

9th CONFERENCE FOR DIRECTORS GENERAL OF PROBATION

Probation In The New Normality

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Plenary 2

Leadership in practise : new directions, new developments and service delivery

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Cheffe de service

Ladies and Gentlemen, good morning

It is with great pleasure and a little pride, I must admit, that I stand before your assembly today for this second plenary session.

Indeed, it is an honour for the French penitentiary administration to present its vision of the impetus for the policy of care for persons under custody, the new directions, the new developments and their implementation on the occasion of the 9th conference of the Directors General of Probation Services and the 40th anniversary of the European Probation Conference.

I don't know whether we should see these anniversaries in a row as a wink of fate.

If we take as an anniversary the ordinance of 23 December 1958 which established the the judge responsible for the execution of sentences and the committees for probation and assistance to released persons, the forerunners of the present-day penitentiary probation services (SPIP), then probation in France celebrated its 60th anniversary in 2018.

The same French probation services (Service pénitentiaire d'insertion et de probation), celebrated their 20th anniversary in 2019.

20 years, 40 years or 60 years is nothing on the scale of law and justice, which is inherent in any society.

On the other hand, we all know that CEP is an essential and driving force within the probation family in Europe and the rest of the world, in terms of sharing knowledge, support and expertise on the development of sanctions within the community.

As Head of Service, I am particularly sensitive to the issues of probation. There are currently 103 probation services in France and in the overseas territories, which are central to the execution of sentences and are identified as a State service within their territorial jurisdiction.

With a staff of 5,300 on 31 December 2020, including 3,502 probation officers, they currently deal with 238,343 people, including 68,472 detainees.

The French penitentiary administration, one of the five directorates of the Ministry of Justice, manages both prisons (186) and probation services (103).

Before I turn to the new directions, let me briefly mention the history of the probation services in France. Looking back in order to learn from the past is always a very useful exercise to mark out the way forward.

A history of French probation services that is like a four-beat waltz

As I said in my introductory remarks, probation is quite recent in our country, since it took the penitentiary reform at the end of the second world war to place the reformation and social rehabilitation of the convicted person at the centre of the sentence of deprivation of liberty, but also to see the initiation in France of the management of convicted persons in the open environment, as a new field of the execution of sentences.

The first phase began with the 1958 reform of the code of criminal procedure, which established the enforcement judge responsible for the execution of sentences, probation and assistance committees for released detainees (CPAL) and a number of sentence adjustment measures such as semi-liberty and temporary leave.

With the creation of the body of penitentiary administration educators, associated with social workers, these CPAL intervened in the open environment from October 1959 and the number of suspended sentences with probation increased from 881 to 2,156 in one year. From then on, the number of CPAL and the number of convicts monitored continued to increase.

The creation of a specific body of heads of department and the granting of a statute for the educational staff of the penitentiary administration took place in 1966. In 1975, there were 256 probation officers monitoring 37,644 convicts. Since then, resources have continued to increase and the role of probation has been constantly strengthened.

The missions of the public penitentiary service were defined in a 1987 text as participation in the execution of criminal decisions and sentences and the maintenance of public safety, but also the promotion of the social reintegration of persons entrusted to it by the judicial authority.

The body of probation officers (CIP) was created in 1995 before they became probation officers (CPIP) in 2011.

The second phase began in 1999 with the creation of the Penitentiary Integration and Probation Services (SPIP), with a departmental scope, headed by a management body. They merge the former CPALs and the socio-educational services that had been working with detainees in prisons until then.

Nearly 10 years after their creation, the circular issued by the penitentiary administration on 19 March 2008 on the missions and intervention methods of the SPIP marked **the third phase** and clarified the competences and missions entrusted to the SPIP. Indeed, it emphasised and refocused the SPIP's missions on the prevention of recidivism, specifying that it plays an active role in assisting the judicial decision.

The Penitentiary Act No. 2009-1436 of 24 November 2009 specified the missions of the penitentiary administration. Article 2 states that the public penitentiary service participates in the execution of criminal decisions. The law specifies that it is organised in such a way as to ensure the individualisation and adjustment of sentences for convicted persons.

