

COUNTRY REPORT

IMMIGRATION DETENTION IN THE NETHERLANDS: PRIORITISING RETURNS IN EUROPE AND THE CARIBBEAN

FEBRUARY 2020



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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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Front cover images: Inside a Dutch immigration detention facility © National Ombudsman

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GLOSSARY

CAT	UN Committee against Torture
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CERD	UN Committee against Racial Discrimination
DJI	Custodial Institutions Service (<i>Dienst Justitiële Inrichtingen</i>)
HRC	UN Human Rights Committee
IND	Immigration and Naturalisation Services
LTU	The National Ordinance on Admission and Removal (<i>Landsverordening Toelating en Uitzetting</i>)



KEY FINDINGS

- Increasing numbers of non-citizens are being placed in detention.
- People applying for asylum at the border are systematically placed in "border detention."
- The country's Caribbean territories—Aruba and Curaçao—have ramped up their removal efforts in recent years as thousands of Venezuelans have sought refuge on the islands.
- No vulnerable persons are automatically exempt from detention, and individual vulnerability assessments are not conducted.
- Observers have noted that re-detention is frequent, and that non-citizens are often detained cumulatively for periods exceeding the maximum 18-month detention period.
- "Territorial detention" is regulated by the same legislation that applies to penitentiary detention. This, however, is set to change with the introduction of the new Return and Detention Act.
- The provision of security at detention centres is outsourced to private companies.



1. INTRODUCTION

As it has for much of its recent history, the Netherlands remains today an important destination for migrants and asylum seekers. In 2018, the country received some 24,000 asylum applications (the seventh highest figure in the EU). However, as political currents have grown increasingly nationalistic, fuelled in part by growing anti-immigrant sentiment, the removal of undocumented migrants and failed asylum seekers has become a priority. In 2018 the country ordered approximately 18,000 persons to leave its territory, the tenth highest figure in the EU that year.¹ Among recent policy changes have been a reduction in return support for persons from certain countries, such as the western Balkans, and the introduction of sanctions for those who employ or provide housing to undocumented migrants.²

A particularly controversial policy has been the Netherlands' requirement for non-citizens who have exhausted legal remedies to leave shelters—in essence, forcing many on to the streets. This policy triggered international condemnation. In 2017, the UN [Committee on Economic, Social and Cultural Rights](#) expressed concern that the government had made undocumented migrants' access to housing conditional upon a “demonstrated willingness to return to the country of origin” and that it had threatened to sanction municipalities that continued to provide shelter to undocumented migrants. The committee urged the country to refrain from this policy.³ The policy also led to two complaints before the [European Committee of Social Rights](#). In 2014 *CEC v. the Netherlands* and 2009 *DCI. v. the Netherlands*, the committee found that the Netherlands had violated several provisions of the [European Social Charter](#).

In January 2013, the country's detention practices attracted scrutiny following the suicide of a 36-year-old Russian asylum seeker in Rotterdam Airport Detention Centre. The Security and Justice Inspectorate conducted an investigation into his death and found that the government had acted negligently in terms of medical and legal assistance. These findings prompted authorities to draft the Return and Detention Act. This law, which is still awaiting approval, is intended to regulate the conditions and regimes of detention, which are currently

¹ Eurostat, “Asylum and Managed Migration,” <https://ec.europa.eu/eurostat/data/database>

² Immigration and Naturalisation Service (IND) (EMN Netherlands NCP), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20a_netherlands_effectiveness_of_return_en.pdf

³ UN Committee on Economic, Social and Cultural Rights (CESCR), “Concluding Observations on the Sixth Periodic Report of the Netherlands, E/C.12/NLD/CO/6,” 6 July 2017, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/NLIndex.aspx>

governed by the same rules that apply to penitentiaries.⁴ Alongside the new act, a decree relating to the Return and Detention Act will detail the provisions of the new act and amend some of the provisions of the Aliens Decree.

The Kingdom of the Netherlands includes several islands in the Caribbean, notably Sint Maarten, Aruba, and Curaçao. The Kingdom's constituent countries have their own legal system and separate status. Under Article 3 of the *Charter for the Kingdom of the Netherlands*,⁵ which regulates the constitutional relationship between the four constituent countries, the admission and expulsion of aliens are considered “Kingdom affairs,” but in practice Aruba and Curaçao deal with these matters quite autonomously.

In late 2016, the immigration policy—including detention—on the islands came under scrutiny in the wake of the economic collapse of nearby Venezuela. Aruba and Curaçao became destinations for thousands of Venezuelans seeking protection. According to reports, Venezuelans have not been able to apply for asylum in Curaçao, and have faced detention in appalling conditions as well as deportation.⁶ In 2018, Curaçao invoked Article 36 of the charter—which states “The Netherlands, Aruba, Curaçao and Sint Maarten shall accord one another aid and assistance”—to call upon the Kingdom of the Netherlands for assistance.⁷ It received 132,000 EUR in response.⁸ (At the beginning of 2019, the Curaçao government issued a second request, again based on Article 36, for support for its plans to extend the island's immigration detention capacity.)⁹ In April 2018 it was also reported that the Netherlands would deploy the IND to Curaçao to separate refugees from economic migrants.¹⁰

⁴ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies,” November 2014, <https://bit.ly/2vkLT1T>; ASKV Refugee Support, “Protecting Stateless Persons from Arbitrary Detention in the Netherlands,” *European Network on Statelessness*, 2015, <https://bit.ly/2HWaXz3>; *Eerste Kamer der Staten Generaal* (Senate), “*Wet terugkeer en vreemdelingenbewaring 34.309*,” https://www.eerstekamer.nl/wetsvoorstel/34309_wet_terugkeer_en

⁵ Charter for the Kingdom of the Netherlands, Decree of 1 November 2010, Bulletin of Acts and Decrees of the Kingdom of the Netherlands (Staatsblad), Volume 2010, 775, Text of the Charter for the Kingdom of the Netherlands as last amended by Kingdom act in connection with the dismantling of the present Constitutional Order of the Netherlands Antilles, [Hereinafter: *the Charter*]. In: Amnesty International, “Detained and Deported Venezuelans Denied Protection in Curaçao,” 2018, <https://bit.ly/32u00hs>

⁶ Amnesty International, “Detained and Deported: Venezuelans Denied Protection in Curaçao,” 2018, <https://bit.ly/32u00hs>

⁷ Amnesty International, “Detained and Deported: Venezuelans Denied Protection in Curaçao,” 2018, <https://bit.ly/32u00hs>

⁸ G. di Kòrsou, “*Ondersteuningsverzoek aan Nederland inzake impact migratie Venezuela*,” 16 January 2019, <https://bit.ly/2w2Wq1P>

⁹ G. di Kòrsou, “*Ondersteuningsverzoek aan Nederland inzake impact migratie Venezuela*,” 16 January 2019, <https://www.gobiernu.cw/nl/nieuws/persberichten/ondersteuningsverzoek-aan-nederland-inzake-impact-migratie-venezuela/>; K. Nijkrake, “For Venezuelan Refugees, There's No Safe Haven in Curacao,” *Foreign Policy*, 28 January 2019, <https://bit.ly/3ab4Frd>

¹⁰ Curacao Chronicle, “The Netherlands Supports Curacao with Processing the Influx of Venezuelans,” 6 April 2018, <http://curacaochronicle.com/politics/the-netherlands-supports-curacao-with-processing-the-influx-of-venezuelans/>, see also: I Leghtas and J Thea, “Hidden and Afraid,” *Refugees International*, April 2019, <https://bit.ly/2w7btHM>; Amnesty International, “Detained and Deported Venezuelans Denied Protection in Curaçao,” 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>



2. LAWS, POLICIES, PRACTICES

2.1 Key norms. The legal framework governing Dutch immigration policy is set out in the 2000 *Aliens Act (Vreemdelingenwet)* and the 2000 Aliens Decree (*Vreemdelingenbesluit*). The Aliens Act provides rules governing the entry, stay, and departure of non-citizens, including immigration detention. The Aliens Circular 2000 (*Vreemdelingencirculaire Part A and Part B*) and the 2000 Aliens Regulation (*Voorschrift Vreemdelingen*) supplement and elaborate upon the Aliens Act and the Aliens Decree.

Since 2015, authorities have debated new draft legislation—the *Return and Detention Act (Wet terugkeer en vreemdelingenbewaring)*—which would regulate regimes and conditions in detention. In 2019, the State Secretariat for Justice and Security amended the draft bill, and as of February 2020, the adoption of this act remains pending.¹¹ If adopted, this legislation will introduce a single, uniform administrative regime. Together with the new Act, a *draft Decree relating to the Return and Detention Act (Besluit terugkeer en vreemdelingenbewaring)* is also being prepared. The decree will detail the provisions of the new act and amend some of the provisions of the Aliens Decree.¹² In 2019, the *UN Human Rights Committee (HRC)* expressed concern about the shortcomings of the Repatriation and Detention of Aliens Act because it does not prescribe a vulnerability assessment; allows isolation to be used as a disciplinary measure, including for children above the age of 12; and places all newly arriving migrants in a restrictive regime under which individuals may be locked in a cell for up to 17 hours per day with limited rights to receive visitors and to outdoor activities. The committee urged the Netherlands to review the act to bring it in line with international human rights law.¹³

2.2 Grounds for detention. There are two immigration detention regimes (in Dutch, *bewaring*, or custody) in the Netherlands, notably “border detention” and “territorial detention.” According to *Amnesty International Netherlands*, the key difference between border and territorial detention regimes is that in the case of border detention, detainees are not considered to have formally entered the Netherlands. Since this measure forms part of the border protection regime—with the aim of preventing undocumented entry—it is not deemed to be imposed with a view to expelling the migrant in question, as is the case with territorial detention. Experts consider this form of formal entry refusal a legal fiction, as the

¹¹ The amended bill is due to be presented in early 2020.

¹² The Bill was adopted by the House of Representatives in June 2018 and in September 2018 by the Senate Committee on Immigration & Asylum (JHA Council), *Eerste Kamer der Staten Generaal (Senate)*, “*Wet terugkeer en vreemdelingenbewaring 34.309*,” https://www.eerstekamer.nl/wetsvoorstel/34309_wet_terugkeer_en; Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

¹³ UN Human Rights Committee (HRC), “Concluding Observations on the Fifth Periodic Report of the Netherlands, CCPR/C/NLD/CO/5,” 22 August 2019, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/NLIndex.aspx>

persons are already physically present within the state's territory and are thus subject to its jurisdiction.¹⁴

Article 6 of the Aliens Act provides for border detention. Under Articles 6(1)-6(2), a non-citizen who has been refused entry into the Netherlands may be required to stay in a place that is designated by a border control officer, which "may be secured against unauthorized departure." According to Article 3(1), grounds for refusing entry include lack of a valid travel document or visa, posing a threat to the public order or national security, and insufficient means to cover the costs of staying in the country.

Territorial detention is laid down in Article 59 of the Aliens Act. According to Article 59(1), the Security and Justice Ministry may, in the interests of public policy or national security, order a non-citizen's detention if they have been issued with an expulsion order for staying without permission or when they are awaiting a decision on a permit application. If the documents necessary for the non-citizen's return are available or will shortly become available, it is deemed to be in the interests of public policy to detain them, unless they have a fixed term or indefinite residence permit (Aliens Act, Article 59(2)).

The Aliens Circular (A) (§ A5/6.1) specifies that to order detention under Article 59 of the Aliens Act, the detaining official needs to justify that at least two grounds outlined in Articles 5.1b(3) and (4) of the Aliens Decree are present, that less coercive measures cannot be applied effectively, and that there is a sufficient prospect of expulsion.

Currently, the Aliens Decree contains two sets of grounds for detention which reflect the EU Returns Directive. Article 5.1b(3) spells out "severe" grounds for detention, these are: the person (a) unlawfully entered the Netherlands or has attempted to do so; (b) unlawfully evaded the supervision of the authorities; (c) has not left the Netherlands within the time period indicated in the return decision; (d) failed to adequately cooperate in establishing their identity or nationality; (e) provided incorrect information about their identity, nationality, or migratory route during admission procedures; (f) discarded their identification or travel documents; (g) used forged identity documents; (h) has been declared an undesirable alien under article 67 of the Aliens act or has been subject to an entry ban; (i) has indicated that they will not comply with the obligation to return; (j) has applied for asylum under the border procedure and their application has not been processed, has been declared inadmissible, or has been rejected as manifestly unfounded; (k) has received a transfer decision to the member state responsible for examining the application and has not cooperated with the transfer; (l) has received a transfer decision to the member state responsible for processing the application and has not left within the prescribed time limit; (m) has received an immediate, short-term transfer decision to the member state responsible for examining the asylum application.

Article 5.1b (4) outlines "light" grounds for detention: the person (a) has not complied with one or more obligations outlined in Chapter 4 (such as handing in documents or leaving the Netherlands voluntarily); (b) submitted several applications for a residence permit which were not successful; (c) has no fixed address; (d) does not have sufficient means of subsistence; (e) is suspected to have committed a crime; (f) has performed work in violation of the Aliens Employment Act.

