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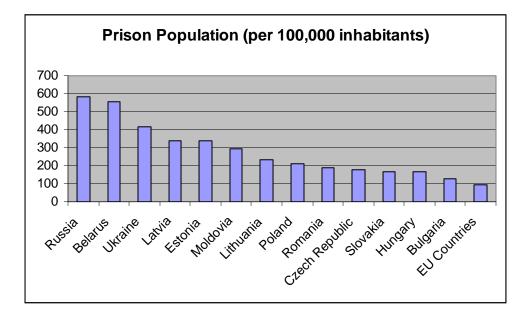
An International Resource Center in Support of Restorative Justice Dialogue, Research and Training

Restorative Justice in Eastern Europe

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The practice of Restorative Justice in Eastern Europe is a relatively new phenomenon. The states that have recently gained independence from the former Soviet Union, as well as the states that were dominated by it, are still in the process of forming their justice systems and deciding how Restorative Justice could fit into them. These states have traditionally utilized highly punitive justice systems and state stability has been of the highest priority in their transitional period. Therefore, the transition to Restorative Justice processes has taken time. An impetus for the change to Restorative frameworks for justice has been the high rates of incarceration in the region and high levels of recidivism resulting in overcrowded prisons (see Table 1). States that desire partnership with the European Union (Latvia, Lithuania, Estonia, Poland, and Hungary) are also encouraged to make such reforms to conform to European standards (Slezakova, 2004). While the region as a whole faces these concerns, the countries within the region each have their own unique cultural and political obstacles to overcome in bringing Restorative Justice to such a heterogeneous part of the world (Herczog, 2004).

Table 1. Prison populations in Eastern European and EU Countries (Hanganu, 2004).



In addition to the concerns outlined above, some of the common challenges in bringing Restorative Justice to Eastern Europe are: passive citizens used to paternalist, centralized policies, low levels of trust in Non-Governmental Organizations, resistance among professionals in the justice systems, lack of pilot projects to build from or evaluation projects to learn from, high levels of instability and crime to be contained, a traditional lack of cooperation between agencies, media supporting punitive measures, a lack of state legitimacy, corruption in government and the justice system, a lack of information and translated materials, a lack of funding, and so on (Slezakova, 2004). Hence, there are formidable obstacles to getting the legislative change and societal support to bring Restorative Justice to the region. There have been significant strides in bringing alternative sentencing approaches to many post-Soviet states in spite of strong sentiments toward using harsher and harsher punishments. Alternatives to prison time, community service, probation, and mediation (including Restorative Justice) have been added to the traditional punishments of serving time in a prison or in a "Gulag"

(a long-term prison work camp). The states all vary in their level of support for such changes with Belarus, in particular, being resistant to these alternatives (Slezakova, 2004).

There have been a variety of exchanges between Restorative Justice practitioners and academics from the West and individuals from Eastern Europe interested in bringing Restorative Justice to the region. The AGIS project for instance, was just such an exchange, running from October 2004 through November 2005. 58 Western Restorative Justice experts were brought together with 17 participants from 14 different Eastern European countries to develop policy recommendations for Victim Offender Mediation. 2 meetings and 2 seminars were held over that time period, which will lead to a final publication. The seminars were trainings provided to prosecutors and judges on the theory and practice of Restorative Justice (Delattre, 2004, Fellegi 2005, & Slezakova, 2004). The developments in Restorative Justice policy and practice in individual Eastern European states are outlined below.

<u>Estonia</u>

In Estonia, there is currently no legislation governing the practice of Restorative Justice but mediation is practiced on a limited basis by organizations sponsored by the national government (Restorative Justice Consortium, 2006).

<u>Hungary</u>

In Hungary, there is currently no legislation governing the practice of Restorative Justice but mediation is practiced on a limited basis (Restorative Justice Consortium, 2006). Mediation has not been accepted by the justice system as of yet but has captured the interest of some academics in the country. There is no special consideration in the legal system for juveniles with no separate juvenile act, making it unlikely that mediation or Restorative Justice could be used more frequently with that population at this point. The penal code does, however, provide for differential treatment of children 14 (the age of criminal culpability) to 18 years of age (Herczog, 2002).

