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# Restorative Justice in Cases Involving Child Victims

## i-Restore European Research Report

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# Acronyms

## **CABs**

Child Advisory Boards

## **CoE**

Council of Europe

## **CRC**

UN Convention on the Rights of the Child

## **EU**

European Union

## **NGO**

Non-Governmental Organisation

## **RJ**

Restorative Justice

## **RJAG**

Restorative Justice Advisory Group (i-RESTORE)

## **Tdh**

Terre des hommes

## **UN**

United Nations

## **UNICEF**

United Nations International Children's Emergency Fund

## **UNODC**

Centrul de Resurse Juridice (Centre for Legal Resources)

## **VOM**

Consiliul Superior al Magistraturii (Superior Council of Magistracy)

# Key definitions<sup>[ 1 ]</sup>

**Restorative Justice** - Restorative justice is an approach that addresses harm or the risk of harm by engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved (European Forum for Restorative Justice).

**Child** – Every human being below the age of eighteen years.<sup>[2]</sup>

**Victim** - A natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence.<sup>[3]</sup>

**Child victim** – A person below the age of eighteen years who has suffered harm as a consequence of a criminal offence.

**Child offender** – A person below the age of eighteen years who has been accused of having infringed penal law and committed a criminal offence.

**Family group conferencing** – A restorative practice that involves the community of people most directly or indirectly affected by the crime (victim, offender, family, friends and key supporters of both) by discussing the causes, consequences and reparation of the harm caused by a criminal offence.

**Victim offender mediation** – A restorative practice that provides victims an opportunity to meet their offender in a safe setting to allow a mediated discussion of the crime. Consent from both parties is mandatory.

**Mediation** – A method of conflict resolution in which a third person, the mediator, chosen by the parties involved in the conflict, acts as a facilitator of interaction and dialogue between the parties.

**Youth** – The United Nations defines ‘youth’ as those persons between the ages of 15 and 24 years.<sup>[4]</sup>

<sup>[1]</sup> Please refer to our “Restorative Justice: Key concepts and frequently asked questions” for further information.

<sup>[2]</sup> Article 1 of the UN Convention on the Rights of the Child.

<sup>[3]</sup> Art. 2 of the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

<sup>[4]</sup> See: <https://www.un.org/en/sections/issues-depth/youth-0/>

# Executive Summary

Notwithstanding the differences between legal systems in Albania, Greece and Romania, the three countries are developing restorative justice and children's rights and are gradually approaching the respective European and international standards.

In Albania, the laws and regulations in place show a solid basis for restorative justice interventions. The Albanian Code of Criminal Justice for Children of 2018 represents an unprecedented shift in the approach to the treatment of children within the criminal justice system, providing restorative justice and mediation as alternative measures for the rehabilitation of the children involved in the criminal justice system. Restorative justice and mediation for young people can be applied in all stages of investigation or judgement and can be asked for by the offender, the victim, their parents or a legal representative. In Greece, restorative schemes for juveniles in the Reform of the Penal Legislation for Juveniles and other provisions have been introduced, which introduces victim-juvenile offender conciliation, restitution and community service either through diversion or as a reformatory measure. Though Romania adopted the Mediation Law that regarded the profession of mediation in both civil and criminal cases, the law refers to minors in only one article, thus implying that this practice was not envisioned for child victims. Some other laws are in place to address child's rights, such as the Child Protection Law, although the interventions used for children in Romania are primarily focused on the formal justice system.

In all three countries, legislation on restorative justice and child victims still needs to be added to and more attention should be paid to it. To obtain real impact, the laws need to be mainstreamed and seen as a normal part of the legal system. As facts and figures are often lacking, data collection and analysis also needs to be elaborated.

The review of existing training programmes and materials can assist professionals developing a programme on restorative justice for child victims (in Albania, Greece, Romania and beyond). Trainings must recognise a child-friendly way of working, address the

challenges that accompany the vulnerable status of children and provide relational and restorative skills for supporting professionals towards working in a more restorative way. Since actors range from those within the justice system, to practitioners, to families of children and children themselves, a more holistic approach based on continuity is needed.

While this project also aimed to hear from professionals about positive methods of working with children, and to hear from children about their needs, the findings indicated that there are still a lot of challenges when applying restorative justice to children. Though these challenges varied per country, many of the systems faced complexities due to a lack of awareness among professionals, ongoing changes of judges that impacted how restorative a system could become, inadequate legislation when compared to more ideal international norms that exist, a lack of cooperation among key stakeholders and the general belief that criminal justice still prevails, to name a few. These shortcomings led to several recommendations, which focus on themes such as protection, assistance and support, communication with children, attention to power imbalances, focus on reintegration over incapacitation, awareness-raising techniques and creating a healthy environment for children to feel open and safe to engage in dialogue.

Each of these areas must be considered within the frame of a child-centred approach. Several findings resulted from the literature review and the empirical research which adopt this perspective. Processes must account for developmental capacities of children related to the extent to which they can understand and participate in restorative justice practices. Other values that must be emphasised include listening to children, including about their concerns, safety and prevention of secondary victimisation, and allowing time for reflection and discussion. Child-friendly components that can be incorporated into restorative justice procedures include enhancing cooperation with child support agencies, paying attention to language (e.g., non-patronising and understandable) and appearance, making use of visual aids, offering children a set of pre-set questions so they know what to

expect, and finding good ways to work with parents in a constructive way that allows for their participation without their domination.

The needs-rights model presented by Tali Gal almost a decade ago again emphasises that the complex and evolving needs of child victims must be addressed both through legislation and practice. As we are slowly gaining more knowledge on this topic, the next step is to identify how best to communicate positive ways of working. Research, and practical implementation, must take into account the voices of children, and how to further do this should continue to develop over time and beyond the i-RESTORE project. Trainings need to be more accessible and fully implement a child-friendly approach. Only through ongoing education for practitioners and other professionals can we move towards a more restorative culture – for children and adults – that will have a large impact on the well-being of all parties involved.

As this report illustrates, child-friendly justice must consider the vulnerable state of children, particularly when they engage in processes such as restorative justice. From the interviews that were conducted with children, support and information particularly came to light. While the form of this support will vary, it is crucial to understand how to best integrate proper assistance – whether through the parents, a police officer or a psychologist - through a way that accounts for the individual needs of the child. Furthermore, information has to be communicated in innovative and easy to understand ways to children, not only about the process, risks and benefits, but also during a restorative justice (RJ) intervention.



# Introduction

## 1.1 i-RESTORE

The two-year project **i-RESTORE: Protecting child victims through restorative justice** is coordinated by Terre des hommes, in partnership with the European Forum on Restorative Justice and Restorative Justice Netherlands, financed by the Justice Programme of the European Commission (2019-2021). The project originated from the idea of improving the position of child victims in criminal procedures by using restorative justice (RJ) interventions<sup>[5]</sup> and to give children and young people a voice in issues that matter to them. The main objective of i-RESTORE is to promote the use of restorative justice in cases involving child victims by improving knowledge amongst national stakeholders on child victim-friendly restorative justice and empowering children to advocate for better protection of child victims. More specifically, the project aims to:

- conduct a comparative review (Albania, Romania, and Greece) of current laws, policies, strategies, practices, capacities, research and initiatives related to restorative justice such as victim offender mediation and (family group) conferencing;
- collect information from policy makers and practitioners in criminal justice about their understanding of restorative justice and child victims;

- empower children to advocate for better protection of child victims in restorative justice;
- build capacities and foster mutual learning among national policy makers and practitioners in criminal justice to implement child victim-friendly restorative justice; and
- raise awareness and advocate for child sensitive restorative justice approaches in cases involving child victims.

This project includes children involved in child justice who have been harmed by a criminal offence (for example domestic and/or sexual violence) and children who have been harmed as a result of their contact with the criminal justice system in general. It is worth noting that a thin line between being a victim and an offender may exist in child justice or these roles can vary. Furthermore, understanding the needs of child offenders when accessing justice will also shed important light onto our work on child victims – an area that is much newer when compared to juvenile delinquency. Though experiences differ, to an extent, for the child offender and the child victim, we undeniably need to fully understand and implement the dynamics of a child-friendly approach, whether this refers to interactions with parents, tools for educating children, and protective measures. For this reason, we will review legislation, projects and trainings addressing children more widely.

<sup>[5]</sup> Within this report, the authors normally refer to restorative justice; the abbreviation (RJ) is used only when in relation to another noun (e.g. RJ processes, RJ practitioners, RJ interventions).

Restorative justice is being implemented in child justice and consequently also in cases involving child victims. While many countries have recognised the importance of this type of conflict resolution in cases of children, a more comprehensive understanding of the pitfalls, challenges to access and good practices are lacking. By promoting the use of restorative justice for child victims, benefits will result for them; this process, however, must be conducted following the appropriate methods and safeguards, to ensure that no further harm is caused to the victim. This is largely because children may be placed in vulnerable situations, for example when they do not receive adequate preparation, support and follow-up. Furthermore, power imbalances are more likely to arise when dealing with child victims and adult offenders.

Several important publications have reflected upon these notions towards more child-friendly justice. In 2010, guidelines<sup>[6]</sup> were adopted by the Council of Europe (CoE) to improve access to justice for children, including their treatment while in contact with justice processes and professionals. In 2013, the Office of the Special Representative of the Secretary-General on Violence Against Children published a report<sup>[7]</sup> promoting restorative justice with children. The report provided several recommendations, arguing that it is time to move from a punitive model to a more restorative model, particularly for children. General Comments 24<sup>[8]</sup> and 12<sup>[9]</sup> of the UN Committee on the Rights of the Child moreover enhanced developments for the rights of children by further addressing juvenile justice policy, providing clarity on the minimum age of criminal responsibility, encouraging the implementation of alternative measures, ensuring guarantees related to a fair trial for children and reiterating the importance of the child's right to be heard. The Council of Europe Recommendation on Restorative Justice of 1999 was updated and broadened in 2018. Most recently, in March 2020, the revised United Nations Office on Drugs and Crime (UNODC) Handbook on Restorative Justice Programmes<sup>[10]</sup> was released, explicitly acknowledging the rights of children participating in a restorative programme or

mediation. The fundamental safeguards to protect the rights of parties and ensure the fairness of the process to the offender and the victims include the right to be fully informed and the use of legal counselling, but specifically for children the right to the assistance of a parent or guardian is emphasised. The Handbook also recognises the possibility that children may need special advice and assistance before being able to form valid and informed consent.

## 1.2 Structure of the report

The structure of the report is divided into the following four sections: 1) The human rights framework 2) State of play: research, projects and training and 3) Research analysis on Albania, Greece and Romania and 4) Conclusions and recommendations. The legal and international standards provide the framework we operate in; research on relevant practices and projects form the basis for further studying the field; training is crucial to implement high quality services and inform professionals, and empirical research is necessary to see what works, what the challenges are and what is needed to further improve the field.

### A human rights framework

Both national and international legislation provides children with the rights they need when accessing justice. A child-friendly approach is reflected to varying extents in international human rights instruments issued by the United Nations and by regional bodies such as the CoE or the European Commission in the form of conventions, directives or recommendations, which provide a frame for States in which they are required or need to act. This notion is particularly true for binding instruments such as the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child that are ratified by many States, in addition to the binding EU Victim's Directive EU2012/29 and the Children's Directive EU2016/800. Non-binding recommendations also

<sup>[6]</sup> To access the guidelines, click here: <https://rm.coe.int/16804b2cf3>

<sup>[7]</sup> To access the report, click here: <https://violenceagainstchildren.un.org/news/promoting-restorative-justice-children>

<sup>[8]</sup> To access the Comment, click here: <https://www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf>

<sup>[9]</sup> To access the comment, click here: <https://www.refworld.org/docid/4ae562c52.html>

<sup>[10]</sup> To access the report, click here: [https://www.unodc.org/documents/justice-and-prison-reform/20-01146\\_Handbook\\_on\\_Restorative\\_Justice\\_Programmes.pdf](https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf)

provide guidance on how to operate at the national level. The rules and regulations provided in these instruments can be directed to governments, but also to organisations, professionals or individuals and provide rights as obligations for States/governments to act and make sure the rights will be implemented.

## **Research and projects**

When examining research around children and restorative justice, initial indications can illustrate what works, where more attention is needed and how to continue in this field moving forward. While there is a plethora of RJ research examining impact, good practices, challenges and other areas, fewer studies examine these procedures on young victims specifically. This report explores some aspects of what has been studied internationally. The majority of work has been on victim-offender mediation and family group conferencing, also because these are the most common forms of restorative justice in Europe. Other forms of restorative justice (e.g., peace-making circles, victim-offender dialogues) are not excluded: the countries included in the project and the studies that have examined the impact of restorative justice may also investigate these types of procedures.

## **Trainings**

Previous projects have assessed and developed trainings, and legislation may call for specialised trainings when dealing with vulnerable groups such as child victims. By providing an inventory of trainings, it becomes possible to better understand what works, what tools have already been established and how best to develop future trainings based on what has already been designed and implemented. This section forms the basis for the next steps in the i-RESTORE project.

## **Research in three countries**

This report uses the above-mentioned findings and normative responses to child victims to outline a methodological framework in Albania, Greece and Romania and to add to the existing knowledge through empirical research. Literature and document research by local researchers was undertaken to get insights into the legal frameworks and the practice of restorative justice in relation to children. Questionnaires and other tools, such as background material on restorative justice, were developed to be able to

undertake the national research (see Appendix 1). At the local level, interviews and focus groups were carried out with practitioners, policymakers and children to understand their knowledge, opinions and approaches to dealing with child victims in restorative justice. This included involving young persons who participate in Child Advisory Boards (CABs), set up in the three countries to give the possibility to children to actively contribute to the i-RESTORE project and its findings. CABs, composed of children normally between the ages of 12-18, are selected through partnerships with social welfare centres, children's homes and correctional facilities. As a result of their own experiences (whether through contact with the law, being at-risk, or children affected by adverse situations), this group is best placed to provide their input and experiences to develop a truly child-centred approach.

## **Chapters of this report**

The report is split into several parts and chapters, with parts referring to overarching themes and the chapters referring to specific points within these themes. The following chapter - chapter two - presents the research questions and methodology. Chapter two is then followed by the first part of the report – part one – which examines the human rights framework and consists of chapter three, which provides a summary of international and European legislation relevant to child victims and restorative justice. Chapter three provides a basis for the restorative justice work undertaken in Europe and the attention which is paid to child victims and child suspects and offenders. Part two provides the state of play of international and European available research, projects and trainings. With part two, chapter four contains an overview of relevant ongoing and recent projects on this topic and chapter five deals with trainings that are relevant to child victims and restorative justice. Part three contains key findings of the research undertaken in Albania, Greece and Romania. Chapter six, in part three, gives an overview of the legislation and policy related to child victims and restorative justice, whilst chapter seven shows relevant outcomes of the interviews and focus groups held in the three countries, including some quotes. Part four ends with final remarks and the final chapters – chapter eight - offers conclusions whilst chapter nine presents recommendations based on both the normative and empirical results of the report.



## 2. Research questions and methodology

Literature and document research formed the basis of the research undertaken on child victims and restorative justice, applying both to the broader context and the in-depth context of Albania, Greece and Romania. A team of three researchers from the European Forum on Restorative Justice and Restorative Justice Netherlands, as well as three researchers from Albania, Greece and Romania were selected and contributed to the full research.

The empirical research took place at the beginning of 2020, primarily between February and April, with minor differences (due to local challenges) in each country. This was initiated after the inception report was finalised and validated in January 2020. This included the main guidelines for the methodology and ethical standards of the empirical research. Members of the Restorative Justice Advisory Group were consulted twice during this process: once during the inception phase, in December 2019, to provide feedback on the suggested methodology; and the second time in May 2020 to provide feedback on the draft report outlining the results, recommendations and conclusions of the research. A training session was held in January 2020, with the researchers and focal points involved in carrying out the research, on the topic of ethics, primarily with regard to conducting focus group discussions with children.

The target groups were selected by the local researchers in collaboration with the project partners focal points. Practitioners and policymakers who participated in i-RESTORE were contacted using the professional networks of the project partners, primarily the European Forum for Restorative Justice (that could provide its contacts in the field of restorative justice in each country) and Terre des hommes (as partners included the national branches of this international organisation, with an extensive number of national projects run in the past). Moreover, local researchers made use of their own national contacts. More about the sampling can be found below.

### 2.1 Research questions

The methodology aimed to answer several research questions outlined below.

#### **Practitioners working with child victims (or in related fields)**

- What are their strengths and gaps in knowledge, skills, attitudes and behaviours?

- What are promising practices and, if applicable, relevant cases studies?
- What do child victims need?
- What types of trainings have been attended, if any, and what training needs exist?

### Policy professionals

- What policies exist that comply with international legal child rights standards on child victims and restorative justice?
- To what extent are policy professionals aware of, have the relevant skills and are willing to apply these policies?
- What types of trainings have been attended, if any, and what training needs exist?

### Children, with a focus on child victims where possible

- What is the child's understanding and experience of restorative justice in terms of process, benefits and risks?
- Do children themselves believe it could apply to conflicts involving children, and if so, how?
- What is important for children when dealing with the conflict and restorative approaches?

## 2.2 Methodological tools

The empirical research was conducted by interviewing different categories of policymakers, practitioners working with child victims, child victims and members of Child Advisory Boards (CABs), primarily through focus group discussions and one-on-one interviews. Semi-structured interviews were devised for the four categories of respondents and can be found in Appendix 1.

