

Dutch Ombudsman for Children

Ombudsperson report on children's rights in The Netherlands NHRI Report

The treaty covered by this report: CRC

Dutch Ombudsman for Children ("de Kinderombudsman")

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About the Dutch Ombudsman for Children

Marc Dullaert was installed as first Dutch Ombudsman for Children ('de Kinderombudsman') on April 1st, 2011. The task of the Ombudsman for Children in the Netherlands is to watch over observance of the rights of children in the Netherlands. In this respect, he deals with complaints about the actions of both public and private-sector bodies in the fields of education, organized childcare, youth care, and health care. Acting on the basis of complaints and investigations, he advises parliament and government institutions either on request or on his own initiative. His aim is to find structural solutions to problems relating to children's rights. The office of Ombudsman for Children is a High Council of State and its incumbent is directly appointed by parliament.

Main concerns and recommendations

1. General measures of implementation (art. 4, 42, 44(6))

I. Central government responsibility after 'decentralization'

In January 2015, a fundamental administrative reorganisation will take place in the Netherlands. Tasks that have been the responsibility of national or regional government(s) will then become the responsibility of individual municipal authorities. This operation is referred to as the 'decentralization'. It involves the performance of youth care (voluntary and mandatory), specialised treatment and psychiatric care for youth, youth probation, foster care and youth health care.

Although municipal authorities will become responsible for a large number of tasks on the level of care for minors, the central government remains responsible for compliance with the Child Rights Convention. The central government regularly refers to its 'system responsibility' starting January 2015, but has not yet specified what this entails. From the point of view of the Ombudsman for Children, the central government remains the body with final responsibility for complying with the CRC, because in signing the convention, it has committed to its implementation. This responsibility may be shared with the municipal authorities after decentralization, but cannot be transferred to local government in full.

Recommendation

- The central government should make explicit how it will maintain its accountability towards the CRC as a whole, in a context of decentralized responsibilities towards youth.

II. Child rights assessment with new legislation

In the development of new laws and regulations, policy, guidelines etc. that affect children and youths, the government must explicitly and demonstrably consider the interests of children at every stage. This has been stated clearly by the CRC in their concluding observations of 2009 (29). However, new policy, laws and regulations in the Netherlands are at the moment not yet adequately and systematically assessed in terms of the CRC. Although recommendations for implementing such an assessment have been made by the Dutch Ombudsman for Children in his Child Rights Monitor¹ in 2012 and 2013, the assessment still does not take place.

¹ The Dutch Ombudsman for Children publicizes the Child Rights Monitor annually since 2012. It measures to what extent the child rights are implemented in the Netherlands.
<http://www.dekinderombudsman.nl/92/ouders-professionals/publicaties/kinderrechtenmonitor-2013/?id=232>

Recommendation

- Ensure that laws, regulations and policy implementation give priority to protecting the rights and best interests of children. Let a child rights impact assessment precede every law and policymaking process.

III. Three reservations to the CRC

At the ratification of the CRC the Netherlands made three reservations, namely with regard to the application of adult criminal law on 16- and 17-year olds (Art. 37c CRC), legal aid and appeal in all cases (art. 40 CRC) and the right to social security (art. 26 CRC). Despite the fact that the Committee recommended to withdraw some reservations, the Dutch government has not yet done so. Since the Netherlands made a reservation to Article 37 c CRC, sixteen and seventeen year-olds can be trialed as adults, since the first of April 2014. According to the Ombudsman for Children the Dutch juvenile justice system should apply to all young people until they reach the age of 18.

Recommendation

- Lift the reservation to article 37c of the CRC.

IV. Third Optional Protocol not signed

The third Optional Protocol to the CRC (Child complaint mechanism) provides for the Possibility for everyone aged up to 18 from the following countries to appeal to the UN Committee on the Rights of the Child, individually or in groups, once all possibilities have been exhausted in the country of origin. Unlike Germany, Spain, Portugal and other countries, the Netherlands has not yet signed this protocol. The Ombudsman for Children has questioned the Ministry of Foreign Affairs in this regard. Until early 2014, no decision had yet been taken on this, partly because it involves several government Ministers who must take a joint decision. The Ombudsman for Children has emphasised that early signature and ratification of this Optional Protocol to the CRC represents an opportunity for the Netherlands to further confirm its efforts for protection of children's rights. The government is still considering whether or not to sign the protocol.

