

Editorial

Hello everyone,

A very warm welcome to the first edition of the EFRJ Newsletter for 2018! It is with great pleasure that I present this burgeoning edition of our Newsletter at a time where there is great change taking place within the EFRJ and beyond. As our Chair, Tim Chapman, notes in his 'News from the Board' and I recount in an overview of the expert meeting that took place in Leuven on the 18th December 2017, the EFRJ is shifting its focus from researching RJ to facilitating good local RJ practice and policy. This is a particularly important move given the stresses and strains that we are experiencing in Europe with Brexit looming and the influx of refugees from countries ravaged by war and terror.

It is easy during this time to respond to the insecurity that uncertain times bring and to project our feelings outward onto others who are 'less like us.' We are seeing this increasingly in political rhetoric and media coverage whereby home grown issues are blamed on the threat posed by migrants rather than the austerity policies that feature in all of our countries. Now, perhaps more than ever, ensuring that people have the required skills and access to good restorative justice to deal proactively with conflict is paramount. Every one of us can take positive steps in our own countries to keep the pressure up to ensure we do not descend into a punitive, exclusionary mode of operation.

In our first article Daniel Burn, Adam Crawford, Emily Gray and Joanna Shapland reflect on their findings of an evaluation of three police forces in England that are experimenting with restorative justice. Our common law system means that it is police officers, not prosecutors, who act as gatekeepers into the criminal justice system. As such, it is important that, if we are to ensure access to RJ, police officers themselves understand and support these initiatives. Without their buy-in, providers of RJ will not receive referrals and victims will not be aware of their right to choose RJ where appropriate for them. As such, the authors stress the importance of good quality, meaningful training for officers. This argument can be extended to all criminal justice practitioners who are often the ones to make decisions about when, where and how a case is dealt with.

It is well known how devastating the conflict in former Yugoslavia was and our second article has been written by Aleksandar Živanović, who reflects on the

emergence of mediation in responding to the consequences of the conflict (albeit briefly) and the rebuilding of criminal justice now that that period is over. The focus is on the development and introduction of mediation in the juvenile justice systems of Bosnia and Herzegovina. Many of the elements in the new systems are familiar to us, but what I found most surprising was the adoption of police warnings, which appear to be similar to warnings initially adopted in England and Wales. I wonder whether there is an opportunity for these warnings to become 'restorative.' Research from around the world demonstrates that police use of restorative justice concepts and processes can have valuable outcomes not only for victims but for offenders too. We look forward to learning more about how mediation evolves in Bosnia and Herzegovina.

Finally, our Director Edit Törzs and Communications Officer Emanuela Biffi have provided an overview of RJ Week 2017 including the activities that took place across Europe. Please turn to this article for inspiration when thinking about RJ Week 2018 and please do let us know of any plans that you might have so that we can promote and celebrate them.

Can I also please make a plea for members to review the nominations for the vacancies on the Board of the EFRJ? The link to read more about the candidates is: <http://www.euforumrj.org/news/board-elections-2018-list-candidates/>. Those nominated all have important skills that would serve the EFRJ well as it moves to a new mode of production. We look forward to celebrating those elected in Tirana at the AGM.

As always, if you have any comments on any of the articles written, please do let us know or if you wish to contribute, my team and I are on hand to help you from developing your ideas to assisting with English. We are all very much looking forward to chatting with

you and hearing your talks in Tirana.

With very best wishes,

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News from the Board

Over the last six months the Board has met once and the Executive Committee (Chair, Vice-Chair, Treasurer and Secretary and the secretariat) has met twice. We have clarified the tasks of each member of the Board so that each person is clear about her or his responsibilities. The Secretary's (Bruna Pali) role has been revitalised. Bart Claes, the treasurer has reviewed our financial governance and delivered an excellent policy document, which has been approved by the Board.

The other major focus of the Board has been the implementation of the Forum 15 Project to make the EFRJ more strategic and proactive in promoting access to high quality restorative justice in Europe and beyond. Six EFRJ members were selected to participate in a working group to develop a statement of values and standards of practice for the Forum. A first draft was discussed at the Experts meeting in December. The feedback from around 40 experts was invaluable. An improved statement of values and standards will be presented to the AGM on 13 June 2018 and discussed in a workshop at the [Tirana conference](#).

The experts meeting in December (see Kerry Clamp's detailed report on page 8) confirmed one of the premises of the Forum 15 strategy — that among our membership there is a substantial range of experts who are ready, willing and able to support the EFRJ to develop restorative justice in Europe. It is now the task of the Board to develop a viable plan to channel this expertise and energy. To that end, we are working with a consultant who has a great deal of experience of working with non-government organisations. He is helping us to develop a strategy, which will connect our expertise with those who need it and increase the Forum's income so we can employ more people and engage in more activities to benefit our members. We intend to present this plan to the AGM in June.

In the meantime, we are working to create a favourable climate for the growth of restorative justice.

Our members have supported and influenced both the United Nations and the Council of Europe to review their guidance on restorative justice. Members of the Board have represented the EFRJ at conferences and meetings in many countries in Europe promoting restorative justice and building our network.

This summer the Council of Europe should approve a new [Recommendation on Restorative Justice within the criminal justice system](#). We see this as an opportunity to support countries that wish to implement this Recommendation. We will be notifying members when this Recommendation is approved so that you can inform and lobby your governments.

