision as to the security and supervision measures required is taken.

Towards the end of an individual's sentence, they may be transferred to the general population to prepare for their return to society.

In its last report, the Justice and Security Inspectorate found that the legal status of individuals held in special terrorist wings was respected. Measures with regard to security, care and daily programme are tailored to the detainee's risk profile.[17]

Article 10, paragraph 2 of the ICCPR states that accused persons must be segregated from convicted persons, unless exceptional circumstances demand otherwise. Security issues can be a reason to hold individuals accused of terrorist offences together with those convicted of them. The aim is to monitor this specific group and prevent the spread of radical ideologies and recruitment activities. In August 2020 a special terrorist wing for women was opened in Zwolle Prison.

Security measures in place include a body and clothing search after a person has had contact with the outside world. The decision to conduct a search is made on the basis of an individual's risk profile. Body and clothing searches are in principle carried out by a person of the same sex.

Individuals held in a special terrorist wing are permitted to work and take part in daily activities. All detainees, including those in the special terrorist wings, are entitled to one hour-long visit per week. The detainee and the visitor may hug one another briefly and shake hands. If detainees have children, it is decided in each case whether more physical

[16] Article 20 of the Selection, Placement and Transfer (Prison Inmates) Order.
[17] Justice and Security Inspectorate, *Rapport De Terroristen Afdeling in Nederland* (Report on special terrorist wings in prisons in the Netherlands), 16 September 2019.

contact can be allowed in the family room. Detainees can telephone a screened person four times a week for ten minutes.

Issue 15.

Criminal investigation into inter-prisoner violence

If there are suspicions that a criminal offence has been committed, the Public Prosecution Service can decide, on its own initiative, to conduct a criminal investigation of an incident involving violence between detainees. Which aspects are investigated depends on the specific case.

Compensation for relatives

In general, if the family or surviving relatives join the proceedings as an injured party, the court may award them compensation for material damage and/or non-material damage.

Please see the Annexe.

Issue 16.

Dutch law provides for a procedure for reviewing life sentences and offers opportunities for life sentence prisoners to prepare for that review. Initially, individuals serving life sentences follow the same daily programme of activities as any other prisoners. The daily programme focuses on social rehabilitation, including improvement of individuals' ability to function socially.[18] At this point, life sentence prisoners are not yet eligible for activities aimed at reintegration in society.

Twenty-five years after the remand in police custody, the Life Sentence Prisoners Advisory Board examines the case for the first time to ascertain whether the individual concerned can begin the reintegration phase.[19]

Twenty-seven years after the remand in police custody, an automatic pardon procedure is launched under the Pardons Act to determine whether the changes that have taken place with regard to the person serving the life sentence and their progress in terms of reintegration are such that continued enforcement of the sentence no longer serves any of

[18] See the explanatory memorandum to the Advisory Board (Life Sentence Prisoners) Order, Government Gazette 2016, 65365, under 'General'.
[19] See articles 2 and 10 of the Advisory Board (Life Sentence Prisoners) Order. The Advisory Board examines whether a person serving a life sentence can begin the reintegration phase on the basis of four criteria: (i) the risk of re-offending; (ii) the criminal propensity ; (iii) the behaviour and development of the offender during their imprisonment and (iv) the impact on victims and next of kin (and in that light, the matter of retribution). The Advisory Board advises the Minister for Legal Protection accordingly.

the aims of the criminal justice system and is no longer justified. As part of the procedure the Advisory Board informs the Minister for Legal Protection on the progress of the detainee's social rehabilitation and reintegration activities. In accordance with the Pardons Act, the Public Prosecution Service then advises the court that imposed the life sentence. The court takes this into account in its advice to the Minister, who is authorised to decide to recommend a pardon. This decision is ratified by Royal Decree.

Every individual serving a life sentence is informed about this policy.

Since its establishment the Advisory Board[20] has issued recommendations in a number of cases. As a result, three persons serving life sentences have been admitted to the reintegration phase.

