Forensic psychiatry in Europe: Legal frameworks and service provision

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University of what!!

Royal College Forensic Faculty, Vienna, 8.3.2019
Outline

- Comparative studies
- Criminal justice context
- Basic characteristics of forensic psychiatry in different countries
- Long-stay
- Training
- Practice example
  - Netherlands
  - Italy
  - Germany
- Discussion
Salize et al. studies

General psychiatry 2002
Forensic psychiatry 2005
Prisons (EUPRIS) 2007
Inpatient forensic-psychiatric care: Legal frameworks and service provision in three European countries

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Mapping offender-patient pathways in the different jurisdictions of the European Union

BRADLEY HILLIER1, CHRISTOPHER LAMBOURNE2 AND TINA GRAM LARSEN3, 1Institute of Psychiatry, King’s College London,
Description

Forensic psychiatric care is aimed at improving mental health and reducing the risk of recidivism of mentally disordered offenders. For some mentally disordered offenders (life-)long forensic psychiatric care is required. Due to different legal frameworks, policies and resources in COST countries, treatment programs and care provided for these offenders vary substantially within Europe. The proposed Action aims at establishing a European network of researchers, clinicians and service providers about long-term forensic psychiatric care. The network is open for practitioners and experts from different disciplines and from different career stages. Researchers and clinicians will join their expertise and research activities to set the basis for comparative evaluation and research on effective treatment and the development of "best practice" in long-term forensic psychiatry in Europe. This will lead to the development of cost effective policies in forensic services, evidence-based practice in long-term forensic care and improvement of patients' quality of life.
## Legal traditions

<table>
<thead>
<tr>
<th>Common law</th>
<th>Mixed</th>
<th>Civil (Roman) law</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ireland</td>
<td>• Denmark</td>
<td>• Austria</td>
</tr>
<tr>
<td>• E &amp; W</td>
<td>• Finland</td>
<td>• Belgium</td>
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<tr>
<td></td>
<td>• Sweden</td>
<td>• France</td>
</tr>
</tbody>
</table>

- Denmark
- Finland
- Sweden

- Austria
- Belgium
- France
- Germany
- Greece
- Italy
- Luxembourg
- Netherlands
- Portugal
- Spain
Age of criminal responsibility

10
England & Wales

12
Andorra
Belgium
Hungary
Ireland
Netherlands

14
Albania
Austria
Bulgaria
Croatia
Cyprus
Estonia
Germany
Italy
Latvia
Malta
Romania
Spain
Slovakia
Slovenia

15
Czech Republic
Denmark
Finland
Norway
Sweden

16
Portugal

Variable
France
Greece
Lithuania
Luxembourg
Poland
Imprisonment

Source: World Prison Brief
Forensic psychiatry

- Criteria for admission
- Service provision
- Review procedures and discharge
Criminal responsibility

Dichotomous

Graded concept

Not relevant concept

Aus
Bel
Den
Fin
Fra
Ger
Gre
Ita
Lux
Neth
Por
Spa
Swe

E & W Ire
Criminal responsibility and admission

<table>
<thead>
<tr>
<th>Diminished/Absent responsibility required</th>
<th>Not required</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Austria</td>
<td>• Denmark</td>
</tr>
<tr>
<td>• Belgium</td>
<td>• E &amp; W</td>
</tr>
<tr>
<td>• Croatia</td>
<td>• Finland</td>
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<td>• France</td>
<td>• Ireland</td>
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<td>• Greece</td>
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<td>• Italy</td>
<td>• Serbia</td>
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<td>• Latvia</td>
<td>• Slovenia</td>
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<tr>
<td>• FYR Macedonia</td>
<td>• Switzerland</td>
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<td>• Netherlands</td>
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<td>• Poalnd</td>
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<td>• Spain</td>
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<tr>
<td>• Sweden</td>
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</table>
Issues of service provision

- Exclusion of certain groups, i.e. those with substance use disorders
- Special services for substance abuse disorders:
  - Austria, Belgium (out patients), Germany, Netherlands
- Separate units for different levels of security (low, medium, high) unusual – usually provided within the same institution
- Leave

<table>
<thead>
<tr>
<th>Tab. 32: Decision-making on Leave Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Escorted leave on the premises</td>
</tr>
<tr>
<td>in none of the Member States</td>
</tr>
<tr>
<td>Unescorted leave on the premises</td>
</tr>
<tr>
<td>in none of the Member States</td>
</tr>
<tr>
<td>Escorted leave off the premises</td>
</tr>
<tr>
<td>Belgium, Sweden*, Spain</td>
</tr>
<tr>
<td>Unescorted leave off the premises</td>
</tr>
<tr>
<td>Belgium, Germany, Italy, Spain, Sweden</td>
</tr>
<tr>
<td>Escorted over-night stays off the premises</td>
</tr>
<tr>
<td>Austria*, Belgium, Germany, Italy, Portugal*, Sweden*</td>
</tr>
<tr>
<td>* Denmark, Greece, Spain</td>
</tr>
</tbody>
</table>

