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Ad-Hoc Query on 2023.8 Drugs in Detention Centers

Requested by EMN Belgium on 13 February 2023

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden (22 in Total)

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1. BACKGROUND INFORMATION

This ad-hoc query is launched at the request of the Coordination of Closed Detention Centers in Belgium

During the month of January 2023, there was a coordination meeting of the closed detention centers in Belgium. The directors of the Detention Centers are concerned with the trafficking of drugs inside their structures which has been rising in a significant manner. The Royal Decree in Belgium only states that 'it is allowed to take the necessary measures when it is clear there is a forbidden object'. However concerning drugs it is very difficult to have enough evidence to 'incriminate' a resident.

The Belgian authorities would like to know:

We would like to ask the following questions:

1. How does your member state regulate and sanctions the trafficking of drugs inside the detention centres (e.g. law, internal rules, circulars, practice, etc.)?
2. What is considered to be "high traffic of drugs" in a detention facility? Please explain.
3. How do you proceed once that the administrative staff of the centres has determined that there is a high traffic of drugs (e.g. involved the security staff, the police, public prosecutor)?
4. Does the legislation or administrative practice allows the security staff of the detention centers to carry body search of the residents in case there is suspicion that the individual is hiding drugs on him/her? YES/NO. If you answer no, please indicate how you can carry out the procedure? Please explain.


We would very much appreciate your responses by **13 March 2023**.

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2. RESPONSES

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		Wider Dissemination	
	EMN NCP Austria	Yes	<p>1. In Austria, the production, acquisition and possession of narcotic drugs as well as the medical treatment with and prescription of narcotic drugs is regulated in the Narcotic Substances Act (Suchtmittelgesetz). In regard to detention centers, Article 6 para 4c Narcotic Substance Act allows the Federal Ministry of the Interior and the provincial police directorates to acquire, process and possess narcotic drugs to the extent required for the medical care of detained persons as provided by the law.</p> <p>The Narcotic Substances Act further sanctions illicit actions with narcotic drugs, including drug trafficking (Article 28a and 31a leg cit). A higher range of penalty applies in certain cases, for example, if the individual traffics drugs as a member of a criminal organization or in large quantity (Article 28a para 2 subpara 1 and 3; 31a para 2 and 3 leg cit).</p> <p>2. The term was not coined or used by the Austrian Federal Ministry of the Interior, which is why no definition can be given. In general, it can be assumed that this is a significant deviation from the average, both in terms of quantity and type of substance. Since detainees pending deportation are less law-abiding people (approximately half have criminal records or detention pending deportation is carried out directly after judicial detention and the others also have demonstrated their disregard for the legal system, otherwise imposition of detention pending deportation would not have been necessary), they are also known for an increased proportion of illicit drug users. On the part of the administration, of course, there is a zero-tolerance strategy when dealing with this behavior in all detention centers.</p> <p>Source: Ministry of the Interior</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.


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			<p>3. All cases are handled by the police and prosecuted by the public prosecutor's office, with prosecution not deviating from the generally foreseen procedure. A wide range of search and seizure techniques and procedures are used to eliminate the availability of illegal drugs in detention centers. These supply reduction measures include: cell and facility searches, entry/exit screening and searches, design changes to visiting areas, closed circuit surveillance (CCTV), perimeter security measures and purchasing goods only from approved suppliers. Source: Ministry of the Interior</p> <p>4. Every detainee is searched upon their admission to the detention centre (Article 6 para 4 Detention Regulation). In certain circumstances defined by the law, for example, if a detainee poses a significant threat to order and security, the supervisory body in charge may order necessary specific safety measures, including the more frequent search of the detainee, their belongings and their cell (Article 5b Detention Regulation). Body searches under § 40 of the Security Police Act; Sicherheitspolizeigesetz - SPG differ from body searches in the criminal justice system (§§ 24 and 139 of the Code of Criminal Procedure; Strafprozessordnung - StPO) in terms of purpose. They serve to avert dangers as they aim at bringing objects to light by which detainees may jeopardize their own physical safety and that of third parties (including co-detainees) or which could facilitate or enable their escape. By law, it is not required that there are special grounds for such suspicion. In police detention, the clothes and bodies of fully dressed detainees are usually only searched by way of a hand-held detector ("frisk search"), for example when detainees return after having been taken to an appointment outside of the detention center. With proportionality in mind, searches where detainees are entirely or almost entirely undressed ("strip search") are only carried out after the need for this has been assessed (on a case-by-case basis). In this context, it might be pointed to a recent decision of the Administrative Court of Vienna regarding the issue of "arrestees stripping down for the purpose of body search" (Vienna: 17 June 2020, VGW-102/067/2134/2020). Excerpt: "§ 40 SPG grants authority to search arrestees; pursuant to § 40 para 4 first partial sentence SPG a distinction is drawn between searching the clothes and an (external) inspection of the body; when a detainee is searched, he or she may be asked to undress entirely. However, body searches of persons are not an end in themselves. They aim at ensuring that the person searched neither jeopardizes his or her own safety nor the safety of others. This is the benchmark against which the intensity of search is to be</p>
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			<p>measured. If the arrestee is a potential risk, this may also justify complete stripping down. The lower the potential risk, the more disproportionate undressing becomes for a body search" (see also Supreme Administrative Court rulings of 29 July 1998, 97/01/0102, and of 07 October 2003, 2001/01/0311). Source: Ministry of the Interior</p>
	EMN NCP Belgium	Yes	<p>1. This is a very difficult issue. The detention centers are seen as private (but governmental at the same time) so the law for public order does not apply as such. The Royal Decree isn't very detailed when it comes to drugs in the detention centers. In the centers we work as follows:</p> <p>1. If the drug possession is established (only possible if detected during the visit, cfr on an external visitor, during the stay at the center, or when the transfer of drugs from visitor to resident is detected during the visit AND the substance is confirmed as a drug by the police) the following actions are taken:</p> <ul style="list-style-type: none"> - Complete search of the resident possible after each visit. This is indicated on the visitor list, here the search is mentioned. The search register clearly states who the director of duty was who gave the initial approval for the full search. - Visit with two tables between visitor and resident so that no physical contact is possible (if the suspected drugs are most likely brought in via the visit). <p>2. When it is 'hearsay', so if there is no objective data (e.g. statement from fellow residents, a resident walking around high after the visit, link with other drug cases in the center), the broader context is considered:</p> <ul style="list-style-type: none"> - What is the reliability of the statement of the co-resident? - Are there other problems with the resident? - Are there multiple testimonials independent of each other? - ... <p>In this case one cannot speak of a serious suspicion unless the broader context provides a global picture. Only then a one-off full search can be carried out (or, if the facts occur shortly after the visit: a one-off full search after the visit). If a seclusion security measure is appropriate for reasons of security/tranquility, a full body search can also be carried out. Please note: if the search does not lead to the finding of drugs, there can be no question of a systematic complete search after each visit.</p>



