

Management Summary

On 1 June 2003, the legislation and regulations relating to the handling of requests for sentence remission were changed. The redesign of the procedure was intended to make the handling of requests for such remission ('pardons') quicker and more efficient, whilst retaining the levels of care and quality in the preparation of decisions about pardons. A variety of measures have been taken to this end, in order to limit the number of requests for pardons and to shorten the throughput time of requests for pardons.¹³

It was decided to evaluate the new 'Pardons Act' after three years in order to get a picture of the results of the changes implemented. The objective of the evaluation is to examine:

- (a) the extent to which more rapid and efficient handling of requests for sentence remission has been achieved;
- (b) whether the nature and numbers of complaints are changing.

A number of data sources were used for the study:

- (a) *Bureau Gratie* has made data available about the incoming and outgoing flows of requests for pardons, the throughput time for the requests and the complaints records. Information from OM DATA has also been used, supplied by the WODC. A number of inconsistencies were uncovered in the data. These have however only had a very limited effect on the usefulness of the data;
- (b) In order to determine whether there have been developments in addition to the introduction of the new Act that might have affected the parameters examined, interviews were held with a number of those involved: two representatives of the Ministry of Justice (Directorates-General for Prevention, Youth and Sanctions and for Legislation), a representative from the prosecution services (a prosecutor), one representative of the Sitting Magistrates (a judge) and staff of *Bureau Gratie*.

The objectives of the Act have largely been achieved

The main conclusion of this study is that the objectives of the Act have largely been achieved. The key conclusions for each question being examined are given below. Measures to be taken and the anticipated policy effects are discussed along with the results. This is followed by a table showing the anticipated effects of the policy and whether or not these were actually observed.

¹³ The term 'pardon' here refers throughout to **remission of sentencing**, and should not be taken in the sense of an annulment or quashing of the conviction.

The overall number of requests for sentence remission is not changing, but there have been shifts in the types of requests and the way they are handled

The total number of requests for pardons is not decreasing

A number of measures have been taken to restrict the incoming flow of requests for pardons. These relate to requirements on the format of requests for pardons and the imposition of clear criteria that requests for pardons must comply with before they can be handled. There does not seem to be any reduction occurring in the number of requests for sentence remission. The absolute figures fell substantially after 1998, remained fairly stable from 2001 and have shown a slight drop since mid 2005.

Given the moment the drop commenced, it would not seem that the fall in numbers is a consequence of the introduction of the Act. The number of requests for pardons has been very steady since 2002, compared with the number of judgements for which sentence remission can be requested.

The number of 'conversion requests' seems to have dropped

One of the bottlenecks that triggered the review of the Act was the large number of requests for pardons from people sentenced by default, asking for custodial sentences to be converted into an alternative sanction. When the Act alternative sanctions came into effect (1 February 2001), this bottleneck should have been largely resolved. Examination of this figure based on the data does indeed show a reduction in the number of 'conversion requests'. As expected, the drop is related to an increase in the number of alternative sanctions imposed by default and a reduction in the number of custodial sentences imposed by default.

The shifts occurring in the way requests are handled fits in with the hypothetical results of the policy

The intended effects of policy on the way requests for pardons are handled did indeed occur:

- (a) One of the bottlenecks in the old situation was that all requests for sentence remission went through the entire procedure. Under the new Act, clear criteria are used to distinguish requests that by their very nature cannot be granted. Such requests therefore do not make demands on the capacity of the advisory bodies and the decision-making capacity of *Bureau Gratie* and therefore do not lengthen the throughput times unnecessarily. The number of requests for pardons that are deemed out of scope and not handled increased after the introduction of the new Act from approximately 20% to around 40% of the total number handled. This increase mostly replaces a proportion of the rejections, in which a drop can be seen. The number of requests for pardons going through the advisory process has been substantially reduced, which was a key objective of '*Redesign Gratie*' ('Redesign of Pardoning').

- (b) The new Act treats what are known as 'conversion requests' in a different way. These are requests for a custodial sentence to be converted into a non-custodial alternative. In the old situation, a provisional pardon was granted for this, on the condition that a community-based task or similar was carried out. Under the new Act, the decision to grant a pardon is a suspended sentence change, with unconditional pardon following when the non-custodial sentence is completed successfully (or rejection of the request if not). The number of conditional pardons and the number of decisions on pardons that have to be revoked is greatly reduced, as expected.
- (c) Because requests that by their very nature can or cannot lead to a pardon are distinguished more quickly, the requests for sentence remission that are handled will have a better chance of success. As expected, the number of unconditional pardons is increasing.

Requests for sentence remission are handled more quickly on average

The average throughput time for handling a request for a pardon has been shortened

One of the bottlenecks that triggered the review of the Pardons Act was the long throughput time. The key measures taken to shorten it are:

- (a) Central coordination of the process by *Bureau Gratie*;
- (b) Removal of the advisory function of the police and restrictions on the advisory function of the Ministry of Public Affairs;
- (c) Making the decision to pardon a suspended on in the case of a 'conversion request'. This means that the decision to grant a pardon is suspended until the community work task is completed; there is a fixed period for this. If the community work task is not completed, the request for pardon is rejected. If the non-custodial sentence is completed, an unconditional pardon is granted. This measure has had the effect of shortening the throughput time by cutting the number of extensions to the period in which a condition can be met, reducing the number of times a decision is revoked due to non-compliance with a condition, and reducing the number of royal decrees that have to be issued. This is reducing the administrative burden.

