

# RESPONSE OF THE DUTCH GOVERNMENT TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

## I. Introduction

From 7 to 12 October 2024, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: CPT) conducted an ad hoc visit to three closed youth care institutions in the Netherlands in accordance with Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter: the Convention). It was the committee's 13<sup>th</sup> visit to the Netherlands.

The Dutch government appreciates the work of the CPT on improving the standards that apply to the functioning of state institutions where persons are deprived of their liberty. The government would like to thank the CPT for its findings and recommendations in the report of its visit to closed youth care institutions in the Netherlands. The government underscores the urgency of some of the CPT's observations and immediately started following up on them after the visit. The State Secretary for Youth, Prevention and Sport held discussions with the youth care providers on the recommendations immediately following the visit.

The CPT's recommendations fit well with the government's policy to transform closed youth care: where closed youth care is still needed, it should be organised on a small scale; in addition, there is a commitment to achieve as close as possible to zero closed placements. A key instrument for this is the Act on the Legal Position in Closed Youth Care. Its introduction on 1 January 2024 was welcomed by the CPT in its Preliminary Observations. Here as well, the CPT signalled that the institutions might not fully comply with the Act. In its summary, the CPT mentioned that the government knew that, even before the Act on the Legal Position in Closed Youth Care came into force on 1 January 2024, closed youth care providers could not yet fully implement it. This is true in the sense that these providers wrote to the government about this on 19 December 2023. Since then, consideration has been given to how the institutions can indeed comply with the Act. The CPT's observations highlight the importance of this. The State Secretary for Youth, Prevention and Sport will inform the House of Representatives about the outcome of this process. The CPT will receive a copy of this letter.

The Dutch government's response to the recommendations, comments and requests for information based on the CPT report of 24 March 2024 of its visit are contained in this document. For ease of reference and reading, this response follows the format of the CPT's report.

1. *Alternatively, a child may also be placed in a closed institution following an emergency order (spoedmachtiging)<sup>1</sup> or a temporary order (voorwaardelijke machtiging)<sup>2</sup>. The validity of these supervision orders expires after six months, and four weeks respectively, but a temporary supervision order may be extended. According to the delegation's interlocutors, a significant number of children are admitted on such emergency supervision orders. (paragraph 7).*

This passage does not concern a recommendation. Nevertheless, in response to this, the government wishes to clarify that the juvenile court sets the period of validity of a regular closed youth care order at a maximum of one year, the first temporary order at a maximum of six months and extensions of temporary orders at a maximum of one year. The emergency order is valid until the juvenile court has made a decision on the application for order, but only for a maximum of four weeks.

It is true that the number of emergency orders is high. It has been agreed with municipalities and closed youth care providers to drastically reduce that number. An important tool in this respect is the explanatory analysis, of which it has been agreed that it should always take place prior to placement in closed youth care. An explanatory analysis means that referrers (professionals from municipalities, the Child Care and Protection Board and certified institutions), together with the

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<sup>1</sup> Article 6.1.3 Youth Act.

<sup>2</sup> Article 6.1.4 Youth Act. Given the nature of the measure, the government believes that 'conditional order' is a more appropriate translation of the conditional authorisation than 'temporary order'.

family of the young person and a behavioural scientist, make a broad-based analysis of how the situation arose and what is needed for the young person to get out of it.

2. *An order of a juvenile court to place child in a closed institution concerns exclusively children on whom already supervision (Ondertoezichtstelling (OTS)) has been imposed by a juvenile court.<sup>3</sup> The supervision is put in place for a maximum of one year but may be extended for one year at a time. The supervision may be imposed on children as of the age of 12 and usually ends when the minor reaches the age of majority (18 years of age). (paragraph 8)*

In addition to this section, the government notes that it is also possible for young people to stay in closed youth care when supervision by a juvenile court (Ondertoezichtstelling (OTS)) has not been imposed.<sup>4</sup> However, admission to a closed youth care institution always requires a judicial authorisation. To be clear, given the age limits mentioned in this section, closed youth care is also possible for children under 12. Moreover, the Youth Act has a provision that, under special circumstances, allows the authorisation to continue for six months after reaching legal age.

3. *The CPT would like to be informed about any initiatives by the Dutch authorities to improve the financial sustainability of the JeugdzorgPlus establishments in the interest of the children whose care they provide (paragraph 11).*

With the transformation of closed youth care, the government aims to ensure that those young people in vulnerable situations who need it receive appropriate care and safety. Therefore, on 12 November 2024, the Specific Funding for Transformation of Closed Youth Care Scheme came into force. This scheme was the result of administrative agreements made earlier that year between municipalities, closed youth care providers and central government by which a budget became available. The scheme includes a budget of €176 million for the transformation of closed youth care. This amount will be made available via a specific disbursement to municipalities that will allow them to finance the costs of providers involved in the transformation of closed youth care. The Spring Memorandum also agreed to make a total of €3 billion cumulatively available for youth care and municipalities from 2025 to 2027. This cumulative €3 billion is a substantial contribution to the problems experienced by municipalities regarding youth care and to the Municipalities Fund.

4. *The CPT would like to be informed about the future of closed residential youth care, whether it will continue to exist and, if so, in which format (paragraph 22).*

The national objectives for closed youth care are that it be organised on a small scale by 2025 and that the number of closed placements be as close to zero as possible by 2030. However, zero closed placements does not mean that freedom-restricting measures are no longer needed in youth care. Therefore, the State Secretary for Youth, Prevention and Sport is prepared to amend the Youth Act to allow the use of freedom-restricting measures in residential youth care, enshrined in legal safeguards, in line with the Mandatory Mental Health Care Act (Wvggz) and the Care and Compulsion (Psychogeriatric and Intellectually Disabled Patients) Act (Wzd).<sup>5</sup> Based on the outcome of a public discussion, the State Secretary will take a final decision on the details of the change this year.

5. *The CPT would like to receive the comments of Dutch authorities as concerns its responsibility in the implementation of the recommendations from the De Winter Committee, which by and large have been endorsed by the Netherlands authorities (paragraph 28).*

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<sup>3</sup> See Article 1:255 Civil Code: "The juvenile court can place a child under supervision of a certified institution if a child grows up in such a way that his development is seriously threatened, and: a. the care that is necessary for the child or for his parents or the parent exercising custody in connection with the removal of the threat is not or insufficiently accepted by the child, and b. there is a justified expectation that the parents or the parent exercising custody will be able to bear the responsibility for the care and upbringing referred to in Article 247, paragraph 2, within a period that is considered acceptable in view of the person and the development of the child."

<sup>4</sup> Article 6.1.8 Youth Act.

<sup>5</sup> Parliamentary Papers 31839, no. 1029.

The government has embraced the recommendations of the De Winter Committee. The main recommendations in this regard are avoiding placements in closed institutions, reducing the group size of residential groups in institutions and strengthening independent supervision.

Since the publication of these recommendations, the number of placements in closed youth care has fallen sharply. In 2019, the number of placements was 1706; in 2024, it was only 712.<sup>6</sup>

The closed youth care providers have together agreed on a professional standard maximum of six young people in a group.