The focus group guides, addressing the questions above, were largely similar for **practitioners and policymakers** but differed in a few key ways. Namely, the questionnaire for policy professionals examined existing policies or gaps in policies, while the

questionnaire for practitioners was more focused on the knowledge of working with children and the gaps in understanding this topic within the target group. The tools were developed in English and translated into the local languages by the national researchers (see Appendix 1).

For the **Child Advisory Boards (CABs)**, focus group discussions were held in the countries to understand both the attitudes towards and knowledge of restorative justice applied with child victims. The CABs provided their input related to whether or not they think restorative justice is a suitable option for children. Before talking about restorative justice, CABs discussed their understanding and experience on children's rights and needs.

Focus group guides were also developed for **child victims** to assess the extent of their knowledge on restorative justice and if they believed it could be used in cases involving children. The questionnaire examined their knowledge, in addition to challenges and risks of dealing with children, in order to include their perspective. The questionnaire not only included concrete questions on restorative justice itself, but also focused on other aspects related to children's rights and needs (participation, support, empowerment) relevant for the restorative approach, as well as on pertinent skills (conflict resolution, responsibility taking, empathy growth, among others) which could be useful to strengthen or to understand restorative justice and act according to its values. These consultations were conducted in close collaboration with public authorities and practitioners working with children. In order to help youths participate in the focus group discussions and feel more able to express themselves, the local researchers made use of different tools, such as a short film, a case study and/or Dixit cards.<sup>[11]</sup>

In particular, the film and case study encouraged children to reflect about restorative justice and children's needs and respond to the questions (see Appendix 1e and 1f). The national researchers showed the children the film "The Wolf Within" and presented a case study on a traffic offence. The film presents the stories of Will, a victim of a robbery, and Peter, his offender, and their participation in a RJ meeting. Specific instructions were developed following the film (see Appendix 1e). The case study on a traffic offence is a three-part story of the offender David,

of the victim Jason, and the RJ meeting and parties' supporters in the aftermath of a traffic offence. In this case, the national researchers could follow specific instructions (see one example in Appendix 1f). The case study, however, was adapted to the specific context for each country.

## 2.3 Samples

### Albania

In Albania, nine focus groups were carried out with **practitioners**, including judges, prosecutors, police officers, mediators, child protection officers, probation officers. This is the list of practitioners that participated in the nine focus groups in Albania: two focus groups with 27 judges of the juvenile and family sections; one focus group with 22 prosecutors of the sections of juvenile justice; two focus groups with 25 local coordinators of the municipalities responsible of the mechanism of referral for victims of violence and children victims of violence; two focus groups with twelve police officers of prosecution office and with state police; one focus group with nine mediators divided in three parts; one focus group with seven professionals of the probation service and eight representatives of child protection agencies.

Nine interviews were also held with lawyers, teachers, psychologists, and a social worker. More in detail, interviews in Albania were held with three lawyers, two high school teachers, three psychologists and a social worker. The two teachers belonged to High School "Cajupi" and the High School "Partizani" in Tirana.

Two focus group discussions involved **children** (one with eight CAB members and one with six child victims). The Albanian **policymakers** included interviews with representatives of different ministries, law enforcement agencies and NGOs. This is the list of policymakers that were interviewed in Albania: representatives of 1) the Office of the Deputy/Minister, 2) the Ministry of Justice, 3) the General Director of Policy for Health and Social Protection, 4) the Ministry

of Social Protection and Health and the chief of the sector of politics and strategies for social inclusion and gender in this ministry; representatives of the law enforcement agencies such as 5) the Director of the State Police of Tirana, 6) the Director of the National Agency of the Child Protection; 7) the Head of National Chamber of Mediators, 8) the member of the High Council of Justice, 9) the president of the Tirana District Court for Penal Matters, 10) the Director of the Initial and Continuous Training in the Albanian Bar Association; 11) the Executive Directors of three NGOs, (Albanian Foundation for Conflict Resolution (AFCR), Albanian Centre for Legal studies and trainings (ACLTS) and the Centre for Legal Initiatives).

### Romania

In Romania, a total of 25 consultations were held, including 21 interviews and four focus groups. Of these 25 consultations, 17 were individual interviews, four were interviews with two professionals at the same time, and four were focus group discussions. Most interviews were conducted face-to-face, except for five consultations that were done by phone (three) or via email (two) due to challenges with the distance within the country.

Among these, 13 consultations were held with **practitioners** (including the children's ombudsman, police staff, judges, mediators and others working with children or on child protection). This is the complete list of practitioners who participated in the consultations in Romania: children's ombudsman, police staff, a prosecutor, judges, mediators, a school counsellor, a psychologist, a representative from the National Agency against Drugs and a group of 15 professionals from the Abuse Service, Social Work and Child Protection Direction.

Nine consultations were held with **policy-makers** (such as presidents or directors of different agencies, representatives of international NGOs and academic staff). This is the complete list of policymakers and scholars who participated in the consultations in Romania: President of the Mediation Council, Director of a Probation Service, Deputy General Director of the

<sup>[11]</sup> These cards contain special images that served as a way to start a conversation or express feelings and emotions.

National Administration of Penitentiaries, representatives from UNICEF and Save the Children, experts from the restorative justice experimental centres, and academic staff.

Three consultations with **children** were conducted.

## Greece

In Greece, interviews were conducted with 22 professionals, comprised of 13 **practitioners** and nine **policymakers**, including professors, psychologists, juvenile probation officers and teachers. This is the complete list of the practitioners and policymakers who were interviewed in Greece: the president of an NGO working on bullying and school mediation; teachers, the (deputy) ombudswoman on children's rights; (child) psychologists; a legal counsellor; a head of social services; university professors; and juvenile probation officers.

Due to Covid-19 and the subsequent measures of the Greek government, several planned interviews were not possible, including professionals from the Minors' Prosecution service, Legal Aid for Youth, the Child's Health Centre and the Ministry of Justice. Also due to the limitations of the current crisis, the majority of policymakers were in fact academics. Among the consultations that finally took place, six meetings were in person, one interview was conducted via e-mail and all others by phone. Three different researchers carried out the interviews in Greece.

In addition, two focus groups were carried out with **children**, members of a Child Advisory Board.

## 2.4 Limitations

There were limitations impacting the results of the i-RESTORE research, particularly when conducting the mapping in Europe of RJ interventions with children. First, the authors mainly looked at English literature, existing projects and training programmes they could find through their professional networks. Second, this research focused on a specific and new theme (child victims and restorative justice) and it was limited to three countries (Albania, Greece, Romania). Third, part of the empirical research was affected by the Covid-19 pandemic: some interviews,

focus group discussions and meetings were cancelled, while others were organised online. Fourth, it was challenging to involve children (and obtain the parents' consent) within the framework of the empirical research and to identify available professionals (e.g. for the interviews) to participate in the project. The local researchers were, however, able to obtain a representative sample in each of the three countries in terms of age, background and gender.

Despite these limitations, by providing the existing experiences, tools and recommendations this review has been useful (for i-RESTORE and beyond) to build the capacity of judicial and other professionals involved in developing restorative juvenile justice or working in the youth justice system, specifically in respect to child victims.

## 2.5 Ethical considerations

The participation of children (including child victims) in the empirical research phase of i-RESTORE required researchers and project officers to comply with strict ethical standards to respect the privacy, integrity and confidentiality of children:

- An informative session on Child Safeguarding Rules took place for project partners during the kick-off meeting in January 2020, in order to prevent any potential risk of compromising the safety and well-being of children or other participants.
- Focus group discussions, interviews and other forms of data collection respected the Tdh ethics policy; these will also be adopted in the next phases of the project (i.e. during the training, study visits and regional advocacy events).
- To ensure adherence to the Tdh ethical policies, partners (e.g. researchers and project officers) signed a confidentiality agreement.
- When working in direct contact with minors (e.g. CABs), informed consent was obtained from parents and the young people themselves, indicating their understanding and voluntariness to participate.

- The reports (as well as future trainings and awareness campaigns) include anonymous case studies to avoid any negative exposure to child victims and (at-risk) offenders. The Restorative Justice Advisory Group (RJAG) reviewed or will review all materials and resources before their publication or inclusion in the training modules.
- Monitoring and evaluation activities include guidelines on how to handle breaches of confidentiality. Those involved in the final evaluation will be informed about data use and will be given the option to participate in the evaluation.
- The i-RESTORE core team was asked, if necessary, to immediately address any issues considered as potential conflicts of interest with organisations, institutions or individuals involved in project implementation.

## 2.6 Data analysis plan

Interviews and focus groups were recorded, where consent was obtained in written form, and transcribed by the local researchers in English. Where respondents did not consent to recording, in-depth notes were taken.

Content analysis was used. First, the data was analysed by using a coding scheme to understand the most relevant themes. For practitioners and policy-makers, codes related to strengths, gaps and promising practices. For interviews and focus groups with children, codes related to knowledge and attitudes of restorative justice. An explanatory note was developed together with the local researchers. By identifying themes and relationships, and subsequently summarising the data, it was possible to provide both descriptive and interpretive information related to the research questions.





# Part 1 - Human Rights Framework



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## 3. International and European instruments

The following section will provide an overview of relevant child rights regulations in relation to child justice focused on both child victims as well as child offenders, since child offenders may also be victims or deal with similar aspects as victims. Furthermore, as both parties have similar needs in many ways, understanding the experience of child offenders can offer some insights into the situation of child victims.

In the overview below, the content of the relevant European and international human rights standards for child justice and restorative justice are explained and relevant provisions for our research are cited. Explanatory comments from the Committee on the Rights of the Child will give further explanations, as well as new implementation tools such as the Handbook on Restorative Justice Programmes of 2020. Attention is also paid to gender issues. In the conclusions, we return to the main needs and obligations, but the overview shows that governments and institutions must provide a child-friendly system where restorative justice is an important option for both child victims and child offenders alike.

### 3.1. Children's rights, child-friendly justice and restorative justice

Even though the International Covenant on Civil and Political Rights<sup>[13]</sup> already provided protection for children much earlier on, the primary instrument that deals with children's rights is the UN Convention on the Rights of the Child (CRC).<sup>[14]</sup> The CRC is the most ratified binding international human rights Convention, providing governments and professionals with guidelines that can impact upon the interactions with child victims. According to the objectives of the CRC, the best interests of the child should prevail in all decisions concerning children (Article 3). Children should be heard and, thus, participate in issues that concern them and they should not be discriminated against on any basis. The CRC does not yet use the wording 'restorative justice', but largely reflects restorative thinking with its focus on helping parties to learn from mistakes and reintegration. The term 'restorative justice' became much more known and accepted in the 1990s. All international and European instruments dealing with youth crime or related aspects that were

[13] UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171

[14] UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

[15] Lynch, N. (2010). Restorative Justice through a Children's Rights Lens, *International Journal of Children's Rights*, 18, p. 161-183; Wolthuis, A. (2012), *Herstelrecht, een kinderrecht, Voorstellen voor integratie van herstel in het hart van het jeugdstrafrecht* (diss.), Den Haag: Boom Lemma uitgevers.

launched after 1996 use the term restorative justice and see it as a preferred intervention.<sup>[15]</sup>

In Articles 37, 39 and 40, the CRC sets detailed standards for juvenile justice systems stating that "member states shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law". Articles 37 and 40 address fair trial rights and a special child-oriented approach. Everyone working with children in the penal system has to take pedagogical objectives – children's development and evolving capacities of children – into account. As children are continuously growing, improving their abilities and skills and further developing themselves, they need to be able to learn from their mistakes. Important aspects include education and reintegration, a minimal age of criminal responsibility, role of parents, child-friendly proceedings including effective participation, the use of diversion where possible (keeping children away from the criminal justice system), work with child-specific sentences and incarceration as a last resort and for the shortest appropriate period of time.<sup>[16]</sup>

Article 39 directly lays out protection for child victims, stating that children and young people have the right to recover from difficulties they encounter and they should expect to receive the help that allows them to do so. This assistance includes help to victims and survivors of violence, sexual violence, neglect, exploitation of any kind, abuse, torture, armed conflict and trafficking. Article 39 is specifically related to restorative justice since social reintegration and recovery are important and signify the type of environment that restorative justice aims to create to promote dignity and self-respect.

### Further explanations to the rights in the CRC

The Committee on the Rights of the Child, a body with independent experts from 18 countries in the world that looks at the implementation of State responsibilities of the Convention, delivers General Comments to clarify certain articles and topics and takes recent

developments into account. We will refer to several relevant General Comments to get a better understanding of rights related to child victims and offenders.

**In 2019, General Comment 24<sup>[17]</sup> on children's rights in the child justice system** was released, replacing General Comment 10, which views restorative justice as a modern and effective practice. Under introduction item 1, the text reflects the developments that have occurred since 2007 as a result of the promulgation of international and regional standards, the Committee's jurisprudence, new knowledge about child and adolescent development, and evidence of effective practices, including those relating to restorative justice.

Restorative justice is defined here as "any process in which the victim, the offender and/or any other individual or community member affected by a crime actively participates together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party. Examples of restorative process include mediation, conferencing, conciliation and sentencing circles."<sup>[18]</sup>

Restorative justice is considered a diversionary measure as the Committee believes that "a variety of community-based programmes have been developed, such as community service, supervision and guidance by designated officials, family conferencing and other restorative justice options, including reparation to victims." Within the criminal justice system, restorative justice is also perceived as an important tool, see under the heading "Dispositions by the child justice court" in Article 74: "A wide range of experience with the use and implementation of non-custodial measures, including restorative justice measures, exists. States parties should benefit from this experience, and develop and implement such measures by adjusting them to their own culture and tradition...(.)."

The main target group for this General Comment is child offenders, but at the same time a restorative approach is addressed, reflecting a clear focus on re-integration and attention to victims. The point related to the use of customary, indigenous and other

<sup>[16]</sup> Wolthuis, A. (2012), *Herstelrecht, een kinderrecht, Voorstellen voor integratie van herstel in het hart van het jeugdstrafrecht* (diss.), Den Haag: Boom Lemma uitgevers.

<sup>[17]</sup> The new General Comment 24 (2019) of the Committee on the Rights of the Child on children's rights in the child justice system replacing General Comment 10.

<sup>[18]</sup> Basic principles on the use of restorative justice programs in criminal matters, para. 2.

informal justice systems also identifies an area that can be further explored to bring greater insights into child justice and should perhaps not only be limited to indigenous communities.

General Comment 13 of 2011 on the right of the child to freedom from all forms of violence focuses specifically on child victims by stipulating the right of the child to be free from all forms of violence. This document guides the protection of children on the basis of a set of principles mentioned in the introduction, which are undoubtedly relevant through a restorative justice lens as a response to child victimisation. Among these principles are that no violence against children is justifiable; that a child rights-based approach to child caregiving and protection requires a paradigm shift towards respecting and promoting the human dignity and the physical and psychological integrity of children as rights-bearing individuals; and that children's rights to be heard and to have their views given due weight must be respected systematically in all decision-making processes.

General Comment 12 of 2009 addresses the right to be heard further. Article 12(2) states, "For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law." According to the Committee in Article 3 "participation" is an ongoing process, including information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and can shape the outcome of such processes. Every child has the right to be heard in judicial procedures and to express those views freely in all matters affecting the child. These rights are summarised in **five steps of 'meaningful participation'** (see Articles 40 and further), as outlined below:

1. Inform: The realisation of the right of the child to express her or his views requires that the child be informed about the matter, options and possible decisions to be taken and the consequences by those who are responsible for hearing the child, and by the child's parents or guardian.
2. Listen: What is the child really saying? Evolving capacities of the child need to be considered.

3. Participate: Is the child able to participate? If this is not the case, what needs to be done to make this work?
4. Feedback: Give feedback on what will be done with her/his voice.
5. Explain: what can be done when the young person does not agree with the decision taken. Mediation or complaints mechanisms should be in place and be clear.

The Committee asks States to be aware of the potential negative consequences of a violation of this right. Especially in cases where a child has been a victim of a criminal offence, sexual abuse, violence, or other forms of mistreatment, State parties must undertake all necessary measures to ensure that the right to be heard is exercised ensuring full protection of the child (Article 21).

#### **Other United Nations (UN) instruments**

**The UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime** was issued in 2005. These guidelines recognise the particular vulnerability of children who are victims and/or witnesses of a crime and are exposed to a significant risk of secondary victimisation as a result of their participation to the criminal proceeding. The guidelines specifically encourage the use of 'informal and community practices, such as restorative justice' (Article 36).

**The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2013)** in its definition of "legal aid", includes restorative justice processes as a type of service that should be provided at no cost to those offenders, victims and witnesses without sufficient means or when the interests of justice so require (para. 8).

**The United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (2014)** recommend the provision of legal aid and legal information to children participating in alternative dispute resolution mechanisms and restorative justice processes (para. 6 (l)). Recognising the merits of restorative justice programmes, particularly as alternatives to criminal proceedings, the Strategies also recommend the use of diversion programmes and the implementation of restorative justice

programmes for children as alternative measures to judicial proceedings (para. 31). Because of the serious nature of violence against children and the severity of the physical and psychological harm caused to child victims, the Strategies urge caution in the use of informal justice systems when dealing with perpetrators of violence against children. Member States are encouraged to ensure that through such mechanisms, “violence against children is appropriately denounced and deterred, that perpetrators of violence against children are held accountable for their actions and that redress, support and compensation for child victims is provided” (para. 25).

