

Editorial

Hello everyone,

The EFRJ hosted its 10th biannual conference in Tirana, Albania last week, which was a resounding success. Just over 300 people attended the conference with 48 countries represented. The conference boasted impressive keynote speakers and presenters — much was learned and many new contacts were made. Towards the end of this edition, our Committee member, Nicola Preston, will talk more in detail about the conference, its location, atmosphere and speakers. We are planning a special section of our September edition of the Newsletter on conference reflections; so if you want to share any thoughts or experiences with us about the conference please be in touch!

Given the celebration of the EFRJ and its achievements over the last week, our first contribution of this edition returns to the original founders of the Forum: Christa Pelikan and Ivo Aertsen. Neither of these warm and esteemed colleagues needs introduction. What they offer for this edition is a potted history of how the EFRJ came into being — initiated by discussions and involvement of the first Council of Europe Recommendation on Mediation in Penal Matters. The strength of relationships and a dedication to improving the quality of justice has provided strong foundations for what is today a vibrant Forum.

The next article, written by Ian Marder, is on the revision of the CoE Recommendation on Mediation in Penal Matters 1999. Ian reflects on the broader policy and implementation context that necessitated such a review as well as his reflections on the procedures and workings of the group involved in the review. Perhaps the most important impetus is the need for a cultural shift in the way that we approach dealing with crime across Europe. Despite a very significant group of committed and knowledgeable academics, policy-makers, practitioners and researchers in the field of restorative justice, we are not seeing the shift and impact that we all wish for in practice. Initiating progressive change across all European countries will involve an effort to engage with both public punitiveness and the scepticism that sometimes confronts restorative justice initiatives.

Claude-Hélène Mayer has written our final substant-

ive contribution for this edition of the Newsletter. She does a wonderful job — I think you will agree — of reflecting on the kind of difficulties I outline above. Her article discusses her experience of sharing the practice of intercultural mediation to a diverse audience for whom English was not their first language. She raises two key issues. The first is the reaction of the audience to the notion of ‘intercultural’ mediation and the challenges that this raises when trying to create ‘win-win’ cultural outcomes for participants. The second is the challenge of communicating in English and she questions whether this is the most effective language to promote restorative justice/mediation across Europe. The substantive part of her article is an honest reflection on the methodological difficulties associated with conducting intercultural mediation. Articles of this nature would be incredibly helpful for learning more about how we might further embed RJ in Europe and how we might overcome some of the challenges that implementation generates.

As always, if you have any comments on any of the articles written, please do let us know. Alternatively, if you wish to contribute an article for publication in the Newsletter, my team and I are on hand to help you from developing your ideas to assisting with English language.

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The origins of the European Forum for Restorative Justice

In this article, we discuss the origins of the EFRJ. A number of formal and informal exchanges were instrumental in its development. We begin with the role of the Council of Europe (CoE) Recommendation on Mediation in Penal Matters from 1999 and then explain how the EFRJ emerged.

The formation and the importance of the CoE Recommendation on Penal Matters (No. R 99 (19))

Three features shape and restrict the scope and influence of CoE recommendations:

1. The various reports, recommendations and conventions initiated by the [European Committee on Crime Problems](#) (who are responsible for overseeing and coordinating the Council of Europe's activities in the field of crime prevention and crime control) are legal documents. They are addressed to national governments. The law and its institutions are at the centre of the deliberations and a host of permanent and transitional committees, conferences and symposia produce the resulting documents. The inclusion of a wider public beyond those of the experts of legal institutions happens only as an exception — mediation has been an exception.
2. The cornerstone of the work of the CoE is the 'European Convention on Human Rights' (ECHR). Every new document has to take this '*Magna Carta*' of European legal policy into consideration, pay homage to it and engage with its content and meaning. It serves as a lodestar for policy-making. The ECHR and especially the articles that deal with procedural safeguards — for the alleged offender, but also for the victim — must be adhered to.
3. Recommendations are not binding. In the realm of 'legal affairs' they are intended to orientate and support legal policy arguments. The value or power of these documents rests solely with the moral standing, reputation and persuasive power of the CoE. Nevertheless, this moral power has to be transformed into something that becomes a relevant legal policy instrument. Otherwise, respective ministries and their bureaucracies will overlook it.