In line with the De Winter Committee's recommendations on supervision, the Health and Youth Inspectorate (IGJ) conducted thematic inspections concerning the downsizing and conversion of closed youth care. During these inspections, the IGJ spoke to young people. The IGJ found that there are factors that prevent signals of verbal or physical transgressive treatment of these young people from coming to the surface during these interviews: for example, the fact that they are in a position of dependency and, partly because of this, cannot talk about their experiences until they have been away from an institution for some time. The IGJ has recently implemented improvements for supervision. For example, when young people make reports, the inspectorate actively investigates whether there are signs of widespread lack of safety at the relevant youth care providers. The IGJ is also continuing the Youth Campaign through which it collects young people's experiences of youth care via social media. The IGJ also involves experiential experts in improving supervision, for example for advice on how inspectors can best conduct interviews with young people in closed youth care.

6. *The CPT takes note of the institutional follow up given to the Jason Bhugwandass report at Harreveld and would like to be informed about the follow up given to this report at the Zetten institution. Further, the CPT would also like to be informed whether investigations, penal, disciplinary or otherwise, have taken place in respect of the allegations of use of chokeholds in Lindenhorst. Also, it would like to receive information about the measures taken, disciplinary or institutional, in respect of the allegations of application of pain-inducing restraint techniques at Woodbrookers (paragraph 34).*

Below is the information requested by the CPT that the government has received from providers.

#### ZIKOS, Zetten location

- Zetten is one of the closed youth care locations of Pactum, an organisational unit of the youth care provider VIGO. Ahead of the publication of Jason Bhugwandass' report on 12 March 2024, the IGJ visited the ZIKOS ward in Zetten unannounced on 15 February 2024. This inspection took place because of very worrying signals given by young people. On the same day as the IGJ's unannounced visit, Pactum management together with the VIGO board imposed an admission freeze, prompted by a request from the VNG,<sup>7</sup> the IGJ's advice and, of course, signals from the young people themselves.
- At the time, the management and the board said they were appalled by the seriousness of the signals. They invited young people who were or had been resident at ZIKOS in Zetten and were open to discussion to an interview. Pactum immediately deployed a permanent team of counsellors to the ZIKOS ward in Zetten, instead of the many changing faces for the young people. This permanent team remained active until the last youth had exited.
- On 16 April 2024, the IGJ placed the ZIKOS ward under enhanced supervision. That same day, Pactum decided to close the ZIKOS unit for good as soon as the last youth had been discharged. On 6 June 2024, the ZIKOS ward was permanently closed. The young people who resided at the ZIKOS ward were transferred to other forms of youth care and youth mental health services.
- After the closure, Pactum launched an external investigation into the signals allegedly issued about ZIKOS, and whether or not these were adequately followed up. The investigation also included the perspectives of young people and staff and involved the relevant chain partners. The board is keen to learn from the past and avoid missing signals in the future. This external

<sup>6</sup> <https://www.jeugdzorgnederland.nl/wp-content/uploads/2025/05/2024-Factsheet-Plaatsings-en-uitstroomgegevens.pdf>.

<sup>7</sup> VNG was responsible for the national procurement of ZIKOS.

investigation is expected to be completed in the near future. If so desired, the government can forward a copy of the investigation.

### Lindenhorst

- Lindenhorst was one of provider Pluryn's closed youth care locations. Pluryn was shocked to learn of an article in the *Algemeen Dagblad* daily newspaper in autumn 2022 and the report by the Youth Care Advisory and Complaints Office (AKJ)<sup>8</sup> on the application of freedom-restricting measures.<sup>9</sup> Pluryn immediately started discussions with *Algemeen Dagblad*, young people, staff and the IGJ.
- Pluryn immediately drew up improvement measures based on those discussions:
  - greater focus on continuity within the treatment team (secondment rather than freelancers);
  - up-to-date alert plan per patient, with safety of the patient and their environment as the first priority;
  - increased focus on evaluation and reflection by employees;
  - enhanced expertise through training when it comes to binding authority and de-escalation.
- The IGJ monitored these measures. The board of directors ensured that the improvement measures were implemented, including through a Pluryn-wide improvement register.
- In addition, Pluryn decided to leave the De Lindenhorst site because the site was no longer in line with Pluryn's vision, the Best Appropriate Care for Vulnerable Young People action plan (*Best passende zorg voor kwetsbare jongeren*) (2019) and the Professional Standards for Reducing Restrictive Custody Measures (*Veldnormen Terugdringen vrijheidsbeperkende maatregelen*) (2022). Since July 2023, Pluryn has offered closed youth care in new premises, Het Klaverhof, on the Valkenheide estate in Maarsbergen.

### Woodbrookers

- Woodbrookers was a closed youth care location of Jeugdhulp Friesland that has since shut its doors. Several former residents of the Woodbrookers treatment centre filed a report, following which the police and the public prosecution service launched an investigation. The public prosecutor's office (OM) decided in September 2024 to end the investigation into possible abuses. In one case, this decision led to Section 12 of the Code of Criminal Procedures proceedings. This means there are ongoing proceedings and the government cannot make any substantive disclosures about them.
- Incidentally, as of 1 April 2025, Jeugdhulp Friesland no longer offers closed youth care. The provider is putting more effort into small-scale residential facilities for young people leaving closed youth care.

## **II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED**

### **1. Preliminary remarks**

7. *With an overall capacity of 546 places, the JeugdzorgPlus establishments were accommodating 437 children in total on 2 October 2024, which is a sharp decrease from the more than 2 000 children in closed residential youth care only a few years ago. Whilst being a positive development, the CPT interlocutors cautioned that, as a consequence, at present JeugdzorgPlus establishments accommodate a concentration of children with complex needs, many of them suffering from serious emotional or behavioural problems, leading to conflicts with the law, at times related to gang- or organised crime. Similarly, it was claimed, that the focus on reducing the number of children placed in closed residential youth care has led to an increase in the number of children with complex needs being placed in open youth care facilities, putting high demands on each establishment to keep the children and staff in the institution safe. The CPT*

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<sup>8</sup> The AKJ has been called Jeugdstem since 1 March 2023.

<sup>9</sup> Taking a knife along on leave, neck clamps and strangleholds: this is how young people experience youth institution Lindenhorst (*Algemeen Dagblad* article, 14 October 2022).

*would like to be informed by the Dutch authorities on the measures envisaged to address the issues raised above (paragraph 36).*

As noted by the CPT, the number of placements in closed youth care has fallen sharply in recent years. However, the concerns raised by interlocutors of the CPT are not unknown and are shared by the government. For example, the CPT mentions the concentration of young people with complex problems in closed youth care, many of them suffering from serious behavioural problems, sometimes related to crime. This is a group that currently does not always get appropriate help. Partly for this reason, one of the administrative agreements mentioned above (see point 3) is that substantive care frameworks will be put in place for young people in closed youth care who currently do not receive appropriate help, such as the forensic target group. This means that a nationwide review is being carried out into what an appropriate solution for this group should look like in terms of substantive care, in order to prevent each region from having to develop such a solution itself.