Our focus for the coming months will be on making the conference in Tirana a great success. Already we have a very distinguished range of keynote speakers and an amazing range of workshops in the programme. Bruna Pali and Emanuela Biffi are leading our efforts to plan and organise a great conference. The AGM will also be held on the eve of the conference. In addition to discussions on Values, Standards and the Forum 15 strategy, we also need to elect two members of the Board and to vote on important changes in our Constitution. I look forward to meeting many of our members in Tirana.

Tim Chapman,

Chair of the EFRJ

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Enhancing police-led restorative justice: insights on chipping away at the stubbornness of change

A central paradox of restorative justice is that, despite the wealth of international research evidence, which demonstrates the benefits to victims and offenders, it remains in many countries a

marginal activity conducted on the side-lines of criminal justice. To paraphrase Karp and Drakulich (2004), restorative justice tends to attend to ‘minor crime in a quaint setting,’ notably in the context of youth offending. Despite the best efforts of enlightened policy-makers, practitioners and scholars, research from across continents and jurisdictions, over the last 20 years or so, evidences the stubbornness of institutional change on the part of criminal justice, as well as the significant cultural and organisational barriers to the institutionalisation of restorative justice as mainstream practice.

In England and Wales in recent years, there has been a renewed focus on restorative justice by government. The Ministry of Justice, for instance, provided £29 million to Police and Crime Commissioners from 2014, via the ‘Victim’s Fund,’ to support the provision of restorative justice for all victims who wanted to avail themselves of a restorative process — although with no obligation to provide it. This was supplemented by a requirement — set out in the 2015 Victims’ [Code of Practice](#) — for victims of crime to receive information on restorative justice. The offer of the provision of restorative justice interventions to all victims, regardless of the age of the offender, was intended to lead to its greater use in a wide range of contexts. Nevertheless, as new research reveals, delivery at the frontline of policing remains very different from the stated objectives of government policy.

Between late 2015 and mid-2017, a team of researchers, led by Professor Joanna Shapland (University of Sheffield) and Professor Adam Crawford (University of Leeds), conducted a three phase action research project. The project aimed to understand the challenges and opportunities for enhancing the use of restorative justice within policing (both directly, for example, through ‘Street RJ,’ or by referring a case to an external restorative justice provider). Unlike some other countries where most referrals for restorative justice come from prosecutors, in England and Wales they have little involvement. The research involved three police forces in England (Humberside, South Yorkshire and West Yorkshire), along with the Offices of the Police and Crime Commissioners in each area, and was supported as part of the College of Policing’s Police Knowledge Fund. Each phase of the project was reported separately (Phase 1 in January 2017, Phase 2 in July 2017, and Phase 3 in November 2017).

Phase 1

The first phase of the research set out the nature and extent of restorative policing in each of the three force areas. The research found that restorative justice provision varied both across and within (at district level) forces, and highlighted a number of difficulties experienced by some areas, including:

- the ability and capacity to deliver restorative justice, via robust and sustainable structures and with appropriately trained staff;

- insufficient awareness of restorative justice amongst the police and public;
- the impact of police culture, which often acted against the effective delivery of restorative justice; and
- problems associated with processes, for example, short-term, competitive funding.

The research offered the following solutions:

- encourage police officers to mention restorative justice to victims and (when appropriate) make the offer;
- encourage decentralised sources of expertise in the police, for example, local restorative justice champions;
- have restorative justice referral hubs in police stations; and
- garner strong leadership for cultural change and awareness raising.

Phase 2

The second phase of the research entailed comparative work in Belgium and Northern Ireland, to inform the conclusions from Phase 1, by considering practice and policy in the two jurisdictions that have established histories of innovation in restorative justice. The research found the following:

Belgium

Restorative justice is well established and widely available, for both adults and juveniles, with a well-embedded innovative practice and multi-agency working in, for example, the city of Leuven. Following an initial emphasis on the use of restorative justice for more serious cases, there has been a move to offer it routinely in minor cases as well, and at all stages of the criminal justice process — from pre-trial, through trial and sentencing, to post-sentencing. In addition, a more unified legal framework (the 2005 Act for adults and the 2006 Act for juveniles) has largely succeeded early initiatives developed at a local level. Similarly, the ‘parallel’ system (restorative justice and judicial procedures operating side by side) has increasingly been replaced with a more inter-connected, integrated approach, with mutual influence.

Central to the approach to restorative justice in Belgium are the principles of voluntary participation, confidentiality and neutrality. Mediation services (which are single NGO providers in their respective geographic areas, with no competition between providers or competitive tendering processes — providing stability and continuity) also benefit from having well qualified, trained staff. Consequently, there is less involvement of trained volunteers, like in the UK. There is also less emphasis on managerial performance measures and targets. Although police officers do not tend to deliver mediation or restorative justice, they are required to inform victims of the offer, and highlight the benefits of such interventions to victims.

However, practice remains uneven and variable across the districts in Flanders, with the level of support from key individuals (in the police, prosecutor's office and judiciary) a critical factor. The ability of service providers to be able to meet the level of demand is also an issue.

Northern Ireland

There is great support for restorative justice in Northern Ireland, with those who participated in the research very positive about it as a means of responding to harm and of the belief that it has the capabilities to be expanded beyond the current provision (which is largely for young offenders) and remit. There has been consistent support for restorative work from the top down with key leaders (the government, Lord Chief Justice and Criminal Justice Inspectorate) publicly supporting related policy and practice developments. Compared with the rest of the UK, Northern Ireland has a shorter but more concerted experience of implementing restorative justice, with community restorative justice schemes commencing in 1998, and restorative justice linked to the criminal justice system commencing in 2002. This emphasises how it is possible to build broad service provision and institutional support for restorative responses in a relatively short period. Indeed, even in the face of austerity (when criminal justice services tend to be more offender-focused), there has remained a balanced model of restorative justice which is compatible with the [EU Victims Directive](#) and the [Victim Charter](#).

