



Monitoring places of detention

First Annual Report

National Preventive Mechanisms

The Netherlands

2011

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Introduction

Monitoring treatment and conditions of those imprisoned has been given a significant boost with the United Nations adoption of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2002. The OPCAT created a new and innovative mechanism to prevent torture. On the international level the UN Subcommittee on Prevention of Torture (SPT) was established to carry out torture prevention activities and on the national level it obliges State Parties to establish or designate one or more National Preventive Mechanism(s) (NPM). These NPMs are national monitoring bodies responsible for carrying out regular visits to those deprived of their liberty. The reason for setting up this structure was that carrying out regular visits to those who remain out of sight and who are under control of the public administration is seen as one of the most effective ways to prevent torture and ill-treatment.¹ States that ratify OPCAT are requested to designate a national preventive mechanism (NPM) to carry out such visits within one year after the ratification.

In the Netherlands monitoring places of detention forms an integral part of the system for protecting persons who are deprived of their liberty. Because of this a number of inspectorates and oversight bodies already exist. When the Netherlands ratified OPCAT in September 2010 a couple of oversight bodies were nominated to serve as the national preventive mechanism. The Inspectorate for the Implementation of Sanctions (ISt)² was asked to become coordinator of the NPMs in the Netherlands.

OPCAT requires that NPMs publish an annual report about their activities. This report is the first from the NPM in the Netherlands. Besides general information about the OPCAT, SPT and NPMs, it provides details about the different monitoring bodies that are appointed in the Netherlands as NPM and as associate organisations. The report provides background information per organisation on their role and activities with regards to monitoring places where people are deprived of their liberty. This report covers activities that took place during 2011. Furthermore it provides a list of places of detention in the Netherlands.

On behalf of the other Dutch NPMs and associates, I hope this first annual report will be of interest to the SPT and to those concerned about those deprived of their liberty.



Gertjan Bos
Head of the Inspectorate of Security and Justice

¹ APT, Monitoring places of detention - a practical guide (Geneva, April 2004) p13.

² The Inspectorate for the Implementation of Sanctions (ISt) merged with the Public Order and Safety Inspectorate (IOOV) into the Inspectorate of Security and Justice in January 2012.

1. International Context

About OPCAT

In September 2010 the Netherlands ratified the United Nations Optional Protocol to the Convention against torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

The Convention Against Torture was adopted in 1984 by the UN to prevent torture in the world. Member States to this Convention are required to take effective measures to prevent torture within their borders and the Convention forbids states to transport people to any country where there is reason to believe they will be tortured. At the time of the adoption of the CAT in 1984 a discussion about the prevention of torture in the European Union led to the creation and adoption of the 'European Convention for the Prevention of Torture' (ECPT) in 1987. While the idea of establishing an international visiting mechanism within the UN was postponed, the notion gathered momentum in Europe. In contrast to the CAT, the ECPT did involve an organisation with the power to effectively control the implementation of the treaty, namely the Commission for the Prevention of Torture (CPT). It was this organisation (CPT) that formed the basis for the idea to establish a UN body to control the implementation of the Convention Against Torture (CAT).

In 2002 this led to the UN adoption of the Optional Protocol, in order to establish a 'system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment'.³ The system of regular visits was set up out of the need for states to be vigilant in order to prevent ill-treatment and to find out whether or not ill-treatment occurs in practice. 'Preventive visiting looks at legal and system features and current practice, including conditions, in order to identify where the gaps in protection exist and which safeguard require strengthening'.⁴

The OPCAT was the first treaty to establish a dual international and national system for the protection of human rights. At the international level, OPCAT established the Subcommittee for the Prevention of Torture (SPT) and at the national level OPCAT requires States to have in place a 'national preventive mechanism' (NPM). The role of the SPT is hereby to periodically visit places of detention in each of the States, which ratify the treaty (States Parties) and to make recommendations to those States concerning the prevention of ill-treatment. NPMs also visit places of detention and monitor the treatment of and conditions for detainees. While the

³ OPCAT (2002), Article 1. The full text of OPCAT is available on the website of the Office of the United Nations High Commissioner for Human Rights at: www2.ohchr.org/english/law/cat-one.htm

⁴ SPT, First Annual Report (May 2008), para 12.

two visiting regimes – at international and national levels – may overlap, they are intended to complement each other and be mutually reinforcing.

The scope of OPCAT is deliberately broad. States Parties must allow the SPT and the NPM to carry out visits to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence.⁵

OPCAT defines deprivation of liberty as 'any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority'.⁶ A large number of countries in Europe ratified the OPCAT and the ECPT and are therefore bound to the rules and open for visits of the SPT as well as the CPT.

About SPT

The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) is a new kind of treaty body in the UN Human rights framework. It has a purely preventive mandate focussed on a sustained, proactive approach to the prevention of torture and aims at complementing and building upon the more reactive approach of the UN Committee against Torture (CAT).⁷ The SPT became operational in February 2007, following the OPCAT's entry into force in June 2006.⁸

The mandate of the OPCAT appoints three tasks to the SPT. First of all visiting places where people are, or could be, detained. Secondly supporting and advising the National Preventive Mechanisms (NPMs) and making recommendations to the States Parties with a view to strengthening the capacity and the mandate of the NPMs. And finally cooperation with the relevant United Nations organs and mechanisms as well with the international, regional and national institutions or organisations working towards the strengthening of the protection of all persons who are deprived of their liberty. State Parties are also obliged to provide the SPT with information about the number of detainees and the number of places of detention and their location, as well as information relating to treatment and conditions.⁹ For a schematic representation of the tasks of the SPT, NPMs and State Parties see table 1.

⁵ OPCAT, Article 4(1).

⁶ OPCAT, Article 4(2).

⁷ APT, IIDH, 2010. Optional Protocol to the UN Convention against Torture: Implementation Manual. p.132-133.

⁸ APT, IIDH, 2010. p132.

⁹ OPCAT, Article 18-21; APT, IIDH, 2010. p148-149.

Tasks SPT	Tasks NPM	Tasks Nation State
<ul style="list-style-type: none"> • Inspections and write reports • Support and advice NPMs • Giving recommendations and observations to NPMs and States Parties • Cooperation with other (inter)national bodies 	<ul style="list-style-type: none"> • Inspections and write reports • Writing and publishing an annual report • Giving recommendations • Advising Nation State • Cooperation with the SPT and Nation State 	<ul style="list-style-type: none"> • NPM appointment • Delivering an overview of the detention places • Giving information on the treatment and conditions of prisoners • Cooperation with the NPM and the SPT

Table 1 | *Tasks of SPT, NPMs and Nation States*

After a visit, the SPT passes on its recommendations and observations confidentially to the national government and, if relevant, to the NPM. The SPT reports may be published at the request of the national governments. OPCAT emphasises co-operation between the SPT and the State Party. The SPT should thereby provide assistance, observations, and comments on NPM functioning in the most appropriate way given the national context of individual State Parties.¹⁰ (table 1).

In addition to visiting places of detention, OPCAT expects the SPT to become involved in the establishment and the ongoing work of NPMs. Article 11 of OPCAT prescribes that the SPT must:¹¹

- advise and assist States Parties, when necessary, in the establishment of NPMs
- maintain direct, and if necessary confidential, contact with NPMs and offer them training and technical assistance with a view to strengthening their capacities
- advise and assist NPMs in evaluating the needs of and means for protecting detainees
- make recommendations and observations to States with a view to strengthening the capacity and mandate of NPMs for the prevention of torture.

Following the 50th ratification of the OPCAT, the SPT is currently made up of 25 independent and impartial experts from a range of relevant professional backgrounds, including lawyers, doctors and inspection experts.¹²

About NPMs

Article 3 of OPCAT requires States Parties to ‘set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment’.¹³ These domestic visiting bodies are referred to as the national preventive mechanism (NPM). Each country signatory to the OPCAT agreement is requested to designate the assignment of NPMs in their own way. Some States have identified existing bodies to take on the preventive NPM mandate; other States have created new bodies

¹⁰ APT, IIDH, 2010. p149.

¹¹ OPCAT, Article 11.

¹² APT, IIDH, 2010, p134.

¹³ OPCAT, Article 3.

to take on this role. Not surprisingly, there are as many NPM models as there are States Parties, each NPM reflecting the traditions of its country. 'It is hoped that this diversity will ensure that each 'home-grown' body flourishes in its own setting, whilst holding true to the core principles enshrined in the OPCAT'.¹⁴ The Dutch government chose to implement using a gradual and incremental approach by only appointing existing organisations as National Preventive Mechanism. This resulted in the appointing of multiple NPMs with one organisation, the Inspectorate for the Implementation of Sanctions (ISt) coordinating them (see section 2).

The role and powers of NPMs are similar to those of the SPT. At a minimum, OPCAT requires that NPMs have the power to:¹⁵

- regularly examine the treatment of the persons in detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment
- make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty
- submit proposals and observations concerning existing or draft legislation.

To enable NPMs to exercise these powers, they should have:¹⁶

access to all information concerning the number of people deprived of their liberty, as well as the number of places of detention and their location

Access to all information referring to the treatment of those persons as well as their conditions of detention;

- access to all places of detention and their installations and facilities
- The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information
- The liberty to choose the places they want to visit and the persons they want to interview
- The right to have contacts with the SPT, to send it information and to meet with it.

OPCAT also requires States Parties to examine the recommendations of NPMs and discuss possible implementation measures with them. The report should form the basis for constructive dialogue between the NPM and relevant authorities on the implementation of recommendations.¹⁷ Article 23 of the OPCAT states that States Parties should undertake action to publish and disseminate the annual reports of the NPMs. It does not specify the requirements regarding the publication of annual reports. However it does state that if the NPM is an existing institution the NPM annual report should be published as a separate report, or at the very least should be afforded a separate chapter in the institution's annual report.¹⁸

¹⁴ APT, IIDH, 2010. p1-2.

¹⁵ OPCAT, Article 19.

¹⁶ OPCAT, Article 20.

¹⁷ OPCAT, Article 22; APT, IIDH, 2010. p103, 147-148.

¹⁸ OPCAT, Article 23; APT, IIDH, 2010. p103.

The OPCAT does not prescribe a unique organisational form for NPMs. It sets out however criteria that they should meet. Perhaps the most important of these are that NPMs should be independent, have a diverse composition and are granted the necessary powers to carry out their assigned tasks. This implies that the NPM must be adequately resourced to carry out its role and that its personnel should have the necessary capabilities and expertise. The diverse composition means that NPMs should have a gender balanced team make-up and that they should be representative of ethnic and minority groups.¹⁹

¹⁹ Murray, R., Steinerte, E., Evans, M., Hallo de Wolf, A. (2011) The Optional Protocol to the UN Convention Against Torture. Chapter 10: Choice of Organisational Form. p78-94.