Another concern is the growth in the number of young people with complex problems in open youth care, which makes high demands on staff. This latter concern also has to do with the fact that no freedom-restricting measures are allowed in open youth care. The difference from current closed youth care is thus significant. As indicated above as well, the goal of zero closed placements does not mean that freedom-restricting measures are no longer needed in youth care. In the best interests of the child, staff may sometimes need to restrict a young person's freedom if they need to be protected from themselves. This includes situations where freedom-restricting measures may be necessary, such as threats of self-harm or suicide, danger or lack of safety due to so-called lover boys, or danger due to addiction problems. Therefore, the State Secretary for Youth, Prevention and Sport (SJPS) is prepared, in the interest of the young person, to amend the Youth Act to allow the use of freedom-restricting measures in residential youth care, enshrined in legal safeguards, in line with the Wvvgg and the Wzd.<sup>10</sup> Based on the outcome of a public discussion, he will take a final decision on the details of the change this year. The government is prepared to inform the CPT about the outcome in future.

*8. The CPT would like to receive confirmation that both Harreveld and ViaJeugd will be closed in the near future, and if so, wishes to receive information about the timelines of those closures. Further, the Committee would like to be informed whether the children currently residing in these institutions will be reallocated to other institutions, and how this will be done, as such transition may represent a high risk to the wellbeing of some children (paragraph 42).*

- The administrative agreements on the transformation of closed youth care specify that one of the principles in phasing out closed youth care is the priority of closing accommodations that were previously used as youth custodial institutions (under criminal law). This is a confirmation of what was reported to the House of Representatives in this regard.<sup>11</sup>
- Municipalities have decided not to issue any new closed youth care authorisations assigning young people to Harreveld with effect from 1 April 2025. All young people still residing in Harreveld on 1 April 2025 will receive individual explanatory analyses detailing their care and educational needs. These analyses form the basis for regional agreements on appropriate follow-up provision. It is expected (given the average length of stay at Harreveld) that the majority of young people will leave for a follow-up placement in accordance with the treatment plan already in place.
- A decision on the future of Via Jeugd similar to the one on Harreveld has not yet been taken by the municipalities involved. Alternative facilities for young people currently in closed youth care must be equipped for the complex problems of these young people. The CPT's concerns about this are understandable. Partly for this reason, the State Secretary for Youth, Prevention and Sport is prepared, in the interest of the young person, to amend the Youth Act to allow the application of freedom-restricting measures in residential youth care, enshrined in legal safeguards, in line with the Wvvgg and the Wzd.<sup>12</sup> Based on the outcome of a public discussion,

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<sup>10</sup> Parliamentary Papers 31839, no. 1029.

<sup>11</sup> <https://www.rijksoverheid.nl/documenten/publicaties/2024/06/19/bestuurlijke-afspraken-transformatie-gesloten-jeugdhulp>.

<sup>12</sup> Parliamentary Papers 31839, no. 1029.

he will take a final decision on the details of the change this year. The government is prepared to inform the CPT about the outcome in future.

## **2. Ill-treatment**

9. *The use of pain-inflicting restraint techniques may very well amount to ill-treatment under the terms of Article 3 ECHR (paragraph 45).*

Using pain-inflicting techniques when imposing grabbing and restraint measures (*vastpakken en vasthouden*) is not allowed. The Youth Act and the Youth Act Decree expressly impose conditions on grabbing and restraint, under which providers of closed youth care must ensure that they adequately train their staff so that this measure is only applied proportionately and responsibly, without the administration of pain stimuli. Following the preliminary observations of the CPT, the State Secretary for Youth, Prevention and Sport met with directors of institutions. They have pledged to improve training sessions where necessary. They are also going to better monitor the qualifications of staff applying the grabbing and restraint measure to ensure that it is only performed by staff trained to do so.

## **3. Living conditions**

10. *In the context, the CPT notes that in Schakenbosch, every six months the Leiden University of Applied Sciences carries out a survey into the living climate in the establishment. In addition to staff, children are asked to complete a survey, to which they appear to respond in sufficient numbers. Based on the response, the researchers suggest 'points of attention'. For instance, in its report on the first semester of 2024, the researchers concluded that children viewed the quality of the living climate less positively than in the previous semester. The CPT welcomes this initiative and encourages the institution to take the outcomes of these surveys on board in future policy development (paragraph 46).*

When asked, Schakenbosch confirmed that it will continue to use the results of the living climate survey in its future policy development.

11. *The CPT recommends that the Dutch authorities ensure that all children accommodated in closed residential youth care have an entitlement to enjoy daily outdoor exercise for a minimum of two hours (paragraph 49).*

Like the CPT, the government thinks it is very important that young people staying in closed youth care have daily opportunities to be outside. When asked, providers informed the State Secretary for Youth, Prevention and Sport that, at all providers, there are opportunities to go outside, in order to play outside, play sports and/or engage in other activities. This may be on-site or off-site. In most cases, the providers also allows for more than two hours a day. However, some young people choose to spend their free time differently, such as staying in their rooms or being indoors. Given the CPT's recommendation, the State Secretary has passed this on to the IGJ as a point of concern.

12. *The CPT would like to be informed whether Via Jeugd meanwhile has the guaranteed availability of psychiatric care if needed (paragraph 53).*

At the time of the CPT visit (October 2024), Via Jeugd employed a psychiatrist. On 1 January 2025, this psychiatrist retired and Via Jeugd hired an independent psychiatrist on site for eight hours a week. In addition, he is available on call.

## **4. Restrictive Measures**

13. *The CPT recommends that, as a rule, a confidential counsellor should be included should be included in the process of constituting a care plan, unless the child, the parent or legal*

*representative opposes such presence. In such decision-making process, due attention should be paid to the views of the child (paragraph 62).*

The government endorses this recommendation. The current Youth Act has a provision, Section 6.2.9(7), allowing a young person or their parents to request a confidential counsellor to 'provide advice and assistance in drawing up, evaluating or amending the care plan'. Moreover, under Section 6.2.9(3) of the Youth Act, the youth care provider has a duty to inform the young person and their parents that they can seek the assistance of a confidential counsellor when drawing up, evaluating and amending the care plan. Pursuant to Section 6.6.1. of the Youth Act, both the young person and the confidential counsellor have free access to each other and do not require third-party permission to speak to each other. The youth care provider is also obliged to give a confidential counsellor the opportunity to perform their duties, including by granting the counsellor free access to the accommodations.

#### **a. Means of restraints: the legislation and its implementation in practise**

##### **i. Manual restraints**

*14. The CPT recommends that the Netherlands authorities take responsibility for the development of nation-wide standards both on the manual restraint techniques to be applied in JeugdzorgPlus establishments and the training given therein, including training as a team. This should be part of a broader training programme on the prevention of violence, to include de-escalation techniques and other methods to defuse a situation of potential or actual conflict situation. Such training should also ensure that staff understand the impact that the use of (manual) restraint may have on children, and that they know how to care for a restrained child (paragraph 75).*

The government agrees with the CPT that closed youth care providers should be careful in applying freedom-restricting measures. The deployment of such a measure can have a major impact on a young person and therefore certainly cannot be used lightly. These measures must therefore only be aimed at ensuring the safety of a young person or others, averting danger to the health of a young person or others, or achieving the young person's developmental goals envisaged by youth care as included in the care plan. In addition, the 'not unless' principle applies. This means that the measure should not be applied unless:

- a. there are no less burdensome alternatives for the young person, given the intended purpose;
- b. the measure is proportionate in view of the objective pursued; and
- c. the measure can reasonably be expected to be effective.

