



Newsletter of the European Forum for Victim-Offender Mediation and Restorative Justice

Editorial

With some probability the UN Crime Commission will adopt the draft resolution on basic principles on the use of restorative justice programmes in criminal matters during the UN-Crime Conference in April 2002 in Vienna, after which it will be proposed for final adoption by the UN. This encouraging news was brought back from Ottawa by Christa Pelikan, member of the Board of the European Forum. She participated there - as observer for the European Forum - in an expert meeting which prepared the final draft of the resolution. Christa's account of the expert meeting in this newsletter shows that there might be a more typical 'European' conception of RJ which is not readily accepted in other parts of the world with their own legal, social and political backgrounds.

That political and legal backgrounds play an important role in the shape RJ takes and can take also became obvious during the RJ conference the Academy of European Law Trier organised in Belfast in October 2001. A report on this conference as well as on the conference of the Nordic Forum for Mediation in Denmark can be found in this newsletter.

Victim-offender mediation in Slovenia

Following the establishment of a number of pilot projects, Slovenia has implemented a nation-wide programme of victim-offender mediation (VOM) in 2000. Art.101.a of the Code of Criminal Procedure (CCP) (Official Gazette of RS 72/98) provided for the introduction of a so-called alternative to resolving petty criminal cases. This means that disputes caused by a criminal offence can be resolved with the help of a neutral and independent mediator under express written agreement of both parties.

In 2000, after thorough preparations and education of state prosecutors and mediators, the State Prosecutor's Office started assigning cases to VOM. This was done according to the General Instruction on Conditions and Circumstances for assignment of criminal reports to be dealt with under the victim-offender mediation procedure, issued by the General State Prosecutor (Official Gazette of

In our series on different European countries, Alenka Mezmar presents how VOM has been introduced in Slovenia. After the earlier reports on the Czech Republic and Russia, it becomes all the more clear that (also) in the field of RJ things are moving in Eastern Europe.

It is therefore with all the more pleasure that we can announce the next conference of the European Forum for VOM and RJ to be held in Bucharest (Romania) on October 10-12, 2002. The main theme of the conference will be the relation of RJ to the criminal justice system. During this conference the annual general meeting will be held, at which part of the Board will be renewed. Further in this newsletter you can find information about all these European Forum activities. Soon more details will be posted on the new web site the Secretariat of the Forum has developed.

I wish you very pleasant reading and hope that you will not hesitate to send us information on developments, activities and literature in your country so that we can make it available to your European colleagues.

Katrien Lauwaert

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RS 49/99).

Such a way of resolving criminal cases provides for the involvement of the persons between whom a dispute arose, which are the ones who should have the greatest influence on how the dispute should be resolved. A mediator advises the parties about the process and the objectives of the mediation proceedings. He/she facilitates the negotiations and proposals on how the consequences of the offence should be addressed, and helps the parties to conclude an agreement, which must be in proportion with the seriousness of the committed criminal offence, and its effects on the victim.

To date, we have been very satisfied with the results after one year of activity. The number of assigned cases exceeded the objective set at the beginning of the year, and the projected figures for the number and percentage of successfully resolved cases were also met. The

total number of cases dismissed after successful mediation means at least 837 court hearings less, which represents the caseload of almost five judges of the local courts.

Table 1: Number of all cases referred to mediation, successfully resolved cases, unsuccessfully resolved cases and unresolved cases (by persons) in 2000.

Assigned cases	2238
Successfully resolved cases	837
Unsuccessfully resolved cases	911
Unresolved cases	490

Of all cases concluded in the year 2000, 48% were successfully and 52% unsuccessfully resolved. In the context of what is a relatively new service, and one which the main stakeholders i.e., the parties to the proceedings and the mediators, are still familiarising themselves with, we believe that these results can be regarded as satisfactory.

Table 2: Percentage of cases dismissed after successful mediation in the total number of dismissed cases in 2000

Total number of dismissed cases	11,128
Cases dismissed after successful mediation	837
% in total number of dismissed cases	7.5%

One of the objectives we wanted to achieve by assigning cases to VOM is to reduce the number of petty cases tried in court. On the state level 837 cases were resolved successfully through mediation, which led to dismissal of the case. This figure represents 7.5% of all dismissed cases in 2000. We estimate that this percentage will increase in the future. This could be achieved by a more careful selection of cases, by training of the mediators and by informing the public and the parties of the benefits of such proceedings.