¹⁴ Amnesty International, "The Netherlands: The Detention of Irregular Migrants and Asylum-Seekers," June 2008, <http://www.refworld.org/docid/4875bc882.html>

Once adopted, the [draft Decree relating to the Return and Detention Act](#) would amend Chapters 4 and 5 of the Aliens Decree. The grounds for detention outlined above would be laid down in Articles 5.6(2) and 5.6(3). Articles (j)-(m) of the “severe” grounds would be removed. The draft decree would also introduce three new articles to the Aliens Decree, which explain how grounds for detention need to be assessed in regards to specific categories of persons.

Following his visit to the Netherlands in May 2014, the [Commissioner for Human Rights of the Council of Europe](#) voiced concern regarding reports that detailed the detention of migrants who could not be deported. The commissioner thus raised questions concerning the potential arbitrary nature of detention in such circumstances. Further, the commissioner called upon the Dutch authorities to ensure that migrants and asylum seekers are only ever detained as a measure of last resort, and only after less coercive measures have been considered and deemed ineffective. When detention is imposed it should be for the shortest possible period of time.¹⁵

In 2019, the HRC expressed concern that the number of persons in immigration detention has significantly increased in recent years and urged the Netherlands to ensure that immigration detention is used only as a measure of last resort and for as short a period as possible.¹⁶ The [UN Committee Against Torture](#) (CAT) previously formulated similar recommendations in 2013 and 2018.¹⁷

2.3 Criminalisation. Under Article 108 of the Aliens Act, those who violate rules established by the [Schengen Borders Code](#) or who are refused entry and fail to immediately leave the country (under Article 5 of the Aliens Act) may be liable to imprisonment for up to six months or a “second category” fine (as of 2014, this is a fine of 3,900 EUR).¹⁸

2.4 Asylum seekers. Asylum seekers who apply for asylum at the border of the Schengen Area (at airports or ports) may be detained under Article 6(3) of the Aliens Act. Under this provision, non-citizens who have applied for asylum and whose application is being processed under the border procedure may be required to remain in a designated place to prevent unauthorised departure. If their application is rejected, the non-citizen may be detained under Articles 6(1) and 6(2) if the interests of public order and national security so require (Article 6(6)).

Article 6(a) of the Aliens Act provides that detention under Articles 6(1) and (2) may also be imposed with a view of transferring the non-citizen under Article 28 of the [EU Dublin](#)

¹⁵ Commissioner of Human Rights of the Council of Europe, “Report Following His Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18,” 14 October 2014, <http://www.refworld.org/category,COI,COECHR,,NLD,54bd1d604,0.html>

¹⁶ UN Human Rights Committee (HRC), “Concluding Observations on the Fifth Periodic Report of the Netherlands, CCPR/C/NLD/CO/5,” 22 August 2019, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

¹⁷ UN Committee against Torture (CAT), “Concluding Observations on the Seventh Periodic Report of the Netherlands,” CAT/C/NLD/CO/7, 18 December 2018, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>; UN Committee against Torture (CAT), “Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Netherlands, Adopted by the Committee at its Fiftieth session (6-31 May 2013),” CAT/C/NLD/CO/5-6, 20 June 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

¹⁸ European Union Agency for Fundamental Rights (FRA), “Criminalisation of Migrants in an Irregular Situation and of Persons Engaging With Them,” 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>

Regulation. Pursuant to Article 5(1)(a)(2) of the Aliens Decree and Article 59(a) of the Aliens Act, a non-citizen may be detained if there is a clear basis for a transfer under the Dublin Regulation. Under § A5/6.2 of the Aliens Circular (A), to impose detention within the Dublin transfer proceedings under Article 59(a) of the Aliens Act, the detaining official needs to justify that at least two of the grounds in Article 5.1b(3) and (4) of the Aliens Decree are present (of which at least one of the grounds referred to in (3) is present), no less coercive measures can be applied effectively, and there is a concrete expectation that the individual will be transferred to the responsible member state.

According to official¹⁹ and independent sources,²⁰ in practice, adult asylum seekers who enter the Netherlands via air or via sea are systematically detained under the border procedure pursuant to Article 6 of the Aliens Act. In 2018, the CAT urged the Netherlands to end the systematic detention of asylum seekers at Schiphol Detention Centre, recalling that immigration detention should be a measure of last resort.²¹

The draft Decree relating to the Return and Detention Act would introduce Article 5.7 to the Aliens Decree. Like § A5/6.2 of the Aliens Circular, this provision would set the conditions necessary for detaining Dublin cases under Article 59(a) of the Aliens Act—although it would have different grounds than those currently outlined in the Aliens Circular. The decree would provide that the conditions under Article 59(a) of the Aliens Act are only met if at least two of the grounds outlined in § 2 and 3 of Article 5.6 apply, one of which needs to be a “severe ground” listed under § 2. Furthermore, there should be a concrete expectation that the individual will be transferred under the Dublin Regulation as well as a significant risk that the non-citizen may evade supervision.

Elsewhere, the territorial detention of asylum seekers is provided in Article 59(b) of the Aliens Act. The grounds justifying such detention reflect the EU [Reception Conditions Directive](#) and are as follows: (a) to establish identity or nationality; (b) to obtain information necessary for assessing the asylum application; (c) the person has already been held in pre-removal detention, previously had the opportunity to apply for asylum, and there are reasonable grounds for believing that they have submitted the asylum application to delay or frustrate the implementation of the return decision; or (d) they constitute a threat to national security or public order (Article 59(b)(1)).

2.5 Children. Until 2014, children were systematically placed in border detention,²² but today, children can only be detained at the border in exceptional circumstances. Families

¹⁹ Immigration and Naturalisation Service (IND) (EMN NCP) “EMN Ad-Hoc Query on Functioning of Closed Type Centres for Asylum-Seekers under the Directive 2013/33/EU,” August 2016, <https://bit.ly/38ZWTR6>

²⁰ Commissioner of Human Rights of the Council of Europe, “Report Following His Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18,” 14 October 2014, <http://www.refworld.org/category,COI,COECHR,,NLD,54bd1d604,0.html>; Dutch Council for Refugees, “Country Report: Netherlands,” *Asylum Information Database (AIDA)*, November 2015, <http://www.asylumineurope.org/reports/country/netherlands>

²¹ UN Committee against Torture (CAT), “Concluding Observations on the Seventh Periodic Report of the Netherlands,” CAT/C/NLD/CO/7, 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

²²According to the NGO *Vluchtenlingenwerk*, 76 children below the age of 15 were detained at the border in 2013. Between January and May 2014, 48 children were held at the border, see: N. Muiznieks (Commissioner of Human Rights of the Council of Europe), “Report Following His Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18,” 14 October 2014, <http://www.refworld.org/category,COI,COECHR,,NLD,54bd1d604,0.html>

with children and unaccompanied minors who enter the Netherlands from an external border are redirected to the Ter Appel asylum application centre.²³

Under Article 3.109b(7) of the Aliens Decree and § A5/3.2 and A1/7.3 of the Aliens Circular, unaccompanied children cannot be detained at the border unless there are doubts regarding their age, irrespective of whether they apply for asylum or not.²⁴

Families with children who apply for asylum cannot be detained at the border unless issues are found—such as a criminal record or the discovery that family ties are not real or credible (§ A1/7.3 of the Aliens Circular).²⁵ In exceptional cases when such issues are found, the family is placed in the Closed Family Facility (*Gesloten Gezindsvoorziening*, GGV) in Zeist. According to § A5/3.1 of the Aliens Circular, families with children can also be detained under Article 6(1)-(2) of the Aliens Act if deportation is carried out within two weeks. The same procedure applies to families who are to be transferred to other member states under Dublin Regulations.

As regards territorial detention, § A5/2.4 of the Aliens Circular details the instances that justify detention of children and their families. In general, measures *restricting* freedom, as opposed to measures *depriving* freedom, suffice for the preparation of their departure. However, shortly before their return, unaccompanied children and families with children may be taken into custody for the shortest possible period of time in order to secure removal.

According to § A5/2.4 of the Aliens Circular, unaccompanied children can only be detained if they have repeatedly evaded supervision, have committed an offence, or if their removal is possible within 14 days. With regards to families with children, detention under Article 59 of the Aliens Act can only be imposed if the conditions set out in Articles 5.1a and 5.1b of the Aliens Decree (risk of absconding, obstruction of return procedure, additional information needed for the processing of an application, public order grounds, or significant risk of absconding in Dublin cases) are met by all family members. In addition, at least one of the family members must clearly refuse to cooperate. Detention of unaccompanied children and families with children is to take place in the Closed Family Facility in Zeist.²⁶ Families and children stay in this facility for up to two weeks before their removal from the Netherlands, unless they refuse expulsion or file a last minute application for a residence permit.²⁷

²³ Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf; N. Muiznieks (Commissioner of Human Rights of the Council of Europe) “Report Following his Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18,” 14 October 2014, <https://bit.ly/2TuDtgL>

²⁴ Dutch Council for Refugees, , “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

²⁵ Dutch Council for Refugees,, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

²⁶ Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

²⁷ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*DJI in getal 2011-2015*,” 2016, https://www.dji.nl/binaries/dji-in-getal-2011-2015-definitief_tcm41-121762.pdf

(Previously, unaccompanied children were confined in a juvenile detention centre,²⁸ while families with children were generally placed in Rotterdam Detention Centre, which had a special regime for families with children.)²⁹

In 2018, the Netherlands detained 40 unaccompanied children; 50 in 2017;³⁰ 30 in 2016;³¹ 10 (in both the juvenile detention centre and GGV) in 2015;³² 11 in 2014; 25 in 2013; 49 in 2012; and 92 in 2011. In 2017, the country detained 67 families with 133 children; in 2016, 76 families with 147 children; in 2015, 66 families with 129 children; in 2014, 44 families with 82 children; and in 2013, 89 families with 165 children.³³

The average length of detention of unaccompanied children was 38 days in 2013, 43 days in 2012, 40 days in 2011, 50 days in 2010, and 40 days in 2009. The average length of detention of families with children in the Closed Family Facility was eight days in 2017.³⁴

In 2018, the CAT expressed its concern regarding reports that increasing numbers of families and unaccompanied children were being detained. It urged the country to avoid detention of children including by using alternative measures to detention.³⁵ In 2013, the CAT noted that unaccompanied children are placed in detention if their age is in doubt. The committee urged the Netherlands to verify the age of an unaccompanied child, if uncertain, before placing the child in detention and to only use such detention as a last resort. The country was also reminded to apply alternative measures to avoid detention of children or separation from their families.³⁶ Three years earlier, the [UN Committee on the Elimination of Racial Discrimination](#) (CERD) voiced concern about the detention of unaccompanied children and families with children upon arrival in the Netherlands. The committee urged the

²⁸ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies," November 2014, <https://bit.ly/2PnCc9O>

²⁹ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies," November 2014, <https://bit.ly/2PnCc9O>

³⁰ Ministry of Justice and Security, "*Rapportage Vreemdelingenketen: Periode januari-december 2018*," May 2019, <https://www.rijksoverheid.nl/documenten/rapporten/2019/05/14/tk-rapportage-vreemdelingenketen-2018-2>

³¹ Ministry of Justice and Security, "*Reportage Vreemdelingenketen Periode januari-juin 2018*," October 2018, <https://www.rijksoverheid.nl/documenten/rapporten/2018/10/17/tk-bijlage-rapportage-vreemdelingenketen>

³² Ministry of Justice and Security, "*Reportage Vreemdelingenketen Periode januari-december 2015*," April 2016, <https://www.rijksoverheid.nl/documenten/rapporten/2016/03/21/tk-bijlage-rapportage-vreemdelingenketen>

³³ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), "*DJI in getal 2013-2017*," 2018, https://www.dji.nl/binaries/DJI%20in%20getal%202013-2017%20definitief_tcm41-350484.pdf

³⁴ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), "This is the Custodial Institutions Agency (DJI)," June 2018, https://www.dji.nl/binaries/WEB_113415_ditisDJI_EN_tcm41-121757.pdf

³⁵ UN Committee against Torture (CAT), "Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7," 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

³⁶ UN Committee against Torture (CAT), "Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Netherlands, Adopted by the Committee at its Fiftieth session (6-31 May 2013), CAT/C/NLD/CO/5-6," 20 June 2013, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/NLIndex.aspx>

country to use detention as a measure of last resort and redouble its efforts to establish alternative living arrangements for families and children in such situations.³⁷

2.6 Other vulnerable groups. No vulnerable group is automatically exempt from detention in the Netherlands. While there are no special protections or legal safeguards with respect to territorial detention,³⁸ certain situations concerning border detention—specified by law as well as IND working directives—require particular attention.

According to Article 5.1a (3) of the Aliens Decree, asylum seekers should not be detained at the border under Article 6(3) of the Aliens Act if there are special individual circumstances that make deprivation of liberty disproportionately onerous. Under Article 3.108b of the Aliens Decree, whether a non-citizen requires special procedural guarantees will be assessed either prior to, or during, asylum procedures. Based on these two provisions, Working Instruction 2018/3 of the IND, which deals with border procedures, provides that not all asylum applicants should have their application examined via the border procedure. Non-citizens for whom border detention is found to be disproportionately onerous should not be detained (following Article 5.1a (3) of the Aliens Decree). Similarly, asylum applicants who are entitled to “special procedural guarantees” due to their being a victim of torture, rape, or other psychological, physical, and sexual violence, should not be detained when such guarantees cannot be provided during border detention.