Section 6.2.3 of the Youth Act Decree contains further requirements on the application of the grabbing and restraint measure. The youth care provider must ensure that grabbing or grabbing and restraint is applied proportionately and responsibly. Grabbing and restraint may only be used if there is a threat to the health or safety of the young person or others as a result of a young person's behaviour. Once this is no longer the case, the grabbing and restraint should be terminated. Furthermore, grabbing and restraint should only be applied by persons trained in its proportional and responsible application. When it comes to the use of freedom-restricting measures, closed youth care providers have drawn up professional standards on their own initiative.<sup>13</sup> In these, they have agreed that all staff attend training on the use of specific freedom-restricting measures. Skills testing is part of this training. Employees who fail or have not yet passed the test are not allowed to use freedom-restricting measures. In addition, they receive structural training in de-escalating work and preventing freedom-restricting actions. For this purpose, one training session of at least three hours every three months is the minimum. The IGJ includes the professional standards in its inspections and tests for them.

However, the CPT's visit revealed that young people could cite examples at odds with regulations and professional standards. For example, the use of techniques that cause pain. Staff told the CPT delegation that they need clear guidelines and more training. Following the preliminary conclusions of the CPT, the State Secretary for Youth, Prevention and Sport met with the directors of closed youth care institutions. In response, they have decided to better ensure that only staff trained to do

<sup>13</sup> <https://www.jeugdzorgnederland.nl/wp-content/uploads/2017/03/JEU-Veldnormen-okt2022-2.pdf>.

so apply the grabbing and restraint measure. This also applies to temporary employees. Providers also considered how training can be improved. In follow-up, the closed youth care providers have evaluated the training courses and adjusted them where necessary, procured alternative offerings and scheduled these training courses more cyclically. The IGJ oversees this.

## **ii. Segregation**

15. *The CPT would like to be informed about the outcome of the exchanges of the State Secretary for Youth, Prevention and Sport with the Association of Dutch Municipalities as regards the investments needed in JeugdzorgPlus establishments to comply with the Youth Act, particularly in respect of safe rooms (paragraph 78).*
16. *The CPT recommends urgent measures to be taken to ensure compliance of the safe rooms in JeugdzorgPlus establishments with the rules in force (paragraph 81).*

The government also considers it important that closed youth care providers comply with the law. Therefore, in line with these recommendations, the State Secretary for Youth, Prevention and Sport is working to ensure that providers also comply with the law when it comes to the application of the containment measure. First, he wants there to be a legal basis for confining young people, under strict conditions, to their own rooms at night against their will, if this is necessary to ensure safety in the accommodation. Second, he is going to amend the requirements for safe and separate spaces where young people can retreat to on their own request, so that more rooms in a building qualify for this. The State Secretary does not intend to change the statutory requirements for a space where a provider can confine a youth in emergency situations. The State Secretary for Youth, Prevention and Sport has asked the relevant municipalities to fund the costs involved in meeting the requirements for a containment area. These municipalities have already received the funding for this in the past. In addition, as described under point 3, a budget of €176 million is available for the transformation of closed youth care.

He will inform the House of Representatives about the implementation of these intentions. The CPT will receive a copy of this letter.

17. *Further, the CPT recommends that the safe room on the Albatros unit no longer be used for girls (paragraph 81).*

Via Jeugd has a safe room.<sup>14</sup> This room can be used for both girls and boys. Via Jeugd does not have groups specifically for boys as described by the CPT. Via Jeugd has one girls group. The remaining groups are mixed groups. This means there is no boys building or boys group as described in the final report. Via Jeugd's safe room is situated in a mixed unit (Albatros). In paragraph 80, the CPT describes Albatros as a unit for forensic boys. The unit is intended, according to Via Jeugd, for boys and girls with high forensic profiles but without criminal records. Via Jeugd sees nothing in the CPT's arguments requiring action on this recommendation. The State Secretary for Youth, Prevention and Sport informed the IGJ of this and is awaiting the outcome of the ongoing inspection.

18. *The CPT recommends that children accommodated in a JeugdzorgPlus establishment who are subject of or witness to segregation or the application of another means of restraint, are debriefed and supported in a child-appropriate manner, with their views heard and taken into account as part of the post incident review process (paragraph 83).*

The government endorses this recommendation of the CPT. Always evaluating the application of a freedom-restricting measure is part of the professional standards of closed youth care providers.<sup>15</sup> This evaluation must take place within three days. The impact of the measure on the other young people in the group must also be considered.

Based on interviews with young people, the CPT found that this does not always happen. Following the CPT's preliminary conclusions, the State Secretary for Youth, Prevention and Sport therefore

<sup>14</sup> The IGJ previously determined that this room did not meet all legal requirements. Via Jeugd indicated that the requested improvements have now been implemented. The IGJ does not comment on ongoing inspections and will review the institution's compliance with standards at the end of the enhanced supervision of Via Jeugd.

<sup>15</sup> <https://www.jeugdzorgnederland.nl/wp-content/uploads/2017/03/JEU-Veldnormen-okt2022-2.pdf>.



asked directors to monitor this closely. They informed him that providers always evaluate after deploying freedom-restricting measures, such as containment. Providers always choose methodologies that are supposed to include explicit attention to the voice of the child and their experiences. Evaluation is currently done in most cases only with the child concerned, not directly with bystanders, unless the specific situation calls for it. However, the registration of the evaluation still needs tightening up, which is part of the professional standards and plans of providers. That is why the State Secretary for Youth, Prevention and Sport is consulting with *Jeugdzorg Nederland* on how providers can improve this registration.

19. *The CPT would like to be informed by the Dutch authorities of the measures be taken to implement the law in practice as regards the prohibition of locking children in their rooms (paragraph 86).*

As mentioned above (see 15,16), the State Secretary for Youth, Prevention and Sport is preparing a legislative amendment. He intends to allow, under strict conditions, young people to be locked in their rooms at night against their will, but only if this is necessary because of safety in the accommodation. Examples include the forensic target group and young people with sexually transgressive behaviour.

### **iii. Body searches**

20. *The CPT would like to be informed about the follow-up given by the Health and Youth Care Inspectorate to the notification of the State Secretary for Youth, Prevention and Sport, as well as the follow-up given by Via Jeugd, including about the new procedure put in place (paragraph 89).*

Following the CPT's preliminary conclusions, the IGJ immediately discussed this situation with the director of Via Jeugd. The director said these searches are no longer taking place. In addition, Via Jeugd has tightened its protocol for body and clothing searches. All anti-ligature clothing that was still present has also been removed. The Inspectorate is specifically taking this aspect into account in an inspection procedure that is currently underway. The Inspectorate cannot comment on ongoing procedures.

