



## Summary

### **Advisory report on a proposed amendment to the Regulations on Model House Rules tabled by member Ellian to ban 'De Vrije Zielen'**

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

On 29 October 2024, the Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles in the Netherlands ('the RSJ') issued an advisory report on a proposed amendment to the Regulations on Model House Rules tabled by member Ellian to ban the magazine 'De Vrije Zielen'. The Regulations on Model House Rules apply to penitentiary institutions, private treatment facilities for individuals detained under a hospital order, young offenders institutions and high-security institutions/units.

In this advisory report, the RSJ addresses whether a blanket ban of this magazine is necessary and proportionate. It also addresses an aspect of the proposed amendment from a legislative perspective.

#### **RSJ's opinion**

The right to receive information is not an absolute right. While statutory regulations can restrict the freedom to receive ideas or information, this restriction must be necessary and proportionate. A restriction may be necessary for reasons including national security and the protection of public safety. Inmates and other detainees can have their fundamental rights restricted to the extent that exercising these rights is incompatible with their detention.

#### *Necessity and proportionality*

The Custodial Institutions (Framework) Act, the Hospital Orders (Framework) Act, and the Young Offenders Institutions (Framework) Act already empower directors of institutions or facilities to oversee the content of letters and other postal items. They can refuse to hand over these items to inmates or other detainees if deemed necessary for security reasons. In practice, all incoming post to terrorist units, including magazines, is read and assessed. To this end, analysts have been appointed to thoroughly scrutinise the magazine for security aspects based on specific criteria. This screening method has been agreed in the National Consultation on Tackling Radicalisation and applies to the three terrorist units in Rotterdam, Vught and Zwolle.

Given that the directors of various (high security) institutions/units and private treatment facilities for individuals detained under a hospital order are already authorised to screen magazines for security aspects and to refuse to distribute them to inmates or other

detainees, the RSJ concludes that the proposed amendment to the Regulations on Model House Rules is unnecessary.

Moreover, the RSJ does not consider a blanket ban on the magazine, or certain issues of it, in all institutions/units and private treatment facilities for individuals detained under a hospital order to be proportionate, as this would result in a ban even when there are no specific objections to distributing the magazine.

*Legislative aspect*

If this magazine is banned, it is likely that more magazines will also be classified as prohibited reading material. It would also mean that the regulations would have to be continually revised. From a legislative perspective, it is preferable to refine the screening criteria if they do not meet practical requirements. However, there is currently no evidence suggesting that the existing screening criteria are inadequate.

The advisory report (in Dutch) can be consulted on the RSJ website.