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			<p>2. We work with HOR-codes to indicate specific behaviour linked to a resident. One of the codes is 13. HOR 13 means the resident is 'labelled' as having behaviour linked to toxicomania. At this moment there is an increase of 60 or 70 % of residents who get this HOR code (compared with the baseline). So we have at this point a considerable amount of toxicomaniac residents.</p> <p>3. See also the answer to the first question.</p> <p>When a substance is found that is suspected to be drugs, the resident attaché (or director of duty in her absence) is informed by the coordinating security agent. Attaché residents (director of duty in her absence) will contact the local police with the request to collect the suspected drugs. The coordinating security agent fills in two copies of a drug form (internal document). It is noted who contacted the police, who was contacted and who handed over the substance to whom. Until the police come to collect the suspected drugs, they are kept together with the drug forms in a container on the coordinating security agent's desk. The police will test the substance and communicate the result to the center. It has been agreed with the police that they will come and collect the suspected substance from the center as soon as possible after they have been contacted via the residents' attaché, and that they will give a definite answer within 48 hours as to whether it actually concerns drugs. If no feedback has been received from the police after 48 hours, the resident attaché (director of duty in her absence) will contact the police again. The feedback and the result of the testing by the police are noted on the form (internal document). When the entire procedure has been completed and the document has been filled in completely, the residents' attaché (director of duty in her absence) sends the form to the director of the center. Only when it is confirmed by the police that it actually concerns drugs, a sanction can be taken with regard to the resident concerned (warning or withdrawing favours) and a full search can be carried out after the visit (if it is certain that the drugs is brought in during visit). The decision on a full search after the visit is always made in consultation with the director of the center. It can be decided to conduct a complete search once after a subsequent visit, to schedule a complete search after the visit on an irregular basis or systematically after each visit.</p> <p>Some centers have a good cooperation with the police , others don't.</p>
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			4. The procedure is explained above.
	EMN NCP Bulgaria	Yes	<p>1. If trafficking of drugs inside the Special Homes for Temporary Accommodation of Foreigners (SHTAFs) is established, the provisions of the Law on Control of Narcotic Substances and Precursors, the Criminal Code and the Criminal Procedural Code are applied. According to the Regulation of the Internal Order in the SHTAFs within the Ministry of Interior, when prohibited objects (including drugs) are established, actions shall be taken according to the Law on the Ministry of Interior.</p> <p>2. If the cases of drug trafficking exceed 1% of the accommodated foreigners, we would consider that there is a high traffic of drugs. In the last 2 years, a total of 25 812 foreigners were accommodated in SHTAFs. For this period, there were 4 attempts of drug trafficking which in practice is 0,015% compared to all accommodated foreigners. For this reason, it cannot be considered that there is a high traffic of drugs.</p> <p>3. If the administrative staff of the SHTAFs has determined that there is a traffic of drugs, the drugs are seized and the competent territorial authorities are notified to take action according to the Bulgarian legislation.</p> <p>4. Checks of personal belongings of all foreigners are carried out upon accommodation at the SHTAFs. Checks are also carried out of all parcels brought personally by a visitor or sent by courier to a foreigner accommodated in a SHTAF. In case there is suspicion that the individual is hiding prohibited objects (including drugs), the officers of the SHTAFs with police powers have the right to conduct a personal search of the accommodated foreigners. Periodic checks for prohibited objects (including drugs) are also carried out in the sleeping areas where the persons are accommodated.</p>
	EMN NCP Croatia	Yes	<p>1. In eventual case of trafficking of drugs inside the reception centers, or any other form of drug trafficking is regulated by internal rules "Ordinance on the stay at the reception centre for aliens (art. 24) and sanctioned by the Penal Code (art. 190. And 191.)</p>



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			<p>2. Until now no cases of drug trafficking in reception centers is registered, therefore, we have never experienced anything that may be qualified as "high traffic of drugs".</p> <p>3. According to the regulations it is prescribed that the investigation of the eventual cases of drug trafficking inside the reception centers, is conducted by the drug investigators of the police station on whose territory the center is located. In serious cases, drug investigators of regional police administrations would be involved.</p> <p>4. All three Reception Centers in Republic of Croatia are managed and secured by police authority, which means that the authority for body search of the residents is conducted according to the legal regulations which gives the authority to Police officers to conduct a body search. In the case of reception centers the art. 217. Par. 1. Of The Aliens Act, gives the permission to police officers to conduct a body search and his personal effects. ("In the procedure of forcible removal or accommodation in the Centre, police officers shall be authorized to search a third-national and his personal effects without a court warrant for the purpose of finding and seizing any items that might be used for attack, self-injury or escape. A certificate shall be issued on the items seized." Art. 217.p.1. of the Aliens Act.) If during the body search it is determined that the searched individual is hiding drugs on him/her, local police station will be informed who will start the investigation.</p>
	EMN NCP Cyprus	Yes	<p>1. There are Standard Operating Procedures both for the prevention of the transfer of drugs in the Detention Centres and also in case of confiscations. All visitors undergo a body search. Also, items brought for detainees are thoroughly searched before being handed over to them. In case, drugs are discovered during searches, are confiscated and the competent drugs law enforcement authority is informed to further investigate.</p> <p>2. Since the beginning of operations at the Menoyia detention center in 2013, 5-6 cases of attempts to transfer small quantities of narcotics were discovered. No cases of drugs in the possession of detainees were discovered though the cells and common areas are searched at regular intervals. Thus, there was no need to come up with such a definition so far.</p>