* Sweden
Austria
Portugal

Hospital order with pre-determined discharge regulation
Only when longer than two weeks
Only when longer than 48 hours

- Follow up after discharge in about half the countries: years to lifelong

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Review procedures and discharge

• In almost all countries courts involved at regular intervals
• Some countries have a specific body, like a mental health review tribunal (Finland, Ireland, UK)
• Rarely political bodies (ministry) involved in discharge decisions (in some patients) (FYR Macedonia, UK)
• In the UK for some patients treating clinicians can (at least for some patients) decide on discharge
• Reviewing psychiatrist
  - Internal
  - External (after some longer time of detention)
• Timeframes: every 6 months (e. g. SUD patients in Germany) to 6 years (external expert in the Netherlands)
Long-stay in forensic services

International Journal of Forensic Mental Health

Long-Term Forensic Mental Health Services: An Exploratory Comparison of 18 European Countries

Stephanie Sampson, Rachel Edworthy, Birgit Völlm & Erik Bultan

To cite this article: Stephanie Sampson, Rachel Edworthy, Birgit Völlm & Erik Bultan (2016): Long-Term Forensic Mental Health Services: An Exploratory Comparison of 18 European Countries. International Journal of Forensic Mental Health. DOI: 10.1080/14999013.2016.1221484

To link to this article: http://dx.doi.org/10.1080/14999013.2016.1221484

View supplementary material

Published online: 11 Nov 2016.

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Long-stay

• Between 4 years to 10 years
• Only one country providing definition for long-stay (6 years, The Netherlands)
• LoS in hospital cannot be longer than prison sentence would have been in:
  - Croatia
  - Italy
  - Portugal (for sentences up to 8 years)
  - (Germany)
Figure 3  Forensic beds per 100,000 inhabitants from 1990 to 2012.

Chow & Priebe, 2016
## Training

<table>
<thead>
<tr>
<th>Available</th>
<th>Not available</th>
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<tbody>
<tr>
<td>• E &amp; W (3 yrs.)</td>
<td>• Austria</td>
</tr>
<tr>
<td>• Finland (6 yrs.)</td>
<td>• Belgium</td>
</tr>
<tr>
<td>• Germany (1yr.)</td>
<td>• Denmark</td>
</tr>
<tr>
<td>• Portugal (6 months)</td>
<td>• France</td>
</tr>
<tr>
<td></td>
<td>• Greece</td>
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<td></td>
<td>• Ireland</td>
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<td>• Sweden</td>
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</tbody>
</table>
The Netherlands

TBS order
- Offence punishable with 4 years + prison sentence
- Diminished / absent responsibility
- Risk
- Renewed by court every 2 years, after 6 years external expertise

Long-stay
- Treatment at 2 different hospitals
- For 6 years
- No significant risk reduction
- Long-stay order -> move to long-stay facility
- Focus on quality of life
- About 10-5% of forensic population
- Can move back to main stream care

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Offence committed

Measures for improvement and safety

In-patient

§ 63 Psychiatric hospital

§ 64 Hospital for the treatment of SUDs

Out-patient

Punishment
## Two tier system

<table>
<thead>
<tr>
<th>§63 – Psychiatric hospital</th>
<th>§64 – SUD hospital</th>
</tr>
</thead>
<tbody>
<tr>
<td>• At time of offence diminished or absent responsibility</td>
<td>• No requirement of reduced responsibility</td>
</tr>
<tr>
<td>• Risk to commit further significant offences due to disorder</td>
<td>• Disposition to consume alcohol or drugs</td>
</tr>
<tr>
<td>• Not time limited</td>
<td>• Offence committed because of this</td>
</tr>
<tr>
<td>• Reviewed annually</td>
<td>• Risk to commit further offences due to substance use</td>
</tr>
<tr>
<td>• Every 3 years external expert, after 6 years every 2</td>
<td>• Expected to benefit from treatment</td>
</tr>
<tr>
<td>• Proportionality:</td>
<td>• Usually parallel prison sentence</td>
</tr>
<tr>
<td>- 6 / 10 years: degree of psychological or physical harm to the victim</td>
<td>• Can move to prison if measure not successful</td>
</tr>
<tr>
<td></td>
<td>• Reviewed every 6 months</td>
</tr>
<tr>
<td></td>
<td>• Limited to two years but can be extended up to 2/3 prison sentence + 2 years</td>
</tr>
</tbody>
</table>
Italy

• 1978 “Basaglia law”: Closure of psychiatric hospitals, replacement by community mental health care
• 2008: Forensic services incorporated into National Health Service
• Concerns about the state of forensic hospitals (CPT)
• 2014: Law mandating the development of secure residential units for forensic patients (REMS)
• Closure of 6 forensic hospitals completed in 2017
• Currently 30 REMS with about 600 beds (about 1000 in old system)
• REMS
  - In community
  - Up to 20 beds
  - Focus on rehabilitation
  - High turn over
Conclusion: Vive la différence …