

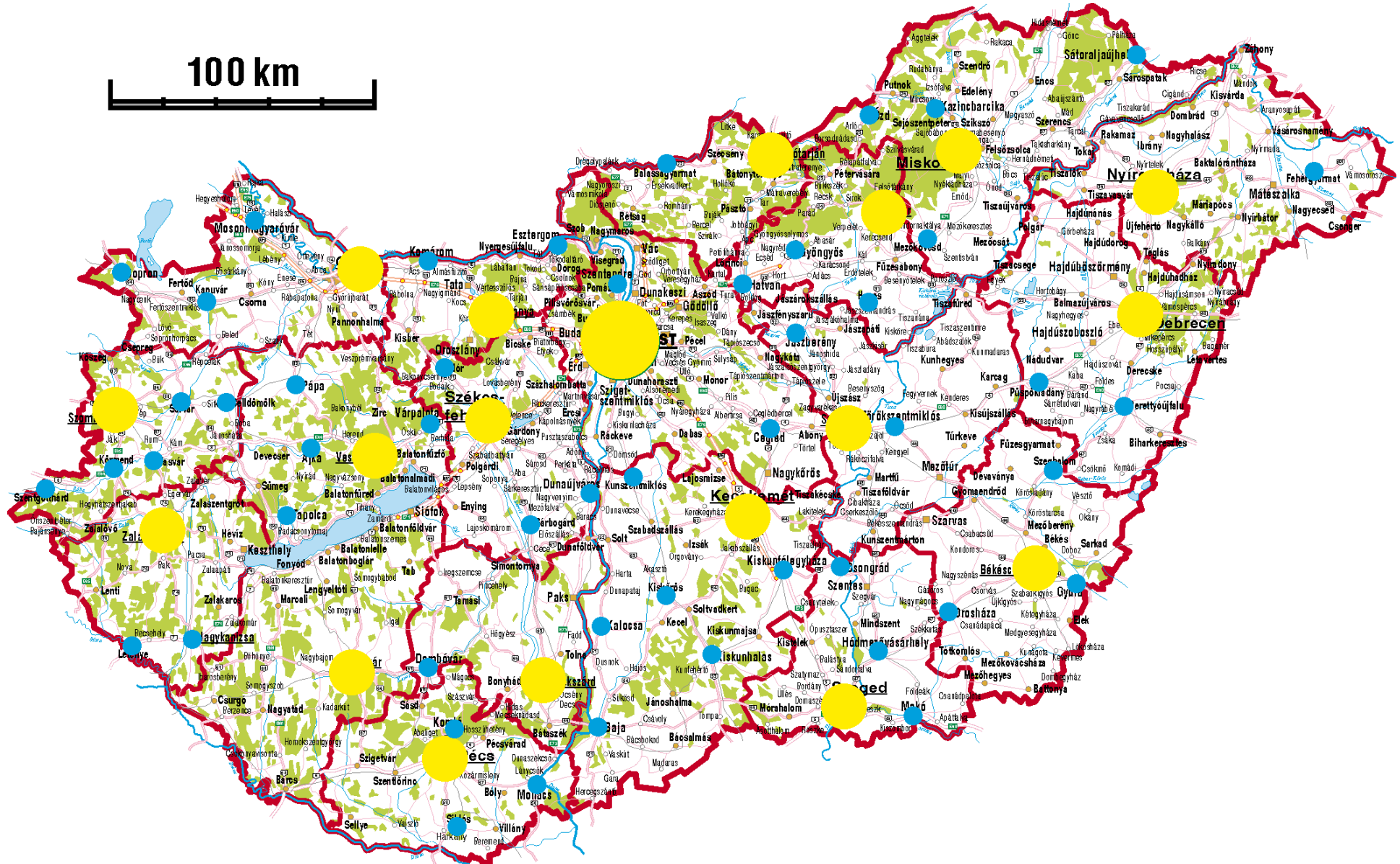
# Legal- and institutional framework of VOM in Hungary

**29 03 2012 Budapest**



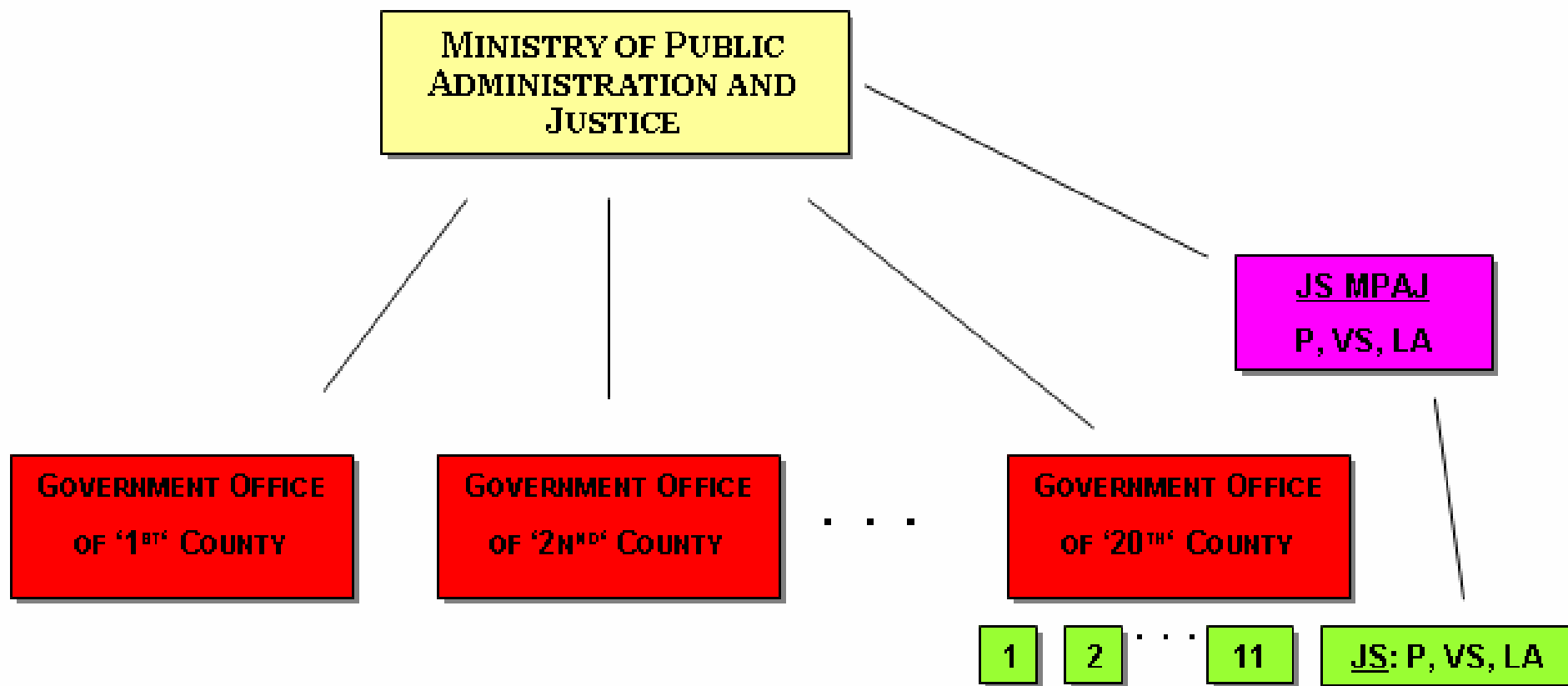
**Justice Service of  
Ministry of Public Administration and Justice  
Probation Department**