There will be a report (letter) on the reassessment of enhanced supervision at Via Jeugd. If any additional findings are raised through the enhanced supervision and/or reassessment on the application of searching and strip-searching at Via Jeugd, the IGJ will outline them in the report (letter). The CPT will receive a copy of this letter.

### **iv. Obligatory medical treatment**

21. *The CPT recommends that the Netherlands authorities ensure that the medical file of a child accommodated in a JeugdzorgPlus establishment is complete and contains relevant data on all medical interventions taking place during their stay in the institution. This includes assuring that records of medical interventions are sent directly to the establishment's medical team. Further, it would like to be informed about the precise procedure to be followed in order for this provision on nonconsensual or even forced medical intervention to be applied in practice, including the role of the child's legal representative and whether or not judicial scrutiny is part of such procedure (paragraph 95).<sup>16</sup>*

The government shares the belief with the CPT that it is important that medical records of young people in closed youth care are complete and contain the relevant details of all medical procedures that took place during their stay. Below are the legal provisions for both a file-sharing obligation and a possibility to provide information about the patient to other care providers to the

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<sup>16</sup> The text in paragraph 90 incorrectly gives the impression that additional permission from a judge is required for the measure that could require a young person to undergo medical treatment, including the administration of medication. Section 6.2.3.2 states that the youth care manager could require this. A doctor or, on their instructions, a nurse must perform the treatment.

extent appropriate within the framework of the duty of confidentiality. The government obviously endorses the need for institutions to comply with the law.

Under Section 454 of Book 7 of the Civil Code, care providers must compile a file containing health data, treatments carried out on the patient and other data to the extent necessary for providing proper healthcare to the patient. In addition, Section 7.3.8(1) of the Youth Act stipulates that the youth care provider must set up a file relating to the provision of youth care. They must keep a record in the file of the data concerning the growing up and upbringing problems, psychological problems and disorders observed, and the treatments carried out in relation to them, also including other data, insofar as this is necessary for proper care provision to the young person concerned. For (youth) care workers, there is a legal obligation of confidentiality. They may not provide information about the patient to others under, among others, Section 457 of Book 7 of the Civil Code, unless the patient has given consent or they are required to do so by or pursuant to the law. It follows from the Section 457(2) of Book 7 of the Civil Code that care providers are permitted to provide data to other care providers directly involved in the execution of the treatment agreement and the person acting as a substitute for the care provider, to the extent that treatment is necessary in order to perform the work required in that context. A nearly identical provision is contained in Section 7.3.11(1) of the Youth Act.

The procedure to be followed by a closed youth care provider in the case of compulsory medical treatment is described below.

Pursuant to Section 6.3.2.3 of the Youth Act, the youth care manager (*jeugdhulpverantwoordelijke*) may require a young person to undergo medical treatment, including the administration of medication, during a stay in the closed youth care institution. The treatment must be carried out by a doctor or, on their instructions, by a nurse. The misgivings of the CPT about a legal provision entitling non-medical staff to initiate medical treatment without the consent of the child (paragraph 92) are hereby hopefully removed.

The obligation to undergo medical treatment constitutes a freedom-restricting measure. This means that it can have a major impact on a young person and therefore certainly cannot be used lightly. Thus, this measure, too, may only be aimed at ensuring the safety of a youth or others, averting danger to the health of a youth or others, or achieving the youth's developmental goals envisaged by the youth care, which are included in the assistance plan. In addition, the 'not unless' principle applies. This means that the measure should not be applied unless:

- a. there are no less burdensome alternatives for the young person, given the intended purpose;
- b. the measure is proportionate in view of the objective pursued; and
- c. the measure can reasonably be expected to be effective.

In principle, the measure may only be applied if it is included in the youth's assistance plan (Section 6.3.1.2(2) of the Youth Act). If the youth care manager is not a qualified behavioural scientist, the adoption or modification of the freedom-restricting measures included in the assistance plan will not take place until the consent of a qualified behavioural scientist has been obtained.

Moreover, the establishment or modification of medical treatment included in the assistance plan will not take place until after a doctor has approved this (Section 6.2.10 of the Youth Act). When drawing up the assistance plan, the youth care manager must additionally involve: the parents of the young person; the person who has custody of the young person; family and relatives relevant to the provision of the youth care; and a qualified behavioural scientist, if the youth care manager is not a qualified behavioural scientist. Furthermore, the young person and their parents may be assisted by a confidential counsellor. The youth care manager should actively alert them to this possibility of assistance.

Only in an emergency situation can medical treatment take place that is not included in the youth's assistance plan (Section 6.3.1.2(3) of the Youth Act). Even in such cases, treatment must still be provided by a doctor or, on their instructions, by a nurse. If the youth care manager decides that medical treatment is necessary, they will contact a doctor. The doctor will then make their own assessment of whether proceeding to medical treatment is necessary and, if so, in what way. This means that the conclusion may also be reached that the medical treatment should not take place. If the young person or the person who has custody of them feels that incorrect action has been taken with regard to a decision to apply compulsory medical treatment, a complaint about this can be submitted to a complaints committee. The decision of the complaints committee may be appealed.

## **b. Registration**

22. *The CPT recommends that the Dutch authorities ensure the establishment of a dedicated register for the application of restrictive measures, including means of restraints, in each JeugdzorgPlus establishment. The entries in the register should include the time at which the measure began and ended; the circumstances of the case, including a detailed description of the events leading to the application of restrictive measures; the reasons for resorting to the measure; the name of the behavioural scientist ordering or approving the measure; staff who participated in its application; an account of any injuries sustained by children or staff, and any after incident review conducted including the views of the child concerned. Further, children should be entitled to attach comments to the register and should be informed of this entitlement; at their request, they should receive a copy of the full entry (paragraph 98).*

As the CPT found, since 2024, closed youth care providers are required to keep a digital record of decisions to apply freedom-restricting measures including the start and end dates of these measures. Every six months, the provider must provide the IGJ with a summary of this. While welcoming these obligations, the CPT recommends tightening them as articulated in this recommendation. The CPT observed that registration of application of freedom-restricting measures was sloppy, unclear and sometimes incorrect.

The government agrees with the CPT on the importance of proper registration, not only in the interests of the young person, but also for the staff, as they can learn from it. At the same time, this obligation is relatively new, and unnecessary burdens on employees should be avoided. It is to be expected that this is not without consequences, both direct and indirect. Directly, it affects a staff member's time allocation, which can put pressure on time and attention to young people. Indirectly because the administrative burden is perceived by youth care workers as a reason for quitting youth care work. The State Secretary for Youth, Prevention and Sport therefore does not intend to impose additional registration obligations for the time being, as this would also result in a significant workload increase. That does not alter the fact that registration must be properly carried out. The State Secretary will therefore consult with Jeugdzorg Nederland on how providers can improve this legally required registration.

