

Restorative Justice in Cyprus (up to date until January 2008)

1. Introduction

The justice system of Cyprus may be understood in a variety of ways, including the protection of society, the general prevention and deterrence, the punishment of the offender, the compensation of the victim, the imposition of a sentence other than the imprisonment and institutions for rehabilitation of convicted persons in the society.

Brief information concerning the situation in Cyprus and some key elements of our National Restorative Justice are followed:

2. Mediation

There is no legislation regarding mediation on civil, family or criminal proceedings.

However, a bill concerning Mediation in Family Law Matters is pending before the Parliament of Representatives since 2004 and is been discussed before the relevant Parliamentary Committee,

Furthermore, the Ministry of Justice and Public Order, in collaboration with the Law Office of the Republic, are currently examining the possibility to introduce in our domestic legislation, of a bill concerning Mediation in Penal Law Matters, according to the provisions of the Framework-Decision of the Council of the 21st March 2001, concerning the status of victims in penal procedures.

In 1999, Cyprus Mediation Association, a non-profit organization, established in Cyprus, by a group of Cypriot mediators and among others, it trains mediators and continuously upgrade knowledge and techniques through seminars, conferences and workshops.

On 19-20 October 2007, the Technical Assistance Information and Exchange Office (TAIEX) with the financial support of the European Commission and in collaboration with the Ministry of Justice and Public Order, the Law Office of the Republic, the Supreme Court and the Cyprus Bar Association organized a Seminar on Mediation in Family and Penal Law Matters.

If mediation is to be understood strictly as practices and attitudes coming under the general approach entitled restorative justice, which takes into account the interests and needs of victims in the criminal justice process, the following may be noted:

At police level, the way the victims should be treated is part of the general training of all police officers and is also governed by relevant internal directions which provide inter alia that they should be informed of their rights and the outcome of the investigations. All police reports to the prosecuting authorities include detailed statements about the injuries and losses suffered by the victims.

At the stage of prosecution, the prosecuting authority always takes into consideration whether the victim has been compensated or the offender has made a serious effort for this purpose, when exercising its discretion whether to prosecute. Victims, if they so wish, are informed about the final decision of the prosecuting authority and may request the review of a decision not to prosecute.

As regards Court proceedings, the interests of the victim and in particular the need for his protection in future are relevant to the determination of the proper sentence. This does not always militate for longer sentences and at times the converse may be true, if by the release of the accused their interests are likely to be best served.

3. Victim support mechanisms or programmes that exist in Cyprus

Cyprus has ratified the European Convention on Compensation of Victims of Violent Crimes, by Law no. 2(III) of 1997.

For its implementation, Law 51(I) of 1997 was enacted (further amended by Law 126(I)/2006) introducing a compensation scheme for persons who have sustained serious bodily injury or impairment of health, directly attributable to an intentional crime of violence committed in the Republic, and for the dependants of persons who have died as a result of such crime. The scheme makes provision for the basic elements

of compensation set out in the Convention and covers medical and hospitalization expenses in public institutions, loss of earnings, disability pension, dependants pension and funeral expenses.

Addressing violence against women has been a priority area for the Government.

The Violence in the Family (Prevention and Protection of Victims) Law, 2000 [L. 119(I)/2000, as amended by Law 212(I)/2004] condemns any act of violence within the family and provides protection to victims.

Inter alia, the above law provides for:

- the taking of testimony of victims of violence by electronic means. Statements obtained by the use of these means may be produced in evidence without any need to re-examine the witness in chief, which, however, is available for the other side for cross examination. The use of screens, close circuit television links and other means producing the same effect may achieve this;
- the protection of victims and witnesses;
- the setting up of a fund to meet certain immediate needs of victims;
- the establishment of a shelter for victims;
- the appointment of Family Counsellors.

Welfare Department/Family Counsellors

The role of Family Counsellors is undertaken by the Department's Welfare Officers and is considered extremely important for the guidance and support of family members experiencing family violence. Ten Family Counsellors (trained Welfare Officers) were appointed in 2001 with competence to:

- receive complaints of violence and carry out investigations;
- advise, counsel, and mediate any problems in the family that are likely to lead to, or have led to, the use of violence;
- make arrangements for an immediate medical examination of the complainant;
- take all necessary steps for the commencement of criminal proceedings against the perpetrator;
- carry out investigations into the accommodation/financial affairs of the family and the perpetrator, if an inhibition order is being considered;
- carry out any other function assigned.

Family counsellors may seek the protection of the police and the assistance of any government officer in carrying out their duties. In carrying out investigations, family counsellors have the same powers as investigating police officers. The family counsellor may take advice from a multidisciplinary group when an act of violence against a person under 18 is reported.

