Doing reintegration in the absence of rules? Discretion in the multi-agency context of recalling to prison in Belgium

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Internationally penologists only recently pay attention to ‘back-end sentencing’ (Travis, 2007), demonstrating that revocation of early release measures – recall to prison – accounts for a substantial and growing number of re-incarcerations. The most common reason for recall is the violation of license conditions (Padfield & Maruna, 2006; Collins, 2007; Padfield, 2012; Steen et al., 2013) and an increased ‘sensitivity’ of the supervision system to violations (Reitz, 2004; Weaver et al., 2012), resulting in more restrictive and risk-based enforcement practices where (quasi-)automatic revocation procedures limit the discretion that actors in the supervision system can exercise (Bateman, 2013).

The international rise in recalls and explanations put forward can however not carelessly be transposed to the Belgian context as the number of revocations is stable since 2010 and the different actors involved in the breach procedure still hold a great amount of discretion in their decision-making.

In this paper, we will describe the Belgian legal framework and the highly discretionary procedure surrounding (decisions of) recall to prison. Sentence implementation courts have the leeway to react restrictively or permissively to non-compliance. Our empirical findings, however, show rather consistent decision-making processes and outcomes across all Belgian sentence implementation courts. Therefore, we relate the discretionary nature of the decision-making practices and the absence of a clear decision-making framework (e.g. Tata & Hutton, 1998) to the particular reintegration-oriented decision-making culture of the sentence implementation courts in which these decisions are being produced. Doing so, we will pay attention to the specific multi-agency context and ‘collective action’ (Latour, 2005; Hutton, 2015).