The new **UNODC Handbook on Restorative Justice Programmes (2020)** that updated the 2006 version is a practical guide related to the UN Basic Principles **on the Use of Restorative Justice Programmes in Criminal Matters (2002)**. The Handbook makes references to child victims and offenders in many chapters, but in chapter 6 on more serious crimes it states: “Restorative justice may also be an appropriate response in cases where children are victims of violence. Restorative justice can offer an environment where child victims, with the support of family, friends or a support person/advocate, can participate in a process that meets their varying needs, be accommodated in terms of their coping capacity and level of development and avoid further trauma for children through exposure to a difficult and unfriendly adversarial justice processes that may otherwise occur. The successes of such an approach, from a child’s rights and needs perspective, depends on the extent to which the child is participating voluntarily, is adequately prepared and is supported along the way.” These last preconditions are what seems relevant in all cases concerning children in RJ interventions.

When addressing violence against children, it is expressed that children who are victims of violence are in a unique position of powerlessness compared with adult victims of crime. Power imbalance between the child victim and the offender may result in pressure to participate or forgive the offender and it also affects the bargaining power of the participants in the process. It is concluded that in cases involving children, the best interests of the child and, in particular, the safety of the child victim must always be a precondition and central goal of the RJ process. Child victims must be thoroughly clinically assessed prior to any

participation in restorative justice. The Handbook also notes that “there currently is no global consensus on whether restorative justice programmes should apply to cases involving child victims. While international standards do not explicitly exclude the use of restorative justice for child victims, significant legal and procedural safeguards are nevertheless required and must be strictly adhered to.”

### **European guidelines on child-friendly justice**

The **Council of Europe Guidelines on child-friendly justice of 2010** outline the procedures that need to be child-friendly. A child-friendly justice system must treat children with dignity, respect, care and fairness. Mechanisms must be accessible, understandable and reliable, listening to children, taking their views seriously and making sure that the interests of those who cannot express themselves are also protected. Imprisoning children must also be a measure of last resort. Alternatives to judicial proceedings such as mediation, diversion (of judicial mechanisms) and alternative dispute resolution should be encouraged whenever these may best serve the child’s best interests. In particular, “Alternatives to court proceedings should guarantee an equivalent level of legal safeguards. Respect for children’s rights as described in these guidelines and in all relevant legal instruments on the rights of the child should be guaranteed to the same extent for both in-court and out-of-court proceedings” (Article 26).

Another important EU instrument is the binding **Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings**. The Directive is focused on young suspects who can also be victims of the system or who have been previously victimised. What is relevant here is the provision of a number of procedural safeguards for children who are suspected or accused of having committed a criminal offence. The Directive also refers to the importance of ensuring that professionals providing children with support and RJ services receive adequate training “to a level appropriate to their contact with children and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner” (Article 20).

## 3.2 Victims' rights

In addition to child-friendly mechanisms, there are also victim-centred instruments that address children in RJ procedures. Most notably, the key binding and most recent instrument dealing with the protection of victims is Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime (EU Victims' Directive). Children are considered as vulnerable victims, at-risk of secondary and repeated victimisation, intimidation and retaliation. According to the Directive, they should benefit from the specific protection, advocacy and services for children as direct or indirect victims (Articles 23, 24, 38 and 57), they shall be subject to individual assessment, and be entitled to exercise those rights in a manner that takes into account their capacity to form their own views. The Directive provides a broad definition of RJ processes, outcomes and services, introduces an obligation for Member States to inform victims as to the availability of RJ services and to facilitate referrals to these services. The relevant Article 12 establishes the right of victims to safeguards and to ensure that "victims who choose to participate in RJ processes have access to safe and competent restorative justice services." While the Directive provides for the right to be informed about restorative justice and insists on the importance of protecting victims by ensuring high quality services, little is mentioned about the right to access such services.<sup>[19]</sup> Instead, such a right will depend on national legislation. The EU Victims' Directive turned out to have a stimulating effect on national legislators and policymakers. For example, in the Netherlands a new Article in the Penal Procedural Code was introduced to create a legal window for implementation of restorative justice in penal matters.

Both the Children's Directive (EU2016/800) and the Victims Directive guarantee the right to an individual assessment taking into account the specific needs of children concerning protection, education, training and social integration. As a relevant part of the individual assessment, it is important that child victims and child suspects receive information about restorative justice and that the needs for a restorative approach are addressed.<sup>[20]</sup>

## 3.3 Principles specifically related to restorative justice

### Council of Europe Recommendation CM/Rec (2018)8

The Council of Europe also has been involved in developing guidelines related to restorative justice since the 1990s. As recent as 2018, the **Council of Europe Recommendation CM/Rec (2018)8 concerning restorative justice in criminal matters** was adopted at the 1326th meeting of the Ministers' Deputies, replacing an earlier version from 1999. Inspired by the EU Victims' Directive, the Recommendation offers something new through a broader scope and content in relation to victims, where the main aims are:

*"to encourage member States to develop and use restorative justice with respect to their criminal justice systems. It promotes standards for the use of restorative justice in the context of the criminal procedure, and seeks to safeguard participants' rights and maximise the effectiveness of the process in meeting participants' needs. It also aims to encourage the development of innovative restorative approaches - which may fall outside of the criminal procedure - by judicial authorities, and by criminal justice and restorative justice agencies."*

<sup>[19]</sup> In 2016, the EFRJ published a practice guide for RJ services on the implementation of the EU Victims' Directive, focusing on the Articles relevant to restorative justice which can ensure access to high quality RJ service to victims (and all parties). See "Practice Guide for Restorative Justice Services. The Victims' Directive: Challenges and opportunities for Restorative Justice" (Biffi, 2016). Two other relevant publications resulted from the EU funded project "Accessibility and initiation of restorative justice", coordinated by the EFRJ in 2012-2014. More info here: [www.euforumrj.org/en/accessibility-and-initiation-restorative-justice-2014](http://www.euforumrj.org/en/accessibility-and-initiation-restorative-justice-2014). The research report (Laxminarayan, 2014) and practice guide (Biffi & Laxminarayan, 2014) can be downloaded from the EFRJ website.

<sup>[20]</sup> See also the EU project FOCUS on "My Needs – Working together for children in criminal proceedings"; available at: <https://tdh-europe.org/our-work/focus-on-my-needs-working-together-for-children-in-criminal-proceedings-7144-on-my-needs-working-together-for-children-in-criminal-proceedings-7144>





**Part 2 - State of Play:  
research, projects  
and trainings**



## 4. Projects and research on restorative justice and child victims

This Recommendation addresses all public and private agencies which operate in the domain of criminal justice, and which deliver or refer cases for restorative justice, or which may otherwise be able to utilise restorative justice or to apply its principles to their work. The Recommendation shows awareness of victims' issues and the need for a solid and equal restorative practice recognising the comprehensive needs of victims, as well as stressing that more attention should be given to strengthening cooperation with victim support services.

The following review aims to provide an overview of projects and empirical research or evaluations that have been conducted on child rights and restorative justice. We examine projects both in the target countries as well as others that have already investigated this issue. The first section (4.1) will explore funded projects that aim to add to the body of literature through more research or trainings and which provide practice outcomes, while the second section (4.2) will present academic research adding to the theoretical knowledge on restorative justice and child victims (and which can feed into the practical recommendations).

### 4.1 Projects overview

The project, **Civil society in action to build restorative approaches and practices for children and youth in conflict or contact with the law**, focused on Albania (2018-2020)<sup>[21]</sup>, aims to add to the knowledge-base of restorative justice with children by addressing the new juvenile justice code and fostering coalition building and awareness-raising among key stakeholders. The project strengthens the capacities of competent bodies and civil society organisations that play a role in justice for children, in order to support them in implementing restorative approaches through comprehensive training programs and the development of guidelines. Furthermore, civil society organisations built their capacities to prevent the imprisonment of children and youths through the use of restorative practices. It focused on the following activities:

- Six awareness raising activities involving judges, prosecutors, police officers, probation officers, Civil Society Organisations (CSOs) representatives, psychologists and mediators were organised at the local level and 133 people attended. Moreover, coalition building events, attended

[21] The project is currently implemented (2018-2020) by Terre des hommes Albania in partnership with the Albanian Foundation for Conflict Resolution and Terre des hommes Hungary supported by EU delegation in Albania.

by 415 students, teachers, and school psychologists, have been organised in nine schools, aimed at increasing the awareness of the youth on RJ approaches.

- One main component of the project is supporting ten CSOs to develop and implement small scale projects on restorative practices and programmes towards prevention of imprisonment through the sub grantee scheme. A study visit for representatives of CSOs was held in Belgium and the Netherlands to gain experience in implementing the RJ program for juveniles.
- Capacity building through training and module development is another focus of the project on restorative justice. A guideline on restorative justice for juveniles is being prepared for lawyers as well.

While there is a lot of existing research on restorative justice for adults and adult victims, the project ***Implementing restorative justice with child victims***, coordinated by the International Juvenile Justice Observatory (2016-2018), aimed to extend and adapt this research to young victims. The project brought together nine partners from six different countries that aimed to implement successful practices of child restorative justice in the EU, meeting the needs of youth victims and offenders (the ones who are harmed and the persons responsible). From the six countries involved, three already have successful RJ initiatives (Finland, Northern Ireland, Belgium, seen as mentor countries), while the other three mentee countries will implement those RJ processes, learning from others (Latvia, France, Bulgaria). The project developed a practical guide on implementing restorative justice with children and youth,<sup>[22]</sup> in addition to an online course (see chapter 6). In addition to these outcomes, partners provided three national reports on the sustainability of the pilot projects and a series of videos to illustrate the project in the mentee countries.<sup>[23]</sup>

The following objectives were identified: (a) Train professionals in three selected EU Member States on the concrete use of RJ practices with child victims; (b) Make RJ processes a more common response to crimes committed against and/or by young people in the EU28, no matter the gravity of the crime or the age of the victim or offender; (c) Protect and address the needs of young victims of crime through validated RJ processes; (d) Participate in a better implementation of the Victims' Directive (2012/29/EU); (e) Participate in the implementation of the upcoming Directive on procedural safeguards for children suspected or accused in criminal proceedings, Article 19(3).

As a result, the project led to greater use of RJ processes as a response to crimes against children, a better understanding among child justice professionals and policymakers, better adherence to the Victims' Directive and the existence of national coalitions on child restorative justice in the countries aiming to develop such processes.

The results of the practical guide elaborated on the situation of restorative justice in three countries. While the project targeted young people, the focus was mainly on offenders. Through talking with practitioners, however, several ideas or good practices emerged when dealing with child victims (e.g., allow mediators to speak to children separately from parents; the use of images when speaking to children; allowing children to deliver video messages during conferences). These are further reflected in the recommendations in chapter 9.

The European project ***AWAY: Alternative ways to address youth***, coordinated by Terre des hommes (2017-2018), uses a child participatory approach in order to promote diversion and make the juvenile justice system of a more child-friendly nature. The project includes five countries: Romania<sup>[24]</sup>, Belgium, Bulgaria, Croatia and Hungary. Through empirical research, professional support to those working with child justice and enhancing public awareness,

<sup>[22]</sup> Pali, B., & Randazzo, S. (2018). Practical Guide: Implementing Restorative Justice with Child Victims. International Juvenile Justice Observatory (IJJO). Retrievable on <https://www.oijj.org/en/implementingrj-guide>

<sup>[23]</sup> The videos can be found here: <https://www.oijj.org/en/implementingrj-videos>

<sup>[24]</sup> The Romanian report, authored by I. Durnescu and C. Popa, can be found here: <https://tdh-europe.org/libraryjuvenile-diversion-in-romania---working-in-isolation/7280>

the project led to better standards, procedural rules and training around child justice. Three research questions guided the AWAY project, namely, (1) What are the existing measures and processes for diversion that exist in the countries under study, and in what percentage of cases of children in conflict with the law are they used? (2) What factors (existing needs, gaps and pitfalls) hinder better and more frequent use of diversion and child-friendly justice practices? and (3) What needs to be improved in the juvenile justice system to promote diversion and restorative justice using a child-friendly approach?

To answer the questions, more than 30 child respondents were interviewed, in addition to more than 100 professionals working with children at risk with the law. Additionally, twelve focus groups were held with professionals to understand the challenges that arise when using alternative measures and diversion, to identify the gaps in knowledge and skills, and the needs for changing attitudes, as well as good practices and case studies.

The findings of the report indicate that low rates of diversion are caused by a lack of knowledge about its benefits and existence. In all countries, training is clearly lacking, especially those within the judicial system, but also amongst professionals working within child protection and care. There are also challenges regarding legal frameworks in the countries. While each country has addressed diversion and alternative measures to a varying degree, all still have trouble implementing it to the fullest extent possible in practice. Support for punitive approaches is largely restricting the use of diversion. Furthermore, most countries also referred to using European or international measures as guidelines and that should also be implemented at the national level. While there is a clear focus on child-friendly justice for offenders, there is less attention paid in this project to the well-being of victims.

The European Council for Juvenile Justice<sup>[25]</sup> coordinated a project in 2014 to create a **European Model for Restorative Justice with Juveniles** and emphasise the benefits of a restorative justice approach when working with children and young people. The European

Model was developed by a select group of experts in the area of juvenile justice and is based on studies of good restorative justice practices in Belgium, Northern Ireland and Finland, including analyses of legal frameworks and interviews relevant to the topic. The three volumes of the project include: 1) Research and Selection of the Most Effective Juvenile Restorative Justice Practices in Europe: Snapshots from 28 EU Member States, 2) Protecting Rights, Restoring Respect and Strengthening Relationships: European Model for Restorative Justice with Children and Young People, and 3) Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People.

Though there is a focus on juvenile offenders, the project does recognise that “child victims must not experience restorative justice as negative and should be given the opportunity and support to participate actively in the restorative process. They too should be heard with respect and sensitivity and protected from further harm.” Furthermore, the Toolkit pays specific attention to preparing children and young people to participate in a RJ process. When referring to the child victim, the authors emphasise the need to explain the purpose of the meeting and the crucial role that the victim will play. Facilitators are also advised to ask young victims to already think about what support they will need and how the process may go. For example, what questions they may have or how they will respond if the other party does not react as hoped.

The completed **E-PROTECT: Enhancing the Protection of Children Victims of Crime** project (2017-2019) was coordinated by the Law and Internet Foundation, and included five EU partners in Austria, Bulgaria, Greece, Italy and Romania. Two of the main project objectives were the enhancement of the overall awareness on child rights, as outlined in Directive 2012/29/EU and the promotion of the cooperation among the large variety of professionals who are in contact with child victims of crime, often as their first point of contact. While the focus is not on restorative justice, the emphasis on cooperation is vital to enhancing the use of these mechanisms and the rights of the child are made central. E-PROTECT II was launched in March 2020

<sup>[25]</sup> The European Council for Juvenile Justice (ECJJ) was launched by the International Juvenile Justice Observatory in 2009 and is a network of juvenile justice institutions and experts coming from 28 Member States of the European Union.

and is designed to build upon and expand the results of the E-PROTECT project implementation. It will aim to provide further capacity building of child protection professionals and improve the cooperation between competent authorities dealing with child victims, placing a focus on the practical implementation of identity and access management in daily work with child victims. The online platform offers a safe space for communication among professionals working on this topic.

**PROTASIS: Police training skills** (2016-2017) was implemented by a consortium of six organisations led by the international organisation European Public Law Organization (EPLO). The main objective of the PROTASIS project in Greece, Italy and Portugal was to contribute to the development of a victim-friendly environment during the victims' contact with the police and by ensuring that victims are treated in a respectful and sensitive manner through the improvement and strengthening of police officers' communication skills and knowledge on how to interact with victims. The training was organised by the EPLO in cooperation with the Hellenic Police Headquarters.

The evaluation of the project *Quality in education through mediation and restorative practices*<sup>[26]</sup> highlighted the implementation of three training courses on restorative practices in Romania for school directors and teachers and one training on the same topic for school counsellors. The project also showcased the establishment of a network of twelve schools in Bucharest and the Ilfov region for the promotion of restorative conflict resolution methods. It also conducted a context analysis in the same region for identifying the optimum parameters for implementing restorative approaches into the educational system and carried out two study visits in England and the Netherlands in order to analyse European restorative models in schools.

## 4.2. Other research

In addition to the projects outlined above, there have been several research studies that address the application of restorative justice to child victims. One insightful work was carried out in Belgium by Renders and Vanfraechem<sup>[27]</sup>, who illustrate the potential exclusion of victims by their parents during RJ processes. Through nine interviews with child victims, the authors found that parents are likely to influence the mediation process and they could be an impediment to the child's perceptions of voice, even though they also were seen as providing support to the child. In her well-known book, Gal<sup>[28]</sup> conducted an overview of restorative justice findings in child victim cases, exploring whether the same positive effects for adults can be found for this group. Her review found some challenges with parents, who often speak for the children, leaving them with the perception of having little voice. In fact, in a study accounting for age differences, the authors found that though restorative justice was more satisfying for adults when compared to criminal justice, the same pattern was not found for children. Child victims who went to the courts were more satisfied than those who went to conferencing procedures, largely linked to the insensitivity to the child's needs and adult domination.

Gal<sup>[29]</sup> presented a needs-rights model of restorative justice involving child victims which seeks to ensure that their, often complex and evolving, needs are addressed as well as the rights designated to them through international standards. In an effort to give the model a more practical application, Gal outlines eight heuristics that, if fulfilled, can help practitioners, as well as in the countries involved in our study, to achieve the aims of the model. These heuristics are: (1) holism: looking at all aspects, parties and rights involved (2) tailor-made processes; (3) children as partners; (4) participation as a continuum; (5) liberating children's voices; (6) adults letting go of being

<sup>[26]</sup> Ecaterina Balica, 2012 - Analysis of the application of strategies to prevent and combat violence in schools - Case study. Commission of the prevention of bullying.

