

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

**Expansion of criteria for committal to a maximum security institution**

*Recommendation to the Dutch Minister for Legal Protection , dated 23 August 2018*

This recommendation concerns an amendment to the Regulations on the selection, placement and transfer of detainees (*Regeling selectie, plaatsing en overplaatsing van gedetineerden*, Rspog) which relates to the expansion of the criteria for committal to a maximum security institution (*Extra Beveiligde Inrichting*, EBI). The amendment enables the committal of a detainee to this most secure regime in the case of continued criminal activities during the detention period (*voortgezet crimineel handelen tijdens detentie*, VCHD).

In principle, the Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as 'the Division') subscribes to the possibility of committing detainees to an EBI in case of the most serious VCHD. However, this amendment is a significant measure which has not been substantiated or elaborated convincingly in the eyes of the Division with regard to the following:

- It is insufficiently clear whether the scope of the VCHD problem warrants this approach.
- In the opinion of the Division, the draft amendment and the explanation lack a clear elaboration of the safeguards regarding legal status. The explanation only includes a limited description of how the new criteria relate to existing and newly developed regulations. As a result, it is insufficiently clear that committal to an EBI is intended only as a last resort for those individuals who have proved resistant to all other existing supervision methods.  
In addition, the proposed legal definition of 'continued criminal activities' is so broad as to render it unclear that only very serious cases of VCHD are to be considered.  
The Division recommends further tightening of the Regulations and the explanation with regard to the above.
- As for the nature of the regime, the Division points out that the risk of VCHD is different from the risk of flight and the risk to society (which define the current EBI target group). It consequently recommends calibrating the EBI regime for the new target group carefully to counter the risk of VCHD.

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