2. Context of the Netherlands

Appointment process

The Netherlands signed the OPCAT in May 2005 but did not ratify until September 2010. In December 2011 the Netherlands designated its NPMs. In parliament the minister of Justice acknowledged that the ratification process could have been faster, given that it did not require the implementation of legislation and given the importance of the protocol. Unfortunately, due to a lack of capacity and priority, the ratification process was stalled.²⁰

According to OPCAT, State Parties have to assign their NPM within a year after ratification of the treaty. The appointment process exceeded the prescribed time between ratification of OPCAT and assignment of the NPMs. A number of factors may have prolonged the NPM designation process. Firstly, a number of existing bodies already carried out roles that were similar to that of the NPM. While it was initially decided that the functions of the NPM in the Netherlands would be performed by the collective action of existing bodies, the government still had to consider which existing bodies were OPCAT-compliant and which should be designated. Secondly, the Dutch government had to consider whether and how to coordinate the activities of the multiple bodies being considered for designation. Finally the Dutch government, in order to avoid gaps in coverage of detention places, decided that all organisations with an official task regarding monitoring detention should have a place at the table. Not all of those organisations complied with all of the OPCAT requirements. That is why it was decided that besides appointing NPMs, some additional organisations were to be selected as associates ('toehoorder'). Those associates are formally appointed by the government and are allowed to join the NPM meetings and to give input.

During 2010 and 2011, the government consulted relevant bodies about the composition of the Dutch NPM and the extent to which existing bodies complied with OPCAT. It firstly selected the Inspectorate for the Implementation of Sanctions (ISt) as coordinator, because of its experience in visiting prisons. To make sure the appointment process was as transparent and independent as possible the government allowed the ISt to further recommend which organisations to appoint as NPM. In deciding which bodies should be designated, the ISt applied the following criteria:²¹

- the statutory basis upon which the bodies operate give them unrestricted access to places of detention and to detainees, including the power to make unannounced visits, and unrestricted access to information about detainees and their conditions of detention (or at least contains nothing to prevent such access and such visits)

²⁰ Dutch Parliament, 24 March 2010, TK 67 67-5852.

²¹ OPCAT, Article 18-23.

- bodies should possess the independence, capability and professional knowledge to carry out visits.

In a written letter to the SPT via the Ministry of Foreign Affairs on 22nd of December 2011, the Ministry of Security and Justice formally designated six bodies which would make up the Dutch NPM and assigned four additional members as associate. The Ministry of Security and Justice also mentioned that additional inspection bodies may be added to the NPM in future.

NPMs of the Netherlands

The NPM of the Netherlands is made up of the following bodies:

- Inspectorate for the Implementation of Sanctions (ISt)
- Public Order and Safety Inspectorate (IOOV)²²
- Health Care Inspectorate (IGZ)
- Inspectorate for Youth Care (IJZ)
- Supervisory Commission on Repatriation (CITT)
- Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ)

The additional associates ('toehoorders') include:

- Commissions of oversight for penitentiary institutions
- Commissions of oversight for the police cells
- Commission of oversight for military detention
- National Ombudsman

Coordination

Before the completion of the official designation process, the government selected the ISt to carry out the coordinating and communication functions of the NPM. The purpose of coordination is to promote cohesion among the NPM members, facilitate a collective understanding of OPCAT and its requirements, and to encourage collaboration and sharing experiences among a wide-ranging and large group of organisations. At the same time, however, the independence of individual members is respected, as is their ability to set their own priorities for monitoring detention. Through working with all of the NPM members, the coordinator is able to gain an overview of all the monitoring activities and possible gaps in regulatory oversight.

²² The Public Order and Safety Inspectorate (IOOV) merged with the Inspectorate for the Implementation of Sanctions into the Inspectorate of Security and Justice in January 2012.

Additionally the ISt fulfills the communicating function with other (inter)national bodies. This is done by acquiring information about monitoring activities from all the NPMs and associates. Secondly, by combining that information and publishing the annual report of the National Preventive Mechanisms of the Netherlands on the basis of acquired information.

In April 2011 the coordination activities by the ISt started with organising a meeting for the different bodies to find out if they were interested and able to become a NPM or become involved as an associate. By September 2011 all bodies indicated by formal consent willing to become NPM or associate. In December 2011 the Ministry of Security and Justice informed the SPT via the Ministry of Foreign Affairs about the appointment of six NPMs and four associates. In February 2012 the ISt organised a second meeting to discuss working methods and the preparation of an annual report. By that time the ISt started to operate under the new name Inspectorate of Security and Justice (IVenJ) as a result of the merger with the Public Order and Safety Inspectorate (IOOV) in January 2012. In May a meeting was held to discuss the first draft of the annual report.

In order to create awareness about OPCAT, SPT and NPMs among Dutch NPMs the Inspectorate of Security and Justice organised an international conference in June 2012 on the synergy between the SPT, CPT and NPMs.

Challenges

As with any other newly assigned NPM, the Netherlands faces several challenges in fulfilling its functions. Many of the challenges by the Dutch NPM relate to its structure; a mix of different organisations starting to work together more closely. The Netherlands are not unique in designating multiple NPMs, but is one of the few countries (including the United Kingdom) with so many organisations involved. As mentioned above at the moment six organisations are appointed NPM and an additional four are appointed as associates.

A second challenge is the different working methods, scope and legal frameworks of the different Dutch NPMs. The different NPMs do not only visit different types of detention and with different frequencies, they also operate under different legal frameworks and in different contexts. For some members monitoring places of detention is just one part of a much wider regulatory or inspection role. They may find it difficult to sufficiently prioritise visits to places of detention when there are other calls on their resources. Designation may result in a greater emphasis on monitoring but it should be noted that in general, members have not been given additional resources to fund this.

3. NPM Member Profiles

3.1 Inspectorate for the implementation of Sanctions (ISt)²³

Introduction

The Inspectorate for the implementation of Sanctions (Inspectie voor Sanctietoepassing, ISt) supervises the implementation of sanctions with a view to a visible improvement of the effectiveness and quality of the implementation of sanctions. From an organisational perspective, the Inspectorate is part of the Ministry of Security and Justice, its independence being guaranteed by the ISt regulations (Regeling ISt).²⁴ The ISt advises the Ministry of Justice with respect to ensuring the appropriate implementation of sanctions. In this, the ISt is independent in its assessments, transparent in its methods and professional in its knowledge, skills and conduct. When carrying out an investigation, the ISt receives no instructions concerning the method to be used, the judgement it forms and its reporting thereof.²⁵

Mission

The mission of the ISt is threefold and is expressed as follows:

- The ISt supervises the implementation of sanctions with a view to a visible improvement of the effectiveness and quality of the implementation of sanctions.
- The ISt advises the Minister of Justice in order to guarantee the proper implementation of sanctions.
- In this, the ISt is independent in its opinion, transparent in its working method and professional in its knowledge, skills and attitude.

Staff

The ISt is a relatively small organization that consists of nine inspectors and a small support staff.

Field of activities

The field of activity of the Inspectorate for Implementation of Sanctions comprises all national agencies and institutions falling under the Custodial Institutions Agency (Dienst Justitiële Inrichtingen, DJI) and establishments of the Probation service. The scope of activities can be described by the areas which ISt monitors: prisons, forensic care institutions, correctional institutions for juvenile offenders, detention centres for irregular migrants, establishments of

²³ The inspectorate for the implementation of Sanctions merged with the Public Order and Safety Inspectorate (IOOV) into the Inspectorate of Security and Justice in January 2012.

²⁴ See regulation ISt at www.ist.nl or http://english.ist.nl/organisation/independence_of_ist/index.aspx

²⁵ Article 7(1) of Regulation

the Probation Service and a number of institutions which provide aftercare. For an overview of all organisations and locations under the control of the IST see appendix 1.

Cooperation

The IST cooperates with a number of inspections like for example the Health Care Inspectorate, Youth Care Inspectorate, Inspectorate of Education, Labour inspection. The IST is interlocutor of the Committee for the Prevention of Torture (CPT).

Methodology

The IST performs its tasks through inspection surveys and has four different forms of research. First, a screening of an institution, in which the institution or centre is examined. Secondly a subject-specific inspection, which is an inspection of specific aspects of detention like for example 'solitary confinement' or 'food'. An incident-based investigation; either at its own initiative or upon the request of the minister, the IST may initiate an investigation following an incident. Finally a, follow-up research; after a given period of time (like 1 year), to find out if the institution is performing better. One year after the publication of a report the IST checks via a short visit to what extent the recommendations have been implemented satisfactory. Apart from unannounced inspections (in exceptional cases) and incident-related investigations, the inspection concerns subject-specific investigations and screenings.

Case selection

The decision to carry out screenings or subject-specific inspections is made on the basis of a risk analysis. As part of this, the inspectorate consults a number of sources:

- Data collation and analysis by the Inspectorate;
- Round of consultation among stakeholders: the three probation service organizations, the head office, the Custodial Institutions Agency national services and institutions, the Supervisory Councils, the relevant policy directors within the management department of the administration of justice (DSP, Custodial Institutions Agency and DVB), the Public Prosecution Service and the Council for the Judiciary;
- Coordination meetings with other supervisory bodies.

Work method

Each inspection is conducted by at least two inspectors paying the visits together. Screenings require a couple of weeks, i.e. one week's preparation, one week for the actual visit and a few weeks for reporting (the execution time will of course be longer than three weeks). The time required for subject-specific visits depends on the nature of the subject and the number of institutions involved in the inspection. During visits meetings are normally held with:

- the board or the unit or location director;
- members of (specialised) staff and/or employees;
- detainees/probation service clients;
- and for the Custodial Institutions Agency: the monitoring board.

Reporting

Following a visit, the ISt drafts a report of its visit/minutes of meetings within four weeks. Draft reports are submitted to at least one inspector not involved in the inspection to ensure peer review. The institution which has been visited is given two weeks to respond to factual inaccuracies in the report/minutes. Within two weeks the draft report is amended and adopted by the Chief Inspector. The ISt submits the adopted report to the minister / secretary of state. The minister, who is not allowed to intervene in the text, sends the report to Parliament. In general the Minister adds his own viewpoint in writing about which recommendations will be implemented and which not and for what reasons. Six weeks after the report has been sent to the minister / secretary of state, the report is posted on the ISt website (www.ist.nl).

Summary of the activities in 2011

The monitoring visits by the ISt leads, on average, to a publication once every three weeks. In 2011 the ISt visited sixty establishments and institutions, where sanctions are implemented. The annual report is based on sixteen screenings of an institutions, four subject-specific inspections (titles: multiple-cell occupancy, food, Shard Service Centre and conditional release), two inspection reports of follow-up inspections and three monitoring reports of eleven interim surveillance. Since December 2011 the ISt is officially appointed as coordinator for the Dutch NPM. In this role it has organised several meetings with the Dutch NPM members and associates and organised an international conference on the synergy between the SPT, CPT and NPM. For her work in 2011, the ISt spent a total of €2 million.