Issue 17.

Juvenile and adult criminal law

Minors who commit offences are tried under juvenile criminal (procedural) law. Taking into consideration the offender's character, the seriousness of the offence and the circumstances under which the offence was committed, a court can decide under to try minors aged 16 or 17 under general adult criminal law.[21] If the court decides to do so, the minor will, if convicted, be placed in an institution for adult offenders. The court takes this into account when deciding whether to apply adult criminal law. Currently there are no minors residing in an adult custodial institution.

Minors are separated from adults in the holding cell complex for arrested persons, during transport to and from the complex and during exercise.[22]

Needs of other groups

The DJI aims to provide support for the basic pre-conditions for reintegration (relating to income, debt, housing, care, proof of identity and social network). The same support is available to everyone, regardless of sexual orientation. The same applies to medical care.

In addition, 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.

[20] Since 2020, the Advisory Board (Life Sentence Prisoners) Order also applies to BES-islands.
[21] Following article 77(b) of the Dutch Criminal Code.
[22] This is also the case for the BES islands.

Issue 18.

Non-custodial accommodation

With respect to children, both families with minor children and unaccompanied minors retain the right to shelter regardless of their status. If an unaccompanied minor or a family is awaiting deportation they may be placed in administrative detention. When deciding whether to place a minor in such detention, a test of proportionality is required and certain legal criteria have to be met. Additionally, in the case of an unaccompanied minor, important overriding interests must exist for detention to be ordered. The reason for ordering detention, rather than a less far-reaching alternative, must always be explicitly and carefully motivated.

In such cases, families with children and unaccompanied minors are placed in a secure family accommodation centre. These detention centres have been designed to be child-friendly. They are spacious and surrounded by green areas, with play facilities and activities for children. Unaccompanied minors and other children can attend school there.

Missing unaccompanied children

In 2020 a study was conducted of unaccompanied minors who abscond from reception facilities. The study showed that there is a significant group who spend a relatively short period of time in a reception facility, do not appear to be interested in the outcome of their asylum procedure and seem to regard the Netherlands as a transit country. In addition, several other studies about specific groups of unaccompanied minors and asylum seekers are being undertaken. Based on the outcome of these studies, the government will continue to take appropriate measures to ensure the safety of unaccompanied minors.

Please see the Annexe.

Issue 19.

Efforts to reduce the use of immigration detention and its duration

Detention for return purposes remains a necessary element of a viable return policy and will therefore never be zero. It remains a last resort and is used as little as possible. However, there is no policy to actively reduce the numbers detained at the border, as this measure is applied only when there is no effective alternative.

Detention

EU member states are obliged to refuse entry to persons who do not fulfil the requirements set out in Article 6 of Regulation (EU) 2016/399[23] and to prevent further illegal entry. Detention is often the only effective way to prevent such entry. This is not negated by the mere fact that a person has applied for asylum. Existing EU provisions allow for detention in such cases.[24] Detention is only permissible if an application is declared inadmissible or manifestly ill-founded.[25] Unaccompanied minors who apply for asylum are not detained at the border. Families including minor children that apply for asylum after arriving at the international airport are assessed immediately and will only be detained if doubt arises as to their alleged family ties, since in such cases human trafficking of minors is a possibility.

After initial screening a significant proportion of the people who are refused entry at Schiphol airport are sent to the central reception centre to apply for asylum.

Administrative detention during the pandemic

The restrictions on travel imposed by various countries during the pandemic had an effect on the number of migrants that were detained with view to their return. The numbers of migrants returned and detained fell by roughly half compared to pre-pandemic figures. Nonetheless, many countries did allow their own nationals to re-enter during the pandemic. For a number of individuals, the country of origin was unclear due to changing claims. Detention in some of these cases was justifiable to establish identity. In those cases where it was clear that that return could not be effected within a reasonable timeframe, detention was lifted.

