



# Newsletter of the European Forum for Victim-Offender Mediation and Restorative Justice

## Editorial

The newsletter committee of the European Forum is happy to present the next issue of the newsletter. We have tried to work along the same lines as in the first one (which was sent out to about 4.500 people). Please send your feedback on the content or the formula to the secretariat of the Forum (address on page 4). Also, do not hesitate to contact us if you want to be more actively involved in the work of the European Forum!

In the future the newsletter will not be distributed as widely as has been done with the first two issues. This means that, if you have not done so yet (either through sending us back the questionnaire that was included in the first issue or through another way), it is important to notify the secretariat if you want to continue receiving the newsletter and other news of the European Forum. Only the people who have notified the secretariat will be informed on how they can continue to receive the newsletter and how they can become a member of the Forum.

As was announced in our first newsletter, a small group of people met in the month of June in Leuven in order to discuss the draft constitution of the European Forum. During this meeting the participants reformulated the aims and objectives of the Forum as follows: "Art. 4. *The general aim of the Forum is to help establish and develop victim-offender mediation and other restorative justice practices throughout Europe.*

Art. 5. *To further the general aim, the Forum will pursue the following objectives: Promote international exchange of information and mutual help; Promote the development of effective restorative justice policies, services and legislation; Explore and develop the theoretical basis of restorative justice; Stimulate research; Assist the development of principles, ethics, training and good practice; and, such other objectives as the general meeting shall*

## New developments in probation and mediation in the Czech Republic

*The legislative framework for community sanctions and diversion*

Since 1989 the criminal law in the Czech Republic has been undergoing reform. This is the result of efforts to find effective methods for dealing with the rising crime rate and of an intention to align penal policy with trends that have been emerging in democratic countries. Also, a debate was initiated on the effectiveness of the traditional essentially retributive system of sanctions and on how to reduce the rates of imprisonment.

The amendments to the Penal Code from 1994 to 1998 brought in new alternative sanctions and methods of diversion. Although nowadays the Czech Republic has a pretty wide range of new community sanctions and measures (settlement between victim and offender, community service, conditional sentence with a probation order and conditional

*from time to time determine."*

The target group of the Forum consists of mediators and mediation services, policy makers, researchers and criminal justice practitioners.

During the meeting a lot of discussion went to the subject of membership. Finally it was proposed that applicants can choose between two categories of membership: full members (with voting right) and associate members (without voting right). The full members will constitute the general meeting of the Forum, out of which a Board will be chosen. At this moment the draft also states: "Art. 13. *The following are eligible to be members of the Forum: individuals, governmental or other statutory organisations and non-governmental organisations, who support the aims of restorative justice.*"

The next step is the organisation of the formal launching event of the Forum on December 8 and 9 in Leuven. During this meeting, after the approval and the signing of the constitution, the Forum will become a not-for-profit organisation according to Belgian law and will become a legal body. On the first day, the amended draft constitution will again be discussed and will be proposed for adoption. This means that the people who are present at the meeting and who are willing to sign the constitution, will become the founding members of the Forum. They will adopt the constitution and will constitute the first general meeting, which will meet for the first time immediately after the adoption of the constitution. During this first general meeting, the founding members who decide to become a full member of the Forum will elect the Board. On the second day of the meeting a workshop on some practice-related issues will be organised.

Jolien Willemsens

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discharge with a probation order), we must acknowledge that they have not yet found acceptance by the courts. Prior to the introduction of these measures there was no preparatory work on the implications of change for the philosophy and principles of the criminal justice system. Nor was there any dialogue within professional circles or with the general public about the implementation of the new policy. In particular there was no attempt to win over those professionals who were responsible for operating the policy. Furthermore, there has been no change in the status of existing alternative measures such as conditional sentences, conditional release from prison and alternatives to remand and fine, all of which are based on repressive principles.

*The grounds of the Probation and Mediation Service*

The foundations for the system of probation were laid in January 1996. At this time probation officer

posts were established in the district courts and in some of the regional courts. However, probation tasks and responsibilities were mostly delegated to the administrative staff of district and regional courts, and emphasis has been placed on administrative and technical aspects of the execution of community service orders and on gathering the necessary information for applying diversion measures. Probation officer input has been restricted to one full-time or part-time position in each court. The criminal justice system was therefore generally unresponsive to the influence of new professionals, and great reliance was placed upon court clerks for the implementation of the new policy. However, in some courts qualified social workers were appointed to probation posts.

#### *Limits and positive contribution of the current system*

The existing post of probation officers within the court structure gives them little opportunity for intervention at the very beginning of the criminal proceedings, or for diverting a criminal case from proceedings, or indeed for early involvement in addressing issues between victims and offenders. The work of probation officers is usually confined to the pre-trial phase (after an action has been brought against the offender) and to the administrative side of community service performance and of probation compliance. In the current system of probation and mediation service the implementation and delivery of effective services has been hampered by the absence of officially approved rules and guidelines and of clear professional expectations, including agreement about the types of skills and levels of qualification required for practice.