100 km



**Population: 10 million**  
**Management: 25**  
**Probation officers: 356**  
**Probation assistants: 60**

# Organogram from Jan. 2011.



# Hungarian Probation Directorate

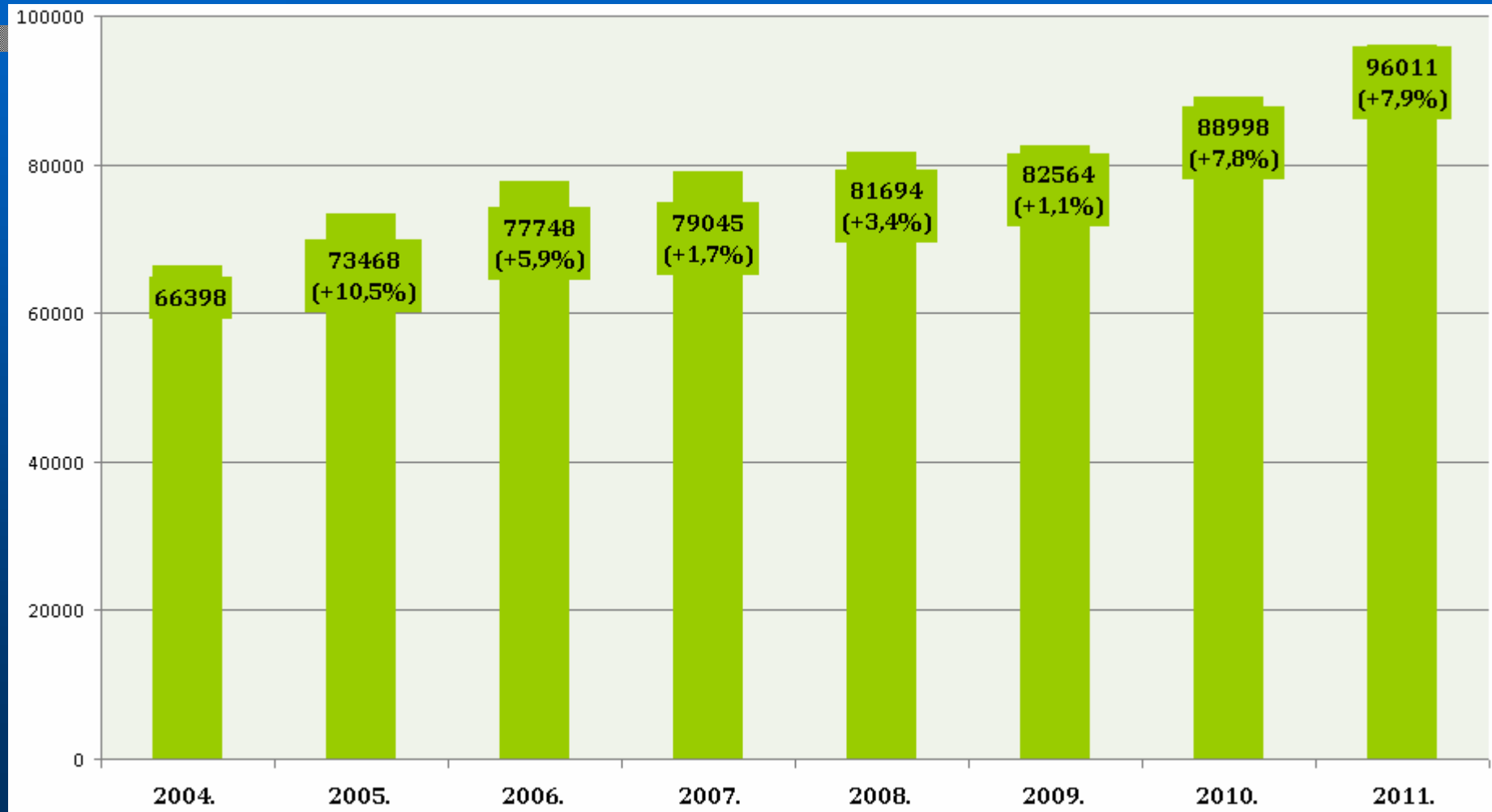
- Creating **professional standards** (2004, 2009)
- **Monitoring files**
- Liaison between Ministries & fieldwork
- Advice in policy making + regulation
- Writing and implementing bids
- International relations
  - European Forum for Restorative Justice
  - The European Organisation for Probation
- Maintaining the Probation Client Following System