In spite of there being no official sanction for the practice of mediation in legislation, there are approximately 200 trained and active mediators in the country. In October 2002, an experiment with Restorative Justice was undertaken in an alternative school under the direction of Dr. Ted Wachtel. As well, a code of ethics governing the practice of mediation has been developed among the Hungarian Chamber of Lawyers. It is important to note that the practice of mediation in Hungary is not necessarily intended to conform with the standards of the European Union or United Nations (Herczog, 2002).

Moldova

In June of 2003, Moldova added Victim Offender Mediation to the Moldavian Penal Procedure Code for "not so serious crimes" (European Forum for Victim Offender Mediation and Restorative Justice, 2004). As well, there is currently a draft of a law that would expand the use of and govern the practice of mediation in the country. Moldova received assistance in developing this legislation from Poland, the Ukraine, and the Czech Republic (Restorative Justice Consortium, 2006). In 2004, the Institute for Penal Reform initiated a pilot Restorative Justice program in the country. Mediators were recruited and trained for this project in 2004 (Miers & Williemsens, 2004).

Poland

In Poland, the Code of Penal Practice was amended to permit mediation in restricted cases in 1997. In January 2003, a further amendment to Polish law greatly expanded the range of potential uses of mediation in the country. Restorative Justice is now practiced by academics and the state. Poland has a goal of to comply with European Union standards for Victim Offender Mediation standards by March 2006. This includes producing research on the process, creating national mediation databases, refining legislation, supporting relationships between government bodies and private agencies, and providing information and training to stakeholders (Czarnecka-Dzialuk & Wojcik, 2002 & Restorative Justice Consortium 2005 & 2006). The Juvenile Justice Act was amended in September 2000 to permit the use of mediation in juvenile offences (Czarnecka-Dzialuk & Wojcik, 2002 & Miers & Williemsens, 2004). In spite of this official acceptance of mediation, there is still a great reluctance on the part of prosecutors and judges to refer cases to mediation (Platek, 2004 & Restorative Justice Consortium 2005).

The use of mediation in the criminal justice system has been steadily expanding in Poland (see Table 2). Mediation can only be conducted by agencies approved by the Ministry of Justice. The majority of the mediation cases have been handled thusfar by the Polish Centre for Mediation with 15 branches across the country, 600 trained adult mediators, and 250 trained juvenile mediators (not all of whom are still active) (Czwartosz, 2004, Czarnecka-Dzialuk & Wojcik, 2002 & RJ Consortium, 2005). 7 of the centers have only 1 or 2 mediators while 5 have more than 10 (Miers & Williemsens, 2004). The Centre for Mediation created a code of ethics for mediation in July 2002. As well, the National Council of the Judiciary, the Main Council of Lawyers, and the Association of Public Prosecutors created their own codes of mediation ethics (Czarnecka-Dzialuk & Wojcik, 2002). In addition to the Polish Centre for Mediation, there are 64 Family Consultation and Diagnostic Centres authorized to conduct mediation, 3 authorized centres under the direction of the Lower Silesian Mediation Centre, and Partners-Polska is authorized to conduct mediations but has conducted none to-date (Miers & Williemsens, 2004).

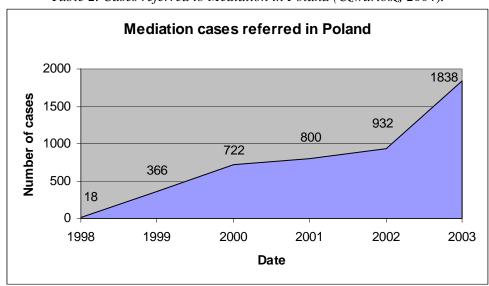


Table 2. Cases referred to Mediation in Poland (Czwartosz, 2004).

Only 40 mediation cases in the first 4 years of mediation being conducted in Poland were referred by prosecutors, with the vast majority being referred by the judge in the case (Miers & Williemsens, 2004). Interestingly, more referrals come from family & guardianship cases, life and health cases, and honor cases, than property offences, rather unlike the character of the criminal cases as a whole where property offences are more common (see Table 3). In juvenile cases, the reverse is true with 66.5% of mediated cases conducted during an evaluation project being for property offences (Miers & Williemsens, 2004).

Table 3. Mediation cases vs. overall criminal cases in Poland (Czwartosz, 2004 & RJ Consortium, 2005).

