



European Forum **for** Restorative Justice

Victim-Offender Mediation in Finland
Developing the Legislation

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History

- First mediation project started in 1983
- Ideas from Norway, USA, Canada
- Criticism towards the classical criminal justice school, the lack of rehabilitation and reform work
- High prison rate
- "Giving conflicts back to people"
- Services provided mainly by cities and municipalities and NGO's

History

- VOM considered to be partly social work and childcare
- Services focused predominantly on minor criminal cases and specifically offences committed by young people
- Also children under 15 years old
- Different models of providing services throughout the country
- No supervision by the state

Expansion

- Expansion in 1990s
- Municipalities financed mediation voluntarily
- Criticism that VOM programmes were unjust; some residents had opportunity to mediate, some didn't
- Criticism on the quality of the services
- Not enough staff in the mediation offices
- Legal safe guards were not always met
- In 2003 the Advisory Board under the Ministry of Social Affairs and Health

The legislation and state funding

- Act on mediation in criminal and certain civil cases (1015/2005) since 1.1.2006
- The purpose of the new Act was to extend mediation to cover the entire country so that it is possible to have the opportunity to obtain good-quality mediation service regardless of the place of residence
- State financing: 6,3 million €
- Generally administered and monitored by the Ministry of Social Affairs and Health

The legislation and state funding

- It was considered important to maintain the grass root approach of the services
- Trained volunteers as mediators
- The services are provided by municipalities or NGO's according to a commission agreement made with the National Institute of Welfare and Health
- VOM does not constitute a part of the criminal justice system, but it has frequent interrelations with CJ system as far as referral of cases and their further processing is concerned

The legislation and state funding

- Mediation as defined in the law, refers to “*a non-chargeable service* in which a crime suspect and the victim of that crime are provided the opportunity to meet confidentially through an independent conciliator, to discuss the mental and material harm caused to the victim by the crime and, on their own initiative, to agree on measures to redress the harm”

The legislation and state funding

- The police or the prosecuting authorities can refer the case to the VOM
- Also citizens and e.g. social authorities can refer the case
- If the police or the prosecutor assesses that the case which they are dealing with, 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

Important principles

- Voluntariness: personal consent => can be withdrawn
- Mediation is informal by its nature, and not defined as criminal punishment
- Mediation does not resolve the issue of guilt
- However, the case has to be “clear” in the sense that the offender admits his/her guilt
- Confidentiality
- In principle any type of crime can be dealt with through mediation
- Law defines which types of cases are “more suitable”, and which types of cases are “less suitable”

VOM: Limitations

- In family violence cases the proposal for mediation must come from the police or the prosecutor
- Mediation of family should be excluded if violence was repeated or there had been earlier, unsuccessful mediation processes
- Mediation is forbidden if the victim is below the age of 18 and he/she is in a specific need of protection due to his/her young age

