

Community Sanctions and Measures in Belgium: still in the shadow of the prison?



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As Director-general, I am the head of the Directorate-General Houses of Justice, which is responsible for all probation activities in Belgium. My department, situated in the Ministry of Justice of Belgium, employs a staff of 1,200 workers and deals with 70,000 people on a yearly base, mostly offenders and victims.

I chose a rather **provocative topic** for this panel, especially considering the fact that I am a guest at this 18th conference of Prison Directors. However, my goal is **not to divide but to unite**. We are all partners on the same field of criminal justice. For much too long, probation and prison services did go too much their own way.

I welcome therefore all initiatives that support closer cooperation between these partners in the execution of sentences.

More cooperation and coordination is necessary, from different perspectives, not in the least from a management and efficiency perspective. But a good partnership should be based on **equality**.

No partner can *and should* be operating in the shadow of the other. Together with you, I would like to analyze if CSM are still forced to operate in the **shadow of the prison system** in Belgium.

Rather than a theoretical approach, I would like to talk starting from my experiences as a Director-General.

I will focus on 3 problems and challenges that I encounter in my daily work as manager of the Probation Service and concern mainly the Belgian situation.

Maybe some of these challenges are recognisable for others countries and probation organisations, maybe not.

This is open for discussion later on.

1. Prisons get too much attention

The first problem I have to deal with as a manager of the probation service is the enormous attention that the prisons and prison sentences get. Attention in the media, scientific research, public opinion, political forum, financial negotiations, and so on. Probably my Belgian colleague of the Prison Service agrees with the difficulties surrounding this spotlight, perhaps maybe at times of budget negotiations.

Don't get me wrong. Taking somebody's freedom is a serious and drastic decision. As stated in the first principle of the European Prison Rules (2006), all persons deprived of their liberty must be treated with respect for their human rights.

And prison conditions that are infringe prisoners' human rights are not justified by lack of resources. Prison sentences should be executed in a humane, modern and constructive manner.

So the attention for the prison system *as such* is justified.

But as manager of the probation service, I see also that this often put the probation work in the shadow of the prison system.

And this shadow is a real challenge in managing my organisation.

And often I wonder if this overweight is sufficiently justified.

I give you 2 examples: media en budget.

- a. First example : an analysis by the University of Brussels of newspaper articles in 2011 shows that the subject 'Houses of Justice' are not frequently mentioned (2%), opposed to the subject 'prison' (85%).

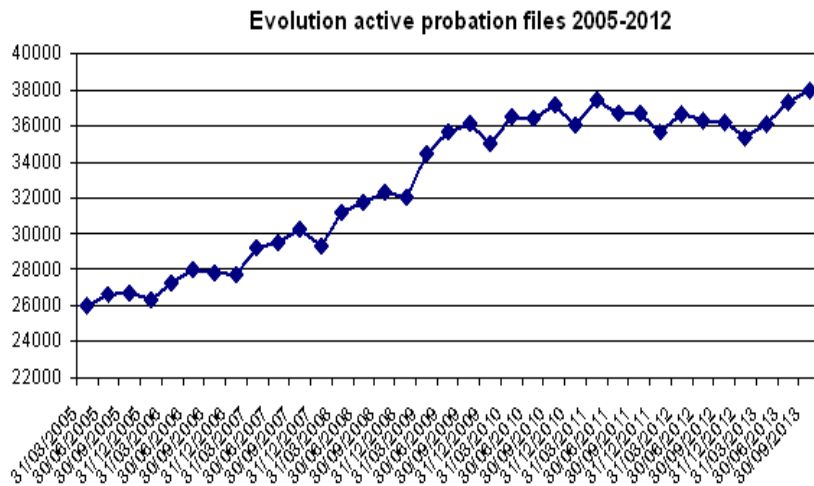
'Hit'	Frequency	%
Prison	5.256	85%
Houses of Justice	108	2%
Asylum seekers	837	13%
Total	6.201	100%

Aline Bauwens, VUB 2011

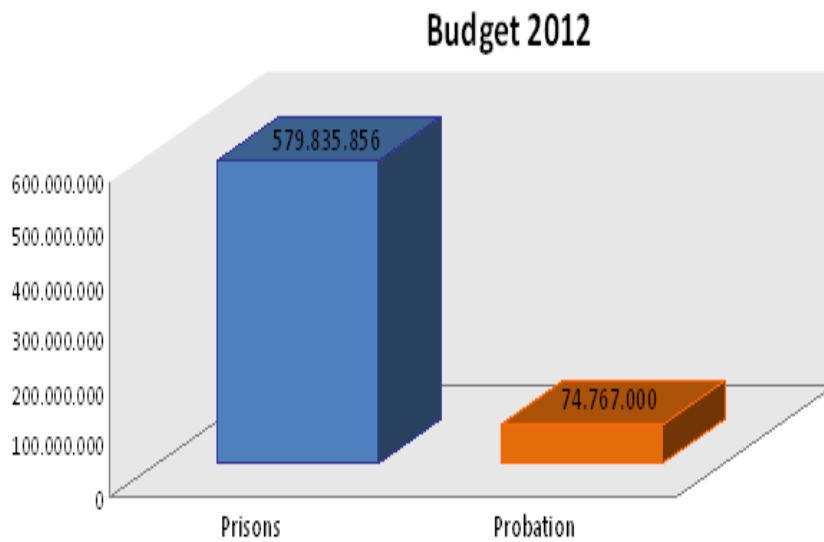
Only in 108 articles the theme 'houses of Justice' was mentioned, while more than 5.000 articles on 'prison' were published. We need more media exposure to get attention.