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			<p>3. The Detention Centres in Cyprus are operated by the Police. When there is a suspicion of drug trafficking, thorough searches are carried out both in the cells and common areas as well as body searches of the detainees. As mentioned above, if a suspicious substance is discovered, the case is duly investigated and the offenders are prosecuted in front of court.</p> <p>4. The law and regulations of detention centers, give the power to any member of the security personnel, to conduct body searches and searches in all areas. If the search reveals a criminal offence, the standard investigative and criminal procedures are followed.</p>
	EMN NCP Czech Republic	Yes	<p>1. Criminal law is applicable: Whoever unlawfully manufactures, imports, exports, transports, offers, mediates, sells or otherwise procures or stores for another a narcotic or psychotropic substance, a preparation containing a narcotic or psychotropic substance, a precursor or a poison, shall be punished by imprisonment for one to five years, or monetary penalty.</p> <p>2. Every amount seized.</p> <p>3. Administrative staff notifies the police.</p> <p>4. No. According to the Czech law only police is authorized to carry out body search.</p>
	EMN NCP Estonia	Yes	<p>1. The detention centre is governed by the law and the internal rules of detention centre. In Estonia, drug-related penalties are regulated by the Penal Code.</p> <p>2. In a detention centre, any traffic of drugs is considered a "high traffic". In the detention centre, there have been no such situations where drugs have been found.</p> <p>3. There haven't been such cases.</p> <p>By the internal rules of the detention centre, it is prohibited for an alien to possess narcotic, psychotropic and other substances which are narcotic or strong. If an alien is found to be in possession of prohibited narcotic</p>


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+	EMN NCP Finland	Yes	<p>1. Possession of narcotics, alcohol and other intoxicating substances is prohibited in the detention units by law. In Finland, the possession of narcotics is also generally criminalized. All detainees undergo a strict security check upon arrival and a repeated check can be conducted whenever there are reasonable grounds to suspect that the detainee is in possession of any contraband items or substances. Both detention units are state-operated so the employees are civil servants and have an official responsibility to perform such operations.</p>


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			<p>2. In Finland, there's zero tolerance of narcotics in detention units. Any and all suspected cases of possession are inspected thoroughly. Any traffic is "high traffic" by Finnish standards</p> <p>3. Any and all suspected cases of possession of narcotics are inspected by the staff of the detention unit (Immigration Service). The findings are reported to the police, who then decide on matters of criminal investigation. When there are reasons to suspect that several detainees are in possession of narcotics, a larger-scale special inspection of the whole unit can be conducted. On these situations, the detention units can ask for assistance from other authorities. Usually this means the use of sniffer dogs. We have used sniffer dogs from the Police Departments, the Customs Service and the Border Guard. This possibility has been very useful.</p> <p>4. Yes. Both the usual security check, where the detainee can keep his/her clothes on, and a more thorough personal search procedure, where the detainee is asked to remove his/her clothes, are possible. The latter has to be conducted in a discreet manner by a staff member of the same sex as the detainee. A witness has to be present (also same sex as the detainee).</p>
	EMN NCP France	Yes	<p>1. There are no specific rules regarding the trafficking of drugs inside the French detention centres. Common law is applicable to the transport, possession, offer, sale, acquisition and use of drugs (art. 222-34 to 222-43 of the Penal Code). However, offering or selling drugs inside the premises of the administration (for example, in a detention centre) becomes an aggravating circumstance of the infraction. The term of imprisonment is then increased to ten years; the fine is maintained at 75,000 euros.</p> <p>2. It is the act of introducing drugs into an administrative detention facility for consumption by persons held in detention or even by third persons intervening in the facility.</p> <p>3. The staff of the facility, mostly composed of police officers, can arrest the perpetrator (for example, if a drug transaction is detected during a visit) and immediately notify the competent judicial police officer so that the perpetrator can be taken into custody and an investigation can be launched.</p>



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			4. The discovery of drugs may be carried out as part of a security pat-down by authorised staff. A body search of the respondent (equivalent to a search) is a judicial act that can only be carried out by a judicial police officer. In case of doubt on the part of the authorised staff, the police officers are called in.
	EMN NCP Germany	Yes	<p>1. This contribution (Questions 1- 4) refers to the practice in the federal state of North Rhine-Westphalia. Upon entry to the facility, baggage will be x-rayed and searched. The clothing of the detainees is searched and detainees who are undressed in a manner that is gentle on their modesty are subjected to a visual inspection. There is a legal base for this.</p> <p>Drug finds are reported to the police for further processing and handed over. Detainees with whom drugs were found are usually observed after access in order to be able to provide medical support for withdrawal symptoms if necessary. If necessary, heroin is substituted with methadone according to a doctor's schedule. In principle, no further substitutions take place.</p> <p>If there is a suspicion that visitors have handed over drugs, detainees will be searched on a case-by-case basis by order of the management. In addition, regular checks are carried out in the cells.</p> <p>2. A high percentage of the detainees (> 50%) has a drug problem. This applies to drugs like Heroin, Cocaine, THC, Pregabalin, Benzodiazepines.</p> <p>Due to the tight controls, there are no problems with drug trafficking in the facility.</p> <p>3. If drug use is suspected, observed or established, there is the possibility of ordering observations or regulatory measures. In any case, the cells are checked minimum two times a week.</p> <p>4. Detainees, their belongings and their rooms can be searched to ensure the safety of the employees working in a facility and the persons housed there and to prevent endangerment to themselves or others. Detainees are searched in a shielded area while respecting human dignity. The male-only detainees are only searched by male employees. The upper and lower half of the body are undressed one after the other and examined by visual inspection.</p> <p>The searches must be documented.</p>