Public Order and Safety Inspectorate (IOOV)

As mentioned in chapter 2 the Inspectorate for the Implementation of Sanctions (ISt) merged with the Public Order and Safety Inspectorate (IOOV) into the Inspectorate of Security and Justice on the 1st of January 2012. As the IOOV had not monitored people deprived of their liberty before this annual report does not include a description of their organisation. This new inspectorate is planning to include monitoring of police cells in the second half of 2012.

3.2 Healthcare Inspectorate (IGZ)

Introduction/mission

The Healthcare Inspectorate (IGZ) promotes public health through effective enforcement of the quality of health services, prevention measures and medical products. It advises the responsible ministers and applies various measures, including advice, encouragement, pressure and coercion, to ensure that healthcare providers offer only 'responsible' care. The Inspectorate investigates and assesses in a conscientious, expert and impartial manner, independent of party politics and unaffected by the current care system.

Staff

The Healthcare Inspectorate consists of 437 employees²⁶ (including 140 Inspectors and 60 Inspectorate Officers). Most of them are not involved with NPM-related functions.

Field of activities

The field in which the Healthcare Inspectorate performs consist of around 40.000 care providers and organisations. Around 1.3 million people work in the healthcare of which 800.000 are healthcare-professionals. The Inspectorate performs her work in four areas: public and mental health, curative healthcare, nursing and long term care, pharmaceuticals and medical technology.

Methodology

To the Inspectorate the year 2012 is one of continuation and renewal. The guideline in this is the new Long-Term Plan 2012-2015, which consist of four innovations. First, the Inspectorate sharpens the focus on promoting compliance with laws, rules, (professional) standards, guidelines and standards. Secondly, the Inspectorate wants to be effective in a visible manner. The Inspectorate aims to shorten the amount of patients with damage to their health, fewer avoidable deaths and more preservation of quality of life for care-dependent people. It is working on measuring the effects of its control. Furthermore, the Inspectorate is working towards greater involvement of citizens in its work. Finally, the Inspectorate is improving the enforcement system. It will receive more information from the 'work floor', invest in monitoring the care for elderly, expand the surveillance system and accelerate the incident monitoring. In this way the Inspectorate can increasingly meet the expectations of society.

Work method: Case selection and reporting

Reports of incidents, unsatisfactory situations and ongoing shortcomings play an important role in the Inspectorate's supervisory and enforcement activities. Some reports may prompt the Inspectorate to take immediate enforcement action. All reports form an important source of information regarding the quality of care.

If the Inspectorate receives a report which suggests serious shortcomings in the quality of care, or less serious shortcomings which are nevertheless of a structural, ongoing nature, the Inspectorate will take enforcement action. The measures available range from advice and encouragement to correction or coercion.

The Inspectorate analyses all incoming reports, using the results to underpin its opinions regarding the quality of care in the various sectors of the health care system. The Inspectorate may also investigate the reports further during its inspection visits.

Not every report is investigated by the Inspectorate

In order to maintain its efficiency and effectiveness, the Inspectorate does not investigate all incoming cases itself. The Inspectorate can request the healthcare provider concerned to conduct an internal investigation and to submit a report. The Inspectorate does however

²⁶ Per 31st December 2011.

impose certain conditions with regard to the quality and thoroughness of the internal investigation.

The Inspectorate can also conduct its own investigation further to an incoming report. It will do so:

- in the case of an extremely serious situation with exceptionally high risk;
- if the Inspectorate believes that its own investigation will improve quality within a particular health care sector in one fell swoop;
- if the health care provider concerned is not considered capable of conducting a satisfactory internal investigation;
- if the analysis offered by the health care provider does not meet the required standards.

Publishing

Virtually all reports produced by the inspectorate are made public further to the national Freedom of Information Act. The reports can therefore be accessed by anyone who wishes to consult them.

In the case of reports concerning specific healthcare institutions, there is no statutory obligation to publish, but the inspectorate will generally do so in accordance with its policy of 'proactive publication'.

'Proactive publication' simply means that the Inspectorate does not wait until it is asked for information about a healthcare institution, but makes its inspection reports available on the website as soon as they have been finalized. This policy has been in place since 1 July 2008 and applies to the inspection reports for health care institutions in many sectors. Each report remains on the Inspectorate's website for a period of three years.

Exceptions

Not all reports concerning incidents, accidents or unacceptable situations within health care institutions are made public. The inspectorate will nevertheless publish such documents where there is significant political or public interest. Inspection reports relating to individual health care providers, or those which concern events which are subject to criminal or disciplinary proceedings, are not 'proactively' published.

Why publish?

The Inspectorate has three reasons for publishing its reports on health care institutions:

- To maintain compliance: publication encourages all health care institutions to devote attention to the quality of care, and motivates those which are not currently performing as well as they might to make improvements.
- To inform patients, health insurers and other stakeholders: good information regarding the quality of care assists them in making an informed choice, which is particularly important now that greater competition has been introduced to the health care sector.
- To contribute to the transparency of government: the Inspectorate wishes to provide clear information about its methods and the manner in which it arrives at its conclusions about the quality of care.

Cooperation

A good example of cooperating Inspectorates are the five active government inspectorates that oversee various aspects of the hospitals. Besides the IGZ these are the Inspectorate, the Food Authority, the Ministry of Infrastructure and the Environment and the Inspectorate SZW. The Health Care inspectorate is the front office for hospitals. Hospitals with questions about all inspections contact the IGZ.

The government inspectorates develop a joint risk analysis. The inspectorates aim to work in the future with a set of risks for all involved government inspectorates. The supervision activities of the inspections for the coming year are written down in the annual plan inspections hospitals 2012.

Summary of the activities in 2011

For an overall list of activities the IGZ refers to its' Annual Report 2011.

3.3 Inspectorate for Youth Care (IJZ)

Introduction

The Inspectorate for Youth Care, in Dutch Inspectie Jeugdzorg (IJZ), monitors the quality of youth care and compliance with legislation. IJZ was established by law in 1988. Organizationally it falls under the Ministry of Healthy Welfare and Sports and in substantive terms it operates independently.

Mission

Through its supervisory activities the Inspectorate for Youth Care stimulates facilities to provide proper and safe care, education and treatment of children in the youth care sector and also promotes support for the parents and care-providers of these children. Furthermore, through its supervisory activities the Inspectorate helps to ensure that society can be confident that children and parents receive timely and appropriate assistance and care from the institutions and professionals in the youth care sector. The Inspectorate provides an independent verdict on the quality of youth care services that is relevant to the professionals, the institutions, government and citizens and that helps to improve youth care services. The motto of the Inspectorate for Youth Care: 'Towards visible quality in youth care!'

Staff

A total of 43.2 full-time employees (FTEs) work at the Inspectorate for Youth Care, 25.5 of which are inspectors. Most of them are not involved with NPM-related functions.

Field of activities

On the basis of five different statutes the Inspectorate for Youth Care supervises the following organizations:

- child welfare offices (including assessment, case management, voluntary youth services, family guardianship, custody and probation);

- child welfare service providers;
- juvenile detention centres;
- licensees for intercountry adoption;
- reception facilities for unaccompanied foreign minors;
- the Child Care and Protection Board;
- schippersinternaten (residence for children whose parents regularly travel for work reasons, like children of bargemen and children of showmen).

Cooperation

The Inspectorate for Youth Care regularly works with other inspectorates that monitor the welfare and care of young people. From 2012 onwards this takes place under the heading of Samenwerkend Toezicht Jeugd (STJ / Collaborative Youth Supervision). The STJ programme brings together the following five inspectorates: the Inspectorate for Youth Care, the Inspectorate of Education, the Health Care Inspectorate, the Safety and Justice Inspectorate, and the Social Affairs and Employment Inspectorate.

Methodology

The Inspectorate performs its supervisory tasks in the following manner.

The Inspectorate conducts the thematic supervision which systematically investigates a specific aspect within a specific type of care (such as residential care or foster care).

In addition, the Inspectorate also supervises the response to emergencies. Institutions are required to report emergency cases to the Inspectorate. Emergencies are serious incidents such as death, sexually transgressive behaviour and physically unacceptable behaviour. Once the Inspectorate receives notification of an emergency, it takes control of the investigation and determines which parties are to be involved in the investigation. Sometimes an incident can be dealt with and concluded directly, but in most cases the Inspectorate will take further action such as requesting a factual account, asking detailed questions, requesting an internal inquiry or conducting an independent investigation. In the event of an emergency resulting in death, the Inspectorate will generally commission an independent investigation.

The inspectors also monitor the youth care institutions in the region by means of Inspectorate visits. These visits may address issues such as weak points in the risk profile, complaints and indications of shortcomings, reports of emergencies as well as the implementation of improvement measures.

Case selection

The Inspectorate supervises the locations where, according to its own estimate, the risks for children and young people are the greatest. This estimate is made on the basis of a risk assessment model which has been developed since 2009. A risk assessment profile is drawn up for each youth care institution, with data obtained from the following sources: the impression that the involved inspector has gained on the basis of his visits, interviews and investigations, whether or not the institution is certified according to the standards of the 'Stichting

Harmonisatie Kwaliteitsbeoordeling in de Zorgsector' (HKZ / the Dutch foundation for harmonization of quality assessment in the care sector), an analysis of the annual reports of the institution on (in this order) quality, complaints and finances, an analysis of reports, indications and complaints about the institution received by the Inspectorate and finally the answers to the risk assessment profile questionnaire which is presented to the institutions every two years. The risk assessment profiles are then used to determine how supervision will be conducted in the year in question.

Work method

Each supervisory activity is carried out by at least two inspectors. The duration of thematic supervision or supervision of emergency cases depends on the nature, gravity and content of the issue and varies from several weeks to several months. The thematic supervision and emergency supervision normally consists of the following phases: the preparation (this involves drawing up a plan of action, the central questions and a testing framework), a study of the policies of the institution, and visits to the institution(s) in question. During visits to the institutions the inspectors talk to children and young people, group leaders, behavioural experts, team leaders and the management.

Reporting

The thematic supervision always leads to preparation of reports, incorporating the findings of the Inspectorate, its conclusions and any recommendations at institutional level. If the investigation provides a suitable opportunity, the Inspectorate (also) issues a comprehensive report at the national level with recommendations that are addressed to the responsible managers and the responsible members of the Provincial Executive or the responsible minister.

Furthermore, the independent supervision of emergency cases always leads to reports being issued at the institutional level. If several similar emergencies have taken place, the Inspectorate may (also) issue a report at the national level.

If no independent supervision is conducted by the Inspectorate during the supervision of the emergency case, it will always conclude its supervision with a substantiated letter to the institution and the responsible manager. On the basis of Inspectorate visits and working visits, the Inspectorate always issues a letter in which it provides brief feedback on the visit, possibly including points of attention or recommendations.