The media and the public must be better informed about the purposes and results of CSM in order to encourage a better understanding of their role and value in society. This is also the reason why I appointed several communication officers within our Directorate-General.

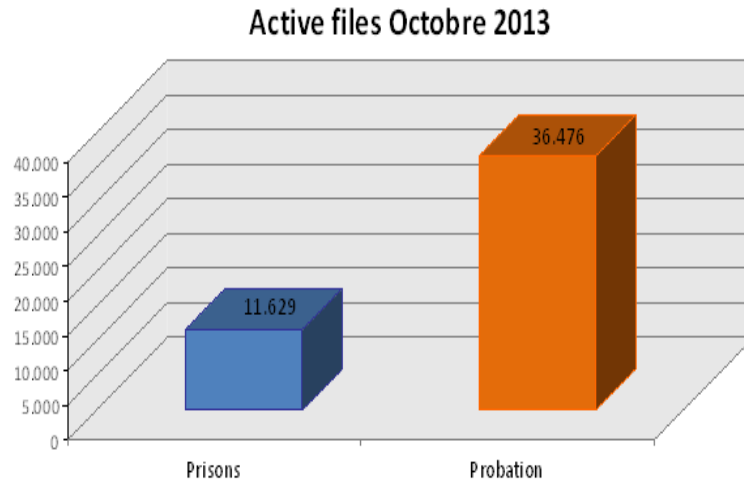
- b. Second example: the difference in budget numbers between CSM and prison. Before comparing budgets, let me first tell you that the numbers of offenders under supervision in the community have grown rapidly in Belgium in recent decades. Between 1999 and 2012, this number **increased with 98%**.



In 2012, the budget of the prison department was nearly 600 million euro. And the budget for my department was almost 75 million euro.



But when we look at the active files at a certain day last month (stock), we can see that there were **11.629** people incarcerated. The stock in the CSM at that moment was **36.476**.



Based on this comparison, this means that probation has **8 times less money** than the prisons, but deals with **3 times more offenders** on daily bases.

According to the Council of Europe SPACE I statistics, the 33 prison administrations that provided data on this item had spent more than 17.000 million euros in 2011 (= 17 BILLION euros...).

I think a more balanced use of public financial means is necessary. To be clear, this is not a criticism towards my colleague of the prison service as such. As mentioned, the condition of the prison system needs serious improvement in Belgium. **But a broader discussion is necessary about how to achieve the goal of non-reoffending and the best way to invest public financial means.**

This requires a broad debate in society on how to achieve the goal of non-reoffending in the most efficient way. It also involves a broader review of criminal law and criminal procedures. I am convinced that such an exercise will prove that a more important role - and thus more financial means- is necessary for CSM in Belgium.

Both concrete examples are an illustration of the shadow in which my organisation has to work. Sometimes a shadow can be refreshing but sometimes sunlight is needed to grow. CSM in Belgium need more sunlight.

2. Community sanctions and measures: prisons are always around the corner

In Belgium, many CSM have been introduced for mainly very pragmatic reasons, such as the growing overburdening of the courts and the overcrowding in the prisons.

According to the Council of Europe Annual Penal Statistics (SPACE I), Belgium had on 1.1.2011 a population of 11.000 prisoners (including pre-trial prisoners) and a total capacity of 9.295. This means 18% overcrowding. In 2012, according to the annual report of the prison services, this average was already 23,7%. The problems related to the overcrowding were once again described in the latest report of the UN Committee against torture last Friday.



In 2010, the Belgian Court of Audit examined 7 measures that are meant to help reducing prison overcrowding.

These 7 measures are

1. . less pre-trial detention,
2. more community service sentences and
3. electronic monitoring,
4. transferring prisoners of foreign origin to their own country,
5. inclusion of mentally ill prisoners in the mental health care system, 6. reforming provisional release and conditional release as well as
7. expanding prison capacity.

In its rapport to the Federal Parliament, the Court stated that the impact of these measures has not been sufficient up to now.

The recommendations in this rapport aim at an **integrated and systematic approach** of prison overcrowding, a better foundation and evaluation of the policy, the legislation's implementation and the creation of the necessary conditions to this end as well as a **better harmonization** with other public services and the judicial power. However, these recommendations can only be successful within the context of a **broader review of criminal law and criminal procedure**.