Table 3: Duties deriving from achieved VOM agreements in 2000 in %

Apology	41.5
Compensation for damage	34.6
Apology and compensation for damage	10.7
Restitution	4
Work for the victim's benefit	2.2
Work for the benefit of others	0.0
Other (withdrawal of the victim's request to prosecute in case of offences in which prosecution is only possible at the victim's request)	7

The type of restoration/reparation deriving from successful mediations is a reflection of the type of criminal offences involved. An apology is the most frequent outcome. Quite a high number of cases concern property damage. As a result compensation for damage is the next highest outcome, followed by a combination of an apology and compensation. Considering the very low percentage of the other types of agreements and outcomes, it may be necessary for the mediators to work with the parties to explore alternative outcomes and ones that are more practical and potentially viable. Some prosecutor's offices report that the agreements involving "work for the victim's benefit" and "work for the benefit of the community" can meet obstacles. There are technical problems regarding the insurance of those performing those duties and there is not enough personnel to follow up the exe-

cution of the agreement. Withdrawal of the victim's proposal is also an identified difficulty within the process.

A statistical report on the reasons for unsuccessful VOM does not exist, but District Prosecutor's Office reports and VOM records demonstrate that in 80% of the cases the reasons for an unsuccessful VOM are twofold: failure to respond to the mediator's invitation, and failure to give one's consent to participate in VOM. We believe that in this respect it will be necessary to improve our approach to informing parties and the public about the VOM process and its advantages. It is our intention to make such information available to parties in police stations, courts and as an attachment to the initial invitation to participate.

Table 4: The most frequent criminal offences (according to the Criminal Law Act) assigned to VOM in 2000

Criminal offences	% in total assigned cases
Simple assault	14
Endangering, fighting or quarrel	3
Endangering safety	11
Maltreatment	4.5
Theft	17
Fraud	6
Damage to property	11.5
Other offences	33

As might be expected prosecutors often decide to assign criminal reports to VOM in cases where a victim's personal integrity is attacked. With regard to property offences, theft of, and damage to property are the most frequent referred cases. These types of referrals are the ones proving to be most successful. In case of fraud, the number of unsuccessful attempts is above average. This appears to be connected to the specific type of offence and to the profile of the offenders - who often fail to comply with the agreements concluded. Apart from the aforementioned offences, we noticed quite a variety of offences from the jurisdiction of local courts. The types of offences that appear most rarely in front of the prosecutor appear to be deliberately referred and these cases are often successful, i.e., individual cases of violation of fundamental rights of workers (art.205 of the Criminal Law Act (CLA)), destruction of forest (art.341 CLA), causing damage to others' rights (par.2, art.229 CLA), unlawful deprivation of liberty (art.143 CLA), violation of inviolability of residence (art.152 CLA), squatting (art.228 CLA). Otherwise the picture of the offences dealt with is the same as in other European countries.

Under art.11 of the Instruction, the State Prosecutor's Office is obliged to organise compulsory training for mediators. An Introductory Training Course started in December 1999. 259 applications were received from individuals wishing to practice as volunteer mediators. Of the 259, 12 already had the appropriate training or credentials, and 182 attended the training. The course covered all the subjects included in the training of mediators throughout Europe (theoretical basis, content of the criminal information, conflict resolution skills, negotiation and communication).

In December 2000, the results of the evaluation of the past years work was made available to the mediators. Areas were identified where improvement and refinement could be made. Issues with regard to aspects of ethical and civil disputes were also addressed, and a lecture on dealing with stressful situations was provided. Over the year 2000, the 194 mediators received an average of 8.6 cases each, and received a remuneration of 7,787.00 SIT (about 35 Euro) per case.

