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## BEYOND MENTAL HEALTH DISORDERS: RISK ASSESSMENT BY USING THE 4<sup>th</sup> GENERATION OF FORENSIC TOOLS

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The causal relationship between mental health disorders and (violent) recidivism is weak. Beyond mental health disorders, criminogenic factors contribute to the prediction of recidivism. In order to be effective, interventions need to be offense-oriented, i.e. focused on factors that are directly associated to the offense mechanism. To treat mental health disorders while ignoring criminogenic needs is highly ineffective. A risk/needs orientation of the criminal justice system must be emphasized. Therefore, psychiatric treatment will not be sufficient to prevent future criminal behavior. The main approach should be based on explaining the mechanism of the offense to understand the underlying offense dynamic and develop on that basis a well-fitting intervention strategy. FOTRES (Forensic Operationalized Therapy/Risk Evaluation System) is a structured professional judgment (SPJ) tool of the 4th. generation designed to assess recidivism risk and to monitor treatment progress and intervention quality. FOTRES now is already implemented within the Risk-Oriented Enforcement of Sentence (ROES) project in Switzerland. The cost-benefit analysis with the ROES is positive. The tool is widely used also in Germany and Austria.

**KEY WORDS:** FOTRES, health disorders, risk assessment, criminogenic factors, criminal behavior

### Classical risk assessment

A widely used definition of risk assessment has been that given by Kraemer et al. (1997 p. 340) as: *The process of using risk factors to estimate the likelihood (i.e., probability) of an outcome occurring in a population.* The classical risk assessment involves systematic efforts to estimate and evaluate outcomes (cited by Crighton et al; 2010; 2015). Risk factors are often sub-divided into historical factors (which are unlikely to change) and clinical factors (which may be amenable to change). Legal notions of dangerousness include two distinct concepts as the probability of violence towards others and the severity of that violence (Crighton et al; 2010; 2015). A classical risk-taking model sees exposure to risk as a normal facet of life and places its emphasis on individual rights, abilities, choice and participation. The risk-minimization model by contrast sees risk as something requiring control, therefore targeting those most at risk and stressing notions such as health, danger, control and incapacity. These models

are perhaps better seen as a continuum (Crighton et al; 2010; 2015).

Meehl (2006) and his collaborators (e.g. Janus and Meehl (1997)) made a distinction between ‘actuarial’ (statistical) and clinical prediction. It has been suggested that risk assessment instruments can now be seen as lying on a continuum, with unstructured clinical assessment at one end and structured statistical predictors at the other. Risk instruments can be described in terms of the extent to which they provide a structure to four elements (Crighton et al; 2010; 2015; Goncalves et al., 2017):

- i) The identification of risk factors
- ii) The measurement of risk factors
- iii) The combination of risk factors
- iv) The production of a final risk estimate

There is some evidence to suggest that actuarial and structured clinical approaches may be more

accurate than clinical assessment. The use of a standard list of risk factors is the least structured form of judgment in simply identifying a number of risk factors. Assessments such as, for example, the Historical and Clinical Risk 20 (HCR-20), a widely used assessment of risk of violence, go one step further in defining the list of risk factors and how these risk factors are measured. Assessments such as the Classification of Violence Risk (COVR) and Level of Service Inventory Revised (LSI-R) also determine the way in which risk factors should be combined but allow for clinicians reaching a final risk estimate. The Violence Risk Appraisal Guide

(VRAG; SORAG) and Offender Group Reconviction Scale (OGRS) and similar actuarial assessments provide the rules for determining the final risk estimate without input from the assessor. The use of purely actuarial risk assessment instruments to individual cases represents poor practice (Figure 1). The use of clinical judgement drawing from the available empirical evidence base appears more useful and, when competently undertaken, may lead to improved accuracy of assessment (Crighton et al; 2010; 2015; Goncalves et al., 2017).

