

МІЖНАРОДНИЙ ДОСВІД

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WHAT WORKS AND WHAT IS WANTED IN A NEW PROBATION SYSTEM?

This article covers the issue of the prison probation service of the Ministry of justice of the Kingdom of Denmark and revealed the main characteristics of the Danish criminal justice. Also the article analyzes the recidivism rates in the prison sector of the Kingdom of Denmark, as well as risk assessment of prisoners. In the model customers of the risk of committing new crimes is estimated from the following 8 central risk factors/criminogenic needs, known as the «Central eight».

Key words: *governor, law, crime; supervision; staff; Danish Helsinki Committee for Human Rights.*

В этой статье раскрыты вопросы пенитенциарной службы пробации Министерства юстиции Королевства Дании, а также раскрыты основные характеристики датского уголовного правосудия. В упомянутой статье проанализированы показатели рецидивной преступности в пенитенциарной сфере Королевства Дании, оценка рисков осужденных. Модель клиентов риска оценивается из следующих 8 центральных факторов риска/криминогенных потребностей, известные как «Центральная восьмерка».

Ключевые слова: *начальник учреждения исполнения наказаний; закон; преступление; Датский Хельсинский Комитет по правам человека.*

Formulation of the problem.

1. The situation

For an outsider, the time for introducing a new probation system in Ukraine appears to be optimal.

In February 2015 the Parliament passed a new law on probation. On 1 October 2016 the prison and probation system got a new organization. It has been decided, that in the future all criminal executive institutions shall be probation offices. A better situation cannot exist for changes. The question is: what kind of probation model is wanted? Is it

a model building on a positive relationship with clients and dealing with acute problems? Or a model working with change and motivation in a structured and evidence based manner? Which model gives the lowest rate of recidivism, and which can be accepted best by the politicians and the population? What is possible in practice?

2. Statement of the problem.

Why being interested in Denmark?

In many ways the situation in Denmark is similar to the Ukrainian. Our law has the same elements as

yours. In Denmark the prison and probation system is part of the ministry of justice. Like in Ukraine, we are changing our organization these current years and like Ukraine has criminal executive institutions we have probation offices all over the country.

In one area Denmark is very different though. Ukraine is 10 times bigger than Denmark and compared to the size of the population, Ukraine has a bit less of three times as many people incarcerated compared to Denmark in the beginning of 2016 [1].

The main content. Characteristics of the Danish criminal justice system include

- prison as a last resort
- short prison sentences
- low imprisonment rates
- a focus on alternative sanctions
- a focus on rehabilitation

In Denmark, the Probation Service encompass a wide range of assignments, and most offenders in the Prison and Probations Service are not imprisoned but attached to Probation. Unlike other countries, Denmark has maintained approximately the same number of prisoners for 30 years. And in 2015, the average prison population was as low as 3.400, which is the lowest since 2001.

By the end of the year there were 9.000 under probation in the community.

In the beginning of 2016, 58 individuals was incarcerated per 100.000 of the Danish national population.

Recidivism rates are defined as the number of persons who re-offend and receive a new prison sentence, whether suspended or not, within two years of their release or the completion of their suspended sentence.

In 2015 recidivism rates show, that those who were released from a custodial sentence in 2013 had a rate of re-

cidivism of 35 %. Those who had a suspended sentence and had completed a probation period in the community had a recidivism rate of 27 %. The rate of recidivism for those released after serving electronic monitoring was 16% and community service 18 %.

Our vision is to use imprisonment as little as possible. Research shows, that even sentences at 3 month or less can have long – maybe lifelong – consequences for the sentenced and his family.

In this respect, we try to keep sentenced people out of imprisonment as much as possible. We underline that the purpose of a probation order is not to get rid of the punishment but rather to get another kind of punishment. In other words a probation sanction is an alternative punishment to prison. A punishment which can be changed to imprisonment, if you don't follow imposed orders.

We do it by passing short prison sentences and to give early release (parole) on probation license.

Focus on alternative sanctions as:

- Suspended sentences and offenders released on parole
- Suspended sentences with special conditions such as treatment
- Electronic monitoring
- Community service
- Psychiatric treatment orders

We don't have any research in this area, but it is believed, that some of the explanation for a constant prison population over the last 30 years is, that we have a strong probation service.

To throw light on normal peoples wish for sentences for minor crimes, a Danish professor Flemming Balvig asked in 2006 a great number of people, about their wishes. They wanted the following: it should be clear for the accused that it was wrong, what he had done. He should not do it again. The

punishment should deter others for committing crime and if possible, the punishment should have an element of giving something back to the victim and the society. The interesting thing is that the general public did not want imprisonment. I don't know, what a Ukrainian population would say, but the result in Denmark was rather amazing.

3. The former Danish probation system

Since 1933 Denmark has had a probation service. It has been a service where the extensive part of the supervision process was taken up by Probation Officers dealing with the clients' acute social and financial problems. At the same time, this was perceived as an essential and important part of professional practice in reducing recidivism.

Furthermore, it has been believed, that establishing a trusting working relationship between client and probation officer is one of the core tools in fostering and maintaining a clients' motivation, thereby reducing recidivism.