These instructions, however, highlight that vulnerability *per se* does not imply that detention is disproportionately onerous for an applicant. Rather, this is to be determined on a case-by-case basis.³⁹

Following his 2014 visit, the Human Rights Commissioner of the Council of Europe expressed concern regarding the fact that vulnerable people can be detained for immigration purposes.⁴⁰ Two years later, Amnesty International, Doctors of the World, and LOS Foundation jointly called for the introduction of an individual vulnerability assessment, prior to and during detention, to ensure that the principles of necessity and proportionality are respected.⁴¹

Article 11 of the Return and Detention Act will introduce the possibility of detaining non-citizens in penitentiary facilities if their physical or mental state requires care that cannot be provided in dedicated immigration facilities. The draft Decree relating to the Return and Detention Act further specifies that any person requiring non-urgent care that cannot be

³⁷ UN Committee on the Elimination of Racial Discrimination (CERD), “Consideration of Reports Submitted by States Parties Under Article 9 of the Convention, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Netherlands, CERD/C/NLD/CO/17-18,” 20 March 2010, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

³⁸ Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

³⁹ Immigration and Naturalisation Services (IND), “WI 2018/3 Border Procedure,” 1 January 2017, https://ind.nl/Documents/WI_2018-3.pdf; Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

⁴⁰ Commissioner for Human Rights of the Council of Europe, “Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, Following his Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18,” 14 October 2014, <https://rm.coe.int/16806db830>

⁴¹ Amnesty International, Doctors of the World, and LOS Foundation, “To Confine or to Protect? Vulnerable People in Immigration Detention,” 2016, <https://bit.ly/385DjBn>

provided for in immigration detention establishments is deemed to be in poor physical health (Article 19). Meanwhile, poor mental health is deemed to exist for persons who, because of a psychiatric disorder, a personality disorder, psychosocial problems, addiction problems, or mental disability, require psychiatric care or when further observation is required to determine whether psychiatric care is necessary (Article 20).

The Return and Detention Act will introduce a specific provision on vulnerable persons. Under Article 58a, when a decision to detain a vulnerable person is taken, authorities will have to show how they took a person's vulnerability into account during the decision-making process. It further stipulates that the person should not be detained if detention is deemed too dangerous in light of their vulnerability. Amnesty International, while acknowledging that this provision constitutes an improvement, is not convinced that this will truly result in increased protection of vulnerable individuals, because the Explanatory Memorandum to the Bill makes clear that no vulnerable individual will be *a priori* exempted from custody.⁴²

2.7 Length of detention. Non-citizens placed in territorial pre-removal and Dublin detention under Articles 59 and 59(a) of the Aliens Act, respectively, may be held for up to six months (Aliens Act, Articles 59(5) and 59(7)). This period can be extended by 12 months if deportation or transfer is taking longer because the person does not cooperate with the authorities and necessary documentation from the third countries is lacking (Articles 59(6)-(7)). Under § A5/6.8 of the Aliens Circular, the same maximum length of detention applies to non-citizens detained at the border under Article 6 of the Aliens Act. Persons detained on national security or public order grounds under Article 59(b)(1)(d) of the Aliens Act can have their initial six-month detention period extended up to 15 months due to factual or legal circumstances or because they are deemed to pose a threat to public order or national security (Aliens Act, Articles 59(b)(4)-(5)).

Border detention of asylum seekers under Article 6(3) of the Aliens Act can last for up to four weeks (Article 3(7) of the Aliens Act). If no decision is taken within this period, the non-citizen is granted entry into the Netherlands. Asylum seekers placed in territorial detention under Articles 59(b)(1)(a)-(c) may also be detained for up to four weeks. If their asylum application is rejected, the maximum duration of their detention is six weeks, extendable by an additional three months if they appeal the decision and await its result in the Netherlands (Aliens Act, Articles 59(b)(2)-(3) and Aliens Circular (A) § A5/6.3)).

Detention of Dublin cases under Articles 6a and 59a of the Aliens Act may last for a maximum of six weeks after the request for return or readmission has been accepted by the responsible member state, depending on whether an appeal has been lodged and whether the appeal has a suspensive effect (Aliens Circular § A5/6.8).

Children placed in pre-removal territorial detention under Articles 59 or 59a of the Aliens Act can be detained for a maximum of two weeks. This can be extended if a family member physically resists or starts asylum proceedings when there was no valid reason not to start proceedings at an earlier stage. In such cases, detention may continue for a further two weeks (Aliens Circular §A5/2.4, A5/3.2, A5/6.3). Families with children who are placed in border detention may also be held for two weeks (Aliens Circular, § A5/3.1-2).

⁴² Amnesty International, Doctors of the World, and LOS Foundation, "To Confine or to Protect? Vulnerable People in Immigration Detention," April 2016, http://www.stichtinglos.nl/sites/default/files/los/AMN_16_20_SAMENVATTING_vulnerable%20people%20in%20detention_web2.pdf

Legislative provisions explicitly rule out that periods of detention are counted cumulatively towards the maximum period of detention (this is also the case in [Estonia](#)). Accordingly, under Article 59(6) of the Aliens Act, time already spent in asylum or Dublin detention (under Articles 59a or 59b) does not count towards the total maximum detention period as the purpose of such detention is not deportation (Aliens Circular, § A5/6.8).

Several observers have noted a practice of repeated detention, frequently for more than the maximum 18-month detention period.⁴³ According to [ASKV Refugee Support](#), in 2010, 27 percent of the detained population (2,255 persons) had been incarcerated at least once before. Of this group, 61 percent had been held once before, 29 percent had been held two or three times, and nine percent had been held four or more times.⁴⁴ In 2018, the CAT also raised concern over reports indicating that non-citizens are often detained cumulatively for periods exceeding the maximum 18-month detention period.⁴⁵ Five years earlier, the committee had also noted that the practice of re-detention resulted in persons being detained for longer than the permissible length of detention. The committee thus urged the state to scrupulously observe the absolute time limit for immigration detention, including in the context of repeated detention, and to avoid the accumulation of administrative and penal detention in excess of the absolute time limit of 18 months.⁴⁶ In turn, the HRC noted that the length of detention is often prolonged and at times exceeds the maximum length established in the EU Returns Directive and urged the country to ensure that detention is as short as possible.⁴⁷

According to official statistics, the average length of detention in 2018, was 44 days;⁴⁸ 43 days in 2017;⁴⁹ 55 days in 2015; 67 days in 2014; 72 days in 2013; 75 days in 2012, and 76 days in 2011.⁵⁰ In 2018, families were detained for an average of one week.⁵¹

In 2018, 83 percent of people placed in territorial detention were detained for less than three months, 14 percent for a period between three and six months, and three percent for longer than six months. In the same year, 93 percent of people placed in border detention were

⁴³ Amnesty International, “The Netherlands: Amnesty International Submission for the UN Universal Periodic Review 27th Session of the UPR Working Group,” April/May 2017, https://www.upr-info.org/sites/default/files/document/netherlands/session_27_-_may_2017/ai_upr27_nld_e_main.pdf

⁴⁴ ASKV Refugee Support, “Protecting Stateless Persons from Arbitrary Detention in the Netherlands,” *European Network on Statelessness*, 2015, http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf

⁴⁵ UN Committee against Torture (CAT), “Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7,” 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

⁴⁶ UN Committee against Torture (CAT), “Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Netherlands, Adopted by the Committee at its Fiftieth Session (6-31 May 2013), CAT/C/NLD/CO/5-6,” 20 June 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

⁴⁷ UN Human Rights Committee (HRC), “Concluding Observations on the Fifth Periodic Report of the Netherlands, CCPR/C/NLD/CO/5,” 22 August 2019, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

⁴⁸ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*Vreemdelingenbewaring*,” April 2019, https://www.dji.nl/justitiabelen/vreemdelingen_in_bewaring/index.aspx

⁴⁹ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “This is the Custodial Institutions Agency (DJI),” June 2018, https://www.dji.nl/binaries/WEB_113415_ditisDJI_EN_tcm41-121757.pdf

⁵⁰ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*DJI in getal 2011-2015*,” 2016, https://www.dji.nl/binaries/dji-in-getal-2011-2015-definitief_tcm41-121762.pdf

⁵¹ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*Vreemdelingenbewaring*,” April 2019, https://www.dji.nl/justitiabelen/vreemdelingen_in_bewaring/index.aspx

detained for less than three months, five percent for a period between three and six months, and two percent for longer than six months.⁵²

2.8 Procedural standards. Immigration detention, which is ordered by an administrative authority, is to be formally endorsed by a judicial authority. Within 28 days of imposing or extending detention, the minister should notify the administrative District Court of the order, unless the detainee has already applied for a judicial review themselves. In cases of initial detention decisions, the court immediately determines the date of the hearing, which takes place no later than 14 days following the notification or appeal. (According to Amnesty International, however, the judicial review is often delayed.)⁵³ The detainee or his counsel should be present at the hearing, and the court should make oral and written statements (Aliens Act, Article 94). A non-citizen may appeal the District Court's decision before the Administrative Jurisdiction Division of the Council of State (Aliens Act, Article 95).

Under Articles 5.2 and 5.3 of the Aliens Decree, a non-citizen should be heard before they are taken into custody under territorial detention (pursuant to Articles 59, 59a or 59b of the Aliens Act). The individual should receive a copy of the detention order in a language they are reasonably expected to understand. They will also be informed of the procedures laid down in national law on how to challenge a detention order as well as the possibility of applying for free legal assistance and representation (Aliens Decree, Articles 5(2)-(3)).

According to § A5/6.5 of the Aliens Circular, foreign nationals have the right to a lawyer during their hearing. However, the hearing may still take place if the person does not want a lawyer to attend a hearing; if the lawyer has indicated that they are unable or unwilling to attend the hearing; or no lawyer is present within two hours of the detention's notification. According to Amnesty International, in more than half of all cases the lawyer is not present during the first hearing. Furthermore, the foreign national may be interviewed via videoconferencing at an (appeal) court hearing, which diminishes the capacity of the lawyer (physically present in court) to efficiently defend the detainee.⁵⁴

According to official sources, detainees are provided with interpretation assistance by telephone if necessary.⁵⁵

In 2019, the HRC expressed concern regarding long delays in judicial reviews of immigration detention decisions, and urged the Netherlands to rectify this.⁵⁶

⁵² Ministry of Justice and Security, "*Rapportage Vreemdelingenketen: Periode januari-december 2018*," May 2019, <https://www.rijksoverheid.nl/documenten/rapporten/2019/05/14/tk-rapportage-vreemdelingenketen-2018-2>

⁵³ Amnesty International, "The Netherlands: Amnesty International Submission for the UN Universal Periodic Review 27th Session of the UPR Working Group," April/May 2017, https://www.upr-info.org/sites/default/files/document/netherlands/session_27_-_may_2017/ai_upr27_nld_e_main.pdf

⁵⁴ Amnesty International, "*Het recht op vrijheid vreemdelingendetentie: het ultimum remedium-beginsel*," February 2018, https://www.amnesty.nl/content/uploads/2018/02/AMN_18_08_Rapport-het-recht-op-vrijheid_DEF_web.pdf?x73404

⁵⁵ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies," November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm

⁵⁶ UN Human Rights Committee (HRC), "Concluding Observations on the Fifth Periodic Report of the Netherlands, CCPR/C/NLD/CO/5," 22 August 2019, <https://www.ohchr.org/EN/Countries/ENACARRegion/Pages/NLIndex.aspx>

In 2018, the CAT urged the country to ensure that immigration detainees have adequate access to an independent and effective mechanism for addressing torture and ill-treatment complaints. The committee also urged the Netherlands to ensure that all allegations of torture and ill-treatment in detention are promptly, effectively, and impartially investigated and prosecuted, and that perpetrators are punished.⁵⁷

Under Article 106 of the Aliens Act, non-citizens who are unlawfully detained have the right to compensation. As observed by Dutch experts, compensation for one day of unlawful detention in a police cell amounts to 150 EUR, and 80 EUR if they are held in a detention centre. However, a court may reduce this sum if the detainee refused to cooperate with the authorities.⁵⁸

2.9 Non-custodial measures (“alternatives to detention”). Article 59c of the Aliens Act provides that detention can only be ordered if less coercive measures cannot be applied effectively. According to the Aliens Circular, such measures may include reporting obligations and bail, which typically amounts to 500 EUR.⁵⁹

With regards to unaccompanied children and families with children, freedom-restricting measures as opposed to a freedom-depriving measures should be employed as much as possible ahead of departure (Aliens Circular, § A5/2.4). With regards to border detention under Article 6 of the Aliens Act, in principle it suffices to impose freedom-restricting measures on the grounds of Article 6(1) of the Aliens Act (Aliens Circular, § A5/3.1) for families with minor children who are expected to depart outside of the two-week time frame. In practice, asylum seeking children and families with children are rarely detained.⁶⁰

According to the Dutch Council for Refugees, measures other than freedom of movement restrictions are seldom ordered,⁶¹ while in 2014, the Commissioner for Human Rights of the Council of Europe expressed concern regarding the fact that alternatives to detention are rarely considered. The commissioner thus recommended that authorities ensure that detention is only used as a last resort, when no alternative measure would be effective.⁶² More recently, in 2019, the HRC urged the Netherlands to promote and apply non-custodial

⁵⁷ UN Committee against Torture (CAT), “Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7,” 18 December 2018, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

⁵⁸ G. Cornelisse and J. Bouwman, “Completed Questionnaire for the Project: Contention, National Report: Netherlands,” *Contention Project*, 2014, <http://contention.eu/country-reports/>; European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies,” November 2014, <https://bit.ly/2vhKLfz>

⁵⁹ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies,” November 2014, <https://bit.ly/2vhKLfz>

⁶⁰ Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

⁶¹ Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

⁶² N. Muiznieks (Commissioner of Human Rights of the Council of Europe), “Report Following His Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18,” 14 October 2014, <http://www.refworld.org/category,COI,COECHR,,NLD,54bd1d604,0.html>

alternative measures in a systematic manner and to strive to extend them to asylum seekers arriving at Schiphol International Airport.⁶³

2.10 Detaining authorities and institutions. According to Article 59 of the Aliens Act, detention is formally ordered by the Ministry of Justice and Security. In law, the authority to order detention is mandated to a mayor, chief constable, commander of the military police, and (most regularly) to the assistant district attorney.⁶⁴ The Ministry of Justice and Security is also responsible for enforcing detention measures, although this duty is actually delegated to the Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*, DJI).⁶⁵

2.11 Regulation of detention conditions and regimes. According to Article 5(4) of the Aliens Decree, territorial detention under Article 59 of the Aliens Act should be conducted in a police station, a Royal Military Constabulary cell, a “detention house” (*huis van bewaring*), or a space referred to under Article 6(2), which is designated by a border control officer and “may be secured against unauthorised departure.” If detention is initially carried out at the police station or in a Royal Military Constabulary cell, the person should be transferred to a “detention house” or the space referred to in Article 6(2) of the Aliens Act after no more than 10 days—as the Aliens Circular clarifies, detention in a police station or a Royal Military Constabulary cell for any longer than this should be avoided where possible.