In November 1996, the first meeting of the Committee of Experts in Mediation in Penal Matters took place in the Palais de l'Europe in Strasbourg, following meetings in Barcelona and in Glasgow. There the interest of the CoE and several of its member states had been expressed toward providing a recommendation on 'mediation in penal matters,' generally known as 'victim-

offender mediation' (VOM). The rationale and 'terms of reference' were:

Different models and programmes of mediation are in operation all over Europe. Time has come to evaluate these experiences and to assess the role of mediation in relation to the 'traditional' penal system. Such an analysis ... should address in particular the following questions and areas of concern:

- the potential of mediation to arrive at conflict solutions which are more accepted by those involved (including or excluding society at large) than those solutions which are procured by a traditional criminal procedure;
- the role, training, professional status and degree of professionalisation of mediators;
- the areas of conflict which lend themselves to mediation as well as their underlying problem structure;
- the form and degree of integration into the criminal justice system;
- the relevance and practical implementation of due process requirements in mediation.

The following member states of the CoE sent representatives to contribute to drafting the Recommendation: Spain, France, Ireland, UK, Belgium, Norway, Germany, Liechtenstein, Austria, Hungary, Czech Republic, Bulgaria, Turkey, Slovenia, Greece, Cyprus, Italy. In addition, there were two scientific experts, Heike Jung (Professor of Comparative Penal Procedural Law, University of Saarbrücken) and Tony Marshall (Home Office, UK). In most of the sessions, two experts from Canada, Professor Ezzat Fattah (Simon Fraser University, Vancouver) and/or David Daubney (Canadian Ministry of Justice) were present and participated actively in debates. Christa Pelikan was elected chair at the beginning of the first session.

The Recommendation was and is a legal document and it is therefore predominantly concerned with describing and defining the place of mediation in relation to the criminal justice system. On the one hand, the deliberations of the committee resulted in allocating mediation a position of autonomy. It stressed in the first section of the appendix:

Mediation services should be given sufficient autonomy within the criminal justice system.

On the other, the importance of following due process grounds the recommendation within the rule of law. Therefore, the principle of voluntariness has received extensive consideration, particularly in respect of alleged offenders who have to choose between VOM and the standard penal procedure. Taking recourse to the legal safeguards of due process regulations is a way of protecting parties from any undue pressure. Paragraph (11) of the recommendation reads,

Neither the victim nor the offender should be induced by unfair means to accept mediation.

Regarding the ‘internal structure’ of mediation, confidentiality and impartiality appear most important; they became an issue for debate and controversy during the course of implementing the Recommendation. Three years after the adoption of the Recommendation, the Criminological Scientific Council (CSC) decided to support preparation of a follow-up study of this Recommendation that was to focus on the extent and the mode this Recommendation was implemented in different member states and on the influence, the Recommendation had exerted in bringing about changes in the field of VOM. This short and condensed empirical research conducted produced the following results:

A document becomes influential — and thus useful — when it is used

The expertise that went into drafting the document has provided additional legitimacy to its contents. People dedicated to a cause have to get together; and where and when they perceive a document as supporting and promoting their cause, they will use it. As Ivo Aertsen stated:

the Recommendation is an effective instrument, when you have people in a country picking it up and working with it effectively.

There are different paths to initiate action and to have promoters embrace the Recommendation. The initiative and leadership of an individual often proves important but he/she must not stand-alone. Professional groups within the criminal justice system and/or of NGO’s are indispensable. A process has to be set in motion. In the course of this process, CoE instruments might be used as an important and convincing ‘tool.’ In this way, there is a continuation of the process of drafting through the process of implementation, in which networking is central.

Within the CoE it is processes more so than outcomes that contribute to change. The Recommendation must also be situated alongside other CoE initiatives where RJ is discussed, such as political gatherings

of Ministers of Justice of the member states and working meetings of the General Public Prosecutors of the CoE, where mediation and other RJ approaches have been proposed. To promote Recommendation R(99)19 on penal mediation, the CoE also published a policy oriented guide (Aertsen et al., 2004). An important next step was made with the adoption of the CEPEJ Guidelines for a better implementation of the existing Recommendation (European Commission for the Efficiency of Justice, December 2007) and, more recently, with the review of Recommendation R(99)19.