Publishing

All reports by the Inspectorate are actively publicized by offering them to the relevant members of parliament and simultaneous placement on the website of the Inspectorate for Youth Care. In addition, each year the Inspectorate issues an Annual Report in which it reports on its monitoring activities in the past year and provides a brief report on the developments in youth care.

Summary of activities in 2011

In 2011 the Inspectorate issued a series of reports, letters and memoranda, covering areas such as the advisory role of the Advies- en Meldpunt Kindermishandeling (AMK / Advice and Report

Centre for Child Abuse), the functioning of youth probation, the implementation of the guardianship role of Nidos (the guardianship and family guardianship organization for refugees and asylum seekers) and the quality of life in JeugdZorgPlus (the closed youth care programme). In addition, (repeated) investigations were conducted into the implementation of the network foster care protocol, care provided to young Dutch people abroad and the reception of unaccompanied foreign minors. Furthermore, the Inspectorate received reports on 94 emergencies. In eight cases the Inspectorate conducted an independent investigation. In 2011, inspectors of the Inspectorate for Youth Care conducted a total of 239 visits to institutions.

3.4 Supervisory Commission on Repatriation (CITT)

Introduction

The Supervisory Commission on Repatriation, in Dutch the Commissie Integraal Toezicht Terugkeer (CITT), is an independent commission that was founded in 2007 after some incidents occurred during the expulsion of former asylum seekers to the Republic of Congo and Syria. Parliament wanted closer supervision on the whole return process, which eventually resulted in the CITT.

The CITT also supervises the transfer of the returnees to the authorities of the country of origin or a third country. The CITT reports its findings and advises the responsible ministers. The annual report is sent to Parliament by the minister for Immigration, Integration and Asylum. In the annual report are suggestions to improve the return process.

Mission

The CITT supervises the return process of irregular migrants who have no right to stay in the Netherlands and are returned to their country of origin or a third country, voluntary or by force. The supervision is to ensure that the return process is correctly executed and to give advice to improve the quality of the integral return process. The commission is independent in its judgment, transparent in its methods, and professional regarding knowledge, skills and attitude. Special attention is given to the safe and humane return of irregular migrants, but also to the effectiveness and efficiency of the integral return process.

Staff

The commission has three members, who each chair a chamber dedicated to a special area within the return process. Each chamber has a maximum of five chamber members. The commission is supported by a small administrative staff, which falls under the Ministry of the Interior and Kingdom Relations.

Field of activities of the chambers

The chamber return facilities deals with the international cooperation regarding return, which includes the travel documents issued by the authorities of countries of origin, and the cooperation within FRONTEX, the border control service of the EU.

The chamber return chain focuses on the cooperation between the departments and services dealing with return on the locations where irregular migrants are held in detention or custody. The chamber expulsion supervises during forced return flights to the countries of origin. This can be individual flights, or charter flights organized by the Netherlands, or with several EU countries together via FRONTEX.

Cooperation

The CITT works together with other supervisors for example the Inspectorate for implementation of Sanctions.

Methodology

The CITT supervises the return process and how the return policies are executed by the services involved. The CITT speaks with the responsible minister, directors of services, but also with the men and women working in the locations where irregular migrants are held in detention. The CITT also receives data from the responsible services and observes repatriations. For the latter, observers are selected for their knowledge of the return process or their medical or psychological expertise.

Case selection

The CITT selects the repatriation flights of irregular migrants on the basis of different criteria, for example whether the returnee is expected to resist deportation, whether there are special circumstances like the return of families with young children or returnees with health problems. Also flights with high (political) risk are monitored. The return flights combined with other European countries are all observed.

Work method

When the CITT observes repatriations, it works according to an inspection form to ensure that all relevant aspects of the repatriation are observed. These aspects are the briefing, boarding, use of force, transfer of the returnee to the authorities of the country of origin and so forth. This also is discussed with the Royal Constabulary in workshops where direct feed back can be given on points of improvement.

The inspection form can be found on the website of the CITT, so a maximum of transparency is achieved. The use of this form also makes it possible to compare different flights that are observed by different observers.

Reporting

The CITT delivers an annual report to the responsible ministers. This report will be sent to Parliament by the minister for Immigration, Integration and Asylum with the comments of the minister. The annual report is discussed in Parliament by the select committee for Immigration affairs.

Publishing

The annual report and the reaction of the minister for Immigration and Asylum are published on the website of the CITT. As mentioned, the inspection form is also published on the website.

Summary of the activities in 2011

In 2011 the CITT paid special attention to the voluntary and forced return of families with minors. The CITT spoke with the International Organization for Migration (IOM) and visited the locations especially for families with minors. Furthermore a special flight returning families and children to Iraq, which was financed by FRONTEX, was observed by the CITT. The CITT yearly looks at the cooperation between the services involved regarding the return of irregular migrants, especially the Royal Constabulary and the Repatriation and Departure Service, the way the identity of regular migrants is checked and the way travel documents issued by the authorities of countries of origin are obtained. Special attention was paid to the way criminal irregular migrants are dealt with. Beside visits to the services involved regarding the return of irregular migrants, a detention centre especially for criminal irregular migrants who are repeat offenders was visited in 2011. The CITT also looks at the annulment of expulsions for instance because of resistance by the deportee.

In 2011 the CITT observed 38 flights, by supervising the flight to the country of origin, or by observing the ground process before boarding. In the experience of the commission most problems tend to occur prior to boarding.

3.5 Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ)

Introduction

The Council is an independent body carrying out two law-assigned tasks: administering justice and giving advice on youth protection and the enforcement of sentences and non-punitive orders.

By performing these two tasks the Council assists the state in discharging its responsibility for the care of liberty-deprived offenders as well as juveniles. These persons find themselves in a position of dependency and in need of protection against arbitrary violations of their fundamental rights.

The Council has been established in 2001, combining its two predecessors (CRS, 1953 and CAJK, 1955).

Mission

By administering justice and producing advisory reports, the Council for the Administration of Criminal Justice and Protection of Juveniles sees to it that the government, in developing as well as enforcing measures concerning criminal justice and juvenile protection, acts in a legally correct way and according to principles of proper treatment.

Proper treatment is a leading concept in this mission statement. This naturally raises the question of what 'proper treatment' is. The Council has developed 'its' concept of proper treatment in the publication 'Proper treatment, principles for dealing with detainees'.

Members and staff

The Council consists of sixty members, amongst whom are experts on penitentiary law and science, juvenile and family law and behavioural sciences, as well as members of the judiciary, public administration, advocacy and medical doctors. The Council being an independent body, members may have no ties with any ministry or service dealing with matters concerning the Council's competence.

Activities

Advice

The Council advises the Minister of Security and Justice and other ministers, solicited as well as unsolicited, on policy implementation and the application of rules in the following areas:

- The enforcement of sentences and non-punitive orders;
- Youth protection.

Many advisory reports concern the improvement of implementation practice but the Council also deals with matters of principle or issues in process of policy-making. About fifteen advices appear every year. Major advisory reports are:

- Social reintegration and after-care for ex-detainees (2005);
- Life imprisonment (2006, 2008);
- Alternatives for remand custody (2011);
- Juvenile criminal proceedings: future proof! (2011);
- The increasing duration of tbs (hospital orders²⁷) (2011).

The Council combines data from scientific sources with information obtained by visits to custodial institutions (to which end the Council has a right of access to these institutions), interviews and expert meetings.

As a follow-up to, or inspiration for its advices the Council organises a conference for policymakers and academics about every year. The latest conference (March 29, 2012) concerned meaningful activities in penal institutions.

Administration of Justice

The Council on appeal reviews decisions made regarding persons serving a custodial sentence or detention order: prisoners, hospital order patients and young people held in correctional or custodial care institutions.

²⁷ Placement under a hospital order (in Dutch 'Terbeschikkingstelling' or tbs) is a court-imposed treatment measure for persons having committed a serious offence while suffering from a psychiatric illness or disorder. The aims of tbs are treatment of the disorder and protection of society. Tbs may or may not be imposed in combination with a prison sentence, depending on the person's degree of accountability.

The Council also reviews decisions made by an institution's governor, medical treatment provided by an institution's doctor or decisions made by an assignment officer or the Minister of Safety and Justice. Matters on which the Council may be asked to rule are for instance

- Placement and transfer;
- Disciplinary punishments and measures;
- Medical care by the institution's doctor;
- Refusal to grant leave.

The Council gives judgement according to law (particularly the Custodial institutions act, the Hospital orders (framework) act and the Youth custodial institutions (framework) act) and principles of reasonableness and fairness. No further appeal existing, the Council's decisions are binding.

Cooperation

The Council has good working relations with several other NPM's, in particular with the Inspectorate for the Implementation of sanctions, the Inspectorate for Youth Care and the Commissions of oversight for Penitentiaries. Another relationship worth mentioning is the one with the European Committee against Torture and inhuman or degrading treatment or punishment (CPT). The CPT receives a copy of each of the Council's advices and the Council meets with the CPT's committees at the occasion of their regular visits to the Netherlands.

Case selection

Advice

About one half of the advices are issued on demand of the government; the other half is chosen by the Council itself. The yearly programme is drafted after consultation of different stakeholders as well as the relevant ministries.

Administration of Justice

Concerning this task selection is not an issue as every received appeal is dealt with.

Work method / Methodology

Advice

The Council collects information necessary for advice by study of literature and data from scientific sources, interviews, visits to relevant institutions, inspection reports and other sources. Visits to penitentiary institutions are aimed at a general inquiry into the application of sanctions and detention circumstances, not in order to review the local situation but to be able to make recommendations towards national government policy makers. The Council focuses on improving policy and practices rather than on reporting bad practice.

Advices are being drafted by subcommittees consisting of members and one or two staff employees (advisors) and determined by either one of the Council's three sections or by the Council's Board.

Administration of Justice

This task is dealt with by committees of appeal, consisting of three members and a staff employee (secretary). The committee's chairman always is an active member of the judiciary.

Reporting

The Council issues an annual report concerning its accomplishments but, not being a supervisory body, does not report about individual visits to institutions.

Publishing

Advice

Advices are published in the official Government Paper (Staatscourant) and at www.rsj.nl; summaries are available in English.

Administration of Justice

- Data base: A data base containing all decisions relevant for jurisprudence is available on the Council's website.
- Periodical bulletin: About eight times a year a bulletin of the most important new decisions is issued to a mailing list as well as on the Council's website.