Since their introduction, community restorative justice schemes in Northern Ireland have expanded, although are reliant on funding that is largely from charitable sources, making planning and development challenging. Restorative justice in Northern Ireland is also focused on young offenders — although not confined to minor offences or first-time offenders — with very little restorative justice available for adult or young adult offenders. However, youth conferencing is embedded in the criminal justice system, with all cases considered by sentencers and public prosecutors. In addition, recent joint working between the police and diversion officers

and the [Youth Justice Agency](#) (responsible for overseeing conferencing) has improved the rapidity of triage processes.

Phase 3

Drawing on Phases 1 and 2, the third phase of the research involved the development and evaluation of one or more initiatives in part (or the whole) of each of the English force areas, following proposals from the research team. Selected initiatives were then evaluated between January and March 2017. Overall, the research found that there are significant and persistent barriers to delivering restorative justice in the police, which often require changing the way that they work, with restorative justice, by its nature, requiring a culture of learning and problem solving.

Although victims' needs and vulnerabilities are better appreciated, police decisions in any given case still tended to be determined by the offender's criminal history and the offence, not the wants and needs of victims. Giving officers the tools and confidence to deliver restorative justice, and not simply go down the 'path of least resistance,' encourages officers to consider offering restorative justice, as well as giving them the skills to determine when it is appropriate to use. Ensuring officers are well trained is crucial, although it is important that such training is well aligned with the work that the officer does. The research found that more in-depth training was more beneficial to officers. Not only did it give officers the skills and knowledge to deliver restorative justice effectively (whether directly, for example, through 'Street RJ,' or by referring a case to an external restorative justice provider), it also helped dispel prevalent misunderstandings (for example, that restorative justice is only for minor offences, committed by young, first time offenders, or that it can only be delivered at the start of the criminal justice process). Where restorative justice was very much in line with officers' jobs and the role they were fulfilling (for example, for schools officers), we found it being used routinely and well. Finally, it is important that training is repeated (for new officers) and refreshed, in order to maintain the skills and knowledge of officers already trained.

Buy-in and oversight throughout the police organisation is also critical for the successful implementation of restorative justice — from the Senior Command Team to the frontline. Long chains of command can often hamper communications in the police and, when officers are unsure where restorative justice fits in with other police priorities, there is the risk of implementation failure. Having clear messages that are repeated and built into supervision and quality control mechanisms can help combat this. In addition, having a restorative justice champion — a locally-based 'go to' person, who can act as a single point of contact — can also help, as they can coordinate developments and ini-

tiatives and help promote and disseminate information and good practice.

Effective partnership working (particularly with an external restorative justice provider) is also important, although often fraught with challenges, such as information sharing, incompatible data storage systems, inter-agency misunderstandings and communication failures. Effective processes for sharing information, having joint discussions about cases and making joint decisions in relation to these cases and having cases not stay on police books until they are complete can all contribute to improving this.

It is clear (from the evidence presented here, as well as in other research) that, despite a number of cultural, procedural and organisational obstacles, restorative justice (when used in appropriate cases and delivered by appropriately trained practitioners) can benefit victims of crime, offenders and the police organisation more generally. For victims, it gives them the opportunity to have their voice heard in a way that is sensitive to their needs. For offenders, it holds them to account for what they have done and has been shown to reduce reoffending. For the police, it helps shape the best use of police discretion in ways that directly serve the needs of victims, as well as reducing the burden on the wider criminal justice system.

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Findings from all three phases of the project have been published separately and are freely available from the University of Sheffield, Centre for Criminological Research, Occasional Papers website:

Stage 1 Report: [Developing restorative policing in Humberside, South Yorkshire and West Yorkshire](#)

Stage 2 Report: [Learning lessons from Belgium and Northern Ireland](#)

Stage 3 Report: [Restorative justice at the level of the police in England: implementing change](#)

A [Summary of research findings](#) is also available.

References

Karp, D.R. and Drakulich, K.M. (2004). Minor crime in a quaint setting: practices, outcomes, and limits of Vermont Reparative Probation Boards. *Criminology and Public Policy* 3(4):655–686.

Development of mediation in the juvenile justice systems of Bosnia and Herzegovina

Although some models of peaceful resolution of community conflicts existed in former Yugoslavia, the introduction of contemporary mediation occurred following the end of the war by local and international civil society organisations. This was used in relation to the resolution of interethnic and interreligious community conflicts, integration of refugees and displaced persons and to some extent in political disputes over various transitional issues or as peer-mediation in schools. Initial attempts to regulate mediation were made by the Association of Mediators in Bosnia and Herzegovina (AMBiH) established in 2002 by a group of lawyers, judges, CSO activists and other professionals. This group of individuals were all alumni of the Canadian Institute for Conflict Resolution training programme, which focused on community-based conflict resolution to facilitate the peaceful return and reintegration of refugees.

