



Advisory report on the amendment of the 'Circular on detainees with an escape and/or societal risk', the amendment of the 'Regulation on the admission and refusal of visits and the restriction of telephone contacts' and the adoption of the 'Regulation Model House Rules for the Intensive Supervision Ward (AIT) and the Maximum Security Institution (EBI)' by the Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ)

Dear Ms Coenradie,

In early February 2025, the Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles ('RSJ') received a request to advise on the proposed amendments to: 1) the Circular on detainees with an escape and/or societal risk ('GVM circular'), 2) the Regulation on the admission and refusal of visits and the restriction of telephone contacts, and 3) the Regulation Model House Rules for the Intensive Supervision Ward (AIT) and the Maximum Security Institution (EBI).

Before addressing the specific circular and regulations, the RSJ considers it necessary to express its broader concerns. The RSJ observes a wider trend: an increasing use of far-reaching security measures for a growing group of detainees.¹ It notes that the proposed amendment to the Penal Principles Act (Pbw) introduces a stricter EBI regime and formalises an entirely new and strict AIT regime.² While the RSJ acknowledges the need to be able to impose temporary additional and stringent measures on certain detainees in the interest of safety in penitentiary institutions and public protection, it is concerned about the generic nature of these expanding measures and the limited scope for tailoring them to individual cases.

Furthermore, the RSJ considers the pace of the outlined developments to be troubling and fraught with risk. The RSJ elaborates on this concern further in this letter.

The three draft regulations submitted for consultation will be addressed separately in appendices I, II and III to this letter.

Amendments to the Penal Principles Act (Pbw)

The amendment to the Pbw, in connection with additional measures against organised crime during detention, and the associated proposed amendment, aim to strengthen the supervision of detainees who pose a serious threat to society. This is due to the risk that this group will use any opportunity to contact or communicate with the outside world in order to continue their criminal activities from within detention. In view of this risk, a

¹ This is also evident from the draft regulations submitted to the RSJ for consultation.

² Following the entry into force of the amended Pbw, the AIT will operate under an individual regime with an enhanced security level. At present, the AIT is a standard-security unit



stricter supervisory regime for AIT and EBI detainees is considered necessary – one that provides the most comprehensive possible oversight of external contact and restricts opportunities for communication.³ This proposed amendment to the Pbw has also led to changes to the three regulations currently under consultation.

RSJ's considerations

The RSJ observes a development in which increasingly stringent measures, with ever-wider scope, are being rapidly introduced, one after the other. Measures that were originally applied solely to the highest-risk group of detainees in the EBI are now being proposed for all EBI and AIT detainees.⁴

This is happening while the RSJ – aside from the known incidents – is not aware of any broader increase in risk, nor is such an increase evident from the explanatory notes to the regulations. The RSJ therefore finds these increasing security measures and their broad scope insufficiently substantiated. It observes that the tightened supervision measures for AIT and EBI detainees are largely identical, effectively erasing the distinction between the two regimes. This, while the risks posed by EBI detainees differ from those of AIT detainees. The RSJ has previously advocated for outlining the possibilities for scaling down between the EBI, AIT and standard-security units in the context of resocialisation. However, given the nearly identical nature of the EBI and AIT regimes, there no longer appears to be a genuine 'scaling-down process' between them. The RSJ finds this concerning and questions whether the tightened supervision measures meet the principles of proportionality and necessity, particularly where AIT detainees are concerned.

The RSJ is also concerned about the generic nature of the measures and the limited scope for tailoring them to individual cases. There is a risk that restrictions may be imposed beyond what is necessary for security. This risk is amplified by the planned expansion of EBI and AIT capacity to 60 and 126 places respectively, meaning these generic measures could apply to a substantial group of detainees.⁵ The RSJ considers this to be in conflict with the principles of minimal restrictions and the requirement of necessity. Furthermore, it undermines the humane treatment of individual detainees.⁶ Implementing stringent, generic measures with little scope for tailored solutions may

³ Explanatory notes to the Regulation amending the Regulation on the admission and refusal of visits and the restriction of telephone contacts. Explanatory notes to the Regulation adopting the model house rules for the Intensive Supervision Ward (AIT) and the Maximum Security Institution (EBI).

⁴ As recently as 2022, the RSJ issued an advisory opinion on the 2019 model house rules for the EBI, which applied tightened supervision measures to detainees held in the EBI on grounds c or d of Section 26 of the Regulation on the Selection, Placement and Transfer of Detainees (Rspog). Since then, these tightened supervision measures have been further expanded, and it is now proposed that they should apply largely to all EBI and AIT detainees.

⁵ Currently, there are 24 EBI places and 49 AIT places. See Parliamentary Papers II, 2024/25, 29 911, no. 465.

⁶ RSJ, *Advies wijziging Rspog en model huisregels EBI* (Advisory opinion on the amendment of the Rspog and model house rules for the EBI), The Hague: RSJ 2022.



The RSJ is happy to provide further clarification on this letter and the advice included in the appendices.

Kind regards,
on behalf of the RSJ Advisory Division,



Han Moraal, General Chair