Police

Since December 2002 the Police operate a Central Bureau for Handling Issues of Prevention and Combating of Violence in the Family and of Child Abuse. The personnel of this Bureau include a staff lawyer and a staff psychologist. Furthermore, they operate the 24 hour Police Headquarters Help Line for victims.

Advisory Committee on Family Violence

The Advisory committee on Family Violence, established under Law 119(1)2000 has competence, inter alia to:

- monitor the problem of violence in the family in Cyprus;
- inform and educate the public and professionals using the media, conferences, seminars and re-education programmes;

- promote research;
- promote services necessary to deal with all aspects of violence in the family;
- monitor the effectiveness of related services and the application and enforcement of the relevant legislation.

The Committee members have knowledge and experience in matters relating to violence in the family and are selected from public and private sectors.

Non-Governmental Organisations

Non-Governmental Organisations (NGOs) play a very significant role in making the problem of domestic violence visible in the society, especially through their sensitization programmes and public campaigns. NGOs run also shelters for the protection of violence victims.

Such organisations are: (i) the Association for the Prevention of Family Violence, (ii) APANEMI Centre of Information and support to women and (iii) Cyprus Centre Equality Observatory. The Government supports and subsidizes their programmes and activities.

4. Restorative Justice in prisons

There is only one Prison in Cyprus which is divided into three sections:

- The Closed Prison, which includes the areas within the walls, where detainees live, work and move about and where security measures are stricter.
- The Open Prison, which includes the areas outside the walls but within the broader area of Prison, where detainees live, work and move and where security measures are more relaxed.
- The Centre of Guidance and Out of Prison Employment, which includes specific areas for detainees who, during daytime, work outside Prison in the free society and after their work return to the prison where they stay for the night. Semi freedom conditions prevail in these areas.

The aim of the Open Prison and the Centre of Guidance and Out of Prison Employment is to help the social rehabilitation and resettlement of detainees.

Prison programmes and services

Young offenders sentenced to imprisonment are held separately and do not associate with adult prisoners.

Young people in detention are encouraged to improve the level of their education and vocational training by attending classes in or outside the prisons or by correspondence courses.

All young offenders have the opportunity to participate in recreational activities and programmes such as sports, athletics, theatre, music, chess etc, which keep them mentally and physically active.

All prisoners are given the opportunity to work as far as possible at a type of work they wish to perform, in order to increase their ability to earn their living after release.

To this direction fully equipped workshops are operated in the prison, where prisoners are encouraged, under the supervision and instructions of educators, to improve the level of their vocational training by working as cooks, carpenters, blacksmiths, plumbers, welders, painters, builders, electricians, bookbinders, barbers, gardeners, mechanics and also at the prison farm.

Prisoners are also encouraged to improve the level of their education and vocational training by attending classes in or outside the prisons or by correspondence courses. The most preferred lessons include computers, English, French, Greek for foreigners, painting, design, theatre and handicraft.

Psychological and psychiatric services and support are offered to all prisoners in need on a regular basis with personal meetings, group discussions and meetings in the presence on the prisoner's family.

Welfare service and support is also given to all prisoners with regular visits/contacts with their families and home leave, in order to facilitate the social integration with their families and free society.

Recreational activities include sports, theatre, musical performances, chess games a.o. The prisons are equipped with a theatre hall and grounds for foot-ball, volley-all and basket ball. The theatrical team of prisoners has staged numerous plays and gave performances in and outside the Prisons. Also the football team meets regularly with out of prison teams.

The process of rehabilitation of a prisoner passes through various phases and, depending on the case, includes:

- Visits to prisoners by members of their family and their social and professional entourage;
- The granting to a detainee, after he has served 1/3 of his sentence, of exit permits for the solution of family problems, strengthening of family ties, re-establishment of relations with his friends, for preliminary contacts to secure employment etc;
- The emplacement of a detainee in the Open Prison, which makes it possible for him to receive visitors, to get more exit permits and to live in conditions of reduced security;
- The emplacement of a detainee in the Out of Prisons Employment Centre which allows him to work in the free market outside Prison, to receive remuneration like any other working person and generally to live in conditions of semi-freedom.

By virtue of Article 53 of the Constitution of Cyprus, the President of the Republic may on the recommendation of the Attorney General remit, suspend or commute any sentence passed by a court in the Republic.

Prison Regulations also provide for the remission of sentences for good conduct and industry.

In 2004, the Law of the Rehabilitation of Convicted Persons was amended, the main amendments being those which regulated more leniently the conditions under which previous convictions are struck off in the case of young persons up to the age of 21.

Another law with a child-rights oriented approach, in the domain of criminal justice, was enacted in 2005, whereby the deprivation of liberty of pregnant women or mothers of children up to 3 years of age, either during the investigation of an offence against them or after conviction, was limited to very serious offences and under prescribed conditions (Law No.33(I)/2005).

