



Recommendation regarding Intensive voluntary help. Clear limits on the use of coercion in youth care, the Council for the Administration of Criminal Justice and Protection of Juveniles and the Council for Public Health and Society

Presented to : The Minister for Legal Protection and the Minister of Health, Welfare and Sports

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Summary

There is much uncertainty about the use of coercion (“drang”)¹ in the field of voluntary youth care. Juveniles and their parents have a number of questions. For example: when is youth care voluntary and when is it compulsory? Similarly, youth professionals are asking themselves what is possible and permissible in what has now come to be called ‘mandatory intervention’. In addition, lawyers and legal academics are expressing concern about the legal position of juveniles and parents when using coercion. Although the discussion of coercion in youth care is not new, its appearance in parliamentary documents and municipal policy *has* given it extra momentum. This matter is also made more complex by the fact that it is not always clear exactly what coercion entails.

In this advisory report, the Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming, RSJ*) and the Council for Public Health and Society (*Raad voor Volksgezondheid en Samenleving, RVS*) raise two questions: (1) How should coercion in youth care be defined? and (2) Is coercion permitted from a legal and ethical point of view?

The RSJ and RVS recommend the creation of youth care practice that is both legally justified and ethically responsible. They hope that this will make juveniles and their families less vulnerable *and* help youth professionals, who often do their work in very difficult situations. The recommendation is addressed to the Minister for Legal Protection and the Minister of Health, Welfare and Sport.

Different perspectives

Opinions about coercion vary greatly. Juveniles and their parents are quickly inclined to view coercion as a compulsory measure: help that is imposed, leaving them without any choice or possibility to provide input. Youth professionals dislike the negative associations that the term has. They want the help offered to parents and juveniles as part of youth

¹ In this English summary, the term coercion refers to the Dutch term “drang” and terms as “a compulsory measure” or “youth protection” refer to the Dutch term “dwang”.

care, to be voluntary, even when it starts to become more intensive. The legislator and policymakers view coercion as a way to avoid the use of compulsory youth protection services. Current policy positions coercion between voluntary and compulsory help (youth protection services), making the dividing line between them uncertain. Some municipalities see 'coercion', or 'preventive youth protection services', as a product that can be procured, making it a stand-alone intervention or type of help.

Problem: the dividing line between voluntary help and youth protection services is no longer clear.

The RSJ and RVS note that 'coercion' and 'preventive youth protection services' sometimes become compulsory when they should actually be voluntary; this is an unwelcome development. A clear distinction must be made between voluntary help and youth protection, without any forms of help in-between. It must be crystal-clear to juveniles and their parents what type of help is being provided - whether voluntary or compulsory.

Recommendation: intensive voluntary help

The RSJ and the RVS have taken a position on the question of what is to be understood by 'coercion'. They recommend to replace this term, and other veiled and confusing terminology (such as 'preventive youth care services'), with the term 'intensive voluntary help' from now on. The councils define this term as follows: a *process* in which help and care is provided in the context of voluntary youth care, as part of which the youth professional gradually exerts more influence, takes more responsibility and, as such, provides help and care that increases in intensity *while also* guaranteeing the voluntary nature of the help offered.

It is vital that the youth care system develops, and has access to, the specialist knowledge and skills necessary when providing intensive voluntary help. The voluntary care framework must be clearly defined, legal limitations should be monitored and the rights of juveniles and parents safeguarded. To be able to provide intensive voluntary help as part of an ethical approach, professionals must consider various rights, obligations, norms and values in each individual case. As there are situations where it is difficult to offer legally justified and ethically responsible help, the conditions set out in this advisory report ought to be put in place as well.

This recommendation can be consulted on the website of the Council for the Administration of Criminal Justice and Youth Protection (www.rsj.nl), under the header 'Adviezen'.

