

## A conditional release procedure for life prisoners – an international comparative approach

16 September 2022

### *Event abstract*

#### **Summary**

Most countries in Europe have a procedure for the conditional release of life prisoners. In the Netherlands, the prospect of release is offered by the pardon procedure. Recently, however, the Minister of Legal Protection announced the introduction of a conditional release procedure for life prisoners (*Kamerstukken II 2021/22, 29 279, nr. 718*).

This workshop aims to clarify, in an international comparative manner, how a conditional release procedure for life prisoners could be given form in the Netherlands. The workshop will build on a previous workshop on life imprisonment organised by prof. Dirk van Zyl Smit and dr. Catherine Appleton in Onati, Spain in 2015. This previous workshop resulted in an edited volume 'Life Imprisonment and Human Rights'.

The main question for the present workshop is how a procedure for conditional release can be given form in the Netherlands that is in line with the criteria laid down by the ECtHR and what the Netherlands can learn from other parts of the Kingdom of the Netherlands and other countries. Speakers from the Caribbean part of the Kingdom of the Netherlands, France, Germany and Belgium are invited to elaborate on their system of conditional release for life prisoners (in addition to a system of pardon).

Questions that we aim to answer during the workshop can be categorised into five categories:

1. The conditional release procedure (de iure)

How is the conditional release procedure given form in law? Which procedural requirements are there? Which authority or court decides on the conditional release of the life prisoner? Is there an advisory body that advises on the release of the life prisoner? Is there also a pardon procedure? And how does the conditional release procedure relate to the possibility of pardon? Within what timeframe will the release be reassessed if a previous request is rejected?

2. The time of the review

What is the minimum period before release can be considered? Is this a statutory period or is this period set by a judge (in the sentencing phase)? Is there a different minimum period for first-offenders and recidivists?

3. The conditions for release

The review required in order for a life sentence to be reducible should allow the domestic authorities to consider whether, in the course of the sentence, any changes in the life prisoner and progress towards his or her rehabilitation are of such significance that continued detention is no longer justified on legitimate penological grounds. This assessment must be based on rules having a sufficient degree of clarity and certainty and the conditions laid down in domestic legislation must reflect the conditions set out in the Court's case-law (Murray para 100 with references). A life prisoner is entitled to know from the outset of his sentence what he must do to become eligible for release. What are the substantive criteria for the release of life prisoners?

4. The conditional release procedure (de facto)

How are life prisoners prepared for their release (during the course of the sentence and at the end of the sentence)? At what moment do the preparations for release begin? What are practical obstacles in the preparation of life prisoners for release? How are the substantive criteria for release applied in practice?

5. The release of life prisoners

What does the release of life prisoners imply? Is the life sentence terminated or converted in a temporary sentence? Can the life prisoner be subjected to supervision? How many life prisoners have been released the last 40 years? Is anything known about the recidivism rate among persons released from life imprisonment?

The workshop aims to bring together leading nationals and international scholars with an expertise and/or interest in life imprisonment. Workshop participants will be invited on a personal basis to join the workshop. We specifically invite PhD-students to this workshop.

### **Provisional programme and speakers**

10.15 – 10.30 Welcome

10.30 – 10.40 Welcome and introduction (prof. Sonja Meijer – Radboud University)

10.40 – 11.00 Life Imprisonment. A Global Human Rights Analysis (prof. Dirk van Zyl Smit – University of Nottingham)

11.00 – 11.25 Life imprisonment in the Caribbean part of the Kingdom of the Netherlands (prof. Hans de Doelder)

11.25 – 11.50 Life imprisonment in France (dr. Marion Vanier)

11.50 – 12.15 Discussion

12.15 – 13.30 Lunch break

13.30 – 13.55 Life imprisonment in Germany (prof. Christine Morgenstern)

13.55 – 14.20 Life imprisonment in Belgium (dr. Eric Maes – Nationaal Instituut voor Criminalistiek en Criminologie)

14.20 – 14.45 Discussion

14.45 – 15.00 Break (tea and coffee)

15.00 – 15.55 Plenary debate on the basis of the five questions mentioned above

15.55 – 16.00 Concluding remarks (prof. Sonja Meijer)

16.00 Drinks

### **Workshop venue**

The workshop will be held at Radboud University with the opportunity join via Zoom. More information on the venue will follow soon.

### **Registration**

Registration for the workshop is possible via Lisa Achten ([Strafrecht@jur.ru.nl](mailto:Strafrecht@jur.ru.nl)). Registration is possible until **26 August 2022**. Please indicate whether you can join us **in person** or **via Zoom**.

### **Organising Committee**

Prof. Sonja Meijer

Mr.dr. Maartje Krabbe

Mr.dr. Sven Bakker

Mr.dr. Eva Rieter

Mr. Ruben Aksay