In 2000, the State Prosecutor's Office pursuant to Art.37 of the Instruction, established a Supervisory Board to supervise the work of the mediators. 4 mediators were examined due to irregularities and serious deficiencies in the implementation of the VOM process. It was proposed that three of these 4 should be removed from the mediators panel. The Supervisory Board also made a regular

Election to the Board

This year three of the current Board members must, according to the Constitution, stand down (Art.31). At its meeting in Leuven on 20 September 2001, the Annual General Meeting (AGM) appointed a Selection Committee to assist in the process of seeking nominations for election at the AGM in October 2002.

The purpose of this message is to advise you of the procedure for making nominations, and of the criteria that the Committee, on the Board's advice, will take into account when finalising the list of nominees. It should be emphasised that the Committee does not seek to veto any nominations; rather, should it appear that the nominations made do not adequately meet those criteria, it will seek to make further nominations. Election is entirely a matter for the AGM.

Date for nominations

All nominations must be registered with David Miers (Cardiff University Law School, Museum Avenue PO Box 427, CF10 3XJ Cardiff, UK, e-mail: miers@cardiff.ac.uk) by noon on 1 June 2002.

Procedure for nominations

Each nomination must be supported by a proposer and a seconder. To remind you, the Constitution provides (art.28) that Board members are elected from and by the full members, and (art.29) that proposers and seconders must themselves be full members.

No particular form or words need to be used, but the following must be clear:

- the name and e-mail or postal address of the proposer
- the name and e-mail or postal address of the seconder
- the name and e-mail or postal address of the nominee
- the written consent of the nominee
- the date on which the nomination is made

Once the date for nominations has passed, the Selection Committee will confirm the nomination with all three members.

The Selection Committee reserves the right to seek additional nominees, should it appear that the nominations made do not adequately meet the criteria set out below.

examination of 100 VOM records selected at random.

In December 2001, the Association of Slovenian Mediators was established. This is a non-governmental organisation of which all mediators in penal matters are members.¹

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Higher State Prosecutor's Office in Celje, Slovenia
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¹ Contact person for the Slovenian Mediators Association: Ms Jozica Trost Krusec, Podraga 82, 5272 Podnanos, Slovenia, phone +386 41 696 396.

Note: Recently the Slovenian Code of Criminal Procedure has been amended to allow VOM in all stages of the criminal procedure until the judgment has been passed by the court. Before this change the State Prosecutor could start a VOM procedure in a limited number of cases and only before the indictment had been filed.

Representativeness: criteria

In making their nominations, the Selection Committee encourages members to take into account the following criteria, as a means of ensuring a fair reflection of the various interest that constitute the Forum:

- representation in the Board by the Forum's different target groups (different professions)
- representation for the different countries, or at least the different regions in Europe
- representation of ethnic minorities, where relevant for the field of RJ and VOM
- gender balance

Considerations for nominees

Nominees must be aware that Board membership implies some real time investment, not just for its two meetings each year, but also between them. It may also involve some financial investment, as until now the Forum has not been able to pay all travel and subsistence costs.

Considerations for proposers

Proposers might care to bear in mind the qualities and characteristics of the two Board members who are definitely standing down. This may include the particular sub-committees of which they are members.

Name	Country	Profession	Committee
Tony Peters	Belgium	academic	finance
Jesús Trujillo	Spain	academic	research

The names, countries and professions of the other Board members are: Ivo Aertsen, Belgium, academic; Andrei Pascu, Romania, official; Robert Mackay, UK, academic; Torunn Bolstad, Norway, official; Christa Pelikan, Austria, researcher; Juhani Iivari, Finland, researcher, Martin Wright, UK, practitioner.

List of nominees

When distributing the agenda for the AGM (three months' notice), the Board will attach a list of the nominees and their proposers.

