



Workshop III - Practical Implementation

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1. State of play

- Most MS in explorative stage
- Advantage: contacts between the legal authorities, the policy makers and practitioners
- Important issue in most MS: determine the appropriate competent authority
- Shared needs and concerns for the legal authorities and for the practitioners

2. Shared concerns

- Urgent need for information on the domestic systems of the MS (cornerstone for mutual confidence)
- Need for information about social background of the offender both for the judiciary as for the practitioners!
- Issue of mutual confidence: need for instruments to influence the judiciary
- MS recognize the need for unified procedures and instruments BUT may fear that they will lose their own identity (philosophies, habits, strong points etc...)

- Issue of informed consent: need to inform the offender
- Issue of identification of possible candidates and how to inform them?
- Determination of the central authority?
- Risk of importing/exporting problems

3. Probation measures and alternative sanctions



- Many differences but the most common probation measures and alternative sanctions seems to be bridgeable
- The more specific a sentence is (in terms of particular conditions – e.g. programmes, treatment, drug rehabilitation) and the more that its execution relies on third parties (medical, substance use, NGOs), the more complex the transfer issues
- Mental health care programs seems to be the most difficult to implement in another MS due to the practice of these services: assessment/intake criteria
- Practice can be problematical e.g. existence of waiting lists in a candidate executing MS for a certain therapy can make judge in issuing state reluctant to pronounce it
- Will the existence of an international desk help to promote judicial confidence in the equivalence of the implementation of probation measures and alternative sanctions in the receiving state? If so, where must this service be situated? Clear preference to situate them in the probation services. Can this desk also provide information on waiting lists etc?

4. Special issue: social report

- Need for social reports
 - Pre sentence phase in particular for the judiciary (decision taking)
 - Post sentence phase in particular for competent authorities and practitioners (follow up)
 - MS should ensure equal provision of social reports for potential candidates (equity with nationals)

-Need for good information on different levels

- About MS system (fact sheet)
 - social background information
 - About practical feasibility to execute the probation measures and alternative sanctions (e.g. waiting list, availability of a specific treatment, costs...)
- + Also need for exchange of information between probation services, how can they consult each other with respect for their own ethics/deontology and working methods?

- Where too long a delay would be created by inquiries into individual home circumstances of the candidate, simpler information about the institutional context in the receiving state may be sufficient for sentencing. The other information should be communicated during the transfer proceedings
- Language issue regarding individual information (2 levels)

5. Recommendations

- Develop tools to sensitize the judiciary on this possibility for foreign nationals to be subjected to probation measures and alternative sanctions
- Develop tools to inform foreign nationals on the possibility to execute a probation measure or alternative sanction in another MS (link with the roadmap on procedural rights? Implication of the Bar Associations, assistance of the lawyer from the first interrogation by the police?)
- Need for a principle as defined by Article 15 of the FD but for probation services

- Need for mapping of processes for each type of measure or sanction (article 2) in all the phases (presentence, post sentence and post release) + fact sheets and handbook
- Maybe useful to develop several concrete case studies, taking into account that the main different legal systems in the EU are represented
- Language issue is larger than only the social report, need for instruments to guarantee translation during the follow up or the guidance of the concerned person ('face to face' interventions and translations)