Recommendation

- The central government is encouraged to sign and ratify the third Optional Protocol, so that children can submit their complaints on violations of their rights to the Committee on the Rights of the Child.

V. Data on specific vulnerable groups unavailable

There is too little information available about certain vulnerable groups of children. For instance, it is unknown how many minors are without a permanent or temporary place of residence. This makes policy development and monitoring of these specific groups complicated or even impossible. The government must obtain better information about the situation of the most vulnerable children, such as homeless youths, abused children, children living in poverty, children of parents with psychiatric disorders and/or addiction problems, children with handicaps and children whose parents have agreed with voluntary out of home placement. The central and local governments are responsible for data collection on target groups and for monitoring of the effectiveness of their policies.

Recommendation

- The government must ensure that current data is available. It could for instance register up-to-date statistics on aspects of the juvenile criminal justice system and on youth care measures that have a major impact, such as the time spent in police cells and statistics on the use of the adolescent criminal code in trials of young people aged 16 or 17.

VI. Children's rights in the Caribbean Netherlands

The term Dutch Caribbean refers to the islands of the Kingdom of the Netherlands that are located in the Caribbean. Three of the six main islands under Dutch sovereignty are independent countries: Aruba, Curaçao, and Sint Maarten. The three remaining islands of Bonaire, Sint Eustatius, and Saba are special municipalities of the Netherlands since 2010 and are collectively known as the Caribbean Netherlands or the "BES Islands". The mandate of the Dutch Ombudsman for Children is stretched to the three BES Islands, but not to the independent countries. On the BES Islands 5.300 children live between 0 and 20 years of age (2013).

The position of children in the Caribbean Netherlands is worrisome. UNICEF has concluded in their extensive research on children's rights on the BES Islands (2013) that in all fields of children's lives, their rights are being violated. Most important points of concern are domestic violence and absent fathers being common, the low quality of education and the lack of sportive and cultural facilities for children. The Dutch government has a role in addressing these issues, as does the Ombudsman for Children. The Ombudsman for Children has already received several complaints about the situation of children living in the BES. Since the start in 2011, the focus of the Ombudsman for Children has been on the European part of the Netherlands.

Recommendation

- The Dutch government should maximize the efforts towards realizing the implementation of the rights of children living in the BES. It should make prioritizations known in the youth policy for the BES and make sure equality of rights throughout the Dutch Kingdom is included in the vision.

2. Definition of the child (art.1)

3. General principles (art. 2, 3, 6 ,12)

I. Right to be heard

Not all hearings of children in official proceedings, either in youth criminal law or in family law or migration law, take place in accordance with the requirements set by the CRC. Amongst other, the hearings must be child-friendly, transparent, respectful and voluntary. Overall this is not yet the case to a sufficient extent.

Children and young people are still not being involved enough (informed and consulted) in decisions that concern them. Courts must take children's opinions into account when making decisions that concern them, for instance in relation to their parents' divorce or when considering whether to place the children in care. Whatever the child's age, the court must take into account the degree to which he or she is able and willing to give his or her opinion. The Ombudsman for Children has received multiple complaints from children regarding the way judges decide about their future: they complain about the fact that they were not heard at all, about the way judges conduct hearings and about the way their opinion is weighed in the final decision. A positive development however, is that after an investigation by the Dutch Ombudsman for Children in recent years, a guardian *ad litem* is being appointed more frequently in court proceeding, to highlight the child's interests and to make his or her voice heard.

Recommendations

- Hearings of children must take place in the manner described in the General Comment. Central government has a duty to proactively promulgate the General Comment on how children should be heard.
- The government should make sure judges and other professionals are trained in hearing children in a child friendly way, to make sure their opinion is appropriately weighed in court. The government should stimulate the appointment of a 'guardian *ad litem*' for children in legal proceedings.

II. Youth participation

In national and local youth policy-making, participation is still in its infancy. It is being stimulated with an annual national youth parliament and many local projects and initiatives to strengthen local youth participation. However, there still is no adequate youth-policy participation climate, neither at the national, nor at the decentralized level.

After the decentralisation, the responsibility for the care of minors will rest with the municipal authorities. An important question is if minors know how to reach their Alderman for Youth and vice versa? To what extent has youth participation in municipal authorities been realised? The latest research on municipal youth participation dates from 2013 (Verwey – Jonker Institute) and shows that most municipalities are willing to organize, but unable to do so, due to a lack of internal support, knowledge, and/or funding. Those that do organise local participation, often choose the least interactive form, which results in a lack of actual structural dialogue. Several municipalities have pointed out that a change of culture is needed to start involving children and youngsters more in local policy. In recent years, Participation Audits have been conducted in the fields of youth care and welfare; bottom-up assessments, carried out by youngsters who assess their own youth care. This is a good example of theme-based participation and research. Unfortunately, this is an exception.