<sup>[27]</sup> Renders E., & Vanfraechem, I. (2015). Minderrestorative justice: een slachtoffer in herstelbemiddeling: Positie en ervaring. Tijdschrift voor Herstelrecht, 4.

<sup>[28]</sup> Gal, T. (2011). Child Victims and Restorative Justice: A Needs-Rights Model. Oxford University Press.

<sup>[29]</sup> Ibid.

<sup>[30]</sup> Ibid.

risk averse; (7) restorative process as a goal, and; (8) empowering advocacy. If we look at the legislation, projects and training around this topic, it is clear that many of these heuristics are reflected in both the normative and empirical parts. Having tailor-made processes that recognise children as partners and emphasise participation and children's voices are key to truly obtaining a child-friendly approach.

Where children are dealing with abuse committed by family members, conferencing has been found to have positive results.<sup>[30]</sup> While criminal justice processes are set up to make parents choose a side, restorative processes allow them to support both the victim and offender (e.g., in cases where there is abuse between siblings). Gal's overall conclusion when looking at the experiences of several existing programs was that despite these potential challenges, "participation in restorative conferences should not be prohibited for young victims simply because of their age [...] perhaps active participation is not only something that young victims want, it is something they often need for their emotional recovery." Having these support persons help children to prepare a personal statement and to help them when they become stressed or nervous during the procedure may improve the experience. This approach increased perceptions that they are heard and successfully combated feelings of intimidation that is more common in young victims. Furthermore, support persons may be there to provide emotional support, speak on behalf of the child when needed, and leave the room with the child if necessary. At the same time, it is to be ensured that the introduction of another professional does not undermine the child's

own voice. Other research examining the impact of restorative justice on bullying in residential units for youths also resulted in positive findings from those who underwent such a process.<sup>[31]</sup>

Another non-empirical but theoretical examination looks at the application of restorative justice to child victims in cases of sexual abuse.<sup>[32]</sup> It argues that restorative justice cannot be used in such cases as a result of its failure to be able to account for the power relationship between victim and offender and will also lead to re-traumatisation. Such processes do not give enough control to the victims and their needs are secondary to offender needs. In a later paper, Daly<sup>[33]</sup> argues that one of Cossins' conclusions to focus on legal reform is insufficient, but rather other violent contexts should be considered as a potential to go through RJ processes. At the same time, research has indicated that restorative justice should not be excluded for victims of sexual violence.<sup>[34]</sup> The authors found that in the cases of adults, restorative justice may provide this group with a voice and lead to greater outcomes than when only encountering the criminal justice system.

Other reviewed research indicated that children might be more likely to feel intimidated, pressured and silenced. Though conferencing has obvious benefits when compared to criminal justice, there have also been findings in the past showing that child victims are in fact more satisfied with court proceedings than conferencing, suggesting more work needs to be done and focus given to improving the implementation of restorative justice for child victims.<sup>[35]</sup>

<sup>[31]</sup> Littlechild B., & Sender, H. (2010). The introduction of restorative justice approaches in young peoples' residential units: A critical evaluation. Center for Community Research, University of Hertfordshire.

<sup>[32]</sup> Cossins, A. (2008). Restorative justice and child sex offences: The theory and the practice. *British Journal of Criminology*, 48(3), 359-78.

<sup>[33]</sup> Ibid.

<sup>[34]</sup> Keenan, M., Zinsstag, E., & O'Nolan, C. (2016). Sexual violence and restorative practices in Belgium, Ireland and Norway: A thematic analysis of country variations. *Restorative Justice*, 4(1), 86-114; Koss, M.P. (2014). The RESTORE program of restorative justice for sex crimes: Vision, process, and outcomes. *Journal of Interpersonal Violence*, 29(9), 1623-1660.

<sup>[35]</sup> Gal, T., & Moyal, S. (2011). Juvenile victims in restorative justice: Findings from the reintegrative shaming experiments. *British Journal of Criminology*, 51, 1014-1034.



## 5. Restorative justice trainings applicable to child victims

The following review includes available (online) training courses for practitioners willing to explore the use of restorative justice with children (see 5.1) and child-friendly justice measures (5.2). In addition, RJ training for young people is explored to identify programmes where children themselves can learn and apply restorative practices<sup>[36]</sup> (5.3). These training courses were primarily one-time training programmes, meaning they were not repeated on a regular basis. The review also collects some practice guides and other tools (e.g. video materials) useful to design training in this field (5.4). While the review primarily focuses on programmes available in English, the authors recognise that additional trainings in other languages may exist. A specific section is reserved on the existing training experiences in Albania, Greece and Romania (5.5). The next stage of the i-RESTORE project will focus on building and piloting relevant

trainings for these countries, making this review a useful compilation of what is already existing in the field and may be further developed.

### 5.1 Trainings on restorative justice and child victims

There are some relevant training courses on the use of restorative justice with children as the main stakeholders, either as victims or as perpetrators of harm. These address RJ practitioners as well as all professionals in the juvenile justice system who play a role in offering and/or delivering a RJ process. For example, the online training course that was part of the project noted above, *Implementing Restorative Justice with Children*, was designed within the

<sup>[36]</sup> The choice to include a wider range of training is due to 1) the limited availability for restorative justice and child victims, 2) the existence of research that shows the benefits of restorative justice for both victims and offenders, reflecting the balanced approach taken by restorative justice itself and 3) the fact that restorative justice practices (i.e. actual techniques to talk with children and encourage them to engage in dialogue, take responsibility and share emotions) are similar when working with child victims and child offenders.

framework of an EU funded project coordinated by the International Juvenile Justice Observatory (see chapter 4.1). The online course targets professionals of the juvenile justice systems (youth and health workers, police, lawyers, magistrates, probation officers, educators and other education professionals) to help them gain significant knowledge and skills regarding RJ practices with children. The training begins by introducing the topic of restorative justice and the different practice models that can be implemented, focusing on the specificity when involving children as victims or perpetrators in RJ practices. Much attention is paid to concrete practices, including their implementation and evaluation. The online course is divided into four modules that can be followed separately or as a whole.<sup>[37]</sup>

Second, the European Forum for Restorative Justice organised a one-week residential training course on **Child-friendly restorative justice**; the 8th EFRJ Summer School 2019 in Poland. The aim was to identify appropriate restorative responses to conflict and crime involving young victims and perpetrators of harm. The training course targeted an audience of RJ practitioners (e.g. mediators, facilitators, animators of restorative processes), educators, researchers, project coordinators, policymakers, victim support officers, criminal justice professionals, trainers, service managers, and others with a particular interest in restorative justice with children and adolescents, from different countries in Europe and beyond.<sup>[38]</sup> The programme looked at different practice models throughout the entire process, from how children and adolescents may be informed about the existence of restorative justice through to their participation in the

process and follow up.<sup>[39]</sup> A child-friendly approach was reflected in the use of small toy puppets or animals or the use of cards or other images to let children speak more freely and to practice with role plays.

Third, the course **Child-friendly restorative practice (Transforming Conflict)**<sup>[40]</sup> focuses on the 5:5:5 model developed by Belinda Hopkins, which is not a script-oriented model but rather provides more room for flexibility and adaptability in restorative approaches. The course provides theories and practices that explain the five core beliefs, five processes and five contexts for using restorative processes. The five core beliefs for restorative practitioners refer to the starting point for their work.<sup>[41]</sup> The five processes depend on the practice chosen, such as mediation, conferencing, or circles, while the five contexts focus on the broader experiences for building and maintaining good relationships but also on more concrete cases of conflict.

Last, in 2014, the European Council for Juvenile Justice coordinated a project to develop a **European model of restorative juvenile justice** which resulted in three volumes including the "Toolkit for Professionals", also noted above (see chapter 4.1). In terms of training, the Toolkit provides a checklist on different (existing or needed) training programmes to strengthen knowledge and develop new skills, such as training on restorative communication skills for professionals working with children, training for practitioners to get qualified to facilitate RJ processes and continuous development training for practitioners working in different settings (e.g. families, schools, prisons) and with serious and complex cases (e.g. sexual violence,

<sup>[37]</sup> Module 1 provides an overview of the main legal and conceptual frameworks. Module 2 describes different restorative justice models and uses concrete examples found in Belgium, Finland and Northern-Ireland to offer hands-on information about mediation and conferencing in practice. Module 3 outlines the different steps that need to be taken in order to set up a restorative justice programme in a given region/country. Module 4 focuses on the distinctive features of including child victims and offenders in restorative justice.

<sup>[38]</sup> Participants were expected to have knowledge about restorative justice theories and/or practices, as this was an advanced training focusing on a specific group. The training course was delivered by senior mediators and trainers from Belgium and the UK, to bring together different practice models and reflect on opportunities and challenges.

<sup>[39]</sup> Sub-topics included: 1) Access to restorative justice for minors: How do we explain restorative justice to children and adolescents? How can they be offered this service?; 2) Preliminary meetings for minors, their families and communities of support: How do we prepare all stakeholders for a restorative justice process?; 3) Facilitation of a restorative justice process involving minors: What are the specific skills and techniques used by facilitators?; 4) Experiencing different languages for engaging with minors: Are there forms of non-verbal communication that can be used in these cases?; 5) Training, supervision and support for restorative justice practitioners dealing with minors: Which training programmes are available and can be useful for professionals engaging in this work?; 6) Cooperation with other institutions (e.g. child care, victim support, schools): How do we include all stakeholders in the development of a restorative justice service?

<sup>[40]</sup> For more information, visit [transformingconflict.org](http://transformingconflict.org)

<sup>[41]</sup> The five core beliefs are: 1) Everyone has his/her own viewpoint on a certain situation and thus everyone's story and needs must be heard; 2) Feelings and thoughts hidden beneath the surface may influence how someone behaves and acts; 3) Any action has an influence over others, thus it is important to empathise and consider others for preventing this ripple effect and minimise harm; 4) Meeting everyone's needs is important to function in the best way, and the focus should be on oneself and on others; 5) People affected by an issue are to be consulted in the decision-making and problem-solving stages in order to take responsibility, develop new skills and strengthen relationships.

domestic violence, hate crime). On an ad hoc basis the researchers involved in this research project have been invited to deliver trainings for professionals working in this field (e.g. Tim Chapman delivered such a training for psychologists, victim support and RJ practitioners in the Basque Country). Trainings aimed to encourage adults to feel responsible about teaching children about their rights and ensuring that children can have access to restorative justice at any age and in any case. This understanding was particularly beneficial for young offenders, who in some cases may also have experienced different forms of victimisation.

## 5.2 Trainings on child-friendly justice

Two relevant trainings were identified for different professionals interested in delivering better child-friendly justice experiences to children. These are interesting not only for restorative justice professionals working with children, but for any professional of the justice system who may enter in contact with young people.

The ***Online course on Child-friendly Justice and Children's Rights*** is a free online course provided by the European programme HELP (Human Rights Education for Legal Professionals) of the Council of Europe.<sup>[42]</sup> The course focuses on different ways in which children can come into contact with the justice system, including the criminal justice system, as victims, witnesses or perpetrators of crime. The course is meant for justice professionals, including judges, lawyers, prosecutors, children's rights experts and child protection workers. The nine modules include lessons on child-friendly justice, on the interaction of children in the judicial system and on violence against children. According to the national findings, Albania has often used the HELP training programmes with lawyers that received training on juvenile justice and child protection measures (see 5.4).

The course ***Children's Human Rights - An Interdisciplinary Introduction***, offered by the University of Geneva on the online platform Coursera<sup>[43]</sup> includes a module on juvenile justice with one session dedicated to child victims and one on restorative juvenile justice led by Renate Winter, member and previous chair of the UN Committee of the Right of the Child. The course is meant for students who wish to receive an interdisciplinary guidance to critical issues concerning children's rights. Contributions include several academic disciplines such as law, psychology, sociology, history, educational and health sciences, economy and anthropology.

## 5.3 Restorative justice trainings for young people

When thinking about the possibility of restorative justice for children, it is important to reflect on different ways to encourage a restorative culture among children and young people, so that they can learn to express their emotions, manage their conflicts and support the prevention of violence and crime. In general, trainers must adapt the modules to the age, circumstances and abilities of the participants they come into contact with.

For example, in the UK, the ***"peer mediation five-day training programme"***<sup>[44]</sup> trains restorative facilitators in peer mediation and in mentoring young people who may face conflict situations. At the same time, the course is also delivered to young people interested in learning the skills for peer mediation. In general, the training is planned with opening and closing circles, energy-raising games, games for building trust, circles run gradually by participants to enhance their skills in facilitation, mixers to make sure that everyone gets the chance to work with as many different people as possible and time for reflection, discussion and practice. The course adopts the main restorative principles (inclusion, solidarity, respect,

<sup>[42]</sup> More information can be found here: <http://help.elearning.ext.coe.int/pluginfile.php/130925/course/section/21139/course%20brief%20Child%20-%20Friendly%20Justice.pdf>

<sup>[43]</sup> This course consists of seven modules distributed over four weeks and covering the following topics: 1) international instruments dealing with children's rights, 2) history and human rights, 3) interdisciplinary nature requiring inclusion of other studies, 4) juvenile justice, 5) violence against children, 6) children's right to participation, and 7) global health. Registration for this course can be done here: <https://www.coursera.org/learn/childrens-rights#syllabus>. The course lasts seven weeks and is taught entirely in English. Participants who successfully complete the course assessments can receive a certificate for an additional fee.

responsibility, ownership) with the aim of enhancing good cooperation, effective communication, emotional literacy, sense of belonging, mutual care, empathy and self-esteem of participants.

Another example is the **“Alternatives to violence project”**, a two to three-day volunteer-run conflict transformation programme that was initiated in 1975 in a prison in New York, where young inmates asked for help on how to deal with conflicts in a non-violent way.<sup>[45]</sup> Every workshop is led by trained Alternative to Violence facilitators and adapted to the specific audience. The main goals are to encourage individual responsibility over one’s behaviour, to enhance skills of cooperation, solidarity and empathy and to learn concrete tools for preventing and addressing conflict. AVP is now available in many countries and in more recent years has extended the initial target audience to other groups such as young people and adults in prison, communities and schools.

Furthermore, based on the AVP programme, the **Help Increase the Peace Programme (HIPP)**<sup>[46]</sup> was developed to reach young people in communities and schools to prevent violence and crime by teaching non-violent communication skills, understanding and accepting diversity as an opportunity and developing self-esteem and leadership capacities. The HIPP is based on concrete principles such as focusing on commonalities and honouring diversity; listening in a non-judgmental way; formulating one’s position on truth and being able to change position if necessary; and building a respectful and honest community of care. Manuals, weekend workshops and summer schools are available to train young people to become HIPP facilitators.

The **VERSO programme** in Finland offers training in restorative mediation to children and professionals working with children in early childhood education, schools and other learning institutions.<sup>[47]</sup> The aim is to use child-friendly restorative practices in different situations where children may experience injustice

and conflict, so that children are taught mediation skills to manage conflict. They also address their right to be heard and participate in conflict resolution. Through this programme, children are educated on their right to access justice and to be active citizens from early stages at school. The VERSO Programme relies on a series of different activities for training in restorative approaches, such as peer mediation facilitated by children, circles and mediation facilitated by adults, conferencing facilitated by trained staff members, advanced trainings for teachers to integrate restorative practices as part of their teaching model, training of volunteers and parents and national and local seminars. Additionally, the programme includes four training models at the university level for teaching restorative approaches in day care and school settings.

Another example originating from the Netherlands is a form of peer mediation that is integrated into many primary and secondary schools following the **Peaceful School programme**.<sup>[48]</sup> Young people learn to deal with conflicts by using or becoming a peer mediator. 16% of all schools are working with material of the Peaceful School. So-called ECHO (Expertise Centrum voor Herstelrecht in het Onderwijs) schools are guided by an expertise centre for restorative justice. Schools of all levels have restorative practices even more at the core of their work. The ECHO school relates to the Peaceful School Programme – a democratic and participatory citizenship programme addressing the problematic behaviour of youth in primary, secondary and high school education.

Lastly, another innovative project for establishing a restorative culture in schools comes from Finland. **KiVa** is an innovative school-based anti-bullying program developed at the University of Turku in Finland and now present in other countries in Europe and beyond.<sup>[49]</sup> KiVa’s approach focuses on understanding and responding to bullying in schools, using a philosophy similar to restorative justice. It may create an easy step up for schools to incorporate the idea

<sup>[44]</sup> This five-day course, spread over 25 hours, is based on the “Best Practice Guidelines for Peer Mediation” (Hopkins).

<sup>[45]</sup> More information about the project can be found here: <https://avp.international/>

<sup>[46]</sup> More information can be found here: <https://www.afsc.org/resource/what-hipp>. A selection of HIPP exercises are listed here: [https://www.afsc.org/sites/default/files/documents/HIPP\\_Sample\\_Activities.pdf](https://www.afsc.org/sites/default/files/documents/HIPP_Sample_Activities.pdf)

<sup>[47]</sup> More information can be found here: <https://sovittelu.com/vertaissovittelu/in-english/>

<sup>[48]</sup> See: Pauw, L. (2018). Peer mediation in het onderwijs: stand van zaken in Nederland. RJA Magazine, 2, 31-35. Retrieved from <https://vreedzaam.net/>.

<sup>[49]</sup> More info here: <http://www.kivaprogram.net/>

of mediation and restorative practices in conflict situations among children. KiVa's programme has been developed using cutting-edge research on bullying and its mechanisms. The programme includes universal actions, aimed mainly at preventing bullying and directed at all students, and indicated actions, aimed at putting an end to bullying by focusing on a specific case and directed specifically to the children and adolescents involved in bullying as perpetrators or victims and their classmates.

