

Summary

Background, object and terms of reference of the research

In 2008, the pilot project Optimizing Conditional Sanctions (*Optimaliseren Voorwaardelijke Sancties (OVS)*) started as part of the Judicial Conditions (*Justitiële Voorwaarden*) programme. In four court districts a small-scale pilot was started of a different, more efficient and, according to expectations, also more effective manner of applying conditional sanctions. An evaluation was started at the same time as the OVS pilot. The object of this research is twofold. First of all the point is to monitor the course of the *process* of introducing measures to improve the practice of applying special conditions: are the measures indeed applied consistently? In the second place, a better view needs to be obtained of the extent to which the measures have *effect*: shortening of processing times, a higher success rate of compliance with special conditions and an increase in the application of special conditions. The terms of reference of the research comprise six sub-questions, whereby question 1 relates to process evaluation, questions 4 and 5 to effect evaluation, and questions 2, 3 and 6 encompasses both sub-studies. The research questions are:

1. To what extent have the existing obstacles (obstacles with respect to rules and regulations, advice, supervision and exchange of information) been removed in practice and to what degree do the various elements of the new working method in the pilots (for example information exchange, the list of special conditions, warning system) help to bring this about?
2. How often were special conditions imposed annually (in the context of suspending pre-trial detention and suspended prison sentences), before and after introduction of the new working method? Which special conditions were concerned? In what types of cases (offence, offender) were they imposed?
3. How long were the various processing times, both before and after introduction of the new working method?
4. How many procedures with special conditions were completed successfully, before and after introduction of the new working method in the pilots? What part of those procedures 'failed' (not started, broken off in the interim) and why? In how many cases and at what times did the Probation Service refer the case back to the Public Prosecution Service after the conditions were violated (failed procedures)?
5. In what part of the 'failed' procedure was changing of the conditions or enforcement of the sentence demanded by the Public Prosecution Service or ordered by the court? In case this was not done, what was the reason for not doing so?
6. What were the reasons why procedures with special conditions were not imposed, not started or not completed successfully? What were the success and failure factors?

This report gives an account of the *process evaluation* of the project Optimizing Conditional Sanctions. The materials gathered here are therefore not suitable for making statements about whether or not the OVS project has been successful. OVS was expressly started as a pilot project, in which good practices could and had to be sought in order to give shape to the ambitions and objectives of the project. Different target groups were used in the four pilot districts, which makes comparison of the results of the districts amongst themselves meaningful only if account is always taken of the nature and size of the target group, its specific characteristics and the corresponding practice of imposing special conditions.

The implementation of OVS is gone through primarily in chronological order. Important times were various meetings of the local project managers, chaired by the national OVS project manager, in which the working processes were evaluated in the interim and good practices exchanged. Other important sources are progress documents and evaluation studies conducted by the pilot districts themselves in the interim and the researchers' discussions with those involved, particularly the local project managers.

The OVS project

The Cabinet considers the application of conditional sanctions an important means of reducing recidivism. The *personal approach*, or the tailoring of the sanction to the personality of the offender in determining the sanction as well as in the manner of enforcement, is central to this. In the outlined context of the programme, the OVS project is aimed at testing an impetus for an improved working method and enhancing it on the basis of experience in practice.

In the context of the OVS project, products have been developed which are supposed to ensure that conditional sanctions are applied more often, faster, more effectively, more efficiently and more professionally. For this purpose, the Ministry of Justice, in cooperation with staff of the various chain partners from the pilot regions, compiled a Guide containing materials for an improved working method. These materials are: advice on draft chain agreements; a draft designation of conditional sanctions for the Public Prosecution Service; an overview of the special conditions; an overview of recognized behavioural interventions; measures to improve supervision; chain process diagrams and an overview of tasks and responsibilities of the parties involved.

Each of the four pilot court districts Amsterdam, Groningen, Maastricht and Zwolle-Lelystad has applied the starting points of OVS to their local practice and set them out in an action plan, which contains information about the OVS target group, the local organization of the pilot and the expected OVS results. In the OVS pilot, a choice was made to differentiate not only according to location, but also according to target group. The target group in Amsterdam is all young adults aged 18 to 24. In Groningen, the target group was composed of committers of domestic violence and young adult violent offenders (aged 18-24). The target group in Maastricht was persons of full age and adult habitual and multiple offenders¹. In Maastricht, additional attention was paid to very active multiple offenders. The OVS target group in Zwolle was composed of recidivist violent offenders and first offenders of domestic violence and violence against (semi-)officials and emergency assistance providers.

The pilot was organized in a similar way in all four court districts. There was a steering group, composed of representatives of the management of the organizations involved. The members of the steering group are responsible for management and communication of the project within their own organizations. In addition, the aim of the steering group is to involve the management actively in the pilot and if necessary to consult them in the decision-making process. Besides the steering group, there is a district OVS project group. In addition to the organizations directly involved, non-judicial chain partners also participate in this group.

We shall go through the research questions in so far as they relate to the scope of this process evaluation of OVS.

Research question 1: To what extent have the existing obstacles been removed in practice and to what extent do the various elements of the new working method in de pilots (including information exchange, the list of special conditions, warning system) help to bring this about?