Summary of the activities in 2011

Reports

The following reports have been issued in the year 2011:

- Draft modifications to the Regulation for youth custodial institutions and Decree on the administration of youth Penal Law 1994
- The increasing duration of tbs
- Amendments to the selection, placement en transfer of detainees regulations in connection with the Prison System Modernisation Policy Programme
- Juvenile criminal proceedings: future proof!
- Draft Proposal transport and en stay of incarcerated youths in a court office
- Care for detained juveniles with a minor mental impairment
- Draft proposal Minimum sentences for serious crime reoffenders
- Monitoring of sexual delinquents
- Draft proposal lawyer and police inquiry
- Pre-trial Detention – but differently
- Draft regulation on leave for juvenile detainees
- Draft proposal for modification of Civil Code, Book I
- Draft proposal for modification of the regulation of leave during a hospital order
- Developments in restorative justice
- Draft proposal for a law against forced marriage

Administration of Justice

In recent years the number of cases dealt with by the Council has considerably increased: from 2,700 cases in 2002, through 3,400 in 2006 to more than 4,500 in 2011. The continuous increase of appeal cases was reviewed in 2011 by the Erasmus University of Rotterdam. In their report the increase is partly attributed to economizing in the correctional institutions, a more selective use of staff, non-observance of or non-acquaintance with regulations, increase of repression in institutions, a changing character of the inmates population and the growing restrictiveness in the political climate. The Council recommends that prison authorities analyse and learn from the origins of the increase of detainees' complaints.

4. Associates

4.1 Commissions of oversight for penitentiaries

Introduction

In the Netherlands there are 71 Commissions of oversight for the penitentiary institutions (prisons, juvenile detention centres, forensic care institutions and detention centres for irregular migrants; in Dutch 'Commissies van toezicht'). These commissions supervise the manner in which persons serving a custodial sentence or detention order are treated.

Staff

Commissions of oversight vary in size from six to fifteen members, the average number of members is 10. They are appointed for a maximum term of five years with the possibility of re-appointment for two terms of 5 years. By law is required that various groups of professionals are represented in the commissions of oversight (e.g. physicians, judges, lawyers).

Field of activities

Supervision

Members of the commissions of oversight have access to the institution at all times. Relevant information concerning detainees should be provided to the commission members at any time. All documents that concern the way in which custodial sentences and enforcement measures are imposed may be viewed and generally supervisory councils should be actively informed of the important facts and circumstances within the institutions by the Board of directors of the penitentiary institute.

Practically all commissions of oversight have a monthly commissioner who frequently visits the institution and with whom detainees have contact. He/she collects complaints from inmates and first tries to solve them by mediation.

Complaints

Detainees can submit complaints to the Commissions of oversight in the following two ways:

- Oral or written ('sprekersbriefje') complaints directly to the monthly commissioner
- Or using special documents ('klachtformulier') for making complaints in relation to article 60 C.I. Act about decisions (or the absence of a requested decision) by the Direction.

Advisory role

Commissions of oversight can make recommendations towards (A) it's own "Board of directors" and/or (B) towards the Minister of Security and Justice directly. They actively perform their advisory role to the Board of directors of the penitentiary institution.

Sounding Board

The Sounding Board Group Commissions of oversight for penitentiaries ('Klankbordgroep Commissies van Toezicht') is a delegation of members from commissions of oversight for penitentiaries. The Sounding Board Group was founded in 2009 and has periodically (monthly) personal communication with the Ministry of Security and Justice throughout the year.

The aim of the Sounding Board Group is collecting and making an inventory of national 'main problems' and trying to solve them, and safeguarding the independent position and working from the separate commissions of oversight for penitentiaries.

The Sounding Board works together with a so-called 'Knowledge Centre ('Kenniscentrum CvT') and judicial authorities like the RSJ and Ist. Every month the Knowledge Centre publishes a newsletter.

In 2011 the Sounding Board introduced a Code of Conduct, met with the Secretary of State of the Ministry of Security and Justice and organized a National meeting for Commissions of oversight for penitentiaries in November 2011.

4.2 Commissions of oversight for the police cells

Introduction

The police of the Netherlands consists of 25 regional police forces and the National Police Services Agency (KLPD). Police forces vary greatly in size and character. In each of the Netherlands' 25 police regions is a Commission of Oversight for the Police Cells (hereinafter to be referred to as: the commission). The commission supervises the treatment, the accommodation conditions and the stay of persons taken into custody who are under the supervision of the regional police, and the observation of the related regulations. The commission functions as an independent body of the police force manager and does not receive any instructions from others (such as the police) with regard to its work method, its views and report about this. The commission established on the basis of the principle that citizens and persons taken into custody may have more confidence in the police when the care for detainees is supervised independently, which increases the legitimacy of the police actions.

Mission

The objective of the commission is to contribute to a sound, professional care for persons who are taken into custody by the regional police through the tasks it performs. The tasks of the commission include in any case:

- supervising the housing, safety, care and treatment of persons taken into custody in police cell complexes;
- offering an annual rapport to the police force manager about its work;
- offering advice to the police force manager, whether requested or non-requested, and providing information about matters concerning police cell complexes.

Staff

Each commission has three to seven members. These members do not work for the police in the region or at any other bodies that are involved in the regional police. The commission is supported by a secretariat.

Field of activities

Supervising the treatment, the accommodation conditions and the stay refers to persons who are held in premises used by the police region, irrespective of the grounds and irrespective of the place in these premises where this deprivation of liberty is taking place.

Cooperation

Once or several times a year the various Commissions of Oversight for the Police Cells organises a joint meeting to exchange experiences or views.

Methodology

In order to carry out its tasks, the members of the commission inspect the holding rooms that are used at the regional police, and the other rooms in the police buildings where persons taken into custody (can) stay (such as the lawyers' room, recreation yard etcetera). The findings may result in a discussion on site about these findings and at a later moment, for example during the commission meeting and the periodical consultations with the police force management team; they may also result in recommendations or advice to the police force manager. In all cases the commission will investigate the results of the points for improvements at a later stage and also whether there have actually been any improvements.

Case selection

The commission tests the quality of the care for detainees in relation to all related regulations. When there are signals (for example, during inspection visits) that certain aspects or locations within the care for detainees require extra attention, the commission offers this attention by discussing them and, for example, increasing the frequency of the visits.

Work method

The commission members visit the cell complexes and police stations in the police region without any prior announcement, on different days and at different hours. They speak with persons taken into custody and police staff and have free access to the detainee registers. During a visit the rooms where persons taken into custody stay regularly are inspected under the supervision of a police officer. When persons who have been taken into custody are present during the visit, the member of the commission will speak with a few of them in order to hear about the treatment and the care. Things that are unclear or shortcomings which can be solved on site are usually discussed immediately with the manager. A written report of each visit is drawn up, which is discussed at the monthly meeting of the commission.

At least one or more times a year the chairman, a member of the commission and the secretary have consultations with the portfolio holder of care for detainees of the executive of the police force in the police region and the Manager of the Agency Care for Detainees & Administrative Police Care. During these meetings remarkable findings, possible points for improvement and

any current matters and changes in the operability of cell complexes and police stations are discussed. The police force management team offers requested and non-requested information to the commission.

Moreover, the commission can offer requested and non-requested advice to the police force manager and provide information regarding the Police Cells in question and the care for detainees in the region.

Reporting

Every year the independent commission reports its findings – without interference of third parties – to the police force manager and the regional executive (this is the board) of the police region. The commission makes recommendations through this annual report. The police force manager then gives his reaction to the annual report and the recommendations. The local councils in question are informed about the annual report through the police force manager and the other mayors of the police region.

Publishing

The annual report will be published through the press and by offering the annual report to various persons/bodies, including the ministers of Security and Justice and the Interior and Kingdom Relations and the police (stations).

4.3 Commission of oversight for military detention

Introduction

On 23 November 2007, the Regulation on the Detention Areas Supervisory Commission of the Royal Netherlands Marechaussee (RNLM, in Dutch Koninklijke Marechaussee) became effective. The Regulation provides for a Supervisory Commission exercising supervision over the detention areas used and managed by the Royal Netherlands Marechaussee. Following the appointment of its members by the Minister of Defence, the Supervisory Commission began its activities on 1 January 2008.

Staff

The Commission comprises four members, including the chairman, and is supported by a secretary from the Royal Netherlands Marechaussee.

Field of activities and reporting

The Commission carries out periodic inspections and meets twice yearly to discuss its findings. The Commission presents its findings to the Commander of the Royal Netherlands Marechaussee in an annual report.

Scope of supervision

The Supervisory Commission's task is to monitor the fashion in which the Royal Netherlands Marechaussee detains arrested persons or irregular migrants in the cells that are under its own

management. The Commission inspects whether the detention spaces are used in accordance with the guidelines and assesses whether the relevant regulations are observed. The Commission also inspects the structural state of repair of the spaces, checks whether the technical facilities are functioning, whether logs are being kept, whether the work instructions are being observed, the state of maintenance and cleanliness, and whether there are regulations in place with regard to medical and other forms of care. In addition, the Commission establishes whether a contingency plan is in place (e.g. in the event of fire) and whether this plan is practised regularly.

Cells versus holding areas

The Supervisory Commission focuses primarily on the cells in which arrested persons and irregular migrants are detained for periods longer than six hours and where they also spend the night. This requires the RNLN to provide specific facilities and care because the people detained fall directly under the duty of care of the RNLN. The Supervisory Commission checks whether the RNLN looks after its detainees in a responsible manner. In addition, the Royal Netherlands Marechaussee uses so-called holding areas and holding rooms. These rooms are used exclusively for the detention of persons for periods of no more than six hours. If, for the purposes of investigation, these persons have to be held for longer, they are transferred to other locations (police station or another RNLN post) where they can be detained for the night. Given their use (short stays < 6 hours and not during the night), the detention areas and holding rooms are not part of the scope of supervision of the Commission. In performing its supervisory tasks, the Commission is, however, indirectly informed of the use of holding areas and holding rooms. If deemed desirable or necessary by the Commission, it will include its findings regarding these areas in its report.

Working methods

The Commission performs its inspections on the basis of a checklist, in order to ensure that the inspections are performed according to the same standard, irrespective of the individual tasked with carrying out the inspections. This working method enhances the objectivity and continuity of the supervision.

Scope

The number of locations where the Supervisory Commission carries out its work has been reduced to two, namely the Schiphol detention centre and Coevorden.

4.4 National Ombudsman

Introduction

The National Ombudsman of the Netherlands is an independent institute tasked to give individuals an opportunity to lodge complaints about the practices of government before an independent and expert body. The Ombudsman and his role are institutionalised in the Dutch Constitution. The Ombudsman oversees complaints procedures, initiates own motion

investigations, and has at his (or her) disposal a wide range of measures that can help guarantee the effectiveness of human rights.

Legal basis

The National ombudsman was established in order to give individuals an opportunity to submit complaints about the practices of government before an independent and expert body. The National ombudsman was established with the National ombudsman Act in 1981. Since 1999 the national ombudsman has its legal basis in de Constitution. Its powers of investigation and procedures for complaint handling are determined by the General Administrative Law Act, Chapter 9, title 9.2.