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	EMN NCP Hungary	Yes	<p>1. Within the guarded asylum reception centre in Nyírbátor, which is designated for implementing asylum detention in Hungary, staff members of the reception centre have never experienced any signs indicating trafficking in drugs in their practice.</p> <p>When receiving the detainees, members of the guarding personnel conduct a clothing check on the persons detained and a package content inspection on their baggage in front of a camera.</p> <p>Mails, letters and packages delivered by post for detainees are opened in front of a camera, in the presence of guarding personnel, all items are checked individually. These inspections are not only carried out by the reception centre when possession of controlled substances is suspected. Checks and inspections are carried out under the Interior Minister Decree no. 29/2013 (VI.28.) on the rules of execution of asylum detention and bail.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. Yes</p>
	EMN NCP Italy	Yes	<p>1. On one hand, the organisation of the detention centres for returns provided for by Article 14 of Legislative Decree No. 286 of 25 July 1998, and amended by Article 1 of the Ministerial Directive of 19 May 2022, it forbids Third Country nationals (TCN) to engage in violent conduct against persons or goods.</p> <p>On the other hand, in Italy, drugs matters are regulated by the national law D.P.R. n. 309/90, T.U. for drugs matters.</p> <p>This law is adopted throughout the whole national territory and it is applicable to every individual present in it. Therefore, it does not exist any specific law regarding drugs targeting Third Country nationals (TCN) detained in the centres for detention.</p> <p>2. Based on the Italian law, cultivation, production, manufacture, extraction, refining, sale, offering, offering for</p>

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		<p>sale, transfer, distribution, marketing, transporting, procuring, sending, shipping, delivering, importing, export, purchase, receipt and possession of narcotic or psychotropic substances are prohibited, regardless of where such illicit activities are committed (art. 73, paragraphs 1, 1-bis DPR 309/90). Therefore, there is no threshold under which drugs dealing is legitimate. The only possible way foreseen by the legislator is that to consider such conducts less serious when, by means, manner or circumstances of the action or by the quality and quantity of the substances, such conducts may be considered as minor (Art. 73, paragraph 5 DPR 309/90). Instead, Italian law administratively punishes those who possess narcotics for personal use (Art. 75 DPR 309/90).</p> <p>3. The measures intended to prevent the danger of criminal conduct within detention centres, and therefore also those related to drug trafficking, are addressed in the Directive of the Minister of the Interior of 19.05.2022 on the organisation of Detention centres.</p> <p>Specifically, it refers to the setup of critical events register, provided for in Article 4, that can be consulted by the subjects referred to in Article 7, paragraphs 1, 2 and 3, and by the Police Forces, to record immediately any event that has created turmoil within the Centre.</p> <p>Furthermore, Article 11 provides for the permanent external surveillance service set up within each Centre. The Questore, in agreement with the Prefect, after consulting the Provincial Committee for Public Order and Security, adopts the provisions and measures necessary to protect law and order within the centre. The external surveillance service is carried out by State Police, Carabinieri and Guardia di Finanza personnel, together with, when expected, the staff of Forze Armate and it is entrusted to the responsibility of one person with the role of State Police Inspector and equivalent individuals belonging to the law enforcement within 24 hours.</p> <p>This unit is also radio-linked with the person in charge of the internal surveillance system, in close connection with the Police Headquarters (Questura) and carries out surveillance functions also regarding authorized vehicles at the entrances.</p> <p>A 24-hour internal security service is also set up, following the order by the Questore and carried out by the staff of the State Police, Carabinieri and Guardia di Finanza under the responsibility of at least one member of the State Police superintendent's staff per shift.</p> <p>Officers intervene immediately whenever there are reasonable suspicions of actions that could compromise</p>
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			<p>public order and safety and they also provide assistance to the management body, if requested, in the occurrence of incidents that upset public order and safety within the Centre.</p> <p>In addition, any episodes relevant to public order or the safety of Third Country nationals, detentions of TCN and any other event creating significant disturbance within the Centre, in addition to being noted in the deputy report at the end of the shift, it must be immediately reported by the person in charge to the Police Headquarters (Questura), which will take care of the immediate flow of information to the Prefecture.</p> <p>The already-mentioned bodies, in proportion to the degree of the seriousness of the situation, inform respectively the Department of Public Security - Situation Room and Central Directorate for Immigration and Border Police and the Department for Civil Liberties and Immigration - Central Directorate for Immigration and Asylum.</p> <p>The Supervisor must check that the operators in charge are fully aware of the management of the video surveillance equipment present in the facility and of any other equipment that may be present.</p> <p>Lastly, Article 14 of the same Ministerial Directive, with regard to inspections of incoming mail and packages, provides that they must be subject to a check by the canine unit if present and a check with the metal detector or, in any case, subject to the direct control of an operator of the police force and at the presence of an agent of the operating body.</p> <p>4. Art. 103, of the D.P.R. 309/90 provided for on the modalities by which the inspections and controls are carried out by the officers and agents of the Judicial Police Force, during the course of police operations for the prevention and repression of the illicit traffic of narcotic or psychotropic substances, with regard to the organization of the Return Centres and the ownership of the power to proceed to such inspection and control actions. Also, Art. 12 of the Directive 19/05/2022 on Internal Surveillance provides that the service ordered by the Questore is articulated over 24 hours. It is carried out by personnel of the State Police, the Carabinieri and the Guardia di Finanza and it is entrusted to the responsibility of a member of at least the role of Superintendent of the State Police for each shift.</p> <p>This device performs the following tasks: it controls the entrance to the Centre, identifies and registers all non-institutional visitors who are authorised to enter, in order to prevent the introduction of weapons or offensive instruments, as well as alcoholic or psychotropic substances. To this end, the surveillance device, assisted by</p>
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			<p>staff from the managing body, check the contents of all packages and luggage destined to TCNs and it immediately intervenes whenever there are well-founded suspicions of actions that may compromise law and order, therefore also intervening in cases of suspected drug trafficking, providing assistance to the Managing Authority, if requested, in the presence of acts of disruption of public order and safety within the Centre and requesting its cooperation when it is deemed necessary.</p> <p>Moreover, administrative personnel working within detention centers may not carry out activities typical of judicial police. Detention center personnel, therefore, cannot conduct any search. When, in the course of carrying out their duties, they encounter criminally or administratively relevant conduct, they are obliged to request the intervention of judicial police officers and agents, who, depending on the case, will proceed according to what is provided for in the national regulation: search in flagrante delicto, search by proxy of the judicial authority, search on the initiative pursuant to Article 103 of DPR 309/90. In more complex cases, Police Forces, having acquired the report of the crime, inform the competent judicial authorities to initiate targeted investigative activities.</p>
	EMN NCP Latvia	Yes	<p>1. Under the current legal framework, a detained third-country national (including an asylum seeker) in an accommodation centre is prohibited from storing drugs, psychotropic, toxic or other intoxicating substances. The placement of a detained person in the accommodation centre shall carry out an inspection of his or her belongings and remove the prohibited articles. If drugs/narcotic substances have been determined, the State Police have to be informed. A visitor who wishes to visit the detained person shall be required to show the personal belongings for inspection. If it is suspected that the delivery contains narcotic or psychotropic substances, the delivery person is arrested and handed over to the State Police. In order to ensure compliance with the internal order and security measures, the Border Guard officer has the right to inspect the detainee's living space and common areas, as well as the belongings and objects in them at any time. The detainee's personal belongings can be viewed at any time and without the presence of the detainee in the presence of two accommodation facility officials.</p>

