

The Universal Periodic Review (UPR)

Second cycle, 2012

Ukraine

Criminal Justice Reform, Restorative Justice

This report is prepared by Coalition of civil society organizations implementing restorative justice programmes in 14 communities of Ukraine, with the aim to join efforts of civil society in promoting practical implementation of restorative approaches in context of criminal justice reform.

The coalition includes civil society organizations as follows:

- Ukrainian Centre for Common Ground
- Regional office of All Ukrainian Foundation for Children's Rights (Kyiv Region)
- Agency for Regional Development of Podil (Vinnytsya)
- Coalition of NGO's "Restorative Justice Centre" (Lviv Region)
- Initiative (Zhmerynka, Vinnytsya Region)
- Institute for Law and Democracy Development of Prykarpattya (Ivano-Frankivsk Region)
- Agency of Regional Development "Garmoniya" (AR Crimea)
- Lugansk Regional Mediation Group (Lugansk)
- Charitable Foundation "Space without a Conflict" (Lviv)
- Odessa Regional Mediation Group (Odessa)
- Women's Initiatives (Pyryatyn, Poltava Region)
- Sumy region public organisation "Sumy initiative" (Sumy)
- Youth for Democracy (Kharkiv)

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Background

1. In Ukraine the average per capita incarceration rate was 400 per 100,000 of national population whereas in Eastern Europe it is approximately 200 per 100,000. About 154 000 people are kept in 183 correctional facilities and approx. 134,000 are kept in police custody after discharge.
2. The contingent of detainees and convicts in the remand prisons (in the first half of 2011) consisted largely of first-time offenders (73.5%). The ratio of those formerly held liable for crimes was 11.7%; of prisoners in transit – 14.8%; of juvenile offenders– 0.4%.
3. Since 2003 Restorative Justice Programmes (Mediation in Criminal Cases/ Penal Mediation, Family Conferences, Community Circles), have been offered by local civil society organizations as a way of humanization of criminal justice, re-socialization of offenders, healing of victims, and strengthening of safety in communities.
4. Founded as the civic initiative of several organizations, implementation of the restorative justice in Ukraine today is supported by the Ministry of Justice of Ukraine, the General Prosecutor's Office, the Ministry of Internal Affairs, the National Academy of Prosecution, the National Academy of Internal Affairs, the School of Social Work of the National University “Kyiv-Mohyla Academy”, the Ministry of Education etc.
5. Out of 364 cases mediated in more than 14 communities of Ukraine. The criminal cases referred to mediation could be described as follows²: 44% were minor offences (thefts, fraud, petty crime, intended minor bodily injury); 44% were medium grave offences (thefts and frauds committed repeatedly; robbery; robbery combined with violence); and 12% were grave offences (theft accompanied with unlawful breaking into a residence; leaving in danger, traffic accidents with lethal consequences; robbery committed by an organized group).
6. The assessment of restorative programmes implementation in Ukraine implemented in 2011 has shown that due to their form, content, and principles, restorative justice programmes have greater influence on offenders. Participation in mediation allows them to understand their offences better; comprehend the harm they have caused to victims and take responsibility for it. According to the data collected, since 2006 no cases of recidivism or repeated crimes have been reported among the participants in mediation.
7. The assessment has also shown that mediation is an important instrument of the restoration and healing for victims. First of all, victims who take part in mediation process can quickly receive material restitution of the harm suffered, renew their sense of security, protection, and control over own lives. The average amount of the material compensation was approx. UAH1,000-1,500, (EUR 100 – 150) though larger amounts have been also reimbursed. There were two cases in the Ukrainian practice of mediation when the material compensation agreed was EUR 4,000 and EUR 7,000. The offenders met all their commitments under mediated agreements and fulfilled their obligations within one month after the mediation sessions.

¹ R. Walmsley, *World Prison Population List*, Home Office Research Findings No. 88, London: Home Office 1999 ISSN 1364-6540.

² In accordance with the provisions of the Criminal Code of Ukraine.

³ The current commercial exchange rate in Ukraine is: EUR1 = UAH10.4

We welcome:

1. Considerable political commitment of Ukraine to reform criminal justice towards its humanization, implementation of restorative justice programmes as an amendment to the criminal procedure. The enactment the Concept of the Juvenile Criminal Justice in Ukraine looks promising as it directly emphasizes the need for the introduction of restorative justice interventions in the criminal justice system. Another promising step was the decision to reform the criminal juvenile police into the juvenile police. This reform also provides for restorative justice interventions as part of working tools of the inspector of the future crime prevention system.
2. The recent promising discussions and legislative work towards the establishment of the institution of probation quite logically can become a ground for cooperation of the legal system and civil society in the implementation and development of restorative justice practices in Ukraine.

We express concern

A key factor that affects restorative justice implementation in Ukraine is still the lack of state policies and legislative regulations in the field at the national level.

The absence of the national programme for RJ, the lack of legislative regulation of the principles and mechanism of RJ introduction in the criminal justice system, lack of clear state policies at the level of financial and scientific support and training of specialists in the field definitely impedes the development of restorative justice practices in Ukraine.

In the meantime, the attitudes of Ukrainian legislators to the restorative justice leave much to be desired. The awareness and political will of members of parliament of Ukraine to promote restorative justice are virtually absent. This is particularly evidenced by the results of voting on the Law on Mediation in January 2012. The bill did not receive the required votes and was removed from further consideration.

We recommend

1. Finalize legislative regulation of mediation in criminal matters and other restorative justice programmes: adopt a law 'On Mediation', and amend the Criminal and Criminal Procedure Codes;
2. Support institutional development of Community Centres of Restorative Practices in communities of Ukraine to ensure access to restorative justice programmes for all who need it;
3. Support awareness raising activities for criminal justice system representatives in theory and practice of restorative justice with the view of effective cooperation with Community Centres of Restorative Practices;
4. Promote restorative approach in communities and actively inform primarily persons who are in conflict with law / potential participants of the possibilities and advantages of restorative justice programmes.