Issue 20.

Repatriation and detention of migrants

Although the amendment to the Return and Immigration Detention Bill allows for a collective lockdown of detainees in the event of disturbances of the peace, public order and safety, the actions of immigration detention staff in such circumstances are in the first place focused on individual measures in respect of the persons causing the disturbance. There is therefore no question of 'collective penalty'. A lockdown order is a measure that the director of the institution can apply, in exceptional circumstances, to end intensely threatening situations, in which the safety of both detainees and staff is at stake, as quickly as possible. A lockdown is imposed only when strictly necessary and only in those parts of the institution where it is needed. If circumstances have led to a lockdown, it is essential to take stock and see how the day program can be restarted (in phases) as safely

[23] On a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code).
[24] See Article 8, paragraph 3 (c) of Directive 2013/33 laying down standards for the reception of applicants for international protection.
[25] This is regulated in section 6, subsection 3 and section 3, subsection 3 of the Aliens Act 2000.

and manageably as possible. When a collective measure is imposed – if possible confined to a limited number of wings – the staff must review the situation as soon as possible after it is ended. Multidisciplinary consultations follow to assess the behaviour of detainees, in order to identify trouble makers, ringleaders, hangers-on and those sympathetic to them. It is assessed, per daily period, where the lockdown can be scaled down and whether it is still proportionate. Various officials and disciplines are involved in the decision-making to ensure that the decisions taken are well considered.

Furthermore, situations may occur in which segregation is required as a disciplinary measure, even if there is no lockdown. Unacceptable behaviour is an example. In these circumstances, segregating a detainee is always a decision in an individual case that can be taken only by the director of the institution after careful consideration of the interests involved. This decision must be fully substantiated. The physical and mental health of the detainee is monitored by a doctor during segregation.

Use of restraints while transporting undocumented migrants

Use of restraints is permitted only after careful assessment, in line with national legislation and case law. Legal remedies are available to challenge the use of restraints.

Mechanisms for reporting ill-treatment

If a serious incident occurs the COA, after consulting with the victim, transfers the alleged offender or the victim to a different location. If a criminal offence has been committed, the COA always advises the victim to lodge a criminal complaint and where necessary provides assistance with this process.

In certain situations LGBTI asylum seekers can be placed together in a specific wing of a reception centre. This is however subject to feasibility within the particular reception facility and the wishes of individual asylum seekers.[26]

Please see the Annexe.

Issue 21.

New legislation on compulsory care

On 1 January 2020 Wvggz and the Wzd replaced the Psychiatric Hospitals (Committals) Act.

[26] In addition the COA is currently implementing a plan to further improve reception and support for LGBTI asylum seekers. The plan focuses on improving visibility and awareness of LGBTI asylum seekers, creating minimum requirements in working methods across all reception facilities and registering any suspicions of discrimination with regard to incidents.

The Wzd regulates the rights of intellectually disabled patients or patients with a psychogeriatric disorder (dementia, for example) who are receiving compulsory care or have been involuntarily admitted to a care institution. The Wvggz governs the provision of compulsory, tailored care for people with a psychiatric disorder.

Both Acts aim to strengthen and safeguard the legal status of recipients of compulsory care. Compulsory care is a last resort in situations involving serious disadvantage[27] where voluntary care is no longer an option. The compulsory care envisaged must be necessary and capable of preventing the serious disadvantage at issue, and there must be no other, less far-reaching alternatives.

When there are no voluntary alternatives, the care organisation must follow a step-by-step plan that includes a careful analysis of the situation, discussion of alternatives by a multidisciplinary team and consultation of independent experts. Periodic evaluations are mandatory, to determine if compulsory care remains necessary and whether there are alternatives. Under the Wvggz, every form of involuntary care must be based on a compulsory care order issued by a court.