Offence Category	Mediation cases in 1999	Mediation cases in 2002	Overall Criminal Cases in 2000
Family and	36.6%	34%	15.5%
Guardianship			
Life and Health	21.9%	26.6%	9.6%
Property	14.1%	10.1%	44.9%
Honor	13.6%	16.9%	4.2%
Other	12.76%	12.4%	25.8%

There have been efforts to evaluate the success of mediation in Poland. In 1996-2001, the experiment with mediation in the criminal justice system was assessed in 8 family courts across the country. 20 mediators and judges were trained and about 200 mediations were conducted over the time period. Agreement rates were high: in 1999, 37 agreements resulted from 50 total referrals and in 2000, 49 agreements resulted from 63 referrals (Czarnecka-Dzialuk & Wojcik, 2002 & Miers & Williemsens, 2004). Overall agreement rate estimates range from over 75% (Czarnecka-Dzialuk & Wojcik, 2002) to over 60% (Czwartosz, 2004 & Restorative Justice Consortium, 2005) and approximately 80% of the agreements

are fulfilled (Restorative Justice Consortium, 2005). Some problems with the mediation process encountered in Poland were that in over 20% of cases there was no consent from at least one party, over 33% of cases involved no introductory talks, and 31% of mediations were conducted in a non-neutral location. Agreements most often involved financial compensation (40%), about 20% involved an apology, and 11% involved alcohol treatment. Just over 20% of the offenders returned to court within 3 years, which is similar to the number of offenders who did not participate in mediation (Restorative Justice Consortium, 2005).

As well, evaluations of mediations with juveniles in Poland have been favorable. In an evaluation of juvenile cases from 1997 to 1999, 145 cases were mediated with 137 resulting in an agreement. 130 of those agreements were carried out. Agreements involved financial compensation (57.8%), an apology (32.1%), and working for the victim (10.1%). 14.4% of the offenders committed an offence that resulted in their reappearance in court within 1 to 2 years, compared to 22-24% of juveniles that did not participate in mediation (Miers & Williemsens, 2004 & RJ Consortium, 2005). There was approximately 90% victim satisfaction with the mediation process. After the mediation, about 23% of victims changed their opinion of the offenders and 9% of victims showed high levels of hostility during the process and 3.2% of offenders and 18.7% of victims attempted to dominate the discourse at some point (Miers & Williemsens, 2004).

<u>Romania</u>

In Romania, there is no legislation governing the practice of mediation but it is practiced (Restorative Justice Consortium, 2006 & Raye, Roberts, & Wiese, 2004). Professionals in Romania have received technical assistance from experts in the field from Bulgaria, Moldova, the United Kingdom, and the United States (Raye, Roberts, & Wiese, 2004 & Restorative Justice Consortium, 2006). There are currently proposals being drafted to modify existing legislation in order to accommodate mediation and harmonize it with the standards of the European Union (Balahur, 2004 & Codreanu, 2005). There are great challenges to bringing Restorative Justice to Romania including: a general climate of mistrust among officials, economic challenges, community resistance, a lack of knowledge, governmental centralization and a lack of civil partnerships, and a belief that European practices may be at odds with building safer communities (Balahur, 2004). A media public awareness campaign to increase understanding of Alternative Dispute Resolution practices was undertaken to support the effort to bring mediation to the country (Restorative Justice Consortium, 2004). Currently mediation is taking place in 3 pilot centers: in Bucharest, Craiova, and Iasi (Balahur, 2004, Codreanu, 2005, & Raye, Roberts, & Wiese, 2004).

One such pilot program is currently taking place in the Community Mediation and Safety Centre in Iasi, Romania, which began in 2001. Since 2003, they have partnered with the Victim Offender Mediation Association (VOMA) in the United States to improve the capacity of the center, improve services, make policy recommendations, and build public awareness. VOMA provided the centre with training in July, 2003 and helped support the national media campaign undertaken on 5 television channels in Romania. This partnership is ongoing, with VOMA providing continuing technical assistance to the centre (Raye, Roberts, & Wiese, 2004). They are planning to expand their services to 3 centres in different parts of Romania: the village of Movileni in Iasi County, the city of Botosani, and a third location to be identified later (Community Safety and Mediation Centre- Iasi).