# Mission

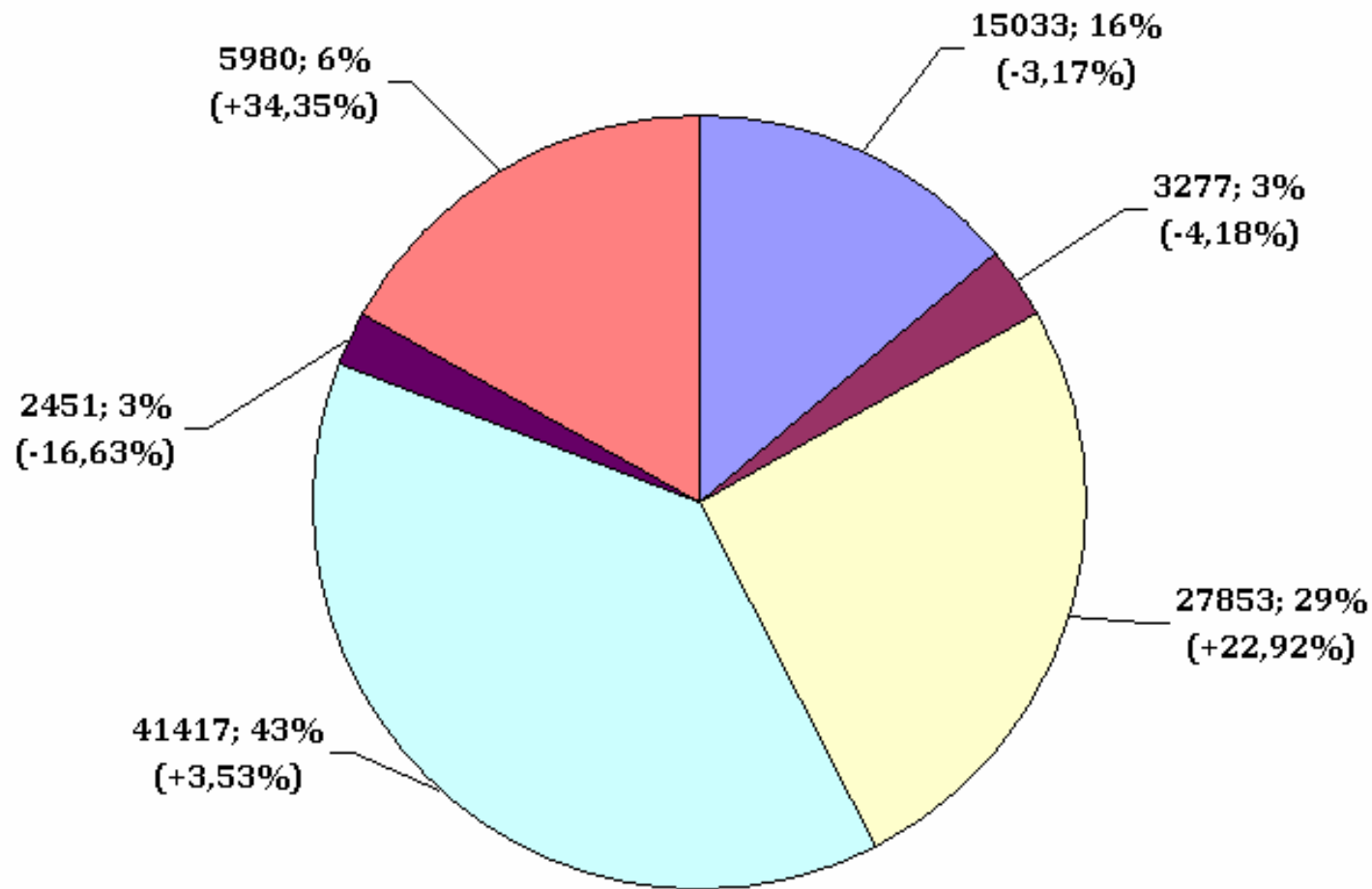
The objective of the Hungarian Probation Service is the reduction of the risk of re-offending. The Hungarian probation officer is charged with the application of community-based criminal sanctions. The work of the probation officer is to protect the public through the implementation of community supervision and the supervision of the offender. Through supervision and support, the probation officer re-enforces the potential for the re-integration of the offender into society.

The work of the Hungarian Probation Service is built on the principles of restorative justice. It aims to ensure that the perpetrator faces up to the consequences of their crimes by making good the damage caused through mediation between the offender, the victim and the community.