**Selection Committee
Regina Delattre, Daniel Jullion,
David Miers and Dagmar Rasmussen**

Readers' Corner

- *Restorative Justice and Civil Society*, by H. Strang and J. Braithwaite (eds.) (2001). In this book, the relationship between RJ and civil society is being considered, presenting debates and exploring ideas about who should 'control' RJ, the state or civil society. The book addresses aspects of civil society including schools, families, churches and private workplaces, social movements such as the women's movement, victims of crime and indigenous groups. It also considers broader theoretical and conceptual issues such as democracy, human rights, access and equity. Available from Cambridge University Press at www.cambridge.org.
- *Restorative Justice and Responsive Regulation*, by J. Braithwaite (2002). In his new book, Braithwaite brings together his earlier work on responsive regulation, which tended to focus on areas of business regulation, and his more criminal law oriented work on RJ. Both theoretical approaches are integrated, in a way that makes the whole concept relevant to the governance of the legal system, but also to the fields of education, economy and international relations. 'Passionate about the normative and dispassionate about the empirical', the author builds the different chapters of his book towards a comprehensive picture of the potential of RJ. Available from Oxford University Press, www.oup.com.
- *Restorative Justice for Juveniles. Conferencing, Mediation & Circles*, by A. Morris and G. Maxwell (eds.) (2001). This book describes the practice of restorative justice with respect to young offenders in a number of jurisdictions. Research findings on conferencing, VOM and circles are presented. Critical issues for the future development of RJ are identified. Two main themes run through the collection are the potential of restorative processes to transform criminal justice processes and the potential for aboriginal and indigenous communities to impact on conventional processes. Available from Hart Publishing at www.hartpub.co.uk.
- *Restorative Community Justice: Repairing Harm and Transforming Communities*, by G. Bazemore and M. Schiff (eds.) (2001). This book consists of a collection of papers considering what are for the most part critical and unresolved issues over practice, theory and implementation in the context of core principles of restorative community justice. Available from Anderson Publishing Co at www.andersonpublishing.com.
- *Restorative Justice. Challenges and benefits for Irish Society. Proceedings of the 2001 National Conference on Restorative Justice*, by P. Keeley (ed.) (2001). These proceedings of the June 2001 Irish National Conference on Restorative Justice, organised in Dublin on the initiative of the Victim/Offender Mediation Service, start with a remarkable speech by the President of the Republic, Mary McAleese. Contributions by plenary speakers are written from an international background and from the perspectives of the judiciary, victim support and probation. Workshop reports focus on the legislative framework for RJ and on the different Irish programmes. Available from Victim/Offender Mediation Service, e-mail: vom@eircom.net, fax +353 4515025.
- *Mediation: ein Weg in der Strafjustiz/Mediation: une voie à suivre dans la justice pénale*, by F. Riklin (ed.) (2001). This publication contains the papers presented at a conference held on 22 September 2000 in Zurich, Switzerland. It was organised by the 'Groupe Réformes en matière pénale' of Caritas who wanted to show that mediation is a promising model of conflict resolution, also in penal matters. It looks briefly at mediation developments in neighbouring fields, it presents mediation in penal matters in Germany and France before concluding with an overview of current and future possibilities in Switzerland. Available from Caritas-Verlag, Luzern, e-mail info@caritas.ch or fax +41 419 2424.
- *Restorative Justice: Healing the Foundations of our Everyday Lives*, by D. Sullivan and L. Tift (2001). This book lays out all the basic issues of RJ but takes a broad, transformative approach. It looks at RJ being not only concerned with processes of healing, but also with transforming the social institutions (family, school, workplace, neighbourhood) that make real health and healing possible before and after harm has been done. Available from Willow Tree Press Inc, 124 Willow Tree Road, Monsey, NY 10952, Tel. +1 845 354 9139.
- *Restorative Justice: Ideas, Values, Debates* by G. Johnstone (2002). This book provides an introduction to the most fundamental and distinctive ideas of RJ and to the key arguments both for and against it. Its aim is to make the phenomenon of RJ and the major debates about it comprehensible to relative newcomers. Available from Willan Publishing at www.willanpublishing.co.uk or info@willanpublishing.co.uk.

International study on job satisfaction and practice of mediators

Are you a mediator? Are you satisfied with your job as a mediator? Are you working as a mediator in the justice system? If you have an answer to these questions then you might want to be part of an international study on job satisfaction and practice of mediators. The research was launched in Italy by Dr. Anna Mestitz from the Italian National Research Council, with the collaboration of Dr. Anna C. Baldry from the University of Rome 'La

Sapienza', who is in charge of the international part of the study. Results from this research can help promoting the most satisfying work for mediators. Your help is valuable for this purpose. It only consists of filling in a self-report questionnaire that you can get from Anna C. Baldry: anna.baldry@uniroma1.it or fax +39 649 9176. Looking forward to getting all your e-mails and faxes!

