

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 17 February 2014
PC-CP/docs 2014/PC-CP(2014)2E

PC-CP (2014) 2

EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Council for Penological Co-operation
(PC-CP)

**DRAFT OUTLINE STRUCTURE OF THE PC-CP WORKING GROUP
REPORT ON QUASI COMPULSORY MEASURES AS ALTERNATIVES
TO IMPRISONMENT**

**By Prof. Anthony BEECH
University of Birmingham, United Kingdom**

In consultation with the Secretariat, based on my professional expertise, I aim to draft the report reflecting the current use of quasi-compulsory measures (QCM) as alternatives to imprisonment in Europe. The report will be broadly organized along the following lines: (1) a definition will be attempted as regards QCM and more specifically issues around offender supervision; (2) the types of offenders for whom such measures are applied; (3) their efficiency; (4) their legal and ethical safeguards; and (5) a discussion of the practical limitations of these approaches.

I have briefly outlined of each of the areas to be included in the report for the meeting on Friday 21st February 2014, and the issues inherent in each of these areas, to see whether the outlines of each of these areas are satisfactory.

Quasi-compulsory measures definitional issues

1. As for brief search on the use of the term ‘quasi-compulsory measures (QCM), the literature appears to concentrate such approaches for offenders convicted of drug-related offences. However, a more systematic literature review is needed to fully review other approaches.

2. To briefly concentrate on QCM measures with drug-related offenders, such approaches vary tremendously from country to country, for example, Schaub et al. (2001) note that: “England uses sentences which enable courts to order an offender to enter treatment for a specified period ... In Austria, Germany and Switzerland, legal arrangements are in place that can broadly be described as ‘therapy instead of punishment’ ... In Italy, prison sentences of no more than four years, or the last four years of a longer prison sentence, can be replaced by a period in judicially supervised drug treatment but require the informed consent of the offender...the Dutch SOV system...may be placed in treatment institutions without their consent.” (p.53).

3. At the root of all of these approaches is the issue of *supervision*. Again, in the main report the definition of offender supervision will be discussed in more detail than given below, but the following hopefully gives a brief flavour of the difficulties inherent here:

a. There are difficulties in defining *offender supervision*. In some cases changing terminology reflects a shift from ‘welfare rehabilitation’ towards more controlling punitive forms of community punishment (McNeill & Beyens, 2013).

b. The Council of Europe definition is as follows: “[those] sanctions and measures] which maintain the offenders in the community and involve some restriction of his liberty through the imposition of conditions and/or obligations, and which are implemented by bodies designed in law for that purpose. The term designates any sanction imposed by a court or judge, and any measures taken before or instead of a decision on a sanction as well as ways of enforcing a sentence of imprisonment outside a prison establishment (Council of Europe 1992, Appendix para. 1).”

c. Robinson, McNeill, and Maruna (2013) note that: “in the most general terms, what community sanctions have in common is some form of oversight or supervision of an individual’s activities, while maintaining them in the community. What ‘supervision’ entails, the ends or purpose to which it is oriented and who assume responsibility for it, are all dimensions of variations internationally and historically” (p 323).

4. However, community ‘sanctions and measures’ refer to a kind of formal, or legal scaffold, and as McNeill and Beyens (2013) note they actually tell us very little about the actual substance of offender supervision.

Conclusions

This section will discuss the considerable expansion of such sanctions in almost all European countries, providing a brief review of what is known about types of sanctions as best as can be elucidated. I will need considerable help from members of the PC-CP Working Group in order to collate this information.

Scope of the problem

1. The number of adult offenders in the community, for example, has grown rapidly in recent decades (McNeill & Beyens, 2013). In fact in most jurisdictions offenders under supervision (as alternatives to custody, community sentence, or post custody license) heavily outnumber those detained in custody. To give a UK perspective in March 2013 in England and Wales the prison population was 83,769, while those supervised in the community was roughly 2.5 times this number (224, 823).

2. The majority of extant literature on offender supervision in Europe is descriptive.

3. Most of the research in the area has tended to be evaluations of treatment programmes, which are accessed by much smaller number of offenders in prison or in the community, than under general supervision.

4. McNeill, Raynor and Trotter (2010) suggest that research and development needs to go beyond the focus on special programmes and focus on routine practices of supervision to be understood in a social context.

Conclusions

Therefore, an overview of supervisory approaches will be a major undertaking in itself, in order to fully outline how QCM and supervision has differences, similarities across different countries. Hence, I would also aim to consults with experts in the field of supervision such as: Professor Fergus McNeill (University of Glasgow), Professor Kristel Beyens (Universiteit Brussel), Professor Martine Herzog-Evans (Reims University), Dr. Gwen Robison (University of Sheffield), and Professor Kerstin Svensson (Lund University), who have extensive knowledge and expertise in the field.

The types of offenders for whom such measures are applied

This section of the report I would suggest will examine quasi-compulsory measures on the following main groups: (i) substance abuse offenders, (ii) acquisitive offenders, (iii) sexual offenders, (iv) violent offenders. These will be examined both from the adult male perspective, as well as from adolescent, female, minority ethnic and those with an intellectual disability. Again this work will be a major undertaking.

Efficiency of measures

Once a consensus has been reached, as regards the 'types' of offenders to be reviewed the efficiency of supervision will be discussed/evaluated in differing jurisdictions. This section again I would suggest will need considerable input from PC-CP Working Group members, and other experts in the field.

Legal and ethical safeguards

These issues will be noted as the report is prepared.

Practical limitations

As far as possible the practical limitations of the measures in the report will be drawn out in this section.

References

- Andrews, D., & Bonta, J. (2010). *Psychology of criminal conduct*. New York: LexiNexis.
- McNeill, F., & Beyens, K. (2013). Introduction: Study mass supervision. In F. McNeill & K. Beyens, *Offender supervision in Europe* (pp. 1-18). Basingstoke; Palgrave Macmillan.
- Robinson, G., McNeill, F., and Maruna, S. (2013) ‘Punishment in society: The improbable persistence of community sanctions’. In J. Simon and R. Sparks (eds) *The Sage Handbook of Punishment and Society* (pp. 321–340). London: Sage.
- Schaub, M. et al. (2009). Comparing outcomes of ‘voluntary’ and ‘quasi-compulsory’ treatment of substance dependence in Europe. *European Addiction Research*, 16, 53-60.