While border detention is governed by the Regulation on Border Accommodation/ Border Detention Act (*Reglement Grenslogies*), territorial detention, like other forms of detention, is regulated by the Penitentiary Principles Act (*Penitentiaire Beginselen Wet*). The fact that immigration detention is currently regulated by the same legislation that applies to penitentiary detention has attracted criticism such as that from the Dutch Ombudsman, who has stressed that immigration detention should be subject to a separate regime.⁶⁶ Once adopted, the Return and Detention Act will replace the Penitentiary Principles Act,⁶⁷ and introduce a single uniform administrative law regime that is applicable to both border and territorial detention.

The new system will comprise an open regime—a “residential regime” (*verblijfsregime*)—and a stricter, controlled regime (a “management regime” (*beheetsregime*)). Under Article 16 of the Return and Detention Act, the default option will be to place non-citizens in a residential regime. Detainees in this regime will be able to move freely within the facility in which they are detained, and can be locked in a closed room for a maximum period of 12 hours over a 24-hour period (Article 22, Return and Detention Act). Articles 21 to 32 enumerate a series of rights immigration detainees in the residential regime will enjoy, such as the possibility of engaging in recreational activities for at least eight hours a week, taking part in educational activities, visiting the library, spending at least two hours a day in the outdoor area, wearing their own clothes, retaining pocket money, receiving visits for four hours a week, making phone calls, and using the internet.

⁶³ UN Human Rights Committee (HRC), “Concluding Observations on the Fifth Periodic Report of the Netherlands, CCPR/C/NLD/CO/5,” 22 August 2019, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

⁶⁴ G. Cornelisse, “National Synthesis Report – Netherlands: Detention for the Purpose of Removal,” *Odysseus Network, Redial Project*, 2017, <http://euredial.eu/publications/national-synthesis-reports/>

⁶⁵ *Dienst Justitiële Inrichtingen*, “Custodial Institutions Agency,” <https://www.dji.nl/english/>

⁶⁶ National Ombudsman, “*Vreemdelingenbewaring, strafregime of maatregel om uit te zetten*,” 2012, https://www.nationaleombudsman.nl/uploads/2012-105_-_vreemdelingenbewaring.pdf

According to Article 17, upon admission to the detention facility, non-citizens will be placed in an entry department for the shortest time possible (up to one week with the possibility of extending for one additional week). This section will be under the management regime. Following this, detainees will be placed under the residential regime, unless the centre's director orders them to remain under the management regime (pursuant to Article 18). According to Article 18, non-citizens may be placed in the management regime for as short a time as possible, but for a maximum of six weeks if this is necessary in order to maintain order and safety within the facility. This period can be extended by six weeks at a time. Article 16 of the draft Decree relating to the Return and Detention Act specifies that persons will be placed in the management regime if they (a) have been physically or verbally violent against fellow inmates or personnel; (b) have expressed manipulative and intimidating behaviour; (c) have displayed antisocial behaviour or personal problems, without prejudice to the duty of care; (d) have not accepted the regulations or shown insufficient cooperative attitude; (e) have attempted to escape; (f) have deliberately destroyed goods belonging to the establishment or employees, or (g) there is a documented record of disturbing behaviour in other establishments.

For detainees in the management regime, Articles 21 to 32 of the Return and Detention Act (pertaining to detainees' rights in the residential regime) will apply by analogy, although Article 36 provides that the situation will be slightly different. Specifically, non-citizens will be held in a closed area for up to 17 hours in a 24-hour period; able to receive visits for at least two hours a week; able to receive phone calls for at least 10 minutes each week; permitted to use the library and read the news; able to practice sports at least twice a week; able to engage in recreational activities for six hours a week; and able to spend at least one hour a day outdoors. They will also be entitled to a total of at least 18 hours of daily activities each week (compared to the 40 hours that those in the residential regime will be entitled to).

2.12 Domestic monitoring. In the framework of the Optional Protocol to the Convention against Torture, the Netherlands designated several bodies as the National Preventive Mechanism (NPM), including the Inspectorate of Security and Justice (IVenJ), which also acts as coordinating body; the Health Care Inspectorate (IGZ); the Inspectorate for Youth Care (IJZ); and the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ).⁶⁸ However, in 2013 the CAT expressed concern regarding the NPM's lack of independence.⁶⁹ This concern was repeated by the committee in 2019, when it noted that the inspectorates are organisational divisions of various ministries.⁷⁰ The committee thus urged the Netherlands to ensure that independent national and international monitoring bodies and NGOs regularly monitor all places of immigration detention.⁷¹

⁶⁸ Association for the Prevention of Torture (APT), "Netherlands – NPM Structure," https://apt.ch/en/opcat_pages/npm-internal-organisation-29/

⁶⁹ UN Committee against Torture (CAT), "Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Netherlands, Adopted by the Committee at its Fiftieth Session (6-31 May 2013), CAT/C/NLD/CO/5-6," 20 June 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

⁷⁰ UN Committee against Torture (CAT), "Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7," 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

⁷¹ UN Committee against Torture (CAT), "Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7," 18 December 2018, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

Lawyers, NGOs, and other entities also have access to Dutch detention facilities. The Dutch Council for Refugees and the LOS Foundation visit the centres to provide legal information and assistance.⁷²

Once passed, the Return and Detention Act (Articles 30-31) will also grant a number of entities the right to access facilities and visit detainees, including the National Ombudsman, judicial authorities, medical inspectors, members of the Dutch Parliament or Dutch members of the European Parliament, two administrative committees (Supervisory Committee Knowledge Centre (*Kenniscentrum Commissie van Toezicht*) and Supervisory Committee of the DJI (*Commissie van Toezicht*)), and members of the Royal Family.

2.13 International monitoring. As a state party to the [European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment](#), the Netherlands receives regular monitoring visits from the [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#).

In 2011, the CPT visited Rotterdam and Schiphol Airport detention centres. Following this visit, the committee expressed several concerns, including those regarding re-detention, the placement of hunger-striking detainees in isolation cells, and the systematic use of handcuffs during transport. During its most recent visit to the Netherlands in 2016, the committee did not visit immigration detention facilities.

Following his 2014 visit, the Human Rights Commissioner of the Council of Europe reminded the Netherlands that it must only use detention as last resort, for the shortest possible period of time, and when no effective alternatives exist; as well as to avoid detaining vulnerable groups and to improve access to health care.⁷³

In the past few years, three UN human rights treaty bodies have made immigration-detention related recommendations to the Netherlands, notably the HRC (2019), the CAT (in 2018⁷⁴ and 2013),⁷⁵ and the CERD (2010).⁷⁶ Generally, the committees have urged the Netherlands to use immigration detention as a last resort, for as a short period as possible, and to ensure that children are not placed in detention but are instead subject to non-custodial measures. These treaty bodies also formulated recommendations encouraging non-punitive immigration detention and access to detention facilities by independent organisations.

2.14 Trends and statistics. After a period in which the number of detainees had gradually declined (from 6,104 in 2011, to 5,420 in 2012; 3,668 in 2013; 2,728 in 2014; and 2,176 in

⁷² Dutch Council for Refugees, "Country Report: Netherlands – 2018 Update," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

⁷³ Commissioner for Human Rights of the Council of Europe, "Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, Following his Visit to the Netherlands from 20 to 22 May 2014, CommDH(2014)18," 14 October 2014, <https://rm.coe.int/16806db830>

⁷⁴ UN Committee against Torture (CAT), "Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7," 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

⁷⁵ UN Committee against Torture (CAT), "Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Netherlands, Adopted by the Committee at its Fiftieth Session (6-31 May 2013), CAT/C/NLD/CO/5-6," 20 June 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

⁷⁶ UN Committee on the Elimination of Racial Discrimination (CERD), "Concluding Observations of the Committee on the Elimination of Racial Discrimination: Netherlands, CERD/C/NLD/CO/17-18," 20 March 2010, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

2015),⁷⁷ detention rates are today on the rise. In 2016, the country detained 2,570 non-citizens; in 2017, 3,181; and in 2018, 3,506.⁷⁸ The majority of detainees are placed in territorial detention: in 2017, out of a total of 3,181 immigration detainees, 2,845 (89 percent) were placed in territorial detention and 336 in border detention.⁷⁹ In 2018, 93 percent of detainees were men and seven percent were women.⁸⁰

In 2018, detainees' most common countries of origin were Albania (22 percent), Morocco (12 percent), Algeria (nine percent), Afghanistan (four percent), and Libya (three percent).⁸¹

2.15 Privatisation. The provision of security at detention centres is outsourced to private companies. G4S, one of a [growing number of multinational companies](#) involved in immigration detention, provides security at detention centres, while medical care is provided by various companies.⁸² According to Dutch sources, the Schiphol and Rotterdam centres were established as, and are operated as, public-private partnerships, although these sources do not clarify who the private partners are.⁸³

2.16 Cost of detention. According to a government report to the European Migration Network in 2014, the annual total costs of immigration detention in 2014 amounted to 139.1 million EUR, including 81 million in staffing costs, 7.2 million in medical costs, 44.7 million in food and accommodation costs, and 6.2 million in other costs.⁸⁴ The report lacked clarity and details, prompting the Global Detention Project to request clarification from the government source—however at the time of publication, we had not received a response.

According to the Custodial Institution Agency, in 2017 one day in immigration detention cost an average of 255 EUR.⁸⁵

2.17 Caribbean part of the Kingdom of the Netherlands. Along with the Netherlands, the Kingdom of the Netherlands includes several islands in the Caribbean, notably Sint Maarten,

⁷⁷ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*DJI in getal 2013-2017*,” August 2018, https://www.dji.nl/binaries/DJI%20in%20getal%202013-2017%20definitief_tcm41-350484.pdf; *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*DJI in getal 2011-2015*,” 2016, https://www.dji.nl/binaries/dji-in-getal-2011-2015-definitief_tcm41-121762.pdf

⁷⁸ Ministry of Justice and Security, “*Rapportage Vreemdelingenketen: Periode januari-december 2018*,” May 2019, <https://www.rijksoverheid.nl/documenten/rapporten/2019/05/14/tk-rapportage-vreemdelingenketen-2018-2>

⁷⁹ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*DJI in getal 2013-2017*,” August 2018, https://www.dji.nl/binaries/DJI%20in%20getal%202013-2017%20definitief_tcm41-350484.pdf

⁸⁰ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*Vreemdelingenbewaring*,” April 2019, https://www.dji.nl/justitiabelen/vreemdelingen_in_bewaring/index.aspx

⁸¹ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*Vreemdelingenbewaring*,” April 2019, https://www.dji.nl/justitiabelen/vreemdelingen_in_bewaring/index.aspx

⁸² G4S, “*Ondersteuning politie en Justitie*,” <https://www.g4s.com/nl-nl/oplossingen/secure-solutions/politie-en-justitie>; Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016.

⁸³ Custodial Institutions Agency, “*Justitieel Complex Schiphol*,” <https://www.dji.nl/locaties/detentiecentra/justitieel-complex-schiphol/index.aspx>; Custodial Institutions Agency, “*Detentiecentrum Rotterdam*,” <https://www.dji.nl/locaties/detentiecentra/detentiecentrum-rotterdam/index.aspx>

⁸⁴ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), “*The Use of Detention and Alternatives to Detention in the Context of Immigration Policies*,” November 2014, <https://bit.ly/381OATe>

⁸⁵ *Dienst Justitiële Inrichtingen* (Custodial Institutions Agency), “*This is the Custodial Institutions Agency (DJI)*,” June 2018, https://www.dji.nl/binaries/WEB_113415_ditisDJI_EN_tcm41-121757.pdf

Aruba, and Curaçao. Aruba and Curaçao operate dedicated immigration detention centres (see: 3. Detention infrastructure).