Finally, **the 4th phase** corresponds to the period 2013-2016. This period was rich in reflections for the penitentiary administration and the probation services, and was marked by several important events:

- The consensus conference

Installed by Mrs. Taubira, Minister of Justice, the consensus conference aims to find a penal response accepted by the greatest number of people in order to fight against recidivism, effectively and in the long term. The work resulting from this conference is compiled in a report containing principles of action and recommendations, most of which strongly oppose the paradigm of incarceration.

The jury's recommendations called for "a study of the tools and methods of care evaluated abroad and a particular focus on the conditions of their adaptation to the French context". This is why an action research project was launched in October 2014, known as PREVA research, in six SPIP in the Bordeaux and Paris inter-regional directorates, in collaboration with the universities of Rennes 2 and Montreal, whose final report of 25 July 2016 concluded that "the very principle of evaluation is no longer in doubt" and that this practice is "a must for rigorous work".

- The dissemination of the European Probation Rules (EPR)

The reflections of the Council of Europe have influenced this period in France. Thus, the Directorate of Penitentiary Administration started a process of dissemination of the EPRs with their publication in a book for its partners, in which we find all the rules, together with extracts of their commentary, a general presentation and a text on probation in Europe written by experts of the European Probation Conference.

Like the European Prison Rules, which are the charter of action for the closed environment, the European Rules on Probation now guide the intervention of probation service staff in France.

The law of 15 August 2014 on the individualisation of sentences and reinforcing the effectiveness of criminal sanctions

The law of 15 August 2014 is an extension of the principles of action and recommendations of the consensus conference. The promoters of this law have stated their ambition to make prison sentences one of several penalties. Because it offers society only temporary security by protecting it only very weakly from the repetition of criminal acts, prison must no longer be the sole reference in the scale of penalties.

This move away from prison as the sole means of punishment is reflected in the introduction of a new penalty: the penal constraint. A new alternative to correctional imprisonment encouraged by Europe, the constraint sentence is based on reinforced monitoring of the convicted person in an open environment. It is a form of probation that is clearly distinct and independent of imprisonment.

As such, the manual on penal restraint drawn up by the penitentiary administration recommends that a structured assessment be carried out, based on the risk-need-responsivity (RBR) model.

I am not forgetting the recruitment of 1,000 additional staff for the probation services at that time.

Probation, a proven and advocated alternative

This is a testament to the youth of probation in France, but it is also a testament to the adaptability of probation services. The French probation services have always been able to adapt their organisation and intervention methods in order to better integrate criminal policy and public security issues. They have also been able to develop their own identity by developing technical skills and innovative methods of intervention. By participating in the judicial decision, probation services play an essential role in the individualisation of the sentence and the work on the meaning of the sentence.

The programming law 2018-2022 and the reform of the justice system has opened up new perspectives for probation in France and places probation services in a central and driving role. Without going into

the details of the law, it proposes to overhaul the overall economy of the sanctioning system and the scale of sentences in order to get out of the 'systematism' of the prison sentence - it is high time. In particular, it is a question of eliminating the shortest sentences, developing autonomous and alternative sentences, and facilitating the conditions under which they are handed down.

Our bet is the following: only by clarifying the contours of probation will we allow it to become a credible and desirable alternative to prison. Probation is a real Swiss Army Knife, i.e. a practical tool in the hands of the different actors of the penal chain. And like a Swiss Army knife, some of these tools are well known, but others are less well known: for example, in the proposed range, there is the probationary suspension, a flexible and evolving measure which allows the convicted person to really work on changing over a long period of time.

The 2018-2022 programming and justice reform law has important implications for the actors of probation, starting from the present stage. Indeed, it gives the debate on the sentence its rightful place by allowing not only the enforcement judge, but also the criminal court to decide on the conditions for the adjustment of the sentence. Penitentiary integration and probation counsellors have also reinvested in the present document to better inform the decision on the most appropriate sanction.