Alternative measures

At the end of 2021, the mental healthcare services introduced a general module on assertive and compulsory care.[28] The module focuses on the patient perspective and involvement of family, and presents compulsory care as a last resort after all voluntary alternatives and assertive outreach intervention have failed.

Plan to close all seclusion rooms

The largest mental healthcare institutions had expressed an ambition to close the rooms used for seclusion permanently. Figures show that seclusion is still necessary. One of the reasons for this is that the threshold for clinical care is higher. If an individual experiences a mental health crisis, they may have to be admitted and placed in seclusion. In these circumstances, the most common choice is a high-security room, or a secure unit for patients requiring acute psychiatric care instead of a seclusion room. The IGJ has concluded that although the institutions are making efforts to reduce the incidence of seclusion, this has not been sufficiently successful, partly due to the increasing seriousness of mental health issues.[29] The IGJ notes that where secluding patients proves necessary, the measure is carried out with due care.

[27] Serious disadvantage means, in brief, that there is a risk to the health or safety of the patient or those around them.
[28] https://www.ggzstandaarden.nl/generieke-modules/assertieve-en-verplichte-zorg/introductie.
[29] Health and Youth Care inspectorate, *Toezicht terugdringen separeren en afzonderen in de GGZ 2016-2019* ('Monitoring efforts to reduce seclusion in mental health care 2016-2019'). See (in Dutch)

Monitoring[30]

The Wvggz and the Wzd require a careful procedure to be carried out before any form of compulsory care can be imposed. Thorough consideration of possible forms of care and the maximum duration of such care must precede a compulsory care order as referred to in the Wvggz and the step-by-step plan required by the Wzd. If compulsory care is necessary, the care provider must substantiate that there are no alternatives and that the compulsion is proportionate. A complaint can be lodged against a decision to impose compulsory care. The measures taken and their duration must be recorded. These records are sent to the IGJ every six months and are analysed and evaluated by the care provider. Mechanical fixation is rarely used in mental healthcare and their use has been considerably reduced in disability care.

COVID-19 restrictions

The IGJ has noted that the pandemic put care providers under substantial pressure and that it is difficult to provide good care in extreme circumstances. The inspectors are in contact with care workers, manufacturers and suppliers, and other bodies such as patient organisations. The IGJ shares relevant information with stakeholders, such as care associations and the Ministry of Health, Welfare and Sport.

Free and informed consent

The Wvggz and the Wzd require the patient's free and informed consent. They also ensure that persons with intellectual or psychosocial disabilities are fully informed about the psychiatric and medical treatment they receive and the restraints that may be applied to them in psychiatric institutions, including chemical and physical restraints, and that they are given the opportunity to refuse treatment/restraints. Health workers must explore the options for alternative care with the patient and if in extreme cases the patient resists the care being provided, the procedures and duty to inform laid down in both Acts apply.

Complaints procedures for persons with intellectual or psychosocial disabilities

All patients have the right to speak to a confidential adviser who can support and inform them regarding any questions that may arise regarding compulsory care. The confidential adviser can also provide support during the patient's admission or stay in a care institution or in completing the complaints procedure.

https://www.igj.nl/actueel/nieuws/2019/12/16/ondanks-ambities-en-inzet-lukt-terugdringen-separaties-in-de-ggz-nog-onvoldoende.

[30] Since the two Acts have been in force for only a short period, no clear annual trend can be observed.

If a patient or their representative opposes compulsory care they can approach an external complaints committee, and if they are unhappy with the complaints committee's ruling, apply to the courts.

Issue 22.

For an explanation of the instructions for investigating police use of force, including statistical data, please see the Annexe.

Issue 23.

