



**Mandate for
Ukrainian Center for Common Ground
and
Swiss Development and Cooperation Office in Ukraine**

**Report mission Anne C. Salberg
Kyiv, February 17-20, 2009**

**Phase II – Part 2
International Conference**

“Restorative Justice Introduction in Ukraine: Secrets of Success”

Implemented jointly with General Prosecutor Office of Ukraine, National Academy for Prosecution of Ukraine, School of Social Work of the national University of Kyiv-Mohyla Academy, with the participation of Ministry of Justice of Ukraine





Summary: in the second phase of the project "support to Reform of the Criminal Justice system: awareness raising for mediation techniques in law enforcement", the consultant provided a three-days training to 14 participants of Universities, Academy of Prosecutors and Prosecutor's Office in May 2008 (mission 1: training for trainers).

In mission 2, the consultant gave a speech "Keys to a successful development of restorative justice in Switzerland: what lessons?" and led a workshop (with the former participants of the training for trainers) during the international Conference "Restorative Justice Introduction in Ukraine: Secrets of Success" (Kyiv, February 18-19, 2009)

I. ORGANIZATION

Common Ground Centre (UCCG) organized - jointly with General Prosecutor Office of Ukraine, National Academy for Prosecution of Ukraine, School of Social Work of the national University of Kyiv-Mohyla Academy, with the financial support of Swiss Development and Cooperation Office (SDC) in Ukraine – a two-day international Conference in Kyiv.

II. TERMS OF REFERENCE

The Terms of reference stated that the consultant should:

- Plan and conduct 3 hours follow up meeting for tutors to evaluate the developed training programs for prosecutors and other representatives of the legal system, organize discussion of developed training programs for prosecutors and develop recommendation for their improvement;
- Share experience on specific advanced trainer's skills and techniques which were used during trainings for prosecutors and representatives of law system within the conference section.
- Prepare and present a paper on Restorative Justice training programs for prosecutors in Switzerland during the conference;
- Prepare materials on issues of prosecutors (and other representatives of legal system) training in Switzerland and related issues for conference materials.

Preparation

The development of Restorative Justice is very weak in Switzerland. Therefore, the topic of the Conference, the success of the Swiss experience, was very interesting to handle in comparison to the way restorative justice is implemented in Ukraine.

The consultant had to adopt a meta-position about the Swiss situation. She made a short investigation with some magistrates. 12 judges responded positively to her demand.

She took the Ukrainian "National Program of introducing Restorative Justice into Criminal Justice System of Ukraine for the Period until 2015" draft program into consideration and built her presentation as a counterpoint to the Ukrainian situation.

The consultant prepared her conference on a Power Point Presentation. The material has been translated into Ukrainian before the Conference and was part of the documentation received at the Conference.

Conference

The consultant presented her conference "Keys to a successful development of restorative justice in Switzerland: what lessons?" in the first morning in front of a large audience. She spoke in French and was translated into Ukrainian. Many people actually understood French, as a Representative of Parliament or Moldavian colleagues.



After explaining the Swiss context (a federation of 26 States), she presented how Restorative Justice is implemented in Switzerland at national and local levels. She explained the consequences of the complete absence of a political vision for mediation and drew some conclusions about the Swiss situation.

Many people rated positively the topic and the presentation. As the Director of the Swiss Agency, Mr. Manuel Etter said it as a foreword, Switzerland can learn a lot in this program from Ukrainians. On the one hand, for the Swiss, the political vision about restorative justice is an unaffordable dream; on the other hand, the capacity of the Swiss people to develop project on the regional level is a good model for Ukrainian professionals.

Workshop

The consultant led a workshop in two parts in co-animation with Mrs Nadiya Prokopenko, the Project Director, UCCG.

The goal of this workshop was to have a follow-up of the "training for trainers" of May 2008 and try to estimate how effective the transfer into the practice is. In May, with the participants we worked on how to build training for law students and prosecutors (for more details, see the report of mission 1).