Bulletin Board

- March 20-21, 2002, Leicester (UK), 'Effective Restorative Justice. An international conference', organised by De Montfort University. For more information contact Helen Douds at hdouds@dmu.ac.uk, phone +44 116 257 7777 or +44 116 257 7891.
- June 3-5, 2002, Bonn (Germany), Ninth National Conference on VOM (TOA-Forum). The conference will focus on how to support and strengthen VOM to become a widely used instrument. International participants are welcome and can participate without paying the conference fee. For more information see www.toa-servicebuero.de or mail to rd@toa-servicebuero.de.
- June 12-14, 2002, Charlottetown, Prince Edward Island (Canada), 'Connections 2002', the joint national conference of Conflict Resolution Network Canada and Family Mediation Canada. More information can be obtained from Conflict Resolution Network Canada: crnetwork@crnetwork.ca, phone +1 519 885 0880 or Family Mediation Canada: fmc@fmc.ca, phone +1 519 585 3118.
- June 24-26, 2002, Glasgow (UK), Mediation UK Conference 2002, organised by Mediation UK. More information at www.mediationuk.org.uk or mail to enquiry@mediationuk.org.uk.
- June 27-29, 2002, Glasgow (UK), Second international conference on Sentencing and Society, organised by the Centre for Sentencing Research, Law School, University of Strathclyde, Glasgow. RJ is one of the themes of the conference. For more information consult www.law.strath.ac.uk/CSR or mail to cyrus.tata@strath.ac.uk.
- August 8-10, 2002, Minneapolis, Minnesota (USA), 'Dreaming of a new Reality', the Third International Conference on Conferencing, Circles and other Restorative Justice Practices, organised by the International Institute for Restorative Practices. For more information consult www.restorativepractices.org.
- 23-27 September 2002, Ft. Lauderdale, Florida (USA), the 19th Annual Victim-Offender Association International Training Institute and Conference. More information is available at www.voma.org.
- 8-10 November 2002, Buenos Aires (Argentina), 'Building Peaceful Co-existence. Mediation and Negotiation in a Conflictual World', IV International Conference of the World Mediation Forum. For more information see www.bayfem.com.ar, mail info@bayfem.com.ar or phone +54 11 4951 8139.

New! European Forum website: www.euforumrj.org

At the end of March, the European Forum is launching its web site. With this site we hope to be of better service to members and non-members alike. The creation of the site, which was made possible with the help of the British Home Office, is a next step in the realisation of the Forum's objectives. On the one hand it seeks to provide information on the Forum and on the RJ movement in Europe - and in the rest of the world. On the other hand it is a mechanism to improve communication between all those interested in RJ. The site, however, should not be regarded as a one-way service from the Forum to you. As in all our activities, we want to stress the importance of interaction and participation. Therefore we would like to invite you to contact the Secretariat if you have information which would be useful to publish on the site.

The site is composed of five main parts.

The first, *About the Forum*, provides information about the European Forum and its activities. It deals with information on RJ as an international movement, the origins of the European Forum and its aims and objectives. Besides the text of the constitution and adopted internal regulations, you will find details about the structure of the Forum and the activities undertaken. Also, information about membership is available, and new members can apply for membership on-line.

The second part of the site, *News and events*, features a calendar with upcoming events and short news. It is also the place where the newsletter will be made available on-line, some two months after the Forum members have received it through the mail. Members and non-members alike will also be able to register on a newsflash system

through which they will get the latest news via e-mail.

Thirdly, there is the *Reading room*, where you can make searches in a database with documents about RJ and related issues.

The fourth part is the *Discussion forum*. This is the most interactive part of the site. Here members of the Forum can post messages and documents and chat in real-time. Discussion groups can be established on topics of common interest through which people can exchange their experiences. All the members of the Forum will receive a password and login to enter this part of the site in due course.

Last but not least there are the *Links* to web-sites of related organisations.