After a short period of policy advocacy, the ministries of justice, judicial authorities and parliamentarians developed an interest in mediation and supported

its introduction in laws on civil procedure, criminal procedure and minor offences at all administrative levels (state level and its three administrative units, namely

¹Because of the war and peace negotiations, verified in the Dayton Peace Agreement in 1995, Bosnia and Herzegovina has a complex administrative structure, reflecting the ethnic divisions. Administratively, the country is divided into two entities: Republika Srpska and the Federation of Bosnia and Herzegovina. There is a third administrative unit, the District of Brčko, which was a disputed territory until 1998, when the International Arbitration Tribunal established it. The state and each of

the entities of Republika Srpska (RS), Federation of Bosnia and Herzegovina (FBiH) and Brčko District (BD)).¹ In 2004, the Law on Mediation Procedure regulated the mediation process and its principles.² A peculiarity of the mediation model in Bosnia and Herzegovina (BiH) is that the settlement agreement signed by the parties and the mediator is given an enforcement power. If the parties do not voluntarily respect it, it is directly filed to the enforcement department of the court.

A year later, the Association of Mediators was authorised by the Law on Transfer of Mediation Services to the Association of Mediators.³ Although the laws on criminal procedures and minor offences allowed application of mediation in cases of claims for damages, mediation was mostly used in civil matters (for example, commercial, labour cases, utility and consumer disputes).

The AMBiH developed a mediation training programme, certification procedures and internal quality assurance regulations. Its 165 mediators have facilitated several thousand cases, in which more than 80 percent of participants reached agreements. The follow up evaluation showed the parties voluntarily fulfilled the agreement in more than 90 percent of cases. Even in the remaining 20 percent of cases, the parties rarely filed an enforcement request to the court. In part, this was because mediation had increased the level of mutual understanding and acknowledgement of a difficult economic situation or other challenges, which the agreement had not reflected.

The application of mediation has slowly spread to other areas, such as family matters and disputes in public administration, in the FBiH and a public Agency for Peaceful Settlement of Labour Disputes has been established in RS. During 2008–2010, the AMBiH intensively explored possibilities and advocated for the introduction of mediation and principles of restorative justice in other areas, primarily within the juvenile justice system and discrimination cases.⁴ Given that a number of experienced judicial professionals supported this extension of the application of mediation, legislative reforms occurred in the juvenile justice systems. In particular, the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings were developed and adopted in each of the administrative units.⁵ The intention was to harmonise criminal legisla-

tion with international standards (primarily documents of the United Nations and the Council of Europe) and improve the position and rights of the child in criminal proceedings by introducing new criminal measures.

For the first time the Law introduced a formal police warning as an alternative measure to court proceedings for criminal offences carrying financial sanctions or imprisonment of up to one year in FBiH and BD or three years in RS. This measure is closely coordinated with the prosecutors for juveniles who have to approve the interrogation and application of this measure and the social welfare centre, which gives a professional opinion and maintains a case history.

Legal preconditions for police warnings are that the juvenile freely admitted the offence, that there is sufficient evidence that the juvenile committed the crime and that the juvenile is a first time offender (no previous criminal record). A professionally trained police officer interrogates the juvenile in the presence of his lawyer, parents/guardian or a social welfare centre representative. The interrogation has to be completed within 24 hours and the police report with arguments for the police warning to be applied has to be filed with the prosecutor. Within three days of approval, the police warning is delivered to the juvenile, his/her lawyer, parents or legal representatives, social welfare centre and to the victim of the offence. The police maintain statistics on police warnings.

The significant innovation in the laws is the possibility for diversion, which prosecutors and judges should consider as the first option if the case meets the preconditions. This is an option for offences carrying financial sanctions or imprisonment of up to three years in FBiH and BD or five years in RS or even more if the decision would be in the child's best interest in relation to the severity of the offence and the rights of the victim. The social welfare centre is consulted to see if any concerns arise in relation to this course of action. Once these conditions have been met, in order to apply diversion, the offender has to agree in writing to enter the alternative procedure, give consent for the application of the proposed measure and express commitment to reconcile with the victim (by filling in a simple questionnaire). If the prosecutor supports diversion and agrees not to pursue the case through criminal proceedings, a number of outcomes are possible:

these three units have their own laws on judicial procedures with similar provisions.

²The Law on Mediation Procedure, Official Gazette of BiH, 37/04

³The Law on Transfer of Mediation Services to the Association of Mediators, Official Gazette of BiH, 52/05

⁴The Law on Prohibition of Discrimination of BiH (Official Gazette of BiH, 59/09) regulates the Human Rights Ombudsman of BiH. It can suggest mediation to the parties in filed complaints of discrimination in line with the Law on Mediation Procedure. Still, this institute is not used to full capacity; however the Human Rights Ombudsman reports on successfully using mediation skills during the investigation of the case to motivate the parties to reach an amicable solution. According to their annual reports, a majority cases get resolved during the investigation and prior to the conclusion on the act of discrimination and formal recommendations.

⁵Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings in the Republika Srpska (Official Gazette of RS, 13/10 and 61/13), Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings in the Brčko District (44/11); the Law on Protection and Treatment of Children and Juveniles in Criminal Proceedings in the Federation of Bosnia and Herzegovina (Official Gazette of FBiH, 7/14).

1. the offender can provide a personal apology to the victim;
2. the offender can provide compensation to the victim;
3. the offender can commit to regular schooling or work;
4. the offender can engage in humanitarian, social, environmental or some other type of work that is of benefit for the public;
5. the offender can undergo treatment in a medical facility; or
6. the offender can participate in an individual or a group treatment of educational, psychological and other institutions.

A judge can also apply the above measures in cases where criminal proceedings have already been initiated. A specific measure is selected in close cooperation with parents, guardians and a social welfare centre. Measures can be applied for a maximum of one year.