Position

The National ombudsman of the Netherlands is a so-called High Council of State. As such, it is independent of the executive and judicial powers of government. He is appointed by Parliament for a mandate of six years. He reports to and receives his budget from Parliament. The National ombudsman works alongside existing provisions of Parliament, the courts and internal complaints procedures.

Staff

The National ombudsman is supported by an Institution, with currently around 170 staff members (150 fte).

Powers of investigation

According to the Constitution ‘the National ombudsman shall investigate, on request or of his own accord, actions taken by central government administrative authorities and other administrative authorities designated by or pursuant to Act of Parliament’.

He has the following powers of investigation:

- On site visits
- Summons of administrative authority
- Summons of petitioner, witnesses, experts
- Hearing under oath
- Access to verbal information
- Access to all relevant documents
- Access to confidential documents
- Formal hearing

National Ombudsman and persons in detention

Alongside the existing system of inspections for detained persons, the National ombudsman has a backstopping function in the area of legal protections of detained persons. In those situations where inspections and other institutions cannot give a substantive opinion, the National ombudsman is normally competent to investigate complaints. Such is the case, for instance, when the complaint is not about a decision but about actual behaviour or treatment and in those cases where a third party complains. In addition the National ombudsman can have a preventive role. For example when he makes recommendations on the basis of

complaints of when he starts in investigation on his own initiative. The Dutch ombudsman lacks a mandate to provide complaint handling within the closed facilities within the healthcare system, except from some of the university hospitals. The Children's ombudsman has a broader mandate including the healthcare, but only involving children from 0 till 18 years of age.

National Ombudsman and OPCAT

In several European countries the ombudsman plays a role as or in OPCAT's National Preventive Mechanism. In the Netherlands the National ombudsman takes part in the NPM mechanism as an associate.

5. Appendices

I. Overview institutions under NPM supervision

Prisons

Name	Location	City	Places
PI Achterhoek	Ooyerhoek	Zutphen	220
	De Kruisberg	Doetinchem	168
PI Almelo	De Karelskamp	Almelo	176
	ZBBI Niendure	Almelo	33
PI Almere		Almere Buiten-de Vaart	360
PI Alphen aan den Rijn		Alphen aan den Rijn	362
PI Amsterdam	Havenstraat	Amsterdam	224
	Tafelbergweg	Amsterdam	96
PI Amsterdam Over-Amstel	De Singel/ Het Veer	Amsterdam	128
	Demersluis	Amsterdam	125
	Het Schouw	Amsterdam	144
	De Schans	Amsterdam	120
	De Weg	Amsterdam	135
PI Arnhem	Arnhem Zuid	Arnhem	270
	Arnhem de Berg	Arnhem	230
PI Breda	De Boschpoort	Breda	324
	PI for Women (PIV)	Breda	152
	Coördinatie- en Trainingscentrum	Breda	60
PI Dordrecht		Dordrecht	378
PI Grave	Oosterhoek	Grave	393
	ZBBI De Marstal	Zeeland (Noord-Brabant)	30
PI Haaglanden	Zoetermeer	Zoetermeer	385
	Scheveningen	Den Haag	184
	Justitieel Medisch Centrum (JMC)	Den Haag	56
PI Haarlem		Haarlem	392
PI Heerhugowaard Alkmaar	Zuyder Bos	Heerhugowaard	242
	Amerswiel (incl.ZBBI)	Heerhugowaard	98
	Westlinge	Heerhugowaard	271
	Schutterswei	Alkmaar	122
PI Hoogeveen		Hoogeveen	287
PI Krimpen aan den IJssel		Krimpen aan den IJssel	468
PI Leeuwarden		Leeuwarden	282

PI Lelystad		Lelystad	434
PI Limburg-Zuid	De Geerhorst	Sittard	323
	Overmaze	Maastricht	72
PI Middelburg	Torentijd	Middelburg	182
	ZBBI Nederhof	Middelburg	27
PI Nieuwegein		Nieuwegein	422
PI Rotterdam	Noordsingel	Rotterdam	220
	De Schie	Rotterdam	287
	Hoogvliet	Rotterdam	184
PI Ter Apel		Ter Apel	434
PI Tilburg*		Tilburg	681
PI Utrecht	Nieuwersluis	Nieuwersluis	221
	Wolvenplein	Utrecht	124
	ZBBI Het Spoor (women)	Nieuwersluis	11
PI Veenhuizen	Esserheem	Veenhuizen	270
	Groot Bankenbosch	Veenhuizen	137
	Nogerhaven	Veenhuizen	270
PI Vught		Vught	608
PI Zuid-Oost	Roermond	Roermond	246
	Ter Peel	Evertsoord	248
	Maashegge	Overloon	168
PI Zwaag Hoorn	Zwaag	Zwaag	324
	Het Keern	Hoorn	27
PI Zwolle	Zwolle Zuid 1	Zwolle	149
	Zwolle Zuid 2 (Women)	Zwolle	132
			Places
Total			12435

*Rented out to Belgium Prison Service

Juvenile Detention Centres

Name	Address	City	Places
Avenier – Kolkemate	Postbus 114	Zutphen	64
De Hartelborgt – Hoofdkantoor	Borgtweg 1	Spijkenisse	60
		Kralingen	27
De Heuvelrug – Hoofdkantoor	Postbus 61	Amerongen	88
De Hunnerberg - Hoofdkantoor	Postbus 1188	Nijmegen	142
Den Hey-Acker - Hoofdkantoor	Postbus 4737	Breda	116
		Vught	76
Forensisch Centrum Teylingereind - Hoofdkantoor	Postbus 193	Sassenheim	92
Het Poortje - Juvaid	Postbus 70013	Groningen	62
LSG-Rentray - Lelystad	Postbus 94	Lelystad	78
		Rekken	108
Spirit - Amsterbaken	Transformatorweg 6	Amsterdam	50
Stichting St. Joseph - Het Keerpunt	Pater Kustersweg 8	Cadier en keer	68
			Places
Total			1031

Forensic care institutions

Name	Address	City	Places
FPC Veldzicht	Ommerweg 67	Balkbrug	219
Pompestichting	Weg door Jonkerbos 55	Nijmegen	302
Hoeve Boschoord	Boijlerstraat 4	Boschoord	92
Oostvaarderskliniek	Carl Barksweg 3	Almere	183
Dr. Henri van der Hoevenkliniek	Willem Dreeslaan 2	Utrecht	214
Kliniek de Kijvelanden	Kijvelandsekade 1	Poortugaal	170
Dr. S. Van Mesdagkliniek	Helperlinie 2	Groningen	256
FPC Oldenkotte	Kienvenneweg 18	Rekken	141
FPI de Rooyse Wissel	Wanssumseweg 12a	Oostrum	224
Arkin/ de Meren	Duivendrechtsekade 55	Amsterdam	32
FPC 2landen	Gansstraat 164	Utrecht	59
De Woenselse Poort	Boschdijk 771	Eindhoven	65
FPK Drenthe			10
			Places
Total			1967

Detention centres for irregular migrants

Name	Address	City	Places
Detention centre Noord-Holland Noord		Oude Meer	293
		Zaandam	576
Detention centre Rotterdam		Rotterdam	583
Detention centre Zeist		Zeist	473
			Places
Total			1925

Police cells

Region	Address	City	Places
Oost-Brabant	Mathildelaan 4	Eindhoven	48
Noord-West-Holland	Blokmergouw	Hoorn	9
Oost-Brabant	Leeuweriksweg 2	Uden	8
Flevoland-Utrecht	De Doelen 10-01	Lelystad	22
Haaglanden	Burg. Patijnlaan 35	Den Haag	51
Oost-Brabant	Vogelstraat 41	Den Bosch	30
Oost-Nederland	Pr. Beatrixlaan 23	Tiel	12
Flevoland-Utrecht	Baljuwstraat 1	Almere	22
Limburg	St. Hubertuslaan 53	Maastricht	23
Zeeland - West-Brabant	Ringbaan west 232	Tilburg	40
Noord-West-Holland	Malleghatsplein 2	Alkmaar	14
Amsterdam	Elandsgracht 117 A'dam	Amsterdam	48
Noord-West-Holland	Bastiondreef 2	Den Helder	12
Oost-Nederland	Stieltjesstraat 1	Nijmegen	24
Zeeland - West-Brabant	Mijkenbroek 31	Breda	38
Limburg	Stationstraat 13	Heerlen	25
Oost-Nederland	Semisetsstraat 4	Doetinchem	15
Rotterdam-Rijnmond	Doelwater 5	Rotterdam	64
Rotterdam-Rijnmond	Schoutstraat 40	Spijkensisse	12
Oost-Nederland	Koggelaan 8	Zwolle	26
Amsterdam	Flierbosdreef 27	Amsterdam	72
Oost-Nederland	Storminkstraat 2	Deventer	18
Haaglanden	Nieuwe Gouwe Oostzijde 2	Gouda	23
Zeeland - West-Brabant	Torentijdweg 1	Middelburg	24

Rotterdam-Rijnmond	Schiedamseweg 400	Rotterdam	22
Haaglanden	Kees Mustersstraat	Alpen a/d Rijn	23
Rotterdam-Rijnmond	Slotlaan	Capelle aan de IJssel	21
Noord-Nederland	Moleneind Zuidzijde 77	Drachten	22
Flevoland-Utrecht	Vleugelboot 21	Houten	105
Limburg	Rijnbeekstraat 1	Venlo	20
Rotterdam-Rijnmond	Overkampweg 109	Dordrecht	56
Noord-Nederland	Holstmeerweg 3a	Leeuwarden	23
Haaglanden	Langegracht 3	Leiden	23
Oost-Nederland	Europaweg 79	Apeldoorn	40
Oost-Nederland	Hosbekkeweg 1a	Borne	40
Rotterdam-Rijnmond	Zuidplein 1	Rotterdam	23
Haaglanden	Jacoba van beierenlaan 1	Delft	21
Noord-West-Holland	Koudenhorn	Haarlem	35
Noord-West-Holland	Hoofdweg 800	Hoofddorp	20
Noord-West-Holland	Tiberiusplein 1	Velsen	10
Amsterdam	Meer en Vaart	Amsterdam	50
Oost-Nederland		Arnhem	32
Noord-Nederland	Balkengracht 3	Assen	20
Zeeland - West-Brabant	Jacob Obrechtlaan 9	Bergen op Zoom	18
Haaglanden	Nieuwe parklaan 250	Den Haag	8
Haaglanden	Jan Hendrickstraat 85	Den Haag	6
Haaglanden	Hoefkade 350	Den Haag	6
Haaglanden	Vlaskamp 1	Den Haag	6
Haaglanden	Slachthuislaan 25	Den Haag	6
Haaglanden	A. Noorderwierstraat 401	Den Haag	6
Haaglanden	De Heemstraat 168	Den Haag	5
Haaglanden	Beresteinlaan 4	Den Haag	5
Haaglanden	Brigantijnlaan 305	Den Haag	4
Haaglanden	Mr. P. Drooglever Fortuinweg 112	Den Haag	3
Haaglanden	Fahrenheitstraat 192	Den Haag	2
Oost-Nederland		Ede	12
Noord-Nederland	adres wordt nagestuurd	Emmen	8
Noord-Nederland	Hooghoudstraat 18	Groningen	42
Flevoland-Utrecht	Groest 69	Hilversum	13
Noord-Nederland	adres wordt nagestuurd	Hoogeveen	8
Haaglanden	Temeculaplein 1	Leidschendam	6