# All cases per year



# Types of the 96 011 cases in 2011



■ Social Inquiry Report

■ Pre Sentence Report

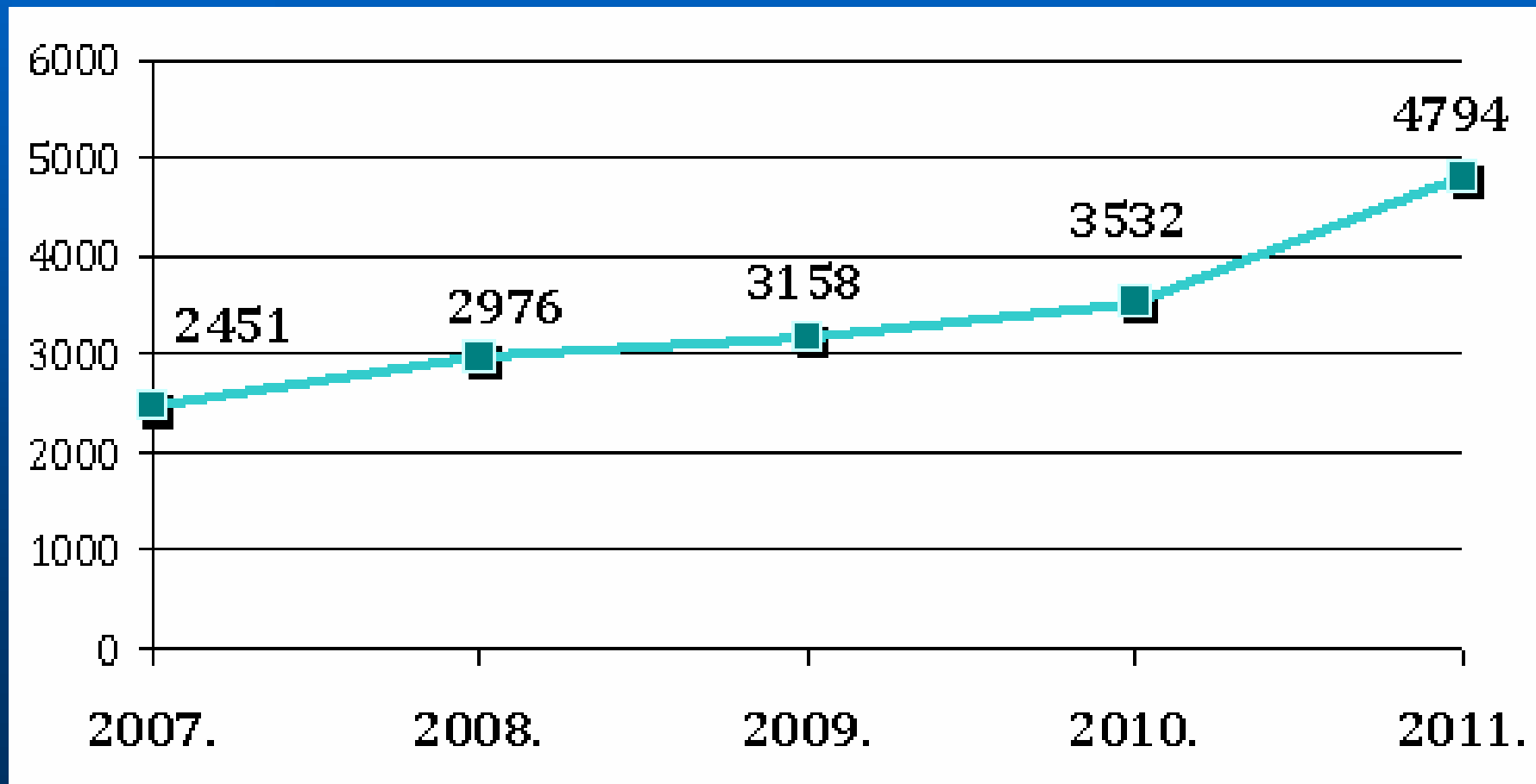
■ Community Service

■ Probation Supervision

■ Aftercare

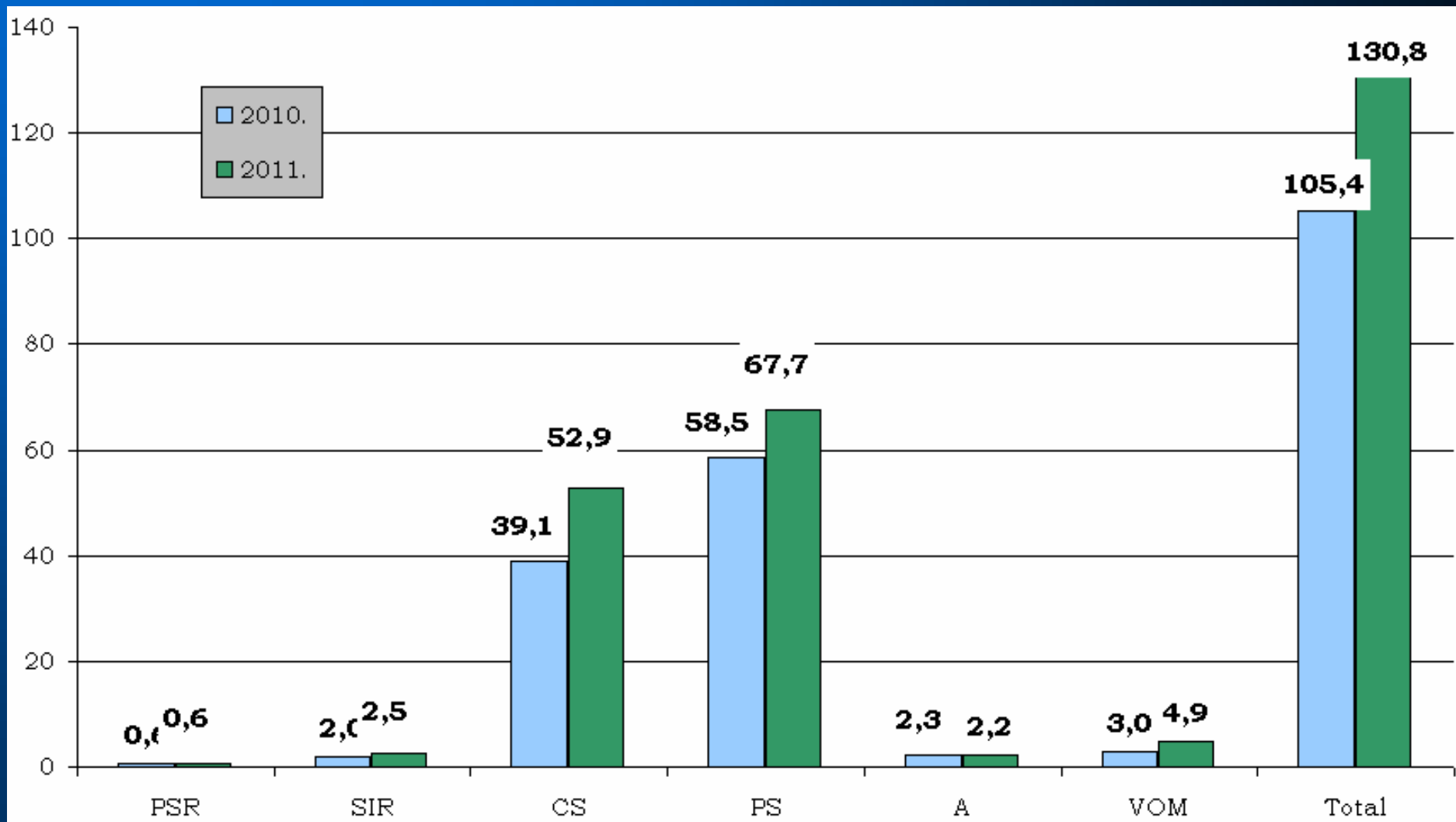
■ VOM

# Number of new VOM cases per year





# Caseload at the end of 2010, 2011



# Victim-offender mediation in Hungary

- Mediation in civil matters from 1992
- Mediation in criminal cases from 2007
- Helps the victims to express their interests
- The most important restorative justice tool in the criminal procedure

