



J.O.D.A.
Juvenile Offenders Detention
Alternative in Europe

JUST/2013/JPEN/AG/4573

Snapshot

The Netherlands



Alternatives to detention for minor suspects / criminal offenders

THE NETHERLANDS

I.) Target group

Juvenile, also minor, under the age of majority: 12-18

Age of (full) criminal responsibility: 18

Minimum age of deprivation of liberty: 12

(There may be different limits or different penal rules for particular age groups, f.e. the minimum age for detention in an adult institution in the Netherlands is 16 with regard to the transition rules.)

Typical gender of children in detention: mostly boys

Comparable statistical data:

• TABLE 2. ARREST AND DETENTION¹

	2009	2010	2011	2012	2013
Total number of minors at the age of criminal responsibility (12 - 18) ^a	1.191.453	1.184.064	1.184.970	1.189.120	1.196.634
Total of minors heard by the police ^b	54.048	50.969	46.477	41.601	34.772
Police custody minors (<i>inverzekeringstellingen</i>)	8.059	9.234	8.240	7.603	6.963
Total number of minors in youth custodial institutions ^c	2.557	2.406	2.136	1.999	1.520
% minors in pre trial detention in youth custodial institutions at reference date ^d	73% (=265)	79% (=252)	74% (=219)	75% (=171)	74% (137)
Average number of days in pre-trial detention	36	38	40	40	38
Total minors with custodial treatment measure (<i>PIJ-maatregel</i>) at reference date ^d	64	47	42	40	30
Minors aged 12- and 13 placed in a youth custodial institution	–	33	43	23	27

This is table 2. Arrest and detention in the national report of the Netherlands.

II.) Characteristics of penal measures applicable

Crime, also criminal offence – an offence set in the Penal Code and for which the following punishments may be applicable: fine, community service, youth detention or a treatment measure.

Principal Punishments Imposed for Criminal Offences

- Pecuniary punishment – daily rates (405 to 4050 EUR) (Art. 77i PC). There can be substitutional imprisonment max 3 months.
- Confiscation
- Community work (*werkstraf*): max. 200 hours (art 77f PC and Art. 77m)
- Training (*leerstraf*): max. 200 hours (Art. 77m)
- Behavioural measure (Art 77w PC)
- Youth detention: deprivation of liberty
 - 12-16: 1 years (youth detention, Art. 77i PC)
 - 16-18: 2 years (youth detention, Art. 77i PC)
 - 16-18: (adult sentence, Art. 77b PC): lifelong imprisonment is excluded (77b lid 2 PC)

¹ Source: Ministry of Safety and Justice (DJI). ^a <http://statline.cbs.nl>; ^b Landelijke database GIDS; ^c Number of minors in a youth custodial institution on 1 January plus the number of minors that was placed in the institution during the year; ^d On 1 January of the next year. For example the number of 2013 is set on 1 January 2014.

18-23: Can be imprisoned by youth law (this is relevant in light of the obligation to the separation of children from adults. This makes it possible to place children and adults together in the same institution)

- Treatment measure (PIJ measure): deprivation of liberty (Art. 77s)

Penal measures (remand custody and/or imprisonment of convicts) can be applied from the age of 12

Types of custody:

- *police custody* – up to 72+15 hours, without the sanction of the court (in police cells) → a judge may extend this period to max 9 days and 15 hours for 12-16 year olds, and max. 16 days and 15 hours for 16-17 year olds
- *remand custody* – 90 days which can be prolonged twice with the maximum of 90 days. In cases of terrorism this can last at most 2 years extended (Art. 66 PP)
- *imprisonment* – youth detention, treatment (Pij-) measure (see above)

III.) When a crime is committed or respective information received...

<i>Stages of criminal proceedings and standard procedures</i>	<i>Alternatives, possible for (juvenile) offenders</i>
<p>Police, other <i>investigative body</i> or the prosecutor commences criminal proceedings when the minor is at least 12 years of age.</p> <p>Settlement by the Prosecutor using the ZSM-method which means ‘As Simple, Selective, Clever and Society-based possible’</p>	<ul style="list-style-type: none"> • dismissing the case (warning or reprimand) • The Alternative: HALT • Community work or training for a maximum of 60 hours within 3 months. • referral to child-protective authorities (may be additional to HALT) <p>a. dismissing the case (non-intervention) b. prosecution settlement (OM-afvoening), community work or/and training c. send the case to mediation d. asking for supervision order/family measure in child protection</p>

<p>Remand custody: When the Prosecutor takes the standard procedure and will send the criminal case to the court:</p> <ul style="list-style-type: none"> - After a maximum of three days police custody the minor is seen by a judge. - The Prosecutor can ask the judge for remand custody (max 90 days), if considered necessary. - 79% of the minors in youth justice institutions is in pre-trial detention. - Remand custody can be prolonged twice with 90 days. <p><i>The alternatives ‘suspension unless’, night</i></p>	<p>A. The court may divert or release the person from remand custody and impose the following sanctions:</p> <ul style="list-style-type: none"> • ‘Suspension unless’: go home ‘under conditions’. This can be a broad variation of conditions such as: recognised behavioural interventions, prohibition on the use of alcohol, time clock, supervision etc) as long as the judge approves of it. • Night detention • Electronic tagging or monitoring • Foster care instead of placement in youth justice institution
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<p><i>detention, foster care and child protection measure are specifically for minors.</i></p>	<ul style="list-style-type: none"> • Child protection measure
<p>Imprisonment:</p> <ul style="list-style-type: none"> - Youth detention - Treatment measure (Pij) - <p>Substitution to imprisonment which still results in deprivation of liberty (<i>only for minors</i>):</p> <ul style="list-style-type: none"> • Placement in a closed youth institution • Treatment (PIJ-measure/ TBS) 	<p>B. Types of Substitution of Imprisonment</p> <ul style="list-style-type: none"> • Community work and or training • Fine • Confiscation • Recognised behavioral interventions • Behavioral measure
<p>When the <i>court</i> has already decreed for imprisonment, still there are several means of release from (immediate) imprisonment, imposed by the same decree of the court, usually:</p>	<p>C. Release from Punishment</p> <ul style="list-style-type: none"> • Suspended youth detention with or without conditions • Suspended PIJ-measure with or without conditions • Scholing and Training Program (STP) for one year • Probation
<p>When none of the above described is applied, the juvenile is imprisoned and starts serving his/her sentence</p>	<p>Juveniles are usually kept in youth justice institutions. Children, young people and adolescents can be placed in these institutions. The age is 12 to a maximum of 29 years. In case of transition to the adult system young people aged 16 or 17 are placed in an adult prison.</p>
<p>Early release from prison</p>	<p>Release on parole</p> <ul style="list-style-type: none"> - youth detention: not likely regarding to its short maximum - adult detention for 16-17 years olds: release possible after 2/3 of the sentence