The application of the first two measures involves mediation conducted by a trained mediator in the social welfare centre in charge. In the absence of a trained professional, the services of the previously mentioned AMBiH are used. In line with the principles of mediation, these two measures require the consent of the victim as well. When the prosecutor or a judge decides on the application of these measures through mediation, they send the information and the inquiry to the juvenile to determine their willingness to reconcile with the victim and the victim to obtain their consent to participate in the process. When both sides agree, the prosecutor or a judge passes the case to the social welfare centre in charge to proceed with mediation. If there is no consent, criminal proceedings will continue.

Where both parties consent, the appointed mediator organises individual introductory sessions with the juvenile and the victim, following which a joint mediation session is held. Key mediation principles are integrated in the process (consent, neutrality, impartiality, confidentiality). However, in practice some challenges can arise. For example, concerning confidentiality, the mediator prepares a report to the prosecutor/judge on the mediation session noting its outcome. The precise content of the document is not regulated, but various options are possible, from a brief note on outcome and general overview of the process to the meeting minutes and mediator's impressions on the process. Therefore, this should be clarified before the full application of the procedure starts and clearly communicated to the parties at the beginning if there are any exceptions to

confidentiality. In terms of neutrality and impartiality, it is expected that a social worker other than the one that is in charge of the juvenile will act as mediator. Still, there are very small social welfare centres with just a few employees and often only one has the skills and knowledge to work with juveniles.

In practice, mediation remains limited and where it does take place there are a number of ongoing practical issues. There is no central database, which means that it is impossible to monitor and evaluate the application and effectiveness of mediation. Each social welfare centre and prosecutor's office or the court (depending on a stage of the process) keeps its own records on the application of the measures. The AMBiH has only had three cases involving juveniles, of which all ended with settlement and in two cases obligations were fulfilled and criminal proceedings were closed. There is information on the occasional application in social welfare centres as well. In the first years after the laws were passed, by-laws and procedures were developed and the capacities of the institutions increased.

Comprehensive training on the new law, restorative justice and the rights of the child was organised that covered all the relevant institutions and their appointed professionals and certified them for work with juveniles (usually three days training). These were organised by the respective ministries of justice and social welfare and mostly supported by international projects, primarily by UNICEF. The training process was also supported by various initiatives such as study trips, debates, courses and policy advocacy by civil society. In the last two years, a training programme on mediation involving juveniles has been developed and will be launched in 2018. A draft training curriculum envisages a three-day programme, focused on restorative justice, international documents, the role of the social welfare system in juvenile justice and the theory and practice of mediation. The development of models of continuous education and supervision should be ongoing.

The recent developments show the social welfare system has built the leading role in mediation procedures and the role of the AMBiH in the development of mediation in juvenile justice decreases. Still, the AMBiH is consulted on the development of mediation in the juvenile justice system. In RS the Ministry of Health and Social Welfare planned to train mediators in all social welfare centres in 2018 and it is expected that the practical application of mediation and its effects will become visible.

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Overview of Expert Meeting EFRJ 18th December 2017

The expert meeting of EFRJ members was a great success with 20 countries represented and participants having an extensive amount of experience across research, policy and practice. The impetus for this meeting involved a reconsideration of the purpose of the EFRJ and to define our basic values and standards for restorative justice. While the EFRJ was founded to facilitate cross-border exchanges and support, over the years we have seen a shift to conducting research on the topic. However, the team and board, as communicated by Tim Chapman, the Chair of the EFRJ, have come to the realisation that the essential role of the EFRJ is not to generate knowledge, but rather to support the dissemination of restorative justice in the field to deliver high quality practice.

This is underpinned by the belief that those who wish to access RJ should have a right of access, but that this should extend the remit beyond the criminal justice system to schools, families, communities, schools and organisations. This is where we, as members of the EFRJ, come in. Our membership have a remarkable amount of experience to make our aims for RJ in Europe a reality. Such a shift has an implication, however. It means that we need money so that we can promote RJ, rather than income generation so that we can do RJ.

What are the key issues in Europe concerning RJ?

Four key members who participated in the day opened up discussions about the central issues that need addressing in Europe from a context/structural perspective. Katrien Lauwert spoke about the [EU Victims Directive](#). She stressed the elaborate nature of RJ within the new Directive compared with the 2001 Framework Decision, the contents of which are enforceable thus providing a number of minimal rules. For example, Article 46 speaks about the benefits of restorative justice (which is politically important) and Article 12 focuses on safeguards. However, in focusing on process the Directive does not outline an obligation to provide services or to ensure it is available for all types of victims/crimes or stages of the criminal justice process. While the Directive certainly began as a progressive document, during the negotiation process less has been included that is progressive in practical terms.

Ian Marder then discussed the preparatory work of a new [Council of Europe Recommendation on RJ](#),⁶ which has four key aims:

1. to enhance the awareness, development and use of restorative justice in relation to member States' criminal justice systems;
2. to elaborate on standards for its use, thereby encouraging safe, effective and evidence-based practice, and outlining a more balanced approach to

the conceptualisation and development of restorative justice than is implied by the Victims' Directive;

3. to integrate a broader understanding of restorative justice and its principles into the (comparatively narrow) 1999 Recommendation; and,
4. to elaborate on the use of restorative justice by prison and probation services, the traditional remit of the Council for Penological Co-operation.