## 5.4 Practical guides useful for developing trainings

Since the i-RESTORE project aims to develop a training curriculum on the use of restorative justice with child victims, it is useful to list some existing practice guides that may serve as a source of inspiration to anyone willing to further focus on training in this field. In Appendix 2, additional ideas for training (e.g. video materials, cards) can be found.

First, the *"Practical guide: Implementing restorative justice with children"* (International Juvenile Justice Observatory, 2018)<sup>[50]</sup> is written for professionals of the juvenile justice system (e.g. youth workers, police, lawyers, magistrates, probation officers, health workers, educators) as well as policymakers dealing with child-friendly justice matters. The guide provides an overview of the international and European instruments defining standards and safeguards reflecting children's needs and rights when participating in a restorative justice process (United Nations, Council of Europe, European Union). Concrete restorative justice practices such as victim-offender mediation and youth justice conferencing are presented from different European countries (Belgium, Finland and Northern Ireland). Recommendations address practitioners, programme managers and policymakers to ensure that access to good quality services, delivered

by trained and qualified restorative justice facilitators, is provided by taking into account all specific needs of children and their supporters.

A second resource is *"Are you okay? A practical guide to helping young victims of crime,"*<sup>[51]</sup> helpful for anyone working with children and young people (aged between 8 and 25 years old), such as social workers, youth workers, educators, police, victim support workers, in addition to young people who have been trained in peer mediation. The guide was developed following key questions of restorative justice practices: What happened? What are the consequences of what happened? What's next? While focusing on young victims of crime, the guide addresses the shifting roles between victims and offenders and the physical and emotional consequences of this status. The chapters range from providing insights into the criminal justice system to clear responses and clarifications about the use of RJ approaches (What are the existing services? What happens in a meeting? What if the other party does not want to participate?).

Another resource is the *"Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People,"*<sup>[52]</sup> already addressed in chapter 4.1 on research. The Toolkit provides ideas for implementing restorative juvenile justice measures in Europe, giving guidelines in the format of questions and answers for practitioners and RJ services, policymakers, schools and educators and justice professionals.<sup>[53]</sup> The Toolkit is divided into five main sections: 1) Policy guidelines, including an analysis on policies on family support and on schools, and tools to measure the effectiveness of restorative justice; 2) Guidelines for schools, including tools and benefits for school administrations, children and parents to engage in restorative practice; 3) Guidelines for the criminal justice system, including ideas on how to effectively implement restorative justice within criminal justice measures; 4) Guidelines for practitioners, including information on the role of the facilitator and

<sup>[50]</sup> The guide is the basis of the online training course delivered by the International Juvenile Justice Observatory (see above). It is available here in seven different languages: <http://www.oijj.org/en/implementingrestorativejustice-guide>

<sup>[51]</sup> Wallis, P. (2014). *Are You Okay?: A Practical Guide to Helping Young Victims of Crime*, Jessica Kingsley Publishers.

<sup>[52]</sup> Chapman, T., Gellin, M & Anderson, M. (2015). *Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People*. European Council for Juvenile Justice, International Juvenile Justice Observatory.

<sup>[53]</sup> The toolkit refers to two publications, published within the same project. The first presents the current status of restorative juvenile justice in Europe ("Research and Selection of the Most Effective Juvenile Restorative Justice Practices in Europe: Snapshots from 28 EU Member States"). The second develops an evidence-based model ("European Model for Restorative Justice with Children and Young People"). These publications can be found here: [http://www.ejjc.org/sites/default/files/vol\\_iii\\_-\\_toolkit\\_-\\_european\\_research\\_on\\_restorative\\_juvenile\\_justice.pdf](http://www.ejjc.org/sites/default/files/vol_iii_-_toolkit_-_european_research_on_restorative_juvenile_justice.pdf)

on different practice models; 5) Checklist for action, including a series of points to move forward in this field.

The training manual ***“Becoming a Restorative Facilitator within Youth Justice: Trainer’s Manual”***<sup>[54]</sup> contains instructions for designing and delivering a training for RJ facilitators working in the youth justice context. The manual is divided into five modules which reflect the restorative process: 1) The introduction refers to the message given and informing the parties about the possibility to engage in a RJ encounter; 2) The restorative conversation goes into depth on the service provided; 3) The assessment and preparation phase are meant for the facilitator to organise in detail the encounter avoiding all possible risks and challenges; 4) The restorative meeting is the actual encounter between the parties; 5) The review and next steps refer to the follow up, supervision and evaluation of the programme. The manual provides clear advice on how to run such a training (rules, exercises, videos, etc.).

Of particular interest when working with child victims is ***“Why me? A programme for children and young people who have experienced victimization.”***<sup>[55]</sup> It is a useful tool for practitioners working with young people (above 8 years old), such as social workers, youth workers, teachers, police, education officers, youth offending team officers and victim support staff. Using RJ principles, the authors developed a series of practical exercises to encourage young people to explore their feelings, needs and strengths and identify their community of support. Exercises include drawing, creating graphs, writing letters and brainstorming. The book includes a DVD with case studies and demonstrations of some of the exercises in action. Such a practical resource is useful to prepare young people to think and act restoratively.

Another useful resource is ***“What have I done? A victim empathy programme for young people”***<sup>[56]</sup> targeting anyone working with young people in conflict with the law, such as youth offending teams and probation officers, but also for anyone working with young people at risk of conflict situations, such as in schools, in children’s homes and in youth groups. The

focus is on stimulating the young person to empathise with the victim and to encourage reparation and potentially an RJ process. The programme is based on restorative principles (respect, non-judgment, inclusion, openness, responsibility) to ensure that the facilitator “acts what he/she preaches.” The course helps facilitators with defining ground rules for the programme, assessing the audience (groups or individuals) and designing a timetable to proceed. A DVD is included, presenting interviews with young people who have hurt others and those who have been hurt.

## 5.5 Training in Albania, Greece and Romania

The three countries studied in the i-RESTORE project show different stages of understanding restorative justice and of implementing it in cases involving children, particularly child victims (see Appendix 3). In some cases, it is possible that information is missing because training programmes were on the national researchers radar, or simply because the programmes were/are not present in the country.

The Romanian and Greek overviews included information about **training of mediators** on restorative justice and on practice. In Romania, there are 23 training providers present in nine cities across the country, authorised to give training by the National Council of Mediation. The initial training is 80 hours long divided into 70% practical experiences and 30% theories. The same providers also offer continuous specialised training for mediators on different complex cases, but this does not include training on children rights, victims’ rights and restorative juvenile justice. Similarly, in Greece the training is 80 hours, which allows mediators to take an exam and be registered in the Registry of Mediators of the Ministry of Justice, before starting to mediate civil and commercial cases as well as cases of domestic violence. Furthermore, the Restorative Justice and Mediation Lab of the Panteion University delivered two trainings on mediation to probation officers. Some of the participants in

<sup>[54]</sup> Wallis, P. & Fast, E. (2013). *Becoming a Restorative Facilitator within Youth Justice: Trainer’s Manual*. London: Youth Justice Board.

<sup>[55]</sup> Keen, S., Lott, T. & Wallis P. (2014) *Why Me?: A Programme for Children and Young People Who Have Experienced Victimization*, Jessica Kingsley Publishers.

<sup>[56]</sup> Wallis, P., Aldington C. and Liebmann, M. (2010). *What Have I done?: A Victim Empathy Programme for Young People*, Jessica Kingsley Publishers.

the current study participated in additional trainings at their own initiative.

Both Albania and Greece listed training programmes on **restorative justice with children** (not necessarily with child victims). Among the target groups of these trainings, in 2019 the Albanian Probation Office cooperated with UNICEF to train 75 probation officers on restorative juvenile justice and encourage their cooperation with mediators. In 2020, a similar training is foreseen for lawyers, organised by the Albanian Bar Association and Terre des hommes, based on the guide for lawyers published in 2019 on “Friendly Justice for Minors and Restorative Justice.” Additionally, 25 mediators received a five-day training on restorative justice with juveniles.<sup>[57]</sup> In Albania, training was possible thanks to international projects and programmes organised by UNICEF, Terre des hommes, Council of Europe, SIDA, World Vision, Helsinki Committee, in collaboration with the Ministry of Justice and other national institutions.

In Greece, the project “PROTASIS” coordinated by the European Public Law Organization (see chapter 4.1), developed several training programmes for judges, prosecutors, probation officers and police officers on the potential of **restorative practices as a diversion measure** with minors in conflict with the law. These programmes include training on the needs of victims of violence, including women and children who are victims of domestic and sexual violence.

Romania lists two training programmes on the use of **RJ approaches in schools** in 2003-2004 and in 2012. The Centre for Legal Resources (CRJ) published the “Guide of practical application of mediation and restorative practices in schools.” Greece has also experience with restorative practices in schools, although

this is not systematised. In some cases, teachers get trained in restorative practices and then train their students in peer-to-peer mediation.

In respect of training on **child-friendly justice practices**, Albania reached a wide group of professionals working in the justice system or providing experts’ support in the years 2018-2020. Judges, police officers, lawyers, probation officers, prison staff as well as psychologists and legal-medical experts received training on juvenile justice and/or on child-friendly ways to address children who entered into contact with the justice system. These trainings are most often organised by national training institutions, sometimes with the support of international projects or organisations.<sup>[58]</sup> In Romania, Terre des hommes contributed to the delivery of two training programmes in 2014-2015 and 2019 on children’s rights in court and more generally on juvenile justice.

Both the Albanian and Romanian overviews include additional **practical guides on juvenile justice and training programmes on children’s rights** in general, as well as relevant information to get better acquainted with working with children in conflict with the law and to protect children’s needs. For the sake of this project, Romania also listed a series of Master programmes which include (partly or fully) the topic of mediation (and in one case, restorative justice). These six Master programmes are offered in different cities (including Bucharest, Timisoara, Lasi and Cluj-Napoca) and address students in probation, social work and conflict management. Similarly, Greece refers to the University Laboratory “Restorative Justice and Mediation” at Panteion University, established in 2015 and restorative justice courses taught within Sociology or Law (Athens, Thessaloniki).

<sup>[57]</sup> Some other groups have been trained on restorative justice: 20 civil society representatives; 60 candidates of the School of Magistrates; 73 participants (judges, prosecutors, mediators, probation and police officers) trained by AFCR in 2018; 208 judges, 76 prosecutors, 53 police officers, 150 professionals of Public Agency for the Children’s Rights and Protection; 25 lawyers from the Albanian Bar Association; nine mediators of the National Chamber of Mediators; 107 assistant psychologists and assessors of the justice system of the Order of Psychologist/Social Workers and 150 professionals of the Prison General Department.

<sup>[58]</sup> Often trainings were organised in collaboration with the Swedish International Development Cooperation Agency – SIDA, part of the Albanian-Swedish program for penal justice for minors. Through its online Program HELP Course on Child-Friendly Justice and the Children’s Rights, NBA in collaboration with CoE trained 25 lawyers from all around Albania on juvenile justice and child protection. The course was developed under the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe. Another online training through the HELP Program has been agreed with the Council of Europe to cover 30-35 lawyers on child friendly justice and juvenile justice.





## Part 3 - Key findings in Albania, Greece and Romania



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## 6. Background, legislation and practice of restorative (youth) justice

While the above mentioned international standards are meant to serve as a guide for countries, there is still a lot of variation in the extent to which they are implemented in practice. This chapter contains summaries and an analysis of the Albanian, Greek and Romanian country reports. It provides an overview of the state of play of restorative justice in the countries, including legislation and policy developments as well as the arrangements for child victims and offenders.<sup>[59]</sup> Worth noting is that, often, the overviews include restorative justice with children more generally, where the focus may be on the child offender whereas the focus on child victims is lacking. The views of children and of professionals that were interviewed follow in chapter 7. Chapter 4 and 5 on projects and trainings also contain some information on the three countries.

### 6.1 Development of restorative justice

In **Albania**, the concepts of mediation and victim-offender mediation are more well-known than the concept of restorative justice because of the Albanian tradition and experience with mediation. The roots of these concepts can be found in the so-called law of Kanun. Albanian tradition has known and applied the mediation process as a way of conflict resolution in the Customary Law since the XV century in criminal, civil and family matters. The law of Kanun was based on forgiveness and reconciliation and a strong protection of the rights of the offender. Historically, the Albanian Society is familiarised with the ritual of reconciliation and mediation in cases of conflicts and disagreements among people, although

<sup>[59]</sup> For more details and references, the authors refer to the country reports that have been prepared by the national researchers. These can be found on: <http://childhub.org/>

in the last centuries this way of thinking seems to be forgotten. After the end of the Communism regime in the 1990s, mediation was increasingly applied. Slowly it developed towards its modern form, influenced by rules and procedures of the actual society and by international standards. It has developed extensively in recent years, based on the idea that restorative justice initiatives represent one of the most creative efforts to hold offenders personally accountable for their behaviour, to provide opportunities for offenders to take responsibility for their actions by facing their victim and making amends and to enhance the quality of justice experienced by both victims and offenders.

Restorative practices partially have their roots in Romania in the so-called “sfatul bătrânilor”; a Council of Elders roundtable where elderly people from the community made decisions and gave advice on issues that affected the community. Furthermore, in the Roma community “staborul”, a form of mediation through an unofficial court that aimed to resolve conflicts, was a long standing practice and is still found today.

In **Greece** some roots of restorative practices can be found in the ancient Greek civilisation and the “*epanorthotikon dikaion*” (restorative law) of Aristotle. On the island of Crete, another informal type of dispute resolution process has been practiced from the 12th century B.C. until today. This *sasmos* (fixing) is an assisted and confidential negotiation between families in order to prevent or settle crimes committed to defend family honour. The local mediator, the *sastis*, is a person of merit, widely known and accepted by the community. When an agreement was reached between two families involved in a *sasmos* process, it was considered binding by the parties and the local community and therefore contributed to community peace.

Currently, the “restorative justice measure” in **Albania** is understood as any measure allowing the child in conflict with the law to understand his or her responsibility and to address the consequences of a criminal

offence, compensate damage and/or reconcile with the victim/injured party and other persons affected by the criminal offence. The child who has committed the criminal offence and the injured party participate jointly and actively to address the consequences. This process involves the assistance of an independent third party (e.g. mediator or facilitator). “Mediation” is the process of extra-judicial and dialogue-based settlement between a child who has committed the criminal offence and the victim. This process is led by the mediator and aims at settling the dispute between the parties and the consequences emerging from the criminal offence as well as improving relations between them, regardless of its status as a diversion measure. Mediation is offered by local NGOs and private mediators licenced by the Ministry of Justice. Services are provided only in the main cities through support of projects implemented by civil society organisations. Mediators are licenced by the National Commission for Mediators Accreditation, based on the criteria set out by the mediation law. Restorative justice and mediation can be applied at all stages of investigation or court decisions and can be requested by the offender, by the victim, their parents, and legal or procedural representatives. Mediation in schools has also had a positive development. The government states that awareness of alternative dispute resolution helps to keep pupils and students away from self-judgment and retaliation and helps to prevent criminality and illegal behaviour. The Ministry of Education initiated a series of activities such as: “Restorative Justice trends – an alternative for minors and youngsters in conflict with the law”, as part of the program “to activate civil society in modelling restorative justice”. It included awareness sessions at high schools in different cities. The activities were supported by the European Union and carried out by Terre des hommes in partnership with the Albanian Foundation of Conflict Resolution (AFCR).<sup>[60]</sup> During 2019, ten activities have been held at the education institutions aiming at promoting education, rehabilitation and reintegration, including trainings of parents and children.

<sup>[60]</sup> The Albanian Foundation of Conflict Resolution (AFCR) is an NGO founded at the initiative of the Supreme Court of the Republic of Albania and the High Court of Denmark, under a project funded by the Danish Foreign Ministry (DANIDA). Its objective was to re-activate mediation in the Albanian society and reawaken traditional values and customs in the field of reconciliation and mediation. With the support of the Council of Europe, AFCR prepared the first mediation law in 1999 and with the support of the Norwegian Ministry of Justice, the second law on mediation in 2003. They also supported the Albanian Parliament when drafting the existing law and its amendments. During 2017-2019, AFCR solved 296 conflicts, of which 224 were youth cases in the criminal field in five different cities. Among those were 106 children with the status of offender (in 10% two-three children were involved), 62 child victims and 56 adults, sometimes victims of the child’s action and sometimes offenders of child victims. Data is collected within the last years following the approval of the Code of Juvenile Justice. Besides nine cases that are represented in the mediation centres by the schools, the rest is represented by the Probation Service, the State Police and lately by the Prosecutor Office.).

In **Greece**, restorative justice received more attention over the past decades, due to the country's commitments to comply with European and international standards and to promote mediation in criminal cases and alternatives to litigation. The terms used in the Greek penal and civil law, and relevant for restorative justice are, victim-offender conciliation, penal conciliation, mediation and penal mediation.

More recently, the concept of mediation is more used or known than restorative justice in the **Romanian** culture. Elements of restorative justice in Romania can be found in the practice of mediation implemented in civil and criminal cases, either during a judicial process or before such a process could take place. When examining restorative justice as practiced in other countries, the first initiatives in Romania developed in 2002 with Experimental Centres on Restorative Justice. These were funded by the International Development Department of the United Kingdom and the European Union. Through these centres, one in Bucharest and one in Craiova, youth perpetrators were able to access mediation in cases of crime for which withdrawal of prior complaint or reconciliation between parties was possible. Despite the difficulties that any new initiative has, these centres had positive results and high fulfilments of the agreements were noted (between 60 and 83%). As estimated at the time, the costs involved showed that mediation in the Restorative Justice Experimental Centres amounted to 77% less than the expenses the judicial system would entail, including the costs of all professionals involved in a case. The Restorative Justice Experimental Centres operated until 2004 because the initiators - independent organisations - had difficulties securing further funding.

