

Workshop Session 4

Implementing a Restorative Justice Policy

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Themes of Discussion

- Who owns the responsibility of RJ within the structure of the government?
- What is the role of the different players in the field?
- How to coordinate restorative justice policies?
- Which kind of instruments or bodies should be created?
- How to guarantee good standards and legal safeguards?

RJ project's relation to society – Different models

- Differences in the historical, legal, social, cultural and political context
- Continuum: system based <=> community based
- Under the authority of judicial structures
- Within correctional services
- Close link to probation services
- Within police services
- Local administrative services => social services
- NGO's as service providers
- Another dimension: orientation towards offenders or victims or both

Implementing a Restorative Justice Policy

- UNODC Handbook on RJ programmes
- Need of a strategic approach
- Setting realistic goals
- Addressing the need for legislation
- Finding right level of legislation
- Relation to the criminal justice system
- Programme design and implementation planning
- Leadership, organization, and programme structure
- Governance structure
- Management of the programme

Implementing a Restorative Justice Policy

- Costs forecasting, budgeting and funding
- Basic skills of facilitators: training
- Use of volunteers?
- Securing the commitment of partners and stakeholders
- Mobilizing and sustaining government interest and support
- Securing the support of criminal justice agencies
- Mobilizing the community
- Evaluation

Forms of Restorative Justice in Finland

- Victim-offender mediation
- Family group conferencing
- Social or intercultural mediation
- Mediation in schools
- Mediation in civil cases
 - In courts by judges
 - Mediation by attorneys
 - Mediation in working places

The history of VOM in Finland

- The first experiments started in the beginning of the 1980's
- Grassroots-level approach
- Actual mediation done by volunteers
- Emphasis on social work and on youth work
- Municipalities organised mediation services in various ways
 - i.e. some municipalities set up a mediation office of their own, some outsourced the service to another municipality or organisation
- No state supervision

The history of mediation in Finland

- Before 2006 the mediation was guided by a manual developed by the National Research and Development Centre for Welfare and Health
- In 2003 an Advisory Board under the Ministry of Social Affairs and health was established
- The Act on Mediation in Criminal and Certain Civil Cases came into force in the beginning of 2006
- Mediation should have been available throughout the country June 1st 2006

The Goals of the Act

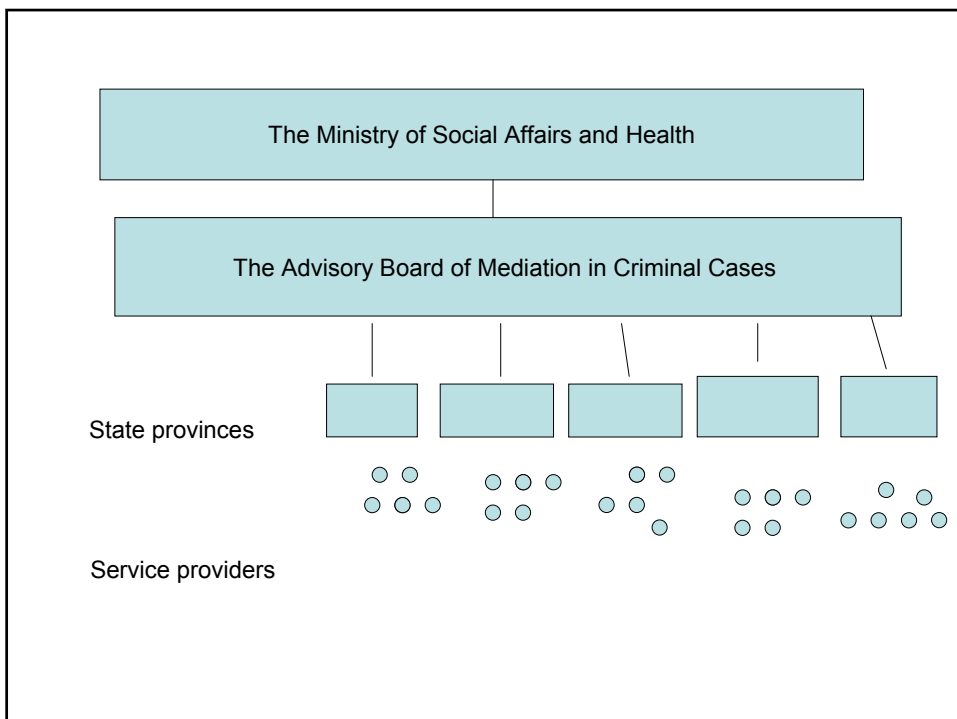
- To extend mediation to cover the entire country so that it's possible to have the opportunity to obtain good-quality mediation service regardless of the place of residence
- To ensure sufficient governmental funding
- To organise the national management, supervision and monitoring of mediation services and to create conditions for long-term monitoring and development
- To make the procedures of mediation standardised
- To ensure the procedural rights and safeguards of the parties attending the mediation process