From a strategic point of view, pragmatic reasons are off course a **window of opportunity** for the implementation of CSM. It can not be denied that the structural crisis of the prison systems in terms of overcrowding did facilitate the introduction and growth of CSM in Belgium. But we can not forget that CSM are useful and efficient on its own. CSM are not only a solution for other problems but are on its own a better solution for many cases in the criminal justice system. We need to take more into account the positive side and not the negative one.

CSM have to step out of this shadow and learn to walk on its own. The fact that CSM are still too much related to the prison system, holds the risk of dependency and undervaluation of CSM itself.

Even as a student, but also later in my professional career as a prison director and director of a probation service, I witnessed an important development in the criminal justice system.

At the beginning, the fight against recidivism was mainly centred on core issues like neutralisation, dangerousness and imprisonment.

Step by step, different researches and practices emerged focusing on concepts such as individualisation, rehabilitation, prevention of reoffending and social control.

Imprisonment turned gradually into a last resort solution while CSM became more and more important.

Better understandings of how and why people stop offending (desistance process) offered the prospect of developing better criminal justice practices, processes and institutions).

CSM offers the opportunity to **work in depth on the problems that are part of the reason why people commit crime**. It involves a complex mechanism of control and support in collaboration with different agencies. **In a large majority of cases, it works better than prisons to achieve the goal of non-reoffending.**

Emerging evidence and research about the process of **desistance** introduced a range of CSM principles, like:

- being realistic about the complexity and difficulty of the process
- individualising support for change
- building and sustaining hope
- recognising and developing people's strengths
- working *with* offenders not *on* them (to encourage & respect self-determination)
- working with and through relationships (both personal and professional)
- developing social as well as human capital
- recognising and celebrating progress

(from McNeill, Farral, Lightowler & Maruna, How and why people stop offending: discovering desistance, 2012)

And it's not just me and my department and my staff who are convinced of these values.

The last 'Justice-barometer', carried out by the Belgian **High Council of Justice** in 2010 shows that a large majority, namely **82%**, of the Belgian population is in favour of CSM. Previous barometers in 2002 and 2007 confirm this **public support**.



Justice Barometer
2011
82%

So CSM are not only a reaction to a failing criminal justice system. **They are a better solution on them self. We need to be more aware of our own strength.**

I was very happy to see this recognition also at the first CEP world congress on probation in London last month. We need to work together as probation services to achieve more results.

But it must be more than a belief. **CSM practice should be as far as possible evidence based.** We need more research and evaluation that meets internationally recognised standards.

That is one of the reasons why I insist on a **close collaboration with academics and universities in my department.**

3. Not enough co-operation... also with the prisons

Finally, I would like to stress the need for a **more integrated and systematic approach.**

Despite efforts to optimize the management of cases entrusted to us by our mandating authorities, my department remains largely dependent on our position in the criminal justice system.

From a management point of view, **this is a real challenge.**

We don't control our **input** and we don't control our **output.**

We have to deal with overflows that may occur (or disappear) very rapidly. **However, the number of cases entrusted to us is constantly increasing. All of these mandates must be executed. It's a daily challenge to find a permanent balance in order to successfully manage the workflow with fluctuating staff (predominantly female and young), fluctuating input and with no or minimal impact on input and output of cases.**

CSM are not situated on an island.

We must work in close co-operation with other agencies of the justice system, with support agencies and with the wider civil society. It is about more than criminal justice. **We have also a responsibility to encourage and facilitate support agencies to undertake their inherent responsibility to meet the needs of offenders as members of society.** Desistance requires engagement with families, communities, civil society and the state itself. All these parties must be involved.

For much too long, probation services and prison services did go their own way. We need a close partnership. A partnership is necessary in order to achieve our common goals, such as **non-reoffending, resettlement and social inclusion.**

Different opportunities lie ahead: service level agreements, data sharing, close cooperation in establishing offender management, common scientific research, ensuring a successful transition from life in prison to life in the community, exchanging experiences and practices with the social workers in the prisons, etc.

But such a partnership must be based on respect, equality and understanding of each other difficulties and values. Not in the shadow but next to each other.

CONCLUSION

As general conclusion, I have to say that CSM in Belgium are still too much in the shadow of the prison sentence. But we already took huge steps in growing up. We became a separate Directorate General within the Ministry of Justice, our caseload increased, we gained trust and confidence with judges and prosecutors and established a variety of partnerships with social and other organisations.

Society needs to take full responsibility in choosing the most efficient way in achieving the goal of non-reoffending. And in many cases this means CSM. But CSM still needs **a more independent, strong and equal position** in the criminal justice system.

A conditio sine qua non is that CSM need to have **sufficient means** to deliver the wanted output. **A more balanced input of public means should be achieved between CSM and prison services.** This balance must be the **result of a broad debate in society on how to achieve the goal of non-reoffending in the most efficient way.**

It also involves a broader review of criminal law and criminal procedures.

There is a **need for more cooperation** with the prison services.

This partnership should be based on an equal position in the criminal justice system and with respect towards each other.

Therefore, I welcome all initiatives -like today- for a closer cooperation between prisons and CSM, at all levels.

The **Council of Europe has an important role** in establishing such cooperation and I am looking forward to more guidelines and basis principles in this matter.

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