We hope that with all of this we can provide members and non-members alike with useful information and an important mechanism for exchange and communication. At the moment we are finalising all technical details. By the end of March all the members of the Forum should receive more information. From that moment on, we invite you all to take a look at the web site, and to identify areas where you can be of help. In the beginning the contents of certain parts of the site will be meagre, so suggestions for the News and events, Reading room, Discussions forum and Links part of the site are most welcome. Please contact the Secretariat if there are documents, or if there is information you want to make available through the web site. Remember: a web site is only as attractive as the information it contains!

Jolien Willemsens, Secretariat of the Forum

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Report on ERA conference on restorative justice

On October 25-26, 2001, the Academy of European Law Trier (ERA) organised a conference on restorative justice (RJ) in Belfast.¹ The participants were judges, prosecutors, policemen and academics - coming mainly from Northern Ireland (NI), but also from the Republic of Ireland, England, Sweden, Iceland, Scotland, Slovenia and Portugal. The programme provided an introduction to the concept of RJ, an overview of the developments in different European countries and within the EU, and last but not least an opportunity for presentation and discussion of RJ developments in NI.² The latter was without doubt a bold endeavour and more than once during the conference highly controversial issues surfaced and strong emotions flared up. By the end of the conference, however, the majority of the participants regarded the event as having provided a very useful exchange of views and experiences.

Should RJ be state-led or community-led? This proved to be one of the main topics to dominate discussions, also arousing considerable controversy among speakers and participants. Given the difficult political situation, this is indeed a sensitive matter in NI. In a province bitterly divided between two communities and with considerable estrangement on both sides from the state agencies, in particular the police, NI has seen the emergence of a brand of "community justice" that has invoked traditional authoritarian and repressive patterns of social control. This community justice has stepped into the void left by the police and the criminal justice system (CJS) in general. This led to the question what community justice really is and should become. Many questions were raised regarding whether and how community justice - particularly in the form practised in NI - can be accommodated within the parameters of a CJS built ostensibly on the rule of law.

I would contend that community justice which strives to maintain identity and belonging by excluding persons and which resorts to repressive means of control, rests on a stark misunderstanding of the basic ideas of RJ. Inclusive-

ness is indeed an essential feature of RJ processes. However, presently we can witness in NI a strong effort to make community justice programmes restorative in a true sense. We see the same kind of effort on the side of the police force which is currently undergoing major restructuring. In Belfast the police operates a scheme for 'Restorative Cautioning' in line with the model of the Thames Valley Police. If it is to fulfil its promise, it will contain elements of RJ and less traditional cautioning. The police officers who attended the conference spoke out strongly in favour of a new beginning for co-operation with community restorative programmes.

Can there be space for RJ programmes at community level that work independently of any agencies of the CJS? And what would be the scope of their activities, i.e. the range of conflicts they deal with? This controversial question remained open. While there was a strong call for strictly binding all programmes into a diversionary model, an equally strong body of opinion demanded a pre-offence stage that should be left to the discretion of community restorative programmes.

For the foreigners present, it was disturbing to hear about the extremely difficult situation in NI and how it impacts on the CJS. But it was also exciting to learn about the struggle to find a way to a form of justice that can rightly be called "restorative".

**Christa Pelikan, Researcher at the Institut für Rechts-und Kriminalsoziologie, Vienna, E-mail: christa.pelikan@irks.at
Katrien Lauwaert, University of Maastricht,
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¹ The Academy of European Law Trier (ERA) is a centre for continuing education and discussion for lawyers throughout Europe and for co-ordination of European academic research. It acts as an interface between the European decision-making centres of Brussels, Luxembourg and Strasbourg and all European law practitioners. For more information on ERA and its activities see www.era.int. Restorative justice, plus other issues relating to criminal law in Europe, falls within the remit of section III of the Academy (section entitled European Public Law). Contact person: Peter Cullen, e-mail: pcullen@era.int.

² Some of the papers presented will soon be published in ERA-Forum, issue 2002-1.

Report on the Second Nordic Conference on Mediation

The Second Nordic Conference on Mediation, organised by the Nordic Forum for Mediation (www.n.f-m.org) took place in Snekkersten (Denmark) on 18 to 20 January 2002. The conference was rather practically oriented, and covered different sectors of mediation: family, victim-offender, commercial, school and international mediation. About 180 people, mainly from Scandinavian countries, attended the conference. Several workshops were run parallel, the majority in Nordic languages, but a few also in English. There were also internationally acknowledged professionals working in different fields of mediation, who gave a two-day training session before the conference on their different approaches to mediation.

