

## **Recommendation on proposals to change the execution of life sentences**

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

*made to: the State Secretary for Security and Justice  
date: 28 June 2016*

On 2 June 2016, the State Secretary for Security and Justice sent a letter to the House of Representatives containing a number of proposals to change the execution of life sentences. The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming* or 'RSJ') has given unsolicited advice on this.

On several occasions, Dutch courts have refused to impose life sentences because they considered the manner of execution of such sentences in our country to be in violation of European rules, following several judgments of the European Court of Human Rights (ECHR). However, State Secretary Dijkhoff (Security and Justice) wants to maintain the possibility of imposing life sentences in the future. With a view to this, he has proposed some policy changes. According to the proposals of the State Secretary, prisoners serving life sentences may qualify for activities aimed at reintegration into society. However, an advisory board will first assess if they may actually start these activities. This assessment will take place for the first time after 25 years of imprisonment. With the proposed changes, the State Secretary wants to meet the requirements set by the European Court on the organisation of the execution of life sentences.

According to the European Court, Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) is violated if there is no prospect of a possible release. This Article implies that after some time, a periodical assessment must be conducted as regards the continuation of a sentence and a prisoner must, during his imprisonment, be offered any prospect of possible release and the possibility of rehabilitation (see, for example, the judgments of the European Court in the case of *Murray v. The Netherlands* and the case of *Vinter v. The United Kingdom*).

In the opinion of the Advisory Division of the RSJ, however, the execution of life sentences will, after implementation of the proposed policy changes, still not meet the requirements set on this by the European Court. For the assessment referred to by the European Court is about whether it is useful to continue the sentence imposed, seen in the light of the prisoner's development over the years (e.g. psychological health, risk of reoffending). The assessment intended by the State Secretary is about whether a prisoner serving a life sentence may start reintegration activities. The Advisory Division of the RSJ believes that this is a fundamental difference. Moreover, the European Court believes that reintegration activities should be performed from the beginning of the sentence. In the State Secretary's plans, however, no reintegration activities are offered up to the moment of assessment, after 25 years.

### **Conclusion and recommendation**

The execution of life sentences in the Netherlands will, after implementation of the intended policy changes, still not meet the requirements set on this by the European Court.

With the proposed policy changes, the State Secretary will, in the opinion of the Advisory Division of the RSJ, not succeed in achieving his own goals, maintaining the possibility of imposing life sentences.

The Advisory Division of the RSJ recommends that the State Secretary bring the execution of life sentences in the Netherlands in line with the requirements set on this by the European Court of Human Rights as soon as possible.

*The recommendation can be obtained from the Council's secretariat  
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