

Summary

The jurisdiction of single-judge divisions in criminal proceedings

Criminal trial by a single judge was introduced in the Netherlands in 1921. At first, the jurisdiction of judges sitting singly was limited to uncomplicated criminal cases attracting a maximum sentence of six months of imprisonment. This maximum was raised by law July 12, 2002, to twelve months of imprisonment. Another, temporary, law however stipulated that these new jurisdictional limits should apply to cases involving drugs couriers only. Jurisdiction of single-judge divisions in appeals was extended to cases in which the single judge can impose sentences not exceeding six months of imprisonment.

On September 19, 2002, the Parliament adopted a motion asking the Government to initiate research to gain insight into the possible consequences of (further) expansion of jurisdiction of single-judge divisions. This report presents the findings of this research. A distinction is made between the expected impact of extension of single-judge jurisdiction from offences attracting a maximum sentence of six months of imprisonment to offences attracting a maximum sentence of one year of imprisonment and the expected impact of extension of jurisdiction from offences attracting a maximum sentence of one year of imprisonment to offences attracting a maximum sentence of two years of imprisonment.

The research addresses two questions:

1. How many of what types of cases would be heard by single-judge divisions, if their jurisdictional limit were extended to offences attracting a maximum sentence of two years of imprisonment?
2. What is the opinion of prosecutors, judges and defence counsel about extension of the jurisdiction of single-judge divisions?

The first research question was answered using quantitative data from the national Criminal Justice Administration Monitor. The data relate to criminal files in 1993 and 1995. In addition, data from the Public Prosecution Service for 1999 were used to estimate upper and lower limits of the number of cases that would qualify for trial by a single judge instead of a full-bench after extending jurisdiction. The data indicate that non-violent offences as well as uncomplicated drug offences would qualify for trial by single-judge divisions. In 1999, 10 to 20 per cent of the total number of cases heard by full-bench divisions could have been dealt with by single-judge divisions with jurisdiction over cases involving offences attracting a maximum sentence of one year of imprisonment. Further extension to offences attracting a maximum sentence of two years of imprisonment could result in another 10 to 25 per cent. Bearing in mind the recent rise in pressure on the capacity of district courts, extension of the jurisdictional limit of single-judge divisions could be expected to result in reduction of the workload of full-bench divisions nearer the upper than the lower estimated limits.

The heavy workload of district courts was frequently mentioned during the interviews conducted to answer the second research question. For reasons of

efficiency, the vast majority of the sixteen prominent representatives of the Public Prosecution Service, the Bench and the Bar interviewed favour extending jurisdiction of single-judge divisions to offences attracting a maximum sentence of one year of imprisonment. They expect the larger district courts would be far less likely to demand shorter sentences than reasonable for the crime committed in order to get the case dealt with in due time (by the single-judge division), if the jurisdictional limit of single-judge divisions were extended to offences attracting a maximum sentence of one year of imprisonment. Interviewees were less favourable of further extension of the jurisdiction of the single-judge divisions. Imposition of heavier sentences might be too much responsibility for one judge to bear. Experience is indispensable in imposing heavier sentences because fewer points of reference are available to guide sentencing. It is doubtful there will be enough judges sufficiently experienced to try the more serious criminal cases. Data and interviews clearly indicate that sexual offences as well as most other violent crimes are and will remain the domain of full-bench divisions, even after extending jurisdiction of single-judge divisions.

Further extension of jurisdiction of single-judge divisions in appeals would alleviate the workload of the full-bench divisions to a considerable extent. In theory, nearly all cases tried by single-judge divisions at present (that is, those cases attracting a maximum sentence of six months of imprisonment) could be dealt with by judges sitting singly in appeals proceedings. That is 68% of all appeals. The opinions of the interviewees about the desirability of extending the jurisdiction of single-judge divisions in appeals proceedings were divided. The most important argument against extension is that the added value of an appeal lies in bringing the case before a full-bench division.