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			<p>2. Taking into account the fact that no cases of drug trafficking were detected in detention centers in Latvia, we cannot comment on what can be considered "large drug trafficking" in the detention center.</p> <p>3. Taking into account the fact that there were no cases in Latvia where cases of drug trafficking were detected in the Detained Foreigners' Accommodation Center, we can assume that if this happens, the State Police will be called and will take the necessary actions to investigate this case. If a security measure is applied to a TCN as part of a criminal proceeding, he is released from the Detained Foreigners Accommodation Center and handed over to the State Police for criminal prosecution.</p> <p>4. Inspection of the detainee and his belongings (including using technical means or service dogs) is carried out every time when there is a suspicion that the detainee is keeping items or substances that are prohibited to keep and use in the accommodation premises, as well as if there is a suspicion that the detainee has such objects can be used to commit a criminal offense or attempt to escape.</p>
	EMN NCP Lithuania	Yes	<p>1. The Law on the Control of Narcotic and Psychotropic Substances lays down the bases for the classification of narcotic and psychotropic substances, the control of their distribution, and the rules for applying restrictions on new psychoactive substances.</p> <p>The distribution of narcotic substances is a crime under Articles 260 and 261 of the Criminal Code. According to Article 260:</p> <p>1. A person who unlawfully produces, processes, acquires, stores, transports or forwards narcotic or psychotropic substances for the purpose of selling or otherwise distributing them or sells or otherwise distributes narcotic or psychotropic substances shall be punished by a custodial sentence for a term of two up to eight years.</p> <p>2. A person who unlawfully produces, processes, acquires, stores, transports or forwards a large quantity of narcotic or psychotropic substances for the purpose of selling or otherwise distributing them or sells or otherwise distributes a large quantity of narcotic or psychotropic substances shall be punished by a custodial sentence for a term of eight up to ten years.</p> <p>3. A person who unlawfully produces, processes, acquires, stores, transports, forwards, sells or otherwise</p>


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			<p>distributes a very large quantity of narcotic or psychotropic substances shall be punished by a custodial sentence for a term of ten up to fifteen years.</p> <p>Article 260 provides that a person who distributes narcotic or psychotropic substances among minors shall be punished by a custodial sentence for a term of three up to twelve years.</p> <p>The stay of foreigners at the Foreigners' Registration Center (the main detention facility in Lithuania) is regulated by the Description of the Terms and Procedure for the Temporary Accommodation of Foreigners with the State Border Guard Service (hereinafter – the Description). Article 25 of the Description stipulates that foreigners who stay at the center are prohibited from bringing, keeping, producing, distributing, consuming, and being intoxicated by alcoholic beverages and their substitutes, narcotic, psychotropic, poisonous, or other intoxicating substances. Foreigners staying at the center are liable for violations of the law in the procedure laid down by the laws of the Republic of Lithuania.</p> <p>2. Detention centers do not have a separate definition of the distribution of narcotics – general definitions apply. In Lithuania, distribution includes not only the sale of narcotics but also their loaning, gifting, and transferring to other persons in other ways.</p> <p>The internal rules of the Foreigners' Registration Center classify the bringing, keeping, producing, or distributing of narcotic, psychotropic, poisonous, and other intoxicating substances on the territory of the center as heavy violations of internal order.</p> <p>3. As an institution of pretrial investigation, the State Border Guard Service can initiate a pretrial investigation in such cases. Thus, when the administration of the Foreigners' Registration Center finds out about the distribution of narcotics, all information about the case is passed on to the officers conducting pretrial investigations. Depending on the circumstances, the information may also be relayed to the police.</p> <p>4. YES.</p> <p>Officers of the Security Unit of the Foreigners' Registration Center of the State Border Guard Service have the right to carry out both body searches and inspection of personal belongings.</p> <p>The internal rules of the Foreigners' Registration Center contain the following provisions:</p>
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			<ul style="list-style-type: none"> • All foreigners accommodated at the center undergo personal examination and inspection of personal belongings in the procedure specified by law; • Personal examination and examination of belongings are carried out the following cases: <ul style="list-style-type: none"> ○ when the foreigner first arrives to the center; ○ when there is suspicion that the foreigner is in possession of items that are prohibited at the center; ○ when there is suspicion that the foreigner is intoxicated by alcohol, narcotic, toxic or psychotropic substances; ○ as part of systematic preventive measures taken in response to the overall criminogenic situation at the center and the available information on the violations of internal rules that are taking place or that are being planned; • There are several types of personal examinations: surface, partial, and comprehensive. <ul style="list-style-type: none"> ○ A surface examination is performed by using technical means and by patting down the outer surfaces of the foreigner's clothing. ○ A partial examination involves a surface examination as well as checking the person's pockets. ○ A comprehensive examination involves a partial examination as well as removing the person's top clothes and shoes. A comprehensive examination is performed only in exceptional cases when there is reason to suspect that the foreigner is abusing the principles of personal privacy and inviolability to hide a crime. • The personal examinations of foreigners are performed in a separate room. Before the start of the examination, the foreigner is asked to hand over the items that are prohibited at the center. The officer performing personal examination must be of the same gender as the person being examined. The officer performing the examination of persons and their belongings must wear rubber gloves. The officers must respect the dignity of the persons they examine and avoid damaging their belongings. While applying preventive measures, officers may use technical and special measures.
	EMN NCP Luxembourg	Yes	<p>1. Upon suspicion, the Centre's staff can subject a detainee to a mandatory drug test (Dräger saliva drug test). In both cases of either a positive test result or a refusal to take the test, the detainee will be handed a</p>