**Figure 1**

Different Aspects of Risk Assessment Instruments Relevant to Forensic Practice (taken from Rossegger 2010)

Aspects of instruments	PCL-R (Hare, 1991)	VRAG (Quinsey et al., 2006)	HCR-20 (Webster et al., 1997)	FOTRES (Urbaniok, 2007)	LSI-R (Andrews & Bonta, 2001)
Area of application	Any offender	Violent and sex offender	Mentally disordered violent offender	Any offender	Any offender
Specificity of risk assessed	Unspecific	Violent and sex	Violent	Specific, specified by user	Unspecific
Type of result					
Risk categories	No	Yes	Yes	Yes	Yes
Calibrated reoffending probabilities	No	Yes, within 7 and 10 years	No	No	Yes, within 1 year
Exhaustiveness	Semiexhaustive	Scarce	Semiexhaustive	Exhaustive	Semiexhaustive
Inclusion of dynamic items	Semidynamic	Static	Semidynamic	Dynamic	Dynamic

Note: PCL-R = Psychopathy Checklist-Revised; VRAG = Violence Risk Appraisal Guide; HCR-20 = Historical, Clinical, Risk Management-20; FOTRES = Forensic Operationalized Therapy/Risk Evaluation System; LSI-R = Level of Service Inventory-Revised.

### **The poor impact of Mental Health Disorders<sup>1</sup>**

Already in 1990, Andrews and Bonta have published the Risk-Need-Responsivity (RNR)-approach to emphasize the importance of nonclinical criminogenic needs/factors in risk assessment and risk management strategies. They have promoted the “Central Eight“ (antisocial behavior, antisocial

personality pattern, antisocial cognition, antisocial peers, family, school/work, leisure/recreation, substance abuse) and established a tool called the “Level of Service/ Case Management Inventory“ (Goncalves et al., 2017; Gerth 2018).

There is clearly a strong relationship between mental health disorders and (violent) recidivism

<sup>1</sup> The explanations are mainly based on a work by Goncalves et al., 2017 & Gerth 2018

(Chang et al., 2015). Further, the more diagnoses an offender is affected by the stronger the relationships gets. However, Chang et al. (2015) showed in their longitudinal study of more than 47'000 prisoners that criminogenic factors attenuate this relationship. Only up to 20% (in men) and 40% (in women) of the re-offenses could be attributed to the suffering of a mental health disorder.

Walters et al. found in 2014 (N = 1163) the main effect of serious mental health disorders in predicting future violent behavior vanishes when history of violence is included in the model.

Elbogen et al. found in 2016 (N = 34653) an association between major mental health disorders and subsequent violent behavior but other risk factors (dispositional like anger; situational like acute crisis; disinhibition like substance use) mediated this association. Lund et al. (2013) (N = 349) stated the clinical information has little predictive value when information on previous criminal behavior is included.

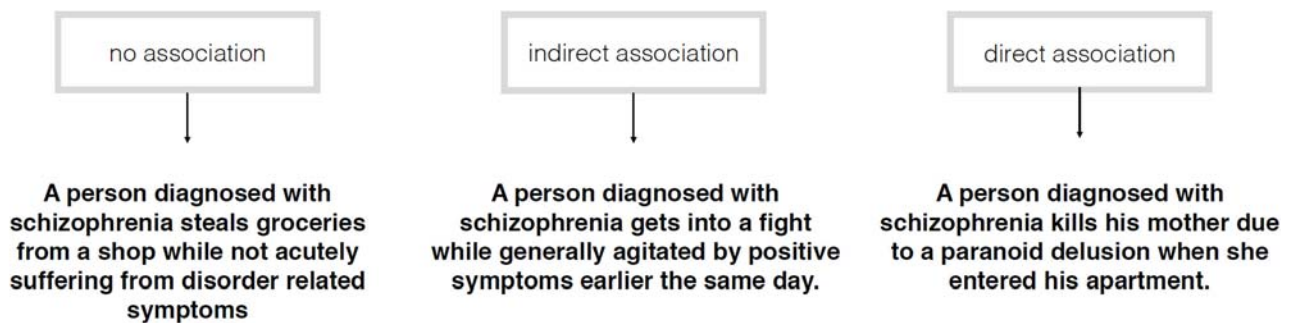
Ten Have et al found in 2014 (N = 6646) that mental health disorders were associated with violence, especially externalizing disorders but after including violent victimization, negative life events and social support most mental disorders lost their significance with the exception of substance use.

Skeem et al in 2014 (N = 221) found both, risk factors unique to serious mental health disorders and general risk factors exist. However, risk factors unique to serious mental health disorders don't add incremental validity upon general risk factors (Figure 1).

Bonta et al. in 2014 (N = 23900, meta analysis) stated that predictors for general and violent recidivism were the same for mentally disordered offenders as for non-mental disordered offenders (i.e. criminal history, antisocial personality, substance abuse, and family dysfunction). Clinical variables were not except for antisocial personalty/psychopathy.