23. *Also, the CPT would like to receive the data submitted by the three institutions visited as to the application of restrictive measures in 2024 (paragraph 98).*

The government provided the data obtained from the providers of the three visited sites (Harreveld, Schakenbosch and Via Jeugd) to the CPT. These are the data they also gave to the IGJ.

## **5. Safeguards**

### **a. Inquiry in the event of injury**

24. *The CPT would like to be informed about the outcome of the internal inquiry by Schakenbosch and the lessons learned from the incident, as well as the outcome of any inquiry carried out by the Health and Youth Care Inspectorate (paragraph 101).*

On 20 March 2025, the government wrote to the CPT informing it of the outcome of the internal investigation and lessons learned. Schakenbosch has tightened its procedures. In the incident reporting process, directional handlers have been made responsible for promptly reporting incidents and emergencies involving young people and/or staff and involving injury and/or medical or police intervention (Healthcare and Youth Inspectorate Reporting Guideline). The report is made to the policy and quality officer, with the aim of completing an outline of the facts within five working days. This factual account then appears on the agenda for the weekly management team meeting, which then makes arrangements for further follow-up to the incident.

The IGJ did not investigate this incident itself, nor did it request the internal investigation report. This is in line with its responsive approach. For each report, the IGJ assesses the appropriate way to

handle that specific report. In doing so, the IGJ prefers to follow what the reporting provider itself indicates is the best way to learn from a situation. Where the Inspectorate is confident of the quality of the investigation that a provider typically conducts, the Inspectorate may choose not to request and review the provider's internal investigation.

25. *The CPT recommends that, in addition to being reported to the Health and Youth Care Inspectorate, all incidents having caused injury to a child should be subject to an immediate, comprehensive internal inquiry, as an expression of the responsibility of the state for a child in its care (paragraph 102).*

The government considers this a valuable suggestion given the importance of proper protection of young people and the CPT's findings. The State Secretary for Youth, Prevention and Sport will discuss this with the closed youth care providers.

26. *The CPT would like to be informed about the specific measures taken at the level of the establishments to ensure the proper recording of incidents, including those leading to the application of restrictive measures (paragraph 106).*

The closed youth care providers are keenly aware of the importance of proper registration. They have expanded their commitment – that, where necessary, they will improve the recording of incidents – as follows. Extra attention will be paid to registration within training and familiarisation programmes and during work supervision. This will also be tested internally, and incidents including registrations will be evaluated by internal committees, as required by professional standards. The details may vary from one youth care provider to another.

27. *The CPT welcomes the intention to introduce a medical check by a medical professional after every incidence of restraint, and would like to receive an update as to its implementation (paragraph 108).*

Following the preliminary observations of the CPT, the State Secretary for Youth, Prevention and Sport has started discussions with closed youth care providers. His letter of 19 December 2024 states that closed youth care providers must consider how they can best fulfil, within their capabilities, the recommendation of a medical check-up after every incident or application of the grabbing and restraint measure. The government believes it is important that there should be a medical check-up whenever medical harm is suspected.

The closed youth care providers do not consider a medical check after each application of the grabbing and restraint measure to be feasible in practice. Providers with a site facility (*terreinvoorziening*) do have a medical service that serves the entire site. Providers who do not have a site facility but are located in a residential area have organised this differently. This therefore means that, except in cases of emergency or other urgency, the medical service cannot always be directly involved. Therefore, no commitment can be made on the standard deployment of a medical service after every incident or application of the grabbing and restraint measure. However, providers did inform the State Secretary for Youth, Prevention and Sport that, if there is even the slightest suspicion of a possible injury or other (medical) harm, a provider will naturally assess whether a medical check is needed. If there is any doubt, a medical check will be carried out. This also happens if the young person requests it.

## **b. Internal and external monitoring**

### **i. Complaints mechanism**

28. *The CPT would like to receive an account from the Dutch authorities as to the treatment of the above complaint, including a copy of the written withdrawal request, and any other action undertaken by the Via Jeugd complaints committee in this regard. Further, it would like to receive confirmation that the complaint had not been shared with the Via Jeugd management and, if this was indeed the case, the reason for the omission. (paragraph 120).*

On each of the issues on which the CPT would like further information, the State Secretary for Youth, Prevention and Sport has made inquiries with Via Jeugd. Via Jeugd informed the State Secretary that the CPT's representation does not match the reports from within Via Jeugd. The youth in question filed a complaint with Via Jeugd's independent complaints committee. In this complaint, the youth reported suffering (physical) injuries when being grabbed and restrained by a Via Jeugd staff member. The independent complaints committee then talked with the youth in question. This conversation revealed that the complaint may have been related to a previous incident in which the youth in question was 'not heard'. The youth initially told the complaints committee that he wanted to proceed with the complaint. Later, the youth reversed this decision and indicated his wish to withdraw the complaint at his own request. The CPT received a copy of the withdrawal of the complaint. Once a complaint is submitted to the complaints committee, the committee decides what to do with it. Employees of Via Jeugd have no influence on this. This is to ensure independence. The members of the complaints committee are not employed by Via Jeugd. The complaints procedure complies with applicable laws and regulations and is available to young people and their families (also available on the website). Young people are actively informed (both in writing and orally) about this procedure, and they can file a complaint at any time. As the complaint was withdrawn prematurely, it can no longer be deduced from the documentation whether the Via Jeugd management was informed or not.

*29. Also, it recommends that in the event of a complaint of a serious nature, such as one alleging ill-treatment, the complaints committee has a statutory obligation to be satisfied that no undue pressure was exercised on a child, and that complaints alleging ill-treatment are always investigated either by the complaints committee or by the institution, following the procedures laid out in law and using child-friendly processes. The Dutch authorities should also ensure that staff members are regularly reminded of their duty to report suspicions of ill-treatment to the institution's management (paragraph 120).*

The government takes the recommendations on the right to complain seriously. The interests of young people must always come first. Complaints from young people and/or parents should be listened to, especially if there are signs that indicate maltreatment. It is up to the youth care provider to inform clients about the steps they can take in case of dissatisfaction and to discuss dissatisfaction, preferably at the earliest possible stage. In addition, young people and/or parents can always submit a complaint to an independent complaints committee, which assesses the complaint and makes recommendations to the institution, regardless of whether or not they have taken the informal route.

Furthermore, the government is taking steps to strengthen the right to complain in the youth domain. For instance, the government is having research firm Andersson Elffers Felix (AEF) conduct a study on the right to complain in the youth domain. The aim of this study is to get an up-to-date overview of implementation practices and areas for improvement for complaint procedures at organisations in the youth domain. For this reason, the State Secretary for Youth, Prevention and Sport shared the CPT recommendations with AEF. After the completion of this study, it will consider what is needed to improve the implementation of the right to complain and whether legislative changes are needed for the right to complain in the youth domain.

Regarding the recommendation on the reporting of (suspected) child abuse within organisations, youth professionals are required to adhere to the professional standards applicable to them. One of these is the professional code for youth and family professionals,<sup>17</sup> which requires an individual professional to discuss abuses in youth care and youth protection internally with colleagues and supervisors and, if necessary, to take appropriate action. In addition, in youth care, there is already an obligation for youth care providers to set up their internal systems so that signals of abuse can be properly discussed/reported internally, be analysed and lead to improvement.<sup>18</sup> The bill 'Improving Availability of Youth Care' requires youth care providers (with exceptions) to have an independent internal supervisor. The internal supervisor can make an important contribution to the

<sup>17</sup> Section W, Youth and family professionals' professional code of conduct (*beroepscode jeugd- en gezinsprofessionals*).

