

# Legislation as a tool to implement restorative justice

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# Legislation and development of RJ

- Top down or bottom up development: what was there first, the practice or the legal framework



# Levels of legislation

## International documents

- Binding (EU)
- Recommendations (CoE, Council of Europe)

## National legislation

- Laws (crim. Codes, separate law on RJ)
- Decrees, circulars, standards
- Codes of practice

# What can the legislation cover

- Permissive or mandatory legislation
- Depends also on the legal culture
- Framework or more detailed rules on the process (possible negative effects such as excluding cases etc.)
- Sometimes conflicting with criminal justice principles (e.g. presumption of innocence, proportionality)
- Can define organizational and institutional framework

## Possible benefits of legislation

- Provides more legitimacy to restorative practices
- Encourages more wide and consistent application
- Ensures equal access to justice
- Establishes restorative practices as part/connected to the crim. just. serv.
- Guides and encourages referring bodies (police, prosecutors, judges)

## BUT...

Legislation on its own is not enough - legislation needs to be implemented, evaluated, reviewed.

Questions on professional attitudes, awareness on restorative justice, the quality of services, cooperation of justice agencies or stakeholders, training of practitioners, professional development are not solved by legislation necessarily...

## To discuss:

- 1. state of affairs in your country – most pressing questions regarding legislation
- 2. what would be a desired development
- 3. what can you do to move things forward/what help you would need from outside (and from whom)

# CONTACT US

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