Access to compensation for victims of ill-treatment in psychiatric settings

The Wvggz includes an expanded complaints procedure, with more grounds for complaint than before and the option of applying to the external complaints committee for compensation. The committee's findings can be challenged in the courts. Relevant case law shows that in the initial years these were mainly concerned with breaches of procedural rules (failure to send letters on time, for example). The number of complaints is declining and developments are being monitored by the implementing organisations.[31]

Access to compensation for victims of trafficking, domestic violence and/or sexual violence

Compensation schemes are in place to redress any harm suffered. Compensation may consist of financial redress for any material or non-material damage suffered by a victim.[32]

Training of professionals to support victims of trafficking in accessing compensation

To promote effective compensation for victims of trafficking, the National Public Prosecutor's Office for Serious Fraud, Environmental Crime and Asset Confiscation gives presentations to prosecutors involved in financial investigations on how they can use the information they gather to claim compensation for the victims.

[31] https://wvggz-kct.nl/ketenmonitor-wvggz-en-regiomonitor-wvggz/.

[32] Victims of human trafficking can obtain compensation in three ways.

- Through criminal proceedings against the offender. If the offender has not paid within eight months of the final judgment, the Government makes an advance payment to the victims.
- Through civil proceedings. If the court does not impose a compensation order or if the case results in acquittal or dismissal, the victim can subsequently initiate civil proceedings to claim damages from the offender.
- The Criminal Injuries Compensation Fund provides financial support to victims of human trafficking in the Netherlands who have suffered severe physical or psychological injury, even if the offender has not been convicted.

Compensation for victims of violence in the youth care system

The Dutch government commissioned an independent study of physical and psychological violence in the youth care system between 1945 and 2019.[33] The study prompted the government to take a broad range of measures aimed at recognition of the suffering experienced and including financial compensation for victims. Victims who can establish a plausible case that they faced this type of violence in the youth care services in the period in question can apply to the Criminal Injuries Compensation Fund. Under the Temporary Order on Financial Compensation for Victims of Violence in the Youth Care System they can be granted a one-off payment of €5,000. The government funds these payments and the costs of implementation of the Order.

In addition, a website has been set up by and for victims which features a documentary on the history of abuse in the system.[34] This website also provides information about the study and refers victims to specific support agencies that can help them with the problems they experience as adults.[35]

The government provides funding to peer support organisations that enable survivors who so wish to be in contact with fellow victims and share their experiences.

A foundation has been set up with the aim of building a physical monument. The foundation also receives government funding.

Please see the Annexe.

Issue 24.

Racial profiling by law enforcement personnel

Efforts to promote professional policing and thereby combat racial profiling are part of the 'Police for Everyone' programme. A variety of measures are in place to tackle racial profiling, focused on raising awareness and active reflection on personal behaviour.[36]

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[33] Onvoldoende beschermd - Geweld in de Nederlandse jeugdzorg van 1945 tot heden | Rapport | Rijksoverheid.nl ('Insufficiently protected – violence in the Dutch youth care system from 1945 to today').

[34] *Monument geweld in de jeugdhulp* ('Digital monument for the victims of violence in the youth care system'), Victim Support Netherlands (see https://www.verbreekdestilte.nl/blijvendvertellen/).

[35] Geweldindejeugdzorginfo.nl - Steun, informatie en erkenning (geweldinjeugdzorginfo.nl).

[36] Measures include the following.

- Framework of Action for Professional Police Checks. Police officers are made familiar with the framework and trained to carry it out during integrated professional skills training and simulations of actual police checks using VR headsets.
- The work phones used by police officers have an additional feature that provides information on the number of times the person being checked has been previously stopped. This feature assists officers in reflecting on the checks they carry out.
- Via the Diversity Network police officers can share experiences from their own background with colleagues on a voluntary basis. This can help them to better understand the behaviour of members of the public and to respond more effectively in their work.

A multiyear study is being conducted to evaluate the effects on police conduct of the measures, including the simulation training and the extra feature on work phones. Research is also being done into how members of the public experience police checks. Another possible indicator is the number of complaints concerning the way police officers carry out checks.

