

Title : Children, parents and government intervention
Issued to : The Minister of Justice
Date : 15 February 2008

The recommendation relates to the draft proposal in respect of the act in amendment of Book 1 of the Civil Code [*Burgerlijk Wetboek*], the Code of Civil Procedure [*Wetboek van Burgerlijke Rechtsvordering*] and the Youth Care Act [*Wet op de jeugdzorg*] in connection with the revision of child protection measures.

With this proposal, the Minister aims to remove bottlenecks encountered in practice within the context of child protection, thereby increasing the fitness for purpose of such measures. The purpose of these measures is to afford children a better level of protection in the event that their parents fail to duly observe the right of their child to a healthy and balanced upbringing and development towards independence. In order to achieve this, the proposed measures include an increase in the possibilities of imposing a family supervision order.

The Council considers a number of the proposals to be an improvement; however, the Council has doubts as to whether or not this proposal will contribute in a general sense towards improving the practical implementation of child protection. In the opinion of the Council, making it 'easier' to impose child protection measures may even result in the risk that (if practical implementation remains otherwise unchanged) the authorities will too quickly and rigorously resort to application of the family supervision order as a solution. Making it quicker and easier to place children under supervision orders is not an appropriate solution to a poorly performing youth care system. There should, instead, be a greater focus on creating a system of (preventative) youth care facilities and on improving the current implementation of youth care. Child protection measures must be regarded as a last resort within this system. The Council regrets that the explanatory memorandum does not discuss desirable practice or the importance of identifying problems at an early stage. The government is, however, developing plans in this direction, such as establishing Centres for Youth and Family [*Centra voor Jeugd en Gezin*].

The Council takes a positive view of the fact that the explanatory memorandum explicitly states that each (government) decision, the interests of the child should be the primary consideration. This is consistent with Article 3 of the International Convention on the Rights of the Child. The Council elaborates on the term 'interests of the child' within the context of youth protection.

The Council endorses the proposal for the aims of family supervision orders to be laid down by the juvenile court. However, the proposal for the juvenile court to arrange, in the meantime, for the amended aims to be laid down once again would appear to be unworkable and an example of excessive juridification. The Council takes a positive view of the proposal to introduce the possibility of also placing other children in addition to the minor (younger brothers and/or sisters) under supervision at the same time.

The Council recommends that the proposal abandon any unnecessary juridification and bureaucratic regulations and procedures.

The recommendation can be obtained from the secretariat of the Council
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