As far as the post-sentence period is concerned, it will be necessary to draw up a more appropriate intervention and discharge plan with the offender, taking into account both security requirements and the offender's ability to evolve. It will also be crucial, and our teams are already hard at work, to develop intervention plans that will make it possible to bridge the gap that too often separates people placed under house arrest from the ordinary law, particularly in the areas of health, employment and housing. This is a priority mission, both from the point of view of social reintegration and the prevention of re-offending.

Such an ambition requires resources commensurate with it. This is why we have created 1500 jobs in the integration and probation sector and continue to develop the skills of the agents in order to better articulate the two major missions they are entrusted with: social reintegration and the fight against recidivism. I am thinking here in particular of the assessment of needs and risks of recidivism, but also of the motivational interview, which is fully in line with the objective of 'seeking adhesion' of the persons placed under custody, central pivot of the culture of probation that we defend. I am also thinking of a working method that the penal constraint has allowed to install durably, namely the multidisciplinary approach, while respecting the identities and professional missions of each person.

The recruitment of psychologists, social service assistants, supervisory staff, support pairs (psychologist + educator) in the context of the fight against violent radicalisation and cultural coordinators have enriched the range of services offered by the probation services, but also enabled them to better adapt their mission to the evolution of delinquency and to the new challenges of public security.

Multidisciplinary is, in my opinion, a fundamental element of the success of the probation reform.

A necessary and ongoing paradigm shift

French penal and penitentiary policy is gradually changing its paradigm in an attempt to move away from the logic of the all-carceral system. The laws that follow one another at a frenetic pace reaffirm, like that of Madame Taubira in 2014, that the sentence must, as a matter of principle, be carried out in the open, within the community, and that confinement must be limited to strictly necessary cases.

On a strictly numerical level, this is the case in France, since if we look at the figures for the care of convicted persons in the open environment, the latter is three times greater than that of detained persons. On 1 May 2021, out of 244,649 people in the care of the penitentiary administration, 186,375 were in open facilities compared to 59,154 in closed facilities. This French policy is in line with a European trend since, according to the annual SPACE II 2020 survey carried out by the University of Lausanne for the Council of Europe, the number of people subject to open sanctions and measures increased by 3% in Europe between 2019 and 2020.

And yet, despite this observation, the open environment in France suffers from a lack of visibility of its action and its methods of care, both among justice professionals and the general public, with the obvious exception of media coverage of news items, or rather diversionary items as Pierre Bourdieu calls them, when it comes to pointing the finger at the institution's responsibility, and by the same token, obscuring the success of the majority of cases.

The fact that probation is kept in the shadows is questionable. Indeed, all publications and studies, some French but most Anglo-Saxon, show, without exception, that a sentence aimed at rehabilitation significantly reduces recidivism, whereas confinement, far from reducing it, has a counterproductive effect by increasing the risk of committing a crime.

I am convinced that probation works if it is given every chance and this is not me saying this, but all the international experts whose research on probation shows its effectiveness in preventing re-offending.

Probation in professional practice in France

A lot of work has been done to give content, and therefore meaning, to probation measures and sentences, but also to establish the methods of intervention of probation services, to objectify and harmonise practices, and to consolidate the identity of professionals in the insertion and probation sector. This work was first materialized by the drafting and the deployment of the first Operational Practices Reference Framework (RPO1) aiming at the methodology of intervention in SPIP.

Indeed, since 2018, the intervention of probation services in France is based on an operational practices reference manual (RPO1) elaborated by the direction of the penitentiary administration. This guide has been designed in accordance with the principles of the European rules on probation and the data from European and international research. It is designed to support and enrich the existing support practices in the services. The guidelines guide and harmonise practices with regard to the professional posture of staff members and the process of care, which ranges from the assessment of the person placed under house arrest to the establishment and implementation of an adapted and individualised support plan.

These new methods of probation allow for a global follow-up and propose the implementation of measures adapted to convicted persons in a process of support for desistance.