Recommendation

- The central government must further encourage and strengthen youth participation at the decentralised governmental level.

4. Civil rights and freedoms (art. 7-8, 13-17, 39)

5. Violence against children (19, 39, 37(a) and 28(2))

I. Child abuse and neglect

Child abuse and neglect still occurs on a large scale in the Netherlands. According to professionals' estimates more than 118,000 children become victims of abuse, neglect, assault or witness violence between partners each year (average of 34 per 1,000). Each year, about 50 children die from the consequences of child abuse.

The CRC implies an effort obligation for central government and municipal authorities to adequately protect children against abuse. Child abuse is still all too common. The Dutch National Taskforce on child abuse has been set up and wonders in their latest report to what extent the effect of actions set out in the National Action Plan of the government actually help to reduce the number of abused children. The National Rapporteur on human trafficking and sexual violence against children also stresses the need for action, because her latest report

shows that one in every three children will experience some form of sexual violence before reaching his/her 18th birthday.

The current pace at which the National Action Plan against Child Abuse is being implemented is too slow. Priority should be given to shaping local policy and monitoring (prevention) of child abuse. Municipal authorities are already responsible for prevention of child abuse. From 1 January 2015, in addition to responsibility for prevention, municipal authorities will acquire full responsibility for investigating potential child abuse situations and for assistance for parents and abused children. The latest research report of the Dutch Ombudsman for Children on prevention of child abuse (May, 2014), shows a large majority of local policy plans lack important prevention targets, despite the fact that municipal authorities have been notified of these intensively since 2008. Most municipal authorities have too little oversight of both abused children and of known risk groups. In addition, there is too little monitoring of the results, such as the scope and effect of the programmes deployed.

The CRC recommended (2009, 48a) to monitor the number of abused children and the gravity of all cases. Municipalities are offered and recommended to use a newly designed data registration system for this, but not urged to so. This might make it difficult to collect and compare data at the regional and (inter)national level.

Recommendations

- The Ombudsman for Children recommends in 2014 that municipal authorities set the following target in their prevention policy: that the number of children in a municipal authority who face child abuse should be reduced by a minimum of 50% in a period of three years.
- The Ombudsman for Children recommends the introduction of a Child Safety prevention policy, involving the identification of risk groups, the use of effective programmes and the deployment of instruments for improving municipal monitoring.
- The Ombudsman for Children also urged municipal authorities to use existing preventive measures, such as the Child Safety prevention package. This prevention package contains a bundled supply of measures offered by various NGOs for municipal authorities, to support their direction task in addressing and approaching child abuse.
- The government acted upon the concluding observation (38b, 2009) on prevention, however the efforts made need follow up and organised commitment at the regional and local level. Central government should issue municipal authorities with guidelines in the near future to facilitate this and ensure that local governments use the same form of data registration, to be able to make a comparison of comprehensive data.

6. Family environment and alternative care (art. 5, 9-11, 18, 20-21, 25, 27(4))

I. Administrative reorganisation of youth care tasks

The upcoming 'decentralization' requires substantial adjustments in policy, procurement of care and implementation by municipal authorities. Starting January first, 2015, the municipal authorities will be responsible for the performance of youth care (voluntary and mandatory), including foster care, specialised treatment like psychiatric care and youth health care, the implementation of child protection measures and the execution of juvenile probation.

The Ombudsman for Children has warned - among others based on independent reports - that many municipal authorities started too late with these adjustments, making it uncertain that all children will receive appropriate care from 2015. He will monitor the implementation by municipal authorities closely from 2015. The Ombudsman for Children also foresees that legal inequality could arise through differences between municipal authorities in access to and the quality of care. The Ombudsman for Children is also concerned that the national government will not take its responsibility for the system as a whole sufficiently, and will refer any problems to the municipal authorities. He will continue to call national government to account for the fact that it remains responsible for compliance with the CRC.

Recommendations

- The Netherlands must ensure that all children in need of care receive appropriate care which is accessible and of good quality.
- The Netherlands must avoid legal inequality and ensure that a minimum level of care is guaranteed, regardless of where a child lives.
- The Netherlands must take its responsibility for the system as a whole and call local authorities to account for their local responsibilities.

