

Summary

The jurisdiction of single-judge sections in criminal cases is expanded

Statistical data and experiences of the legal practice

Pursuant to the Act of 4 July 2002 (entered into effect on 12 July 2002), the maximum penalty that may be imposed by a police court judge has been increased from six months to one year. By letter dated 5 July 2005, the Minister of Justice subsequently promised the Lower House to evaluate the Act after the effects of the expansion had arisen in practice as well. The present investigation implements this promise.

The investigation focused on the following questions:

- 1 What type of cases will be submitted to the police courts after the expanded powers enter into effect?
- 2 What punishments will be imposed?
- 3 How many people are involved? How many cases, in which a prison sentence of more than 6 months is imposed, does it concern? Did a lawyer appear in the more serious cases?
- 4 How many and what types of cases are referred to the three-judge section?
- 5 What can be said about the difference in the type of cases, the punishments imposed and the number of cases, when compared with the period prior to the amendment of the Act?
- 6 Has it turned out that there are judges with sufficient experience to staff the single-judge sections?

To answer the questions, data was collected from Public Prosecution Service data and a total of 13 interviews were conducted with experienced police court judges and 6 interviews with experienced Public Prosecutors from large, medium-sized and small court districts throughout the Netherlands.

The statistical data show the following categories that are submitted to the police courts more often than before the amendment of the Act: threat, fraud, hard drugs and assault. The statistical data also show that unconditional prison sentences of more than 6 months are imposed in particular in respect of the following categories of crimes: theft preceded by forcible entry, robbery, hard drugs, assault and crimes related to forgery.

The categories of crimes that are presented by the statistical data are acknowledged by nearly all those interviewed. In addition thereto, the following categories of cases that will be submitted to the police courts more often than before are mentioned in the interviews: (overt) violence, domestic violence and minor sex offences (lewdness). The interviewees furthermore observe an increase of reoffending suspects.

In addition to quantitative agreements between the Public Prosecution Service and the courts concerning the number of cases to be submitted, several criteria for the handling of certain types of cases play a role when placing cases on the case list. Certain types of cases should, in view of the guidelines pertaining to their placement on the case list, always be handled by the three-judge sections: Cases on the basis of Article 6 of the Road Traffic Act whereby serious injury or death (as a result of a traffic offence) occurs, cases involving sex crimes (with the exception of minor sex

offences/lewdness) and sensitive cases, such as cases that can count on a great deal of media attention or in which a judgment will be rendered that is expected to have a broader impact.

Since the amendment of the Act, the number of (partially) unconditional prison sentences of 6 to 12 months has increased. The strongest growth can be found in the category 6 to 9 months. It concerns a growth of zero to 458 cases in 2006, whereafter it decreased somewhat to 372 cases in 2007 and 324 cases in 2008. The number of cases in which a (partially) unconditional prison sentence in the category of 9 to 12 months was imposed by a police court grew from zero to 131 cases in 2006 and decreased again to 108 cases in 2007 and 48 cases in 2008. When compared with the total number of cases settled by police courts (over 12,000), the number of cases in which an unconditional prison sentence of more than 6 months was imposed can be considered to be small (less than 1%).

In the course of the years, the number of suspended prison sentences imposed by (both the three-judge and) the single-judge sections has increased. The largest category at the police courts concerns the number of suspended prison sentences of 0 to 6 months that were imposed. A clear increase can also be observed in the category of suspended prison sentences of more than 6 months that have been imposed by the police courts since 2003, but it concerns small numbers.

All persons interviewed remark that the imposition of an unconditional prison sentence of more than 9 months to at most 1 year occurs only very rarely. The interviews furthermore show that frequently a decision is made to impose a combined punishment. In such cases, in addition to (partially) suspended prison sentences, other measures such as the imposition of community orders (community service and training orders) play an important role as well.

According to the interviewed persons, a lawyer always appears in more serious cases in which the defendant is, or has spent time, in pre-trial detention. With respect to the other cases, the interviewed persons estimate that in approximately half of the cases a lawyer appears. This largely applies to the more serious cases.

The interviewed police court judges sometimes refer cases to the three-judge section, but this concerns exceptions. The main reason therefore is that the case is either too complicated or the file too large. In such cases, more time would be needed to handle the case than was originally planned with respect to the police court hearing. The number of referrals is about 1% of the total number of cases submitted to the police courts.

When answering the question of whether there are enough police court judges, the interviewed persons remark that the number of years of experience in the three-judge section that is required before being able to act independently as police court judge is lower than it used to be. Some interviewed persons relate this to the capacity demands of the judiciary. Cases are rarely referred to the three-judge section; it is, however, the case that it is often the choice of less experienced judges.

The majority of the interviewed persons consider the expansion of the possibilities for imposing combined sanctions, consisting of an unconditional and a (substantial) conditional part, as the most important benefit of the amendment of the Act. They are of the opinion that the current jurisdiction limit suffices. None of those interviewed consider further expansion necessary or feasible.