

Supervision of High Risk Offenders

Helsinki, working group 1

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Questions 1 and 2

1. a) In your opinion, is it necessary, and to what degree, to define by law a high risk offender?
b) What is your opinion on how far or to what extent should the supervision and the process of treatment or rehabilitation be defined by law?
2. Please describe your idea of a good process from the point of view of court sentence or other orders/requirements imposed at sentencing that influence or impact on transition management ...



Preliminary remark

- **The working group did not discuss question 2 in detail, but the overall impression is that there is consensus that the court sentence (apart from the determination of its length, which has an impact on sentencing planning, preparation for release etc.) should have no impact on the transition management.**
- **In particular, court orders concerning the supervision after release at that stage of the criminal procedure are not seen as appropriate (see below).**



Agreed principles

- **There is no need to define high risk by (Criminal) law (in order to avoid stigmatisation)**
- **Having in mind this we notice that national legislation gives an indication which target groups are estimated as high risk offenders:**
- **For example, in Germany the few prisoners (450 out of 64,000) serving preventive detention. The conditions for assigning offenders to preventive detention (serious violent or sexual offenders with a high probability to commit further serious offences) are conform with the project's definition of high risk offenders.**

Sentencing stage: what should be the competence of the sentencing court concerning high risk offenders?

- The sentencing court should only decide according to the principles of guilt and proportionality of the crime. Any advise how to deal with high risk offenders are not subject to the sentencing decision (apart from the decision concerning preventive detention or similar sanctions provided for high risk offenders)**
- The decision of participation in programmes should not be ordered by the sentencing court, but instead be part of the sentencing plan of the prison administration**



Information from the sentencing stage to be delivered to the services involved at the prison, probation and aftercare stage

- **All information gathered about high risk offenders during the pre-trial and sentencing stage (for example psychiatric or psychological expertises) should be available to the Prison and Probation Service when establishing sentence and probation plans.**



Multi-agency approach and the role of communities

- **Multi-agency cooperation and community guarantee should be laid down by law.**
- **Community guarantee means that communities have to take responsibility for the re-integration of (high risk) offenders. This must be laid down by law (e .g. Social welfare laws as in Estonia, or in administrative laws constituting communal tasks and duties). Good practice examples: Denmark and Norway**
- **Community agencies are responsible to provide released prisoners with accommodation, health care, job centres etc.**

Multi-agency cooperation within Criminal Justice

- **The multi-agency approach within the Criminal Justice system should be laid down in statutory law: Criminal law, probation laws, prison acts etc.**
- **The principle of continuity of care from pre-trial detention to prison and to release and aftercare should be implemented in the relevant laws**
- **The Probation Service has to work together with prisons and participate at preparing release preferably one year before release.**
- **The Prison Service has to provide aftercare and crisis intervention facilities in particular for high risk offenders.**



Transition management

- **Good transition management must be laid down law: sentencing and release plans, duties and responsibility of the different agencies**
- **The duty of the prison service to cooperate and involve community agencies (job centres, housing and welfare agencies) must be laid down by law.**



Early release

- **The planning for (early) release must be organised in due time and give also for high risk offenders a concrete perspective for the time of release and for the period of aftercare supervision.**
- **The principle of proportionality has also to be observed with regards to the length and intensity of supervision.**
- **Also high risk offenders regularly should be granted early release or parole in order to get the probation or other aftercare services involved in the supervision of high risk offenders.**



Supervision of high risk offenders

- **The conditions for imposing supervision for high risk offenders (grounds, length, reaction on non-compliance) must be laid down by statutory law (supervision of conduct orders in Germany and Estonia).**
- **All high risk offenders should be prepared for release by a gradual system of release through prison leaves, open prisons, half way houses, supervised probationary freedom etc. which should be laid down by law.**



Principles that could not be agreed

- In cases of high risk offenders pre-sentence reports should be provided which address the needs of the offender.
- A majority of participants emphasised that this issue should be addressed by the sentencing plan and not be part of the sentencing court decision.
- The advantages of a partially suspended sentence are not seen as a really convincing crime policy strategy. The conditions for supervision may not be appropriate at the time of release anymore. Therefore the classic model of early/conditional release is sufficient also for high risk offenders.



Outlook

- **Good practices in legislation can be seen in the Finnish and German Prison Acts providing for individual sentencing plans, transition management and a system of increased gradual liberty (see for example the Finnish supervised probationary liberty).**
- **Further research is needed in order to evaluate if and how good laws lead to good practice.**
- **Also the (possible) negative side effects of certain kind of (police) supervision or registering systems (for sex offenders) should be addressed.**