

'Offering opportunities for reintegration'

Administrative Agreement

Reintegration of (ex) justiciable citizens

01 July 2019

1. Offering opportunities for reintegration: a social task

A prison sentence or a measure of a hospital order is not just a deprivation of liberty. The deprivation of liberty does not merely aim at retribution but must also contribute to a safe and offence-free return of justiciables into society. Recidivism following a sentence has been served must be prevented as much as possible in order to protect society against social inconvenience and crime. The same applies to persons receiving forensic care as a part of the detention or in a compulsory context (e.g. a hospital order provided by the government). These justiciables also fall within this Administrative Agreement. In this Agreement, these groups are jointly referred to as 'justiciables'.

It is the collective social task of the Dutch Custodial Institutions Agency (hereinafter the DJI), the municipalities and the after-care and resettlement organisations to work together to achieve a successful reintegration of justiciables, to prepare them for their return into the society optimally, which we achieve by combining, where possible and necessary, our efforts at an early stage (at the beginning and during the deprivation of liberty and, if possible, already before) and by, among other things, involving the police, the Public Prosecution Service and the care. In our social function, we always have an eye for the interests of the victims, the relatives and the society.

We make a maximum effort to protect society through active engagement and active communication, preferably together with the justiciable and also if he/she does not wish to contribute to his/her reintegration.

Based on the life course approach, the municipality (or the *Veiligheidshuis*) is in charge of the process management of the overall process. This, in close cooperation with the prison system or the forensic care institution in charge of the case management of the internal process during the detention. Following the time in prison, the municipality or the after-care and resettlement organisations are in charge of the case management of the reintegration.

When there is still probation supervision after the end of the stay in the custodial institution, the after-care and resettlement organisations will be responsible for the realisation of the conditions and the supervision thereon, and the municipality for the potential offer of care and social facilities. They make arrangements during the stay in the custodial institution.

With this Administrative Agreement, we are expressing the joint responsibility and effort for a successful reintegration (ex) justiciables, without prejudicing the justiciable's responsibility. He/she will have the opportunity to work on a better life without crime after the deprivation of liberty. Security during the stay in the custodial institution and the gradual reintegration are therefore essential prerequisites.

2. The reason for the Administrative Agreement

Working on a safe return is an important principle of the view on custodial sentences 'Administering justice, offering opportunities, towards more effective custodial sentences'¹, in which it is announced that the covenant 'Reintegration of ex-offenders, *Direction to Reintegration*' from 2014 is reviewed to improve focus of the prison system, the after-care and resettlement organisations, and the municipalities when implementing the agreements in the regional and local practice. Additionally, prevention of recidivism by the detained citizens has been appointed to be one of the social functions from the inter-administrative programme² of the central government, municipalities, provinces and water boards.

Not only the Minister for Legal Protection, the DJI, and the municipalities are the co-signatories of this Administrative Agreement, since, for the first time, the after-care and resettlement organisations sign too. The after-care and resettlement organisations are the only partners involved in all phases of the criminal procedure, from the moment of the detention in police custody until the counselling following the end date of the detention or care. For this reason, the after-care and resettlement organisations have a unique position in the criminal justice chain. An intensive collaboration between the triad of DJI - municipalities - after-care and resettlement organisations (and, where it is required, the police, the Public Prosecution Service and the care) has proven to provide a stable basis for a successful reintegration of (ex) justiciables. This collaboration already starts at the beginning of the deprivation of liberty and, where possible, an earlier stage.

This new Agreement has a matching new name: Administrative Agreement 'Offering opportunities for reintegration', in sum 'the Agreement'. This Agreement is the follow-up to the 2014 covenant.

3. Group aimed at

The Agreement relates to adult (ex) justiciables (aged 18 years old and over) with a valid residency status who, following their stay at a correctional (care) institution in the Netherlands, return to a Dutch municipality. Each year there are approximately 30,000 return movements of detainees and around 180 of persons placed under a hospital order. Some of them at that time still under the compulsory supervision of the after-care and resettlement organisations.

So, this Agreement concerns, more explicitly, those justiciables

- with a short custodial sentence and arrestees;

¹ Parliamentary Papers II, 2017/18, 29 279 no. 439, 17 June 2018

² Parliamentary Papers II, 2017/18, 29 362 no. 266, 14 February 2018

- not staying at a penal institution but at a healthcare institution (pursuant to the custodial order for repeat offenders [*ISD-maatregel*], a hospital order with treatment provided by the government, or Art. 15.5 and 43.3 of the Dutch Custodial Institutions (Framework) Act [*Penitentiaire beginselenwet*]);
- staying, within the framework of phased detention or unsuitability for detention, outside a penal institution or remand prison during their detention;
- having committed a crime of terrorism;
- still posing a (potential) threat to public order and safety.