General management, supervision and monitoring of mediation services

- The general management, supervision and monitoring of mediation services is under the responsibility of the Ministry of Social Affairs and Health
- Mediation services are implemented independently of the criminal justice system
- The Advisory Board on Mediation in Criminal Cases appointed by the Government

Arrangement of mediation services

- The State Provinces (5 altogether) are responsible for arranging mediation services and they ensure that services are accessible throughout the country
- A State Province makes a contract with a municipality or other - public or private - service provider.
- Contracts may be put out to tender
- The State Provinces provide proper funding of the services from the state budget
- The State Provinces guarantee that all citizens have an access to VOM services



The Advisory Board for VOM

- Duties and composition are laid down by Government decree (12.04 2006/267)
- Appointed for a period of three years at a time by the Government for the purposes of national supervision, monitoring and development of mediation services

Duties of the Advisory Board for VOM

- To monitor and assess developments in mediation and to make proposals for future development
- To promote cooperation in mediation matters between the various administrative branches, organizations and other parties
- To issue content-based guidance on drawing up instructions for mediation activities
- To monitor international developments in mediation and participate in international cooperation concerning mediation
- To carry out other duties laid down by the Ministry of Social Affairs and Health in order to achieve the goals set for the advisory board

The Members of the Advisory Board for VOM

The Ministry of Social Affairs and Health
The Ministry of Justice
State Provincial Offices
Police
State Prosecutor's Office
National Alliance for Municipalities
Municipality
District Courts
Victim Support
Mediation offices
Volunteer Mediators
The Finnish Mediation Association
The National Research and Development Centre for Welfare and Health
The National Research Institute for Legal Policy

The relation to the criminal justice system

- Mediation stands outside of the criminal justice process, but if succeeding, it has direct influence on the criminal proceedings
- If the police or the prosecutor assesses that the case is eligible for mediation, and if the general conditions are filled, they are obliged to inform the parties of the possibility of mediation and also refer the case to mediation.

The relation to the criminal justice system

- Also the parties have a right to take their own case to mediation: “Mediations is administrative service”
- Exception: only police and prosecutor can submit a case of family violence to the mediation

The relation to the criminal justice system

- The prosecutor has a power over decision of waiving of the prosecution
- Successful mediation is a legitimate ground to waive the prosecution - as is young age of the offender, alleviate crime, mitigating circumstances etc. - but does not automatically lead to the waiving of the prosecution
- Successful mediation can lead to reduced sentence, but not automatically

Voluntary mediators

- At least 30-hour elementary course (in adult-education centers)
- Course provides the participants with basic information about theories behind mediation in the criminal justice system, operations of the police, the prosecutor and the court, the crisis approach as well as the prerequisites and conditions of co-operation between mediators and the authorities
- Mediators work under mediation office's guidance

Voluntary mediators

- Different backgrounds; all ages, women and man, highly educated, students, pensioners, immigrants etc
- Mediators might have special interests; some take family violence cases, some cases with young offenders, refugees etc
- Must mediate at least 5 cases per year – some take even 50 cases
- Must engage to deepening education and "job guidance"
- Mediation is done always in pairs
- Expenses are covered – average 25 € reimbursement

Staff in Mediation Offices

- Must have an appropriate academic degree
- Must have skills and experiences required for the appropriate handling of the duties