The founding of the EFRJ

The meetings of the Committee of Experts to prepare Recommendation R(99)19 on penal mediation laid the foundation for the creation of the EFRJ. The discussions in Strasbourg, but also the informal exchanges and friendships that started growing during that period through these and other gatherings reinforced the need for collaboration. What increasingly became apparent was that practitioners and researchers were often struggling with the same challenges in their respective countries. Thus, the conviction grew that mutual support and cooperation was needed in a more systematic and structural way. Therefore, in 1998 we applied for and obtained a grant in the framework of the EU Grotius funding programme.

The project, which ran from 1 January to 31 December 1999, brought together mediation experts from eight European countries (Austria, Belgium, Finland, France, Germany, Norway, Poland and the UK). A ‘coordinating group’ was formed, assisted by a secretariat based at KU Leuven. During that year, the group met three times to prepare a first European conference on VOM and to discuss the conditions for the creation of a European organisation. The conference took place in Leuven (27–29 October 1999) and the Forum published its first book (European Forum for Victim-Offender Mediation and Restorative Justice, 2000). During that year, the why’s and how’s of starting a European organisation were discussed extensively and the first version of a Constitution was drafted including the envisaged objectives and working principles of the organisation.

These preparatory works resulted, in the beginning of 2000, in the dissemination of a ‘Memorandum’ (a consultative paper), which presented the background of the initiative, together with a number of topics to be discussed further. The feedback received on the Memorandum was discussed at a ‘technical seminar’ (22–23 June). After that meeting, the Constitution was finalised and a first General Meeting was then organised in Leuven (8 December 2000). There, the Constitution was formally approved by 44 ‘founding members’ coming from 17 European countries, and a first Board consisting of nine persons was elected. The organisation adopted the formal status of a registered non-profit organisation, which was, because of practical reasons and

the localisation of its secretariat, done according to the rules of Belgian law.

Almost twenty years later, it is worth revisiting the consultative Memorandum that underpinned the Forum. The document contained, amongst other elements, arguments for and against establishing a formal organisation, and arguments regarding the autonomous position of the organisation versus its integration in an existing European association. The following options were proposed:

The main focus is on mediation in *criminal* matters and related restorative developments. Nevertheless it has been decided that links should be made with other fields of mediation (such as family mediation, school mediation, community mediation). The Forum is concerned with both juveniles and adults, seen from the offender side. It was agreed that the Forum would use a broad definition of delinquency: the cases do not have to be in the criminal justice system. The target group of the European Forum for Victim-Offender Mediation and Restorative Justice are mediators and mediation services, policy makers, researchers and criminal justice practitioners all over Europe. Contacts will be further developed with other regions. Also, the Forum considers other European and international organisations working in the field of victim assistance, offender care and restorative justice as important partners in realising its objectives. Lastly, the decision to limit the Forum's action to Europe was taken for different, mainly practical, reasons ... But also the cultural context was taken into account.

Furthermore, a list of 'specific principles underlying the Forum' was proposed as guidelines for its further development:

The Forum works to find a meeting point for the interests of victims, offenders and the community.

We do not want to create a 'high mass of restorative justice.' We will stay open for diverging ideas on what criminal justice should be and what restorative justice is. The Forum actively seeks to provide a forum for expressing apparently contradictory points of view by everyone who is working for a humane system of justice for the common benefit of victim, offender and the community ...

In the same line the Forum will consider conflicts on ideas as a good thing. Con-

flicts help to advance ideas and developments. They will be treated constructively.

The Forum should be an independent organisation. We do not want to develop links or actions which impede our freedom of thought and action.

During the deliberations, the name of the organisation was discussed. From the Memorandum:

Some comments have been made on the fact that victim-offender mediation is explicitly mentioned in the title. Since victim-offender mediation is a restorative justice practice, some argue that it should not remain in the title, that the title should be shortened to 'European Forum for Restorative Justice,' as such not emphasising one form of practice and staying open for new forms such as family group conferencing. An argument contra shortening the title is that the term 'restorative justice' is not that well known yet in Europe, and that the ideas behind restorative justice are still moving a lot. Moreover, some argue that including victim-offender mediation in the title is a remedy to the fact that the restorative justice field does not have clear boundaries yet.