Haaglanden	??	Monster	4
Haaglanden	Vierschaar 1	Naaldwijk	7
Haaglanden	Nootdorpseweg 5	Pijnacker	2
Noord-West-Holland	Waterlandlaan 252	Purmerend	11
Haaglanden	Sir Winston Churchillaan 271	Rijswijk	4
Limburg	Andersonweg 50	Roermond	20
Haaglanden	Hofcampweg 102	Wassenaar	2
Noord-West-Holland	Guishof 1	Zaandijk	18
Haaglanden	Wegstapelplein 1	Zoetermeer	11
			Places
Total			1529

Secured Youth Care Institution (GJ PLUS)

Name	Address	City	Places
Paijas Plus (BJ Brabant en Tender)	Postbus 161	Deurne	40
		Grave	40
		Oosterhout	60
		Kortgene	32
Almata - Den Dolder	Postbus 43	Den Dolder	120
Almata - Ossendrecht	Postbus 14	Ossendrecht	82
Avenier - Alexandra	Postbus 4	Harreveld	32
Avenier - Anker	Postbus 4	Harrevekd	70
Avenier - De Vaart	Poelruiterpad 9-11	Sassenheim	108
Avenier - Hoofdkantoor	Postbus 4	Harreveld	10
Avenier - Prisma	Postbus 4	Harreveld	24
De Lindenhorst - Hoofdkantoor	Postbus 255	Zeist	54
Het Poortje - Wilster	Postbus 70013	Groningen	108
Horizon - Hoofdkantoor	Postbus 37056	Rotterdam	20
JJC (Jeugdformaat - De Jutters Combinatie) - Hoofdkantoor	Postbus 52027	Den Haag	50
Juvent - Hoofdkantoor	Postbus 140	Middelburg	69
LSG-Rentray - Eefde	Postbus 94	Eefde	119
LSG-Rentray - Hoofdkantoor	Postbus 94	Nijkerk	24
OG Helderingsstichting - Hoofdkantoor	postbus 1	Zetten	151
Parlan - Transferium	De Vork 16	Heerhugowaard	80
Parlan Jeugd & Opvoedhulp	Van der Lijnstraat 9	Alkmaar	32

Pluryn - Hoofdkantoor	Postbus 6	Oosterbeek	
Spirit - De Koppeling	Postbus 23625	Amsterdam Zuidoost	102
Stichting St. Joseph - Icarus	Pater Kustersweg 8	Cadier en keer	94
Tender - Hoofdkantoor	Postbus 5726	Breda	
WoodBrookers - Hoofdkantoor	Boerstreek 24	Kortehemmen	36
			Places
Total			1557

Court cells

Name	Location	Description	Places
Alkmaar	Kruseman van Eltenweg 2 1800 BG Alkmaar	15 cells + 1 room boys + 1 room girls + 1 anti-claustrophobic room	18
Almelo	Egbert Gorterstraat 5 7600 AH Almelo	17 cells + 2 multi occupancy cells	19
Amsterdam	Parnassusweg 220 1080 BN Amsterdam	54 cells + 1 observation cell	55
Arnhem	Walburgstraat 2-4 6800 EM Arnhem	32 cells	32
Assen	Brinkstraat 4 9400 RA Assen	8 cells + 2 multi occupancy cells	10
Breda	Sluissingel 20 4800 RA Breda	26 cells + 2 multi occupancy cells + 1 room boys + 1 room girls	30
Den Haag	Prins Clauslaan 60 2500 EH Den Haag	47 cells + 3 multi occupancy cells + 1 room boys + 1 room girls	52
Dordrecht	Steegoversloot 36 3300 GC Dordrecht	14 cells + 1 multi occupancy cell + 1 youth room	16
Groningen	Guyotplein 1 9700 AT Groningen	10 cells + 2 multi occupancy cells + 1 room boys + 1 room girls	14
Haarlem	Simon de Vrieshof 1 2003 BR Haarlem	25 cells + 1 room boys + 1 room girls	27
's-Hertogenbosch	Leeghwaterlaan 8 5201 CZ 's-Hertogenbosch	29 cells + 3 multi occupancy cells	32
Leeuwarden	Zaailand 102 CA Leeuwarden	11 cells + 1 multi occupancy cell + 1 youth room	13
Maastricht	Sint Annadal 1 6201 BZ Maastricht	16 cells + 1 multi occupancy cell + 1 youth room	18
Middelburg	Kousteensedijk 2 4330 KA Middelburg	8 cells + 2 multi occupancy cells + 1 youth room + 1 cell for females	12
Roermond	Willem II Singel 67 6040 AZ Roermond	12 cells + 2 multi occupancy cells + 1 room boys + 1 room girls	16
Rotterdam	Wilhelminaplein 100-125 3007 BL Rotterdam	24 cells + 3 multi occupancy cells	27

Utrecht	Vrouwe Justitiaplein 1 3500 DA Utrecht	25 cells + 2 multi occupancy cells + 1 room boys + 1 room girls	30
Zutphen	Martinetsingel 2 7200 GJ Zutphen	10 cells + 2 family rooms + 1 observation cell	13
Zwolle/Lelystad	Luttenbergstraat 5 8000 GB Zwolle Stationsplein 15 8232 DL Lelystad	Zwolle: 16 cells Lelystad: 7 cells + 1 multi occupancy cell	24
Total			458

II. Contact details

Organisation	Contact
Inspectorate for the Implementation of Sanctions (ISt) Inspectie voor de Sanctietoepassing Kalvermarkt 53, 2511 CB Den Haag www.ist.nl and http://english.ist.nl	Mrs. Femke Hofstee-van der Meulen Inspector f.b.a.m.hofstee@minvenj.nl Tel: +31(0)648100333
Public Order and Safety Inspectorate (IOOV) Postbus 20011, 2500 EA Den Haag http://www.ioov.nl/english/	
Health Care Inspectorate (IGZ) Postbus 16119, 2500 BC Den Haag http://www.igz.nl/english/	Mrs. Monique Schippers Inspector ma.schippers@igz.nl
Inspectorate for Youth Care (IJZ) Postbus 483, 3500 AL Utrecht http://www.inspectiejeugdzorg.nl/en/	Mr. Irving Levie Inspector isi.levie@inspectieijz.nl
Supervisory Commission on Repatriation (CITT) Schedeldoekshaven 131, 2511 EM Den Haag www.commissieterugkeer.nl	Mr. Nanne Haspels n.haspels@citt.minbzk.nl
Raad voor de Strafrechtstoepassing en Jeugdbescherming (RSJ) Postbus 30137, 2500 GC Den Haag www.rsj.nl/english	Mrs. Simone Jousma s.jousma@minvenj.nl Mr. Arthur van Bommel a.j.van.bommel@minvenj.nl
Klankbordgroep CVT justitiële inrichtingen Rechtbank Utrecht Postbus 16005, 3500 DA Utrecht www.commissievantoezicht.nl	Mrs. Charlotte Marinus c.marinus@rechtspraak.nl
Commissie van Toezicht politiecellen Postbus 618 7322 AP Apeldoorn	Mr. Gerrit de Boer Secretaris gerrit.de.boer@no-gelderland.politie.nl
Commissie van Toezicht detentieplaatsen KMar Koningin Beatrixkazerne Postbus 90615 2509 LM Den Haag	Mrs. Gabriella Kraaiveld gi.kraaiveld@mindef.nl
Nationale Ombudsman Postbus 93122 2509 AC Den Haag www.ombudsman.nl/english	Mrs. Yvonne van der Vlugt Yvandervlugt@nationaleombudsman.nl

III. List of abbreviations

CAT	Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CITT	Supervisory Commission on Repatriation (Commissie Integraal Toezicht Terugkeer)
CPT	Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ECPT	European Convention for the Prevention of Torture
IOOV	Public Order and Safety Inspectorate (Inspectie Openbare Orde en Veiligheid)
IGZ	Health Care Inspectorate (Inspectie voor de Gezondheidszorg)
IJZ	Inspectorate for Youth Care (Inspectie Jeugdzorg)
ISt	Inspectorate for the Implementation of Sanctions (Inspectie voor de Sanctietoepassing)
IVenJ	Inspection of Security and Justice
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment
RSJ	Council for the Administration of Criminal Justice and Protection of Juveniles (Raad voor de Strafrechtstoepassing en jeugbescherming)
SPT	Subcommittee for the Prevention of Torture

IV. Appointment letter NPMs of the Netherlands

OHCHR REGISTRY		Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organisations in Geneva
23 APR 2012		
Request <u>SFT</u>		
NV: GEV-PA 083/2012		
The Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner of Human Rights and has the honour to inform the Secretariat of the Subcommittee on Prevention of Torture as follows:		
Following the entry into force of the Optional Protocol to the UN Convention Against Torture (OPCAT) on 28 October 2010, the Netherlands have decided in the year 2011 on the designation of the different National preventive mechanisms under the OPCAT-regime. A coordinating role has been given to the Inspectorate for Implementation of Sanctions, in Dutch the Inspectie voor de Sanctietoepassing (ISt).		
Please find enclosed the letter sent on 28 December 2011 (written in Dutch, a clean and a signed copy), holding the designation of the National preventive mechanisms of the Netherlands (NPMs), sent on behalf of the Secretary of State of the Ministry of Security and Justice by the responsible Director of Sanction and Prevention Policy to the Director of Legal Affairs of the Ministry of Foreign Affairs in order to inform the relevant parties.		
The legal basis and the followed procedure have been explained on page 1, referring to the role of the ISt as coordinator for the NPM's. The ISt, three other national inspectorate (on public order and security, youth care and health care), a commission and a council are designated as the six NPMs of the Netherlands, see page 2. Three other bodies, representing different Commissions of supervision of local establishments, and the National ombudsman are recognised as observers.		
The Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.		
To the Secretariat of the Subcommittee on Prevention of Torture Office of the High Commissioner of Human Rights Palais des Nations 1211 Geneva 10		Geneva, 17 April 2012 



Ministerie van Veiligheid en Justitie

> Retouradres Postbus 20301 2500 EH Den Haag

Ministerie van Buitenlandse Zaken
t.a.v. Directeur Juridische Zaken
dhr. T.J.M. van Oorschoot
Postbus 20061
2500 EB DEN HAAG

Datum 20 december 2011
Onderwerp Aanwijzen Nationale Preventieve Mechanismen (NPM's) op basis van
VN-OPCAT

Geachte heer Van Oorschoot,

Op 28 oktober 2010 is het Facultatief Protocol bij het VN-Verdrag tegen foltering en andere wrede, onmenselijke of onterende behandeling of bestraffing voor Nederland in werking getreden (Trb 2006, Nr. 64; New York, 18 december 2002). Dit protocol wordt ook wel aangeduid als OPCAT naar de verkorte Engelse afkorting *Optional Protocol to the UN-Convention against Torture*.