**Figure 2.**

Continuum of association (Skeem et al., 2014; taken from Gerth 2018)

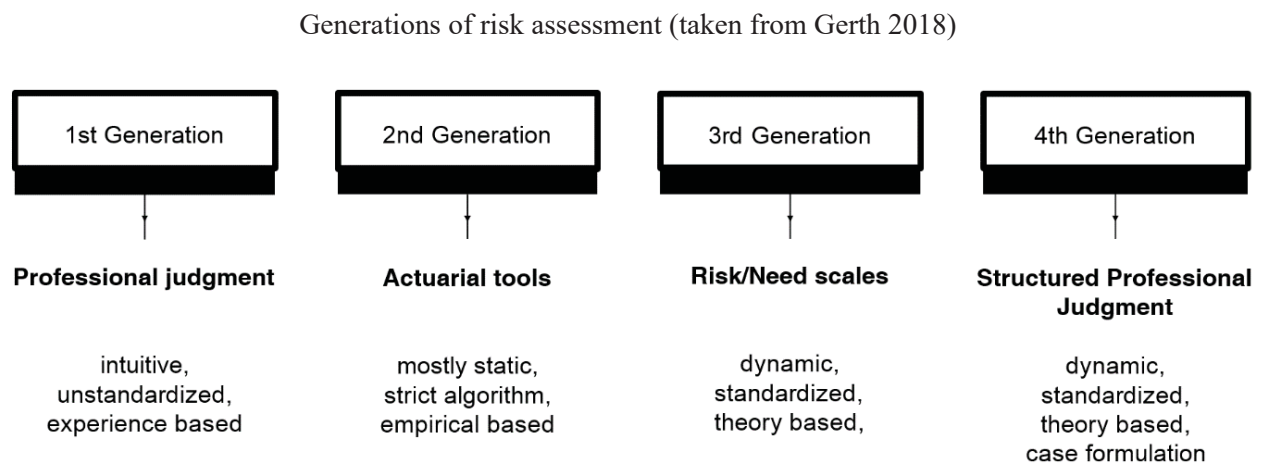


As we've seen from this studies and others the causal relationship between mental health disorders and (violent) recidivism is weak. Beyond mental health disorders, criminogenic factors contribute to the prediction of recidivism. In order to be effective, interventions need to be offense-oriented, i.e. focused on factors that are directly associated to the offense mechanism (Figure 2). To treat mental health disorders while ignoring criminogenic needs is highly ineffective. A risk/needs orientation of the criminal justice system must be emphasized (Goncalves et al., 2017; Gerth, 2018).

#### Assessment strategies/tools of the 4<sup>th</sup>. Generation

New tools have to explain the mechanism of the offense to understand the underlying offense dynamic and develop well-fitting intervention strategies. They should use operationalized terminology and focus on characteristics, which show proximity and causality to the specific problematic behavior. The chosen risk characteristics should explain the most variance (Figure 3).

Figure 3.



The motivations for developing and implementing the FOTRES tool (Forensic Operationalized Therapy/Risk Evaluation System; Urbaniok, 2007, 2016) in the Swiss criminal justice system were the limitations of actuarial risk assessment tools, such as the inability to apply group-based recidivism estimates to individual patients. In addition, there were errors in estimating recidivism rates when applied in different jurisdictions, and the inability to incorporate case specific information to modify estimated recidivism rates (Goncalves et al., 2017; Gerth 2018).

FOTRES is now routinely used by many forensic services nationally as well as in Austria and Germany to estimate the recidivism risk of criminal offenders and to document treatment progress (Goncalves et al., 2017, Rossegger et al., 2011; Singh, 2016).

FOTRES therefore is not a statistical system in which an ultimately abstract algorithm constitutes the core of the basic concept. FOTRES is almost the opposite of statistical methods (e.g. Static 99, VRAG etc.). It is above all a diagnostic system that is not primarily focused on diagnosing diseases, but rather on recording and accurately mapping the risk profile of a person in each individual case. It is in that way completely different from all the statistical forecasting tools, which are questionable from the point of view of the rule of law because they are based on statistical relationships but have no causal

relation to the individual case. FOTRES has described the individual - and often more favourable - risk profile (Figure 5).

In FOTRES, the risk of reoffending is estimated for a specific offense, which is called the “target offense.” Users choose one out of 29 potential target offenses (e.g., violent offense) and then specify the offense within the selected category (e.g., homicide). If an offender committed several different offenses, a separate risk estimate can be derived for each target offense.