Finally, the long name 'European Forum for Victim-Offender Mediation and Restorative Justice' was preferred. However, five years later, at the General Meeting in 2005 it was decided to shorten the name to 'European Forum for Restorative Justice,' mainly in order to avoid confusion between its concepts and based on the observation that in recent years the term 'Restorative Justice' had gained much more recognition in European countries.

From the very beginning, one of the strengths of the Forum was its partnership between different groups: practitioners, researchers, policy-makers and (to a lesser extent) judicial actors. The active involvement and cooperation of these key stakeholders is essential for the development and implementation of RJ throughout Europe in a sustainable way. Another important factor was the collaboration between EU institutions through high quality projects. This privileged position allowed us to acquire funding for a whole series of projects during the first 15 years of the Forum's existence. Also thanks to funding from various national governments (Belgium, Finland, Germany, Netherlands, Norway and the UK) during consecutive years, the Forum could implement projects on topics considered crucial for the development of RJ and its implementation in countries less advanced at that moment. These projects brought many people together on a variety of RJ related topics and resulted in a long list of reports

and publications. Together with the bi-annual conferences and summer schools, the projects proved to be inspiring and enthusiastic episodes for the continuous growth of RJ in Europe.

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Restorative justice and the Council of Europe: an opportunity for progress

Setting the scene

In recent years, many European countries have seen a significant increase in the awareness, development and use of restorative justice within their criminal justice systems. Some governments have helped or permitted criminal justice agencies to adopt and implement restorative justice locally, while others have legislated for or provided funding nationally or regionally to support its use.

Yet, restorative justice is rarely used to its full potential. Many countries do not have the capacity or the desire to afford victims and offenders a right of access to restorative justice. Countries that use restorative justice often do not systematically inform victims and offenders of their ability to engage in this process. Moreover, many jurisdictions have adopted one or more hybrid restorative-traditional practices, enabling victims and offenders to participate in processes which are described as ‘restorative,’ but which offer no opportunity for dialogue between the parties, nor are they designed and delivered in accordance with core restorative justice principles.

Indeed, as the terminology of ‘restorative justice’ proliferates across the globe, there seems to be a strong tendency to conceive of many new rehabilitative, reparative, diversionary and/or victim-oriented interventions as being inherently ‘restorative’ in nature. This necessitates the modernising of international policies in order to clarify the extent to which a given practice reflects the concept of restorative justice, while ensuring that governments and criminal justice institutions adopt an evidence-based approach to maximising its benefits and minimising its risks in the criminal justice context.

International restorative justice instruments: a brief history

In 1999, the Council of Europe adopted Recommendation No. R (99) 19 of the Committee of Ministers to

member States concerning mediation in penal matters (hereinafter: ‘the 1999 Recommendation’). This document, and its corresponding commentary, argued for an expansion in the use of mediation in criminal justice and outlined a series of detailed standards and principles for those practices to follow. It discussed the legal basis for penal mediation, safeguards for participants and how mediation services should operate in relation to criminal justice agencies (and *vice versa*).

In 2007, however, the [European Commission for the Efficiency of Justice \(CEPEJ\)](#) argued that, within many member states, there remained a general lack of awareness of restorative justice, availability of restorative justice at some stages of the criminal justice process and of specialised training in its delivery. These findings were taken to signify that the 1999 Recommendation had not been fully implemented.

Nonetheless, the CEPEJ’s evaluation of the 1999 Recommendation suggested that it had a clear effect in a number of European countries. Moreover, the Recommendation strongly influenced the wording of the [2002 ECOSOC \(UN\) Resolution](#) and, in 2012, [Directive 2012/29/EU of the European Parliament and of the Council](#), establishing minimum standards on the rights, support and protection of victims of crime in Europe (hereinafter: ‘the Directive’). These instruments also reflected a broader transition that was taking place within the field: the use of terminology relating to ‘mediation in penal matters’ was in decline while vocabulary relating to ‘restorative justice’ — encompassing both principles and practices — was gaining ground.