Op basis van artikel 17 van het Protocol dient elke staat die Partij is, één of meer onafhankelijke nationale preventiemechanismen (NPM's) te onderhouden, aan te wijzen of op te richten ter voorkoming van foltering op nationaal niveau. Deze nationale preventieve mechanismen zijn in de toelichtende nota ter goedkeuring van OPCAT omschreven als de verschillende instanties die het toezicht op nationaal niveau uitoefenen op justitiële inrichtingen en andere locaties waar personen verblijven aan wie de vrijheid wordt ontnomen (31 797 (R1871), 2008-2009, nr. 1, blz. 6-9).

Het afgelopen jaar heb ik in goed overleg met de onafhankelijke Inspectie voor de Sanctietoepassing (IS) aan de Staatssecretaris voor Veiligheid en Justitie een aanpak voorgelegd om tot een aanwijzing van de Nederlandse NPM's te komen. Op basis van deze aanpak heeft de IS een overleg bijeengeroepen van de daarvoor mogelijkst in aanmerking komende toezichthouders. Vervolgens heeft de IS mij uitsluitend gegeven wie als NPM in aanmerking komen. Tenslotte heeft het ministerie van Veiligheid en Justitie dit overgenomen.

De IS heeft mij bericht dat zij van verschillende instanties de bevestiging heeft ontvangen om aangewezen te worden als NPM. Verder heeft de IS verklaard bereid te zijn om als coördinator te fungeren. Ik heb getoetst of deze instanties voldoen aan vereisten voor NPM's, in het bijzonder wat betreft de bevoegdheden zoals bedoeld in artikel 19 OPCAT, en dit is inderdaad het geval.

Ik wil u daarom berichten dat op voordracht van het ministerie van Veiligheid en Justitie Nederland de volgende nationale toezichthouders worden aangewezen als nationale preventiemechanismen:

Directoraat-Generaal
Jeugd en
Sanctietoepassing
Directie Sanctie- en
Preventiebeleid
DGJS

Schedeldoershaven 100
2511 EX Den Haag
Postbus 20301
2500 EH Den Haag
www.rijksoverheid.nl/vonj

Contactpersoon
Armut Brussaard
senior beleidsadviseur
T 070 370 71 68
F 070 370 79 75
a.brussaard@mvvovj.nl

Projectnaam
VN-OPCAT

Ons kenmerk
207511

*Bij beantwoording de datum
en ons kenmerk vermelden.
Wilt u slechts één zaak in uw
brief behandelen.*

- de Inspectie voor de Sanctietoepassing (ISt);
- de Raad voor Strafrechtstoepassing en Jeugdbescherming (RSJ);
- de Commissie Integraal Toezicht Terugkeer (CITT);
- de Inspectie Openbare Orde en Veiligheid (IOOV);
- de Inspectie Jeugdzorg (IJZ);
- de Inspectie voor de Gezondheidszorg (IGZ).

Zij zullen in de toekomst aan door de ISt te organiseren overleg van de NPM's deelnemen, informatie aan het Subcommittee ter preventie van foltering (SPT) van de VN verstrekken en daarmee in dialoog treden.

Als toehoorders bij het toekomstige overleg van de Nederlandse NPM's zijn voorts bereid deel te nemen vertegenwoordigers namens:


- de Klankbordgroep Commissies van Toezicht (voor justitiële inrichtingen);
- de Commissies van Toezicht op de Politiecellen (CTPC's);
- de Commissies van Toezicht Detentieplaatsen Koninklijke Marechaussee
- de Nationale Ombudsman.

Zij worden niet als NPM aangewezen.

Het SPT heeft bij brief van 18 november jl. Nederland om informatie verzocht over de aanwijzing van zijn NPM. Verder heeft onlangs de Secretaris-Generaal van het UN Office on Drugs and Crime bericht gestuurd en verzocht om de mechanismen te operationaliseren. Ik zal beide op de hoogte stellen van de aanwijzing van de zes bovenstaande NPM's door Nederland.

Ik verzoek u van het bovenstaande kennis te nemen en daar waar u dat aangewezen acht, deze informatie met relevante partijen te delen.

Namens de Staatssecretaris van Veiligheid en Justitie,



De Directeur Sanctie- en Preventiebeleid
Michel Groothuizen

V. Text OPCAT

Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199.

Entered into force on 22 June 2006

Preamble

The States Parties to the present Protocol,

Reaffirming that torture and other cruel, inhuman or degrading treatment or punishment are prohibited and constitute serious violations of human rights,

Convinced that further measures are necessary to achieve the purposes of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) and to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that articles 2 and 16 of the Convention oblige each State Party to take effective measures to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction,

Recognizing that States have the primary responsibility for implementing those articles, that strengthening the protection of people deprived of their liberty and the full respect for their human rights is a common responsibility shared by all and that international implementing bodies complement and strengthen national measures,

Recalling that the effective prevention of torture and other cruel, inhuman or degrading treatment or punishment requires education and a combination of various legislative, administrative, judicial and other measures,

Recalling also that the World Conference on Human Rights firmly declared that efforts to eradicate torture should first and foremost be concentrated on prevention and called for the adoption of an optional protocol to the Convention, intended to establish a preventive system of regular visits to places of detention,

Convinced that the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment can be strengthened by non-judicial means of a preventive nature, based on regular visits to places of detention, Have agreed as follows:

PART I

General principles

Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.
2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

PART II

Subcommittee on Prevention

Article 5

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.
2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.
3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.
4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.
5. No two members of the Subcommittee on Prevention may be nationals of the same State.
6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

Article 6

1. Each State Party may nominate, in accordance with paragraph 2 of the present article, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.
2. (a) The nominees shall have the nationality of a State Party to the present Protocol;

(b) At least one of the two candidates shall have the nationality of the nominating State Party;

(c) No more than two nationals of a State Party shall be nominated;

(d) Before a State Party nominates a national of another State Party, it shall seek and obtain the consent of that State Party.
3. At least five months before the date of the meeting of the States Parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list, in alphabetical order, of all persons thus nominated, indicating the States Parties that have nominated them.

Article 7

1. The members of the Subcommittee on Prevention shall be elected in the following manner:
 - (a) Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;
 - (b) The initial election shall be held no later than six months after the entry into force of the present Protocol;
 - (c) The States Parties shall elect the members of the Subcommittee on Prevention by secret ballot;
 - (d) Elections of the members of the Subcommittee on Prevention shall be held at biennial meetings of the States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Subcommittee on Prevention shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States Parties present and voting.
2. If during the election process two nationals of a State Party have become eligible to serve as members of the Subcommittee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Subcommittee on Prevention. Where nationals have received the same number of votes, the following procedure applies:

- (a) Where only one has been nominated by the State Party of which he or she is a national, that national shall serve as the member of the Subcommittee on Prevention;
- (b) Where both candidates have been nominated by the State Party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become the member;
- (c) Where neither candidate has been nominated by the State Party of which he or she is a national, a separate vote by secret ballot shall be held to determine which candidate shall be the member.

Article 8

If a member of the Subcommittee on Prevention dies or resigns, or for any cause can no longer perform his or her duties, the State Party that nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States Parties, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.

Article 9

The members of the Subcommittee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of those members shall be chosen by lot by the Chairman of the meeting referred to in article 7, paragraph 1 (d).

Article 10

1. The Subcommittee on Prevention shall elect its officers for a term of two years. They may be re-elected.
2. The Subcommittee on Prevention shall establish its own rules of procedure. These rules shall provide, inter alia, that:
 - (a) Half the members plus one shall constitute a quorum;
 - (b) Decisions of the Subcommittee on Prevention shall be made by a majority vote of the members present;
 - (c) The Subcommittee on Prevention shall meet in camera.

3. The Secretary-General of the United Nations shall convene the initial meeting of the Subcommittee on Prevention. After its initial meeting, the Subcommittee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Subcommittee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

PART III

Mandate of the Subcommittee on Prevention

Article 11

1. The Subcommittee on Prevention shall:
 - (a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
 - (b) In regard to the national preventive mechanisms:
 - (i) Advise and assist States Parties, when necessary, in their establishment;
 - (ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
 - (iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
 - (iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
 - (c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

Article 12

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

- (a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
- (b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;
- (c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;
- (d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.
2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.
3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.
4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

Article 14

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:
 - (a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

- (b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;
 - (c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;
 - (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;
 - (e) The liberty to choose the places it wants to visit and the persons it wants to interview.
2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

Article 16

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.
2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.
3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

PART IV

National preventive mechanisms

Article 17

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

Article 19

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;
- (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.
2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

PART V***Declaration*****Article 24**

1. Upon ratification, States Parties may make a declaration postponing the implementation of their obligations under either part III or part IV of the present Protocol.
2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Subcommittee on Prevention, the Committee against Torture may extend that period for an additional two years.

PART VI***Financial provisions*****Article 25**

1. The expenditure incurred by the Subcommittee on Prevention in the implementation of the present Protocol shall be borne by the United Nations.
2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Subcommittee on Prevention under the present Protocol.

Article 26

1. A Special Fund shall be set up in accordance with the relevant procedures of the General Assembly, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Subcommittee on Prevention after a visit to a State Party, as well as education programmes of the national preventive mechanisms.
2. The Special Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

PART VII

Final provisions

Article 27

1. The present Protocol is open for signature by any State that has signed the Convention.
2. The present Protocol is subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State that has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention instituting a system of visits to places of detention. The Subcommittee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States Parties to the four Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 8 June 1977, nor the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act or situation that may occur prior to the date on which the denunciation becomes effective, or to the actions that the Subcommittee on Prevention has decided or may decide to take with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter already under consideration by the Subcommittee on Prevention prior to the date on which the denunciation becomes effective.
3. Following the date on which the denunciation of the State Party becomes effective, the Subcommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment that they have accepted.

Article 35

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party, the members of the Subcommittee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- (a) Respect the laws and regulations of the visited State;
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

Published by:
Inspectorate of Security and Justice
P.O.Box 20011
2500 EA The Hague
The Netherlands

October 2012 | Publication number: J-15569

