

Restorative justice in Denmark¹ (up to date until December 2007)

1. Legal base

Denmark has no legislation on restorative justice or victim-offender mediation in penal cases although Restorative Justice was introduced in 1998 with a pilot project of victim-offender mediation at the instigation of the Ministry of Justice. The pilot project was set up in three police districts during 1998 - 2003. Since 2003 the project has continued on a permanent basis in these districts.

2. Scope

The aim of victim-offender mediation is "to strengthen the position of the victim of crime" by giving victims an opportunity to voice their feelings about the offence "and thus to make [them] feel more secure in [their] everyday life", AND to hold offenders responsible "and thereby to prevent [them] committing crimes" (Crime Prevention Council in Denmark, 2000).

Victim-offender mediation applies to all crimes committed by offenders over 15 years of age (a few younger ones have been included). All kinds of offences, whether of a serious or minor degree, which involve an identifiable victim, can be referred to mediation. Offenders with a criminal record are not excluded from participating.

Participation in mediation requires that both the victim and the offender volunteer to mediation and that the offender has made a full confession to the crime.

Although the mediation normally takes place before the trial, this is not a diversionary scheme. Mediation, whether successful or not, cannot replace either prosecution or sentencing. Participation in mediation has, however, had a mitigating impact on the sentence in some cases. In cases of severe crime the mediation most often takes place after trial.

3. Implementation

3.1. Agencies: establishment and structure

The victim-offender mediation project is being carried out under the direction of the Danish Crime Prevention Council. The mediators are local lay people who have completed a training programme on mediation. They receive a fixed fee for each case. Co-ordination meetings with the police and the Council are being held regularly.

3.2. Agency practice

The police make a preliminary assessment of the eligibility of the cases and of the parties involved and obtain consent of both parties to be contacted by a mediator. The mediator hereafter contacts the parties to inform them of the victim-offender programme and set up a meeting if both parties agree to participate. The mediator has the sole responsibility for the planning, conduct, completion of the mediation and follow-up of any agreement outcome.

Referrals may come from other sources, including self-referrals by victims, but most are made by the police.

3.3. Agency intervention

Direct mediation is the form of intervention used. Agreements are most often reached in the form of apologies and acknowledgement given and/or material compensation, but the meeting in itself often seem to be the most valuable aspect of the process.

3.4. Referral numbers and outcomes

a) Quantity and quality of referrals

In 2007 50 cases have been referred to mediation.

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b) Referral outcomes

Outcomes seek agreement between victim and offender as to responsibility for past conduct, and expectations as to future conduct. The final evaluation shows that agreements were reached in 70% of cases.

3.5. Other interventions

From 2003/2005 a pilot project on mediation for 12 to 15 year olds who had been in conflict was introduced. The pilot project was carried out by the Ministry of Social Affairs in cooperation with the Danish Crime prevention Council and 8 municipalities.

4. Evaluation

4.1. Context

A similar project was conducted in 1995-1996. Agreements were reached in all cases, and the process was positively valued. But the number of cases was very small.

4.2. Current evaluation

An evaluation was conducted in 2003 based on cases completed by 1. September 2002. By then 357 cases had been referred to mediation. The evaluation was based on a sample of 150 cases where mediation had been completed (61% victims and 54% offenders responded).

The main conclusion is that benefits had been considerable for the participants: 80 % of respondents expressed that they had found the mediation successful or very successful. In particular victims of assault felt that the confrontation with the offender had been successful. Only 5 % of the participants found that the mediation had been unsuccessful.

The organization of the project was evaluated in 2006. This evaluation highlighted a couple of areas where the organization of the project could be optimized.

4.3. Future direction

In March 2007 the Danish Government set up a committee which, on the basis of the evaluation reports, is to examine the organization of the existing project of victim/offender mediation in order to propose the organization of a nationwide and permanent programme of victim/offender mediation. The committee is expected to finish its work in the summer of 2008.

5. Contact

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