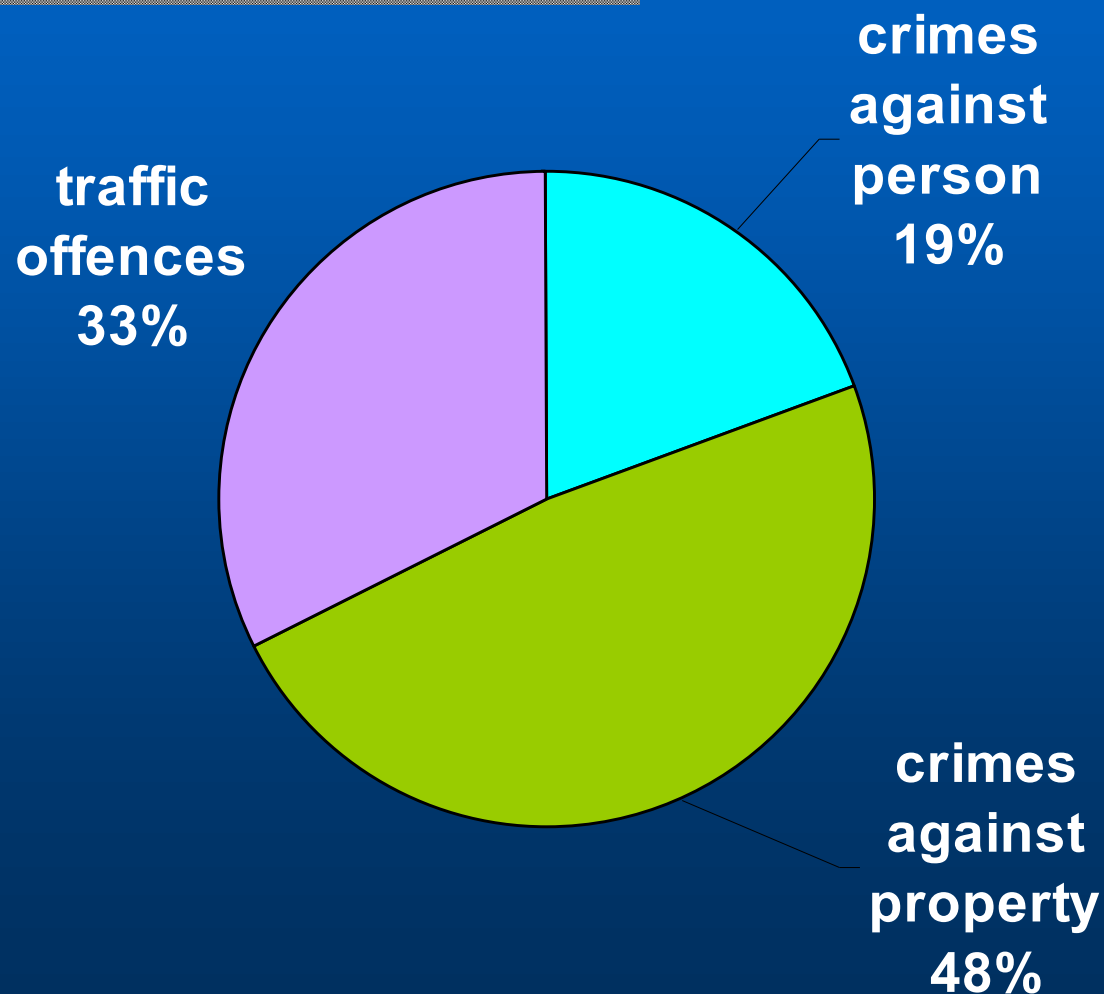
# Legal framework of VOM

- European Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA)
- The National Strategy of Community Crime Prevention
- Law 2006/LI. on the modification of the Criminal Procedure Act and the Criminal Code concerning the introduction of the mediation in criminal matters
- Law 2006/CXXIII. on mediation in criminal cases (Mediation Act)
- Decrees (on the special tasks concerning the procedure of mediation in criminal proceedings, on the professional requirements concerning mediators working with penal cases)

# Conditions of application of VOM

- VOM is applicable in case of **juveniles** (14-18) and **adults** too.
- **General conditions:**
  - crimes against person, or
  - crimes against property, or
  - traffic offences
- if the maximum penalty possible **not exceed 5 years imprisonment,**
- and the perpetrator **plead guilty** during the investigation.

# Percentage of the different types of offences referred to VOM in 2011



# VOM is not applicable

- If the act caused **death**
- If the perpetrator was special or multiple **recidivist**
- In case of **organised crime**
- If the perpetrator was under the term of **another sanction**
- Successful **mediation** in the **previous 2 years**

# Who and when refers a case to mediation

## Public prosecutor

*ex officio*, or upon the request of the accused, the defense attorney or the victim