On the other hand, thanks to the enthusiasm of a number of probation officers, judges and other professionals, it was possible to start a debate around practical skills, the concept of and methods to achieve a balanced approach to the parties in litigation and on co-operation of courts with NGOs in the areas of crime prevention and conflict resolution. The concept of restorative justice was very useful and influential in this debate. The results of this work began to percolate through to the way in which the courts used alternative sanctions. It influenced the way in which the criminal law was changed, both on the introduction of new alternative sentences and on the development of a model for a new Probation and Mediation Service (PMS).

The results of these developments became visible in the end of 1999 and in 2000 when several important steps were taken:

- 1) The new Probation and Mediation Act was approved by Parliament and will come into effect on the 1<sup>st</sup> of January 2001.
- 2) Pilot projects for the PMS were launched in 1999 in 4 court areas in order to test the organisational design of the PMS and to prepare the ground for the implementation of the new law.
- 3) A training programme was established for probation officers and mediators reflecting the qualification requirements approved by the Probation and Mediation Service Act. This programme started in the end of 1999.

#### *The new Probation and Mediation Act*

##### The purpose and the scope of activities

The PMS will operate at all stages of criminal proceedings and in close co-operation with the state prosecutors and the courts. It is expected to work with victims, offenders and the community.

The key tasks of the PMS are defined as follows:

- To create conditions for the application of alternative solutions for criminal cases, and for alternative and community sanctions; and to ensure that these are carried out effectively.
- To create conditions to facilitate the resolution of conflicts between victims and offenders and the making of amends.
- To contribute to the integration of offenders, the improvement of their social skills to enable them to act in a law abiding way; and to monitor their behaviour effectively.
- To contribute to better protection of society, in particular its security.

##### The organisational structure, management and administration

The PMS is set up as a government agency within the Ministry of Justice. It consists of independent probation and mediation centres in each court district. General policies, practice guidelines and procedures will be issued by the Ministry of Justice through its Probation and Mediation Board, which is an Advisory Body to the Ministry. The Act specifies the need for co-operation with NGOs.

##### Staffing, qualification and training

Probation and mediation centres will be staffed by 'officers' and 'assistants'. The qualification requirements for these posts are described by law. In order to become an officer of PMS, a person must have previously obtained a masters degree in the area of social sciences or law, and must pass the probation and mediation exam set by a committee appointed by the Minister of Justice. This exam is taken at the end of a one year on the job probation and mediation qualification course. To become a PMS assistant, a person needs to have completed secondary education and needs to pass in a six months on job training course.

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### **The new Probation and Mediation Act will come into effect on January 1<sup>st</sup> 2001.**

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#### *A new training programme*

The aim of this programme is to ensure that the PMS are staffed by personnel who have the level of expertise and qualification relevant to their new positions. A first group started the training for officers and assistants in December 1999. Some participants were recruited from among court officers who were involved in existing probation activities, whilst others were people who wanted to enter the PMS in 2001.

The training course was offered to 40 candidates for the post of officer and 20 for the post of assistant. The training course for officers consists of 12 three days sessions. The one for assistants consists of 6 three days sessions. The programme includes the theoretical background of probation and mediation, the theory and practice of restorative justice, methods of work with clients and, of course, the legal framework of probation and mediation, including the criminal law. The development and implementation of the programme was achieved through the collaboration of the Ministry of Justice and The Association for the Development of Social Work in Criminal Justice (SPJ). It was jointly funded by the Ministry of Justice and the Open Society Fund.

#### *Closing remarks*

We believe that the new Act will provide the necessary legislative and administrative underpinning for the development of this new service and for fostering the new profession of probation officers and mediators. The new service will need a great deal of support to enable it to become an effective partner in the criminal justice system. It will need assistance in disseminating new perspectives on working with criminal cases. It will need political support in negotiating with other professionals about expectations of the criminal justice system. We want to do the best we can to enable the PMS to provide restorative justice practices; to meet the needs of offenders, victims and the community; and to contribute to closer links between criminal justice system and community.

**Lenka Ourednícková**

Lenka Ourednícková is a social worker. She was one of the initiators of the PMS in the Czech Republic. She is working in the city court of Prague as a Senior Probation Officer. She is the vice-chair of the Association for the Development of Social Work in Criminal Justice (SPJ) and the co-ordinator of a new project that is establishing the Institute for Restorative Justice in Prague. She is the author of many articles on mediation and probation and is involved as a lecturer in several educational programmes, including a qualification programme for probation officers and mediators. Lenka can be contacted at: [lourednickova@msoud.pha.justice.cz](mailto:lourednickova@msoud.pha.justice.cz)

## Readers' Corner

*Mediation in Context*, edited by Marian Liebmann (2000). This book includes the history of mediation in the UK, and chapters on VOM, conferencing and mediation in specific contexts (schools, urban and rural settings, workplace, elderly people, environmental, medical and international). Available from Jessica Kingsley Publishers: e-mail [post@kp.com](mailto:post@kp.com), fax +44 7837 2917.

