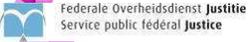


The use of local mediation during the COVID-19 crisis in the Brussels-Capital Region

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CONTEXT

- We present the results of a research on the use of local mediation during the COVID-19 crisis in the Brussels-Capital Region
- (short-term) Research conducted by a part-time researcher for 5 months
- (focused) Research conducted as part of a research project financed by the National Fund For Scientific Research (FNRS) and entitled “Municipal administrative sanctions in the context of anti-COVID measures: administration of criminal justice and respect of fundamental rights”
See the presentation of Christine Guillain and Diletta Tatti
- An other research is being conducted on local mediation (e.g. mediation following problems between young people and the police, and following laughing gas consumption...)
- Survey methods: questionnaires to the mediators and the municipal officers ; interviews of stakeholders



BACKGROUND



- In Belgium, the health crisis has led to the use of two forms of repression towards COVID-related offences : the criminal sanctions and the administrative sanctions
- At the beginning of the crisis there was a confusion about the division of the roles between the criminal authorities and the municipalities
- In Brussels certain municipalities took up the lead and set up municipal administrative sanctions
- In this context of confusion, some cases were referred to mediation, as alternative to the fine which is the main municipal administrative sanction
- After a while, the legislator decided that the fine would be the only legally permitted sanction for COVID offenses but in practice, the occasional use of mediation remained in place

LEGAL FRAMEWORK OF LOCAL MEDIATION

The Municipal Administrative Sanctions (MAS) are an instrument to sanction incivilities and disturbances of public order in the area of the municipalities

In the Brussels-Capital Region, two citizens' reactions were often problematic during the health crisis :

- The obligation to comply with orders from the police or other authorized officers (COVID offences)
e.g. social distancing, wearing a face mask, unnecessary displacements,...
- Refusal to comply with orders perceived as an aggression

In such cases, the police may consider themselves as victims of the offender's behavior.

LEGAL FRAMEWORK OF LOCAL MEDIATION

- The sanctioning municipal officer (MO) is in charge of the MAS and decides whether or not to send a case to mediation
- Conditions : an identified victim, recognition of the facts, free and voluntary participation
- Process : the MO sends the case to a specific mediator (independent of the MO)

Then, this mediator manages the process, negotiates a mediation agreement, verifies that the agreement has been fulfilled and informs the MO of the result

If the agreement is respected, end of the administrative (and penal) action

FINDINGS

- The use of mediation is locally very diverse
For example, the percentage of cases referred to mediation involving young people (14-17 years) reaches almost 60% in one police area but only 3% in another
- Low percentage of cases in which the offer of mediation is accepted
 - *On average, the mediation proposal is accepted in only 45% of cases*
 - *Local differences (between 31 and 68%)*
 - *Lack of understanding the reasons for non-acceptance (misunderstanding, negligence, preference for the fine...?)*
- The content of the mediation agreement is variable
 - *awareness of the norm*
 - *community service*
 - *apologies (orally or in writing),...*
- If the offender and the victim agree on a mediation agreement, the agreement is almost always respected

FINDINGS

- During the health crisis, the repartition of responsibilities between public authorities was unclear and the rules adopted were not always realistic, subject to interpretation and/or incomplete
Mediators did not always know what to do with the files they received; they sometimes had to improvise and act according to the "rules of art" of their profession, as they imagined them
- There was a lack of consultation and collaboration between the different authorities involved in the application of sanctions for COVID offences
 - For instance between the public prosecutor and the municipalities, or even between sanctioning municipal officers and mediators
 - This observation had already been made, but the situation worsened during the health crisis
- Mediators therefore had to improvise and adapt their work

This adaptation was **an opportunity** to strengthen the role of the mediator:

- Listening to the citizens, informing them, reinforcing citizen attitudes, raising awareness of living together...
- Reinforcing collaboration with other services in the municipality and with the municipal services
- Allowing citizens to participate in the crisis management within the framework of mediation and more specifically within community services
Obligation to work at the emergency call center, to make health masks or to distribute them, etc.

But at the same time the mediators were confronted with a **fundamental question**: did the context still make a mediation process possible?

For example, is it possible to 'connect' the offender and the victim through a screen? How to be attentive to each other's emotions when wearing a face mask?

No standard professional norms were adopted; each mediator had to improvise

CONCLUSION

A paradoxical situation:

- the role of mediators is to participate in the local prevention policy and to promote the concept of 'living-together', so there are an important resource in the management of crisis at the local level
- but they were an under-mobilized resource actor during the COVID-19 crisis

What place for mediation in the future?

It is still only thought as an alternative measure, whereas it should perhaps become the main way of conflict resolution at local level

Thank you for your attention!

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