



Advisory report on the 'legislative proposal regarding the legal status of juveniles in closed juvenile institutions', Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ)

Summary

On 2 July 2020, a legislative proposal regarding the legal status of juveniles in closed juvenile institutions (hereinafter referred to as 'the legislative proposal') was submitted for consultation. The Advisory Division of the Council for the Administration of Criminal Justice and Protection of Juveniles (hereinafter referred to as 'the RSJ') has been asked to respond to this legislative proposal.

Scope of the legislative proposal

The legislative proposal has three primary objectives. In the first place, the legislative proposal aims to improve the legal status of juveniles in closed juvenile institutions. Secondly, the aim of the legislative proposal is to harmonise the legal status of these juveniles as much as possible. Finally, the legislative proposal supports the development towards a more small-scale approach in the placement of juveniles in closed juvenile institutions.

The basis of the legislative proposal is formed by three distinct regimes of closed placements for juveniles: 1. the limited closed regime (small-scale residences); 2. the closed regime (secure residential youth care); and 3. the high-security closed regime (juvenile detention centres). All regimes, from the limited closed regime to the high-security closed regime, have different security levels associated with more and more far-reaching possibilities to impose measures restricting freedom. In the high-security closed regime disciplinary sanctions may be imposed on juveniles.

Uncertainties regarding four key themes

The RSJ supports the shift towards harmonisation of the legal status of young people in closed juvenile institutions. In addition, the RSJ is positive about the fact that this legislative proposal provides a formal position to small-scale residences. However, the RSJ concludes that this legislative proposal does not achieve optimal harmonisation. This is primarily due to the fact that Youth Mental Health Care (Jeugd-ggz) has not been involved in this harmonisation process. Secondly, the RSJ observes that legal gaps and ambiguities have arisen since the legislative proposal only partially replaces the Young Offenders Institutions (Framework) Act (Beginselenwet Justitiële Jeugdinstellingen, Bjj) and Chapter 6 of the Youth Act (Jeugdwet) rather than merging them into one umbrella Act.

The RSJ has considered what the situation will look like for juveniles once the legislative proposal becomes law on the basis of four key themes: 1. The basis and objectives of

