



THE EUROPEAN ORGANISATION OF
PRISONS AND CORRECTIONAL SERVICES

Criminal Justice Platform Seminar

Implementation of the European Victims Directive – International Perspectives

13 May 2014, Barcelona

The EU Directive on the protection of victims was adopted on 25 October 2012 and has to be transposed into national legislation by the end of 2015. The Directive aims at putting the victim's issues on top of the minds and agenda of the different professionals that are dealing with victims in a direct and indirect way in their daily professional life. The Directive will assure that victims are recognized, treated with respect and receive proper protection, support and access to justice. The Directive considerably strengthens the right of victims and their families to information, support and protection as well as their procedural rights in criminal proceedings. It also encourages the EU Member States to exchange best practice.

On 13 May a seminar was organized by the Criminal Justice Platform Europe (EuroPris, CEP, EFRJ) and hosted by the Ministry of Justice of Catalonia at the Centre for Legal Studies in Barcelona. At the event the Criminal Justice Platform introduced the focus of the Platform for the coming years. Victims and the implementation of the Directive will be at the core of the work of the Platform. Training, communication, cultural change and restorative justice were selected in a 2013 workshop as the main issues of the Directive to which that Platform can contribute.

Three speakers from The Netherlands, Ireland and Belgium, representing the three members of the Platform presented opinions and developments in the implementation of the EU Directive on Victims from the perspective of prisons, probation and restorative justice for an audience of academics, lawyers, police and policy makers. The seminar aimed at analyzing the impact of the Directive and at showing good practices in the implementation of the Directive.

Katrien Lauwaert, European Forum for Restorative Justice, University Leuven, Belgium

Compared to the previous EU Framework Decision the Directive gives more attention to Restorative Justice and clearly recognizes the benefits of Restorative Justice for victims. It gives a clear definition of the term Restorative Justice. It states that it is an obligation to inform victims about the availability of Restorative Justice from the first contact with a competent authority. It has a strong focus on the right to safeguards in the context of Restorative Justice Services. Important principles for the participation of victims in the Restorative Justice process are voluntariness, confidentiality and safety.

Missed opportunities

The interest of the victim and the offender should be taken into account in a balanced way instead of focusing only on the interest of the victim. Further, the lack of accessibility is the



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largest obstacle in most of the European countries and the Directive is not taking a firm position on this issue. Restorative Justice should be available nationwide and to all types of victims, and in all stages of the criminal proceedings. Also, self-referral by the victims should be made possible. These issues are not sufficiently covered by the Directive.

Implementation

Large differences exist between European countries with regard to the required changes. Countries also have different styles of implementation. By giving more attention to the law than to the actual implementation a gap between legislation and practice can develop. Also an impetus exists to organize adequate registration of the practices and aspects of the work with victims in order to be able to evaluate over time what has been achieved.

The Directive falls short on measures that provide for an increased accessibility of Restorative Justice Services to victims of crime.

It has been noted that there is some resistance with the judiciary in applying Restorative Justice. This resistance is often caused by a lack of knowledge about Restorative Justice and what it can achieve. Ideally, Restorative Justice would become a part of the curriculum for legal professions.

Jan Bouman, EuroPris, Dutch Custodial Institution Agency, Netherlands

Experiences of the Dutch Custodial Institutions Agency

Traditionally the prison services only took care of offenders. Since the EU Framework Decision on Victims in 2010 more attention has been given to victims. A victim information policy was developed by the Prison Service in cooperation with the Public Prosecution Office. That helped to start a process to change the thinking of Prison Service managers, a thinking that included the attention for victims in their work. In 2012 the Dutch Custodial Institutions Agency performed an audit to check the actual attention that was given to victims in the prisons and head office. It appeared that staff working in the prisons was more receptive to victims issues than the higher management. This was alarming as without the higher management levels being convinced of the importance for paying the attention to the issue of victims it will be impossible to realize changes and change the mentality of staff operating in prison settings. The audit also demonstrated that direct contact with victim support organizations and with victims and their families does help to draw attention to victims and achieve a cultural change. Therefore, direct contact moments with victims and their families are organised to answer their questions and provide support. These direct contacts have appeared to be very effective and meaningful.

Implementation

In the implementation of the Directive all actors in the criminal justice chain are cooperating and that includes the prison service. The three main principles for the whole criminal justice chain in



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The Netherlands are a victim-oriented approach, expectation management and the development of a 'single service desk'.

'Single service desk' means that the victim has only one contact point that can provide an answer to all their questions. This desk is currently under development and should be functioning by 2016. Much attention is also given to training, education and awareness raising. An inventory of all training programs for all actors in the criminal justice chain that relate to victims is made up at the moment. Gaps will be identified and addressed accordingly. Also, case managers of the prison service are trained in a master program on Restorative Justice and victims issues.

Gerry McNally, CEP, Irish Probation Service, Ireland

The Council of Europe Probation Rules contain rules that relate to victims and Restorative Justice, that have been a guidance for probation and that had a direct impact on probation practice.

Information, support services and protection of victims are rights that are protected by the Directive. The Directive provides a significant opportunity for Probation services to play an important role in responding to the needs of victims in a proactive and empowering and respectful way. This is reflected by the fact that in some countries the Probation Services are actually Probation and Mediation Services.

Some examples of the work of the *Irish Probation Service* in the field of victims are:

- the service prepares victim impact reports when requested by the courts;
- it convenes Restorative Justice family conferences in case of juvenile offenders;
- it funds communities based bodies delivering Restorative Justice services;
- it has a victims services coordinator that provides guidance to staff and engages in one to one contacts with victims.

The challenge is to embed the provisions of the Victims Directive in the practice at each level of a probation organization.

Collaborative work in the whole criminal justice chain is essential and provides for:

- Shared learning, victim understanding and information exchange
- Case discussion and problem solving in relation to cases where there is an overlap or a co-operative solution is needed
- Changing the culture has to be done in the whole chain and not just with one actor

On top of that Member States' public services should work closely and in a coordinated manner with civil society organizations on the implementation of the Victims Directive.