The CoE Recommendation tries to respond to problems contained in the Victims Directive by asking, for example, what would the right to access look like? However, it is important to note that while the Recommendation is an important policy initiative across Europe for RJ, it is not binding nor enforceable. This makes the role of the EFRJ even more important as it is in a prime position to support countries in the implementation of RJ and thus return to its original aims.⁷ Our extensive membership could further support this process by promoting the Recommendation in their countries and highlighting that the EFRJ is available as a resource to help with implementation of good quality restorative practice.

Inge Vanfraechem spoke about radicalisation in Europe and highlighted four ways in which the EFRJ could contribute by stimulating discussions and outlining proactive approaches:

1. prisons, how do we deal with these people?
2. intercultural settings, how do we deal with conflict between groups from different cultures?
3. communities of care, how do we deal with families of offenders? Where do we place the victims?
4. societal debate, how can we offer guidance on how to deal with implications of radicalised people?

Borbala Fellegi then discussed intercultural conflict in Europe (drawing on the outcomes of the [ALTERNATIVE](#) project) that appears to be on the rise given the influx of refugees and migrants and the economic realities affecting Europe currently. She outlined the importance

⁶While the Committee was doing well in advancing a number of key elements, progress is postponed until June 2018.

⁷Christa Pelikan noted that this is exactly why the EFRJ was developed in 1999.

of safety, security, order and the recognition of the key needs of people because, without these, it is too easy to make ‘other people’ scapegoats. Given that government institutions are in crisis, we therefore need to think about how we can develop capacity at the local level without relying on governments.

Other key issues raised by participants for RJ in Europe included:

- violence against women;
- mental health and inclusion, special education and needs;
- sexual harm and crime between young people in the family setting;
- drug use;
- dealing with mistrust in communities;
- religion;
- supporting families in crisis;
- poverty;
- consolidating knowledge and experience;
- emphasising restorative practices (which we currently do) rather than restorative justice (which we should move to).

How can we understand and prioritise needs in different European countries?

The discussion on understanding and prioritising needs was energetic. A key theme was that not all countries were moving at the same pace as each other and that different issues presented hurdles or challenges for the implementation of good RJ. This highlighted the need for RJ support to be differentiated according to the needs of the different countries across Europe. We can write wonderful strategies but it would be good to understand what the issues are in a particular country because, if it does not align with what the issues are within the country, this will not have a meaningful impact on the ground. Our membership can therefore act as an important country link who can identify particular organisations or people to each other.

Some identified state corruption as a particular problem with others arguing that this should not be insurmountable; working with practitioners and providing

good quality information about what restorative justice is and its standards is important. Others identified punitivism as another hurdle that can be transcended by drawing attention to successful initiatives in other countries, which demonstrate the financial savings that RJ offers to an otherwise expensive system.

There is a lot of research/policy but less information about implementation. Where is the community? How do we find it? How do we bring people together in a way that will help to initiate change? Part of this lies in making use of what is already there. One example is the study by Dünkel et al. (2015a) on restorative justice and mediation in penal matters in Europe. The study provides a good overview of legislative provision across countries and individuals. One suggestion is to do this by making more use of technology — watching something is infinitely quicker and easier than reading it — or creating an interactive map showing who is working on what could lead to more collaboration. Another is to make better use of the EFRJ Newsletter — if you want to contribute or to discuss this further, please do contact us on the [editorial committee!](#)

How can we turn our ideas into practice?

The biggest challenge going forward is economics and the role of the EFRJ in Europe. Currently, the EFRJ is heavily reliant on an EU operating grant, which is not guaranteed. As such, we need to diversify how we gain research income. Should our supporting activities in Europe be a source of income (that is, through training and consultancy) or should we find alternative means of supporting nations to develop and implement good quality restorative justice across Europe? As you can tell, there is a transformation happening within the EFRJ as we try to determine what our best value is.

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References

- Dünkel, F., Grzywa-Holten, J. and Horsfield, P. (eds.) (2015a). *Restorative justice and mediation in penal matters: a stock-taking of legal issues, implementation strategies and outcomes in 36 European countries*. Mönchengladbach: Forum Verlag Godesberg.

International Restorative Justice Week 2017

The International Restorative Justice Week (*#RJWeek*) 19–26 November 2017 took place all over Europe and beyond. As usual, the theme of this RJ week was *Inspiring Innovation*. The European Forum for Restorative Justice (EFRJ) organised and coordinated a series of events to celebrate this week with its members, and others! In this article, we will present a brief history on the RJ weeks and zoom in on the specific activities that took place in 2017.

A brief history

It all started in 1975 in England, where prison chaplains launched a day to remember incarcerated people, the Prisoner's Sunday. The idea then spread in other countries and 20 years later, it became the Prisoner's Week. This is still celebrated and, in Belgium, the national prison week and international RJ involve good collaboration between the EFRJ and local organisers working in prison settings. For example, in 2017 their theme is about family members of prisoners, something where RJ can have a proper say. Finally, it was in 1996 that Canada expanded prisoner's week into Restorative Justice Week: Community, Victims, and Prisoners, shortened to Restorative Justice Week. The main theme, *Inspiring Innovation*, originally proposed by the Correctional Service Canada, is a common theme for all RJ weeks worldwide.

