




**mediante**  
Service de médiation  
entre auteurs et  
victimes d'infraction

# RJ legislation in Belgium

## The “*making of*”

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- 1. Key points of the legislation**
  - 2. The stakes of the prior pilot projects**
  - 3. Methodological requirements for achieving a fully RJ legislation**

## I. KEY POINTS OF THE LEGISLATION

- 1) Mediation is defined **as a communication process** that aims at dealing with the consequences of a crime and addressed **to all the parties involved.**

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- 2) Mediation is considered **as a service or even a right** which **has to be offered** at each stage of the criminal procedure **regardless of the seriousness or the type** of the offence.

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- 3) Mediation is carried out **in parallel** with the judicial procedure **without any predefined or automatic influence** on it,

but **not disconnected** from it.

## I. KEY POINTS OF THE LEGISLATION

- 4) The parties have a **direct accessibility** to the mediation service without any restriction from a judicial authority.

Which implies that the prosecutor **is obliged to release the details** of any person involved in the case at the request of the médiateur.



**How did we manage to achieve such a  
maximalist legislation?**

## II. THE STAKES OF THE PILOT PROJECTS

- **A local experience** started in the early nineties in **the juvenile field** , followed by a **national pilot project in the adult field in 1998.**
- Both experiences aim at exploring the possibilities of extending **mediation to more serious crime**



## II. THE STAKES OF THE PILOT PROJECTS

- Exploring the feasibility of mediation in serious crimes amounted to finding the way of better addressing **the victim's needs**.
- Which does **not mean promoting a victim-oriented approach** of RJ.
- But **victim specific position in RJ** proves to be **a key factor of its feasibility**

## II. THE STAKES OF THE PILOT PROJECTS

### Why is the victim a key factor ?

#### At an individual level:

- **More self evident for the offender**
- **Fear of being manipulated for the victim**

## II. THE STAKES OF THE PILOTS PROJECTS

### Why is the victim a key factor ?

#### At a political level

- Historically in most countries, RJ principles led to implementation of **offender-oriented legislations**:
  - ✓ In the juvenile justice system for **educational purposes**
  - ✓ In the adult justice system for **diversionary purposes**
- In both cases legislations were limited to **less serious crimes**

## II. THE STAKES OF THE PILOT PROJECTS

### Why is the victim a key factor ?

#### At a political level

#### Paradoxical perception of RJ

by **victims support** bodies and **policy makers**:

- **Something to be wary of because of a risk of further victimization**
- **Which contradict one of the core principle of RJ**

## II. THE STAKES OF THE PILOT PROJECTS

### Why is the victim a key factor ?

#### At a political level

**Wrong options** in legislations taken by policy makers because of **misleading concerns** on victims protection.

- Providing that a **judicial authority has to control the suitability** of any mediation request.
- A severe and pointless control of the **offender profile screening** (sincerity, remorse...)
- Mediation **only allowed** at the **request of the victims**
- RJ **completely outside of the CJS** to avoid any judicial benefit for the offender

### III. METHODOLOGICAL REQUIREMENTS FOR ACHIEVING A FULLY RJ LEGISLATION

- Considering the restorative dialogue as tool of helpful communication **offloaded of any predefined (rosy..) content.**
- Exploring all the possible victims needs even if some of them **do not sound very 'restorative'**
- A specific approach when **the request come from the offender.**



### III. METHODOLOGICAL REQUIREMENTS FOR ACHIEVING A FULLY RJ LEGISLATION

**Sorry!**

**Surely no time enough to develop all these points..**

**But available for further details ...**

**THANK YOU**