II. Foster homes

Children placed in alternative care form a cause for concern for the Ombudsman for Children. Although the number of children placed with a foster parent increased, still many others end up in institutions instead of foster homes. Another issue regarding foster care is the lack of available foster families from non-Dutch backgrounds. What also causes concern is that siblings often cannot be placed together in a foster family. It takes time and several family placements before a child is placed with a foster family where it can stay as long as necessary (i.e. returning home or reaching adulthood).

Recommendation

- To create more foster home places, it is essential to invest in recruiting new foster parents, with a special focus on families from non-Dutch backgrounds.

III. Quality of official reports as a basis for far-reaching youth care decisions

The courts can impose youth protection measures on children whose development or safety is at serious risk. Each year, 10,000 Dutch children are placed under the supervision of family guardians and 3,500 children are placed in foster care. In 2013, the Ombudsman for Children investigated the quality of the professional reports in youth care, on the basis of which the courts take such decisions. This investigation was opened after the Ombudsman for Children received complaints from parents that the quality of these reports was inadequate. The Ombudsman for Children concluded that too often, facts and opinions are still mixed in these reports, that far-reaching conclusions are drawn on the basis of incidents or suspicions, or that conclusions are insufficiently supported. The youth protection organisations have implemented improvements in their procedures in that regard, in order to improve the quality of the reports.

Recommendation

- The Dutch government must ensure that organisations such as Youth Care Services and the Child Protection Service implement additional internal quality assurances that improve the quality of these reports. It is important that these national quality assurances remain in force after the decentralization of youth care.

IV. Children and divorce conflicts

The Ombudsman for Children conducted an investigation in 2014 into the manner in which 'conflict divorces' can be harmful to children and how this can be reduced. It is estimated that 20% of divorces turn into conflict divorces. The government must intervene if parents do not or are not able to take their responsibilities, for example via the Child Protection Service. The Ombudsman for Children investigated which instruments already exist in order to break through conflict situations in divorce cases and to prevent and limit the suffering of children. The investigation showed that earlier identification, earlier intervention and direction at a single point are the key concepts. For this reason, the Ombudsman for Children calls for mandatory mediation and mandatory divorce education for all divorcing parents. He also calls for a directing role for the courts and for earlier deployment of a special guardian *ad litem* or child coach.

Recommendation

- The Netherlands must provide for a divorce system in which - when children are involved - the interests of children take priority. This can be achieved by introducing mandatory mediation, by a system that enables the courts to oversee and steer proceedings more and through a system of legal aid in which it is consultation between parents, not litigation, that is beneficial to them.

7. Disability, basic health and welfare (art. 6(2), 24, 24(3), 18(3), 27(1-3), 33)

I. Children in poverty

In 2014 it became clear that in the Netherlands 384.000 children grow up in poverty, which comes down to an average of 1 in 9. These are not only children whose parents are on welfare. These are also children of the self-employed or of house-owners that are not able to sell their home. The latter group needs assistance from the government as well. From research in 2013 by the Dutch Ombudsman for Children (Research Report on Children in poverty in the Netherlands, 2013), it became clear how big the impact of poverty can be on children. For instance, through social isolation or exclusion they face themselves and by dealing with stressed parents/caregivers. The research also shows that the help children in poverty receive, depends on the municipality in which they live: municipalities differ strongly in terms of measures targeting children in poverty and few municipalities know whether these children actually benefit from the schemes and arrangements intended to assist them. Only a few municipalities in the Netherlands actually have a policy on poverty that includes a specific focus on children.

The main recommendation from the research was that municipalities should put together a *children's package*, which components directly benefit children themselves. The package should contain basic necessities, supplemented with extras to enable children to participate socially, including vouchers for basic needs like a set of winter clothing and summer clothing and, say, the swimming lessons necessary to obtain a basic swimming diploma, a library card valid until the age of 18, access to local public transport and participation in a weekly recreational, sporting or cultural activity. Children from moderately poor families would qualify for such a package (Dutch Child Rights Monitor, 2013).

A positive development is that since 2013 around 10% of Dutch municipalities among which Amsterdam, Den Bosch en Groningen, designed their *children's package* and put it into practice. Several other cities are still deciding on it or in the design phase. The Cabinet made clear that it has poverty reduction as a goal; it gave municipalities a budget for poverty reduction and asked to focus on children in poverty.