<u>Russia</u>

There is currently no legislation governing the use of Restorative Justice or mediation in Russia. In 1998, some professionals interested in Restorative Justice and mediation formed the Public Centre for Legal and Judicial Reform, in Moscow. They mediated 71 cases between 1998 and January, 2001. Most of the cases were completed, 43 had positive outcomes, and 2 were dropped (Public Centre for Legal and Judicial Reform, 2001). The cases took place in 2 pilot sites, in the Tagansky and Akademichesky districts and the pilots led to the introduction of a Social Worker to the court setting, which has since expanded to other districts (Filamer & Karmosova, 2002 & Maksudov & Keenan, 2004). Most of the cases mediated were for property offences (Filamer & Karmosova, 2002). The centre instituted goals such as: exploring how Restorative Justice could be employed in Russia, creating partnerships to bring Restorative Justice to Russia, expanding the use of Restorative Justice in Russia, and influencing Russian legislation that would endorse the use of Restorative Justice. Toward these ends, professional were trained in the use of Restorative Justice in cities from different parts of Russia. This resulted in other small experiments with Restorative Justice. For example, in Tyumen, 19 cases were

mediated from 2000 to 2001 and in Urai, 18 cases were mediated in a school setting from April to May, 2001 (Public Centre for Legal and Judicial Reform, 2001).

Since these initial steps, the Centre for Legal and Judicial Reform has partnered with experts in Restorative Justice from DuMontford University in England. Since August 2002, the partnership has undertaken efforts to introduce legislative changes that would expand the use of Restorative Justice, as well as reduce incarceration and recidivism among juvenile offenders (Maksudov & Keenan, 2004 & Curry, 2003). Russia has one of the highest incarceration rates of youth in the world, with 17 out of every 100,000 youth in prison. Most judges are predisposed towards punitive sentences and from 1990 to 1998 the length of the sentences imposed on prisoners increased by 136%, although new forms of juvenile work service have been utilized as sentences in recent years (Maksudov & Keenan, 2004). The partnership between the Centre for Legal and Judicial Reform and DuMontford University has resulted in Restorative Justice training for professionals, which culminated in a conference that they sponsored June 7 to 9, 2004 (Kravtsov, 2004 & Maksudov & Keenan, 2004). Prosecutors, judges, social service professionals, and representatives of juvenile commissions in Russia were all represented at the conference (Kravtsov, 2004).

Currently there are 3 pilot Restorative Justice programs in Russia: Cheremushinsky court in Moscow, Dzerzhisky city court in Dzerzhinsk, and Leninsky court in Tyumen. Out of 55 initial referrals in Moscow, 19 were mediated with 9 resulting in reconciliation, out of 16 initial referrals in Dzerzhinsk, 11 were mediated, and out of 26 referrals in Tyumen, 21 cases were mediated with 19 resulting in reconciliation agreements.

Slovenia

In Slovenia, mediation was incorporated into the Code of Criminal Procedure in 1995. The Code was amended in 1999 and 2001 to expand the scope of mediation used in the country. Both the prosecutor and/or the judge can refer a client to mediation (Miers & Williemsens, 2004). Mediation is currently practiced by state agencies only (Restorative Justice Consortium, 2006).

The Czech Republic

In the 1990s several changes to legislation were introduced in the Czech Republic that were compatible with mediation and paved the way for it. In 1994, diversion was introduced to the criminal code, in 1996, out of court settlements and community service were permitted, and in 1998, probation was initiated. It wasn't until 2000, that the Act on Probation and Mediation Service officially sanctioned mediation. This Act took effect on January 1, 2001 (Miers & Williemsens, 2004 & Stern, Gajdos, & Tkac, 2004). Mediation is currently practiced by the state only (Restorative Justice Consortium, 2006). The 3 main objectives for mediation in the Czech Republic are: the integration of offenders, victim support, and community protection (Miers & Williemsens, 2004 & Stern, Gajdos, & Tkac, 2004). Since its introduction, information seminars, mediation manuals, and training on mediation have been provided to judges, state prosecutors, and legislators (Hasmanova, 2002).