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			<p>disciplinary sanction which includes a set period of confinement to his/her room (we only have single rooms), the suspension of his/her daily allowance for the same period of time as well as monitored visits.</p> <p>Upon suspicion, staff can also perform a thorough search of a detainee's room. If an illegal substance is found during that search, the same disciplinary sanctions will apply as cited above, however additional days will be added to the period of room confinement and allowance suspension. If a detainee is caught in the act of using drugs or having drugs on him/her, the same disciplinary sanctions apply as above. Every time an illegal substance is found, police will be contacted and the substance will be seized.</p> <p>2. What can be considered a high level of drug trafficking differs presumably in each Centre, depending most importantly on the size of the facility. In our small Centre in Luxembourg we become alarmed if we have a series of drug-related incidents that persist over a longer period of time, i.e. weeks rather than days. The occasional drug-related incident is not extraordinary.</p> <p>3. If we determine that there is a high level of drug trafficking in our Centre, we organize in collaboration with the public prosecutor and the police an intense and extensive search of the facilities and the immediate surroundings as well as among the detainees. Using/selling/owning drugs being a criminal offense, those cases are systematically denounced to the police and/or the public prosecutor who will then decide or not to launch a more detailed investigation.</p> <p>4. YES. In accordance with our legislation, staff are allowed to carry out a body search (strip search) upon suspicion following precise instructions set out in our internal regulations. However, they are not under any circumstances allowed to carry out a body cavity search.</p>
	EMN NCP Netherlands	Yes	<p>1. Since 1 November 2019, it is a criminal offence to bring certain objects into a penitentiary. Persons who bring prohibited items into the establishment may be punished under this provision by imprisonment of up to six months or a third-category fine.^[1]</p> <p><u>National drug-discouragement policy</u></p> <p>Custodial Institutions Agency (DJI) has a drug discouragement policy aimed at limiting the availability of drugs</p>



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			<p>in facilities as much as possible and to take strict and consistent action when violations occur. This applies to inmates, but also to others who interact with drugs in institutions, such as visitors, suppliers and staff.[2]</p> <p><u>Entry control</u> All detainees entering a DJI facility are subjected to a strict control. Detainees are checked through body searches or a body scan. Visitors and DJI staff are also checked for contraband upon entry.[3]</p> <p><u>Baggage and postal control</u> All incoming luggage of detainees, visitors and staff is checked. Mail for detainees is also checked for prohibited items.[4]</p> <p><u>Control within the facility</u> Staff daily check all cells or rooms of litigants for hygiene and hardware. In addition, the inventory is checked regularly. These checks are not announced. Inspections also take place in the airplaces and other areas where litigants enter. If there are suspicions of prohibited items in the institution, DJI launches a search campaign. This involves checking a cell or even an entire ward very thoroughly. Drug dogs can be used during inspections.[5]</p> <p>[1] DJI, Contraband (prohibited items), https://www.dji.nl/justitiabelen/onderwerpen/contrabande, last accessed 16 February 2023. [2] This information was provided by Custodial Institutions Agency (DJI) on 21 February 2023. [3] DJI, Prevent contraband, https://www.dji.nl/justitiabelen/onderwerpen/contrabande/contrabande-voorkomen, last accessed 16 February 2023. [4] DJI, Prevent contraband, https://www.dji.nl/justitiabelen/onderwerpen/contrabande/contrabande-voorkomen, last accessed 16 February 2023. [5] DJI, Prevent contraband, https://www.dji.nl/justitiabelen/onderwerpen/contrabande/contrabande-voorkomen, last accessed 16 February 2023.</p> <p>2. Strict and consistent action will be taken against any violation. As importation, use and trade of drugs are</p>
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			<p>prohibited, consequences always follow.[1]</p> <p>[1] This information was provided by Custodial Institutions Agency (DJI) on 21 February 2023.</p> <p>3. In the case of possession and/or use of substances, repressive action is taken. The director of the establishment decides whether to impose a disciplinary punishment and the type of punishment. This takes into account the severity and possible frequency of use. If trade quantities of drugs are found, a report is made to the police.[1]</p> <p>[1] This information was provided by Custodial Institutions Agency (DJI) on 21 February 2023.</p> <p>4. Yes (see answer to question 1).</p>
	EMN NCP Poland	Yes	<p>1. Possession/smuggling of narcotic substances is regulated by the Anti-Drug Addiction Act of 29 July 2005. In accordance with the Article 62 of abovementioned Act, possession of any amount is prohibited and punishable. Prohibition of possession of narcotic substances in a detention centre is regulated by Article 420 of the Act on Foreigners.</p> <p>2. There were no cases of possession of large quantities of narcotics in detention centers.</p> <p>3. Any discovery of drug possession is subject to reporting the above to the Police.</p> <p>4. In accordance with Article 11aa of the Border Guard Act, officers performing their tasks have the right to e.g. carry out a personal check and it allows for checking by hand, visually, using service dogs or technical means for detecting intoxicants.</p>
	EMN NCP Portugal	Yes	<p>1. Personal and luggage search upon entering the centre and enforcement of the law in case of detection of any illicit substance according to the Criminal Code. The Internal Regulations of the centres provide and inform the citizen that he/she is not allowed to consume illicit substances during his/her stay in the centre. Visitors are</p>

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			<p>subjected to a security search upon entering the centre and before meeting, the foreign national installed there.</p> <p>2. Frequency with which the existence of drugs in the individual's possession is detected and according to what is stipulated by law as an amount considered not for personal consumption, but for trafficking.</p> <p>3. Communication to the competent authority for drug trafficking, presenting the evidence of the criminal offence, in which case it is communicated to the Criminal Police.</p> <p>4. No. The personal search is not carried out by the security staff, but by the police authority present in the centres.</p>
	EMN NCP Slovakia	Yes	<p>1. Detained foreigners in the detention centres are unable to get directly to drugs. All delivered shipments are inspected by the police officers on duty in the presence of the detained foreigner. A foreigner can get food shipments only in the original, intact packaging. The visit of a foreigner takes place in the presence of a police officer in a room monitored by a camera system.</p> <p>2. NA</p> <p>3. See response to question 1.</p> <p>4. See response to question 1.</p>
	EMN NCP Slovenia	Yes	<p>1. The Slovenian legal framework classifies prohibited activities into criminal offences, which are defined in the Criminal Code, and misdemeanours, which are defined in various substantive provisions. The procedural part is regulated by two procedural acts, the Criminal Procedure Act and the Minor Offences Act. Illegal drugs are considered to be substances defined in the Production of and Trade in Illicit Drugs Act and are classified in the Decree on the classification of illicit drugs. CRIMINAL OFFENCES: The Criminal Code defines the offences of "Unlawful production of and trafficking in narcotic drugs, illicit</p>