In late 2016, the detention conditions on the islands came under scrutiny in the wake of the economic collapse of nearby Venezuela, when thousands began to seek refuge in neighbouring countries. By mid 2019, more than four million Venezuelans had fled their homeland—an exodus without precedent in South America. While Columbia has undoubtedly seen the largest influx—1.3 million have sought refuge in the country—approximately 100,000 Venezuelans have fled to the Caribbean islands, including 40,000 to Trinidad and Tobago, 28,500 to the Dominican Republic, and 16,000 to Aruba and Curaçao, each.⁸⁶

Aruba and Curaçao, considered constituent countries of the Kingdom of the Netherlands, have their own legal system and separate status. The *Charter for the Kingdom of the Netherlands*⁸⁷ regulates the constitutional relationship between the four countries making up the Kingdom. Article 3 of the charter provides that areas including foreign relations, defence, Dutch nationality, and general conditions for the admission and expulsion of aliens are considered “Kingdom affairs.” According to Article 36, countries should grant each other aid and assistance when necessary. While each constituent country is responsible for promoting “the realisation of human rights,” the Kingdom is responsible for “safeguarding” human rights (Article 43).

Located some 70 kilometres off the Venezuelan coast, **Curaçao** became a destination country for Venezuelans in search of protection. However, as Amnesty International reported, Venezuelans are frequently unable to apply for asylum and instead face detention and deportation. In 2017, 1,200 Venezuelans were deported.⁸⁸ As of late November 2018, some 16,000 Venezuelans lived in Curaçao in an undocumented manner, under threat of summary deportation.⁸⁹

Although Article 3 of the Charter states that admission and expulsion of non-citizens are “Kingdom affairs,” the Dutch representatives often assert that these areas are actually Curaçao’s “country affair.”⁹⁰ The National Ordinance on Admission and Removal (*Landsverordening Toelating en Uitzetting*, LTU) regulates immigration matters in Curaçao. Chapter 10 of the instructions to the LTU (*Oranjestad ‘Herziene instructie aan de*

⁸⁶ B. Ebus, “Venezuelan Migrants Live in Shadows on Caribbean's Sunshine Islands,” *The Guardian*, 13 November 2018, <https://www.theguardian.com/world/2018/nov/13/venezuelan-migrants-caribbean-islands>

⁸⁷ Charter for the Kingdom of the Netherlands, Decree of 1 November 2010, Bulletin of Acts and Decrees of the Kingdom of the Netherlands (Staatsblad), Volume 2010, 775, Text of the Charter for the The Kingdom of the Netherlands as last amended by Kingdom act in connection with the dismantling of the present Constitutional Order of the Netherlands Antilles, [Hereinafter: *the Charter*]. In: Amnesty International, “Detained and Deported Venezuelans Denied Protection in Curaçao,” 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

⁸⁸ Amnesty International, “Detained and Deported Venezuelans Denied Protection in Curaçao,” 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

⁸⁹ B. Ebus, “Venezuelan Migrants Live in Shadows on Caribbean's Sunshine Islands,” *The Guardian*, 13 November 2018, <https://www.theguardian.com/world/2018/nov/13/venezuelan-migrants-caribbean-islands>

⁹⁰ Amnesty International, “Detained and Deported Venezuelans Denied Protection in Curaçao,” 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

Gezaghebbers Inzake de toepassing van de Landsverordening Toelating en Uitzetting)⁹¹ provides further detail.

Grounds for detention. Under Article 16 of the LTU, when a non-citizen is handed a deportation order, they can be placed in detention to ensure their removal if a) the person constitutes a threat to public policy, peace, safety, or morals, or b) if there is a well-founded fear that the person concerned will attempt to evade his or her departure. Article 10.3 of the LTU further clarifies that detention is considered when there is a clear indication that the foreign national: wishes to abscond; refuses to cooperate in establishing their identity; has escaped aliens control; if the person's criminal record so warrants; or if the non-citizen provides incorrect or contradictory information. However, persons cannot be detained when a private person or body lodges a guarantee; there is no prospect of removal, in particular because the person does not have valid travel documents; the foreign national has a permanent residence and domicile in the Netherlands Antilles; or an alternative measure can be used.

Children. Children, whether accompanied or unaccompanied, are not exempted from detention. Article 10.6 of the LTU provides that when a child is detained, their parents or legal representatives must be informed as soon as possible upon request.

Length of detention. Under Article 10.1 of the LTU, there is no maximum length of detention. However, Article 10.5 provides that if a removal has not been completed within six months, in principle there is no prospect for removal. Most detainees are held for up to three days, however delays in obtaining necessary documents or a person's inability to pay for a flight ticket can lead to detention lasting several months. According to reports, if a detainee still cannot afford a flight ticket after approximately five months, authorities cover these costs. The CPT urged authorities to provide these funds much earlier in the expulsion process.⁹²

Detention authorities and institutions. According to Article 10.1 of the LTU, detention is not ordered by a juridical authority but on behalf of the Island Governor.

Procedural standards. Article 10.4.2 of the LTU states that the non-citizen should be heard before a detention measure is imposed. A lawyer may be present at the hearing. A copy of the detention order, which provides the reasons for detention, is issued to the foreign national. Pursuant to Article 10.6, the lawyer has free access to the detained person. Close relatives and consular authorities established in the Netherlands Antilles may be informed upon request.

Non-custodial measures. Article 10.3 provides that detention must be "necessary" and can only be carried out if "lighter" means of control, such as reporting or deposit of a passport, are deemed insufficient.

⁹¹ *Gegeven door het Minister van Justitie. Oranjestad 'Herziene instructie aan de Gezaghebbers Inzake de toepassing van de Landsverordening Toelating en Uitzetting' (P.B. 1966, no. 17), zoals gewijzigd en het Toelatingsbesluit (P.B. 1985, no. 57), zoals gewijzigd, June 2006; www.kgmc.nl/nl/assets/uploads/pdf/ltu-16juni2006.pdf*

⁹² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of the Netherlands on the Visit to the Caribbean part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27," August 2015, <http://www.cpt.coe.int/en/states.htm>

International monitoring. During a 2014 visit to the Kingdom's Caribbean islands, the CPT addressed immigration detention conditions and regimes. The committee visited [Dakota Detention Centre](#) in Aruba and urged authorities to adopt immigration detention-related regulations and to ensure that staff are appropriately recruited and trained.⁹³

Statistics. Of the 1,532 non-citizens removed from Curaçao in 2017, 78.5 percent were Venezuelans. Between January and March 2018, 81.3 percent of the 475 deported non-citizens were Venezuelans.⁹⁴

In 2018, Curaçao invoked Article 36 of the charter to request assistance from the Kingdom of the Netherlands. It received 132,000 EUR in response to help ramp up its detention capacity.⁹⁵ (At the beginning of 2019, the Curaçao government issued a second request, again based on Article 36 to further expand its detention capacity.)⁹⁶ In April 2018 it was also reported that the Netherlands would deploy the IND to Curaçao to help separate refugees from economic migrants, and in June 2018, delegations from the Netherlands held several working sessions with Curaçao immigration services.⁹⁷

Like Curaçao, **Aruba's** government deals with immigration autonomously, while the Kingdom is responsible for citizenship matters.⁹⁸ Immigration detention in Aruba is regulated by the 1993 National Ordinance on Admission, Expulsion and Departure. Under Article 19(2) of the Ordinance, a person may be detained if the Minister of Justice considers him a danger to public order, safety, or good morals, or if there is a well-founded fear that the person will attempt to evade expulsion.

⁹³ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of the Netherlands on the Visit to the Caribbean Part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27," August 2015, <http://www.cpt.coe.int/en/states.htm>

⁹⁴ Amnesty International, "Detained and Deported Venezuelans Denied Protection in Curaçao," 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

⁹⁵ G. di Kòrsou, "Ondersteuningsverzoek aan Nederland inzake impact migratie Venezuela," 16 January 2019, <https://bit.ly/2T1xm4d>

⁹⁶ G. di Kòrsou, "Ondersteuningsverzoek aan Nederland inzake impact migratie Venezuela," 16 January 2019, <https://www.gobiernu.cw/nl/nieuws/persberichten/ondersteuningsverzoek-aan-nederland-inzake-impact-migratie-venezuela/>; L. Nijkraak, "For Venezuelan Refugees, There's No Safe Haven in Curacao," *Foreign Policy*, 28 January 2019, <https://bit.ly/2HWbP6N>

⁹⁷ Amnesty International, "Detained and Deported Venezuelans Denied Protection in Curaçao," 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

⁹⁸ Dutch Caribbean Legal Portal, "The Dutch Caribbean," <http://www.dutchcaribbeanlegalportal.com/about-us/the-dutch-caribbean>; Visit Aruba, "Government and Politics," <https://www.visitaruba.com/about-aruba/general-aruba-facts/government-and-politics/>



3. DETENTION INFRASTRUCTURE

3.1 Summary. As of January 2020, the Netherlands operated three dedicated immigration detention centres, located in **Zeist**, **Rotterdam**, and at the **Schiphol International Airport** (Justitieel Complex Schiphol, previously called “Schiphol-Oost (Oude Meer)”⁹⁹). Immigration detention facilities in the Netherlands are managed by the **Custodial Institutions Agency** (DJI), which falls under the authority of the Ministry of Justice and Security. “Border detention” is carried out at the Schiphol centre, while persons in “territorial detention” may be placed in any one of these three facilities.¹⁰⁰

The Global Detention Project qualifies the application centre in the Schiphol Airport as a secure transit zone because asylum seekers cannot leave the premises during the initial procedure, in which it is decided whether their application is well founded, which may last up to four weeks.

Non-citizens apprehended without documents in the Netherlands may be detained for up to five days in any police station. In theory they should be detained separately and under a different regime than those in penal detention.¹⁰¹

In addition, the Caribbean part of the Kingdom of the Netherlands operates at least two immigration detention centres, notably Centro Dakota in Aruba and Foreigners’ Barracks in Curaçao.

3.2 List of detention facilities. Zeist Detention Centre, Rotterdam Detention Centre, Schiphol Airport Detention Centre, Centro Dakota (Aruba), and the Foreigners’ Barracks (Curaçao); Schiphol Airport Transit Zone; and police stations (in all constituent parts of the Kingdom of the Netherlands).

3.3 Conditions and regimes in detention centres.

3.3a Overview. According to official sources, non-citizens are mostly detained in two-person cells and women are separated from men. Detainees have the right to at least one hour of outdoor exercise each day and can receive visitors for at least one hour each week. The

⁹⁹ Custodial Institutions Agency, “*Detentiecentra*,” <https://www.dji.nl/locaties/detentiecentrum/index.aspx>

¹⁰⁰ Dutch Council for Refugees, “Country Report: Netherlands – 2018 Update,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf; Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016; European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies,” November 2014, <https://bit.ly/32qXgld>

¹⁰¹ Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016.

centres are equipped with telephones and internet facilities, and detainees can browse certain, permitted webpages. Although authorities have long-intended to allow the use of mobile phones, as of 2019 they had not amended their policy of denying detainees use of personal phones.¹⁰² According to civil society groups, detainees have access to recreational activities, spiritual counselling, and libraries, and they can receive one visit a week.¹⁰³

The range of activities offered and the rights granted to detainees are likely to improve with the adoption of the Return and Detention Act. According to the Dutch Council for Refugees, the act will improve detainees' freedom of movement within the centre by reducing lock-up times (see: 2.11 Regulation of detention conditions and regimes).¹⁰⁴

The CAT has addressed overall detention conditions in the Netherlands on two occasions. In 2013, the committee expressed concern that the legal regime in immigration detention centres was the same as the legal regime in penal detention centres. The committee pointed to confinement in cells for 16 hours, the absence of activities, and the use of isolation cells, handcuffs, and strip searches. The committee thus urged the Netherlands to ensure that immigration detention's legal regime is suitable for its purpose and that it differs from the penal detention regime.¹⁰⁵ In 2018, the CAT again expressed its concern regarding conditions of detention in Dutch facilities and recommended that the immigration detention regime is strictly differentiated from the penal detention regime, and that solitary confinement ceases to be used as a disciplinary measure.¹⁰⁶ In 2019, the HRC similarly urged the Netherlands to strictly limit the use of isolation or solitary confinement in immigration detention.¹⁰⁷

3.3b Long-term immigration detention centres. Men are detained in the Rotterdam centre while women, families, and unaccompanied children are confined in the Zeist facility.