## 6.2 Legal framework and practice on restorative youth justice

In 2006, Romania adopted the **Mediation Law (192/2006)**, providing for the profession of mediation in both civil and criminal cases. Mediation can be used in cases of litigation, family conflicts and criminal matters. In criminal matters, mediation is only feasible for cases of crime for which withdrawal of prior complaints or reconciliation between parties is possible and where the defendant admits guilt. According to the **Criminal Code**, there are 33 crimes for

which prior complaints are required or reconciliation between parties is possible, allowing for mediation.

When the new **Civil Code** entered into force on February 15, 2013, it included the obligation for the parties to participate in an information session about mediation. As a result, mediation cases increased. A year later, however, the Romanian Constitutional Court issued the Decision 266/2014, which made it unconstitutional to require parties to be informed about mediation as it would restrict free access to justice. This placed a shadow over the mediation practice, as many media outlets portrayed mediation, in its entirety, as being unconstitutional.

The authority that oversees the activity of mediation in Romania is the Council of Mediation. The Council is also the authority that recognises degrees and professional qualifications for the profession of the mediator. On April 5, 2020, according to the Council of Mediation, there were 10,646 authorised mediators across Romania and 23 authorised training providers in nine cities of Romania – Alba-Iulia, Bucuresti, Buzau, Brasov, Cluj-Napoca, Constanta, Craiova, Dolj, Iasi and Timisoara.

When the Mediation Law was adopted and mediators were trained and authorised, many of these newcomers considered that all the previous occupations as mediators needed to be erased and follow the new training programme. At the same time, there were mediators who had been involved in the work at the community level as mediators since the 1990s and some of them considered the mediator divisions created in 2006 to be too limited. Today this is still the case.

Arrangements on child justice in Romania are integrated into the general Criminal Code with the age of criminal responsibility set at 14 (where 14 and 15 year olds are considered to be criminally responsible if they commit an act with discernment, while juveniles aged 16 and 17 years are fully criminally responsible). Regarding all of these age groups, the Criminal Code refers to "minors" (minori). The Criminal Code does not include special provisions for young adult offenders, even though providing young adults with special treatment is recommended in international documents. However, young adults (18-21) are a separate category in the **Law on the Execution of Liberty Depriving Sanctions and Measures**.

In Albania, a first Law on Mediation was drafted in 1999 with the support and expertise of the Council of Europe. Currently the service of mediation is regulated by the **Law no.10385, 24.02.2011** amended in 2018 focusing “On Mediation in Dispute Resolution.”

The Albanian law provides that criminal mediation should be organised in criminal cases in which the judicial proceedings is initiated through the request of the damaged party. Mediation is applicable for petty crimes, mainly in minor or relatively minor offences, such as deliberate or psychological assaults involving neighbours or members of the same family, traffic offences accompanied with material damages, slander and other offences causing light injury. More serious offences are in principle excluded from mediation, although mediation can be organised in case of a murder between the victim’s family and the offender and/or family of the person who committed the crime in order to prevent any further revenge.

The Albanian legal framework has changed over the last years with laws and by-laws on restorative justice and mediation in criminal matters and the protection of children rights. Special laws were approved that regulate mediation and restorative justice for children involved in juvenile justice as accused, witnesses and victims. There are also laws that provide for protection of children’s rights with a child victim orientation.

The **Albanian Code of Criminal Justice for Children (CCJC)** entered into force on 1 January 2018 and represents an unprecedented legal development and a philosophical shift in the approach to the treatment of children within the criminal justice system. Restorative justice and mediation as alternative measures for the rehabilitation of children involved in the criminal justice system was introduced. The CCJC defines the concepts of restorative justice and mediation as measures and procedures allowing the child in conflict with the law to understand the responsibility and redress the consequences of a criminal offence, compensate damage and/or reconcile with the victim/injured party and other persons affected by the criminal offence. The child and the injured party participate jointly and actively to redress the consequences of a criminal offence, usually with the assistance of an independent third party.

This new Code strengthens the justice system and aligns it with the UNCRC and other international standards aimed at protecting the child in contact

with the law based on his or her best interests. Seven by-laws and five ministerial orders have been approved supporting the implementation of the Code, which elaborately lay down the rights and procedural guarantees for children.

A particularly innovative element is that Albanian institutions are obliged to enforce measures of restorative justice as a first option in dealing with juvenile offenders. Restorative justice is incorporated into the legal provisions guiding each procedural step in juvenile justice.

Restorative practices promoting dialogue between victims and offenders are present in Greece in the laws on domestic violence (**Law 3500/2006**), on mediation in civil and commercial disputes (**Law 3898/2010**) and on the Reform of the Penal Legislation for Juveniles and other provisions (**Law 3189/2003**). In 2017, the parliament passed the **Law 4478/2017** dealing with restorative justice. Inspired by the EU Victim Directive 2012/29/EU, it refers to the victim “as any natural person who has suffered the damage” and a child victim is “any natural person under the age of 18 years.” The law defines restorative justice as a process where the victim and the offender may, if they freely consent, be actively involved in the resolution of the conflicts or other matters arising from the criminal act. It also provides safeguards during the application of RJ processes within the criminal justice system, in order to protect victims’ rights and prevent secondary victimisation and intimidation.

In order to provide restorative justice in the best interests of victims, specific practices are proposed within the law, such as indirect mediation and the use of well-trained professional mediators who can assess victims’ needs and the impact of the crime. However, no further definition or clarification on these provisions is included. Victims must receive all necessary information before deciding to participate in the process and have three weeks to decide to accept the offer. Victims can revoke their consent to participate at any time, the offender must acknowledge the basic facts of the case and the discussions during the encounter remain confidential unless the parties agree otherwise.

An additional criteria provided for within Law 4478/2017 for protecting victims of crime states that “restorative justice procedures are applied only if

they are in the victim's interest and the measures are designed to remedy the harm suffered by the victim by the crime committed against it and in order to avoid causing further harm." This means that the re-education of a juvenile offender cannot prevail over the victim's needs and interests. This is also important in light of **Law 4619/2019** where, in case of a misdemeanour, a successful RJ process between a victim and an offender can influence the sentence. According to the explanatory report of this law, any RJ practice (e.g. mediation, conciliation) applies in the Greek penal system as the law does not specify any particular practice. What will be chosen depends on the decision of the public prosecutor or the judge.

Law 4478/2017 also establishes the so-called Houses of Children (Independent Offices for Juvenile Victims) where child victims of sexual abuse can give their testimonies, and where they can be provided with holistic and specialised services (such as social work services, psychological counselling, juridical assistance etc.), so as to avoid any further re-victimisation and accommodate their needs in the best way possible. The Houses run under the international standard of Child Advocacy Centres. They reflect restorative work, but are yet to become operational because of delays on the political level.

Restorative processes in Greece where children may be involved can be categorised into four divisions and are known under the terminology of mediation and/or conciliation:

- In the criminal proceedings, based on the provisions of the Greek Criminal Code for juvenile offenders, conciliation between a juvenile offender and the victim, regardless if the person is an adult or a minor, can be ordered by court as a reformatory measure. These are the cases where we most often see children involved in mediation procedures in the justice system. Interestingly, in such cases, conciliation is proposed and, if implemented, facilitated by juvenile probation officers.
- Penal mediation is provided as an alternative solution in cases of domestic violence based on the Law 3500/2006 on confronting domestic violence and other provisions. The law includes detailed preconditions for the referral and special processes in mediation in cases where the victim is a minor. It states that the child can participate in the

process through representation by both the public prosecutor for minors and the custodian and the child can be present in the process if older than 14 and wishes to do so. The mediation is conducted by mediators who are registered in the Registry of Mediators of the Ministry of Justice.

- In civil and commercial cases, as provided by Law 3898/2010, children can be indirectly involved, for example, in family disputes, disputes of custody etc. However, no special provisions are in place for the involvement of children in these cases. Similar to the abovementioned, mediation is conducted by registered mediators.
- In the school system, children participate in mediation through programs of peer-to-peer mediation with students. The process is always supervised by school teachers who also train the students after being trained themselves. Unfortunately, these practices are not institutionalised and are not part of a consistent national program promoting school mediation. As a result, they may take different forms when implemented. The researchers mention that there is no unified policy only a circular by the Ministry of Education who endorsed the use of such practices.

There is no specific juvenile justice law in Greece – provisions for juveniles are contained in the general penal law. Chapter 8 of the **Greek Penal Code** (Articles 121-133) includes special provisions for juveniles that are meant to promote assistance, re-education and therapy to young offenders. A minor is a person between the age of twelve and eighteen years. Minors, between 12 and 15 years, are not considered criminally liable and can only be subjected to reformatory or therapeutic measures in case the court deems it absolutely necessary. Minors, aged 15 to 18 years, are held criminally liable and reformatory or therapeutic measures may be imposed unless ordering detention measures seems necessary.

The current legal framework for juvenile offenders constitutes an integration of the so-called 'justice model' and the 'welfare model'. The deprivation of liberty in special correctional institutions is used as a penal measure of last resort (**Law 4322 of 2015**). There is only one Minors' Detention Centre for boys in Greece with 30 available places and three Youth Detention Centres for young males. On 1 June 2020,

there were 24 minors detained in detention facilities. In 2003, the juvenile justice system underwent significant changes in order to harmonize the criminal law provisions with those of the UNCRC. **Law 3189/2003** (OG A', 243/21.10.2003) on the Reform of penal legislation for juveniles and other provisions, reflected the new international trends. Furthermore, **Law 3860/2010** on improvements on penal legislation for juvenile offenders, prevention and treatment of juvenile victimisation and delinquency (OG A, 111 / 12.7.2010), upgraded the role of the Juvenile Court and the rights of the juvenile defendant. The use of a defence lawyer for the juvenile who is accused of an offence of a felony gravity became mandatory.

In the criminal justice system in Greece, juvenile probation officers are conducting research and drafting a report on the social history of the child, information on the family, on the psychosocial circumstances, educational level, medical history, etc.

In **Greece**, RJ approaches are more easily accepted and implemented in cases involving children, which explains why mediation was first pioneered with children, in criminal justice and in schools. In the criminal justice system, the Reform of the Penal Legislation for Juveniles in 2003 set the ground for major advances in the treatment of juvenile offenders. Children above 12 years' old who commit a crime can be subject to reformatory or therapeutic measures, including victim-offender mediation, restitution and community service. It is the role of the juvenile probation officer to propose an action plan for the juvenile offender, based on a detailed research of the history of the juvenile, the family, the psychosocial circumstances, the level of education and health and medical history. Such an action plan will be reviewed by the public prosecutor or the court for a final decision about treatment. If victim-offender mediation is decided, which can only be done in cases of misdemeanour, the probation officer will organise and facilitate the process, also by safeguarding the interests of the juvenile offender. In these cases, the probation officer is tasked to contact the victim, ask for his/her consent and introduce him/her

to the process - providing all necessary information and facilitating the victim's participation.

In Romania, a restorative practice is generally perceived by professionals as an intervention that helps an individual or a group of individuals to overcome a difficult situation. A restorative approach involves the presence of a community worker in a community who helps people navigate the issues they face with public authorities and to make decisions. Practices can also entail a circle meeting that takes place regularly to discuss different issues and prevent possible conflicts or find alternatives to expulsion when a child misbehaves. The approach may refer to un-remunerated work by an offender as an alternative to detention because the offender makes amends to the community.

Mediation is, in Romania, seen as a facilitated dialogue or assisted negotiation to an issue that happened or is under development. Mediation cannot happen in the absence of a conflict or crime. It can sometimes be viewed as being very transactional, meaning parties tend to primarily discuss financial aspects or other similar gains, or it can also address feelings and emotions. Broadly there are two kinds of mediators, (1) those who work mainly at the judicial level, dealing with civil and/or criminal cases, and (2) those who work in the community, mostly in schools. Equally, as mentioned before, different restorative practices apply to different contexts by different professionals. Restorative circles have been implemented in communities and schools, in addition to victim-offender mediation in schools and in the criminal justice system, both in pre-conviction or pre-sentence phases. Family decision-making group approaches in case management also exist, which may be found in different contexts. The title of the mediator, however, precedes the Mediation Law from 2006. According to the Classification of Occupations in Romania of the Ministry of Labour, five working occupations include the title of a mediator, some occupations that date back to the 1990s: School mediator, social mediator, health mediator, mediator counsellor and mediator.<sup>[61]</sup>

<sup>[61]</sup> School mediator (COR 341905) - which was created for the Roma community, and works to mediate disputes between the school and the family of the child; Social mediator (COR 532902) - which was created to help people in need in different small communities to deal with public authorities or businesses; many social workers in child protection services followed a course to become a social mediator as well; the difference between a social mediator and a social worker is that the first cannot obtain social rights for people; Health mediator (COR 532901) - which was created to help people in small communities, Roma communities included, with a lack of resources for hygiene; Mediator Counsellor (COR 235922) - which was created so the school counsellors can become mediators in schools if they followed a course; Mediator (COR 243202) - which was created following the Mediation Law 192/2006.

## 6.3 Child victims

Many laws and regulations have been adopted during the last decade to ensure the **Albanian** youth justice system is in line with international standards such as the UNCRC, but also concerning aspects such as domestic violence or victims' rights. **Law 18/2017** 'On the Rights and Protection of the Child' was adopted and came into force in June 2017. The law defines the duties of the State, families and individuals and strengthens institutions, structures and mechanisms that will guarantee and ensure respect for children's rights. The law covers a broader scope of rights of the child, while placing particular emphasis on strengthening the system of protection of children from violence, abuse, exploitation and neglect. The instrument also imposes an immediate obligation on all professionals working with children to report child abuse. It can be noted that the current child victim's mechanisms do not account for RJ specifically.



In **Romania**, **Law 272/2004** regarding the protection and promotion of child rights, regulates the legal framework for respecting and guaranteeing children's rights and emphasises the best interest and the right to be listened to in any judicial or administrative proceeding that involves them. Authorities have an obligation to hear a child who turned ten years of age, and if younger than that, a child's opinion can still be heard if the competent authority considers their hearing to be useful. Any child can ask to be listened to and can submit a complaint regarding the violation of this right. According to the law, the child hearing can take place

only in the council room, in the presence of a psychologist and only after a solid preparation of the child.

**Law 211/2004**, regarding some measures for assuring the protection of victims of crime, states that judges, prosecutors and police need to inform victims about the support services available. Psychological counselling is offered by the services for victim protection and social reintegration of offenders that operate next to the courts. Soliciting such help can only happen after a police investigation is initiated or the court has been informed.

Through an Urgent Order (OU 24/2019) launched by the Ministry of Labour, more services for victim protection were included, such as those offered by the general directions of social work and child protection, specialised institutions in preventing and combating domestic violence, specialised institutions in preventing and fighting human trafficking, services for supporting victims of crime within the local authorities or provided by private social providers.

Child victims' protection also falls under **Law 272/2004** regarding the protection and promotion of child rights, **Law 217/2003** for preventing and combating domestic violence, or **Law 678/2001** regarding prevention and the combating of human trafficking.

**Law 221/2019** for the modification and addition to the **Education Law 1/2011** regarding psychological violence and bullying, entered into force in February 2020. Mediation appears in three situations: (1) each school can adopt mediation in the implementation of the anti-bullying plan; (2) mediation can be a service that schools can offer in order to prevent actions of bullying and improve relations between parents and children; (3) the school or the school inspectorate can initiate a mediation structure in order to identify sources of conflict. Currently, no data or figures of the amount of cases are available.

With the exception of the school context, mediation is not referred to in terms of child victims. Mediation is mentioned only once in Law 272/2004 - in Article 39(2) - where it is referred to as an option in the plan of services for preventing the separation of a child from their parents. There is no wording of restorative practices, neither in this law nor in the others addressing victim rights.

In the **Greek** Law 4478/2017 special mention is made to minors as any person under the age of 18. Moreover, Article 63 of this new law contains the first legal provision in Greece which safeguards the victims' rights during the application of restorative practices, provided within the criminal justice system, from secondary and repeated victimisation and bullying.

## 6.4 Policy

The adoption of victim-juvenile offender conciliation was part of **Greece's** wider effort to comply with EU Recommendations such as the EU Victim Directive and Recommendation CM/Rec(2018)8 of the Committee of Ministers to Member States concerning restorative justice in criminal matters and Recommendation No R(87)20 on social reactions to juvenile delinquency and Recommendation No R(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice. The needs of the victim came to the forefront in the juvenile justice system and a restorative dimension was given to the official social control of juvenile delinquency in general. The new laws are accompanied by national policy that indicate the same intentions.

At governmental level, in particular the General Secretariat for Justice, Transparency and Human Rights of the Ministry of Justice developed the National Action Plan of the Child 2015-2020 which aims to improve the quality of justice for children in Greece and to effectively defend their rights. The Action Plan is a national strategy that spans into a wide range of government policies and one of its priorities concerns the promotion of child-friendly justice.

