



Third Study Commission  
Criminal law and procedure

Meeting in Crans-Montana (Switzerland), 16-19 September 1991

Conclusions

COMMUNITY SERVICE AS A PENAL SANCTION

The commission, consisting of representatives of Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Luxembourg, Iceland, Ireland, Italy, Ivory Coast, Israel, Japan, Liechtenstein, Morocco, the Netherlands, Norway, Portugal, Senegal, Spain, Sweden, Switzerland, Tanzania, Tunisia, the United Kingdom and the United States reached the following conclusions on the basis of the general report of its President M. Raymond Screvens.

The system of community service as an alternative criminal sanction has been introduced in several member countries during the last two decades. In other member countries experiments within this field have been or are at present being carried out.

Although the system of community service has been in force for only a limited number of years in most of the countries represented, the experience so far under the different jurisdictions has been that the system has been useful.

Community Service is a principal or alternative punishment requiring the performance without pay of some activity that is both of value to the community and re-educative, that is to say designed to assist the integration or re-integration of the defendant into society.

Under most of the legislation in force and the proposed legislation Community Service can only be imposed where the defendant unequivocally agrees to it.

Community Service is not a punishment that is appropriate in the case of all offences, or in the case of all offenders.

One has to exclude: a) very serious offences which make it necessary to ensure that the defendant, for a limited period at least, is put in a situation where he can do no further harm; b) minor infringements of the law in respect of which other sanctions are adequate.

In most of the jurisdictions, where the sanction is utilized, it is an alternative to short or moderate terms of imprisonment.

Within these limits the cases which may appropriately be dealt with by Community Service can be left to the discretion of the judge, taking into consideration all relevant circumstances, especially the character and attributes of the defendant.

At the time the court considers the suitability of Community Service and during its subsequent implementation, a social service infrastructure must be available, properly financed and resourced, to ensure that the defendant will be adequately dealt with, supervised and assisted.

The laws or proposed laws making provision for Community Service normally provide limits on its duration and the time within which it is to be carried out.

If the defendant fails to carry out the Community Service, the situation of the defendant must be re-examined.

Notwithstanding the difficulties associated with the sanction of Community Service, the Commission considers that it is a useful form of punishment and recommends its adoption in those countries which do not have it.