Intolerant political speech

In the Netherlands the concept of freedom of expression is interpreted broadly, particularly where it can contribute to public debate. Nevertheless, the government draws a clear line in the case of discriminatory utterances that fall under the criminal law. Politicians too can be prosecuted for public statements that under Dutch criminal law constitute group insult or incitement to hatred or violence.

In addition, although politicians cannot be prosecuted for statements made in the House of Representatives, freedom of expression is not unlimited in the House. Under the Rules of Procedure of the House of Representatives, the President can call members of parliament to order for making racist insults or for hate speech. In such circumstances, the President also has the power to take further measures such as excluding the member in question from the sitting.

Please see the Annexe.

Issue 25.

Section 2 of the Wvggz obliges care providers to provide good quality care.[37] At the minimum, this means that care providers must act in accordance with professional standards, which includes obtaining informed consent. Unnecessary medical and surgical treatments do not in principle constitute good quality care. The IGZ can enforce the law where care providers are carrying out procedures that are not in accordance with professional standards.

Work is in progress on a multidisciplinary quality standard for the treatment of persons with DSD[38] (previously intersexuality). The standard will define good quality care for persons with all forms of DSD. Children and parents, as well as adults with DSD, can apply to the various expertise centres for a diagnosis, highly specialised medical care and counselling. Multidisciplinary professional guidelines (Diagnosis in cases of DSD) have been drawn up on the initiative of the Dutch Society of Clinical Genetics in collaboration with paediatric endocrinologists, paediatric urologists, laboratory specialists and clinical

[37] The Act is general in scope and therefore covers the care and treatment of intersex persons.
[38] Disorder of Sex Development.

geneticists. The aim of the guidelines is to optimise responsible diagnosis and treatment of DSD.

Where healing-oriented care is concerned, unnecessary medical procedures are already prohibited under the Wvggz. Currently, a doctor who performs unnecessary procedures leading to disadvantage or a considerable risk of disadvantage to the health of the person concerned can be prosecuted. People who believe they are the victims of violence, ill-treatment, torture or any other cruel, inhuman or degrading treatment, offence and/or medical error can apply for redress under criminal, civil or disciplinary law.

In the case of non-urgent medically necessary procedures/treatment, it is essential to ensure that early intervention does not lead to avoidable harm and that delaying treatment in itself does not lead to harm. A study recently launched by the Netherlands Institute for Health Services Research aims to provide insight into the number of genital surgeries carried out on children with DSD in the Netherlands and the factors that led to a decision to perform surgery, delay it or a decision not to perform surgery.

The IGJ has not received any notifications of cases involving surgical or other medical procedures performed on intersex persons without effective consent.

In 2021, the State publicly offered its apologies to the transgender and intersex community for the suffering experienced as a consequence of the terms of the old Transgender Act. Since 18 October 2021 it has been possible to apply online for compensation in the amount of €5,000.

Conversion therapy

The Coalition Agreement states that the government will continue to work towards acceptance, safety and equal opportunities for the LGBTQI+ community on the basis of the Rainbow Agreement. This agreement contains a statutory ban on conversion therapy. In addition, the Netherlands is working on a preventive approach to such practices.[39]

Issue 26.

Distribution of electroshock weapons to police officers

A pilot project and subsequent follow-up has shown that in over half of cases in which an electroshock weapon was used, the mere threat of use was sufficient to convince the suspect to stop resisting. In this sense, electroshock weapons are a proven and important de-escalation tool in potentially dangerous situations.

[39] For example through promoting a safe environment in schools, a multi-confessional dialogue and support from spiritual counsellors providing professional counselling, assistance and advice in connection with ethical and moral issues.

To achieve greater clarity with regard to the health risks involved, in 2019 a study was carried out to chart current scientific understanding in this field. Its findings and conclusions gave no reason to believe these risks are substantial.

At the moment 17,000 police officers are being trained in the lawful use of electroshock weapons. These are the officers who run the greatest risk of being confronted with violence during the conduct of their duties or of having to use force to deal with a situation.