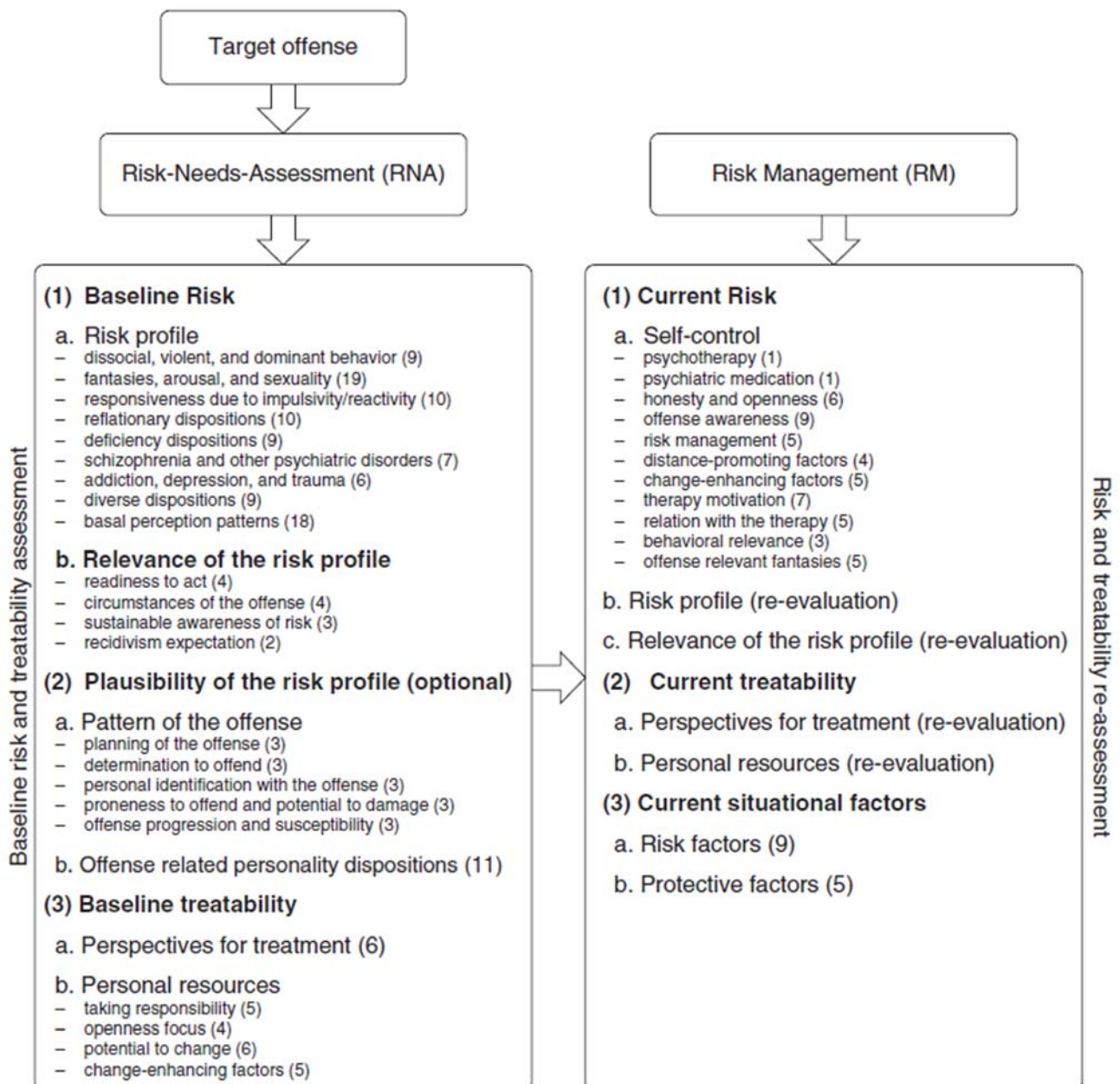
The tool consists of two main levels: the Risk-Needs Assessment (RNA) level and the Risk Management (RM) level. Basically, the RNA level estimates the risk of reoffending and the offenders’ treatability. Items included in this level explore the offender’s personality disposition to committing crimes, specific areas of concern relevant to the offense, and the pattern of the offense itself. The RM level describes the treatment progress and changes in recidivism risk caused by interventions. Items included in this level measure the actual risk reduction achieved through therapy progress, through the implementation of coping strategies, and through the identification and management of offense related personality patterns. Whereas RNA is only assessed once (at the time of the target offense respectively before an intervention of any kind takes place), the RM level is scored periodically whenever the current risk of reoffending needs to be assessed

(Goncalves et al., 2017); Rossegger et al., 2011; Urbaniok, 2016b). A flow diagram illustrating the

basic structure of FOTRES v3 is given in Figure 4 (Goncalves et al., 2017; Gerth 2018).