*Integrating a Victim Perspective within Criminal Justice*, edited by Adam Crawford and Jo Goodey (2000). This book emerged from a conference organised by the Centre for Criminal Justice Studies in York in July 1998. It contains theoretical as well as practice and policy-oriented contributions on how criminal justice systems attempt to give victims greater agency and how victims should be given greater voice in the resolution of their own criminal disputes. The third part of the book explores the prospects and implications of a restorative justice approach. Available from Ashgate, fax: +44 1252 317 446.

*Restorative Justice Options for Northern Ireland: A Comparative Review*, by Jim Dignan (2000). This report was commissioned as part of the Review of Criminal Justice System in Northern Ireland. It is chiefly based on a literature review, focussing on sources from common law jurisdictions. The first part of the report attempts to put the various restorative justice initiatives into context by mapping out a broad conceptual framework. The second part deals with restorative justice processes, and reviews some of the research findings reporting on their outcomes. The third part is more policy-based, and sets out a range of possible implementation strategies, which are discussed in terms of their applicability within a Northern Ireland context.

*Les médiations. La médiation*, by J.-P. Bonafé-Schmitt, J. Dahan, J. Salzer, M. Souquet and J.-P. Vouche (1999). The authors deal with different mediation fields, primarily in France: victim-offender and community mediation, family mediation, mediation in organisations and school mediation. Attention is being paid to the development, the ideology, the existing programmes, methods and ethics, and the effects of mediation. The common grounds in these different applications and general questions are stressed as well. This book is available from Editions Ères, e-mail: [eres@edition-eres.com](mailto:eres@edition-eres.com), fax: +33 5 61 73 52 89.

*Bemiddeling tussen dader en slachtoffer*, edited by the Ministry of Justice of The Netherlands (2000). This report, which contains a summary in English, provides an overview of the different forms of mediation that exist in The Netherlands. To order this report write to: Ministerie van Justitie, Directie Preventie, Jeugd en Sanctiebeleid, Stafbureau Informatie, Voorlichting en Publiciteit, c.o. Diana Hagenstein (H1636), Postbus 20301, 2500 EH The Hague, The Netherlands.

*Reparacion y conciliacion en el sistema penal: ¿Apertura de una nueva via?* by Guadalupe Pérez Sanzberro (1999). In this book the author examines the possibility to develop mediation in Spain starting from the Penal Code of 1995 and from the point of view of the finalities of criminal law and the judicial safeguards. Available from Comares, e-mail: [comares@comares.com](mailto:comares@comares.com), fax +34 95 8 465 383.

Special issue on restorative justice of *Prison Service Journal*, May 1999, number 123.

## Bulletin Board

November 28, 2000, 'Mediation and Reparation Network Day', organised by Mediation UK. Contact Kerri Lowey at [lowey@mediationuk.org.uk](mailto:lowey@mediationuk.org.uk).

December 1, 2000, Amsterdam (the Netherlands), one-day conference 'Restorative Justice: Criminal Justice for Victims?' For more information e-mail [pao@jur.uva.nl](mailto:pao@jur.uva.nl) or fax +31 20 525 3307.

December 7-9, 2000, Naples (Italy), 'The Safety and Democracy 2001 Forum', organised by the Forum for Urban Security. Mediation will be dealt with in the group of workshops around the theme

'Social options in the area of safety'. For more information see [www.urbansecurity.org](http://www.urbansecurity.org) or e-mail [fesu@urbansecurity.org](mailto:fesu@urbansecurity.org).

First half of 2001, Israel, international conference organised by the Israel Police and the Ministry of Public Security, 'Police and Victims of Crime'. The topics that will be considered include: police policy in handling victims of crime, domestic violence, sex-related crimes, legislation and restorative justice. For more information e-mail [bendas@mail.biu.ac.il](mailto:bendas@mail.biu.ac.il) or fax +972 2 5309 675.

## 4<sup>th</sup> International Conference on Restorative Justice for Juveniles

On 14 October, the 4<sup>th</sup> International Conference on Restorative Justice for Juveniles took place in Tuebingen (Germany). Around 180 people from countries all over the world and with different backgrounds participated. From the outset, this conference, organised by the International Network for Research on Restorative Justice for Juveniles, was aiming at academic contributions, but practitioners attended as well. The programme covered various topics with regard to theoretical reflections as well as practical implementation.

