

Ambulant Sanctions as an Alternative to Imprisonment in the EU?

RE-SOC

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Introduction

- Ambulant sanctions:
Probation, Parole, Supervision of Conduct,
[Führungsaufsicht], Community Service
- Really alternatives to custodial sanctions?
- Calling it "alternatives" implies that imprisonment is the standard
- alternative sanctions impose burdens of their own

Alternative Sanctions are not always Alternatives to Imprisonment

- The increase of ambulant sanctions does not necessarily bring about a decrease in the number of prisoners (e.g. Bulgaria)
- Net widening effect of ambulant sanctions, e.g. Spain and Germany
- Some ambulant sanctions are per definition no alternative, e.g. Germany: supervision of conduct (plus: breach constitutes a crime of ist own)

There are no easy comparisons between countries or legal cultures

- Different definitions, same name but different content
- Different system approaches in sanctioning
- Probation transferred to another country: the burden of the intervention may increase – safeguards needed
- Points of reference for comparisons?
- Especially for mutual recognition: human rights standards

**Ambulant sanctions are at least as good as custodial sanctions,
- but sometimes it may be better to do nothing at all**

- Comparing custodial to non-custodial sanctions needs control group studies
- Existing experimental studies show no disadvantage of ambulant sanctions referring to recidivism
- Lack of studies comparing to non-intervention
- From „Nothing works“ towards accepting the possibility of „*nothing* works“, e.g. diversion
- Need of natural experiments

**Resocialisation is endangered
to be replaced by risk oriented approaches**

- Situation of uncertainty due to lack of research has to bring about the imposition of the least affecting measure [Primum non nocere: First of all do not harm]
- To find out what the least affecting measure is one has to respect the perspective of the concerned individual
- Resocialisation increasingly replaced by managerialistic risk approaches
- Research on perspective of individuals is rare and needed
- Involvement of civil society? Monitoring, Circles of support

Resume

- Ambulant sanctions are not automatically alternatives to imprisonment, but can be net-widening
- Comparisons and mutual recognition needs human rights standards as point of reference
- Empirical comparisons need control groups
- Comparisons to non-intervention are necessary
- Research on perspective of concerned individuals to be done
- Anyway: First of all do not harm needs ambulant **alternatives** to imprisonment and they are at least no less effective