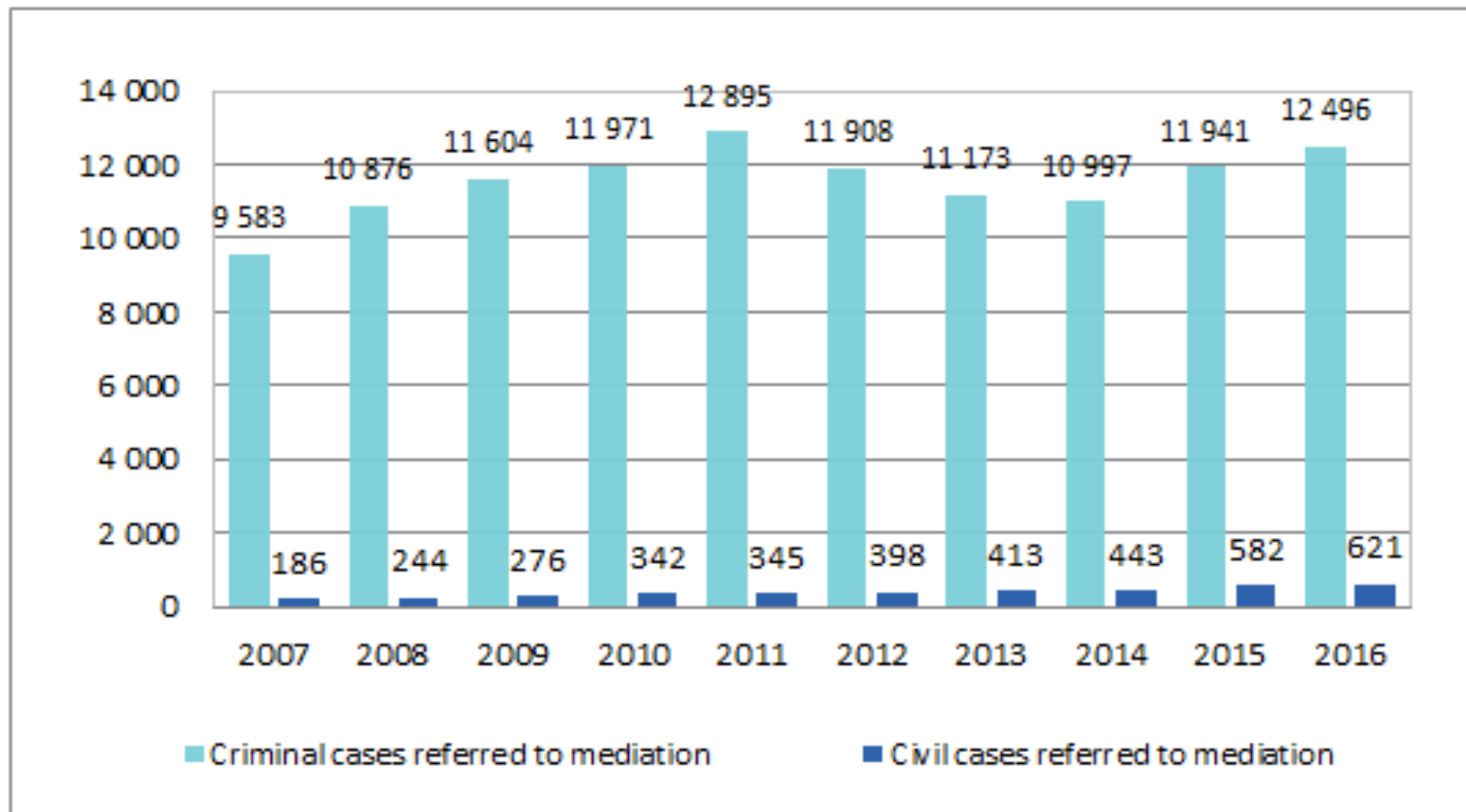
The Effects of Mediation in the Criminal Justice Proceedings

- In *complainant offences*, successful mediation automatically means that the police will close the investigations or prosecutor will drop the prosecution
- In *non-complainant offences* it is at the discretion of the prosecutor whether or not the process is continued
- Unlike in some other countries, mediation does not automatically divert the case from the criminal justice system
- This may narrow its diversionary effect, but on the other hand, it also prevents mediation from becoming restricted to trivial cases
- Should the prosecutor take the case to the court, the court may also waive from penal measures, or mitigate the sentence according to general sentencing rules