Even though one of the main themes being dealt with in supervision processes is crime and the causes of crime, a general method has not been used.

3 During the last years has there been a requirement for uniformity, all probations officers should give the same support, initiatives and methods should be evidence based and resources should be used efficient.

4. A paradigm shift

In 2011 decided the Danish prison and probation service to make a paradigm shift. The inspiration came from two Canadian researchers Don Andrews and James Bonta, who had developed a crime prevention rehabilitation model, called the RNR-model, which was developed on the basis of a number of meta-analyses. Today, this

model is used in Canada, USA, England, New Zealand and Sweden and it is now being implemented in Denmark.

5. The two models

We are just now going from a model, which is built on a positive working relationship with clients and dealing with acute problems to a model where we are working with change and motivation in a structured and evidence based manner.

6. The new model RNR – Risk Need Responsivity

In the new model is the target reducing recidivism clear. This is done by:

1) matching the level of intervention to the level of **risk**

2) take actions in relation to the needs related to risk of future criminal behavior, not all **needs** are criminogenic

3) using the best methods for the client for changing behavior. Here, we talk about the client's **responsivity**. We know that cognitive-behavioral interventions work best, and that personal factors affect responsiveness

The model goes under the name **RNR**.

6.1 Risk

In the model the clients risk for committing new crime is assessed from the following 8 central risk factors/criminogenic needs, known as «the central eight»:

- Criminal history (serious crime is not a risk factor in itself)
- Procriminal attitude/orientation
- Antisocial pattern
- Companions
- Education/employment
- Family/marital
- Leisure/recreation
- Alcohol/drug problem

Be aware, that factors as lack of self-esteem (poor feelings of self-worth), feelings of personal distress (anxiousness, sadness), major mental disorder

(e.g. Schizophrenia, manic depression) and physical health 4 (physical deformity, nutrient deficiency) are not risk factors as such but are factors to be considered in the supervision approach and the assessment of the client's responsivity.

The level of service depends of the risk for committing new crime. The risk is evaluated based on scientific tools. Clients with high risk of recidivism are followed more intensely than those with a low risk/needs profile. The reasoning behind this is this: why should the probations system use time on those, who manage anyway?

6.2 Need

When mapping the risk factors, you also map the needs. If the mapping of risks for committing new crime shows, that one of the client's problem is who he entourage with, should they work with this. Likewise, they should not work with e.g. education, if this isn't a risk factor for the specific client. It is necessary to accept, that it is not all needs which are criminogenic. This means, that sometimes it is obvious, that a person needs help, but here the probation officer has to accept, that giving this help is not a core task of the Probation Service and that the client must be referred to someone else.

6.3 Responsivity

The principle of responsivity cover the best way to influence the clients. Research shows, that the cognitive behavior strategy and the social learning strategy combined with good relation between client and probation officer gives the best results.

It is not enough to identify who has the biggest risk for committing new crime, and what their needs are, you also have to use evidence based methods combined with specific responsivity factors such as the client's age, motivation, personality, learning style etc.

7. STICS (Strategic Training Initiative in Community Supervision)

For getting good results, it was necessary to educate the probation officers in the new way of affecting clients. A new supervision method called STICS was developed of James Bonta and his team. STICS gives a structure for the conversation and client exercises as e.g. value clarification with cards.

8. Education of staff

For getting the expected results, it is necessary to invest in the education of staff. They need training in using a risk assessment tool and to use motivational interviewing and Cognitive Behavior and Social Learning Methods .

9. Results

Surveys from Canada show that the recidivism rate declined by 2 % before RNR was introduced. If the RNR principles were totally implemented a reduction of 17% was seen when delivered in residential/custodial settings and 35 % when delivered in community settings. It was also told, that if we did nothing would supervision have a negative effect, and if we only adhered to one of the principles a little effect and so on. If we wanted the high reduction in recidivism it was necessary to implement the full model. 5

Denmark found the Canadian results so remarkable, that we wanted to look more carefully into it.

We were told, that in order to get this remarkable result, it was necessary that the director general and all leaders who have the daily responsibility for implementing RNR agreed with the project and supported it. We were also told, that it was necessary to get resources for education of the probation officers, to follow the project frequently and to have the necessary economy.

We understood, that it would take several years to introduce the project.

10. What did we do?

We realized that the framework for the probation work were rather much described in our regulations, but there was nearly non-regulation about, how the work should be done. According to the law it was possible to change. In this way seems the Danish situation to be very similar to the one in Ukraine.

We decided it was necessary to describe consequences, demands and prerequisites for implementing RNR in Denmark. We were aware, that this was going to be costly and asked for resources both for a pilot project and for implementing the RNR principles in the whole country.

11. Final decision

In 2011 Denmark decided to implement RNR. First, in community settings and later in a custodial setting.

We decided to use a structured and standardized tool for assessing general risk/need factors (LS/RNR). We had already a case management process, that we were comfortable with, why we unselected the ambitious LS/CMI (Level of Service/Case Management Inventory) which included case managing.