The Directive in particular has stimulated various legislative and policy developments across Europe, requiring European Union (EU) member states to enhance victims' statutory rights and develop services for victims of crime. It discusses the use of restorative justice, creating a responsibility for criminal justice practitioners to inform victims about available restorative justice services in their local area and outlining various protections for participating victims. It also utilises virtually the same definition as that contained within the 1999 Recommendation, although it does so in reference to the term 'restorative justice' instead of 'mediation in penal matters.' However, the Directive stops short of creating a right of access to restorative justice for victims of crime and focuses exclusively on victims' rights at the expense of providing similar protections for offenders. Its focus on victims also means that it does not explicate the broader themes and innovations that are apparent in the modern development of restorative justice, such as its role in achieving desistance and its applicability beyond the criminal procedure.

Current developments in international instruments

In 2016, the [European Committee on Crime Problems \(CDPC\)](#), a body within the Council of Europe, directed the (non-political) [Working Group of the Council for Penological Co-operation \(PC-CP\)](#) to revise the 1999 Recommendation. The PC-CP undertook this task with four key aims:

1. To enhance the awareness, development and use of restorative justice in relation to member states' criminal justice system;
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 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 within prisons and by probation services, the traditional remit of the PC-CP.

In January 2017, I was hired as a Scientific Expert to assist the PC-CP's Working Group in exploring the contemporary restorative justice landscape and drafting a new instrument to replace the 1999 Recommendation. Members of the Working Group are criminal justice experts, drawn from prison and probation administrations, academia and Justice Ministries from Council of Europe member States. NGOs, including

[EuroPris](#) and the [Confederation of European Probation](#), are also represented. All of these persons contributed to the drafting process, as did the European Forum for Restorative Justice, who were invited to attend the relevant Working Group meetings.

The first step involved consultation. With Edit Törzs and Tim Chapman (European Forum for Restorative Justice), we used the infrastructure of the [Community of Restorative Researchers](#) and the European Forum for Restorative Justice to draw attention to the possibility of a new Recommendation and explore how our colleagues from around the world thought the 1999 Recommendation might be further developed. Respondents to these consultations generally considered that the 1999 Recommendation was substantially sound, and that many European countries were yet to reach the high standards detailed in the original Recommendation. Still, respondents identified a variety of ways in which a new Recommendation might go further in delineating evidence-based standards and supporting the development of restorative justice policies and practices.

As of June 2018, drafts of the new Recommendation and its commentary have been approved and adopted by the PC-CP Working Group, the PC-CP Plenary meeting and the CDPC Plenary meeting. The documents are currently awaiting approval by the Council of Ministers, which is the last stage in the process. Once approved at this level, we will have a new European legal instrument that applies to all the Council of Europe's member states. At the time of writing, the latest drafts of the [Recommendation](#) and its [commentary](#) to be published are those which were released prior to the [most recent meeting of the CDPC in early June 2018](#).

In their current form, these documents go much further than the 1999 Recommendation in calling for a broader shift in criminal justice across Europe towards a more restorative culture within criminal justice systems and agencies. They seek to provide a definition of restorative justice which encompasses and promotes both its principles and its practices. They outline evidence-based standards for victim-offender dialogue, and strongly urge member states to develop the capacity to deliver this service safely and effectively. They also reflect some of the more recent trends and innovations in the development of restorative justice. In particular, they outline how restorative principles can be used to underpin reform in criminal justice more broadly, while suggesting some of the circumstances in which restorative approaches can be used in criminal justice institutions, beyond the criminal procedure. The Recommendation is clear that there is a role for all policymakers, practitioners and other professionals involved in criminal justice to promote, enable or use restorative justice, or otherwise to understand restorative principles and integrate them into their work.

Across Europe, many victims and offenders remain excluded from the well-evidenced benefits of restorative justice. This is due in part to some professional gatekeepers being unaware or unsupportive of restorative justice. Though the Recommendation is not legally binding, it provides us with an opportunity to engage European governments and professionals working in criminal justice at all levels on the development of restorative justice. Moreover, for those jurisdictions which wish to take this work forward, the Recommendation can be used as a template for their own policies,

as has been the case with the Council of Europe's criminal justice instruments in the past. Considering that the United Nations recently passed a new Resolution committing itself to updating its own materials on restorative justice, I am permitting myself to feel somewhat optimistic about the fate of restorative justice in the coming years.

