

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

Recommendation Rec(2000)22
of the Committee of Ministers to member states
on improving the implementation of the European rules
on community sanctions and measures

*(Adopted by the Committee of Ministers
on 29 November 2000
at the 731st meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Emphasising the continuing importance of creating, imposing and implementing community sanctions and measures based on the principles contained in Recommendation No. R (92) 16 on the European Rules on community sanctions and measures;

Having taken note of the results of the enquiry by the European Committee on Crime Problems into the implementation of the European Rules and, in particular, of the difficulties encountered by member states;

Recognising the need to amend Rule 5 of the European Rules in the light of the results of the enquiry and developing practice in offender supervision;

Aware that with the passage of time new possibilities for a more effective and wider use of community sanctions and measures emerge;

Recognising furthermore that important developments and changing practice in the area of community sanctions and measures and the issues identified by member states call for additional explanations and interpretations of several provisions contained in the European Rules;

Emphasising that the recourse to, and the implementation of, community sanctions and measures should always be guided by respect for fundamental legal safeguards as enshrined in the European Convention on Human Rights, and by the principles laid down in the European Rules;

Recognising the relevance to the present Recommendation of Recommendations No. R (92) 17 concerning consistency in sentencing, No. R (97) 12 on staff concerned with the implementation of sanctions and measures, No. R (99) 19 on mediation in penal matters and No. R (99) 22 concerning prison overcrowding and prison population inflation;

Recommends that governments of member states:

- be guided in their legislation and practice as regards the duration of community sanctions and measures by the revised text of Rule 5 of Recommendation No. R (92) 16 on the European Rules on community sanctions and measures, contained in Appendix I to this Recommendation;
- be guided when reviewing their legislation, policy and practice in relation to the creation, imposition and implementation of community sanctions and measures, by the principles set out in Appendix II to this Recommendation, for achieving a more effective use of community sanctions and measures;
- ensure the widest possible dissemination of the Recommendation and the report on achieving a more effective use of community sanctions and measures elaborated by the European Committee on Crime Problems, paying special attention to the additional interpretations and explanations of certain of the European Rules, as set out in paragraphs 129-168 of the above-mentioned report.

Appendix 1 to Recommendation Rec(2000)22

*Amendment to Rule 5 of the European Rules
on community sanctions and measures*

Ordinarily no community sanction or measure shall be of indeterminate duration.

Exceptionally, an indeterminate community sanction or measure may be imposed on offenders who, by reason of a serious prior or current offence in combination with a specific personal characteristic manifestly pose a continuing grave threat to life, health or safety in the community. Legislative provision shall be made for the regular review of the imposition of such an indeterminate sanction or measure by a body independent of the executive and empowered by law to do so.

The duration of community sanctions and measures shall be fixed by the authority empowered to make the decision within the limits and under the conditions laid down in law.

Appendix 2 to Recommendation Rec(2000)22

*Guiding principles for achieving a wider
and more effective use of community sanctions and measures*

Legislation

1. Provision should be made for a sufficient number of suitably varied community sanctions and measures of which the following are examples:

- alternatives to pre-trial detention such as requiring a suspected offender to reside at a specified address, to be supervised and assisted by an agency specified by a judicial authority;

- probation as an independent sanction imposed without pronouncement of a sentence to imprisonment;
- suspension of the enforcement of a sentence to imprisonment with imposed conditions;
- community service (i.e. unpaid work on behalf of the community);
- victim compensation/reparation/victim-offender mediation;
- treatment orders for drug or alcohol misusing offenders and those suffering from a mental disturbance that is related to their criminal behaviour;
- intensive supervision for appropriate categories of offenders;
- restriction on the freedom of movement by means of, for example, curfew orders or electronic monitoring imposed with observance of Rules 23 and 55 of the European Rules;
- conditional release from prison followed by post-release supervision.

2. In order to promote the use of non-custodial sanctions and measures, and in particular where new laws are created, the legislator should consider indicating a non-custodial sanction or measure instead of imprisonment as a reference sanction for certain offences.

3. Consideration should be given to reviewing and reducing formal provisions that prevent the use of community sanctions and measures with serious and repeat offenders.

4. Provision should be made for introducing new community sanctions and measures on a trial basis.

5. Any trials undertaken should be carried out in accordance with the spirit of the European Rules and be carefully monitored and evaluated. Experimentation should be in accordance with the ethical standards of the international community.

Sentencing practice

6. Rationales for sentencing should be established, where constitutional principles and legal traditions so allow, and reviewed from time to time by the legislator or other competent authorities, with a view to, *inter alia*, reducing the use of imprisonment, expanding the use of community sanctions and measures and providing for compensation to victims.

7. Judicial authorities should be involved in the process of devising and revising policies on the use of community sanctions and measures, and should be informed about their results, with a view to ensuring widespread understanding in the judicial community of their nature.

