

European treatment and transition management of high-risk offenders

Presentation of the results of **Forum 1:** **Legislation and court practices (jurisprudence)**

Elina, Ruuskanen, Frieder Dünkel

University of Greifswald/Germany



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As an introduction: Topics for the discussion in Forum 1

1. **Sentence planning and specific prison regimes** (specific treatment programmes, socio-therapy etc.),
2. **The preparation for release** (prison leaves, relaxation of prison regime, temporary release to half way houses etc.),
3. **The decision on release** (early/conditional/automatic release), in case the extension of custody by preventive detention and the role of legislation and jurisprudence to avoid preventive detention,
4. **The supervision after release** including exchange of information and cooperation of agencies involved at the post-release period (probation service, after-care services, police), the role of **control mechanisms** (intensive supervision and care, electronic monitoring etc.) and
5. **The responsibility of local/community agencies (community guarantee).**

Reactions to the introduction to Forum 1

- The discussion was addressing the problem of the relationship between politics and the evidence coming from practitioners and academics on what is needed for the rehabilitation of high risk offenders
- Example of a punitive turn in Serbia since 2006
- Problems with the system of automatic release, resulting in the remark, that only quasi-automatic release can be meant, considering the group of high risk offenders
- Socio-therapy for all? No, but some treatment approach with elements of therapy and intensive treatment should be provided for this group of offenders,
- (no forced treatment, but trying to motivate offenders for undergoing the treatment they need)

Outcome

- The group in general agreed that substantive legislation is needed alongside the phases of execution, preparation for release and aftercare support and supervision.
- The issue of responsibility of local/community agencies was discussed by emphasising also the involvement of private organisations and NGO's for the resettlement of offenders

Alina Barbu: Managing high risks offenders - from sharing experiences to drafting better national laws

- The role of the EU, Council of Europe, CPT-standards and the jurisprudence of ECtHR
- International bodies and instruments and their influence on national law and/or jurisprudence
- Increasing importance, examples of law reforms after critics from the CPT
- Legislation needs to reflect the needs of practitioners, but also human rights standards

Alina Barbu

- Rec, (2014) 3 on dangerous offenders
- Dangerousness is a „vague concept“,
- Should be seen dynamic
- Hope for release, regular review of dangerousness/high risk
- JCN should continue, drafting a manual or handbook?
- The standards of Alina Barbu's presentation are in line with the results of the JCN-project

- After the presentation the procedures of finding a general consensus at the CoE were discussed (sometimes only minimum standards!)

Tapio Lappi-Seppälä: Preventive detention in the Nordic countries

- Finland and Sweden do not have preventive detention, whereas Denmark and Norway do.
- All Nordic countries introduced it in the first half of the 20th century
- Since the 1970s: strong movement to reduce indeterminate detention in general, and preventive detention in particular
- Countries that abolished it have introduced „compensating” systems such as an increased use of mental hospital orders, increased penalties for recidivist offenders (S) or of life imprisonment or mechanisms to fully serve the sentence (FIN).

Tapio Lappi-Seppälä

- Norway: Preventive detention in practice means 1.5-2 years extra-time, 14 offenders per year
- Denmark: 2-3 per year; 50 offenders on a given day

Tapio Lappi-Seppälä

- Can you survive without preventive detention?
- Clear answer: yes!
- But you need a system of support and community supervision after release.
- Psychiatric treatment
- Cooperation between medical, social and justice authorities

Nora Demleitner: High risk offenders in the US: Imprisonment as the dominant response?

- US is a country with the highest prison population in the world , increase since 1980.
- Change of sentencing philosophy since the 1980s – retribution/proportionality/deterrence
- Fear/incapacitation
- Changes in offender focus: drug, violent, sex offenders
- Longer sentences, more prison admissions despite decline in criminal offending
- 85% rule, “truth in sentencing”-policy
- Reduction of “good time”
- Prisoners serving 100%: no after release supervision!
- Abolition of parole, including expanding “life without parole”

Nora Demleitner

- 160,000 lifers in the US
- 50,000 life without parole
- 1 out of 9 serve life term
- US Supreme Court outlaws mandatory life for a juvenile and for juveniles not convicted of homicide
- Sentencing courts may continue to impose sentences equal LWP
- Some never come out of prisons,
- But 600,000 per year do!
- Supervision conditions – standard and specific conditions
- A lot of released return to prison only for technical violations

Nora Demleitner

- Mass incarceration becomes an issue in public debates
- Pressure to reduce prison population because of economic reasons
- How to reduce prison population
- Alternative Courts: Drug courts, veteran courts
- Supervision – ineffective and effective models
- Effective models:
 - Reduced recidivism when focusing on high risk offenders
 - Integration of intensive treatment for high risk offenders
 - Focusing on dynamic risk factors
 - Progressive sanctioning regime

Nora Demleitner

- Legislative changes needed:
 - Abolition of LWP
 - Reinstitution/expanding parole
 - Creation and funding of alternative courts
 - Budget/funding legislation
- Moving forward:
 - Research and federally funded pilot programmes
 - Public recognition of ‘mass incarceration’
 - Reconsideration of underlying punishment philosophies in light of budget pressures
 - Focus on collateral sanction (Ban the Box-movement)

Thank you!