

***Recommendation from the Council for the Administration of Criminal Justice and
Protection of Juveniles
Summary***

Amendment to the Youth Custodial Institutions (Framework) Act

Recommendation of September 30, 2008 to the State Secretary of Justice

In this recommendation, the Council examines the draft proposal to amend the Youth Custodial Institutions (Framework) Act. The Council values most of the proposals as the amendments will rectify a number of long-standing, nonetheless actual bottlenecks. One example of these is to legalize the pedagogical time-out measure. Other improvements relate to extending visiting hours, promoting child-with-parent placements, involving parents/guardians by means of exchanging information and legalizing night-time detention. The Council also values the more central position given to a detention-course-approach, as becomes clear from the fact that a detention plan is drawn up for every detained young person.

The Council also values the introduction of compulsory aftercare for every person leaving a custodial youth institution. In the proposal, the measure of 'placement in a judicial youth institution' ends in conditional leave, meant as a supervisory period. The Council prefers juvenile detention also to end in a supervisory period.

However, the Council has a number of objections. This regards e.g. the proposal to delegate some of the director's powers to the head of department. The Council supports this amendment to the Framework Act, but notes that extending the exclusion of an offender's stay in the group or of participating in activities, as well as extending placement of an offender in isolation must still be up to the director, on account of the drastic nature of these measures.

The Council does not support the proposal to submit all notices of complaint through the director's intervention, because this arrangement is detrimental to the independent nature of the complaints procedure. As an alternative, the Council therefore proposes that the complaints committee passes on a complaint to one of its members for mediation.

The Council also expresses its concerns about the feasibility of the proposal for flexibility towards the detainee's number of hours of stay in the group. Compensation of hours will be virtually impossible in the weekend, due to the low number of staff present on these days.

Finally, regarding the proposal for legalizing night-time detention, the Council specifically requests to clearly establish the power to end night-time detention in both the pre-trial detention phase and the execution phase.

*The recommendation can be obtained from the secretariat of the Council
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