It should be noted that, with the aim of developing a Nationwide Crime Prevention Policy, the Ministry of Justice and Public Order has established an Anti-Crime Council for the Prevention of Criminality and the Treatment of Offenders.

This Council - which is composed of qualified members both from governmental and private sector - has been assigned as the responsible Body for the strategic design, development and implementation of the National Strategy and the National Action Plan for Crime Prevention and Treatment of Offenders. Its ultimate goal is to implement all the necessary measures and programmes aiming at primary, secondary and tertiary levels of crime prevention.

The National Action Plan has been focused, among others, on the social rehabilitation and re-integration of detainees into society, on the evaluation of the existing institutions for the treatment of offenders and the introduction of new ones, and on the implementation of various therapeutic programmes for detainees.

5. Restorative Justice for juvenile offenders

The most frequently used measure of dealing with young offenders is the *probation order*, as an alternative to imprisonment, placing the convict under the supervision of a probation officer of the Welfare Office.

The Probation of Offenders Law [Law 46(I) of 1996, Article 5] provides that a Court before which a person is convicted of an offence, if it so considers appropriate, taking into consideration the nature of the offence and the character of the offender, may, instead of dealing in any other way with him, make a

probation order for a period of not less than one year and not more than three years, placing the offender under the supervision of a probation officer in accordance with the provisions of the Law.

The choice of the conditions is left to the discretion of the court, as the conditions are bound to vary with the habits of the offender, his environment and proclivities and the assessment of the help needed for reform. The law specifically regulates the offering of community service or the undergoing of vocational or other training, as conditions that the Court may impose with the consent of the offender, during the probation period.

Supervision is entrusted to probation officers of the Welfare Services (a department of the Ministry of Labour and Social Insurance). Besides advice, counseling and assistance, it is a duty of the probation officer to see that the probationer observes the conditions of the probation order and report regularly to the supervising Court.

In case of violation of any of the conditions of the probation order, the probationer is brought before the supervising Court (the District Court of the district named in the probation order) and the Court may, without prejudice to the continuance of the probation order, impose a fine as regards such violation, or cancel the probation order and deal with the probationer for the offence for which the probation order was issued, in any manner in which the Court could deal with him if it had just convicted him of that offence.

Similar provisions as regards the cancellation of the probation order apply, where the probationer is convicted for the commission of other offences during the probation period.

Also, according to section 12 of the Juvenile Offenders Law Cap. 157, the Court may deal with young offenders, instead of the sentence of imprisonment, in any of the following ways:

- (i) by committing the offender to the care of a relative or other fit person
- (ii) by sending the offender to a reform school (It should be noted that within the framework of the policy towards abolition of institutional/custodial treatment of juvenile offenders was also the closing down in 1987 of the only Reform School in Cyprus which had no inmates at the time).
- (iii) by ordering the offender or the parents/guardian to pay a fine, damages or costs to which the offender is liable.

In 1996 (Law 46(I) of 1996, Articles 5(5) and 6), community service was introduced as an alternative non-custodial sanction which may be combined, with the consent of the offender, to the probation order. This aims at increasing the rehabilitation chances, especially of young offenders, as they will avoid interruption of the links with society and the stigma of having been sent to prison which, in a small country like Cyprus, cannot be easily erased.

In cases of crimes other than trivial ones involving young persons up to 21 years of age it is an established practice to obtain a social inquiry report before passing sentence, in order to secure information from a reliable source about the character, upbringing and environment of the offender so as to evaluate in an informed way the accused's prospects of rehabilitation.

As regards offenders - drug addicts, the Treatment of and Dealing with Drug Dependents Law no 57 of 1992, provides for the treatment of such offenders in detoxification and rehabilitation centres on a Court order, which is issued as an alternative, in lieu of imposing imprisonment sentence.

In fact it can safely be stated that it has been and still is a goal of national criminal policy in Cyprus to extend the use of non-custodial sanctions in substitution of custodial ones. A series of judicial decisions over the last 35 years suggest that imprisonment ought to be a measure of last resort and, in the case of young offenders a measure to be avoided, unless considered inevitable in view of the gravity of the offence or persistent recidivism.

6. Other measures of Restorative Justice in Criminal Law

The Courts of Justice Law [(Law 14/1960), Articles 20(2) and 24(1)] and the Criminal Code - Cap 154 [Article 26(d)] refer to *Reparation Order*. The offender may be ordered to pay a compensation for loss and injuries resulting from his criminal conduct. The amount of the reparation must not exceed the CYP 3.000. This is customary when the sum involved is relatively small and the parties are in agreement about the amount. This sentence is ordered in addition to or in substitution for any other punishment.

