



Recommendation on carrying out prison sentences: response to the government's vision on detention 'Recht doen, Kansen bieden'

Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles

Presented to: the Minister for Legal Protection

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Summary

With this recommendation, the Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter 'the Division') is responding to the government's vision on detention, published in June 2018, titled 'Recht doen, Kansen bieden'. The key points of the recommendation are:

- The government's vision on detention contains a number of good elements but is limited in its ambition. The proposed measures mainly relate to detainees issued with relatively longer sentences, who account for just 25% of the prison population. A vision that relates to prisoners issued with sentences of three months or less (75%) is largely absent. Furthermore, the vision fails to examine alternatives to short-term deprivation of liberty and freedom-restricting measures.
- With respect to the various goals in the application of criminal sanctions, there is a strong emphasis on punishment and much less so on resocialisation; there ought to be a more of a balance, with penalty goals receiving proportionate attention.
- Too little attention is paid to the resocialisation of inmates. Resocialisation is important for safe re-entry into society and is in itself a penalty goal; it encompasses more than the practical reintegration activities referred to in the vision document.
- It is unclear as to which measures the government will take to promote structural behavioural change among inmates in order to reduce recidivism.
- Much attention is paid to the proposal for stricter application of the regulation for conditional release, with regards to which the Division has previously issued the *Recommendation on phased detention and conditional release*. A maximum conditional release period of two years as proposed by the minister would excessively restrict long-term prisoners' resocialisation opportunities. A longer conditional release period – as part of the prison sentence – will ensure that detainees' return to society can be supervised and monitored over a longer period of time (e.g. through treatment, supervision, notification requirements and location injunctions). In principle, the current arrangement for granting conditional release works effectively, as evidenced by a recent evaluation which

also demonstrated that the granting of conditional release is anything but automatic.

- The stricter application of the conditional release regulation also means that in the event of a combined prison sentence with detention under a hospital order, treatment in the Forensic Psychiatric Centre can only commence two years before the end of the custodial sentence at the earliest. This is undesirable from a treatment-effectiveness perspective.
- More than was previously the case, demonstrably good behaviour during detention is a determining factor in the granting of additional liberties during detention, leave and conditional release. The Division positively views an individual approach with a focus on stimulating good behaviour. A positive, constructive environment is crucial for detainees to be able to show good behaviour. However, positive, constructive environments are anything but a matter of course in penitentiary institutions. Indeed, these institutions generally do not provide an optimum environment. The Division agrees with the government in its conclusion that a large portion of the prison population is either unable or insufficiently able to change their behaviour owing to addiction problems, psychiatric disorders and/or slight mental impairment. While they may want to change their behaviour, they often find themselves either unable to or only able to to a limited extent. Inmates with a slight mental impairment (45% of the prison population) are unable to cope on their own and require support and guidance during detention and afterwards.
- A positive development is the increased focus on screening and support during the reintegration of prisoners, including short-term prisoners. While the feasibility of these efforts at support during reintegration may be questionable, this does not detract from the importance of fast screening and reintegration support at the very start of detention. Unfortunately, too little attention is paid to the role of municipalities, given the knowledge they possess, the role they play in putting the basic conditions in order for effective reintegration and the efforts already being made by municipalities in the institutions. The exchange of personal data of prisoners between penitentiary institutions and municipalities as part of reintegration is crucial but, in the view of the Division, not yet properly organised.
- The probation service should be afforded a permanent presence and responsibilities in penitentiary institutions, either in a case management role or otherwise.
- The proposal to grant leave for work and practical reintegration activities is insufficient for the purposes of phased detention. For example, it is vital that prisoners are able to maintain family ties through visits and leave in order to limit the adverse effects of detention, unless this is not in the interest of the other family members.

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