Juveniles are also in need of support at their reintegration after their deprivation of liberty. This concerns in particular minors after juvenile detention or placement in an institution for juvenile offenders [*PIJ-maatregel*] and young adults sentenced to placement in a young offender institution (18 - 23 years of age). The collaboration at the reintegration of this group was already set out in the '*Handreiking ten behoeve van de invulling van werkafspraken van justitiële organisaties en gemeenten*' (June 2018).

This Administrative Agreement does not, therefore, concern the juveniles.

4. Life-course approach as the focal point

The deprivation of liberty is a limited (short or more extended) period in the course of life of a citizen having committed a criminal offence. Therefore, our collective endeavour aims at the period of the deprivation of liberty and after and, where possible, at the period leading up to it. So, the activities we put into action have a life-course focus on the care before, during, and after for the justiciable and are, as much as possible, coordinated with the ongoing support, such as the care routes, training courses and debt assistance processes.

We jointly determine, to the extent possible, together with the justiciable:

1. the questions surrounding the reintegration:
 - His or her needs for support and what it would take to have him or her return to society free of crime?
 - What does it take to secure the safety of society as effectively as possible?
2. The reintegration offer: what kind of interventions and reintegration programmes may be continued or started and by which parties?
3. The reintegration motivation: how to enhance the justiciable's motivation to use the offer?

5. Necessary conditions for the reintegration

The justiciables must actively prepare themselves for their return in society from the beginning of their deprivation of liberty. When returning, the aim here is to have the fundamental affairs for a stable life in order, which contributes to fighting criminal behaviour.

At the beginning of the deprivation of liberty, a personalised reintegration plan is formulated, where possible, simultaneously by the parties, together with the justiciable citizen, aimed at the life course, the protective and risk factors and the necessary continuity of care. Where necessary, the DJI, the after-care and resettlement organisations and the municipality will reach agreements with the other parties involved.

The parties do not take any decisions which may harm or affect the other party. Information affecting the responsibility of the other is also shared.

It is determined per justiciable:

- which (already started) interventions will be continued during the detention;
- which interventions may be started;
- which interventions must be followed up after the deprivation of liberty, whether or not within the framework of a special condition;
- who will assume which tasks and responsibilities;
- who will be in charge?

Forensic care uses the term 'individual treatment plan', with attention to - besides the basic conditions - risk and protective factors and the necessary (continuity of) care.

In the reintegration plan attention is given to:

1. accommodation. Accommodation reduces the risk of vagrancy and an appeal to old criminal networks. Return is, in principle, to the municipality of origin, unless there are strong reasons against it. In case of strong reasons, the municipality of origin will consult with the receiving municipality at an early stage.
2. Income from work or a (temporary) payment to meet livelihoods needs, daytime activities and training.
3. Insight into any debts and a repayment schedule. Debt may cause criminal behaviour.

4. A valid identity document: ID card or passport, needed to acquire, e.g. income, work or home. Besides, not being able to show a valid proof of identity is an offence per se.

5. Diagnose somatic and mental care needs and, where relevant, see to an appropriate indication and the creation of any continuity of (forensic) care. In this context, it is also vital that justiciables immediately have health insurance so that they have the necessary care.

There is an additional safeguard In case of a hospital order with compulsory treatment. This is because based on the risk of recidivism, the court determines whether a hospital order may be ended.

In addition to these conditions, we make strong efforts to motivate the justiciable to a change in behaviour. Apart from that, we support him or her in building or enhancing a positive supporting social network, which also serves as a protective element in the prevention of recidivism.

How we may collaborate, we described in a set of guidelines for the return of detainees and a set of guidelines for the return of persons staying at a healthcare institution under a court order. These sets of guidelines are made available digitally and updated periodically.

6. Legal basis for data sharing

The municipalities receive information from the DJI about the beginning and the end of the deprivation of liberty. This is done pursuant to the Judicial Data and Criminal Records Act [*Wet justitiële en strafvorderlijke gegevens*] (Section 51C, subsection *WJSG*). This information is necessary for a joint start of the reintegration plan.

With the provision that there is a legal basis for data sharing, the after-care and resettlement organisations, the prison system, and the municipalities may give further effect to their reintegration duty. For this reason, at the entry into force of the draft section *straffen en beschermen* (to punish and to protect) there will be a legal basis for the data sharing regarding the basic conditions between the *DJI*, the municipalities, and the after-care and resettlement organisations (draft section 18a Custodial Institutions (Framework) Act [*Pwb*]). This draft section also contains provisions for the Public Prosecution Service, the police, the after-care and resettlement organisations, the *DJI*, and the mayor to share information about detainees having an average or high risk of committing a serious crime of violence or sex crime (draft section 18b *Pbw*).

The entry into force is envisaged per 2021. Without these legal bases, the realisation of the ambitions of this Administrative Agreement is not possible.

At the same time, the *Bestuurlijke Informatie Justitiabelen* (provision of management information on justiciables) regulation (the *BIJ*-regulation) will be amended to improve the BIJ notifications and the integrity of the system. It is also considered how the BIJ notifications may better suit the mayor's need for information. This involves close consultation with the VNG, DJI and Justid.

