Custodial Institutions Agency
Ministry of Justice and Security

Information

Legal assistance providers of detainees who are staying in an intensive supervision unit

FOR LEGAL ASSISTANCE PROVIDERS

Legal assistance providers of detainees who are staying in an intensive supervision unit (AIT) and/or maximum security institution (EBI)

Legal assistance providers are:

- **lawyers; or**
- **staff members of an organisation, insofar as they are responsible for providing legal assistance; or**
- **civil-law notaries, bailiffs and other persons who have been designated as legal assistance providers by the Legal Aid Board.** [1]

Other persons, including legal assistants at law firms, cannot represent you as legal assistance providers.

NO MORE THAN TWO LEGAL ASSISTANCE PROVIDERS

Under the amendment to the Custodial Institutions (Framework) Act, a detainee held in a intensive supervision unit or maximum security institution may designate a maximum of two legal assistance providers who have access to the detainee.

The detainee must complete the form 'Designated legal assistance provider' (*Aangewezen rechtsbijstandverlener*) for this purpose. If the detainee has named you as their 'designated legal assistance provider', the penitentiary institution (where your client is being detained) will contact you. On the form, you confirm that you are acting as a lawyer, stating your National Database of Attorneys-at-Law number (BAR number). Return the form to the penitentiary institution. You will then have access to the detainee and will be able to communicate with them in confidence. The following rules apply to mail items:

- Privileged mail items originating from the two designated legal assistance providers may be handed over to the detainee. [2]
- Privileged mail items originating from other legal assistance providers may not be handed over to the detainee. These mail items will be returned to the sender, stating the reason.
- Non-privileged mail items originating from other legal assistance providers may be handed over to the detainee. The contents of these mail items may be checked.

REPLACEMENT OF A DESIGNATED LEGAL ASSISTANCE PROVIDER

A designated legal assistance provider may (with the permission of the detainee) submit a request to the Director-General of the Custodial Institutions Agency (DG DJI) to be replaced by another legal assistance provider in exceptional circumstances. This request must be accompanied by a statement from the legal assistance provider indicating:

- the exceptional circumstances (e.g. illness, holiday or other reasons);
- the duration of the replacement (no more than four weeks); and
- the replacement legal assistance provider.

Only with the permission of the DG DJI can a replacement legal assistance provider act as 'designated legal assistance provider' and be designated as a privileged contact (with regard to visits, telephone calls, mail etc.).

If you wish to be replaced in exceptional circumstances, you can submit a request to the penitentiary institution where your client is being detained (for the attention of the Detention & Reintegration Department). [3] The penitentiary institution will ensure that the request is forwarded to the DG DJI.

For the sake of clarity, you should submit the request as soon as the exceptional circumstances are known in order to allow the DG DJI to make a decision in good time.

[1] See Section 13(1) of the Legal Aid Act.
[2] These mail items may be checked for contraband in the presence of the detainee.
[3] You can find the address details of the relevant penitentiary institution at www.dji.nl/locaties.

ADDITIONAL LEGAL ASSISTANCE PROVIDER

If a detainee becomes involved in legal proceedings in other jurisdictions and the two designated legal assistance providers do not have the necessary knowledge and expertise, the detainee has the right to an additional legal assistance provider with whom they can communicate in confidence. In such situations, the detainee can ask the DG DJI for permission to designate an additional legal assistance provider. Only with the permission of the DG DJI can an additional legal assistance provider act as 'designated legal assistance provider' and be designated as a privileged contact (with regard to visits, telephone calls, mail etc.).

If the detainee wishes an additional legal assistance provider, they can submit a request to the penitentiary institution where they are being detained. The penitentiary institution will ensure that the request is forwarded to the DG DJI.

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