

Advice on suspending sentences of foreign nationals
Council for the Administration of Criminal Justice and Protection of Juveniles

Presented to : the Minister for Legal Protection
Date : 9 October 2018

The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as the Division) was requested to advise on the draft amendment of the 'Regulations on temporary leave from custodial institutions' (*Regeling tijdelijk verlaten van de inrichting*) in connection with suspending sentences for foreign nationals.

The Division appreciates the fact that the regulations will be clarified and agrees to the amendment of the new subsections 3 and 4 of Section 40a of the 'Regulations on temporary leave from custodial institutions' in connection with suspending sentences for foreign nationals without lawful residence in the Netherlands, under the condition they return to their country of origin. The Division does, however, have a number of related remarks and recommendations. The Division recommends that transferring a sentenced person should take precedence over suspending a sentence, and that this should be included either in the regulations or in public policy. This would entail that, in all cases, prior to considering suspending a sentence, it would first be established whether the sentenced person could be transferred and whether this would be expedient. This would be in the interests of society as well as of victims and/or surviving relatives. In addition, transferring a sentenced person would allow them to reintegrate in society in their country of origin, which would benefit a supervised and safe return to society in said country.

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