The EFRJ joined this international campaign a few years after its creation in 2000. Just to have an idea of what has happened across Europe in the latest RJ weeks:

- during *#RJWeek* 2013, the EFRJ designed postcards that were sent across Europe in digital and printed versions (for example, Belgian prisoners wrote messages to their families using the EFRJ postcards). These postcards were used later on as dissemination materials.
- during *#RJWeek* 2014, the EFRJ produced the video [Restorative justice: Inspiring the future of a just society for all](#) (based on interviews at the EFRJ Conference Belfast 2014). The video was screened across Europe as part of the campaign 'RJ Lunches,' where our members were invited to organise a gathering and talk about RJ.
- during *#RJWeek* 2015, the EFRJ celebrated its 15th anniversary with a series of events in Leuven (that is, the play, *A Conversation*, a book presentation, social dinner and film screening) and disseminated the events organised by its members;
- during *#RJWeek* 2016, the EFRJ organised a series of events around the main theme 'Arts, Justice and Storytelling' (that is, on the intersections between RJ and theatre, comics and digital storytelling) and collected and disseminated stories and events in the field of RJ;

- during *#RJWeek* 2017, so much had happened that we dedicate the rest of this article to it! For more details, feel free to visit the [EFRJ website](#) and social media.

RJ Week 2017

The EFRJ engaged in a series of actions throughout the year to prepare for *#RJWeek* 2017. The calendar on the EFRJ website includes almost 150 events that took place in 26 different countries across Europe and beyond (Albania, Belgium, Bulgaria, Canada, Chile, Croatia, Czech Rep., Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Latvia, Mexico, Nepal, Netherlands, Norway, Poland, Portugal, Russia, Spain, Switzerland and the UK). EFRJ members, and others, have been really creative in the type of events organised, which included meetings, conferences, new books and reports, publications, dinners, street promotional campaigns, lessons, interviews, debates, film screenings, lectures, panel discussions, talks, social media daily news, courses, plays and sharing of memorable RJ stories.

On 19 November, the first day of *#RJWeek* 2017, the EFRJ sent to almost 2,400 recipients a campaign to launch this international event. This Newsflash highlighted some special initiatives where the EFRJ was a partner in the organisation, like for example the series of events organised by the RJ City project in Leuven. In particular, we promoted the TED^xLeuven 2017 Salon 'And Justice for All...' where Brunilda Pali, a member of the EFRJ Board, gave a presentation on the (lack of) images in RJ, starting from the well-known Lady Justice and looking at art projects encouraging dialogue in communities in conflict. (These TED^xLeuven talks will be available soon on <http://www.tedxleuven.com/>).

In the same Newsflash, the EFRJ announced its new publication: [Restorative Imagination: Artistic Pathways. Ideas and experiences at the intersection between art and restorative justice](#) (edited by Emanuela Biffi & Brunilda Pali). This booklet is a collection of articles and images reflecting on possible ideas or presenting ongoing projects where arts have been used in the RJ field. Some authors of the articles (from Europe and beyond) wrote about art projects used in the phase of preparing victims and offenders to meet in a RJ process. Others wrote about those used for raising awareness about RJ values and practices and for encouraging

dialogue between conflicting parties and being part of the RJ process itself or for overcoming traumas and giving a voice to one of the parties involved in a crime. The booklet can be downloaded for free [via the EFRJ website](#); printed copies can be ordered at the Secretariat. New editions will be published in the future!

Many EFRJ members organised a local event around the new film *A Conversation*, based on a play portraying the meeting between two families affected by a serious crime. This filming project has been the result of several years of work and that is why we will dedicate a special section in this article.

Film '*A Conversation*'

A Conversation is a film based on a theatre performance. The drama it presents is based on a real case where two families meet in the presence of a facilitator, the parents of a young woman who was raped and murdered and the family of the offender. The film aims to raise awareness of the potential power of dialogue between people affected by serious crime, but it also highlights other issues relevant for the criminal justice field.

The playwright David Williamson (Australia) wrote the script. It was developed in close collaboration with John McDonald, an expert in the field of community conferencing, which is also one of the subjects in the original play (John McDonald is a professional mediator and amateur actor and he played his role in the Australian play). About seven years ago, the theatre director Peter Harris (UK) adapted the play for a European context and gathered a group of non-professional actors to perform the play. No Theatre was a non-profit community theatre group based in Oslo (Norway) with amateur actors coming from different parts of Europe (Belgium, Germany, Norway, Spain, and UK). They all have different jobs, but they have been really committed to staging *A Conversation* with the mission of influencing the criminal justice system approach towards victims and offenders and to promote a culture of dialogue even in the aftermath of the most serious crimes.

The film *A Conversation* is the last work produced by Peter Harris and No Theatre. Indeed, half way through the making of this film, Peter was diagnosed with terminal cancer and passed away on 6 August 2017. No Theatre, as well as other friends and colleagues, completed the filming of the play they had all worked on in the past seven years. In the urgency of making it happen together with Peter, the play was filmed in one day (eleven hours in a film studio in Oslo) on 22 April 2017, while Peter directed the group via Skype; however, Peter never saw the completed film, which was edited by his colleague and friend Oddbjørn Austevik. There is something important to say about Peter's methods for preparing the group to play *A Conversation*: for one entire year, before learning

their parts, the actors learned to play and feel emotions such as anger, despair and fear. Peter, who had more than 20 years of experience in drama, arts and film applied to social work, wanted the actors to show in the most realistic way the drama felt in the story.