8. Particular attention should be paid to defining mitigating factors that would enable judicial authorities to avoid the use of imprisonment and impose a community sanction or measure instead.

Basic requirements for the effective implementation of community sanctions and measures

9. Adequate services for the implementation of community sanctions and measures should be set up, given sufficient resources and developed as necessary with a view to securing the confidence of judicial authorities in the usefulness of community sanctions and measures, ensuring community safety, and effecting an improvement in the personal and social situation of offenders.

10. Implementation services should possess staff of high professional quality, recruited, trained and used in accordance with the principles laid down in Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions and measures if the purposes of community sanctions and measures are to be achieved.

11. The work of the implementation services should be based on an explicit policy statement describing their function, purposes and basic values. This statement should include such matters as offenders' obligations and rights, the effective delivery of interventions and programmes for the resettlement of offenders, the legitimate interests of victims, organisational responsibility for community safety, and collaboration with the staffs of prisons, relevant agencies and organisations, and individuals drawn from the community.

12. The policy statement should be supplemented by service plans and practices devised with a view to raising the awareness of the various organisations and individuals involved in the implementation of community sanctions and measures concerning the importance of working towards common goals and sharing a mutual understanding of working methods.

13. Renewed consideration should be given to making legislative provision for the regular and independent review of the work of implementing authorities by experienced persons as required by the European Rules.

Improving the credibility of community sanctions and measures (with judicial authorities, complementary agencies, the general public and politicians)

14. The widest possible dissemination of Recommendation No. R (92) 16 on the European Rules on community sanctions and measures, in the respective national language, should be ensured.

15. Political and administrative leaders and the general public should receive recurring information on the economic and social benefits accruing from a reduced recourse to imprisonment and an increased recourse to community sanctions and measures. There should be a declared public relations policy concerning local media. The information should emphasise that community sanctions and measures can involve the effective supervision and control of offenders.

16. Judicial authorities and the staff of implementation services should create channels of communication that make for the regular discussion of the practical aspects of recommending and implementing community sanctions and measures.

17. As reintegration into the community is an important aim of community sanctions and measures implementation services should actively co-operate with local communities, e.g. by

involving persons drawn from the community in offender supervision or by collaborating in local crime prevention schemes.

18. The introduction of new community sanctions and measures into legislation and practice should be accompanied by vigorous public relations campaigns with a view to winning public support.

Setting up effective programmes and interventions

19. Criteria of effectiveness should be laid down so as to make it possible to assess from various perspectives the costs and benefits associated with programmes and interventions with the aim of maximising the quality of their results. Standards and performance indicators for the execution of programmes and interventions should be established.

20. Programmes and interventions should be structured in accordance with knowledge derived from relevant research and delivered by trained staff.

21. Programmes and interventions for offender reintegration should be based on a variety of methods. When designing programmes and interventions, in the context of community sanctions and measures, special attention should be given to their likely impact on offenders, in particular concerning:

- basic skills (e.g. basic literacy and numeracy, general problem solving, dealing with personal and family relationships, pro-social behaviour);
- educational or employment situation;
- possible addiction to drugs, alcohol, medication and
- community oriented adjustment.

22. The allocation of offenders to specific programmes and interventions should be guided by explicit criteria, such as their capacity to respond to the intervention, their presumed dangerousness to the public and/or to the staff responsible for the programme or intervention, and the personal or social factors which are linked to the likelihood of re-offending. To this end, reliable assessment tools enabling such allocation should be developed and used. Information about these procedures should be made available to interested authorities/persons.

23. Special attention should be paid to the development of programmes and interventions for offenders who have relapsed into serious crime or who are likely to do so. In the light of recent research findings, such programmes and interventions should make use, in particular, of cognitive behavioural methods, i.e. teaching offenders to think about the implications of their criminal behaviour, increasing their self-awareness and self-control, recognising and avoiding the situations which precede criminal acts, and providing opportunities to practise pro-social behaviour.

Research on community sanctions and measures

24. Adequate investment should be made in research to monitor the delivery and evaluate the outcomes of programmes and interventions used in the implementation of community sanctions and measures.
25. Research should seek to identify both the factors that lead offenders to desist from further crime and those that fail to do so.
26. Research on the effects of community sanctions and measures should not be limited to the simple recording of post-supervision convictions but should make use of more sensitive criteria. Such research should examine, for example, the frequency and seriousness of re-offending together with personal and social indicators of adjustment in the community, and the views of offenders on the implementation of community sanctions and measures.
27. To the greatest possible extent research should enable comparisons to be made of the effectiveness of different programmes.
28. Statistics should be developed that routinely describe the extent of use and the outcomes of community sanctions and measures.
29. Quantitative and qualitative assessments of staff workloads in connection with the various tasks undertaken in implementing community sanctions and measures should be undertaken from time to time in order to achieve high levels of efficiency, staff morale and staff mental health.