**Figure 4.**

Diagram flow of the FOTRES 3 basic structure. FOTRES 3 = Forensic Operationalized Therapy/ Risk Evaluation System Version 3. The number of items included in each scale is presented in parentheses (taken from Goncalves et al. 2017)

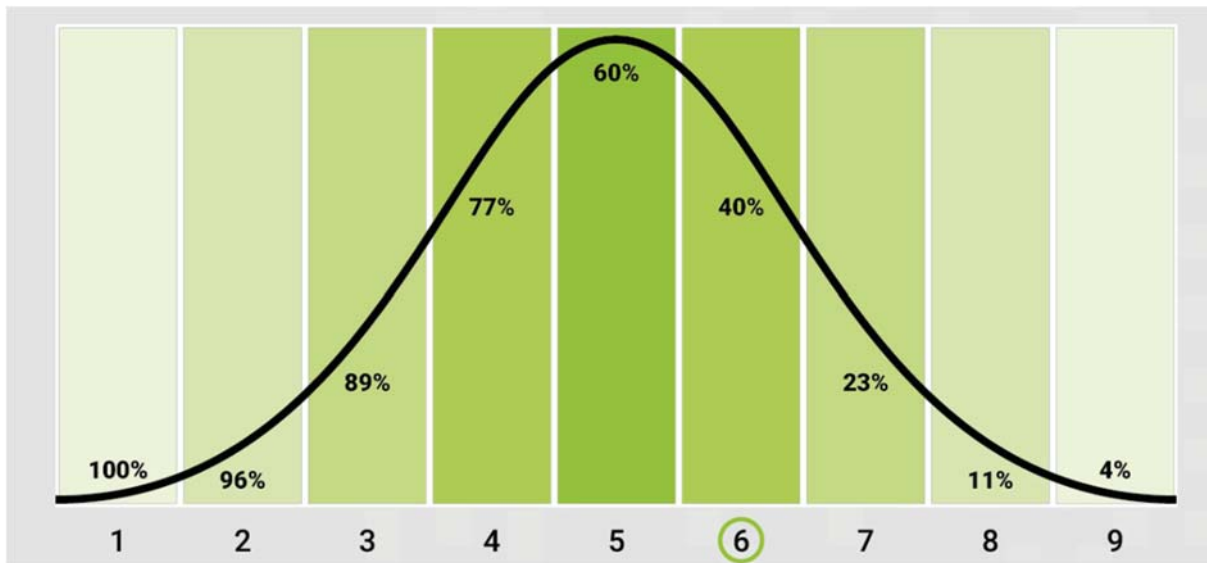


FOTRES is currently in its third version. The tool is constantly being updated online to include more risk characteristics, as found by the clinical experience of the tool developers. Major changes across different FOTRES versions were made to make it more comprehensive and, at the same time, more user friendly. Additionally, the terminology

has been simplified and is now more straightforward. For example, “dynamic risk reduction” in FOTRES v2 has been renamed “self-control” in FOTRES v3; “unstable autonomous risk-relevant factors” was renamed “current situational factors”; and “structural risk for recidivism” is now called “baseline risk.” (Goncalves et al., 2017; Urbaniok, 2016b).

Figure 5.

Representation of the basis risk (BR) (2.5) on a 9-level FOTRES scale within a stanine distribution (6)



In versions 3, not the diagnoses but symptoms of psychiatric conditions are included as risk characteristics. In addition, for some risk characteristics there is now a distinction between affinity and preference when describing whether a risk characteristic is of a primary nature (e.g., pedophilia as a preference would mean that the offender is interested in children only) or is of a secondary nature (e.g., pedophilia as an affinity would refer to an offender who, besides children, is also interested in adults) (figure 4) (Goncalves et al., 2017; Gerth 2018).