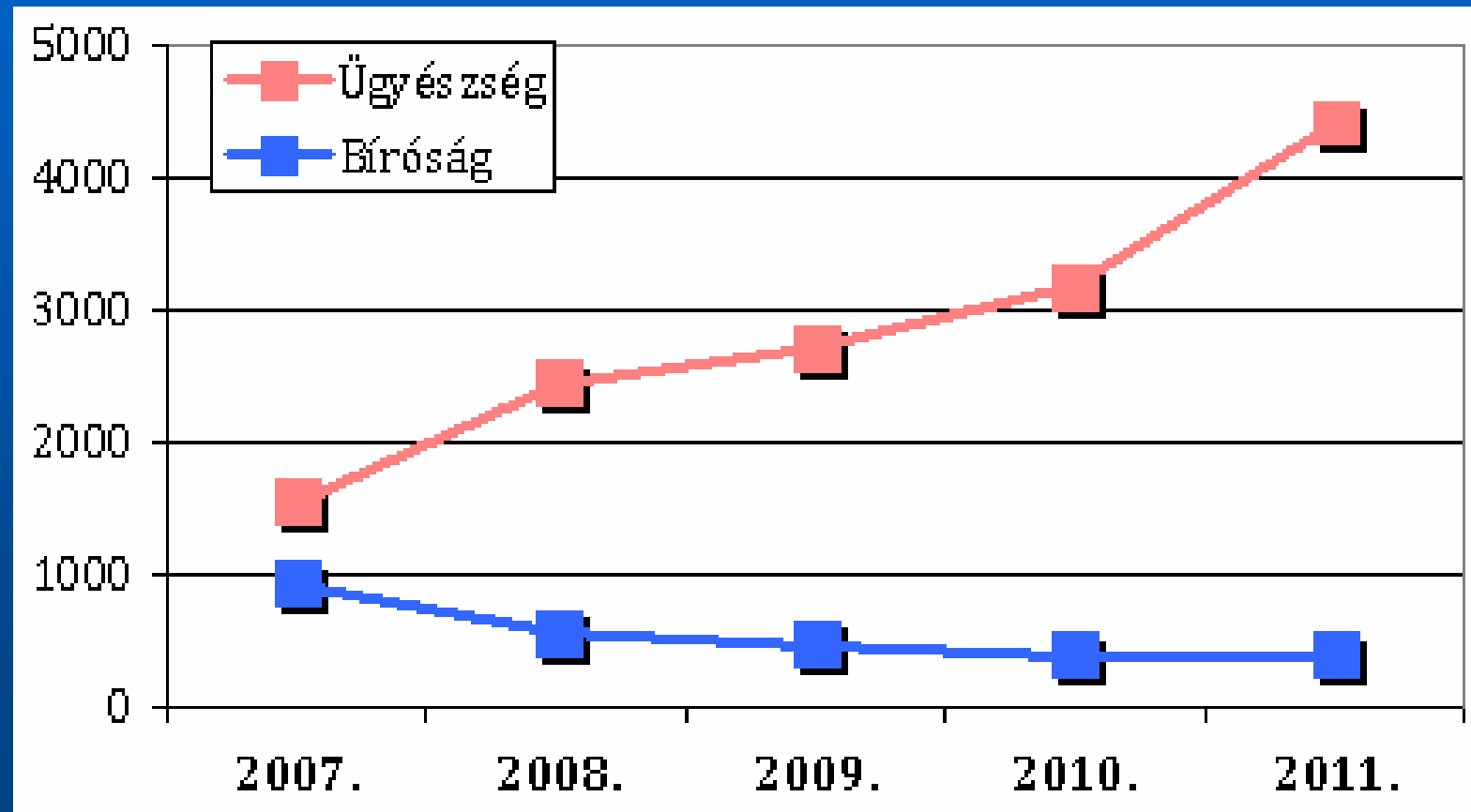
Diversiónary effect

## Judge

upon the request of the accused, the defense attorney or the victim (not *ex officio*)

In the pre-sentence phase until the sentence on the first instance

# Cases received from referring bodies





# Conditions examined by the referring body

- the offender plead guilty during the course of investigation;
- the offender has agreed and is able to give restitution for the harms caused for the victim;
- the offender and the victim have agreed to participate in the mediation proceedings, and
- in view of the nature of the crime, the way it was committed and the offender's personal circumstances, court proceedings are not required, or there is substantial reason to believe that the court will take into account the offender's contrition as a mitigating circumstance (Criminal Procedure Act, art. 221/A (3))

# Who are the mediators

- Probation officers – around 58 person

*Training, beside another tasks*

- Attorneys (lawyers) – 10 person

*Training, contract*

**For both group: mentoring and supervision  
IN THE PAST**

# Procedure of mediation in criminal cases

Offender and victim gets **information** on VOM – from police, probation officer, lawyer etc.  
Initiative for mediation



After hearing (from 2011 it is not obligatory) the offender and the victim, and having their consent, the **public prosecutor** or the **judge** can order the **suspension of the criminal procedure** and refer the case to mediation.

(length of suspension of the criminal procedure is up to **6 months**)



1.

After receipt of the above mentioned order, **the mediator contacts** the offender and the victim. Within **15 days** it is obligatory to arrange a date for the first meeting, and invite the parties to it.

**Mediation** between the offender and the victim **takes place**. When they have reached an accord on the form and details of the restitution (at the end of the meeting, or after several meetings), the mediator edits the document of **agreement** which will be **signed** by him and by the parties.

**Fulfillment** of the agreement.  
This date (or the fulfillment of the first installment) means the legal end of the VOM, although the mediator has further tasks to do.

In 15 days after the closure of the VOM, the mediator sends a **report to the prosecutor or judge** on the procedure, and also sends the agreement to him.



After the VOM proceeding, the **mediator looks after the fulfillment** of the obligations described in the agreement.  
If the offender didn't perform his/her obligations or the victim's behavior hindered the fulfillment, the mediator report this to the prosecutor or judge.



The **prosecutor or judge decides** about the application of 'voluntary restitution' article of the Criminal Code.