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Methodological challenges in intercultural mediation

*There are times in
life when the question of knowing if one can think differently than one thinks,
and perceive differently than one sees,
Is absolutely necessary if one is to go on
looking and reflecting
at all.*

Michael Foucault (1926–1984)

When members of various cultural groups meet the potential for both creativity and conflict arises. Mediation is a conflict management and restorative justice practice used globally and in various cultural groups to resolve conflicts and/or to transform conflict (potential) into a creative force for change and peaceful co-existence. Usually, conflict mediation follows a culture-specific process, as defined within a specific cultural context. In intercultural contexts, mediators of intercultural conflict facilitate different perceptions, expectations and realities. This requires a high degree of flexibility, ambiguity tolerance, methodological knowledge, adaptability and intercultural competence from mediators working in these contexts (Busch and Mayer, 2017).

Intercultural mediation aims to explore the culture-specific worldviews and realities of conflict partners and find win-win solutions for conflictual situations (Mayer, 2006). Conflict mediation within complex intercultural settings requires a complex intercultural understanding of the mediator, intercultural competence, as well as a conscious awareness and ability to apply mediation practices adequately. In an interactive session for the Forum of Restorative Justice in Berlin, Germany, I held a talk on intercultural mediation and introduced what intercultural mediation means and which intercultural competences are essential to mediate successfully. The session's focus was on mediation methods and the challenges intercultural mediators may experience within their practice. While I presented in English, I also translated the main points into German throughout the presentation in case some audience members were not as fluent as others were.

The audience was very interested in the topic. Feedback following the presentation revealed some hesit-

ance ('This is becoming a very complex process'), interest ('very exciting' and 'I would like to learn more about it'), uncertainty ('How is this going to be applied practically') and even dismissal ('This is not for me'). Some people stated that they had experienced intercultural mediation sessions which they found very exciting, but at the same time, difficult to manage. After the presentation, several individuals approached me to tell me that it was very difficult for them to follow an English presentation without a full German translation. That was very interesting and a revelation for me, because I assumed proficiency in English within this context. However, the language of the presentation was already a barrier or at least a challenge for several German participants. However, they did not share this openly, but only personally after the talk (perhaps to 'save face'). I felt that this is what we can also see and experience in intercultural mediation situations and it increased my own reflections and awareness (once more) with regard to the choice of language.

It also made me wonder how we might best share information. While English is a global language, it is not always the easiest mode of communication for a diverse audience. As such, this article provides a brief overview of the presentation to overcome some of the limitations that the spoken language can present for future intercultural discourses on the topic.

Mediation often takes place in complex situations and the challenges of mediators are based on complex cultural influences and intersectional diversity inherent in mediation processes. That means that, in intercultural mediation, we always have to work with intersectionalities, such as the intersection of age, gender, cultural origin, nationality, (dis-)ability or mother tongue which all feed into each other and thereby increase the complexity (Mayer, 2017). Thereby, mediators serve as role models in mediation sessions and can function as role models of intercultural competence, whilst using the increasing diversity within the mediation processes constructively (Mayer, 2012). Mediators need to further address intercultural methodological challenges through competent mediative leadership practice and respond to the question of which methodologies to use to lead the mediation ideally for all parties involved (Mayer, 2014). That means practically that mediators have constantly to self-reflect and meta-communicate (if possible) on their language, methodologies and the communication techniques used.

During the entire mediation process, intercultural mediators are required to (re-)think actively their own cultural concepts and methodological preferences to resolve conflicts across cultural contexts. These challenges include the reconstruction of culture-aware responses to the following questions:

1. Theoretical challenges: what is intercultural mediation, what are the methodological challenges according to culture-specific contexts?
2. Conceptual challenges: which model do we apply?
3. Applied methodological challenges: which mediation methods do we use?
4. Competence challenges: which intercultural competences do we use?

It seems to be agreed upon that mediation competences, such as cultural reflections, understanding of complex backgrounds, self-management and the development of best practices are important competences to take into consideration in mediation, thereby increasing the level of cultural awareness for all parties as well as the mediator.