Recommendations

- It is imperative that all municipal authorities develop a poverty policy specifically geared to children, given that one in nine children lives in poverty.
- The Ombudsman for Children calls on municipalities to adapt their policy to realize children's packages, in partnership with civil society organizations and to involve children in deciding about the package content.
- Central and municipal authorities should monitor poverty policy targeting children.
- The Ombudsman for Children encourages central government, in the light of its obligations under the CRC, to make targeted efforts to urge municipalities to take the necessary steps to reduce poverty and call them to account when they fail to do so.

II. Protection of children with disabilities

Children in youth care, who have mild intellectual disabilities in combination with psychological problems, run a high risk of getting serious problems directly after reaching the 18th birthday. After they turn 18 obligatory youth care comes to end and these children need to leave. However, not all these young people are capable of overseeing what is and what isn't in their best interest. Therefore they can for instance end up in an unsafe home situation, without enough guidance to make the first steps into adulthood after they leave the youth care system. Their safety has to be ensured before they reach the age of eighteen.

Recommendations

- Ensure the safety of young people after they leave the obligatory youth care at the age of 18.
- Take measures to improve the aftercare like good housing, financial - and social support, education, work and mental health care.

8. Education, leisure and cultural activities (art. 28-31)

I. Right to education

In the Netherlands, 3,789 children do not receive any formal education, because they have mental or physical impairments or an illness which requires special support from schools, but that can't be provided. . Instead, they stay at home: the 'stay-at-homes'. In May 2013, the Ombudsman for Children conducted an investigation into how it is possible that there are children in the Netherlands who do not receive any education. The Ombudsman for Children concluded in this report, entitled 'From compulsory education to entitlement to education' that pupils needing extra care must be able to receive personalised education.

Recommendations

- In order to make personalised education possible, the State must operate on the basis of a right to education for all children, instead of an obligation to follow education for all children. Personalised educational services must be stimulated.
- In education, there needs to be a shift of perspective from *compulsory* education to *entitlement* to education: children with special needs must receive education that is tailored to their needs. The same applies to young people in secure settings (juvenile detention centres and secure youth care institutions).

II. Addressing the issue of bullying in schools

In the Netherlands, 390,000 children (of which 225,000 children in primary education, 150,000 in secondary education and 15,000 in special education) were bullied by other pupils in and around school in 2013 (Educational Inspectorate figures). In order to address this problem, a bill is being drafted that, among other things, will make the implementation of a validated anti-bullying programme mandatory for schools. In addition, the government has commissioned research into which anti-bullying programmes do and do not work. With this, the government has shown that the problem of bullying is high on its agenda.

Recommendation

- The government must pursue efforts to continue to secure the safety of all children in and around school.

9. Special protection measures (22, 30, 32-36, 37(1), 38-40)

I. The legal position of child aliens

Children without a residence permit are extra vulnerable. Under EU law and the CRC, the Netherlands is required, in migration law proceedings in which children are involved, to determine and consider the interests of these children. However, it appears that a general vision of how the interests of the child should be protected is lacking in Dutch aliens law and policy. The interests of children are barely raised in asylum and aliens policies and the same counts for individual decisions: the interests of the child are not determined and considered in a systematic and discernable manner.

Recommendations

- The Netherlands should develop a vision and policy on the interests of children in Dutch migration law, which is in accordance with the CRC.
- The Netherlands must consider the interests of children and, in the light of this, the psychiatric damage caused by uprooting children, as an independent assessment criterion within migrant policy.

II. Interests of alien minors not weighed individually

In Dutch migration law the interests of children are not weighed independently from their parents. Consequence is that the best interest of the child, when different from those of their parents, might be conflicted.

Recommendation

- The interests of alien minors must be taken into account independently, when the authorities make far-reaching decisions, such as evictions, the denial of applications for residence permits, expulsion, or the splitting up of an asylum seeker's family. Moreover, the children of asylum seekers should be informed earlier about what is likely to happen to them.

III. The 'Child Pardon' regulation

The 'long-term resident children' transitional regulation, better known as the 'Child Pardon', is a regulation dating from 2013. The Pardon is intended for alien children who, as a result of protracted procedures, have been in the Netherlands for years and are now settled in the society, but have no residence status. There was and still is broad social support for allowing these children to remain in the Netherlands. The Ombudsman for Children has monitored and has recently evaluated the application of the regulation. He concluded that the criteria and the implementation of the Child Pardon were not consistent with the CRC. Some criteria used, have not been concurrent with the best interest of the child.