Located next to Rotterdam Hague Airport, the **Rotterdam Detention Centre** was built in 2010 and was the first centre to be built and operated as a public-private partnership. With a capacity of 641 (of which 377 places are immediately available), the facility has 320 cells, divided into ten departments. According to the Custodial Institutions Agency, all cells feature

¹⁰² European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies," November 2014, <https://bit.ly/32vAXuo>

¹⁰³ Dutch Council for Refugees, "Country Report: Netherlands – 2018 Update," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

¹⁰⁴ Dutch Council for Refugees, "Country Report: Netherlands - 2018 Update," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles (ECRE), March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

¹⁰⁵ UN Committee against Torture (CAT), "Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Netherlands, Adopted by the Committee at its Fiftieth Session (6-31 May 2013), CAT/C/NLD/CO/5-6," 20 June 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

¹⁰⁶ UN Committee against Torture (CAT), "Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7," 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

¹⁰⁷ UN Human Rights Committee (HRC), "Concluding Observations on the Fifth Periodic Report of the Netherlands, CCPR/C/NLD/CO/5," 22 August 2019, <https://www.ohchr.org/EN/Countries/ENACARegion/Pages/NLIndex.aspx>

a shower, toilet, sink, telephone, refrigerator, television, and microwave.¹⁰⁸ Until a few years ago, the centre had a special regime for families with children.¹⁰⁹

During its 2011 visit to the centre, the CPT noted that the material conditions were of a high standard. The cells were fully equipped and had adequate access to natural light as well as good lighting and ventilation. The sanitary annexes were fully partitioned, thus ensuring privacy. The CPT also praised the variety of activities that were offered to detainees, including the option for detainees to cook together, watch television, play board games, and play table tennis or badminton. The centre also included a gym and a library. A general practitioner was present at the centre from Monday to Friday, and several nurses worked at the centre on a daily basis. However, the committee reported that the number of doctors and nurses was insufficient given the centre's size.¹¹⁰

Two people have committed suicide in Rotterdam Detention Centre; Aleksandr Dolmatov, a Russian activist who was refused asylum, died in January 2013,¹¹¹ and a 28-year-old South African asylum seeker died in June 2015.¹¹² These deaths prompted investigations into the provision of psychological care for persons in detention, leading to reforms.¹¹³

Like the Rotterdam centre, **Schiphol Airport Detention Centre** was built as, and has operated as, a public-private partnership. Located next to Schiphol Airport, the centre has space for 471 persons (426 spaces are immediately available).¹¹⁴ With a total of 450 cells, the facility holds immigration detainees as well as drug smugglers apprehended at the airport, who are confined in a separate criminal section within the same building.¹¹⁵ The immigration detention and penitentiary detention sections are subject to separate administrative regimes, and thus the Global Detention Project classifies the immigration

¹⁰⁸ Custodial Institutions Agency, "Detentiecentrum Rotterdam," <https://www.dji.nl/locaties/detentiecentrum/detentiecentrum-rotterdam/index.aspx>; Dutch Council for Refugees, "Country Report: Netherlands – 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

¹⁰⁹ European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), "The Use of Detention and Alternatives to Detention in the Context of Immigration Policies," November 2014, <https://bit.ly/32vAXuo>

¹¹⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of the Netherlands on the Visit to the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 21 October 2011, CPT/Inf (2012)21," August 2012, <http://www.cpt.coe.int/en/states.htm>

¹¹¹ H. Smeets, "Zelfmoord Russische activist in detentiecentrum Rotterdam," *nrc.nl*, 17 January 2017, <https://www.nrc.nl/nieuws/2013/01/17/zelfmoord-russische-activist-in-detentiecentrum-rotterdam-a1438081>

¹¹² J. Pieters, "South African Asylum Seekers Kills Self in Rotterdam Detention Center," *NL Times*, 16 June 2015, <https://nltimes.nl/2015/06/16/south-african-asylum-seeker-kills-self-rotterdam-detention-center>

¹¹³ Dutch Council for Refugees, "Country Report: Netherlands - 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

¹¹⁴ Dutch Council for Refugees, "Country Report: Netherlands – 2018 Update," *Asylum Information Database (AIDA), European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf (Note that the Dutch Refugee Council stresses that the capacity of Schiphol includes beds dedicated to criminal detainees.)

¹¹⁵ Custodial Institutions Agency, "Justitieel Complex Schiphol," <https://www.dji.nl/locaties/detentiecentrum/justitieel-complex-schiphol/justitieel-complex-schiphol.aspx>.

detention centre as a “dedicated” facility.¹¹⁶ The facility is located within a larger “Judicial Complex,” which also accommodates an “application centre” operated by the IND (see: 3.3d “Application centres”), as well as a court. The Royal Military Constabulary, Probation Service, International Organisation for Migration, and the Dutch Refugee Council all operate in the complex.

Zeist Detention Centre has a capacity of 678 (of which 84 spaces are immediately available).¹¹⁷ Since October 2014, the Zeist facility has included a special unit—the Closed Family Facility (*gesloten gezinsvoorziening*, GGV).¹¹⁸ The GGV confines families with children, women, and unaccompanied children. Families and children stay in this facility for up to two weeks before their planned removal from the Netherlands. The Family Facility is comprised of small, open apartments for which detainees have their own keys. There are 12 apartments, each of which can house six persons, as well as one 10-person section for unaccompanied children. The apartments are located in a wooded area, which is surrounded by a fence. Detainees can move around the enclosed site from 08:00 to 22:00.¹¹⁹

Following its 2018 visit to Dutch detention centres, Amnesty International found that the GGV offered the best detention conditions in the country. The residents could move freely and the atmosphere was less prison-like than other facilities, and as such, the relationship between detainees and staff was found to be better than elsewhere.¹²⁰

3.3c Previously operated facilities. Over recent years, the Netherlands has closed several detention facilities. In November 2009, three additional detention facilities were also in operation: in Dordrecht (Detentieboot Zuid-Holland and Detention Boat Kalmar), Zaandam, and Alphen aan den Rijn. The total detention capacity of those facilities was 2,757.¹²¹ The country was also notorious for using boats as detention centres, including in Dordrecht and Rotterdam (“Stockholm”).¹²²

3.3d “Application centres.” In addition to its dedicated immigration detention centres, the Netherlands employs a range of facilities for housing asylum seekers and people slated for

¹¹⁶ Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016; Dutch Council for Refugees, “Country Report: Netherlands,” *Asylum Information Database (AIDA)*, November 2015, <http://www.asylumineurope.org/reports/country/netherlands>

¹¹⁷ Dutch Council for Refugees, “Country Report: Netherlands - 2018 Update,” *Asylum Information Database (AIDA)*, *European Council on Refugees and Exiles (ECRE)*, March 2019, http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf

¹¹⁸ Custodial Institutions Agency, “*Gesloten Gezinsvoorziening Zeist*,” <https://www.dji.nl/locaties/detentiecentrum/gesloten-gezinsvoorziening-zeist/index.aspx>; European Migration Network (EMN) National Contact Point for the Netherlands (Immigration and Naturalisation Service Research and Analysis Department/ Dutch Immigration and Naturalisation Service (IND)), “The Use of Detention and Alternatives to Detention in the Context of Immigration Policies,” November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/studies/results/index_en.htm

¹¹⁹ Custodial Institutions Agency, “*Gesloten Gezinsvoorziening Zeist*,” <https://www.dji.nl/locaties/detentiecentrum/gesloten-gezinsvoorziening-zeist/index.aspx>; Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016.

¹²⁰ Amnesty International, “*Geen Cellen en Handboeien*,” February 2018, <https://bit.ly/2HWIjz5>

¹²¹ J. Van Opstal (Dutch Ministry of Justice), Email correspondence with Alexandra Lamb (Global Detention Project), November 2009.

¹²² Amnesty International, “The Netherlands: The Detention of Irregular Migrants and Asylum-Seekers,” June 2008, <http://www.refworld.org/docid/4875bc882.html>

deportation, including “application centres.” Operated by the IND, application centres accommodate or confine asylum seekers during the initial procedure to decide whether their application is well founded. This period can last up to four weeks.¹²³ Those held in these facilities are not considered to have officially entered the Netherlands, and it can thus be considered a form of “transit zone” detention.¹²⁴

There are two application centres—one at Schiphol airport and one in Ter Apel. According to Dutch experts, the Ter Apel facility should not be considered a secure detention site, as it allows non-citizens to leave the premises before the initial investigation has been completed, although doing so results in the person forfeiting their opportunity to apply for asylum. Persons confined in the Schiphol application centre can only leave the facility by voluntarily exiting the country.¹²⁵ The Global Detention Project thus qualifies the application centre in Schiphol as a secure transit zone detention centre because it is not possible for asylum seekers to leave the premises. Other than families with children, who are sent to non-secure asylum centres, all persons applying for asylum at Schiphol Airport are initially detained.¹²⁶

3.3e Caribbean part of the Kingdom of the Netherlands. Aruba and Curaçao confine non-citizens in both dedicated detention centres and police stations. These facilities are not under the same legal system as “mainland” Netherlands, although the Kingdom remains the subject of international law and is responsible for safeguarding fundamental rights and freedoms.¹²⁷

Aruba operates one immigration detention facility—the **Centro Dakota Immigration Detention Facility**. Centro Dakota has been operational since February 2013 and is managed by the Aruban Police Force’s Department for Supervision of Foreigners. (Press reports have, however, also indicated that Aruba has resorted to using a sports stadium to hold the increasing numbers of detainees.)¹²⁸

Upon its 2014 visit, the CPT found that the material conditions were generally adequate. The centre was located in a one-storey building and had 16 single-person cells. The cells measured roughly nine square-metres, were equipped with a bed and a semi-partitioned

¹²³ Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016.

¹²⁴ Amnesty International, “The Netherlands: The Detention of Irregular Migrants and Asylum-Seekers,” June 2008, <http://www.refworld.org/docid/4875bc882.html>

¹²⁵ Steven Ammeraal (Dutch Refugee Council), Telephone conversation with Michael Flynn (*Global Detention Project*), 10 July 2009.

¹²⁶ Jakob de Jonge (Amnesty International Netherlands), Email exchange with Izabella Majcher (Global Detention Project), November 2016.

¹²⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of the Netherlands on the Visit to the Caribbean part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27,” August 2015, <http://www.cpt.coe.int/en/states.htm>

¹²⁸ N. Casey, “Hungry Venezuelans Flee in Boats to Escape Economic Collapse,” *New York Times*, 25 November 2016, http://www.nytimes.com/2016/11/25/world/americas/hungry-venezuelans-flee-in-boats-to-escape-economic-collapse.html?_r=1

sanitary annex, had adequate access to natural light, and had sufficient artificial lighting and ventilation.¹²⁹

For most of the day, detainees had access to a common recreation room, which was equipped with tables, chairs, television, and card and board games. Detainees could go outdoors twice a day for an hour, although there was no shelter to protect them from the elements, and its narrow shape and uneven gravel surface meant that they could not partake in any sports. In fact, no specific activities were offered to detainees—a fact that the CPT noted as inadequate for persons confined for more than just a few days.¹³⁰

The CPT also reported that detainees do not undergo medical screening upon admission and that initial medical assistance is provided by a police nurse. The committee thus recommended the introduction of systematic medical screenings that respect medical confidentiality.¹³¹

Curaçao operates one immigration detention centre—the **Foreigners' Barracks (Vreemdlingen Barakken)**—a dedicated facility inside the **Sentro di Detenshon i Korekshon Korsou (SDKK)**. When this is at capacity, the Rio Canario police station is also used for pre-removal detention. Immigration detention is ordered by an inspector of the Curaçao Police Force, while responsibility for the accommodation of detainees was transferred from the police to Curaçao's prison—the Centre for Detention and Correction Curaçao.

As of 2015, the Foreigners' Barracks consisted of three blocks, one of which is used for female detainees and another for male detainees. The block for male detainees has a dormitory with 12 beds, while the dormitory for female detainees has 14 beds. Upon its 2014 visit, the CPT found that the state of repair of the buildings, including sanitary facilities, was good and that access to natural light and ventilation was adequate.

The CPT expressed concern regarding the absence of purposeful activities in the centre. The block for male detainees included a recreation room with a television, basic games, and fitness equipment, but it was locked overnight. The block for female detainees meanwhile featured a television in the dormitory itself. The CPT found that the regime of activities was inadequate for stays longer than three days, and described the regime in the centre as “very basic and restrictive.”

¹²⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of the Netherlands on the Visit to the Caribbean part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27,” August 2015, <http://www.cpt.coe.int/en/states.htm>

¹³⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of the Netherlands on the Visit to the Caribbean part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27,” August 2015, <http://www.cpt.coe.int/en/states.htm>

¹³¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of the Netherlands on the Visit to the Caribbean part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27,” August 2015, <http://www.cpt.coe.int/en/states.htm>.

