

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

Summary

PIJ Juveniles under Observation

Recommendation to the Dutch State Secretary of Justice, dated July 2nd 2009

Placement in a Juvenile Institution (in Dutch “plaatsing in een inrichting voor jeugdigen” or “PIJ”) is a court-imposed treatment measure for juveniles having committed a serious offence and requiring intensive care and treatment. The duration of the measure is limited to two to six years, depending on the seriousness of the crime and the disorder.

The Ministry of Justice aims to improve the forensic diagnosis of juveniles on whom a PIJ measure has been imposed. For that reason, an observation unit has been set up in the Teylingereind correctional institution for juvenile offenders.

The observation unit is intended for cases in which:

- a) the treatment is not progressing smoothly and a recommendation has to be given on the follow up, or
- b) a recommendation has to be given on extension of the measure.

At present there is no statutory basis for this observation unit. For the time being, this basis is provided for in the Temporary Regulation by the State Secretary of Justice for Placement of Juveniles in an Observation Unit [*Tijdelijke Regeling van de Staatssecretaris van Justitie tot Plaatsing van Jeugdigen op een Observatieafdeling*]. The Council is making a recommendation on this point at the request of the State Secretary. The recommendation is confined to the question of whether this Temporary Regulation provides sufficient statutory basis, and briefly examines the legal position of the juveniles in question.

With regard to the two options mentioned above: placement for a recommendation on further treatment (option a) and placement for a recommendation on extension of the PIJ measure (option b), both options can be understood, according to the Council, as special care, as referred to in Section 15(1) in conjunction with Section 15(2) of the Correctional Institutions for Juvenile Offenders (Framework) Act [*Beginselenwet Justitiële Jeugdinstellingen (Bjj)*]. Therefore, in the opinion of the Council, the Temporary Regulation provides sufficient (temporary) legal basis.

The Council recommends that a clearer description of the cases in which juveniles should be placed in this observation unit, and in particular a definition of the meaning of “treatment that is not progressing smoothly”, be given in the explanatory note to the Temporary Regulation (and also later in the final regulation). The Council further recommends inclusion of a provision in the regulation to the effect that after expiration of the period of observation the juveniles will return to the institution in which they were originally placed, unless the observation reveals that a transfer is indicated.