



Principles digitally. Digitalisation and the principles of criminal justice administration

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Summary

Digitalisation has already brought about considerable changes in the criminal justice administration. In the future such changes will only have a deeper impact. The legal values that rule in criminal justice, usually described as fundamental principles, have to be respected in acting and decision making. The question should be asked whether this can work: digitalisation of the criminal justice administration while respecting the legal fundamental principles of that administration. The following question was central in the study as reported here:

*Which developments in information technology will possibly change the action/ decision making by actors in the Dutch criminal justice administration?
Which positive and negative consequences for the fundamental principles derived from treaty law and statutory law can be discerned in criminal justice administration.*

The central question comprised the following subquestions:

1. Which principles of criminal justice administration can be related to IT-developments?
2. Which changes in the criminal justice chain, as visible over the last five years, are the consequence of developments in IT?
3. What aspects of these already visible changes can we appreciate as support for the fundamental principles derived from treaty and statutory law and which as a cause for tension?
4. Which IT-developments, relevant for the Dutch criminal justice chain, can be expected in the next ten years?
5. On what points will the expected changes support the fundamental principles of criminal justice administration, as derived from treaty and statutory law, and where can tension be expected to arise?

This report concludes, that for the procedural stages of prosecution and trial the fundamental legal principles of criminal justice administration can be upheld in the digitalisation development. In chapter 2 the relevant legal principles are described as well as the leading principles for developing information systems. After confronting those two sets of principles the conclusion is reached, that the principles for information systems do not by nature provide a contradiction with the fundamental legal principles. Chapter 3 describes the recent transition from paper to digital for criminal case files. This changing operation is put to the test whether tensions have arisen with the fundamental principles of criminal justice administration. Tension is observed but is not ascribed to IT itself. A possible scenario for future IT-induced changes is subjected in chapter 4 to the framework that the legal fundamentals provide, where it is found that violation of these principles is not inevitable. Digitalisation can support the realisation of the legal fundamental principles, or at least be neutral to those principles.

It is obvious that there are issues at the moment and will be in the future where tension arises. Those issues however should not simply be linked to digitalisation itself. They have to do with lack of direction and lack of knowledge, proximity and coordination on the side of the professionals from the separate expertise areas, that are involved in the digitalisation of this complex system. Regarding the tension issues IT-developments or applications themselves cannot be put forward, neither as a cause nor as a solution, for now and for the future.

In the prospective digitalised criminal justice administration the relation between IT-specialists and legal professionals should not be characterised as a producer-consumer relation. Both sides will have to focus on the other discipline and the roles will have to become combined to that of 'conductors' of the digital disposal of criminal cases. The changes in acting and decision making will surely lead to new realisations of the fundamental legal principles. When both professional disciplines lead the process of change, working from the respective basic principles, the new situation can be as much in conformity with the legal-normative framework as it is in the current situation. Even progress can be expected.