<sup>18</sup> This follows from the legal obligation for youth care providers to provide responsible care. One part of responsible care is the systematic monitoring, control and improvement of the quality of care. See also Sections 4.1.1 and 4.1.4 of the Youth Act.

further professionalisation and improvement of (among other things) the quality of the youth care provider. As part of regular inspections, the IGJ tests whether providers comply with this.<sup>19</sup> Finally, it should be noted that youth care providers are obliged to report violence and emergencies<sup>20</sup> occurring in the provision of youth care to the IGJ without delay.

The State Secretary for Youth, Prevention and Sport will be reminding closed youth care providers to pay continuous attention to the above obligations and, in line with the recommendation, ask them to periodically remind their staff of their responsibility to report abuses and how this is arranged internally.

*30. The CPT recommends that the Dutch authorities ensure that all complaints from children given, orally or in writing, directly to members of staff be fully registered and investigated (paragraph 121).*

The government takes the recommendations on the right to complain seriously and has shared them as part of AEF's ongoing study. Upon completion of this study, the State Secretary for Youth, Prevention and Sport will consider what is needed to improve the implementation of the right to complain, and whether amendments to legislation are needed for the right to complain in the youth domain.

The government sees the right to complain in the youth domain as an important form of legal protection for both young people and their parents. It is therefore important that professionals in the youth domain have sufficient knowledge of the right to complain. Jeugdstem therefore developed an information package, *'Help, I have a complaint!'*,<sup>21</sup> on behalf of the government in 2024. This package contains relevant information, key publications and supporting videos to better inform professionals (and their patients) about the right to complain, complaint handling and complaint prevention. To further support professionals, Jeugdstem also conducts annual interviews with organisations in the youth domain.

## **ii. Inspection procedures**

*31. The CPT recommends that the Netherlands authorities carry out an audit as to the number of youth care inspectors needed to fulfil its human rights obligations in this area (paragraph 123).*

The CPT believes that the IGJ is not in a position to perform overall monitoring. Therefore, the CPT recommends an audit. The government endorses the importance of an Inspectorate that is adequately equipped to monitor closed youth care, especially since these are young people whose freedom may be restricted. In recent years, the IGJ has been able to intensively monitor the transformation of closed youth care. The IGJ also learned lessons from the course of events at the ZIKOS locations where signals were missed. In response, the IGJ has found an opportunity to make more time in its inspections for hearing the voices of young people who are and have been staying in closed youth care. Given these experiences, the government considers the IGJ capable of deciding for itself how to deploy its monitoring capacity, partly on the basis of the capacity available. It oversees 1.5 million care providers and 275,000 care institutions with 1,000 employees. That is also why the IGJ makes its own choices on where best to carry out so-called risk-driven inspections. This responsive working method is thus appropriate for the youth care system and the number of inspectors in the Netherlands.

*32. The CPT would like to be informed about the number of times that in the last 10 years failure to report a calamity, violence by an educator or a case of serious violence between children has been subject of an administrative fine or a criminal investigation (and if so, it would also like to be informed about the outcome of such criminal investigation) (paragraph 127).*

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<sup>19</sup> In this assessment, the IGJ uses the 'YOU framework' which includes the internal reporting structure.

<sup>20</sup> Any unintended or unexpected incident that relates to the quality of youth care and has resulted in a serious harmful consequence to, or death of, a youth or parent (Section 1.1 of the Youth Act); see also: <https://www.igj.nl/zorgsectoren/jeugd/melden-jeugdhulpverleners>.

<sup>21</sup> Infopakket-klachtrecht-V3.pdf.

The IGJ can issue a warning to a youth care provider if, during inspection, the IGJ finds, for example by looking in the records, that an emergency has occurred that the provider should have reported. According to the 'Guideline for Youth Reports'<sup>22</sup>, the IGJ in principle first issues a warning if the provider fails to report an emergency (mandatory reporting) to the IGJ without delay. Should the IGJ find that the same provider has again failed to make a mandatory report, the IGJ may impose an administrative fine. Failure to report a situation that meets the definition of 'mandatory reporting' will not lead to a criminal investigation.

It is not possible to give exact numbers on this because the possibility of registering these alerts has only recently come into existence. In the future, the IGJ may issue statements on this.

*33. The Committee understands that verifying the proper application of the rules as to reporting of incidents is a standard part of the quality inspections by the Inspectorate. The CPT would like to receive confirmation that this is indeed the case (paragraph 130).*

This is correct. On the use of freedom-restricting measures, closed youth care providers must provide quantitative data twice a year and an annual qualitative analysis. The IGJ provides feedback on these analyses to providers. Based on this, as well as on the risks within youth care as a whole, the IGJ deploys inspections where the greatest risks are.

In addition, youth care providers are required to report certain incidents to the IGJ. This includes, for example, reporting an emergency or violence in the provision of youth assistance or in the implementation of a child protection measure.

Providers therefore do not have to report all incidents to the Inspectorate. However, it is important for providers to record and analyse these themselves. When conducting inspections, the Inspectorate can inspect these incident records and include them in its monitoring.

*34. As to other external bodies mandated to carry out monitoring visits to closed residential youth care institutions, apparently the Ombudsman for Children does not have the capacity to organise unannounced visits, while the National Preventive Mechanism (NPM) appears to lack the right to access medical files, which is a serious impediment in carrying out its task of monitoring places of detention. Given the limited capacity of the Health and Youth Care Inspectorate, and the formal complaints mechanism which is seldomly used, the Netherlands authorities should seriously consider to properly equip both organisations with staff and a suitable mandate to carry out complementary monitoring as to the treatment of children in JeugdzorgPlus institutions. The CPT would like to receive the comments of the Dutch authorities on the above in light of the expectation that there is a robust and child-appropriate inspection regime in place (paragraph 135).*

Everyone should be able to rely on high-quality and safe care and youth assistance in the Netherlands. This definitely also applies to young people staying in closed youth care. The government also agrees with the CPT on the importance of these young people having adequate access to independent support and advice. It is important for children to know what they are entitled to, and also to be empowered to make a report or a complaint.

The government shares the CPT's expectation that monitoring for high quality and safe care requires a robust and child-friendly Inspectorate.

The following describes the actions underway to make monitoring more robust and child friendly, including a response to the recommendations on the Ombudsman for Children (KOM) and the National Prevention Mechanism (NPM).

#### Health and Youth Care Inspectorate

The IGJ monitors the quality of care in closed youth care. To this end, the IGJ also conducts inspection visits to the various closed youth care providers. As part of this, inspectors also talk with young people staying there. If Jeugdstem's confidential counsellors have received signals of threats to safety or inadequate care within closed youth care, they can share them with the IGJ so that they can be included in inspection.

