



Advisory report on the 'Sanctions and Protection Act Implementation Decree', Council for the Administration of Criminal Justice and Protection of Juveniles

Presented to Minister for Legal Protection
Date 28 August 2020

Summary

The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as 'the Council') has issued advice on the Sanctions and Protection Act Implementation decree (*Uitvoeringsbesluit Wet straffen en beschermen*).

Among other things, the Implementation Decree focuses on participation in the penitentiary programme, the granting of conditional release and the formulation of conditions in relation thereto, the processing of data for the purposes of the detention and reintegration plan, as well as the updating of the day programme regime. In the advisory report, the Council responds to a number of the further rules proposed.

Recommendations

The Council makes a number of recommendations for the further clarification of the Implementation Decree and the corresponding explanatory memorandum regarding the foregoing issues.

In regards to participation in the penitentiary programme:

- The Council recommends that detainees who have been placed in a unit with limited security restrictions should be eligible to participate in the penitentiary programme.
- The Council recommends that examples of scenarios in which electronic surveillance is appropriate should be included in the explanatory memorandum.
- The Council recommends that the conditions set out in Section 9(1) under d to g of the Prison Rules (*Penitentiaire Maatregel*) should be formulated as special conditions.
- In respect of the special conditions for participation in the penitentiary programme, the Council recommends clarification in the Act of the adjective 'certain', as in 'certain persons', 'certain location' or 'certain authority'.
- The Council recommends that the explanatory memorandum should include that the Director must specify and provide reasons for the conditions imposed on participation in the penitentiary programme.

In regards to the granting of conditional release and the formulation of conditions in relation thereto:

- The Council recommends that the explanatory memorandum should clarify and specify the understanding of an 'acceptable' place of residence.
- The Council recommends that the Implementation Decree should be amended in such a way that the withholding of conditional release due to the absence of an acceptable place of residence is only possible if such an absence should pose a demonstrable risk in respect of recidivism.

In regards to the data processing for the purposes of the detention and reintegration plan:

- The Council recommends obtaining and requiring the detainee's consent for the processing of non-judicial data.

In regards to the updating of the day programme regime:

- The Council recommends that the proposed amendment to Section 3(2) under a of the Prison Rules should not be included.

You can consult the advisory report on the [website](#) of the Council for the Administration of Criminal Justice and Protection of Juveniles.