FOTRES has primarily been developed for assessing and managing recidivism risk in violent and sex offenders, although it is not limited to offenses of that nature. Despite including situational risk factors, FOTRES is especially focused on personal risk characteristics and associated treatment needs. In fact, violent crimes committed solely because of a highly specific situation are very rare (e.g., honor crimes). In the case of offenses that are exclusively triggered by the situational context, there are different implications for risk management and, in most cases, ordinary sanctions are sufficient to achieve an adequate outcome. FOTRES was designed for use with offenders of either sex, aged 16 years or older, who have committed any type of crime. The tool can be used in community and institutional settings to assess people, excluding

offenders with severe mental health disorders (Goncalves et al., 2017; Gerth 2018). It has been used mostly in Europe (Singh et al., 2014).

The tool estimates the risk of pertinent reoffending, meaning new arrests, charges, or convictions for repeat offenses within the same offense category as the index offense without regard to a specific time frame. It includes static and dynamic items assessing risk factors rooted in the personality of the offender and situational factors that can influence the likelihood of reoffending. As there are general salient personality traits used to describe a person (e.g., authentic, shy, or intelligent), there are also specific personality traits that are directly linked to criminal behavior (e.g., dominance or violence affinity) (Goncalves et al., 2017; Gerth 2018). In FOTRES, these traits are conceptualized as risk characteristics. These risk characteristics are closely related to individual behavior and should not be confounded with psychiatric disorders according to taxonomic classification systems such as the DSM-IV-TR; V (American Psychiatric Association, 2000; 2013) or the ICD-10 (World Health Organization, 1993), even if those can overlap. In FOTRES, risk is always specified as the risk for committing a certain type of crime (Goncalves et al., 2017; Gerth 2018).

This specification is operationalized as the target offense and is made during the first step of the

assessment. The target offense does not necessarily need to correspond with legal classifications. For example, killing a person would be considered a homicide legally but such an offense is sometimes sexually motivated (e.g., sexual murder). Therefore, the selection of the target offense always takes into consideration the motivation of the offender. The risk of committing the target offense must directly result from the characteristics of the offender's risk profile. Recidivism risk is estimated based on an hypothesis regarding the offense mechanism (Goncalves et al., 2017; Gerth 2018).

The offense mechanism is specific to every case and explains the process of how the relevant personal and situational risk characteristics led to the perpetration of the target offense. The goal is not to develop an etiological model about how and why the person became an offender, but rather to develop a model that describes how the risk characteristics interacted and influenced a specific criminal behavior. The offense mechanism hypothesis is therefore very descriptive and close to individual behavior. If case information is collected (file information and personal interview) the administration of FOTRES takes approximately 60 minutes (Goncalves et al., 2017; Gerth 2018).

As in other SPJ tools (structured professional judgment), in FOTRES the evaluator must identify the relevant personal and situational factors that lead up to the offender's criminal behavior from a larger set of available risk characteristics that were developed to reflect the state of the art with respect to scientific knowledge and professional practice. The evaluator then conceptualizes the causal role of these risk characteristics, speculates about possible future behavior, and develops individual case management plans (Goncalves et al., 2017; Gerth 2018).

### **Validity and Reliability**

In a study investigating the predictive validity of the tool with 109 violent and sex offenders released from a prison in Switzerland between 1994 and 1999, and who were followed in the community for an average of nine years, Rossegger et al. (2011) found that both the total score (OR = 1.74,  $p < .010$ ) and the risk categories (OR = 3.74,  $p = .010$ ) of FOTRES v2 were significantly associated with repeated

offending, and discriminated well between recidivist and non-recidivist (AUC = .81, .76, respectively). Compared with the Psychopathy Checklist-Revised (PCL-R; Hare, 1991), the Violence Risk Appraisal Guide (VRAG; Quinsey, Harris, Rice, & Cormier, 2006), the Historical, Clinical, Risk Management-20 (HCR-20; Webster, Douglas, Eaves, & Hart, 1997), and the Level of Service Inventory-Revised (LSI-R; Andrews & Bonta, 2001), FOTRES presented the highest odds ratio (OR) for both the total score and risk categories. Only the PCL-R presented a higher area under the curve (AUC; .84 for the total score). The inter-rater reliability among three raters for 20 cases was good (Kappa > .65; Altman, 1991). In another study, 15 patients from a German forensic psychiatry unit were rated on FOTRES by three independent raters based on the official records of the penitentiary. Keller et al. (2011) found that the intraclass correlation (ICC) for structural risk, the main scale of FOTRES v2, was poor ( $r = .23$ ; Cicchetti, 1994). For the likelihood of successful treatment scale, the ICC, was fair ( $r = .53$ ). Both scales included subscales with high and low agreement. Rossegger et al. (2011) found that both the total score (OR = 1.74,  $p < .010$ ) and the risk categories (OR = 3.74,  $p = .010$ ) of FOTRES v2 were significantly associated with repeated offending, and discriminated well between recidivist and non-recidivist (AUC = .81, .76, respectively) (Goncalves et al., 2017; Gerth 2018).