# Effects of the successful mediation on the criminal procedure

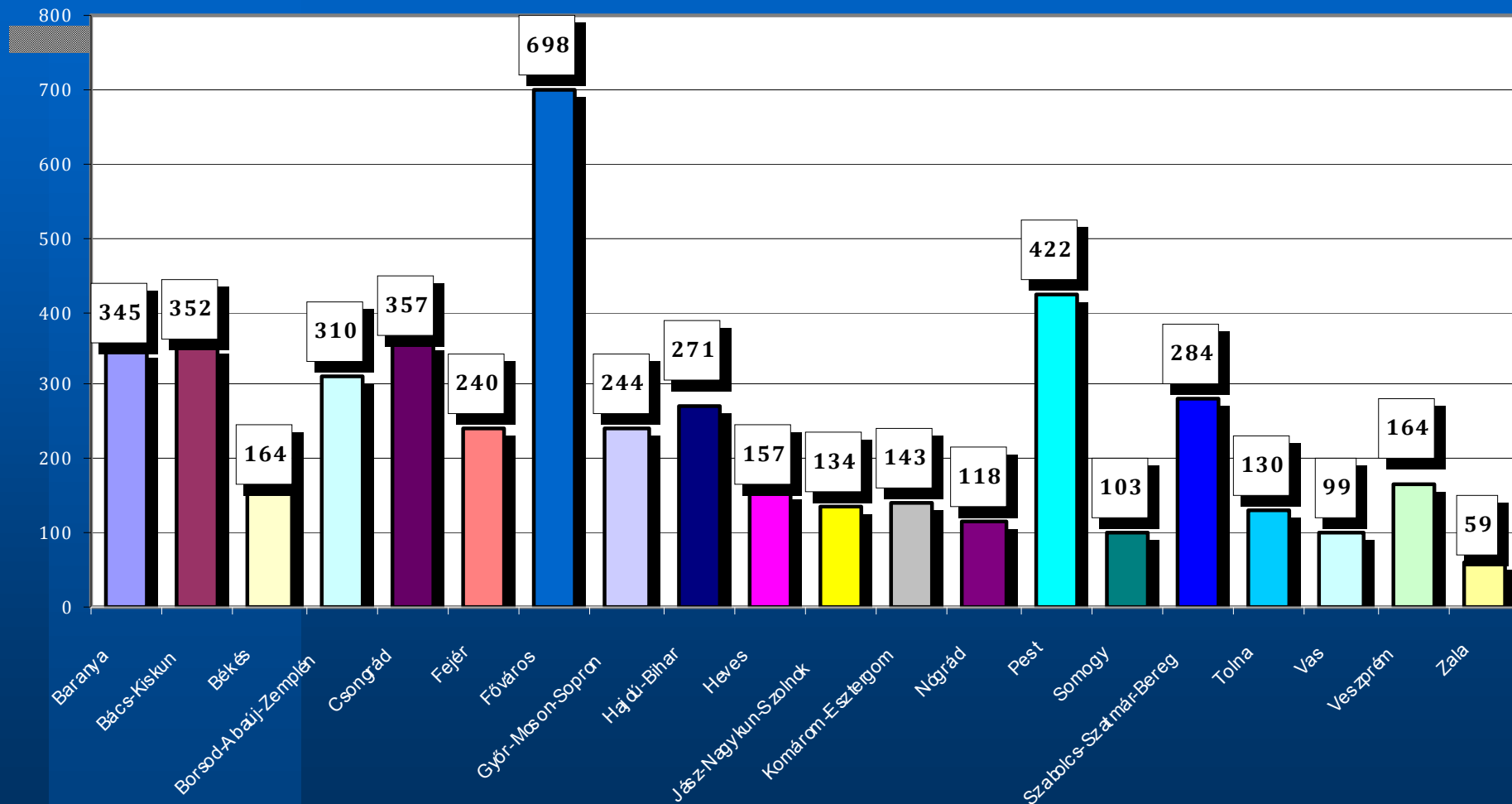
Successful: the agreement had been completely fulfilled

<i>Effect of VOM</i>	<i>Adult</i>	<i>Juvenile</i>
<i>Possible punishment by the law: <b>max. 3 years imprisonment</b> or not intentional crimes punishable up to 5 years imprisonment</i>	<b>Case is closed</b>	<b>Case is closed</b>
<i>Possible punishment by the law: <b>3-5 years imprisonment</b> (intentional offences)</i>	<b>Reduced punishment</b>	<b>Case is closed</b>

# Some other important characteristics of VOM in Hungary

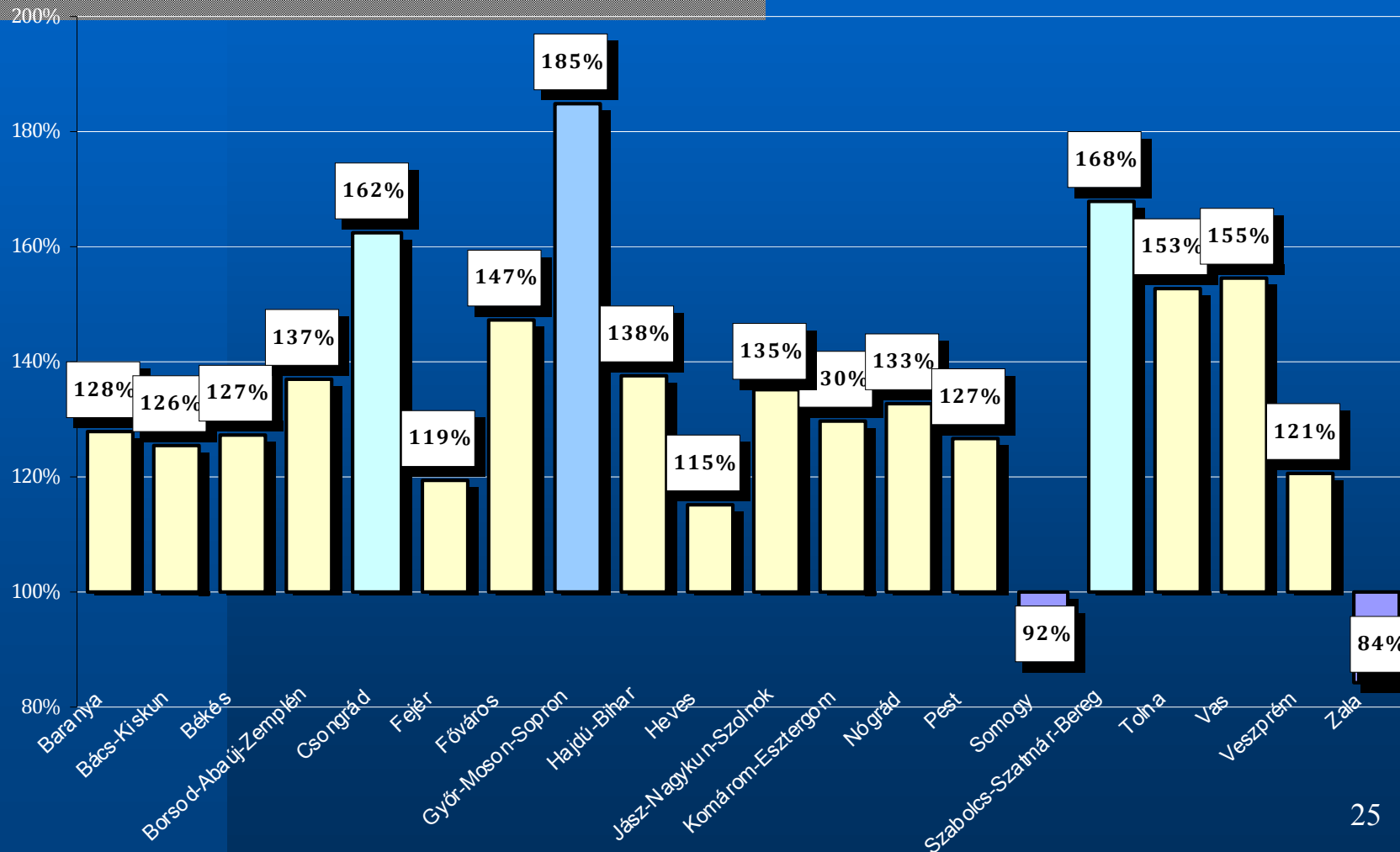
- There are no cases when the referral to mediation is obligatory
- It is a free service for the parties
- Legal entity also can be a victim
- Method used is direct mediation with the participation of the offender and the victim - transformative mediation
- Any form of restitution is accepted that are not against the law or public morals – depends on the victim's need