We adjusted the model after agreement with James Bonta to Danish conditions, and we developed a structured Danish supervision model based on the Canadian toll STICS under the name MOSAIK.

We secured the project by a budget from our Parliament which covered the period 2013–2016. We did know that we might get another government, who wouldn't continue the project. If that should happen, we would still have a better system, than we had.

We decided, that the project should be run from the central administration.

We also decided to educate consultants, who should be responsible for educating the rest of the staff.

We were aware, that we were facing a massive training mission including courses and follow ups over long time.

We customized the education to Danish conditions, and we took into consideration, that Danish probation officers are social workers with a holistic and supporting and motivating view at their work,

We decided to follow the implementation of the program with research and were aware, that it would be very likely, that we had to change parts of the project over time. 6

12. Status

By the end of 2016 is the project stable, and we expect, that it will be fully implemented and run within a normal practice frame from 2021. It is not decided, who is going to run the project in the future, but if it follows other projects, it will be decentralized, when the new way of working has become part of regular, daily practice.

Project goals are

- Recidivism rate is reduced for high risk clients and the purpose of supervision is clear for clients

- Probation officer role, tasks and purpose is clear, and a there are developed a standardized method to reduce risk

- Organization has got a common language, and resources are directed and prioritized according to needs

In 2013–15 all 300 probation officers were trained in LS/RNR.

In 2014–16 all 300 probation officers were trained in MOSAIK.

All social workers in the prisons are trained in LS/RNR by now.

The first research reports are coming in now.

When I look at Denmark, I am very convinced that it was the right decision, we took, when we decided to change our system to RNR.

13. **Conclusions.** What perspectives do I see in this fields for Ukraine?

The situation in Ukraine is in many ways optimal. You have a new law, you have a new organization and you have institutions which could be used.

You have to decide, what kind of probation service you want. I believe, that it will be a big step to go from the existing criminal executive institutions to probation offices built on the principle of RNR. On the other hand, the goals and the tools are clear. It will be necessary to set up plans for education, and it might not be sufficient with the same kind of education as we gave, because some of the used tools already was known in Denmark, but I find it worth will to find out.

It will be necessary to set up plans for implementing and financing for several years. I find it positive, that you already have a range of criminal execu-

tive institutions which buildings, equipment's and staff can be used. There are no reasons not to believe, that most of the staff in all these institutions could be educated to be good probation officers.

Ukraine is a big country. I suggest that you start with a pilot project, if you go for this project. I know there already has been a pilot project, but I don't know what happen to it. This should be examined.

14. The cooperation between the Penitentiary Association of Ukraine (PAU) and The Danish Helsinki Committee for Human Rights (DHK) 7

I see it, as a first step, that the two NGO's PAU and DHK has applied for support from the Danish ministry for foreign affairs for clarifying the possibilities and costs for implementing RNR in the probation service in Ukraine.

If we get the money, and if Ukraine decide to introduce RNR, it is my expectation, that a new application for a pilot project and finally to introduce it in the whole country will be needed.

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ЯК ПРАЦЮЄ ТА ЩО ОЧІКУЄТЬСЯ ВІД НОВОЇ СЛУЖБИ ПРОБАЦІЇ?

У цій статті розкрито питання пенітенціарної служби пробації Міністерства юстиції Королівства Данії, а також розкриті основні характеристики данського кримінального правосуддя. У згаданій статті проаналізовано показники рецидивної злочинності у пенітенціарній сфері Королівства Данії, оцінка ризиків засуджених. Модель клієнтів ризику оцінюється з наступних 8

центральных факторів ризику/криміногенних потреб, відомі як «Центральна вісімка». Цілі проекту: скорочення рецидивізму знижується для клієнтів з високим рівнем ризику, і мета нагляду зрозуміла для клієнтів; роль офіцера пробації, цілі та мета зрозумілі та розвиваються як стандартизований метод зменшення ризику; організація має загальну мову, а ресурси спрямовані та визначаються пріоритетними відповідно до потреб. Ситуація в Україні оптимальна багатьма способами. У вас новий закон, у вас нова організація, у вас нові заклади, що можуть використовуватись. Ви повинні вирішити, який тип служби пробації ви хочете. Я вірю, що це буде великим кроком переходу від наявних кримінально-виконавчих закладів до офісів пробації, збудованих на принципах RNR. З іншого боку, правила та інструменти чіткі. Необхідно створити плани щодо освіти, і це може виявитися недостатньо за тією ж освітою, яку ми дали, тому що деякі використовувані інструменти вже були відомі в Данії, але я вважаю за потрібне цю виявляти.

Потрібно буде встановити плани щодо впровадження та фінансування протягом декількох років. Я вважаю це позитивним, що у вас вже є цілий ряд кримінально-виконавчих органів, будівлі, обладнання та персонал яких може бути використаний. Немає підстав не вірити, що більшість працівників у всіх цих установах можуть бути освіченими, щоб бути хорошими офіцерами пробації

Ключові слова: начальник установи виконання покарань; закон; злочин; Данський Гельсінський Комітет з прав людини.

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