My impression while being there was that there is not one 'good' or 'wrong' model of mediation. Different practices can lead to similar outcomes. The means are different but the aims are similar: enabling parties in conflict to come

to terms with their needs, wishes and feelings and find an acceptable solution to the problem. The mediator is there to help parties to communicate but without providing suggestions or solutions for the parties. Remember, *solutions lie within you*.

Unfortunately some of the workshops I wanted to attend were cancelled but the nice thing was that I was able to contribute to a workshop held by Bernd Gläser from Salzburg (Austria), who is an experienced mediator, as well as a psychoanalyst, working in the field of family violence. We performed role-plays addressing the victims' needs and then Bernd presented the model of intervention he uses at the ATA (Aussergerichtlicher Tatausgleich i.e. out-of-court offence resolution), which is the independent association that deals with all cases of victim-offender mediation in Austria.

Anna Baldry, University of Rome 'la Sapienza'

UN draft resolution on restorative justice programmes in criminal matters

At the end of October 2001 an expert meeting was held in Ottawa, Canada, on the draft UN resolution on basic principles on the use of restorative justice programmes in criminal matters. The first draft of this resolution drew to a large extent on Recommendation No. R(99)19 on Mediation in Penal Matters of the Council of Europe. This draft had been presented at the UN-Crime conference in April 2000 in Vienna. The revised draft of Basic Principles - prepared at the expert meeting - will be put before the General Assembly of the member states in April 2002, again in Vienna.

The meeting in Canada was hosted by the Canadian Ministry of Justice and was attended by 25 participants. Seventeen were experts from different regions (South America, USA, Canada, Australia, Africa, Europe, China and Thailand) and the rest observers. I was present as an observer for the European Forum. The organisers were people from the Vienna UN-Bureau of Crime Prevention together with the Canadian team.

The group of experts and observers went through the whole draft resolution.¹ They were able to reach consensus on all the articles of the new Basic Principles, although there was a considerable amount of controversy on certain issues. During the discussion it became quickly clear that the global context is different from the European one, which informed the Council of Europe recommendation. The first draft seemed therefore to fall short of a wider - or a different - understanding of RJ practices. For example the 'European' emphasis on voluntary participation in RJ programmes seemed of less importance where a certain amount of enforcement of procedures following a restorative line seems desirable, as is the case with certain police programmes and with sentencing circles. Another point of discussion was the provisions on facilitators in the initial draft. Within indigenous societies, the role of facilitator might fall on an elder or any other highly respected person of the community. Experts talking from this point of view advanced that these persons must not and cannot be pressed into a tight corset of regulations and training requirements. On the other hand the expert from China, e.g. argued that the provisions should also allow for 'officials', e.g. judges or state prosecutors, to act as a facilitator. As a result different provisions on the facilitator were deleted, and the new draft only contains two paragraphs on the role and task of the facilitator.

Great emphasis was put on the fact that RJ programmes are complementary to the CJS, not an alternative and not at all intended to replace the conventional system. Especially the experts from China and the USA insisted on avoiding any hint of the concept of an alternative.

Looking back I discern three different strands of thinking about RJ that fought for recognition within the UN-Basic Principles.

The prevailing understanding of RJ inside the revised draft basic principles is that of RJ as a 'spiritual endeavour'. Its primary orientation is then toward 'healing', while making good and compensation is of secondary importance. RJ in this understanding is truly complementary to the conventional criminal law practices and it is also applicable to more serious crimes.

The pragmatic, modest, diversionary concepts of RJ that inform the continental European VOM-programmes appear, at the global level, to be pushed backstage. They rely on establishing pockets of RJ practices and thinking with the ambition of exerting a long-term influence on the traditional CJS. They abide by the rationale of voluntary participation and making good. While also compatible with criminal justice's core function of upholding and confirming the norm, this understanding of RJ renounces punishment as a means of norm confirmation and replaces it by compensation. Its major drawback is the empirical fact that diversionary programmes remain restricted to petty crime.