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			<p>substances in sport and precursors for the manufacture of narcotic drugs" (Art. 186) and "Facilitating the use of narcotic drugs or illicit substances in sport" (Art. 187).</p> <p>MISDEMEANOURS:</p> <p>Misdemeanours are a milder form of criminal conduct. The basic substantive legislation on offences and illicit drugs is the Production of and Trade in Illicit Drugs Act. The enforcement of the provisions of this Act is supervised by the customs authorities and the health inspectorate, while the police and the army (the latter in terms of exercising powers over military persons) are responsible for seizure and for bringing charges before the competent offence authority.</p> <p>Article 33: "Paragraph 1..... Whoever possesses illicit drugs".....; and "Paragraph 2..... Whoever possesses a small quantity of an illicit drug for his own disposable use".</p> <p>There is no specific regulation in the Centre defining prohibited conduct and offences related to "illicit drugs". The regulations mentioned above are applicable in the territory of the Republic of Slovenia, and are also applicable within and on the premises of the Centre for Foreigners.</p> <p>2. The term "high traffic of drugs" does not exist in our legislation. There is a qualified form of the offence, which is committed if the offence is committed in a criminal organization designed to carry out such acts, or if the perpetrator of the offence has organized a network of traffickers or facilitators. Such an act shall be punishable by imprisonment for a term of between five and fifteen years.</p> <p>Persons accommodated in the Centre for Foreigners are often addicts of illicit drugs. As the foreigners are kept in a closed/secure area, they cannot bring drugs and illicit substances into the facility and consequently there is a crisis of substance shortage. When an person is accommodated, a medical examination is carried out and his/her psycho-physical condition is checked. On the basis of the psychiatrist's findings, appropriate therapy or treatment is introduced after a discussion with the person in question.</p> <p>It should be noted that the Slovenian legal framework, in Article 6 of the Production of and Trade in Illicit Drugs Act stipulates that "Substances used as medicines in accordance with special regulations shall not be considered as narcotic drugs". In such case, these substances, which are used as medicines as mentioned above in accordance with the Act on Medicinal Products and Medical Devices, the Act on Pharmacy and other regulations, are not considered as illicit drugs.</p>
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			<p>3. On the basis of the Foreigners Act, the Minister of the Interior issued the "Rules on staying in the Centre for Foreigners, depositing own funds and the form and content of the card on the permission to stay in the territory of the Republic of Slovenia".</p> <p>These Rules set out the "Accommodation procedure". Paragraph 2 defines: The reception administrative-security procedure shall be carried out by police officers by taking possession of the person's documents, his/her luggage, objects suitable for attack or defence, jewellery of large value, mobile telephones and money. They verify the person's identity with the available documents and carry out a security check and a first information interview." If the police officer finds illegal drugs during the accommodation process, he/she confiscates them. The seizure of objects is legally regulated in terms of police activity in pre-trial and misdemeanour proceedings, and the legal bases are defined in various substantive regulations.</p> <p>Seizure of objects in pre-trial proceedings:</p> <p>Police officers most often seize objects in the course of recording an offence and investigating criminal offences, in particular when carrying out pre-trial procedural actions (house and body searches, searches), searching means of transport, passengers and luggage, or by directly detecting an object in the possession of a particular person. The seizure of drugs and the means for their manufacture is mandatory, although all objects that may constitute evidence in criminal proceedings are seized in pre-trial proceedings. These are all items that have been obtained through the perpetration of the offence (e.g. money obtained from the sale of an illicit drug), items that have been produced or used in the perpetration of the offence (illicit drugs, packaging and weighing devices, mobile phones) and any other items that could be trace evidence (packaging of illicit drugs, etc.).</p> <p>Seizure of objects in offence proceedings:</p> <p>Article 25(1) and (2) of the the Minor Offences Act provides that objects used or intended to be used in an offence or resulting from an offence may be confiscated if they are the offender's property and, in individual cases, also if they are not the offender's property. The seizure of illicit drugs is in all cases mandatory, irrespective of ownership, and seizures shall also be made for reasons of general safety and the protection of human life and health.</p> <p>Seizure of objects according to the Police Act:</p>
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			<p>According to the Police Act, police officers are obliged to seize objects intended for assault or self-harm; objects which may seriously endanger public order or the general safety of persons or property; and objects used, obtained or created by an offence or crime. While it would not be unlawful to seize an illicit drug under the provisions of this Act, the primary and procedural rules on offences and criminal offences apply to seizures of illicit drugs.</p> <p>Pursuant to Article 24 and Article 26 of the Rules, foreigners have the possibility to receive parcels and have the possibility to be visited in the Centre for Foreigners. Based on our legal powers and tactical discretion, we have already detected various attempts to bring illegal drugs into the Foreigners' Centre. Foreigners have tried to bring drugs into the Centre in various ways, such as: in the battery compartment of a phone, at the bottom of cigarette packets - under cigarettes, sewn into clothes,....). Similarly, persons who have come to visit a foreigner have tried to bring drugs into the Centre - to hand them over to the foreigner in: food, drink, cosmetics packaging. Through postal items. Also hidden in: original food packaging or in food itself, cosmetics,....).</p> <p>All items received by post or brought in from visits are inspected on receipt in the presence of the foreigner to determine whether the item contains objects or substances that could endanger the security of the Centre.</p> <p>4. The work of the Police is defined in the "Law on the Duties and Powers of the Police", where Article 33(1) sets out the powers that a police officer may use, such as "security check of a person", "search of a person" and under the "Criminal Procedure Act", where Article 214(2) sets out "personal search" as an investigative act.</p> <p>SECURITY CHECK</p> <p>If police officers are dealing with a person and they expect him or her to assault or harm himself or herself, they may carry out a security check on the person. The purpose of a security check is to ensure the safety of the police officers, the person under police procedure or other persons. A security check consists of a search of the person, his belongings and means of transport, in which the police officers determine whether the person is armed and whether he is in possession of any other dangerous objects or substances that may cause injury to himself, a police officer or another person.</p> <p>The law provides that the security check must be carried out by a person of the same sex, unless the security check cannot be delayed. During a security check, police officers may use technical means or a service dog to search for explosives and other dangerous goods or substances. When carrying out a security check, police</p>
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			<p>officers shall examine any items in the person's possession which may conceal weapons or other dangerous objects or substances.</p> <p>Before placing a person in detention, police officers shall carry out a more detailed security check of the person. In doing so, they shall, in particular, feel and inspect the inside of shoes, pockets, internal parts and concealed places of clothing or headgear which cannot be examined by touch but which may conceal small dangerous objects or substances. They may, if necessary, require a person to remove individual outer garments in order to examine them more closely. In doing so, officers shall also closely examine the contents of the items the person is carrying or has with him/her. Police officers shall also act in accordance with this paragraph when placing a person in an immigration detention centre for the purpose of temporary restriction of movement.</p> <p>If, during a security check, police officers touch or discover a weapon, dangerous object or substance (drug), they shall, irrespective of the place where it was found, collect it and return it to the person at the end of the police proceedings, unless they find an object which must be confiscated under the law governing criminal proceedings, the law governing misdemeanour proceedings or another law. In such cases, the police officers shall, after a security check, proceed in accordance with these Regulations.</p> <p>PERSONAL INSPECTION</p> <p>If police officers have a direct observation that a person may be in possession of items (e.g. illegal drugs,) that are subject to seizure under the law, they may search the person in order to seize these items. It is important that the officers catch the person in possession of such an item and the search is territorially limited to the place where the person is believed to have hidden the object. During the search, the police officers shall check the person's clothing with their hands and examine the contents of the items in the person's possession. When searching items, police officers shall not open closed items by force.</p> <p>PERSONAL EXAMINATION</p> <p>A body search is an investigative measure which may be carried out if there are reasonable grounds for suspicion that a person has committed a criminal offence and the search is likely to produce traces of the offence and objects relevant to the criminal proceedings. These include, in particular, objects which were intended or used for the commission of a criminal offence or which are obtained or resulting from the commission of the offence. A search of a person may be carried out on the basis of a well-founded written order from a court, or, in exceptional cases, without such an order (when executing an arrest warrant or when</p>
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			arresting someone on suspicion that they are in possession of an offensive weapon or are suspected of throwing away, concealing or destroying objects which are to be taken as evidence in criminal proceedings).
	EMN NCP Spain	Yes	<p>1. Criminal law applies to drug trafficking.</p> <p>2. We don't use such a definition.</p> <p>3. Royal Decree 162/2014 regulates the functioning and internal regime of detention centres. According to article 54, based on security reasons, the director can order periodic or ad-hoc searches of the rooms, clothes and personal belongings. Body searches can also take place, for security reasons, according to Organic Law 4/2000 (Alien Law). There is a security unit in each centre, which is in charge of the aforementioned measures and can also open police proceedings on criminal activities (drug trafficking, in this case).</p> <p>4. Yes, in justified cases.</p>
	EMN NCP Sweden	Yes	<p>1. The use of controlled substances i.e. narcotics is regulated through the Penal Law on Narcotics (1968:64). Furthermore, chapter 11 of the foreign Aliens Act contains a number of paragraphs specific to the framework of detention (e.g. body search, the right to search incoming parcels, supervised visitations etc.). Internal documents governing practices surrounding private visits etc. is used throughout all detention centers differentiating mainly due to physical differences within the centers themselves.</p> <p>The tools that the Swedish Migration Agency have in order to curb the drug trade within the detention centers are the freedom-infringing measures that the Agency can take with the support of Chapter 11 in the Aliens Act. This includes for example decisions on body searches, decisions on the examination of shipments and decisions to monitor visits. In order to reduce the risk of a detainee bringing drugs into the detention centre via food handed over during an unattended visit, the food and the packaging of the food are searched before it can be brought into the accommodation ward. New packaging is provided after an examination is carried out.</p> <p>For instance, the Swedish Migrations Agency's detention centre in Flen reports all possessions of drugs, or substances that are suspected to be drugs, to the Police. According to Swedish law, it is then up to the police to</p>