Recommendations

- The Netherlands must find a just and lasting solution for all current alien children who are settled in the Netherlands.
- The Netherlands must design immigration procedures in such a way that they take into account adequately the interests and rights of alien children. Furthermore, all organisations and people involved in the immigration procedures (the governmental organisations, parents, lawyers, judges etc.) should adequately take into account the best interest of the child.

IV. Family reunification

The Ombudsman for Children has completed his research in 2013 about to what extent the Dutch policy concerning children of refugees joining their parents abroad and the implementation of this policy in the period 2008-2013 is in accordance with the CRC and concluded that this was not the case. The investigation was in response to the high, and increasing, percentage of rejections of applications for family reunification by children. The

Ombudsman for Children established - inter alia - that the manner, in which hearings with children were conducted, was not in accordance with the CRC. Furthermore, the Ombudsman for Children established that in decisions made by the Immigration Service the weighing of information - and therefore the interest of the child - is not discernable. The increased tightening of the policy and the implementation of the policy has led to the unacceptable high risk that the 3,910 children, who have submitted an application for family reunification and have been rejected since 2008, might have been wrongfully not reunited with their parents.

The latest figures show that the percentage of approved applications for family reunification in the Netherlands, made at the diplomatic posts, has clearly risen in 2012 and in 2013.

Recommendations

- The children, who have submitted an application for family reunification and have been rejected by the Immigration Services since 2008 until 2013, should still be offered a fair chance to be reunited with their family.
- The relevant Dutch embassies and Immigration Services should take on the task to organize and perform control of the quality of the hearing employees. They should ensure the use of qualified interpreters as well.
- The Immigration Services should consider in a document what is to be expected of a child in a hearing and make age-appropriate requirements for the hearings with children and teenagers.
- The Immigration Services should make clear in what way the interest of the child has been taken into account in the procedure and in the decision-making.

V. Storage of DNA material of minors

In the regulation of DNA samples and processing of juvenile convicts, the Netherlands currently doesn't take enough into account the vulnerability of minors, their special position in the juvenile justice system and the protection granted by the CRC. There is no distinction between minors and adults, it is 'standard procedure' to take DNA from a person when sentenced to temporary-detention without substantial consideration to each individual, and the DNA is stored between six and thirty years.

Recommendation

- Make a distinction between minors and adults in laws and regulations regarding DNA samples and storage of DNA, take into account the personal circumstances of each individual, and shorten the storage of DNA to five years after the eighteenth birthday.

VI. Exceeding 'reasonable time' between offense and verdict in juvenile justice

The period between the offense by a minor and the criminal justice response, should be as short as possible. The longer this period, the greater the probability that the response loses the desired positive educational impact and the more the child will become stigmatized.

The entire process should be settled within six months, but this is only so in 58 percent of the cases (Child Rights Monitor 2013). This is worrisome in light of Article 40 paragraph 2 subparagraph 3 UNCRC which states the right to a speedy and fair trial.

Recommendation

- Make sure that the time between the offense and the criminal justice response is as short as possible, with a maximum of six months.

VII. Adolescents Criminal Law

The 'Adolescents Criminal Law' was introduced on April 1st 2014. This law makes it possible to turn a PIJ (placement in a juvenile justice institution for treatment), a juvenile justice measure, into TBS, a similar measure under adult criminal law. Concerning TBS: the abbreviation stands for 'Ter Beschikking Stelling', which means 'to be placed at the disposition' of the government. It is a measure imposed on convicted criminals (officially not seen as a punitive measure) through which they can be admitted in a psychiatric hospital to undergo treatment. The measure is imposed on people who have committed very serious crimes (often violence or vice related). A TBS-measure ends only when the treating doctors find that a person made such an amount of progress that he is no longer a danger to society. In theory, it could mean a lifelong measure. PIJ can be extended to a maximum of seven years, TBS can be extended indefinitely. Thus, minors (also under the age of sixteen) could be sentenced - eventually - to an adult measure and in theory be incarcerated for the rest of their lives. Apart from that, the new law makes it no longer possible for a judge to impose community service for serious offenses, when he deems this an appropriate punishment.

Recommendations

- Remove the legal possibility to effectively impose a TBS measure on a minor.
- Judges should not be prohibited by law to impose community service for a serious offense, when they conclude that this is an appropriate punishment in a case.