At the start of OVS, the chain partners involved proved to have inadequate knowledge of the customary working process up to that time. In order for them to switch to a new working method, the old working method first had to be elucidated to be able to determine where and how investments had to be made to implement the various elements of the new working method. It was ascertained that the existing information system and consultation structures were inadequate to follow cases closely on a broad scale. The pilot court districts have tried in different ways to alleviate that inadequacy, for example by investing in automation, more precisely the

¹ Persons aged eighteen and older regarding whom two or more official reports were made in their entire criminal past, at least one of which in the reference year, and persons aged eighteen and older who had more than ten official reports made on them over a period of five years (of which the reference year is the last year), at least one of which in the reference year. This target group is in line with the national definition of habitual offenders (multiple offenders, habitual offenders and very active multiple offenders).

overhaul of a monitoring system that kept an eye on the progress of OVS cases at all times. Work was also done on setting up a front office with intensive contact between the Public Prosecution Service and the Probation Service, often made possible by shortening the distance literally as well. A similar solution was found by appointing a chain information assistant who oversees the incoming OVS cases. In addition, the OVS cases were monitored in case consultations, sometimes organized regularly, sometimes more on an ad hoc-basis. The position of a director and driver was always essential, a central figure with an overview of the progress of OVS cases, who intervenes where necessary. A matter of concern is that if this position is abolished, for example through termination of the pilot project that started with OVS, the obstacles removed could return because the new working method would not have had the time to become generally accepted.

Research question 2: Which special conditions are concerned? In what type of cases (offence, offender) are they imposed?

The special condition most often imposed in the context of OVS was supervision by the Probation Service, i.e. having to behave according to instructions and rules which the Probation Services gives the convicted person for a certain time. In approximately a third of the judgments studied, such supervision was not specified in detail. In approximately half of the cases, the judge added an '...even if that means' formulation, after which specific instructions were given on the content of the supervision. In most cases by far, this concerned treatments or training courses. In the other judgments, the special conditions were mentioned explicitly, also including many treatments and training courses, sometimes combined with an order to report or prohibition on entering a certain location.

The types of cases in which these special conditions were imposed were predominantly determined by the different target groups mentioned above. In Maastricht, the majority of cases are property crimes, in Zwolle and Groningen almost exclusively violent crimes and in Amsterdam the proportion of property crimes and violent crimes is about the same.

Research question 3: How long were the processing times following introduction of the new working method?

The time between the arrival of a case in OVS and the hearing varied greatly within the court districts. The average processing time in all pilot districts together is 139 days. The averages per court district range from 103 to 163 days on average. On average, 54% of the number of OVS cases studied were brought to court within 120 days. The time between the request for the report and the hearing also varies greatly within the court districts. The average duration is 108 days, ranging from 83 to 141. The report is delivered 51 days before the hearing on average. The time between request and delivery was 65 days on average, ranging from 46 to 94. Supervision after the start of the operational period for suspended sentences started in 55 days on average, ranging from 42 to 66. A start of supervision within 30 days succeeds in 34% of the cases on average. Supervision after suspension of pre-trial detention starts in 15 days on average. In approximately three out of ten suspensions, supervision starts within a week.

Research question 6: What are the reasons why procedures with special conditions were not imposed or not started? What were the success and failure factors?

It can be stated in general that the stage of reports by the Probation Service is essential to the success of criminal proceedings in which special conditions are at issue. In the short time between arrest and possibly bringing the suspect before the public prosecutor, sometimes crucial decisions have already been taken on whether or not to request advice and on the contents of such advice. It appears difficult to obtain a correct view precisely of this. OVS does not really enter the picture until the stage of the request for comprehensive advice and afterwards. Broad application of the OVS working method can be achieved by expanding the target group, but certainly also through quick and adequate advice as soon as possible after arrest.

The quality of the advice is a very important factor in having special conditions imposed more broadly and especially more specifically in the judgment. Public prosecutors and judges should be able to assume that the special conditions recommended by the Probation Service can actually be implemented. In view of the results of this evaluation in relation to the congruence between advice, demand and judgment, there is a lack of trust as far as that is concerned, not only of the judiciary in the Public Prosecution Services, but also of the Public Prosecution Service in the Probation Service. Moreover, especially the Probation Service experiences an additional workload as a result of the renewed working method. Not only should more advice be given, but work should also be done with one of the two advice formats, which should always be accompanied by a diagnosis. Prioritizing tools to enable a better selection of cases for which advice is necessary prove not to work or help to a sufficient extent.

In order to actually introduce the OVS working method consistently, more particularly the personal approach, in the entire judicial process, it is necessary for all parties involved to be thoroughly aware of this working method. This does not only hold for the obvious parties, the Public Prosecution Service, Probation Service and the judiciary, but also for the police and, in particular cases, municipalities, care institutions and penal institutions. This entails cooperation at case level (and, apart from that, the question how such cooperation can be achieved, given its time-consuming and intensive nature), as well as at management level, where arrangements have to be made for an optimum management and direction of the entire proceedings. Good and up-to-date information is essential to this. That information can be made available in different ways (a front office, case consultations, a monitoring system), but should enable all parties involved to follow cases closely at all times.

The credibility of criminal procedure appears to be a key concept no matter what in the application of the conditional modality. It is the key to reducing recidivism because if it is implemented quickly and consistently, not only is it possible to bring about the desired change in behaviour, but the deterrent effect of the 'big stick' is really felt. Moreover, it is the most important condition for effective cooperation among the chain partners. With the introduction of OVS in the four pilot court districts discussed above, important steps have been taken to give new shape to such credibility.