In the first part of the workshop, some participants of the "May 2008 training for trainers" presented the result of the implementation of training programs in their institutions. Some were very successful, as for example the program of the Carpathian University. For other participants of the workshop, Restorative Justice was a brand new concept and the Conference was for them the first opportunity to handle the question of training and increasing awareness about Restorative Justice.

The following topics have been raised by the audience for the next day workshop:

- Training in restorative justice is not enough for prosecutors' change of mentality from punishment to restoration if there are no clear rules established by the law;
- The task of a Prosecutor is to charge, although mediation does not necessarily means to close the case;
- Knowledge are easily acquired but there is no guarantee that the prosecutors will transfer their learning into their practice by referring cases to mediation;
- Work in network with Ministries about transversal issues like children's' rights has to be developed.

On the second day, the workshop started with a pedagogical tool to be used very easily even with large audience, the game of the Toblerone (Swiss chocolate) that allows in 15 to 20 minutes to understand the difference between Retributive Justice and Restorative Justice. The participants of the workshop took part at the game (this tool has been presented in the training for trainers and there is a Ukrainian translation of it).

On the second part of the workshop, Nadiya Prokopenko led the discussion about the possibilities of Ukrainian professionals to organise studying of Restorative Justice ideas and practice here in Ukrainian context. The main attention of the conference participants was concentrated on defining of the most effective measures, forms and work methods while raising awareness of the legal system representatives, so that theory could be applied in practice. In particular, the following **recommendations** were among the most important:

- It is important to organise the RJ studying process in the way, so that mediators and prosecutors (or other legal officers) learn jointly, because the practical mechanism of introducing mediation in criminal cases implies the active interaction between them. Along with that, the approach of "peer-to-peer" is a justified one, when the people with similar positions/functions transfer the important information to their colleagues.
- It is crucial to introduce the international examples within the awareness raising events.
- It is crucial to introduce the active model of training adults (which, particularly, is based on the actual participants' experience) within the awareness raising events.



- It is important to pay a particular attention to introducing measures on the awareness raising on mediation in criminal cases within the extension courses for practitioners.

III. RESULTS AND RECOMMENDATIONS

A written evaluation of the Conference has been made in Ukrainian by UCCG. It shows quite a strong interest of the conference participants in the topic and their gratitude for organising such a conference.

Results

The participation at this conference was the fourth intervention of the consultant with the project. It has shown a real continuity in the collaboration with the Academy of Prosecutor and the national Prosecutor Office. The **transfer of knowledge into the practice** of the Prosecutors that took part in the study trip (May 2007) is outstanding.

The same excellent result has been achieved with the trainers that took part in the training in May 2008.

The conference also showed the necessity of a continuous work with the legal world and the Prosecution's bodies. Many new participants were impressed with what they heard from high ranking Prosecutors of the Academy or the national Prosecution Office. Various interventions outlined that such Conferences should be organized on a regular basis and also in the regions.

Another unexpected result is that "the pupil is doing better than the master". Swiss prosecutors can learn a lot from the Ukrainian experience. The presentation has been sent to the 12 judges that took part at the small questionnaire and to GEMME, the Swiss organization of judges promoting mediation <http://www.gemme.ch> . It has also been transmitted to the General Prosecution Office in Geneva and the consultant will probably present it at their internal monthly meeting. The Ukrainian experience will be useful for raising awareness of the Swiss Prosecutors.

Consultant recommendations

The co-animation of the workshop with Nadiya Propenko has been very useful because the consultant – without taking into account the communication through interpreters – does not know the Ukrainian situation nor the cultural habits and respectful handling of the communication.

The level of the two translators is excellent and has been part of the success. It is also very important to have a continuous work with them. It has been a pleasure to work with those highly qualified interpreters. It is also important to have the opportunity to work in French, for example, to transmit the ppt presentation to the Swiss prosecutors

In conclusion, it can be said that the goals of this mission have been mainly achieved.

It has been a great opportunity and challenge for a Swiss mediator and trainer to participate in such a huge project. Hopefully, the contribution was helpful for UCCG main goal, increase awareness of mediation for law enforcement.

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