

# **The Manual Criminal Prosecution School Absenteeism. A Process Evaluation**

## *Summary*

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### **Introduction**

Does the revised *Manual Criminal Prosecution School Absenteeism* lead to uniformity and consistency in addressing the problem of school absenteeism?

In order to answer this question the Scientific Research and Documentation Centre (WODC) of the Ministry of Security and Justice, asked ITS to undertake a process evaluation of the *Manual*. In the evaluation process, the following inquiries were made:

1. To what extent is the enforcement of compulsory education in accordance with the *Manual*?
2. If the enforcement deviates from the *Manual*: where does it differ and why?
3. Is there room for improvement of the *Manual* or its application? If so, which improvement(s) can be distinguished?

The objective of these inquiries was to identify whether or not there are differences in the approach of school absenteeism between municipalities. Although the instructions are being followed to a large extent, it turns out approaches differ between municipalities (and even within municipalities). This is not entirely unexpected given the complexity of school absenteeism and the discretionary authority of school attendance officers.

### **Research approach**

The following activities were carried out in the study:

- Eight exploratory interviews with nine key informants (including lawyers specialized in education and representatives of Ingrado, Halt and the Public Prosecutor's Office);
- A file study of eighty records by twenty compulsory education organizations (spread across ten legal districts), including interviews with the school attendance officers involved;
- Telephone interviews with ten representatives of the Public Prosecutor's Office and nine representatives of the Child Care and Protection Board;
- A focus group with five attendance officers in which the final unresolved issues concerning this research were discussed and in which results were assessed

### **Visibility and status of the Manual**

The *Manual* is known to and considered to be useful by almost everyone involved in this research (attendance officers, employees of the Public Prosecutor's Office as well as employees of the Child Care and Protection Board). It is generally regarded to be a useful guideline for tackling absenteeism and moreover it is considered a useful work of reference.

The Manual has helped to ensure that the chain partners experience more uniformity in the procedure than before the *Manual* was used. The background information included in the *Manual*, such as jurisprudence, is considered to be useful. An update of the document is recommended, since the 'static' *Manual* dates from 2012. Information can therefore be outdated or incomplete. The caseload of the school attendance officer depends partly on the schools' procedures. If schools have an active policy on prevention or stopping unauthorized non-attendance the compulsory education organizations see a decline in absentee rates. They thus save valuable time and can focus more on other important issues where care is needed.

### **Process Manual**

In order to make clear how the *Manual* works, the file study zooms in on the process followed for the various types of absenteeism and on the process of filing a report.

#### *Signal school absence*

In general the *Manual* acts on one principle: there is school absenteeism and the school attendance officer acts against it.

In a straightforward situation, the *Manual* works well and is followed by the officers. However, reality is often more complex. Often there are underlying (care) problems.

We often see that school attendance officers use their discretionary power when it comes to the decision to file a report, because a clear decision framework is missing in the *Manual*.

As a result, we find differences in the criminal law approach between school attendance officers in similar situations.

#### *Luxury school absence*

Luxury School Absence is usually a simple matter for the school attendance officers. The *Manual* leaves little doubt about this and can be followed quite easily. On the basis of the flow diagram, the school attendance officer determines whether or not the absence is permitted. Questioning the parents is regularly done by telephone. Sometimes it is unclear for school attendance officers whether or not the absence is permitted. Furthermore we see that the priority of the prosecution of luxury absenteeism varies among both compulsory education organizations and among districts (Public Prosecutor's Office).

#### *Absolute school absence*

When absolute absence has been ascertained, the roadmap described in the *Manual* is fairly simple: if a person is still not enrolled after a warning, the school attendance officer sends a written report to the parents. In practice, however, this is not what happens.

This is due to the question of culpability: to what extent is the parent culpable for not enrolling their child? In case of absolute school absence, the settlement decision is directed to the parent (s) /guardian (s) whereas in the case of 16-18 years olds ('kwalificatieplichtigen') the key to ending the absolute absence lies with the student itself.

A charge is in this case however no option, and a charge addressed to their parents mostly leads to a dismissal

School attendance officers consequently feel forced to tolerating the absolute absence. In addition, one may question to what extent a parent can be held responsible if the school unsubscribed the student, which is illegal without another enrollment.

#### *Making charges*

In making charges the school attendance officer uses a format which has been coordinated with the Public Prosecutor's Office.

This is usually the same format used in the *Manual*, sometimes with some adjustments. There are large differences in the amount of information included in the charge. There are also differences in requirements with respect to the charges between legal districts.

A charge does not necessarily entail a criminal process. Both the Child Care and Protection Board and the Public Prosecutor's Office indicated that they regularly see possibilities for (civil) assistance and attendance officers are sometimes (too) strongly inclined towards criminal prosecution. School attendance officers, however, state they prefer making a charge in order to force relief work to come into action. Despite an existing infrastructure of consultation, the coordination between school attendance officers, Child Care and Protection Board and the Public Prosecutor's Office, can be improved according to some interviewees.

### **Conclusions and recommendations**

To what extent is the implementation of compulsory education in accordance with the *Manual* and what does this mean for uniformity? Although criminal prosecution in compulsory education organizations has become more uniform in the past few years, the approach in comparable situations is certainly not always uniform. This is partly due to differences in delivering customized solutions between school attendance officers, schooling organizations, employees of the Public Prosecutor's Office and the Child Care and Protection Board and judges.

The independent position of the school attendance officer and his discretionary power is one source of these differences in prosecution, the missing frames in the *Manual* are another source.

Before adapting the *Manual Criminal Prosecution School Absenteeism* the various partners should determine the purpose of the *Manual*.

We have found that the *Manual* in its current form strongly focuses on criminal sanctions, whereas setting up/offering assistance in solving the problem of truancy is considered to be the central route, also by the Public Prosecutor's Office. The essential role of primary care in solving the problem of school absenteeism is in fact endorsed by all partners. The question thus is whether the *Manual* should maintain the current focus on criminal sanction, or should be generalized to a *Manual Strategy for solving School Absenteeism*.

We recommend positioning the *Manual* in a broader context and spread the responsibility further than that of the Public Prosecutor's Office.

In this way the *Manual* could deliberate on the role of the stakeholders (parents, schools, school attendance officers, Child Care and Protection Board and the Public Prosecution service) with regard of notification by the school, establishment of research into school absenteeism, possible assistance by social workers, considerations as to possible settlement decision and tightening the protocol. In addition, there should be more focus on communication and distinct agreements between school attendance officers, the Public Prosecutor's Office and the Child Care and Protection Board.