The conference started with an interesting plenary session where Andrew von Hirsch and Ezzat Fattah defended quite opposing ideas. The first defends a just desert philosophy, and pointed to some critiques that can be formulated on restorative justice (RJ) from that point of view. Fattah on the other hand is a prominent defender of restorative ideas and counteracted von Hirsch's arguments. A promising start for the conference!

The sessions covered a wide range of topics, such as the need for procedural safeguards, corporate crime, RJ and victims, criticisms, etc. Some of the presentations were more philosophical, others more practice-oriented and still others evaluated existing programmes or gave a theoretical background to reflect upon RJ.

Dan Van Ness gave a clear overview of what components can be found in a "RJ system". These components (encounter, amends, reintegr-

ation and inclusion) can be seen as 4 key values, according to which a degree of "restorativeness" of a system can be assessed. He also pointed out 4 basic models to give an idea about the relation between RJ and the criminal justice system. Britta Bannenberg and Dieter Rössner gave a presentation on RJ in the context of family violence. Although often a controversial issue, restorative processes in this context are possible under certain circumstances. Tony Peters outlined the possibility of RJ in prisons, based on the Belgian experience. Martin Wright and Guy Masters pointed out some critiques on RJ, and gave their own comments, including on counteracting those critiques. Paul McCold and Ted Wachtel presented different frameworks to evaluate RJ, and pointed out an initial test of its validity. Lode Walgrave discussed key differences between legalised RJ and penal justice. Elmar Weitekamp had the difficult task of presenting the closing session, and gave a good overview of the current situation, and where we might be heading.

These are just a few of the speakers and topics that were presented at the conference. This great variation offered a broad package of topics to choose from, but also restricted the possibility of having more in-depth discussions.

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## The United Nations acts to advance restorative justice

From 10-17 April 2000 Vienna hosted the 10<sup>th</sup> UN Congress on Crime Prevention and Treatment of Offenders, attended by nearly 200 government representatives. It was immediately followed by a short meeting of the UN's Commission on Crime Prevention and Criminal Justice, the UN body that initiates criminal justice activities. One of the four agenda topics of the Crime Congress was "Offenders and Victims: Fairness and Accountability in the Criminal Justice System". The discussions under this topic were mainly on restorative justice.

During the course of the Congress, a number of NGOs sponsored ancillary meetings on various topics related to restorative justice. The Working Party on Restorative Justice, established 5 years ago by the Alliance of NGOs on Crime Prevention and Criminal Justice (New York) to prepare for the Congress, organised a series of these sessions into a kind of mini-conference on restorative justice. These sessions were well attended and well received, with even Ministers and heads of delegations attending some.

At the conclusion of the Congress the delegates approved a summary resolution, known as the Vienna Declaration. This resolution included recognition of the growth of restorative justice programmes, and called on governments to increase their use of restorative justice interventions.

There was considerable discussion as well of the proposal of Canada to introduce a resolution entitled 'Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters' at the Commission meetings. Basic principles are one way the UN offers guidance to member states. Near the end of the Congress, the Canadians announced that they and the Italian government would be introducing this resolution which calls on the UN to distribute a draft set of Basic Principles prepared by the Working Party on Restorative Justice, to solicit comments from governments and others, and to convene an expert group to review those comments and suggestions and propose modifications or alternatives to the Commission.

On the first morning that the Commission met, 20 countries (Albania, Australia, Austria, Bolivia, Bulgaria, Cameroon, Costa Rica, Croatia, Czech Republic, Germany, Malta, Namibia, Netherlands, Portugal, Sierra Leone, South Africa, Spain, Sudan, Swaziland and Zambia) signed as co-sponsors to the Canadian-Italian resolution. After lengthy discussion on wording of the resolution, the Commission adopted the resolution and provided that the expert group should report back at the 2002 Commission meeting.

The next step is that the resolution will go to the Economic and Social Council (ECOSOC) for adoption. ECOSOC will meet in July, and adoption is anticipated that month. At that time the Secretariat of ECOSOC will distribute the "Preliminary Elements of a Draft Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters" to governments, UN institutes and NGOs along with a questionnaire. This questionnaire will solicit comments on the distributed documents, the value of UN adoption of basic principles, alternatives that might be considered, etc.

It will be very important for a significant number of governments to respond. If fewer than 35 governments respond, the Commission may conclude that there is insufficient interest to proceed with the resolution. Ideally at least 50 governments should respond. It will be important for interested individuals and NGOs to encourage their governments to prepare a response.

At that time the Secretariat of ECOSOC and the Canadian government (and other governments assisting with funding) will organise the expert group to review the responses and recommend any further action to the Commission.

The above information is taken from following web-site, where you can also download the Vienna Declaration and the Draft Resolution of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters: [www.restorativejustice.org](http://www.restorativejustice.org).