The National Strategy in **Romania**, launched by the Ministry of Justice, for social re-entry of persons deprived of liberty 2015-2019, focuses on adults and young people's reintegration. According to an information note regarding the implementation stage in February 2018, the estimated degree of the achievement of the measures provided by the strategy were almost halfway achieved (47%). This strategy is to be continued by the new strategy which aims to develop institutional and inter-institutional capacity in the area of social reintegration of persons deprived of liberty, to increase the efficiency and effectiveness of specialised interventions carried out during

sentencing and facilitate post-detention assistance at a systemic level. The strategy refers to mediation in two instances: (1) the agencies for work placement at the county level can offer mediation services, conciliation and information sessions related to the social reintegration process to people deprived of their liberty and their families and to any other interested persons; (2) in order to facilitate access to services during post-detention, mediation services can be offered for family and community reintegration.

The Juvenile Justice Strategy 2018–2021, including its associated Action Plan, is the first policy document in **Albania** responding to the new legal framework and the current practice. The strategy has five objectives and provides for an interdisciplinary approach that will be integrated into all other existing national documents, accompanied by concrete activities. The strategic objectives are: (1) Children's access to the justice system; (2) Fair trial for children; (3) Crime prevention and recidivism of juveniles and youngsters in criminal justice; (4) Resocialisation, reintegration and rehabilitation of children in contact with juvenile justice; (5) Strengthening of the collaboration of the institutions of the juvenile justice system.

The creation of new law-enforcement institutions and new structures for children into the existing ones, were initiated by the Ministry of Justice to abide by the Code of Criminal Justice for Children, as a condition for fulfilling the necessary infrastructure. This development included a Crime Prevention Centre for Youngsters and the Institution of Educating and Rehabilitating Children. The development and functioning of these two institutions will address their rights, aiming at their education, rehabilitation and reintegration. The goals are that (1) the minors in conflict with the law are treated without being isolated, through the appropriate programmes of education, rehabilitation and reintegration into the community and (2) recidivism is diminished for this group.

Agreements with the town halls of the Republic of Albania have been made, as have cooperation agreements with NGOs, which aim at modelling the services of reintegration of the minors in conflict with the law. The restorative justice model will be further developed in cooperation with the Ministry of Health and Social Protection, the Ministry of Justice, Tirana City Hall, the General Department of the Probation

Service, the Centre of the Professional Formation and other institutions.

The Ministry of Health and Social Protection has adopted a National Agenda for Children's Rights 2017-2020. This is the first policy document where children have been consulted. Particular attention is devoted to good governance for the promotion, implementation and protection of child rights; prevention as a key strategy for protecting children from all forms of violence; and child and adolescent-friendly systems and services. The agenda is multi-sectoral and cross-cutting and embraces all other sectoral action plans concerning children.

During 2019, the Ministry of Justice continued the coordination of the activities with international organisations in the field of juvenile penal justice, in order to carry out the appropriate programmes. The Strategy of the Ministry of Justice has planned the implementation of two programmes for: i) restorative justice and ii) mediation for minors and the victim.

## 6.5 Some reflections

The legal systems in the three countries are quite different; however, in the last ten years, the three countries presented new developments including restorative justice and children's rights and are getting closer to fulfilling European and international standards such as the CRC, the EU Victims' Directive and the Council of Europe Recommendation CM/Rec(2018)8 concerning restorative justice in criminal matters.

**Albania** has the most laws and policies in place in this respect. Since these developments are very recent, the full impact of their implementation will be observed in the coming years. Albania's criminal system had a significant change in January 2018 after the Code of Criminal Justice for Children entered into force. The laws and regulations in place show a solid basis for restorative justice interventions in Albania. Albanian institutions are obliged to enforce measures of restorative justice as a first option in dealing with juvenile offenders. Restorative justice is incorporated into the legal provisions guiding each procedural step in juvenile justice. Professionals are trained and involved in improving the practice. There are also efforts to improve this in relation to

child victims and offenders, but there is also a need to continue this process and evaluation. Restorative justice and mediation for young people can be applied in all stages of investigation or judgement and can be asked by the offender, the victim, their parents or a legal representative. If a diversion measure is taken, the prosecutor shall decide to not initiate criminal proceedings or dismiss the criminal case and shall conclude an agreement with the child on the type of the diversion measure and/or mediation. The Ministry of Justice is creating new institutions to fulfil the necessary infrastructure to carry out the sub-legal acts, alternative measures of punishment and activities related to the re-integration of minors into society.

In **Greece**, mediation has historical roots, but has been gaining more attention during the last twenty years. The introduction of restorative schemes for juveniles was part of a reform attempted by the Law 3189/2003 on the Reform of the Penal Legislation for Juveniles and other provisions. This law was considered as a major breakthrough in the treatment of juvenile offenders by amended Articles of the Penal Code and the Code of Penal Procedure. It introduced victim-juvenile offender conciliation, restitution and community service, either through diversion or as a reformatory measure. Similar to Albania, it will take time for the impact to take effect through a more structural policy and funding for mediation. In general, the implementation of restorative justice seems to be more easily accepted with children compared to adults. This is the reason why new methods of restorative practices are firstly being pioneered with children. Concerning mediation for juveniles, some laws are currently in place, but it all depends on national implementation and more active cooperation and investments in trainings. With the exception of juvenile probation officers, professionals, in general, are not trained in restorative justice or in child's rights and child-friendly approaches. There has been some reluctance among judges, but the younger generation seems to be open to restorative justice. In addition, in respect of school mediation, a more consistent national policy and practice would be useful. The whole area of child justice and alternatives to detention needs additional priority and funding.

**Romania** does not have much history with mediation. In 2006, Romania adopted the Mediation Law (192/2006) that regarded the profession of mediation

in both civil and criminal cases. It was noted that the Mediation Law refers to minors in only one Article, inferring, as such, that this practice was not envisioned to relate to child victims. Some other laws are in place to address child's rights, such as the Child Protection Law (272/2004), although the interventions used for children in Romania are currently mainly focused on how they can better benefit from the justice system already in place, and not necessarily by creating new alternatives that could better address their needs. Although there are significant efforts done at the individual level to serve children best, these admirable endeavours are not sustainable in the absence of structural institutional interventions. Equally, there is no specialisation on children of different professions in the criminal justice system as seen in other countries. There is also a need to re-align the Romanian mediation principles with the international standards of restorative practices, to develop an operative team

when working with child victims, or develop training on restorative juvenile justice that can be integrated into different institutions or institutes' curricula. On occasions, professionals and the general public tend to be reluctant towards the practice of mediation, due to some cases which have failed to be addressed in a correct manner. For this, it is crucial to explain the limitations, the preconditions and the good practices of mediation.

In all countries, legislation on restorative justice and child victims still needs more attention and details need to be added. This is the case notwithstanding that the first steps have been taken and/or juvenile criminal law with attention to mediation is in place. This overview is made to understand what laws already exist. To really have an impact, the laws need to be mainstreamed and seen as a normal part of the legal system.



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## 7. Interviews and focus group results in the three countries

The findings from the interviews and focus groups in Romania, Greece and Albania related to how best to work with children in terms of restorative justice and provided some input for developing or further ameliorating good practices in this area. Below we summarise the main themes that arose, even where they may not be relevant to all three countries. As we have seen, restorative justice is still, for the most part, in its early stages in these countries. We first share the reflections of the professionals and we end by giving input from young people themselves, as they are best suited to provide these views.

### 7.1 Challenges and gaps in addressing restorative justice for child victims

Many of the challenges relevant for addressing restorative justice for child victims are related to the lack of understanding these processes and their outcomes and also to the actual practices. Below, the findings from the research conducted in Romania, Albania and Greece are listed according to “structural challenges” and “implementation challenges.”

#### Structural challenges

**Romania** lists a series of “structural challenges”, which are also relevant for Greece and partly for **Albania**. The main challenge remains the **lack of awareness in restorative justice**, or even worse a “*lack of good publicity*”, that in **Romania** may be the responsibility of the Council of Mediation (according to the President of the Mediation Council). This awareness issue affects children directly; in the three countries, children stated that they have never heard about restorative justice before taking part in this research project. Being informed about the practices and objectives of restorative justice before getting in touch with the criminal justice system is essential to be able to make proper decisions and to know all available options related to justice-matters. In **Romania**, one child offender stated: “maybe now we would have been out”, reflecting on the possibility to have known about restorative justice at an earlier stage.

It was said that “*often children do not know what is illegal*” and, thus, the Romanian research proposed **basic teaching programmes** on understanding legality and responsibility for all young citizens. Similarly, basic programmes on restorative justice could emphasise

the value of justice and the habit of dialogue as well as learning to manage emotions and deal with group pressure could be practiced. Despite the fact that some Greek teachers do not believe in the capacity for young people to mediate conflicts between their peers, these skills can also become useful in other settings (e.g. with parents, teachers).

Worth keeping in mind are the national cultures and attitudes: for example, **Romanians** are more inclined to solve conflicts in court (with a figure of around four million files in court, including civil and criminal cases). In this country, much work is done in schools to promote mediation and other practices to solve

conflicts in a restorative way. This is also linked to the **resistance of some professionals** when thinking about restorative justice. In **Albania**, older judges seem more reluctant than the younger generation, which is more open towards restorative justice interventions. In **Romania**, mediators sometimes dealt with reluctant professionals, such as prosecutors or police, when it came to the use of restorative justice. However, one of the experts in the RJ Experimental Centre in Bucharest has also pointed out that *“you cannot embrace something that you don’t know.”* Moreover, lawyers defending their clients seemed to be unwilling to accept mediation.

**“If the judiciary is with you, you have a really good chance, otherwise none”**

Another challenge, mentioned by one of the experts of the i-RESTORE Restorative Justice Advisory Group (RJAG), is that that some judges are hard to convince of the possibilities of restorative justice. In countries like **Romania**, where there is no such tradition on mediation, the judiciary is difficult to convince, which is linked to the fear that they would lose their power. When you want change, it is an important strategy to get the judiciary on board as a first step. Previous work of Terre des hommes with judges, lawyers, social workers, prosecutors and prison staff could be reactivated by organising round tables or info sessions, for example. These events could serve to encourage interest in trying something that is not against the law, but maybe outside it. These initiatives are to be supported by desk research. Concerning **Albania**, where mediation is an old tradition, a different strategy is advised. This country is known for problems with corruption. Recently all judges of the Supreme Court, except one, had to leave or left because of corruption. It is, therefore, advisable that the strong civil society introduce and manage restorative justice including mediation. An advice could be *“to discuss with the judiciary about how important extrajudicial measures are for them to save time and efforts. In cases of restorative justice, they don’t have to do it themselves, which saves trial time. There are several juvenile judges who already refer to restorative justice as much as they can and it would be good to use their expertise. For the prosecution, it is important to know that they won’t lose their power as the law gives them the possibility to allow or not allow restorative justice.”*

Academics in **Greece** stressed the resistance from some professionals, such as social workers and psychologists, towards receiving more training on alternative methods for working with children, as they are already trained in interpersonal skills. Some of these respondents also indicated their hesitancy to apply RJ in complex cases, such as sexual abuse, as the relationship between parties is very asymmetrical by default. These **self-identified exclusion criteria** on

which cases are suitable for restorative justice can have serious implications on carrying out more mediations where children are involved. In Greece, there is still reluctance to use mediation by teachers who took training, because they do not feel confident in communicating with the headmasters about applying this process. When it comes to peer-to-peer mediation, there are also teachers who believe that pupils are not able to resolve conflicts on their own. The Deputy

of the Child's Ombudsman stated that for mediation in schools to work, the peer-to-peer mediation that the Greek school system is implementing at the moment needs to get support from trained adults and needs to be widely promoted. One of the experts interviewed noted that schools are not specialised in the field of juvenile delinquency or child abuse, and so, they do not know how to provide adequate support for these children and how to coordinate with social services.

These interconnections between awareness, training and attitudes lead to another challenge, which is the often difficult cooperation between services and the absence of multi-disciplinary teams working on a case. This is particularly relevant when working on cases with children as the combination of child protection, education, health and justice professionals can make sure that interests of the child are safeguarded. For example, according to the interviewed academics in **Greece**, there seems to be an inability of reliable coordination between different agencies working with children. When it comes to child abuse and neglect, there is no governmental or institutional agency to coordinate and collect data and there is no social structure to understand in a timely manner that a child is at risk, and a fast intervention can be instigated as a response. This also has consequences on the implementation of the provisions in the EU Victims Directive. These issues are deeply linked with the **lack of clear policies** that set the basis for professionals working in the field. Furthermore, it is unclear how to protect and involve families before any RJ or mediation intervention is offered and implemented. The law on domestic violence includes restorative justice, but at the moment there is limited data available on the mediation processes.

Access to restorative justice is related to different elements, including the state of development of children rights in the country. In **Greece**, for example, several justice-related gaps may interfere with **children's right to access (restorative) justice** services and other support and protection measures. Professionals mentioned the increased number of children in detention, the long waiting lists at mental health centres, the lack of support of specialists at the community level to whom children can ask for help, and the difficulties that probation officers face in their work with child offenders. Regarding child victims and child offenders in **Romania**, the situation was found to be far from ideal. The **position of a child**

victim within the judicial system is already a form of re-victimisation. While the Criminal Procedural Code gives space to protecting the child victim, the court infrastructure does not allow for much. There is only one Youth Tribunal in the country (in Brasov), which creates inequity for the children from other parts of the country to access a fair juvenile justice process. It was also noted that the State needs to invest more in community-based practices and not in an infrastructure that promotes detention. In **Albania**, there is a need for better legal aid and legal assistance for **vulnerable groups**, including children. A child in the criminal procedure has a need for a defence lawyer, a psychologist, a social worker, a translator, and/or a doctor, but in practice access to all this expertise is often not provided.

Another challenge is the continuity of projects related to restorative justice with children: in **Romania**, for example, successful pilot projects have been stopped because of a **lack of funding**. This is clearly a general issue that affects many social projects in our societies and it must be seriously addressed to avoid promises of inexistent or short-term services to children in need. Also, due to budget cuts and legal reforms in **Greece**, it was noted that during the last years there are fewer judges and prosecutors and the remaining judges often move from one place to another. As a consequence, every year, the sections in the court system and in the youth sections may change which results in the loss of expertise on restorative justice. This **lack of consistency** within the judiciary was also mentioned in **Romania and Albania**. Similarly, this sometimes happens within the police, depending on organisational needs and because of political and leadership **changes and rotations**. This lack of consistency within police staff means that police officers already familiar with restorative justice and mediation are also continuously rotating or leaving. There is, then, an urgent need for training of justice professionals who are new in the section of juvenile justice.

In **Albania**, another challenge is the fact that **lists of experts are not available in the whole country**: for example, the list of psychologists specialised in juvenile justice is available at the court in the capital Tirana, but it is not present in each court and prosecutor offices in all cities and towns. Similarly, a list of mediators specialised in juvenile justice only exists in Tirana and the main cities. Also, not all municipalities have NGOs offering expertise or services to

children who are under protection. As a compromise, the Ministry of Justice has drafted a joint work plan with different NGOs and donors who offer specialised services and training in the field of the juvenile penal justice in order to cover and manage all the activities foreseen by the strategy. Over time, it will be possible to evaluate if this work plan will improve the situation.

Finally, several **Greek** respondents shared some **general issues** about the structural issues of the current criminal justice system: it is *“created by adults for adults”* (professor), it *“seems to prioritise child offenders over child victims”* (probation officer) and *“child victims do not hold a prominent position in the criminal justice system”* (lawyers and mediators). A response to these issues is to further promote restorative justice in cases involving child victims, since there is room for flexible and adapted practices to children’s needs in this justice approach and much attention is given to victims and their experiences. Clearly, restorative justice could only be a solution if all parties agree to participate and if well-trained facilitators provide high quality services to their clients.

### Implementation challenges

In terms of “implementation challenges”, respondents from the three countries listed a series of practical issues relevant for restorative justice with child victims. Some refer to the current gaps in the criminal justice system and procedures, which can also be useful reminders for RJ services. First, as stated by the Romanian respondents, often police and court rooms cannot offer suitable and **comfortable spaces to meet** (this is not the case for the Bucharest Police) and there is also a lack of audio-recording systems to support remote meetings and to avoid the repetition of the same story. Even if it is often underestimated and not properly considered, the actual meeting space (its colours, the position of the chairs, the presence of natural light, etc.) may have an important impact on the full experience. A lesson to be taken by the Bucharest Police (that participated in international exchange programmes on child-friendly justice approaches with French and British police) is to avoid interviewing children in the evenings, for no more than 20-30 minutes, without suggestive questions and leaving them their own time and rhythm to speak. RJ practitioners, normally already trained in asking open questions and not to interrupt, may get inspired by these practical tips for talking to children.

Another practical challenge concerns **insufficient knowledge, skills and experiences of professionals working with children**: *“professionals who work with children in the criminal justice system, from lawyers to police, prosecutors, to judges, to even mediators, are not trained to work with this category of people”* (Romanian mediator). Moreover, in Greece, the findings indicated that judges and prosecutors do not know how to properly work with children. The lack of preparation in working with vulnerable groups, such as children, may also reinforce the lack of confidence of professionals themselves and in their work. Additionally, as stated by a Greek police officer talking about the endless assessments of child victims conducted by different professionals: *“sometimes [...] professionals abuse a child, unintentionally, a lot more than any kind of perpetrator.”* For this reason, it is crucial that all professionals working on the same case involving a child join forces in a multiagency working group.

Greek respondents stressed the fact that, even within the children population, **major differences** occur, which are to be taken into consideration and, thus, continuous professional training is needed: *“children have different needs in specific regions of Greece. [...] children and teenagers in Aspropurgos have different needs compared to children and teenagers living in Marousi”* (President of a NGO, trainer in mediation), and *“refugee child victims are totally overlooked by the judicial system and the children with mental health issues do not receive specialised treatment. Equally, both judges and prosecutors do not know how to properly work with children”* (legal counsellor). Children and adolescents differ between their age, gender, socio-economic background, culture, traumas and experiences and all these differences are to be known and considered by professionals in their work.