Mediators need to differentiate further selected challenges in intercultural mediation, when defining culture as a coordination of meaning and action within a bounded group (Bennett, 2017), with regard to the cultural impact on the understanding and work with

intersectionalities in mediation. These intersectionalities influence how concepts of gender, hierarchies, status and position, age and life circle, belonging to majorities and minorities, language, identity concepts, negotiation (styles), power and conflict are understood and defined. These intersectionalities impact on all challenges presented. In an intercultural mediation in Tanzania, for example, I worked in co-mediation with an older, male colleague. The conflict parties, both men working in the context of labour law, only addressed my male colleague as a mediator and only spoke and reacted to him. So, we changed our usual approach. He conducted the process and during break-times we reviewed how the approach was working. We thereby respected the request of the parties only to speak with a male mediator while we both still worked within the process by acting in a culturally acceptable way. Obviously, the intersectionalities of gender, status, power and negotiation styles needed to be acknowledged to proceed successfully with the process of this intercultural mediation.

Further, the methodological challenges include the decision of which kind of mediation model to use to best serve the interests of the parties. Do we use a Western model of mediation, based on Western mediation standards and principles, such as phase orientation, a certain setting and role and the emphasis on exploring the differences in cultural values and concepts and their impact on the conflict? Or do we use a mediation model which uses, for example other time frames and is based on other cultural values and concepts (so called 'ethnomediation')? Or, finally, do we use a combined model which integrates a Western and ethno-model (known as synergetic intercultural mediation model, see Mayer, 2006) to serve best the interests of the parties (and the mediator) to resolve intercultural conflict?

Moreover, in intercultural mediation, we need to work with culture-specific methods and techniques and we need to know which conflict styles (e.g. denial of conflict or active discussion) are culturally and individually preferred. We need to adjust culturally-accepted or unaccepted communication and mediation techniques (e.g. active listening, reframing, mirroring or the use of I-messages). In all these instances, mediators of intercultural conflict need to be aware of these aspects and prove if they can be used adequately in intercultural mediation and conflict transformation.

Often, advanced methodologies and rituals need to be applied in mediation processes to increase the intercultural understanding and possibility of resolving conflict. These methodologies can include sculpture work (and other non-verbal techniques), physical techniques, such as breathing exercises or Aikido, arts (e.g. drawing, sculpting). Further on, in cultures in which religious and elements of faith are important, religious and/or faith-related rituals or symbols need to be considered (e.g. prayers, reference to a higher power, quiet time, mediative aspects).

Through the increased complexity in intercultural mediation processes, mediators need to take an increased application of methods and techniques in intercultural mediation into account to capture the relevant aspects to transform conflict into peaceful interactions and to build synergies across cultures. These methods need to be learned and/or trained and culture-specific knowledge needs to build up to adjust intercultural interactions.

Conclusion

Working with mediation in intercultural contexts requires a complex understanding of cultural processes, and a culture-specific way of addressing cultural differences to create cultural synergies through applied mediation methods. Therefore, reflections and adjustment of theoretical, methodological, conceptual and competence concepts of mediators are required to mediate successfully in conflict of members of different cultural groups. Besides the cognitive skills, also the affective (emotional) and behavioural competences of the mediators need to be developed over time to conduct intercultural mediation sessions successfully. This means that in mediation training concepts, mediators need to acquire intercultural competences — general and culture-specific competences on cognitive, affective and behavioural levels — to be prepared to deal with the increased (cultural) complexity of intercultural mediation processes. They can thereby take Foucault into account.

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Expanding the restorative imagination: restorative justice between realities and visions in Europe and beyond

The 10th International European Forum for Restorative Justice conference in Tirana, Albania 14–16 June 2018 was a huge success with 309 participants from 47 different countries. One of the local participants summarised the overriding feeling when they said, ‘You brought to Tirana such a good atmosphere that I wish it will remain with us every day.’

