

Summary

On 12 May 2000, a law came into effect with amendments to Article 141 of the Penal Code (acts of violence in public) and to Article 540 of the Code of Criminal Procedure (judicial command for the maintenance of public order) (1). These amendments should allow the police and the prosecution counsel to react more effectively to disturbances of the public order.

The central question of the research concerns the experiences in practice with the application of the amended articles. In order to answer this question, quantitative data have been gathered about the removal of Article 141 of the Penal Code, both jurisprudence and professional literature have been studied, and ten practising specialists have been interviewed about their experiences.

A rising line can be distinguished in the number of cases which are recorded at the public prosecutors on the basis of Article 141, but the first reaction by both the prosecution counsel and the judge is dismissive. By comparing these figures with the registered (violent) crimes at the CBS (Central Bureau of Statistics), it appears that this rising line is more related to the general increase in the number of, and settlement of criminal cases than that this is attributable to the amendment of the law. The respondents confirm this picture.

From the jurisprudence studied, it appears that only the active involvement of a suspect in the collective commitment of public violence may lead to a conviction on the grounds of the amended Article 141 of the Penal Code. The respondents confirm this picture.

The practice of law seems to be quite able to manage with the amended Article 141 of the Penal Code. The article offers advantages with the criminal handling of (group-committed) disturbances of public order. Now more proceedings can qualify as criminally relevant and provisional detention is more often possible. A wider circle of suspects can be detained, successfully investigated, and convicted. Therefore, the article is standardly used in the criminal handling of football vandalism. Although it is not specifically intended for this, the article has also demonstrated its usefulness in the handling of group violence by youths.

The concern of critics that the amended article would lead to the unlawful detention of innocent passer-bys has not been confirmed in practice, as far as we could gather (in jurisprudence) and from the respondents.

The amended Article 540 of the Code of Criminal Procedure has not (yet) demonstrated its value in practice. The article has remained unknown and unused. According to respondents, it has no added value for the practice of law above those means of coercion and arrangements already existing, such as provisional detention, the conditional suspension of provisional detention, or a ban on entering the stadium.