

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

Recommendation on draft legislative proposal to expand victims' rights

Recommendation to the Dutch Minister for Legal Protection, dated 22 August 2018

The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as 'the Division') was asked to advise on the draft legislative proposal to expand victims' rights. The Division deems it undesirable to implement two measures in the legislative proposal, namely the obligation for suspects or pre-trial detainees in cases of serious sexual or violent crimes to appear at the hearing and the right for victims to address the court during hearings to extend a hospital order.

First, the Division does not necessarily consider the obligation for suspects to appear at a hearing to be in the victims' interest. Some victims will deem it undesirable to exercise their right to address the court in the obligatory presence of suspects, while others may refuse to attend the hearing in order to avoid unwelcome confrontations.

Fundamental juridical principles of suspects' legal status are in danger of being compromised when the obligation for suspects to appear at a hearing is combined with the right for victims to speak in court. Suspects have the basic right to be presumed innocent until proven guilty. This right is at odds with the obligation for suspects who are not yet proven guilty to be confronted with victims' potentially accusatory statements.

Finally, the Division deems it undesirable to implement the right for victims to address the court during hearings to extend a hospital order. These hearings pertain to convicted offenders who have served their sentences or who are being treated. The purport of such hearings is to assess the risk of recidivism and to formulate special conditions for the provisional termination of a treatment order pursuant to the opinion of behavioural experts. In the view of the Division, awarding a larger role to victims is inconsistent with the nature of these hearings.

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