

S P E E C H

Konrad-Adenauer-Stiftung e.V.

RULE OF LAW PROGRAM
SOUTH EAST EUROPE
THORSTEN GEISLER

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Speech – opening of the workshop on Ethics, Integrity and Transparency in the Romanian probation system

- Bucharest, April 15th, 2013 -

It is a great pleasure for me to welcome you to today's workshop on Ethics, Integrity and Transparency in the Romanian probation system on behalf of the Rule of Law Program South East Europe of the Konrad Adenauer Foundation.

Probation officers play an important role in criminal justice systems. If they work successfully they reduce the number of future crimes, and thus the number of future victims, which is an important contribution to community safety. But they can also reduce the costs of the police force, the public prosecution, the courts, and of the penitentiary system.

A high degree of professionalism is required in this profession and of course an unconditional observance of ethical principles.

The Council of Ministers of the Council of Europe has provided member states with recommendations, so-called basic principles, that are related both to professional and to ethical aspects.

Let me quote the most important ones:

- Probation agencies and thus probation officers shall aim to reduce reoffending by establishing positive rela-

tionships with offenders in order to supervise, guide and assist them and to promote their successful social inclusion.

- Probation officers shall respect the human rights of offenders. All their interventions shall have due regard to the dignity, health, safety and well-being of offenders.

- In all cases where probation officers deal with issues related to victims of crime, they shall respect their rights and needs.

- Probation officers shall take full account of the individual characteristics, circumstances and needs of offenders in order to ensure that each case is dealt with justly and fairly. The intervention of probation officers shall be carried out without discrimination on any ground such as sex, race, colour, language, religion, disability, sexual orientation, political or other opinion, national or social origin, association with a minority ethnic group, property, birth or other status.

- In implementing any sanction or measure, probation officers shall not impose any burden or restriction of rights on the offender greater than that provided by the judicial or administra-

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tive decision and required in each individual case by the seriousness of the offence or by the properly assessed risks of reoffending.

- As far as possible, the probation officers shall seek the offenders' informed consent and co-operation regarding interventions that affect them.
- Any intervention before guilt has been finally established shall require the offenders' informed consent and shall be without prejudice to the presumption of innocence.
- All activities and interventions undertaken by probation officers shall conform to the highest international ethical and professional values.

The Council of Europe also recommends that there shall be accessible, impartial and effective complaint procedures regarding probation practice and that probation agencies shall be subject to regular government inspection and/or independent monitoring.

Probation agencies can only accomplish their demanding tasks if their structure, status and resources correspond to the volume of tasks and responsibilities they are entrusted with and if they reflect the importance of the public service they implement. Staff must be recruited and selected in accordance with approved criteria which place emphasis on the need for integrity, humanity, professional capacity and personal suitability for the complex work they are required to do and all staff shall have access to education and training appropriate to their role and to their level of professional responsibilities.

It is furthermore essential that the competent authorities provide appropriate resources and good management.

I will now provide you with some facts on probation in Germany and will leave it to

your judgment whether these criteria are met by my country.

In Germany about 2,500 probation officers are supervising 150,000 offenders, 200 officers carry out court assistance tasks and approximately 900 social workers are working in penal institutions. These figures have remained constant – more or less – the last five years.

The caseload of a probation officer varies from 70 to 100 offenders.

Germany is a federal republic and thus has a decentralized system of probation services. In most states probation officers are either assigned to regional courts or are directly accountable to the Ministry of Justice. In all states social workers who work in penal institutions are subordinate to the relevant prison governor. There are, however, two exceptions. In the state of Hesse one prison has been privatized and the social service has been taken over by a private provider: In the state of Baden-Württemberg the probation service, including the tasks of court assistants and victim-offender-mediation is managed by a private non-profit organization called NEUSTART. The Ministry of Justice of Baden-Württemberg supervises the private organization. The state government expects a rise in the quality of social work: less bureaucracy, more flexibility, and an increased professional competence, however the new system has not yet been evaluated by an independent authority.

It is noteworthy that in addition to the fundamental duties of probation services such as personal/social investigation reports, assistance, guidance, supervision in cases of suspended sentences and of cases of early release and social and personal assistance in prisons, new and broader forms of care have become more and more popular due to changes in society and the outcomes of criminological research:

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- different kinds of leisure activities (for instance: sports, anti-aggression-training, literacy courses and training courses in social behaviour) and the treatment of behavioural difficulties have been offered;
- work and accommodation projects have started, in response to violence and right-wing extremism;
- training courses (directed to persons with personal deficiencies and to violent or sex offenders) have been organized;
- risk assessment and risk management have been introduced or are to be introduced;
- community service has become more important;
- victim-offender-mediation has gained significance and
- victim support and victim protection gain ground

In several states the quality standards, working methods and organization structures are under scrutiny. The cases are manifold: a rise in suspended sentences, as executory prison sentences are now seen as a last resort, increases in tasks, fiscal restraints.

Each of the sixteen Ministers of Justice in the states and each state legislator who works in the field of justice policy fights for his budget and I know from my own experience how difficult that is. You cannot win elections by doing this because still a lot of people do not understand that investing in professional probation services and penitentiary systems is an investment in community safety from which they or their family could benefit personally.

I do, however, wish to assure you how much I appreciate your difficult work and I hope that you will benefit from this training and find it inspiring.