The use of force, including electroshock weapons, must in accordance with section 7, subsections 1 and 7 of the Police Act 2012 meet the criteria of proportionality, subsidiarity, reasonableness and moderation in addition to the specific criteria governing the deployment of electrical discharge weapons.

Circumstances where use is considered legitimate

Electroshock weapons can be used in a variety of ways. They can be used to warn an individual. They can be used in firing mode. And they can be used in drive-stun mode, through direct contact with the person and the gun. Finally, if only one dart has attached to the person's body, the electrical circuit can be completed by using the drive-stun mode. Since this results in temporary paralysis, such use filed under the firing mode.

Police officers are permitted to fire an electroshock weapon only:

a. to arrest an individual who can reasonably be assumed to have a weapon ready for immediate use or is about to use another form of violence against another person;
b. to arrest an individual who is attempting to evade (or has evaded) being arrested, being brought before the public prosecutor or any other lawful deprivation of liberty;
c. to defend themselves against aggressive animals or to subdue them;
d. to avert a direct threat to the life of a person or to avert serious bodily injury to that person.

Police officers are permitted to use an electroshock weapon in drive-stun mode only:

a. to defend themselves against aggressive animals or to subdue them;
b. to avert a direct threat to the life of a person or to avert serious bodily injury to that person.

Immediately before using the electroshock weapon, police officers must warn the person concerned in an unequivocal manner that the weapon will be used against them if they do not directly obey the order they have been given. If under the circumstances no warning can reasonably be given, police officers can proceed without giving a warning.

Every use of force must be reported to the assistant public prosecutor who will review the incident. In certain cases[40] the public prosecutor reviews the incident.

Code of conduct on the use of force and equipment by law enforcement officers

The basic principle is that weapons are not to be used against people belonging to a vulnerable group. Nevertheless, in the second tranche of amendments of the Code of Conduct for the Police, Royal Military and Border Police and other Investigating Officers that entered into force on 1 July 2022, the use of weapons such as electroshock weapons against vulnerable people is not categorically prohibited, for a number of reasons.

First, it is not always immediately obvious that a person is vulnerable (if they are pregnant, for example). In practice, this is often difficult to assess, particularly as these are situations in which danger is imminent.

Second, a ban on the use of electroshock weapons, police dogs and pepper spray where vulnerable groups are involved creates the risk of having to deploy weapons more likely to cause serious injury at an earlier stage than would otherwise be necessary. Of course, this does not mean that there are no limits on the use of force against vulnerable persons. When using force, police officers must always observe the principles of proportionality, minimum coercion, reasonableness and moderation. Visible vulnerability must be taken into account and that may lead to a decision not to use electroshock weapons, pepper spray or police dogs, depending on the nature of the danger present.

Training provided to law enforcement personnel

In drafting the Code of Conduct and its amendment, account was taken of international standards and instruments. Police training addresses the principles of proportionality, subsidiarity, reasonableness and moderation, which apply to every form of use of force.

De-escalation is the primary aim of police officers in the performance of their duties, including potentially violent situations. Wherever possible, they employ verbal de-escalation techniques and communication skills acquired during basic training and regular refresher courses.

Under the Assessment of Police Skills (Use of Force) Order (RTGP) great importance is attached to expertise and skills. Physical fitness is also essential. Police officers have to pass regular tests in order to remain authorised to use weapons. The Order states that an officer is deemed to be proficient in the use of weapons for the period of a year if they have passed the theoretical exam in violence control and the practical exam in arrest and self-defence techniques. There is separate test of firearms skills, which officers take every six months. Police officers equipped with an electroshock weapon have to take a separate

[40] Which under article 18 of the Code of Conduct for the Police, Royal Military and Border Police and other Investigating Officers must be reported to the Public Prosecution Service.

test every year. Specific attention is paid to the risks associated with the use of force. De-escalation techniques are a regular feature of any training in the deployment of weapons.

