

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

- Summary -

Adolescent Criminal Law Bill: a missed opportunity

Recommendation to the Dutch State Secretary of Security and Justice

14 March 2012

The Council advises against the introduction of adolescent criminal law as proposed in the Adolescent Criminal Law Bill. The proposed Bill provides for a limited widening of the scope of application of juvenile criminal law to the group of young adults from 18 to 23 years of age and not for a separate criminal law for all young adults from 18 to 24 years of age. The proposed Bill can thus be said to be a missed opportunity, according to the Council. The proposed Bill particularly provides for a tightening up of the provisions relating to juvenile criminal law for the group of young people from 12 to 18 years of age to such an extent that, in the view of the Council, the pedagogic basis is no longer the leading principle of juvenile criminal law. After the adoption of the proposals of this Bill, the emphasis will lie on safety and security of society and on retribution, while they will not make the Netherlands safer and more secure.

The proposed tightening up of these statutory provisions is not backed up by crime statistics: these statistics show that crimes committed by young people and young adults have stabilised or decreased rather than increased. The Government cites the insights obtained in recent research into the neuropsychological development of adolescents and young adults as the reason for the proposed tightening up these statutory provisions, but has incorrectly interpreted these insights, in the opinion of the Council. On the contrary, these insights support a reticent use of criminal law interventions with respect to the group from 12 to 18 years of age and the introduction of a separate criminal law for all young adults from 18 to 24 years of age.

Moreover, it has not been substantiated (by academic research) in the proposed measures whether and, if so, how these measures will contribute to making the Netherlands safer and more secure. It is suggested that a tougher and more repressive approach to delinquent young people would allegedly be more effective and contribute to reducing recidivism. However, the academic literature irrefutably shows that a tougher and more repressive approach is not conducive to safety and security but may even be counterproductive, and even result - in any case in the long term — in more rather than less recidivism.

In its previous recommendation the 'Juvenile Criminal Proceedings: future proof' of March 2011, the Council advocates a separate criminal law for all young adults from 18 to 24 years of age, and as opposed to the present proposed Bill, more emphasis on the pedagogic basis of juvenile criminal law. The Council argues for a pedagogic and intensive approach in which recidivism is reduced by means of tailor-made interventions. If the Cabinet nevertheless wishes to adopt this proposed Bill, the Council urges the amendment of several points in the proposed Bill.

A copy of the Recommendation can be obtained on request from the Secretariat of the Council

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