Compared with the Psychopathy Checklist-Revised (PCL-R; Hare, 1991), the Violence Risk Appraisal Guide (VRAG; Quinsey, Harris, Rice, & Cormier, 2006), the Historical, Clinical, Risk Management-20 (HCR-20; Webster, Douglas, Eaves, & Hart, 1997), and the Level of Service Inventory-Revised (LSI-R; Andrews & Bonta, 2001), FOTRES presented the highest odds ratio (OR) for both the total score and risk categories. Only the PCL-R presented a higher area under the curve (AUC; .84 for the total score). The inter-rater reliability among three raters for 20 cases was good (Kappa > .65; Altman, 1991). That is, the tool has the advantage of being very specific and comprehensive but the rating of the baseline risk may differ substantially across raters. Such problems may be attenuated in the perspectives for treatment part of

the tool, where every item is rated (Goncalves et al., 2017; Gerth 2018).

Urbaniok, Rossegger, and Endrass (2006) conducted a study investigating the assessment of high-risk offenders and the establishment of post-sentence preventive detention for offenders identified as very high risk during imprisonment in Switzerland. The authors identified a total of nine offenders that were released from prison (from 1997 to 2005 in the canton of Zurich) due to legal reasons despite their evident level of dangerousness. The authors evaluated the progress of eight of these released offenders in a follow-up study. They found that these high-risk offenders re-offended with severe violent and sex offenses—seven within a year of their release—resulting in a total of 24 victims being harmed. The authors also found that although incarcerated violent and/or sex offenders frequently score high on risk assessment tools, what distinguished this group of high-risk offenders was the combination of a high recidivism risk with a lack of treatability and unsuccessful attempts at therapy and/or other kinds of coping strategies training. Specifically, all nine offenders had a very high score of 3.5 or 4 in structural risk of recidivism, and very low scores of 0 or .5 in mutability and dynamic risk reduction, as assessed by FOTRES v1 (Urbaniok, 2004). The results of this study showed that at least some categories of very dangerous offenders can be reliably detected with FOTRES (Urbaniok, Rossegger, & Endrass, 2006). Users of FOTRES working in different settings throughout the Swiss cantons have described the tool as very useful in the development and monitoring of risk management plans (Manhart et al., 2014). This indirectly attests to the face validity and clinical utility of the tool (Goncalves et al., 2017; Gerth 2018).

### **Risk-Oriented Enforcement of Sentence (ROES)**

One of the most important developments in prison and sentencing measures in recent years in Switzerland is the Risk-Oriented Enforcement of Sentence (ROES) project, funded by the Federal State and launched jointly in four cantons from 2010 to 2013. The motivations for the project were the critical events and recidivism rates observed during previous years, as well as the obligation to plan the

criminal sanctions introduced in 2007 by the PG-CP law, art. 75 CP (Bundesversammlung der Schweizerischen Eidgenossenschaft, 1937). The ROES process includes four steps: (1) screening, (2) assessment, (3) planning, and (4) correctional process. FOTRES is implemented with every violent and sex offender and used in the assessment and planning phases as a standardized risk assessment and case formulation guide, including standardized information on the target offense, personal and situational characteristics related to the offense, and risk management plans. The cost-benefit analysis with the ROES was positive. Since May 2013, following the preliminary evaluation of the ROES project, the canton of Zurich has made it mandatory to use FOTRES to assess high-risk offenders. This was later extended to all German cantons and is planned to be extended to the French cantons as well. It will probably be extended to the entire country at a later stage (Goncalves et al., 2017; Gerth 2018).

### **Future Directions**

FOTRES has been implemented into the forensic practice of different Swiss cantons. It is used in the development of a structured risk-based process, e.g. ROES, that improved the quality and efficiency of the execution of penal sanctions and the work process of the criminal justice system. The tool has been regarded as useful in the assessment, treatment, and follow-up of offenders, as well as in the establishment of a uniform process and terminology across the different entities involved in the criminal justice system of different cantons of Switzerland. The tool is nowadays also widely used in other European countries (Austria; Germany).