The IGJ has also made improvements to its inspections:

- In response to reports by young people, the IGJ will henceforth actively check whether there are signs of structural threats to safety at the youth care providers concerned. In its final report, the CPT also expresses its appreciation for this proactive stance (paragraph 135).

<sup>22</sup> <https://www.igj.nl/zorgsectoren/jeugd/publicaties/richtlijnen/2015/10/1/leidraad-meldingen-jeugd>.

- The IGJ is working on an adapted working method for contact with young people. This will enable it to better uncover any structural threats to safety at youth care providers.
- The IGJ will improve written communications with young people and explore more ways to handle anonymous reports from young people appropriately.
- The high dependency position of young people in closed youth care makes them especially vulnerable to transgressive behaviour. The IGJ will therefore always ask about young people's experiences of transgressive behaviour when inspecting closed youth care institutions, and not only when there are explicit signals about this.
- In its inspections of closed youth care, the IGJ will now also speak to young people who recently stayed in the group in question and ask them to look back on their experiences from an independent position with more distance from the situation.
- The factors that may impede the extent to which a young person opens up to the IGJ cannot all be eliminated. The IGJ will seek structural advice from young people who previously resided in closed youth care on how best to conduct interviews with young people in closed youth care.
- The IGJ will also engage with others involved, other than young people, parents and referrers, during inspections. This may include, for example, other family members or people with whom the young person has a relationship of trust.

The IGJ is also following up on the youth campaign, in which it uses social media to solicit experiences from young people about youth care. In doing so, the IGJ utilises experiential expertise of young people who have recently stayed in closed youth care by talking to them about their experiences and getting their input on the organisation of inspections, such as how best to conduct interviews with young people in closed youth care.

#### National Prevention Mechanism (NPM)

In 2010, the Netherlands ratified the United Nations Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter OPCAT) (New York, 18 December 2002, Treaty Series 2005, 243). This requires states that are parties to OPCAT to establish, designate or maintain a so-called national prevention mechanism. People who have been deprived of their freedom are in a vulnerable situation. They should not be treated in a humiliating or degrading manner. That is what the National Prevention Mechanism (hereinafter 'NPM') monitors. Since 2024, this has been a separate task of the Netherlands Institute for Human Rights (CRM).

The CRM can currently access medical records only with the consent of the person concerned. The government is preparing a legislative amendment to the Netherlands Institute for Human Rights Act. With this bill, the government wants to ensure that the CRM, in carrying out the NPM task, will have unrestricted access to all types of medical records of persons in places where they are deprived of their freedom, including without their consent.<sup>23</sup> The aim is to submit the bill for consultation in the autumn.

The funds allocated to the CRM for the implementation of the NPM are based on a 2022 exploratory study by an external research firm.<sup>24</sup> Among other things, the research firm has been asked to advise on funding for the NPM task, with implementation in line with the OPCAT Protocol. Based on the exploratory study, a budget was agreed with the CRM. If the NPM does not have certain expertise itself, it hires targeted expertise. A review of whether the allocated funds are sufficient to carry out the NPM task in line with the aforementioned Protocol will take place by mid-2026.<sup>25</sup>

#### Ombudsman for Children (KOM)

The Ombudsman for Children is tasked with advising the government and parliament on legislation and policies that affect the rights of young people and informing and educating young people about their rights. The Ombudsman for Children can thus monitor the government and other organisations and point out (structural) shortcomings in compliance with children's rights. One way

<sup>23</sup> See the Government Letter on the National Prevention Mechanism dated 27 September 2023, [https://www.tweedekamer.nl/kamerstukken/brieven\\_regering/detail?id=2023Z16012&did=2023D39086](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2023Z16012&did=2023D39086).

<sup>24</sup> See G. Schellekens et al, *Meer dan de som der delen? Verkenning NPM*, Berenschot Groep B.V., report of 30 March 2022, available online at: <https://www.rijksoverheid.nl/documenten/rapporten/2023/09/27/tk-bijlge-rapport-berenschot-verkenning-npm-bij-crm>.

<sup>25</sup> Netherlands Institute for Human Rights, *Annual Report for 2023*, April 2024, p. 40, available online at: <https://publicaties.mensenrechten.nl/file/9d547aee-dce8-5b37-f821-2dc0eed5a17a.pdf>.



they do this is based on the complaints they receive from young people. The Ombudsman for Children also uses signals or complaints from other citizens or organisations, including Jeugdstem and the IGJ. While the Ombudsman for Children is not charged with the duty of making unannounced visits, it does have the power to conduct unannounced visits. This power is there when an investigation is launched (investigative power). Investments in enabling additional unannounced visits by the Ombudsman for Children, in addition to the tasks and responsibilities performed by Jeugdstem and the IGJ, is not necessary, according to the government and the Ombudsman for Children.

### **iii. Confidential counsellors**

*35. The CPT welcomes the role of the confidential counsellor in JeugdzorgPlus establishments and encourages a permanent reflection on finding ways to increase the confidence and trust of children in the institute of confidential counsellor. Children should be engaged in this process (paragraph 139).*

Young people in closed youth care can use confidential counsellors from Jeugdstem. These confidential counsellors are independent of the providers. They physically visit closed youth care locations on a weekly basis. Confidential counsellors work to build a relationship of trust with young people in closed youth care so that young people know how to find them easily and are not afraid to involve these counsellors when they have questions or complaints. The government thinks it is very important to hear from young people on how this can be further improved and will discuss with Jeugdstem how young people can be asked for their opinions on further improving building trust.

*36. During its discussions with staff members of Jeugdstem, the delegation learned that such signals are first discussed with the establishment's management and, when not satisfactorily resolved, may subsequently be transferred to either the Health and Youth Care Inspectorate or the Public Prosecutor. Protocols to this end have been concluded with both organisations. The CPT would like to be informed about the content of these Protocols (paragraph 141).*

Another core task of Jeugdstem is to identify structural deficiencies or situations involving threats to safety. Jeugdstem always discusses these signals, unless there is a reason to deviate from this, with the relevant authority first. If the authority does not respond, does not respond in time or does not respond sufficiently, Jeugdstem uses an escalation model with the end point being a report to the IGJ.

To ensure that the IGJ can follow up on Jeugdstem's reports appropriately, Jeugdstem and the IGJ have signed cooperation agreements. Based on these agreements, confidential counsellors and managers at Jeugdstem and inspectors at the IGJ all know how to act on reports from Jeugdstem to the IGJ. Besides the procedure regarding reports, there are also descriptions of the most common follow-up actions by the IGJ following a report from Jeugdstem and the way Jeugdstem is to be informed about the process following a report. Finally, the document also states that the IGJ can involve Jeugdstem in inspections, even if Jeugdstem itself has not made a report.

*37. The CPT recommends that the Dutch authorities ensure that signals given by confidential counsellor receive a timely and systematic follow up by the institution concerned (paragraph 142).*

The government endorses the importance of closed youth care providers adequately following up on signals and reports by confidential counsellors. The State Secretary for Youth, Prevention and Sport is therefore in talks with Jeugdstem and closed youth care providers on this.