A third mode of RJ-thinking aimed at changing the ways and the work of the criminal justice personnel. As far as I understood the intention of its promoter - Andrei Pascu from Romania - he wants the UN document to put a moral obligation on his government. They ought to abstain from a merely oppressive way of thinking and acting in criminal justice and do things in a different way. This new and different way is primarily that of rehabilitative justice albeit with some victim involvement. It will also be mainly authoritative 'vertical' RJ programmes. This might be a necessary step in a country like Romania and in many others as well. And if they will achieve a major change by putting the label of RJ to these attempts, it might be a good and clever strategy.

On the surface, the new draft accommodates all three orientations with the healing strand being the most prominent. As it is always the case with these international efforts, the initial drafters as well as the group of experts and observers had to face the task of recognising and reconciling widely different approaches, different legal policy backgrounds and different legal systems. Now this will become global guidelines for the establishment of RJ programmes, processes and practices. And in a way it is quite amazing and encouraging that the UN and its Crime Prevention Unit have followed the proposal at the Vienna 2000 conference and will present and with some probability adopt a document like this.

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¹ The meeting worked on the basis of a.o. the report the UN Crime Prevention Unit prepared. This report contains a review of the responses of the member states to an invitation of the UN Secretary General to provide their views and observations with respect to the desirability and utility of developing a RJ resolution. This report can be downloaded from www.odccp.org/crime_cicp_commission_session_11.html. The report of the expert meeting will also be made available here.

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Second bi-annual conference of the Forum

On 10-12 October 2002, the European Forum is organising its annual general meeting and second conference 'Restorative Justice and its Relation to the Criminal Justice System', in Bucharest, Romania. The main subject of the conference, which is being organised with the assistance of the Romanian Ministry of Justice and the Academy of European Law Trier (ERA), is the co-operation and relation between RJ programmes and the criminal justice system (CJS). The conference will focus on the perception of RJ practices by different agencies of the CJS and on the way these practices can have an impact on the different stages of the CJ process. It aims at deepening the understanding of RJ and at discussing its position in relation to the CJS. The relationship between the CJS and RJ practices will be explored at the different stages of the CJ process and from the viewpoint of its respective protagonists: the police, the state prosecutors, the judges, the prison and other agencies involved in the implementation of (non-) custodial sentences. The conference will give room to the presentation and the intensive discussion of a broad spectrum of programmes and practices that are at work at these different stages. It will also provide an opportunity for the CJ-related professions to gain a real in-depth understanding of the concrete inner functioning of RJ programmes and the relationship and concrete ways of co-operation between a RJ programme and the 'referring' agencies of the CJS.

The conference, which intends to involve RJ practitioners, legal practitioners, policy makers and researchers, will be both an interactive and a working conference. To achieve this goal, 4 modes of 'presentation' will be used.

The *plenary speeches* will give an introduction to RJ and the ways in which RJ is applied at each stage of the CJS. There will also be two speeches on the situation in the Middle and Eastern European countries and a final plenary on RJ outside the CJS. The *café conferences* will allow to exchange views and experiences with members of a particular profession in an informal way. On the basis of controversial statements or opposing positions, presented by the 'cafétier', people can talk in small groups. There will be cafés for following professions: police, state prosecutors, judges, mediators/facilitators and prison staff. The bulk of the work will happen in the *interactive workshops*. Here no more than two RJ programmes per workshop are presented according to the stage of the CJ process where they are located. The idea is not to provide national showcases, or to present a vague and idealised description of a programme as it appears on paper, but rather to give a detailed and very concrete picture of what is going on, how participants and professionals act or have acted. The conference will be closed off by a *fishpool-discussion*. It will start out by a discussion between the co-ordinators of the workshops and café conferences, and will in a second stage try to involve people from the audience.

Call for presenters and co-ordinators

If you are interested to take the lead in one of the workshops or café conferences, or in presenting your programme at the conference, please contact Christa Pelikan, who is in charge of the conference programme, at Christa.Pelikan@irks.at, tel. +43 1 526 15 16, fax +43 1 526 15 16 10.

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