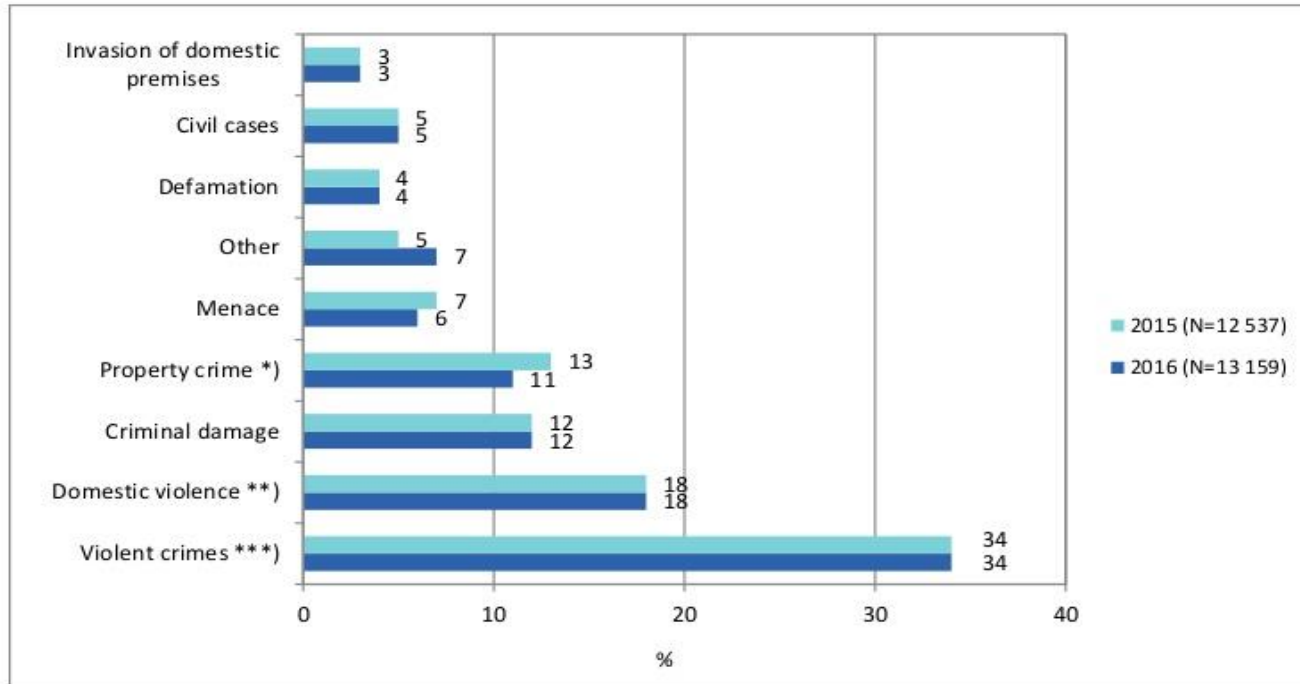
The State of Art in Finland

- Now 25 mediation offices
- About 100 mediation coordinators or advisors working as recruited staff members
- The number of volunteer mediators is currently about 1000

Statistical data on mediation



Criminal cases extracted from mediation referrals by offence category as well as proportion of civil cases in 2015 and 2016, %