At the regional level, the municipalities may agree upon the collaboration and the data sharing in the domain of the care and safety with the DJI and the other parties involved within the legal frameworks. On 7 March 2019, the *Landelijke stuurgroep Zorg en veiligheid* determined a new version of the '*Handvat Gegevensuitwisseling in het Zorg- en Veiligheidsdomein*'. This version has been completely adapted to the European Privacy Legislation, the General Data Protection Regulation (GDPR) and the amended legislation in response to the implementation of the European Data Protection Directive Investigation and Prosecution. (www.veiligheidshuizen.nl/handvat and www.veiligheidshuizen.nl/gegevensdeling)

7. Support and governance

The DJI, the after-care and resettlement organisations and the municipalities each have their own (legal) tasks and competences in the reintegration process. A successful reintegration largely depends on the collaboration between the DJI, the after-care and resettlement organisations, and municipality in practice. They endeavour, where necessary, to jointly and timely create for each justiciable citizen one integral reintegration plan centred on the life-course. For those justiciables in forensic care, it is the responsibility of the health care institution to formulate the personal treatment plan and the continuation of the care. The after-care and resettlement organisations, the municipalities, and the DJI are essential partners in the creation of the preconditions for a proper reintegration and the continuity of the care.

The purpose of the *Verbindend Landelijk OndersteuningsTeam (VLOT)*, among other things, is the support of the regions in the reintegration of the ex justiciables. *VLOT* includes a supraregional team of representatives of the clients (VWS, JenV, BZK and VNG) throughout the Netherlands and a regional support team of ten regional advisers helping the municipalities and their partners in achieving an efficient approach of vulnerable groups. When appropriate, *VLOT* offers advice and counsels the municipalities on the design of the reintegration process on a local level.

To address any obstacles in the implementation in practice, use is either made of an existing administrative consultation structure or arrangements will be for the latter. In the absence of a solution for the obstructions encountered at that level, escalation may be initiated to the national *regiegroep* (control group) *Visie*

'Administering justice, offering opportunities', and depending on the nature of the problems to the national *Stuurgroep* (steering group) 'Zorg en Veiligheid'.

The control group monitors the collaboration between the implementing parties and the results of the Administrative Agreement.

ADMINISTRATIVE AGREEMENT

Parties

- The Minister for Legal Protection;
- The municipalities, on their behalf the VNG (Association of Netherlands Municipalities);
- The Dutch Custodial Institutions Agency [DJI] of the Ministry of Justice and Security;
- The three probation organisations Reclassering Nederland, Stichting Verslavingsreclassering GGz en Stichting Leger des Heils Jeugdbescherming & Reclassering.

Taking into consideration that:

- public safety and a safe crime-free return are paramount;
- The parties within their professional scope take responsibility for a safe return in society, without prejudice to the justiciable's responsibility.
- The justiciable, in the process, may be supported, depending on his or her abilities.
- The collaboration aims at a successful reintegration of the justiciable by getting the primary conditions in order, motivating to behavioural change and consolidating the social network and taking into consideration the safety risks.

The parties agree that they will jointly where necessary and possible,

- determine simultaneously and together with the justiciable citizen the reintegration need on the five fundamental conditions and the reintegration plan, already at the very start of the deprivation of liberty (and possibly before);
- involve in the activities for this purpose, such as advice to the judiciary, the reintegration plan and the connection to and availability of the facilities in the social and healthcare domain.
- dedicate to the continuation of as many as possible projects launched before, during and after leaving the institution (life course approach);
- attune to the course of the reintegration route, the allocation of tasks and responsibilities and the control.

With this Agreement, we determine administrative ambitions. The design of these ambitions requires time and a solid legal basis for data sharing. Moreover, the implementation of the ambitions requires a tailor-made approach centring on the personalised approach: tailor-made collaboration and support!

The municipalities, the DJI, and the after-care and resettlement organisations joint produce a set of guidelines '*Richting aan Re-integratie in de praktijk*' for the reintegration of the (ex) detained citizens. This set of guidelines offers guidance for the local interpretation of the Administrative Agreement. There will be a separate set of guidelines for residential forensic care. These digital sets of guidelines are actualised periodically based on new insights, new responsibilities, new laws and regulations, and (locally) developed good practices.

We believe that the ambitions in this Agreement, together with the sets of guidelines, will help shape the direction of the regional and local practice for the benefit of successful reintegration of the (ex) justiciable citizens and societal security.

Alphen aan den Rijn, 1 July 2019

The Minister for Legal Protection,



Sander Dekker

On behalf of the Municipalities (VNG),

The Mayor of Alphen aan den Rijn,



Liesbeth Spies

On behalf of the Custodial Institutions Agency [DJI]

The managing director of the Custodial Institutions Agency,



Gerard Bakker

On behalf of the probation organisations,

The director of the Reclassering Nederland,



Johan Bac