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		<p>take the matter further.</p> <p>If there is suspicion that a detained person is carrying drugs after an unsupervised visit from a friend or relative, the staff at the detention centre can carry out a body search of the detained person. If the detainee then carries drugs on him/her, his/hers next visit might be supervised by detention staff.</p> <p>There is a possibility to separate groups of detainees by transferring them to a different detention unit within detention centre or to a different detention centre. Sometimes this makes it more difficult for the detained persons to get drugs in to the detention centre and more difficult to distribute drugs within the unit.</p> <p>2. The Swedish Migrations Agency's detention centres does not have a definition of "high traffic of drugs". There is zero tolerance for drugs in the detention centres and there is no particular level of assessment of what is considered "high traffic of drugs" or "low traffic of drugs". There is no formal or structured way in which staff or management actively measure the traffic of drugs within the facilities. The basis for such a statement is most likely to be based upon daily observations by heads of security, or a rise in narcotics being discovered through the use of body searches etc.</p> <p>3. If the staff finds something that they suspect is a narcotic, they report it to the Police who decides whether the case should be taken further or whether it should be closed down. Interested in by the police. Smaller amounts of for example cannabis, can usually be forfeited on the spot by the security officer.</p> <p>Counteracting the trafficking of drugs is inherently difficult due to the lack of legislative support (e.g. staff is not allowed under any circumstances to body search the visitors). Commonly used measures include body searches, supervised visitations, transferring clients known to be involved in such activities to different centers or within the centers themselves in order to break up potential networks.</p> <p>4. Yes, if there is reasonable suspicion that a detainee is carrying something that is not allowed according to the Swedish Penal Law on Narcotics (1968:64), the staff members are allowed to carry out a body search of the detainee. A body search includes the clothes and items that the person is wearing or carrying. The staff can also examine objects the person was carrying and has set aside, if the objects are near the person. They are not allowed to examine the person's body or bodily fluids.</p>
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