Currently, mediation is practiced in 74 districts by the Probation and Mediation Service of the Ministry of Justice. There are 157 trained officers, 61 assistants, and 12 staff that provide the mediations. The number of referrals has been steadily growing, from 2,401 cases is 2001 (12.5% of all criminal cases) to 6,323 cases in 2002 (21.6% of all criminal cases) to a roughly similar number of cases in 2003 (Miers & Williemsens, 2004 & Stern, Gajdos, & Tkac, 2004). 41% of these referrals come from court, 24% come from the public sector, 18% come from the parties themselves, and 12% come from the police. The hope for mediation professionals is that mediation will continue to expand its use, partnerships will be fostered to make that happen, and more pilot projects will be introduced. Some initial experiments with other forms of mediation are currently underway in other parts of the legal system (Miers & Williemsens, 2004).

The Slovak Republic

In the Slovak Republic, the Act on Probation and Mediation took effect on January 1, 2004. Since this time, 77 officers have been hired to act in the capacity of Probation Officers/Mediators. A pilot mediation project was undertaken in 3 courts immediately after the Act on Probation and Mediation took effect, employing both Victim Offender mediation and other forms of mediation. 61 mediations were undertaken in the pilot program and there was an 85% agreement rate. Since the pilot project, mediation has expanded in the country, with 463 cases being referred to mediation in the first 10

months of 2004. The Probation/Mediation Officers are currently educating the public and legal professionals about the goals of mediation and its uses in order to further expand its use in the Slovak Republic (Kunova, 2004).

Summary of Results

Country	Number of Mediators/ Programs	Cases Mediated	Success Rate
Estonia	No information.	No information.	No information.
Hungary	200 trained and active mediators.	No information.	No information.
Moldova Poland	The Institute for PenalReform initiated a pilotRestorative Justice programin the country. Mediatorswere recruited and trainedfor this project.Polish Centre for Mediation	No information.	No information. 1999- 37 agreements resulted from 50
i olanu	with 15 branches across the country, 600 trained adult mediators, and 250 trained juvenile mediators. there are 64 authorized Family Consultation and Diagnostic Centres, 3 Centres under the Lower Silesian Mediation Centre, and Partners-Polska is authorized to conduct mediations but has done none to-date.	referred: 1998-18 1999-366 2000-722 2001-800 2002-932 2003-1838	 1999-37 agreements resulted from 50 total referrals. 2000- 49 agreements resulted from 63 referrals Overall agreement rate estimates range from over 75% to over 60%. Approximately 80% of the agreements are fulfilled. Juvenile: 1997 to 1999, 137 agreements resulted from 145 total referrals. 130 of those agreements were fulfilled. Agreements involved financial compensation (57.8%), an apology (32.1%), and working for the victim (10.1%). 14.4% of the offenders re-offended within 1 to 2 years compared to 22-24% of other juveniles offenders. There was approximately 90% victim satisfaction with the mediation process. After the mediation, about 23% of victims changed their opinion of the offenders changed their opinion of the victim.
Romania	Currently mediation is taking place in 3 pilot centers: in Bucharest, Craiova, and Iasi	No information.	No information.
Russia	Currently there are 3 pilot Restorative Justice programs in Russia: Cheremushinsky court in Moscow, Dzerzhisky city court in Dzerzhinsk, and Leninsky court in Tyumen.	No information.	Out of 55 initial referrals in Moscow, 19 were mediated with 9 resulting in reconciliation, out of 16 initial referrals in Dzerzhinsk, 11 were mediated, and out of 26 referrals in Tyumen, 21 cases were mediated with 19 resulting in reconciliation agreements.
Slovenia	No information.	No information.	No information.

The Czech Republic	Mediation is practiced in 74 districts by the Probation and Mediation Service of the Ministry of Justice. There are 157 trained officers, 61 assistants, and 12 staff that provide the mediations.	Mediation cases referred: 2001- 2,401 cases (12.5% of all criminal cases) 2002- 6,323 cases (21.6% of all criminal cases) 2003- roughly similar to 2002.	No information.
The Slovak Republic	77 officers have been hired to act in the capacity of Probation Officers/Mediators. A pilot mediation project was undertaken in 3 courts immediately after the Act on Probation and Mediation took effect, in January 1, 2004.	61 mediations were undertaken in the pilot program. Since the pilot, mediation has expanded in the country with 463 cases being referred to mediation in the first 10 months of 2004.	There was an 85% agreement rate in the pilot program.

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