Monitoring and reviewing

Within the Dutch legal order, the police are accountable for their use of force. The mechanisms of accountability include providing information on the use of force in annual reports. In 2019 a new system of reporting, registering, reviewing and providing feedback on the use of force was introduced. On the basis of this legislation, every use of force, including the deployment of weapons, must be reported and reviewed, enabling the police to learn from each incident.

The chief of police is responsible for deciding whether each exercise of the use of force is in accordance with the principles of proportionality and subsidiarity. More serious use of force is also reviewed by the public prosecutor.[41]

The police account for their use of force in their annual report, which includes a review of the registration of incidents and in how many cases sanctions or disciplinary measures were imposed.

Issue 27.

The temporary legislation introduced to deal with the COVID-19 pandemic was subject to review in light of the Constitution.[42] As part of the review, the government indicated which fundamental and human rights as laid down in international instruments would be limited by the bill in question and the necessity and proportionality of the statutory measures was assessed. The Safe Distance (COVID-19 Temporary Measures) Decree and the Temporary Measures (COVID-19) Order lapsed on 19 May 2022.

The Advisory Division of the Council of State advises the government on bills in the drafting process. A range of parties was consulted on the COVID-19 (Temporary Measures) Act, including the Netherlands Institute for Human Rights.[43] In addition, in the case of measures introduced by means of a ministerial order, both the House of Representatives

[41] This is the case when:
- the use of force has caused a fatality or serious bodily injury, or serious account must be taken of the possibility that it has caused serious bodily injury;
- the use of a firearm has led to bodily injury;
- in the opinion of the chief of police, the use of force warrants a review.

[42] The legislation included the COVID-19 (Temporary Measures) Act, the Pre-admission Testing (COVID-19 Temporary Measures) Act, the Restrictions on Being Outside the Home (Covid-19 Temporary Measures) Act, the Safe Distance (COVID-19 Temporary Measures) Decree and the Temporary Measures (COVID-19) Order, as well as any amendments made when there was a need for measures to be scaled up or when it was possible to scale them down.

[43] Parliamentary questions (Annexe) 2021-2022, no. 708 | Overheid.nl > Officiële bekendmakingen (officielebekendmakingen.nl).

and the Senate had the opportunity[44] to express their views on the restrictions to fundamental and human rights involved.

Measures taken in relation to persons deprived of their liberty

At the beginning of the COVID-19 pandemic, all visits to custodial institutions were temporarily suspended, with the exception of visits necessary in the context of legal proceedings. So that family contacts could continue as far as possible, alternatives such as telephone and video calls were more frequently available. People in young offender institutions were still permitted to receive visits from their parents or legal guardians. Leave was temporarily suspended for all detainees. Where possible, individuals were compensated for the suspension and given extra opportunities to make telephone and video calls. For a small group of prisoners leave was temporarily extended and combined with electronic supervision. The influx of detainees was limited in order to prevent infection and to cope with potential staffing shortages. Fundamental rights such as food, medical services and access to open air were not affected by the measures.

Visits to care homes for the elderly and people with dementia were suspended. There was no general suspension of visits to institutions that provide care for persons with a psychiatric disorder or mental disability. General guidelines for mental healthcare during the pandemic were drawn up. These guidelines were also applicable to compulsory mental healthcare and focused on maintaining continuity in the delivery of care. The basic principle underlying policy in healthcare facilities was that face-to-face contact between patients and relatives/representatives was the preferred option. If this was not possible, other alternatives were provided. This was also the case for judicial hearings concerning compulsory mental healthcare, and for contact with a patient's lawyer or patient advocate. Patient advocacy and support organisations[45] were systematically involved in the Covid-19 crisis structure for the mental healthcare services.

[44] Through a procedure whereby orders in council that have already been adopted are presented to Parliament for commentary.
[45] MIND, the Foundation for Patient Advocates and the Foundation for Family Counsellors.