

EXECUTIVE SUMMARY

At least since the publication of the 2019 report “*Onvoldoende beschermd, geweld in de Nederlandse jeugdzorg van 1945 tot heden*” (“Insufficiently protected, violence in Dutch youth care from 1945 to the present”) by the *Commissie Onderzoek naar Geweld in de Jeugdzorg*, the prevention of violence including ill-treatment in youth care, and in closed residential youth care (*JeugdzorgPlus*) in particular, has been an expressed priority for the Dutch authorities. Nevertheless, allegations of ill-treatment of children by staff working in *JeugdzorgPlus* establishments continue to be reported in national media.

The objective of this ad hoc visit to the Netherlands was to examine the measures undertaken by the Dutch authorities to counter violence amounting to a violation of Article 3 of the European Convention on Human Rights (ECHR) in *JeugdzorgPlus* institutions. To this end, a delegation of the CPT visited three *JeugdzorgPlus* establishments: IHub, location Oost Gelre, in Harreveld; Schakenbosch in Leidschendam; and ViaJeugd in Cadier en Keer.

During this visit, no allegations of deliberate physical ill-treatment by staff of the children in their care were received. On the contrary, most children interviewed by the delegation mentioned that they were treated well by staff. Violence between children did occur and, in general, staff intervened rapidly.

However, the CPT received several allegations from children of excessive use of force by staff, particularly during the application of manual restraint (holding and grabbing) and found reports of several incidents of this nature in the files consulted, resulting in pain and bruising for the child. Further, although manual restraint techniques causing pain are prohibited, from interviews with children and staff alike it became clear that such techniques are still in use. In the view of the CPT, the use of pain-inflicting restraint techniques may very well amount to ill-treatment under the terms of Article 3 ECHR.

As the application of means of restraint may lead to injuries, in the view of the CPT, a medical examination should be introduced after every incident of restraint. Such medical examination is for the benefit of the child, as it would lead to an investigation if injuries were detected, and acts as a safeguard against the use of certain harmful techniques.

To reduce and better regulate the use of manual restraints and other restrictive measures, new legislation had been introduced from 1 January 2024. However, even before its entry into force, it was already known to the Netherlands authorities that the law would not be implemented in full: by means of a letter addressed to the State Secretary for Health, Welfare and Sport, representatives of the closed residential youth care facilities made it clear that they would continue to lock children in their rooms, although prohibited under the new law. Further, in the individual establishments visited, the CPT found that various other provisions of the law had not been implemented in practice. Through its interviews with staff, the CPT learned that safety concerns were often a reason for non-compliance. Specifically concerning the application of manual restraint, the CPT observed confusion as to which techniques are permitted under the new legislation. Also, it could not be guaranteed that all staff applying manual restraint had been properly trained to do so. In this context, the CPT holds that the Dutch authorities should take responsibility for setting child-appropriate standards, and subsequently ensure their proper implementation, to remove the risk of ill-treatment when applying restrictive measures and to protect these children, who are under the care of the state, from violence.

In its report, the CPT recalls the human rights obligation resting upon the Netherlands: it should ensure the safety of children placed by the state in private institutions, in particular through fit-for-purpose inspections and a well-functioning complaints mechanism. While it is positive that the

Health and Youth Care Inspectorate has once again assessed its working methods to improve its ability to detect violence against children, its capacity remains limited.

As to the formal complaints mechanism, it appeared that this is rarely used. Further, even if complaints alleging ill-treatment are lodged, there is no certainty that these complaints are properly investigated.

Under these circumstances, the Dutch authorities should seriously consider equipping both the Children's Ombudsman and the Netherlands National Preventive Mechanism with adequate staff and a suitable mandate to carry out complementary monitoring as to the treatment of children in *JeugdzorgPlus* institutions.