The measures seem to have had an effect. The average throughput time of a request for a pardon has gone down sharply. Whereas the throughput time was more than 200 days at the beginning of 2003, it was less than 150 days in 2004 and even down as far as about 130 days in 2006. The consistent distribution pattern of the throughput times is conspicuous.

The following observations were made about each of the ways of handling requests:

- (a) the throughput time for conditional/unconditional pardons being granted has not changed very much;
- (b) the throughput time for rejections is substantially lower than before the Act was introduced;

- (c) the average throughput time for a suspended decision to pardon is around 90 days. A comparison of the situations before and after the regulatory change is not applicable here;
- (d) The average throughput time is about 40 days longer when the public prosecutor as well as the judge is consulted during the advisory process.

After the introduction of the Act, the 80% norm is almost always met

In line with the policy objective, the 80% norm of a throughput of 180 days is being achieved in more cases. In 2003, the norm of 180 days was achieved for about 50% of requests; from 2004 onwards it was almost always met.

No conclusions can be drawn about changes in complaints

The legislative change aims to handle requests for pardons more quickly and more efficiently, without prejudicing the level of care and quality in the preparation of pardoning decisions. The quality aspect described here is only defined for the 'product' – a pardon – in terms of complaints by those who request pardons. The complaints received give a limited picture of the levels of care and quality in the preparation of decisions about sentence remission. Moreover, the number of complaints is so small that no statistically valid statements can be made about any changes that there may be in the nature and numbers of complaints.

It is not likely that the effects are due to other developments

In addition to the changes in legislation and regulation, it was possible that other developments might also have affected items related to pardoning. Based on discussions carried out with various people involved, the conclusion is that no major developments took place during the period around the changes to the legislation and regulations that might have affected the numbers of requests for sentence remission and their throughput times. It is therefore likely that the effects observed were the consequence of the introduction of the new Pardons Act. The conclusion is therefore that a proportion of the policy objectives were achieved.

Table showing effects of policy

The following table shows the bottlenecks that were present before the Act was introduced, the legislative change and the results of the evaluation of the Act.

Situation before 1 June 2003	Change as of 1 June 2003	Result of analyses
Lack of format requirements for pardon requests. 75% of requests are estimated to have errors.	Standard pardon request form is mandatory. This form asks for the grounds for the pardon to be indicated and evidence to be provided.	As many incoming requests as before the Act was introduced. However, the number deemed unsuitable for handling has fallen sharply, so requests without arguments do not enter the advisory process. The number of requests without arguments has reduced.
Some requests for sentence remission are submitted shortly after the judicial decision became irrevocable.	If the request for a pardon is submitted within three months of an irrevocable sentence or decision, the request cannot be handled.	As many incoming requests as before the Act was introduced. However, the number deemed unsuitable for handling has fallen sharply, so invalidated requests do not enter the advisory process.
Judge cannot impose a community service order or similar by default, since this requires the consent of the accused.	The Alternative Sanctions Act (<i>Wet taakstraffen</i> , 1 Feb 2001) allows the judge to impose a task-based penalty in cases of default as well.	There are fewer incoming requests for sentence remission involving conversions to task-based penalties from those sentenced to custodial sentences by default. The number of conditional pardons granted has dropped sharply, as has the total number of 'conversion requests'.
The police are charged with checking and verifying the circumstances brought forward by the requesting party to back the request for a pardon.	<i>Bureau Gratie</i> checks and verifies the information supplied by the requesting party. This: <ul style="list-style-type: none"> (a) relieves the police of its advisory role (b) restricts the OM to providing advice in cases handled by three judges, where the OM has indicated that they want to advise or where the judge still decides to ask the OM for advice 	The average throughput time has shortened considerably.
The OM (Ministry of Public Affairs) draws up a report based on the police work about the decision on granting a pardon and sends this through to the magistrates' department.		
Minimum fine €227	Minimum fine increased to €340	Little or no effect visible on incoming flow of requests
Conditional pardon often granted on the condition that an alternative sanction (community task etc) is carried out.	The decision to pardon is suspended until the alternative sanction is completed. If the community work task is not completed, the request for pardon is rejected. If it is done, then an unconditional pardon is granted.	The average throughput time has shortened considerably. Fewer decisions on sentence remission have to be revoked and there are fewer requests for extensions to the period in which the task can be completed.

Situation before 1 June 2003	Change as of 1 June 2003	Result of analyses
Requests for sentence remission arrive at a variety of places: court registry, public prosecutor's office, the Queen's Secretariat or the Ministry of Justice	All forms requesting sentence remission are sent to <i>Bureau Gratie</i> . They check whether the request can be handled.	The average throughput time has shortened considerably.
The OM (Ministry of Public Affairs) checks regulations to see if a pardon leads to suspension of a punishment or its enforcement.	<i>Bureau Gratie</i> checks regulations to see if a pardon leads to suspension of a punishment or its enforcement.	Not included in the evaluation.
Requests for adjournment /suspension of enforcement under Article 559.a para. 2 SV are often submitted and granted.	Tightening up of the policy rules on this matter; in a circular on sentence remission, meaning that such requests are only granted under exceptional circumstances.	Not included in the evaluation.