

# European Journal on Criminal Policy and Research

Vol. 6, no. 4, 1998

## New Sanctioning Options

### Editorial

Several times this journal paid attention to the rise of incarceration in Europe and North America and the problems of overcrowded prisons. Besides, the journal covered topics as the re-integration of ex-offenders and non-custodial ways of sentencing. In other words, the journal plays - among other topics - a role in the theoretical and political debate on criminal law enforcement. In this issue several new sanctioning options 'beyond prison' are discussed. The issue has been compiled further to the conference Beyond Prisons which was held in Canada in march of this year. Several papers that were presented there, were redirected into the articles that are published in this issue. Some other articles are added in order to give altogether an interesting picture of some recent developments in sentencing policy and some really innovative alternatives to custody.

**Josine Junger-Tas** describes and analyses recent trends in sentencing policy in The Netherlands. The article considers both the adult and the juvenile (criminal) justice system. Sentencing policy in The Netherlands is following a general pattern in Europe and the US. The article gives an overview of the Dutch sentencing system, the changing patterns in imprisonment and the growing impact of alternative sanctions in sentencing. The rise in detention years must - according to the author - be explained by the tendency to impose more severe sentences. Junger-Tas expects that the increase in persons sentenced to prison and sentence lengths will continue. She also thinks that community sanctions will get an increasingly retributive character. A punitive and retributive system has been firmly rooted - also in Dutch society.

**Ivo Aertsen and Tony Peters** report on new sentencing policies in Belgium, more specific on mediation. In 1991 experiments were initiated, which intended to create an alternative for prison sentences. A dialogue between the victim and the offender was stimulated with the help of a mediator. In 1994 these experiments became firm policy by parliamentary agreement on the 'Law holding the regulation of a procedure for mediation in penal matters'. The law legitimates a conviction to a reparation order, a treatment program, a training program or a community sanction. The authors evaluate the impact of this law on mediation practice. In addition they report on a mediation for redress project in Leuven in penitentiary settings. Reparation, redress and reconciliation should become core values of the penal intervention - according to the authors.

Judge **F.W.M. McElrea** informs about the New Zealand model of family group conferences (FGCs). This model of restorative justice was introduced in 1989 in the Youth Justice system. Since then it has become the 'foundation stone' of the system. A significant feature of the model is that it is integrated in a statutory framework supervised by the courts and applicable to all young offenders throughout New Zealand. FGCs are used both as a diversionary technique (pre-adjudication) and at a (post-adjudication) pre-sentencing stage. In addition this type of model is now being applied in a voluntary way but on a small scale with adults. A significant feature of the FGC model is its greater use of community-based solutions with a consequent reduction in the number of young persons in state institutions.

**Alan W. Leschied and Alison Cunningham** report on the so called Multisystemic Therapy Approach in Canada. They describe the implementation of randomised trials in Ontario, Canada, of a community-based, therapeutic intervention for youths who would be candidates for custodial sentences because of the severity or persistence of their criminal behaviour. Many recognise the need to reduce custody stays. The realisation of that goal requires the creation of community-based programs which judges believe will not put the public at risk. Reviews of the empirical literature indicate that Multisystemic Therapy could be a cost-effective, individualised, community-based alternative to custody that reduces long and short-term recidivism of high-risk youths.

The two last articles are from Hungary and the Czech Republic. In these post-communist countries alternative sanctions are scarcely out of the egg. The rise of crime and the shortage of financial means however put the implementation of alternative sanctions under pressure.

**Klára Kerezi** calculated the specific costs of executing probation and community service orders in Hungary. In Hungary, the probation service is under the supervision of the judicial system, therefore, it does not have a separate budget. The author calculated the costs of alternative sanctions in several steps. These alternatives are very cost-effective compared to other sanctions. However, fines are

collected and utilised by the courts. This implies that judicial sanctioning practice may be determined not only by penal law but also by financial considerations. The author claims that this casts a different light on the recent punishment practice under which imprisonment (and its non-suspended form, in particular) has been increasingly replaced by fines rather than by community sanctions.

**Jana Valkova** questions in a brief article the implementation of community sanctions and measures in some post-totalitarian countries like the Czech republic. The author signals among the peoples in these countries a desire for paternalistic care by the state. The Czech Republic has for example no tradition of volunteer work, which - according to the author - is necessary to implement community sanctions. Furthermore, the public and the institutions are not prepared for the introduction of non-custodial sanctions. They must be informed about the aims and purposes, advantages and benefits and better organised to implement them. Valkova also thinks that it lacks for an explicit specification of the legal status; are alternative sanctions to be considered as a penal sanction or as a way of rehabilitation of offenders? She warns that without a systematic approach for the implementation of alternative sanctions there might occur contra-productive effects.

In the section **Current Issues** further comments are published on the British White Paper No More Excusus on juvenile crime and justice. In this section there is also published a summary of a report to the French Prime Minister on the same problem. In addition a very strong comment is made on an article on domestic violence, which was published in the first issue of this year. The author puts several methodological question marks at the dramatic results of this survey research.