

# Restorative Justice in Europe

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# Overview

- Bird's eye view of RJ across Europe
- EU draft Directive on Victims
- Questions for discussion

# A Bird's Eye View Over Europe

- Belgium, the Netherlands, Finland & Sweden offer a comprehensive legislative foundation and service provision for adult RJ at the stages of pre prosecution, pre-trial, pre-sentence, (sentence alternative in Netherlands) and post sentencing.
- After that most countries have some form of legislation that gives the prosecutor power to divert cases from court at the pre prosecution stage.
- Most EU member states consider RJ appropriate as diversion from court for lesser & youth crimes



# A Bird's Eye View Over Europe

Some innovative practices on the edges

- RJ and domestic violence
- RJ and crimes of sexual abuse
- RJ in prisons
- RJ in schools

# What is restorative justice?

## *Restorative process*

A restorative process is any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator.

**Handbook on Restorative Justice Programmes, UNITED NATIONS, New York 2006**

# What is restorative justice?

“Restorative justice is a victim-sensitive response to criminal offending, which, through engagement with those affected by crime, aims to make amends for the harm that has been caused to victims and communities and which facilitates offender rehabilitation and integration into society.”

(Final Report of National Commission on Restorative Justice,  
December 2009)

# What is restorative justice?

'restorative justice services' means services which have as their objective to bring together the victim and the accused with a view to reaching a voluntary agreement between them on how the harm arising from the offence can be addressed;'

Chap 1, Article 2 – Definitions para e) 18 May 2011

## What do we know about RJ?

“Restorative justice, which is a relatively new concept in criminal proceedings, goes beyond purely financial compensation to focus on the recovery of the victim. As an alternative to, or in combination with formal justice, it aims to restore victims to the position they had before the crime by giving them, if they so wish, an opportunity to confront their offenders face to face and for the offender to take responsibility for their acts

## Article 11

The purpose of this Article is to ensure that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process. Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm to the victim and avoiding further harm.

## Article 11

- (a) mediation or restorative justice services are used only if they are in the interest of the victim, and based on free and informed consent; this consent may be withdrawn at any time;
- (b) before agreeing to participate in the process, the victim is provided with full and unbiased information about the process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement;

## Article 11

- (c) the suspected or accused person or offender must have accepted responsibility for their act;
- (d) any agreement should be arrived at voluntarily and should be taken into account in any further criminal proceedings;

## Article 11

(e) discussions in mediation or other restorative justice processes that are not conducted in public are confidential and are not subsequently disclosed, except with the agreement of the parties or as required by national law due to an overriding public interest.

# Article 11

2. Member States shall facilitate the referral of cases to mediation or other restorative justice services, including through the establishment of protocols on the conditions for referral

## Article 24

The purpose of this Article is to establish training requirements for public officials who come into contact with victims...

Additionally, this article ensures that those providing victim support or restorative justice services should also be trained to an appropriate level such that they treat victims in a respectful and impartial manner and provide their services to professional standards.

## Article 24.3

Member States shall take measures to ensure that those providing victim support and restorative justice services receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.

## Article 24.4

In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall as a minimum include matters relating to the impact that crime has on victims, the risks of intimidation, repeat and secondary victimisation and how these can be avoided and the availability and relevance of support to victims.

# Will the Directive help or hinder RJ?



## Will the Directive help or hinder RJ?

Due to the unique perspective restorative justice takes on crime, we need to take account of the possibilities and advantages of a separate EU legal instrument to support its widespread use across Europe.

## For more information

- **European Forum for Restorative Justice**  
[www.euforumrj.org](http://www.euforumrj.org)

## Questions for discussion

- What do you think of the definition RJ?
- How do you measure up to the safeguards?
- Is a safeguard a standard?

# Sources

***Restorative Justice: an Agenda for Europe, The Role of the European Union in the Further Development of Restorative Justice.***

Jolien Willemsens, European Forum for Restorative Justice, Leuven 2006

***Guidelines for a better implementation of the existing Recommendation concerning mediation in penal matters*** – Council of Europe; EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE(CEPEJ); Strasbourg 7 December 2007

**Project Victims in Europe**, APAV for VSE, Lisboa 2009

**“Proposal for a  
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
establishing minimum standards on the rights, support and protection of victims  
of Crime”** European Commission Brussels 18 May 2011