Strong emotions and provocative dialogues are the main characteristics of the play. Following one of the film screenings in Brussels, a man in the audience shared his personal experience after losing his daughter in the case of a traffic offence: 'I saw myself in the mother of the victim,' he said, 'Thanks for showing such a real and human play. I wished I would have had the chance to meet the driver in a restorative process, not only in court.' Similarly, after the screening in Tel Aviv, a woman said: 'Those parents are me!' Her daughter was murdered by a mentally ill person in a bus station and this mother identified all the feelings acted and lived by Barbara and Derek (the victim's parents in the film), although she had never been interested in meeting the offender. In Paris, two women left the room and were supported by the organisers. This type of feedback by the audience was a valuable contribution to the discussions after the film, to bring back the film to reality and acknowledge that in many cases people bring their own personal experiences (and scars) to the discussion.

In total, 68 screenings of the film *A Conversation* took place during #RJWeek 2017, meaning that about 3,000 people watched this film and discussed the possibility of using RJ practices in serious violent cases. This has been possible thanks to the voluntary work and commitment of several members of the EFRJ who translated the subtitles into fifteen different languages, including Albanian, Croatian, Dutch, English, French, German, Greek, Hebrew, Hungarian, Italian, Nepali, Polish, Portuguese, Russian and Spanish. All local screenings were also organised by members of the EFRJ who received some guidelines to introduce the film and lead the discussion after the screening. This was important to inform the audience that the play does not picture a process fully in line with all methodological requirements of a RJ process and to dedicate time for a discussion with experts in the field at the end of the screening.

Still, because of the different stories and layers within the film, discussions went beyond RJ principles and methods. The role of emotions in the aftermath of crime and the collective dimension of victimisation, where everyone is finally a victim, have been often a topic for reflection. In addition, discussions moved in other areas relevant for the criminal justice field, for example, the sociological explanation for crime and deviance and the level of violence in prison for certain types of offenders. John McDonald told us that the play had been based on different real cases he had facilitated and this is the reason why many different topics of discussion and levels of dramas can be experienced after watching the film.

For those ones among you who have not had the chance yet to watch *A Conversation*, we know that EFRJ members are still planning new screenings and discussions in the near future. Because of the sensitive contents of the film and the need for a debriefing after the screening, the EFRJ and its membership are still taking the lead in the coordination of the screenings: please contact us at info@euforumrj.org if you need to

know more about it or other *#RJWeek* events.

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Books

Mazowiecka, L., Klaus, W., and Tarwacka, A. (2017) *Z problematyki wiktymologii* (On problems of victimology). Warsaw: Wolters Kluwer.

This book is dedicated to Professor Ewa Bieńkowska, a leading Polish specialist on victimology and restorative justice. It contains 28 chapters, five of which concern victim-offender mediation.

1. 'Limitations on the possibility of using mediation, resulting from basic principles of criminal law', by Olga Sitarz (in Polish).
2. 'The mediator as a community participant in the

criminal process', by Dariusz Kuzelewski (in Polish).

3. 'Is mediation appropriate even for rape?' by Martin Wright (in English).
4. 'Mediation in situations of domestic violence' — on the basis of the experience of mediators, by Magdalena Grudziecka and Jerzy Książek (in Polish).
5. 'The danger of a second victimisation during mediation', by Paulina Wiktorska (in Polish).

** If you have a book that has recently been published, please let us know so that we can promote it.

Calendar

Restorative justice in road traffic offences: a promising field 20 April 2018 Leuven, Belgium This event is free but there are limited places available. More information from the [EFRJ](#). On the evening of 19 April 2018 there will be a screening of the film [Rabbit Hole](#) followed by a discussion.

IIRP Europe & SynRJ 1–4 May 2018 *Restorative Practices & Conferencing: Training of Trainers* Smokies Park Hotel (Best Western), Ashton Road, Oldham OL8 3HX United Kingdom. For more information and to book a place, visit [Eventbrite](#).

Course on RJ & serious crime 12–13 June 2018 Tirana, Albania Trainer: Kristel Buntinx. The course, offered as part of a package involving attendance at the EFRJ Conference, is now fully booked. Places will only be available if there are cancellations. More information from the [EFRJ](#).

10th International EFRJ Conference *Expanding the restorative imagination: Restorative justice between realities and visions in Europe and beyond* 14–16 June

2018 Tirana, Albania. More information from the [EFRJ](#).

Criminal Justice Platform Europe *Radicalisation & Violent Extremist Offenders* 3–6 July 2018 Barcelona. Places are limited. More information from the [EFRJ](#).

Call for submissions

Articles

Each edition we will feature a review of the field of restorative justice, reflections on policy developments and research findings/project outcomes. Please consider sharing your perspective with colleagues.

Book reviews

We very much welcome reviews of books and articles from our membership. If you have published a book and would like to submit it for review, please send it to the [Secretariat](#).

Events

Please let us know about upcoming restorative justice related conferences and events. We are happy to share this information via the Newsletter or Newsflash.

Not an EFRJ member yet?

Join forces with other RJ professionals throughout Europe and beyond and sign up via our [our website](#). (If you are a member but have not yet renewed for 2017, you can use the same link.) The process only takes five minutes. You can also email the [Secretariat](#) or use the address below.

As a member you will receive:

- three electronic newsletters a year
- regular electronic news with interesting information
- reduced conference fees and special book prices
- the opportunity to publicise your book in the monthly *Newsflash* — contact [Emanuela Biffi](#) with details of your book
- opportunities to learn from, meet and work with RJ colleagues

- reduced subscription fee to *Restorative Justice: An international journal*
- and much, much more . . .

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The views presented in this Newsletter are the views of the authors and do not necessarily represent the views of the EFRJ.

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