# Number of cases in each county in 2011

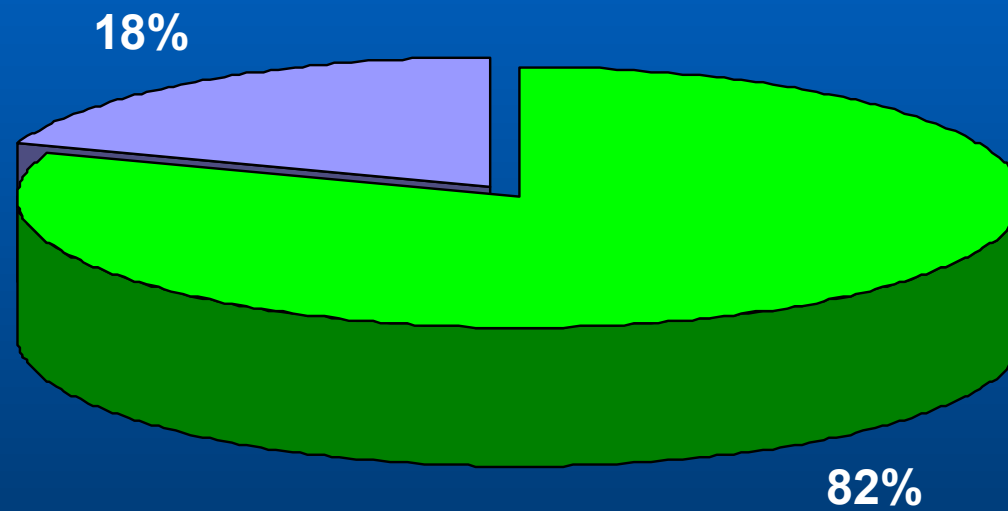




# Grows in each county in 2012

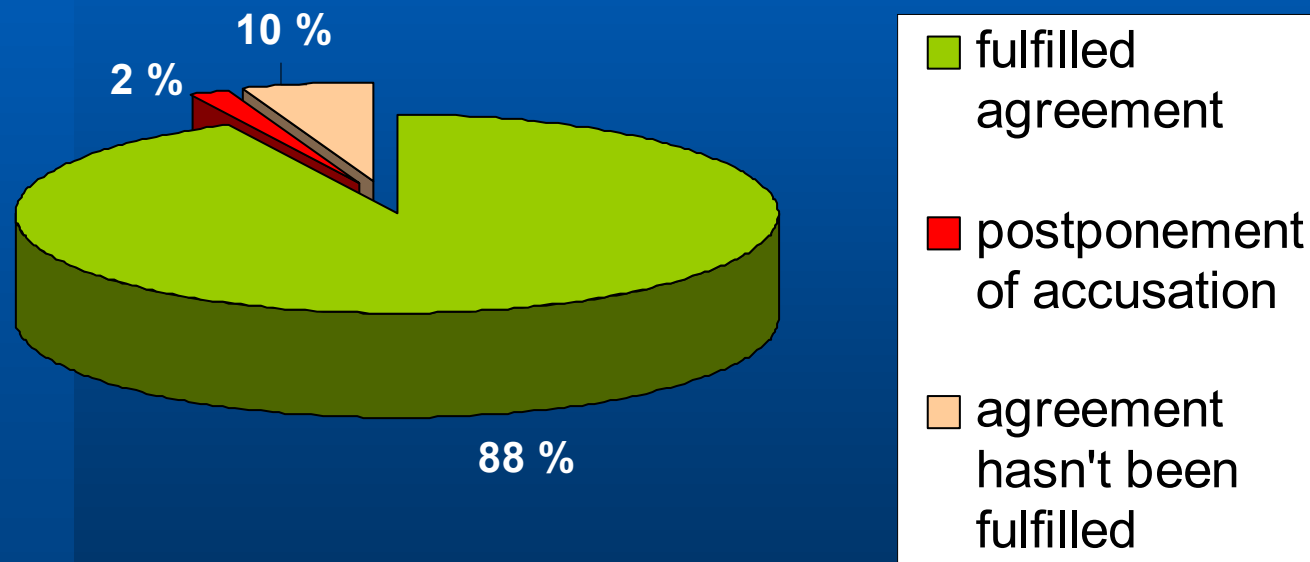


# Percentage of agreements in cases terminated in 2011 (N=3950)



■ agreement has been reached ■ no mediation or no agreement

# Percentage of fulfillment of the agreements in 2011 (N=2965)



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# Thank you for your attention!

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