Detainees did not undergo medical screening upon admission and health care was provided by medical staff from Curaçao's prison. The CPT suggested amending this by introducing systemic medical screening, in line with the principles of medical confidentiality.¹³²

Since the 2014 CPT's visit, the conditions in the Foreigners' Barracks have reportedly deteriorated. In 2018, the CAT voiced its concern over the fact that "persons in need of international protection awaiting deportation, mostly Venezuelans, are detained in closed facilities in appalling conditions and are subjected to ill-treatment and sexual assaults by police and immigration officials, against whom no charges have been brought."¹³³ In 2018, Amnesty International also reported overcrowding, lack of hygiene, inadequate bedding, and punitive and degrading treatment by staff.¹³⁴

Amnesty International also noted that material conditions at the Rio Canario police station were totally inadequate. Cells lacked windows or air conditioning—instead, the only source of "fresh" air were the windows in the doors to the hallway.¹³⁵

Between January and March 2018, 81.3 percent of the 475 deported non-citizens from Curaçao were Venezuelans. While their removal is pending, most are detained in prisons or police stations. In 2017, 1,085 non-citizens were reportedly detained in the Foreigners' Barracks (640 were women and 445 were men), of whom, 867 were Venezuelans. Statistics for the number of non-citizens detained in police stations are not available.¹³⁶

¹³² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of the Netherlands on the Visit to the Caribbean part of the Kingdom of the Netherlands Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014, CPT/Inf (2015)27," August 2015, <http://www.cpt.coe.int/en/states.htm>

¹³³ UN Committee against Torture (CAT), "Concluding Observations on the Seventh Periodic Report of the Netherlands, CAT/C/NLD/CO/7," 18 December 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NLD/CO/7&Lang=En

¹³⁴ Amnesty International, "Detained and Deported Venezuelans Denied Protection in Curaçao," 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

¹³⁵ Amnesty International, "Detained and Deported Venezuelans Denied Protection in Curaçao," 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>

¹³⁶ Amnesty International, "Detained and Deported Venezuelans Denied Protection in Curaçao," 2018, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>



4. ANNEX - NETHERLANDS IMMIGRATION DETENTION DATA PROFILE

	Quick Facts	
	Immigration detainees (2018)	3,506
	Detained asylum seekers (2014)	261
	Detained minors (2012)	402
	Persons expelled (2018)	8,980
	International migrants (2017)	2,056,500
	New asylum applications (2016)	21,205
<p>NOTES ON USING THIS PROFILE</p> <ul style="list-style-type: none"> • Sources for the data provided in this report are available online at: https://www.globaldetentionproject.org/countries/europe/netherlands • "Observation Dates" indicate the timeframe statistical data correspond to or other data were last validated. More than one statistical entry for a year indicates contrasting reports. 		

STATISTICS

Detention, expulsion, and incarceration statistics

		Observation Date			Observation Date
Total number of immigration detainees by year	3,506	2018	Top nationalities of detainees	Albania, Morocco, Algeria, Afghanistan, Libya	2018
	3,181	2017			
	2,570	2016		Albania, Morocco, Algeria, Afghanistan, Iraq	2017
	2,176	2015			
	2,728	2014			
	3,670	2013			
	5,420	2012			
	6,104	2011			
	7,812	2010			
	7,867	2009			
	8,585	2008			
Number of detained asylum seekers	261	2014	Total number of detained minors	402	2012
				416	2011
				442	2010
Number of detained unaccompanied minors	40	2018	Number of detained accompanied minors	133	2017
	50	2017		147	2016
	30	2016		129	2015
	12	2015		82	2014
	11	2014		165	2013
	25	2013		352	2012
	50	2012		324	2011
	92	2011		227	2010
	215	2010			
	296	2009			
	173	2008			
Number of apprehensions of non-citizens	2,790	2018	Immigration detainees as a percentage of total international migrant population	0.11	2015
	2,165	2017		0.19	2013
	2,685	2016		0.43	2010
	2,340	2015			
	2,645	2014			
	2,715	2013			
	4,005	2012			
	6,145	2011			

Number of dedicated long-term immigration detention centres	3	2020	Estimated capacity of dedicated long-term immigration detention centres	1,790	2018
				933	2016
				1,179	2015
				1,762	2015
				1,522	2014
				1,691	2013
				1,750	2012
				1,950	2011
Number of transit facilities	1	2018	Number of persons removed/returned (voluntary returns and deportations)	8,980	2018
				8,515	2017
				12,530	2016
				8,620	2015
				7,995	2014
				8,010	2013
				9,635	2012
Number of deportations/forced returns only	Not Available	2017	Percentage of persons removed in relation to total number of people placed in removal procedures	26.98	2017
				38.03	2016
				36.27	2015
				23.7	2014
Criminal prison population	10,464	2017	Percentage of foreign prisoners	19.1	2015
	10,266	2015			
	12,638	2013			
Prison population rate (per 100,000 of national population)	61	2017			
	61	2015			
	75	2013			
Demographics and immigration-related statistics					
		Observation Date			Observation Date
Population	16,925,000	2015	International migrants	2,056,500	2017
	16,700,000	2012		1,979,500	2015
				1,964,900	2013
				1,833,000	2010
International migrants as a percentage of the population	12.01	2017	Refugees	101,837	2018
	11.7	2015		103,860	2017
	11.7	2013		101,702	2016
				88,536	2015
				74,707	2014

Ratio of refugees per 1000 inhabitants	5.99	2016	Total number of new asylum applications	21,205	2016
	4.89	2014		21,811	2014
	4.33	2012		13,102	2012
Refugee recognition rate	13.2	2014	Stateless persons	1,951	2018
				1,951	2016
				1,951	2015

DOMESTIC LAW					
LEGAL TRADITION					
Legal tradition	Name		Observation Date		
	Civil law		2016		
LAWS AND REGULATIONS					
Core pieces of national legislation	Name		Year Adopted	Last Year Amended	
	2000 Aliens Act (Vreemdelingenwet)		2000	2019	
	2000 Aliens Decree (Vreemdelingenbesluit)		2000	2019	
LAWS AND REGULATIONS					
Regulations, standards, guidelines	Name			Year Published	
	2000 Aliens Circular (Vreemdelingen-circulaire)			2016	
GROUNDS FOR ADMINISTRATIVE IMMIGRATION-RELATED DETENTION					
Immigration-status-related grounds	Name			Observation Date	
	Detention to prevent unauthorised entry at the border			2016	
	Detention to prevent absconding			2016	
	Detention to ensure transfer under the Dublin Regulation			2016	
	Detention during the asylum process			2016	
	Detention to establish/verify identity and nationality			2016	
	Detention to effect removal				
GROUNDS FOR ADMINISTRATIVE IMMIGRATION-RELATED DETENTION					
Non-immigration-status-related grounds providing for administrative detention in immigration legislation.	Name			Observation Date	
	Detention on public order, threats or security grounds			2016	
LENGTH OF DETENTION					
Maximum length for administrative immigration detention in law.	Number of Days		Observation Date		
	540		2019		

LENGTH OF DETENTION				
Average length of detention	Number of Days		Observation Date	
	44		2018	
	43		2017	
	55		2015	
	67		2015	
	67		2014	
	72		2013	
	107		2013	
	75		2012	
	111		2012	
	76		2011	
	99		2011	
	103		2010	
	97		2009	
LENGTH OF DETENTION				
Maximum length of detention for asylum-seekers	Number of Days		Observation Date	
	450		2018	
PROCEDURAL STANDARDS				
Provision of basic procedural standards	Name	In Law	In Practice	Observation Date
	Independent review of detention	Yes		2016
	Right to appeal the lawfulness of detention	Yes		2016
	Compensation for unlawful detention	Yes		2016
	Right to legal counsel		Yes	2014
	Access to free interpretation services		Yes	2014
NON-CUSTODIAL MEASURES (ALTERNATIVES TO DETENTION)				
Types of non-custodial measures	Name	In Law	In Practice	Observation Date
	Designated non-secure housing	Yes	infrequently	2016
	Supervised release and/or reporting	Yes	infrequently	2016
	Release on bail	Yes	Yes	2014
	Registration (deposit of documents)	Yes	infrequently	2014
	Electronic monitoring	No	No	2014

VULNERABLE PERSONS				
Is the detention of vulnerable persons provided in law? Are they detained in practice?	Name	In Law	In Practice	Observation Date
	Asylum seekers	Provided	Yes	2018
	Accompanied minors		Yes	2018
	Unaccompanied minors		Yes	2018
	Accompanied minors		No	2016
	Unaccompanied minors		No	2016
	Accompanied minors		No	2015
	Unaccompanied minors		No	2015
	Stateless persons		No	2015

INTERNATIONAL LAW		
Relevant international treaties and date of ratification		
International treaties	Name	Ratification Year
	CRPD, Convention on the Rights of Persons with Disabilities	2016
	ICPED, International Convention for the Protection of All Persons from Enforced Disappearance	2011
	OPCAT, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	2010
	CTOCTP, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	2005
	CTOCSP, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	2005
	CRC, Convention on the Rights of the Child	1995
	CEDAW, Convention on the Elimination of All Forms of Discrimination against Women	1991
	CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1988
	VCCR, Vienna Convention on Consular Relations	1985
	ICCPR, International Covenant on Civil and Political Rights	1978
	ICESCR, International Covenant on Economic, Social and Cultural Rights	1978
	ICERD, International Convention on the Elimination of All Forms of Racial Discrimination	1971
	PCRSR, Protocol to the Geneva Convention Relating to the Status of Refugees	1968
	CRSSP, Convention Relating to the Status of Stateless Persons	1962
CRSR, Geneva Convention Relating to the Status of Refugees	1956	
Ratio of relevant international treaties ratified	15/19	

Relevant international treaties and date of ratification			
International treaty reservations	Name	Reservation Year	Observation Date
	CRC Article 37	1995	1995
	CRC Article 40	1995	1995
Relevant international treaties and date of ratification			
Individual complaints procedure	Name		Acceptance Year
	ICPED, International Convention for the Protection of All Persons from Enforced Disappearance, declaration under article 31		2011
	CEDAW, Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999		2002
	CAT, declaration under article 22 of the Convention		1988
	ICCPR, First Optional Protocol to the International Covenant on Civil and Political Rights, 1966		1978
	ICERD, declaration under article 14 of the Convention		1971
Relevant international treaties and date of ratification			
Ratio of complaints procedures accepted	Number		Observation Date
	5/7		
	5/7		

Relevant international treaties and date of ratification

	Name	Recommendation Excerpt	Recommendation Year
<p>Relevant recommendations issued by treaty bodies</p>	Human Rights Committee	<p>§25: (a) Ensure that immigration detention is used only as a measure of last resort and for as short a period as possible; (b) Strictly limit the use of isolation or solitary confinement in immigration detention; (c) Promote and apply non-custodial alternative measures in a systematic manner and strive to extend it to asylum seekers arriving at Schiphol International Airport; (d) Facilitate prompt judicial review of immigration detention decisions; (e) Review the Repatriation and Detention of Aliens Act (Wet Terugkeer en Vreemdelingenbewing) with a view to bringing it in line with international human rights law, including but not limited to a review of the treatment of children under the Act.</p>	2019
	Committee against Torture	<p>§ 14: The Committee urges the State party to ensure that the detention of asylum seekers is only used as a last resort, and, where necessary, for as short period as possible and without excessive restrictions, and to effectively establish and apply alternatives to the detention of asylum seekers; § 15: The Committee recommends that the State party: (a) Scrupulously observe the absolute time limit for the administrative detention of foreign nationals, including in the context of repeated detention; (b) Avoid, wherever possible, the accumulation of administrative and penal detention, in excess of the absolute time limit of 18 months of detention of migrants under migration law. § 16: The Committee urges the State party to ensure that the legal regime of alien detention is suitable for its purpose and that it differs from the regime of penal detention. The State party is also urged to use alien detention as a last resort and where necessary, for as short period as possible and without excessive restrictions, and to effectively establish and apply alternatives to such detention. § 17: The Committee recommends that the State party: (a) Verify the age of an unaccompanied child, if uncertain, before placing the child in detention. Such detention should be used as a last resort; (b) Take alternative measures to avoid detention of children or their separation from their families; (c) Ensure that unaccompanied minors can enjoy the rights guaranteed by the Convention on the Rights of the Child, to which the Kingdom of the Netherlands is a party.</p>	2013
	Committee on the Elimination of Racial Discrimination	<p>§ 11: The Committee recommends that the State party effectively implement its stated policy of using detention as a measure of last resort and redouble its efforts to establish alternative living arrangements for families and children in such situations.</p>	2010
	Committee against Torture	<p>§ 17. The Committee reiterates its recommendations (CAT/C/NDL/CO/5 - 6 , paras. 14-16) that the State party should ensure , including by revising the repatriation and detention of aliens bill , that: (a) Asylum seekers should not be routinely detained and , if necessary , should be detained only as a measure of last resort for as short a period as possible and in facilities appropriate for their status; (b) The administrative detention of foreigners , including in the context of repeated periods of detention , is not of long duration and is fully in line with international human rights standards , including revised deliberation No. 5 of the Working Group on Arbitrary Detention on deprivation of liberty of migrants (A/HRC/39/45 , annex); (c) All allegations of ill-treatment of asylum seekers and other foreigners in detention by police officers or prison guards are promptly , effectively and impartially investigated , and that perpetrators are prosecuted and punished; (d) The legal regime of alien detention is suitable for its purpose and is strictly differentiated from the regime of penal detention and , in particular , solitary confinement is not used as a disciplinary measure against detained asylum seekers and undocumented migrants ; (e) Asylum seekers and undocumented migrants who are deprived of liberty have adequate access to an independent and effective mechanism for addressing complaints of torture and ill-treatment; (f) All incidents and allegations of torture and ill-treatment of asylum seekers and migrants in detention are promptly , effectively and impartially investigated , prosecuted and , if found responsible , the perpetrators punished; (g) Independent national and international monitoring bodies and non-governmental organizations regularly monitor all places where asylum seekers and migrants are deprived of their liberty. 19. The State party should take all the measures to avoid the detention of children placed in migration detention facilities in all the constituent countries of the State party , including by using alternative measures to detention. It should also ensure that unaccompanied children asylum seekers have adequate access to appropriate assistance , including legal aid , throughout the asylum procedure.</p>	2018