The RPO1 proposes a method of intervention that is efficient in terms of preventing recidivism and that respects the fundamental rights of persons placed under house arrest. It is intended to be implemented at each stage of monitoring, in both open and closed environments.

It provides the prison integration and probation counsellor with very practical tools enabling him or her to adapt his or her professional stance throughout the support process, from the reception of the person to the end of the measure. The CPIP must thus be able to identify the criminogenic problems of the persons being monitored in a detailed assessment process, which must lead to the development and implementation of a support and sentence execution plan with the following aims:

- Strengthen motivation to change: the aim is to enable the offender to become aware of his or her problems and to invite them to change.
- Promote opportunities for social and professional integration: in addition to establishing links with mainstream services, the aim is to work on integrating the person into non-criminal networks and strengthening the support of the resource persons around them.
- Work on ways of thinking and acting, in particular the representation of the self, the other, the victim, cognitive distortions and relational skills.

The methods of the RPO1, conceived and designed in a comprehensive manner, are naturally intended to improve the specific care of perpetrators of domestic violence. The follow-up will be as close as possible to the perpetrator's specific criminogenic problems identified during the initial assessment.

In addition to the deployment of the RPO, emphasis has been placed on professional training in motivational interviewing and assessment techniques, both in initial and in-service training for all CPIP. The penitentiary administration has also just launched a trial of an assessment guide designed with SPIP professionals and intended to continue to support staff in their assessment process.

In addition, and still with the aim of strengthening the content of the measures, the methods of care are diversifying and collective care is now playing a major role. We can mention the Programmes for the Prevention of Recidivism (PPR / talk groups centred on the act of committing an offence, bringing together perpetrators linked by a common problem: sexual offences, domestic violence, addictions), the RESPIRE Programme (a programme designed to combat violent behaviour) or the PARCOURS programme, whose success in France has led to the emergence of a national programme of support called ADERES.

Restorative justice has also been developed within the services. A circular of March 2017 validated the principles and established the role of the SPIP as project manager. The services have taken up the idea and today many projects are underway in the territory.

I do not want to make an exhaustive inventory of all the current issues in French probation. I will only mention :

- Electronic surveillance and the anti-repulsion bracelet (BAR) for domestic violence
- Virtual reality
- Programs

Before I finish, I would like to take advantage of your attention to talk about the probation services of today, when the world is still looking for new points of reference to fit into a new form of normality.

I personally am still cautious about what the norm is now. It is no longer as certain as it once was.

However, it is clear that the health crisis has invited us to take up many challenges, in particular that of finding the right balance between restrictions to control infection and protect public health, and the care of people entrusted to us by the judicial authority.

In closed settings, as in many countries, the measures taken appear to have been effective in limiting transmission and therefore deaths - French prisons have not experienced explosive epidemics resulting in high numbers of detainees deaths as initially feared. The responses led to or accelerated innovations that impacted on the living conditions of detainees, e.g. video calls. Exceptional measures were taken to reduce the prison population to reduce the risk of the epidemic spreading.

In the open environment, given the limited presence of officers in person and the difficulties in implementing teleworking, follow-up priorities in conjunction with the judicial authorities have been made necessary.

Thus, in accordance with the recommendations of the central administration, the services have prioritised the monitoring of young offenders according to their profiles and/or offences (prioritisation of TIS/DCSR, AVC and intra-family, AICS (sexual offender), media), or according to their sentence (SSJ, SJ, criminal proceedings, etc.), while taking into account the intensity of the monitoring defined by the SPIP in the framework of the RPO1 and the assessed risk of reoffending.

The possibility of carrying out part of the missions by telecommuting is no longer in question. A reflection is now needed on the organisation of dematerialised work in the SPIP. Teleworking should make it possible to cope with a possible period of confinement and to perpetuate a practice that has not been established until now. Material and technical resources have been provided to enable staff to carry out their duties.

Conclusion

In conclusion, I would like to recall the importance of the presence of the French penitentiary administration in the CEP. It is a wonderful body which has a real role to play in French probation.

Happy birthday !!!!!