Though, FOTRES has proved to be a useful tool for the criminal justice system, especially when used as one tool among a more comprehensive array of risk assessment tools and diagnostic scales, there is limited empirical data available regarding its psychometric properties. However, unlike the reductionism of actuarial scales (which include few items and are mostly of a static nature), SPJ tools attempt to assess the complexity of a case and allow professionals in the field to better understand the offender and thus to better plan suitable treatment interventions (Rossegger et al., 2011). FOTRES can therefore be used for monitoring offender treatment

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and for providing information on treatment goals, level of security, recommendations for early release, and therapeutic progress in offense-oriented treatment plans. The complexity of the tool requires considerable effort for translations. Despite this, translations of the tool and the manual into English and French are being made (Goncalves et al., 2017; Gerth 2018). Translations into more languages are planned.

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### МЕНТАЛЬНИЙ РОЗЛАД ЗДОРОВ'Я: ОЦІНКА РИЗИКІВ ЗАСТОСУВАННЯ ІНФОРМАЦІЙНИХ ІНСТРУМЕНТІВ ЧЕТВЕРТОГО ПОКОЛІННЯ

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Причинно-наслідковий зв'язок між розладами психічного здоров'я та (насильницьким) рецидивізмом слабкий. Крім порушень психічного здоров'я, криміногенні фактори сприяють прогнозуванню рецидивізму. Для того, щоб бути ефективними, втручання потрібно орієнтувати на правопорушення, тобто орієнтуватись на фактори, що безпосередньо пов'язані з механізмом правопорушення. Лікувати розлади психічного здоров'я, ігноруючи криміногенні потреби, не є ефективним. Психіатричне лікування є недостатнім для запобігання майбутній злочинній поведінці. Основний підхід повинен базуватися на поясненні механізму правопорушення, розуміння динаміки основного правопорушення та розробити на цій основі придатну стратегію втручання. ФОТРЕС (Операціоналізована система терапії / оцінки ризику) - це структурований професійний інструмент судження (SPJ) четвертого покоління, призначений для оцінки ризику рецидивування та контролю ходу лікування та якості втручання. FOTRES зараз уже впроваджений в рамках проекту забезпечення виконання покарань, орієнтованого на ризик (ROES) у Швейцарії. Аналіз вартості та вигоди з ROES позитивний. Інструмент Відлі використовується також у Німеччині та Австрії.

**КЛЮЧОВІ СЛОВА:** ФОТРЕС, розлади здоров'я, оцінка ризику, криміногенні фактори, злочинна поведінка

### МЕНТАЛЬНОЕ РАССТРОЙСТВО ЗДОРОВЬЯ: ОЦЕНКА РИСКОВ ПРИМЕНЕНИЯ ИНФОРМАЦИОННЫХ ИНСТРУМЕНТОВ ЧЕТВЕРТОГО ПОКОЛЕНИЯ

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Причинно-следственная связь между расстройствами психического здоровья и (насильственным) рецидивизмом слабкий. Кроме нарушений психического здоровья, криминальные факторы способствуют прогнозированию рецидивизма. Для того, чтобы быть эффективными, вмешательство нужно ориентировать на правонарушения, то есть ориентироваться на факторы, непосредственно связанные с механизмом правонарушения. Лечение расстройств психического здоровья, игнорируя криминальные потребности, не является эффективным. Психиатрическое лечение является недостаточным для предотвращения будущей преступной поведени. Основной подход должен базироваться на объяснении механизма правонарушения, понимание динамики основного правонарушения и разработать на этой основе пригодную стратегию вмешательства. ФОТРЕС (Операционализованная система терапии / оценки риска) - это структурированный профессиональный инструмент суждения (SPJ) четвертого поколения, предназначенный для оценки риска рецидивирования и контроля хода лечения и качества вмешательства. FOTRES сейчас уже внедрен в рамках проекта обеспечения исполнения наказаний, ориентированного на риск (ROES) в Швейцарии. Анализ стоимости и выгоды с ROES положительный. Инструмент Видли используется также в Германии и Австрии.

**КЛЮЧЕВЫЕ СЛОВА:** ФОТРЕС, расстройства здоровья, оценка риска, криминальные факторы, преступное поведение