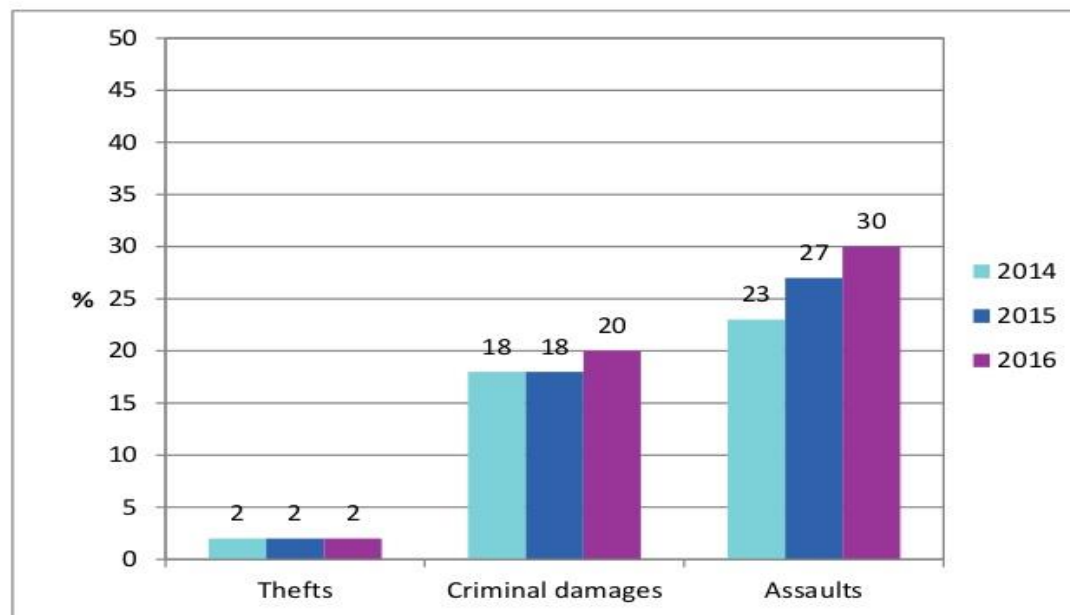


*) Property crimes include theft, fraud, embezzlement and unauthorised use.

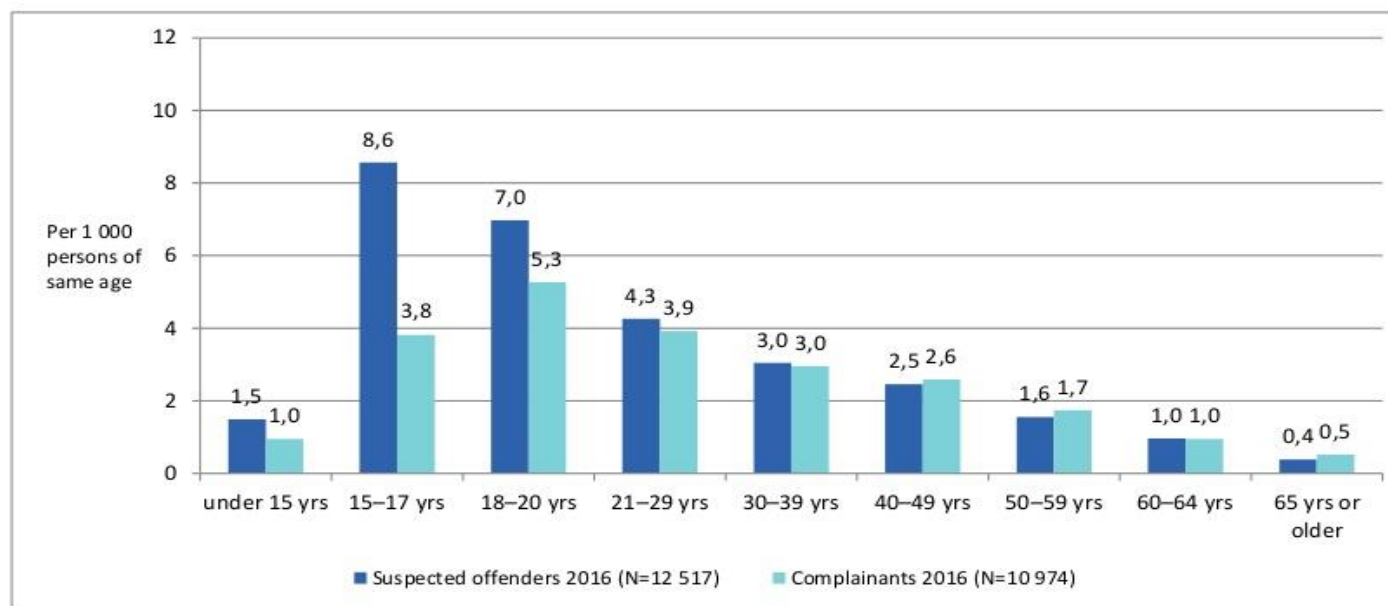
***) Only homicide and bodily injury offences can be recorded as domestic violence cases in the mediation statistics. For example, defamation offences committed in close relationships are not included in the statistics.

****) Violent crimes include petty assault, assault, aggravated assault, and robbery. Violent crimes committed in close relationships are presented separately in the Figure under domestic violence.

Mediation referrals for selected criminal cases as a proportion of all crimes solved by the police in 2014–2016, %



Suspected offenders and complainants/injured parties in criminal and civil cases referred to mediation in 2016 per thousand persons of the same age



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