Justice Minister Etilda Gjonaj, who outlined some important restorative justice developments being introduced into Albanian legislation and their juvenile justice system, opened the conference. There was significant support from a range of influential policy makers in Albania including the Deputy Chair of Parliament, the Head of Rule of Law and Governance and the Head of the Albanian representation of the Organisation for Security and Co-operation in Europe. This presence

attracted extensive media coverage and demonstrated the importance that the Albanians place on restorative justice and the opportunities to develop practice especially in the juvenile justice system. Plenary sessions continued across the three days to inspire, challenge and provoke debate and discussion that continued across the conference.

There was such a wide range of interesting, challenging and thought-provoking workshops that the only



Figure 1: Participants

difficulty was which ones to choose! The parallel workshops were grouped around three themes:

- Restorative intersections with criminal justice systems;
- Restorative juvenile justice realities and visions;
- Re-imagining restorative justice as a social movement.

Great connections were made at the workshops I attended and I certainly learned a lot, even how to teach restorative practices through games — a fun and inclusive way to get to the heart of the relationship building aspects of what it is to be restorative! I am looking forward to seeing the presentations from those workshops that I could not attend which will be added to the EFRJ website in the near future.

The welcome from the Albanian people was amazing and as well as the conference proceedings, we attended some quite unbelievable social events. On the first evening, the Minister for Justice hosted a reception in Vila 31, the former home of the Albanian dictator Enver Hoxha. We drank wine, ate nibbles and celebrated with the inspiring, committed and innovative winners of this year's RJ Award: the [Foresee Research Group](#) from Hungary led by Borbala (Borcsa) Fellegi and represented at the conference by team members Gabor and Dori.



The conference dinner was hosted by the family restaurant [Bujtina e Gjelit](#). Our hosts cooked the most amazing traditional Albanian dishes with ingredients

from their own farm. We were then treated to traditional Albanian dancing that continued the theme of community and participation although it was certainly a little precarious around the edge of the pool. Eating, talking and dancing went on well into the night.



After the conference proceedings had finished there was also the opportunity to join one of eight walking tours to discover more about the history and culture of Tirana. I walked to the [House of Leaves](#) and was fascinated by what our local guide had to tell us about the former surveillance centre of Albania's secret police.

The conference has left lasting memories with all who attended and 'EFRJ Tirana 2018' was certainly 'beyond imagination.' This could not have been possible without the fantastic organisation of the EFRJ Board and Secretariat, the amazing group of Albanian volunteers and the [Albanian Foundation for Conflict Resolution and Reconciliation of Disputes](#) led by the wonderful Rasim Gjoka. Everyone should be so proud of what was achieved and as Tim Chapman (Chair of the EFRJ Board) summed up:

Let us be unrealistic and demand the impossible. Go out there and be the leaders you have been waiting for!

A short video compilation of the conference (We have a dream) can be found at: <https://vimeo.com/275596732>

Further details of workshop and plenary sessions will be posted on the EFRJ website soon.

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Figure 2: Workshop

Reading

Professor Tsisana Shamlikashvili who is currently an editor-in-chief of the *Mediation and Law* magazine founded the magazine in 2006. It is the only Russian specialized magazine about mediation, Alternative Dispute Resolution, Out-of-Court Dispute Resolution and indeed restorative justice and restorative practice.

The magazine is aimed at a wide readership, first and foremost, lawyers, businessmen, politicians, government officials, policy makers, educators, social workers and all whose daily activities often have to deal

with conflicts of interests and to resolve conflicts and disputes.

It is vital for such people today to get an idea of the essence, opportunities and prospects of mediation. Nevertheless, the magazine is not a narrowly professional publication; it is also interesting for the lay reader who wants to get a general idea of mediation. The magazine often covers the issues and ideas of EFRJ and tries to contribute to this field in Russia.

Calendar

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

Universities of Essex and Nottingham *Building a New Paradigm: Enhancing Restorative Policing* 3–4 July 2018 Manchester, Mercure Hotel Piccadilly. More information from the [EFRJ](#).

IIRP World Conference *Strengthening the spirit of community* 24–26 October 2018 Crowne Plaza Downtown Riverfront, Detroit. More information from the [IIRP](#).

TOA-Forum *„Die Stärke der Beteiligten: Selbstbestimmung statt Bedürftigkeit“* 7–9 November 2018 Berlin. 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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