Regional treaties, regulations, and directives

	Name	Year of Ratification (Treaty) / Transposed (Directive) / Adoption (Regulation)
Regional legal instruments	CPCSE, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse	2010
	ECHR, Convention for the Protection of Human Rights and Fundamental Freedoms (commonly known as the European Convention on Human Rights)	1954
	ECHR1, Protocol 1 to the European Convention on Human Rights (amended by protocol 11)	1954
	ECHR12, Protocol 12 to the European Convention on Human Rights	2004
	ECPT, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment	1988
	CATHB, Convention on Action against Trafficking in Human Beings	2010

Regional treaties, regulations, and directives

	Name	Recommendation Excerpt	Recommendation Year	Observation Date
<p>Recommendations issued by regional human rights mechanisms</p>	<p>European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)</p>	<p>§56: The use of means of restraint to be considered on individual grounds and based on the principle of proportionality. <u>Rotterdam Airport Detention Centre for Foreigners</u>: §61: To avoid, as far as possible, detaining families with children. If, in exceptional circumstances, detention cannot be avoided, its period should not exceed the maximum duration provided by law i.e. 28 days. §63: To review the practice at the Centre of locking up children in their cells. §67: To review the current practice as regards health-care screening of newly-arrived detainees. §69: To take steps to ensure that foreign nationals receive a written translation, in a language they understand, of the decisions concerning their detention as well as of the modalities and deadlines to appeal against such decisions. §71: to take steps to ensure that foreign nationals detained at the Centre are duly and regularly informed about the status of their case in a language they understand (if necessary, through phone interpretation). §72: To provide the possibility of unsupervised visits for detainees at the Centre. §78: to take the necessary steps to ensure that persons deprived of their liberty are only searched by staff of the same sex and that any search which requires an inmate to undress is conducted out of the sight of custodial staff of the opposite sex.</p>	<p>2011</p>	<p>2011</p>
	<p>European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)</p>	<p><u>Centro Dakota Immigration Detention Facility</u>: § 68: The CPT recommends that the Aruban authorities move forward urgently with developing and adopting appropriate regulations for the detention of irregular migrants. Such regulations should include the right to legal assistance, provided free of charge for persons without sufficient means, and the right of appeal. § 70: The CPT recommends that staff be selected and trained for the specific purpose of working with irregular migrants. § 72: The CPT recommends that the exercise yard be improved in the light of above remarks. The CPT further recommends that the Aruban authorities develop a range of purposeful activities for detained persons at Centro Dakota. The longer the period for which persons are detained, the more developed should be the activities which are offered to them. § 73: The CPT recommends that systematic medical screening of all immigration detainees, including for transmissible diseases, be introduced. Such screening should be carried out in a way that respects medical confidentiality. § 74: The CPT recommends that this provision in the draft House Rules be amended accordingly. § 75: The CPT recommends that all immigration detainees be expressly informed of their rights and the procedures applicable to them in a language they can understand. All immigration detainees should be systematically provided with a document setting out this information; the document should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available. Further, all official documents that immigration detainees are required to sign should be provided in a language they can understand. <u>Illegale Barakken Immigration Detention Facility</u>: § 203: The CPT recommends that specific regulations be developed which are appropriate for the detention of irregular migrants. Such regulations should include a maximum period of detention. Further, if the only reason of failure to deport is the lack of funds for an airfare, the CPT recommends that the State provide these funds much earlier in the process. § 204: The CPT recommends that the Curaçao authorities introduce such a legal remedy. Further, the CPT recommends that the right to inform a person of choice be guaranteed and that provision be made that costs of this notification are covered by the State. In addition, all immigration detainees should be expressly informed of their rights and the procedure applicable to them in a language they can understand. They should be systematically provided with a document setting out this information; the document should be available in the languages most commonly spoken by those concerned and, if necessary, the services of an interpreter should be made available. § 206: The CPT recommends that the Curaçao authorities develop a range of purposeful activities for detained persons at Illegale Barakken. The longer the period for which persons are detained, the more developed should be the activities which are offered to them. § 207: The CPT recommends that staff be selected and trained for the specific purpose of working with irregular migrants. § 208: The CPT recommends that systematic medical screening of all immigration detainees, including for transmissible diseases, be introduced. Such screening should be carried out in a way that respects medical confidentiality. § 209: The CPT recommends that all immigration detainees be granted the right to receive visitors, in particular relatives and representatives of relevant organisations, throughout the period of their detention.</p>	<p>2014</p>	
	<p>Council of Europe Commissioner for Human Rights</p>	<p>§100: The Commissioner calls on the Dutch authorities to ensure that detention of asylum seekers and immigrants is used as last resort, for the shortest possible period of time and only used after first reviewing all other alternatives and finding that there is no effective alternative, in accordance with the Resolution 1707(2010) of the Parliamentary Assembly of the Council of Europe. He notes the expressed intention of the Dutch authorities to make progress towards using administrative detention, both at the border and pending deportation, only as a measure of last resort. §101: As a first step in this direction, the Dutch authorities should stop the detention of all asylum seeker children. The Commissioner reiterates that any decision taken in the field of immigration detention concerning a child with or without his/her family should be taken in full compliance with the UN CRC and in particular Article 3 under which the best interests of the child shall be a primary consideration in all actions. Moreover, asylum seekers and immigrants belonging to vulnerable groups should not be kept in administrative detention according to the Commissioner. 102. The Commissioner wishes to stress that, according to the Court's case-law, administrative detention of asylum seekers and rejected asylum seekers is to be considered arbitrary if it continues for an unreasonable length of time.68 It is also to be considered arbitrary if it is not closely connected to the ground of detention,69 for instance if an alien is detained for the purpose of expulsion although the latter cannot reasonably be carried out.70 The detention of a rejected asylum seeker with a view to his/her expulsion is justified under Article 5§1(f) only for as long as deportation proceedings are in progress. §103: The Commissioner invites the Dutch authorities to apply all possible less intrusive measures than detention in the period before deportation. The Commissioner encourages the authorities to make the requirements for the few existing alternatives to detention less stringent and ensure that these alternatives can be used for foreigners who are to be returned or removed from the country on the basis of an individual assessment. §104: The Commissioner notes the intention of the Dutch government to merge the current detention regimes applicable to border detention and detention pending deportation into one single regime. He recalls the principle that immigrants should not be treated as criminals and urges the Dutch authorities to abandon the current criminal detention regime applicable to detention pending deportation and to opt for a nonpunitive regime in all cases of administrative detention of foreigners. In particular, the Commissioner urges the authorities to reconsider their plans of applying a very restrictive regime for the first two weeks of administrative detention, considering that the decision to apply such a regime should always be based on an individual assessment and be taken only where absolutely necessary. §105: The Commissioner urges the Dutch authorities to continue and strengthen their efforts in improving access to healthcare of immigrants in administrative detention. Finally, the Commissioner stresses that the 2011 CPT Standards offer useful guidelines on respect for human rights in the context of migrant detention.</p>	<p>2014</p>	

Bilateral/Multilateral agreements linked to readmissions				
Bilateral/multilateral agreements linked to readmission	Name	Year in Force	Observation Date	
	Germany	1966	2017	
	Austria	1965	2017	
	Belgium	1967	2017	
	Bulgaria	2005	2017	
	Croatia	2005	2017	
	Estonia	2005	2017	
	France	1964	2017	
	France	1999	2017	
	Hungary	2003	2017	
	Italy	2000	2017	
	Lithuania	2005	2017	
	Luxembourg	1967	2017	
	Poland	1991	2017	
	Romania	2006	2017	
	Slovakia	2004	2017	
	Switzerland	2007	2017	
	Albania	2008	2017	
	Armenia	2009	2017	
	Bosnia and Herzegovina	2007	2017	
	Kosovo	2011	2017	
	Macedonia	2008	2017	
	Montenegro	2004	2017	
	Montenegro	2012	2017	
Russian Federation	2011	2017		
Hong Kong	1997	2017		
Indonesia	1950	2017		
Non treaty-based international human rights mechanisms				
Visits by special procedures of the Human Rights Council	Name	Year of Visit	Observation Date	
	Special Rapporteur on violence against women, its causes and consequences	2006	2016	
	Special Rapporteur on the sale of children, child prostitution and child pornography	1998	2016	
Non treaty-based international human rights mechanisms				
Relevant recommendations by UN Special Procedures	Name	Recommendation Excerpt	Recommendation Year	Observation Date
	None			2016

Non treaty-based international human rights mechanisms			
Relevant recommendations of the UN Universal Periodic Review	Recomendation Issued	Year Issued	Observation Date
	No	2008	2017
	Yes	2017	2017
	Yes	2012	

INSTITUTIONAL INDICATORS

Governing structures

Federal or centralized governing system	Federal or centralized governing system	Observation Date
	Centralized system	2020

Governing structures

Centralized or decentralized immigration authority	Centralized or decentralized immigration authority	Observation Date
	Centralized immigration authority	2018

Institutions responsible for immigration detention

Custodial authority	Agency	Ministry	Ministry Typology	Observation Date
		Ministry of Security and Justice	Internal or Public Security	2016
	Aruba Police Force	Ministry of Justice (Aruba)	Justice	2014
	Curaçao Detention and Correction Centre	Ministry of Justice (Curaçao)	Justice	2014
	Immigration and Naturalisation Service	Ministry of Justice	Justice	2012
	Immigration and Naturalisation Service	Ministry of Justice	Justice	2010
	Immigration and Naturalisation Service	Ministry of Justice	Justice	2009
	Immigration and Naturalisation Service	Ministry of Justice	Justice	2008

Institutions responsible for immigration detention

Detention Facility Management	Entity Name	Entity Type	Observation Date
	Ministry of Security and Justice/ Custodial Institutions Agency	Governmental	2016
	Department for the Supervision of Foreigners (Aruba)	Government-local	2014
	Curaçao Detention and Correction Center	Government-local	2014
	Ministry of Justice / Department of Correctional Institutions / Special Services Department	Governmental	2012
	Ministry of Justice / Department of Correctional Institutions / Special Services Department	Governmental	2010
	Ministry of Justice / Department of Correctional Institutions / Special Services Department	Governmental	2009
	Ministry of Justice / Department of Correctional Institutions / Special Services Department	Governmental	2008

Institutions responsible for immigration detention															
Formally designated detention estate?	Formally designated immigration detention estate?					Types of officially designated detention centres					Observation Date				
	Yes						Police stations					2016			
	Yes						Dedicated immigration detention facilities					2016			
Institutions responsible for immigration detention															
Types of detention facilities used in practice	Immigration detention centre (Administrative)	Immigration field office (Administrative)	Transit centre (Administrative)	Reception centre (Administrative)	Offshore detention centre (Administrative)	Hospital (Administrative)	Border guard (Administrative)	Police station (Criminal)	National penitentiary (Criminal)	Local prison (Criminal)	Juvenile detention centre (Criminal)	Informal camp (Ad hoc)	Immigration detention centre (Ad hoc)	Surge facility (Ad hoc)	Observation Date
Yes			Yes					Yes							2016
Detention monitoring institutions															
Authorized monitoring institutions	Institution					Institution Type					Observation Date				
	Netherlands Institute for Human Rights (College voor de Rechten van de Mens)					National Human Rights Institution (or Ombudsperson) (NHRI)					2016				
	European Committee for the Prevention of Torture (CPT)					International or Regional Bodies (IRBs)					2016				
Detention monitoring institutions															
Is the national human rights institution (NHRI) recognized as independent?	Is the NHRI recognized as independent by the International Coordinating Committee of National Human Rights Institutions?										Observation Date				
	Yes										2016				
Detention monitoring institutions															
Does NHRI have capacity to receive complaints?	Does NHRI have capacity to receive complaints?							Observation Date							
	Yes							2016							
Detention monitoring institutions															
Does NHRI publicly release reports on immigration detention?	Does NHRI publicly release reports on immigration detention?								Observation Date						
	Yes								2016						
Detention monitoring institutions															
Do international and/or regional bodies (IRBs) visit immigration-related detention facilities?	Do international and/or regional bodies (IRB) regularly visit immigration-related detention facilities?										Observation Date				
	Yes										2013				
Detention monitoring institutions															
Do IRBs publicly report their findings from inspections?	Do IRBs publicly report their findings from detention inspections?								Observation Date						
	Yes								2013						
Outsourcing and privatisation															
Types of privatisation/outsourcing	Types of Privatisation/Outsourcing							Observation Date							
	Public-private partnership							2016							
	Health services							2016							
	Detention facility security							2016							

Outsourcing and privatisation

Detention contractors and other non-state entities	Name of entity	Type of entity	Detainee transport	Food services	Health care	Social services	Laundry services	Legal counselling	Management	Owner of detention facility	Recreation	Security	Telephone service	Translation services	Observation Date
	G4S	For profit										Yes			2016
	Unnamed company				Yes										2016

Expenditures

Estimated annual budget for detention operations	Estimated total annual budget for detention operations (in USD)	Building and maintenance	Security	Staffing	Food	Medical	Transport	Observation Date
		148,000,000						

Expenditures

Estimated annual budgets for particular detention-related activities	Individual detention-related activities	Estimated annual budget (in USD)	Observation Date
	Staffing	86,000,000	2014
	Medical	7,650,000	2014

More information about immigration detention in Netherlands is available at the website of the Global Detention Project (www.globaldetentionproject.org)



www.globaldetentionproject.org