According to the Criminal Code - Cap 154 (Articles 26(e)(f)(g), 32, 33 and 34), the *Attendance Order* is not a separate sanction. The attendance of the offender, in regular times as defined (usually to a police station), may be a condition of other non custodial sanctions.

According to the Criminal Code - Cap 154 (Articles 26(f) and 34), the offender may be placed under the *supervision* of a probation officer aiming at reforming the accused and guarding against the likelihood of repetition of criminal acts. The attendance order lasts for a period of up to 5 years after the expiration of his prison sentence. This Supervision Order is ordered in addition of any other punishment for any offence punishable with imprisonment for 2 years or upwards and the offender must have been convicted at least twice for an offence punishable with imprisonment for 2 years or upwards. The Court has the power at any time to discharge the Supervision Order if it appears that the conduct of the accused makes supervision unnecessary.

According to the Criminal Code - Cap. 154 (Articles 26(c) and 31), the Court may impose on the offender any *fine* up to the maximum named in the relevant statutory enactment. If no amount is mentioned in the law, the financial penalty is left to the discretion of the Court, except that it should not be excessive. Where power is bestowed to impose imprisonment and a fine it is a matter of discretion whether one or the other form of punishment will be made use of, or both.

According to the Criminal Code - Cap. 154 (Articles 26(e) and 32), for any offence, with the exception of the premeditated murder, the high treason and the instigating invasion, the offender may be ordered to enter into a recognizance with or without sureties for a sum named in the order of the court to *keep the peace and be of good behaviour* for a fixed period of time indicated therein. It is used to bind over persons who have committed relatively minor crimes and have a proclivity to disturb the peace.

According to the Criminal Code - Cap. 154 (Articles 26(e) and 33), for any offence, with the exception of the premeditated murder, the high treason and the instigating invasion, the Court has the power to order the discharge of the offender instead of giving him a sentence, subject to entering into a personal recognizance or a recognizance with sureties, as the Court may see fit, and for such amount as the Court may deem appropriate, undertaking thereby to *appear before the Court at a future date or when called for this*.

According to the Probation of Offenders Law [Law 46(l) of 1996), Article 10], the offender is *discharged absolutely or on condition* that he will commit no offence for a period of up to twelve months. In case of breach of the conditions of his discharge, the order for discharge lapses and the offender is liable to be punished for the offence in respect of which he was conditionally discharged.

According to the Sentence of imprisonment (Conditional Suspension in Certain Cases) Law 95 of 1972, for any offence for which the Court passes a sentence of imprisonment for a term not exceeding 3 years, the Court taking into account the circumstances of the case as a whole and the personal circumstances of the offender, may order the *suspension of the execution of a prison sentence*, on condition that within a period of 3 years the offender commits no other offence punishable with imprisonment.

According to the Law concerning the imposition and the service of a sentence of a *periodic imprisonment* (Law 94(l)/2006), for any offence for which the Court passes a sentence of imprisonment for a term not exceeding 3 years, the Court may impose to the offender a number of rotative week terms of sentencing, as the Court may decide. The Court will also determine the duration of the continuous sentence of imprisonment.

A bill concerning electronic surveillance of convicted persons has been recommended by the Council of Ministers and is currently pending before the Parliament of Representatives.

7. Systematically training of the judges and prosecutors in order to create an awareness of the role of the courts in restorative justice.

In December 1999 the Supreme Court established a programme for the training of first instance judges on a regular basis, targeted in various fields of law and matters relevant from a broader perspective to the administration of justice. The subjects of training include:

1. Human Rights with particular reference to Cyprus case law and European Court of Human Rights case law;

2. European Community law with particular reference to International Conventions;
3. Civil Procedure;
4. Criminal Procedure with special emphasis on arrest and detention;
5. Evidence Law;
6. Sentencing;
7. Constitutionality of Laws;
8. Conduct of Judges with emphasis on psychology of witnesses and advocates, rules of etiquette, behavior towards the public and advocates and study of various social phenomena;
9. Seminars on basic Laws which were drastically amended;
10. Family Court Judges' training on matters relating to dealing with children and social matters relating to personal status;

Within the framework of this training programme, several seminars on European Law have been attended by Cypriot judges. Some of these seminars were organized in EU Member States with the participation of a significant number of judges each time. Seminars were also organized in Cyprus with wide participation of judges and law professionals.

8. Current evaluation and future direction

Restorative Justice in Cyprus is moving in a very promising and positive direction. During the last years, the competent authorities of Cyprus understood the potential it has for helping victims, reforming offenders and strengthening society as a whole and believe that restorative justice can help us build a criminal Justice system which places the needs of victims and offenders at its heart.

The Government of Cyprus is determined to improve the way the justice systems serve victims and offenders. We are also keen to see restorative justice develop.

9. Contact

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