This is also linked to the importance of **training criminal justice professionals** in restorative justice: a Greek probation officer stated that *“she saw on many occasions judges with a good intention to help the child offender by asking the child to apologise to the victim in the spirit of restoration, but this is not restorative justice.”* The lack of understanding of what is and what is not restorative justice affects a wide group of professionals, especially in Romania and Greece. In the latter, one of the solutions is to allow them to participate in a RJ process to observe what is discussed and what are the objectives of this meeting. This is also used to overcome part of the resistance of these

professionals to have training on alternative measures (both the Romanian and Greek report shared the frustration of mediators saying “*judges think they know it all*”) and to clarify that restorative justice is not the place to discuss merely money-related aspects (in Romania mediation, restorative justice is often seen as a “transactional” practice). Indeed, the risk, then, is that restorative justice is implemented by people who have not fully understood restorative principles, such is the case for Greek police officers who do not receive adequate training to facilitate a RJ process.

Among the practical challenges is a list of reflections related to RJ services and practitioners. The first one refers to the **challenge of informing children and adolescents** about the existence of RJ services: Albanian children clearly ask for “*simple and easy information*” explaining the steps of the process and its advantages. They also believe that restorative justice is “*shorter and faster*” than criminal justice, but this is something to be clarified with children: while restorative justice may be beneficial for several practical aspects, the process itself is meant to be transformative and thought-provoking, not necessarily easy. The second one refers to the **supporting people** who may join the child during the RJ encounter: Albanian children named that their parents, teachers, a psychologist should be present in addition to a well-trained facilitator. In Romania, one of the children proposed a friend, instead of the parents, as he feared that parents could enter into a fight during the RJ meeting. It is vital that children’s reasons to invite or to not invite supporters in their meeting are listened to.

Another challenge to overcome is to address possible **doubts of children** to participate in the RJ process, like the fear of revenge (Romanian child), or threat and aggression (Albanian children), or manipulation (Greek child) and feeling of guilt (Greek child psychologist). To avoid this stress, a Romanian child expressed that restorative justice works better for people that know each other already. Albanian children also shared their feelings in the aftermath of a conflict: they felt scared, stressed, angry, with a sense that their dignity has been lost. In some cases they also felt ashamed and embarrassed by the effect of the bad behaviour and they felt the need for clarification from the offender. These feelings are to be also followed up and assessed after the meeting. Good preparation and follow-up to keep the trust in the professionals leading these services is very important. An additional

reflection concerning the challenges of working with child victims comes from the head of social services and a police psychologist in Greece who mention the importance of understanding children’s non-verbal communication. This is useful to clarify some unspoken matters (e.g. concerning the perpetrator) and to also engage into a RJ dialogue.

## 7.2 Training needs

Though the first modern initiatives with restorative justice can be traced back to the 1970s and 1980s, there is, unfortunately, still a lack of awareness by professionals regarding its existence and its benefits. Furthermore, its use is hindered due to a lack of knowledge and confidence in how to apply such methods, particularly where young people are involved. It is not always clear what a child-sensitive approach entails, as its exact definition may vary among countries and even organisations. The findings of the questionnaires and consultations also suggested there is a lack of schooling and preparedness to work with children, a finding that is crucial to understanding training needs of practitioners and other professionals.

A basic training on RJ values and practices is crucial for criminal justice professionals (judiciary, law enforcement, etc.) to raise their awareness and understanding about these methods and to encourage cooperation with restorative justice and mediation services. A more advanced practical training is provided, instead, to RJ practitioners (mediators, facilitators) who get in touch with the parties affected by the harm. This general conclusion links the three countries in this research project, **Albania, Greece and Romania**.

### University RJ teaching programmes

A general suggestion that comes from respondents from **Greece and Romania** is to include compulsory courses on restorative justice in all university programmes for all future professionals in the field of criminal justice and children rights. This should prevent “reluctance” from prosecutors and police officers (**Romania**) and biases by the probation officers (**Greece**) and also to welcome and support this practice. Indeed, as a Romanian respondent concluded, “you cannot embrace

something that you don't know." Thus, strengthening knowledge, understanding and trust in restorative justice is crucial for its implementation.

In **Greece**, the Restorative Justice and Mediation Lab of the Panteion University has already introduced training for probation officers, prosecutors, and judges.<sup>[62]</sup> The Lab has trained 90 probation officers in restorative justice with an emphasis on victim-offender mediation involving children, in addition to several judges and prosecutors working with minors. In the future, the Lab will also deliver a new series of training for professionals working with child victims during trials. This is not the case for police officers, a professional group that lacks systematic and adequate training in restorative justice. One respondent also emphasised the importance of different professional roles and attitudes, *"police cannot play the role of a mediator because they are investigating the case and they have very clear tasks. The most they could do is work with other professionals in offering assistance to child victims."*



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Academics in **Romania** indicated that they are committed to introducing RJ courses at the universities. Currently, the University of Bucharest offers different core or optional courses on restorative practices such as mediation and conflict management strategies. These courses are embedded in the bachelor or master programmes on social work and on probation. Also, first year students in the Social Work Department of the Sociology and Social Work Faculty at the

University of Bucharest can attend a course on the basics of mediation (so called "Pastile de Mediere", or mediation pills). RJ elements are also included in the undergraduate programme on Sociology of the Victim and the master programme on Public Opinion, Social Justice and Criminality. None of these courses, however, include study materials and research on restorative child justice.

### **Training different professionals for better cooperation**

Teaching restorative justice at the university level and providing continuous professional training to different professionals is essential not only to raise awareness, but especially to strengthen cooperation between different professional groups. Experiences in terms of cooperation are similar in the three countries, where much is achieved to strengthen collaboration between services involved in the rehabilitation of the child offender and in the support of children's needs. For example, cooperation may exist between public social services and NGOs working on mental health, child abuse and neglect, crime prevention, education, treatment, rehabilitation and reintegration. In **Romania**, NGOs may also be contacted to provide a safe space for hearing the child testimony in a room which is more friendly than those provided within the criminal justice system (police, courts). In **Greece**, a challenge is the inability to coordinate all these different agencies, while in **Albania** the risk is that specialised staff is not available and present in all different institutions (e.g. the lists of expert psychologists are only available for the courts in two cities in Albania).

Training different professionals is also essential to develop multi-disciplinary approaches to dealing with children in contact with the law or experiencing victimisation. This notion was stressed in the **Romanian** report. One of the practical solutions provided to ensure that different professionals are on the same page concerning certain issues is precisely through training. In 2003, school directors, jurists and child protection professionals attended a training on RJ approaches for children, while in 2004 a group of judges, prosecutors, teachers, police and doctors received a training on the Law on Child Protection 272/2004. Setting these common grounds for different professionals could also help to tackle the "disparity between the

<sup>[62]</sup> This initiative was initiated thanks to the commitment of the Lab's director, Prof. Vasiliki Artinopoulou, who has been emphasising the importance of policy and practice of restorative justice for the last ten years.

judicial people, such as police, prosecution and court, and non-judicial people, such as child protection, legal representatives, and even the lawyers.” Two respondents (in **Romania** and **Albania**) mentioned the fact that the work of judges is never questioned, while, especially when working towards the best interests of children, their work should be integrated into a multi-disciplinary operative team.

In terms of awareness on restorative justice, **Albania** has advanced well in recent years. Thanks to a series of juvenile justice reforms and international cooperation projects (from Sweden, Norway and The Netherlands, but also from international organisations such as Terre des hommes, UNICEF and Save The Children), most respondents (106 out of 113) have previously heard about restorative justice. The respondents explained that their knowledge was based on the existence of legislation on this matter as well as on training sessions they attended in the past.<sup>[63]</sup> Little is mentioned in terms of cooperation with restorative justice and mediation services. This seems to be left to personal initiatives and contacts of individual facilitators and mediators.

For example, a **Romanian** mediator explained that, depending on the case and the issues dealt with, he may contact the relevant services, *“In schools, [I am] always working with school counsellors, if a mediation implies medical aspects, [I work] with a doctor, and so on.”* Cooperation is crucial especially where child offenders, who entered in contact with the prison system or probation services, are being supported. The initiative A educa pentru a repara (educate to repair) included training on restorative practices for probation officers precisely to strengthen the cooperation between probation and RJ services (unfortunately the initiative was suspended due to a lack of funding).

## Training RJ facilitators and mediators

Respondents in the **three countries** share the fact that there are not enough trained mediators (in criminal justice, in schools, etc.), that often training is an initiative taken by the individual who wishes to grow in his/her profession, and thus paid directly by the individual, and that training and expertise is often provided by specialists outside their country.<sup>[64]</sup> These trainings are welcomed, but continuity needs to be established afterwards.

Another commonality between the **three countries** is that respondents discussed how having a legal background was a supportive factor when conducting mediation, namely due to the fact that you could understand the stage of the judicial procedure and what that would mean for a potential mediation process. Furthermore, a misunderstanding of restorative principles may lead to further harm for those involved, particularly for vulnerable groups such as children. **Romania** and **Albania** insisted on the need for mediators to have a minimum knowledge in legal studies before engaging in a RJ training programme for practitioners. In **Greece** and **Romania**, this course lasts 80 hours. Because of the limitations of this training, a Romanian respondent integrated this course with an additional course in France that consisted of 560 hours training. **Albania**, instead, benefits from a series of training for mediators coordinated by the National Chamber of Mediators, under the guidance of the Ministry of Justice.<sup>[65]</sup> In the end, as was suggested by two respondents in **Romania**, the mediators themselves must evaluate at the individual level their ability to engage in a case with juveniles. Their own tact and experience will play a key role, but training can positively impact their capacities and knowledge of practitioners.

<sup>[63]</sup> In only 2018-2019, the Albanian training programmes reached 53 police officers, 18 judges, 76 prosecutors, seven officers of the court police, 75 specialists of the probation service, 150 specialists of prisons, 25 ex-officio lawyers and lawyers, nine mediators, 105 psychologists and other experts.<sup>[56]</sup> Ionut Marcu, Prosecutor, Directorate for Investigating Organised Crime and Terrorism.

<sup>[64]</sup> For example, Neustart from Austria trained Greek probation officers on restorative justice; Transforming Conflict from the UK trained social mediators and school counsellors in a Roma community in Romania; the first pilot experiences in Romania were based on RJ models from Australia, New Zealand and UK; experts from Leiden University in The Netherlands gave training in Albania about tools to measure the working atmosphere in different institutions (Social Climate Tool); the Swedish Program for Policing in Community trained Albanian police officers in working with children in conflict with the law; the Norwegian Ministry of Justice supported the policy work led by the Albanian Foundation for Conflict Resolution in the drafting of the second Mediation Law in 2003.

<sup>[65]</sup> Among others, in Albania there was a specialised training for mediators working with children by NCHM on the application of the Code on Juvenile Justice and diversion measures attended by nine certified mediators from different cities in Albania. Additionally, international donors such as Save the Children and Terre des hommes and national NGOs, such as AFCR, contributed to specific training on restorative juvenile justice. 25 mediators were trained by AFCR in restorative justice and mediation for example.

In **Greece**, it was noted that teachers do not feel confident applying restorative justice, or in many cases, support to respond to juvenile delinquency and child abuse more generally is lacking in schools. Similarly, one of the respondents referred to how judges and prosecutors are not aware of how to implement a child-friendly approach. Though mediators in Greece reported they can conduct the process, they referred to a lack of experience when working with children, thus they did report feeling more comfortable with the support of a child psychologist or social worker.

### 7.3 Key ingredients to make restorative justice for children work

#### Attention to children's rights

In **Greece**, it was observed that during the last decade, children's rights have been increasingly receiving more attention, also with regard to restorative justice. **Albania's** criminal system significantly changed in January 2018 when the Code of Criminal Justice for Children came into power. The Ministry of Justice created new institutions in line with the Code, as a condition for fulfilling the necessary infrastructure to carry out the sub-legal acts, alternative measures and re-integration of minors. For this reason, the Crime Prevention Centre for Minors and Youngsters and the Institution of Educating and Rehabilitating the Children were developed. Within the Centre, they created special rooms for child-friendly justice, for the application of diversion measures and to help to create a suitable environment for restorative justice and mediation sessions. Similarly, in **Romania**, respondents indicated that within the prison system and probation service there is an openness when referring to the rights of child offenders to collaborate on initiatives with a restorative component.

UNICEF in **Romania** mentioned a shift in the approach regarding children in the country. Ten years ago, their initiatives were more focused on transforming *juvenile justice*, meaning providing alternatives for children in conflict with the law. Nowadays the focus in Romania is more on *justice for children*, meaning children's access to justice and the type and quality of services children have when they enter the criminal justice system. In 2019, there was a decrease: 15% less of the minors who committed crimes and had

criminal responsibility ended up in either the prison system or probation.

#### Giving a voice to children

Professionals and academics in **Greece** agreed that restorative justice is a practice that gives voice to children. The Youth Parliament was mentioned as a good example, an initiative taken by the Children's Ombudsman. Children can deal with different issues that concern them and their expertise and knowledge is to be taken into account (as we tried to do within this i-RESTORE project). The implementation of restorative justice seems to be more easily accepted with children compared to adults, although this attitude does not necessarily open more doors for the use of RJ practices with child victims.

#### Active judges, prosecutors, probation officers and police staff

Even though policymakers in **Greece** pointed out that some judges and prosecutors do not know how to work with children, it was also observed that the new generation of judges and public prosecutors are much more sensitised to working with this vulnerable group. Juvenile probation officers tend to be beneficial for children as they usually become the person of reference for children in conflict with the law. This also seems to be the case in **Romania**.

One identified promising practice in **Romania** is that the Magistrates Association developed eligibility criteria on how to become a children's judge. The interviews also mentioned that application of the UNICEF guide on interviewing children is occurring in practice. More generally, there are signs of hope as indicated by a Romanian respondent, as she referred to magistrates who collected data from all juveniles who entered the criminal justice system and showed concern for their future.

#### Multi-disciplinary approaches and cooperation

Police and prosecutors in **Romania** did not always have access to a proper hearing room for children and, therefore, sought collaboration with NGOs. Save the Children is currently working on implementing the 'Barnahus concept' in Bucharest where the hearing of children can take place in a child-friendly way. The importance of a multi-disciplinary approach was

emphasised by several respondents.

### **Integrative actions**

Since 2009, treatment and rehabilitation programs in **Albania** are usually integrated in the programs of the Probation Service in cooperation with municipalities and NGOs and were shared as a good practice during the interviews. A good practice is the institutional collaboration of the Probation Service with different NGOs focused in mediation and child protection. Such a collaboration is based on bilateral memorandums fulfilled by both parties with efficiency and good results, especially in the organisation of mediation procedures. The Digital System of the Data on Minors' Penal Justice that was set up is another important step which makes it possible to follow-up the minors' case step-by-step and after each stage, also generating statistical data in real time.

### **Registration needs for mediators**

The creation of the national system of registration of mediators at the disposal of the Ministry of Justice in **Albania** facilitates the recognition and promotion of mediators at the courts and prosecutor's offices in cases of diversion of juvenile penal investigation. The consolidation of the legal status of mediator was said to be positive in Albania. Involving a mediator as a free and licensed profession alongside the lawyer and the notary public has already proven to be very beneficial. The creation and operation of the National Chamber of Mediators (NCHM) contributes to the goal of following and closely monitoring the specialisation of the mediators. On occasions, however, the commercialism of the mediation profession in Albania creates difficulties in the engagement of mediators in providing mediation services for juveniles.

In **Greece**, mediators are registered in the Registry of Mediators of the Ministry of Justice after an 80-hour long training and an exam. Once registered, they can facilitate in commercial and civil cases as well as cases of domestic violence.

### **Models that work**

Going back to the experience of the pilot centres in **Romania** before 2004, the model used then was inspired by restorative conferencing that exists today in the UK, New Zealand and Australia. The mediators

used to follow a set of questions from a script and had a system in place for the joint meeting which made things structured and clear. As stated by one of the respondents, *"We used a very well-organised script, we knew who's talking and when they are talking. We knew even who's sitting where. We sat in a circle, but the order [of the circle] also mattered. On the right side was the victim with supporters. On the left side was the defendant with supporters. And we, the professionals, sat next to each other, one on the side with the victim, and the colleague on the side with the defendant. You had to take care of the entire group dynamic."*

### **Topics for future professional trainings**

When looking at the respondents' concerns in terms of restorative justice, it is possible to identify some key topics that would need to be addressed in future training programmes, some dealing with specific themes and others to specific practices.

In **Romania**, themes could be: 1) the basics of children's vulnerabilities for all professionals (i.e. police, prosecutors, lawyers, judges and mediators); 2) judicial training on restorative justice; 3) access to (restorative) justice for children; 4) prevention of juvenile delinquency; 5) therapeutic justice; 6) restorative justice in serious crime (e.g. rape). In terms of RJ practices, the following questions are to be addressed: 1) the suitability of a case and the parties involved to be offered a RJ process; 2) assessment of one's own capabilities as a mediator to deal with such a case; 3) preparation of the parties in a face-to-face meeting (including what to do with juveniles who do not admit their guilt); 4) the role of the supporters in taking part in the RJ meeting (psychologist, parents, friends); 5) the script (as in the UK model); 6) support and supervision of the mediator (different role compared to lawyers; responsibility). Romanian respondents also stated that no-one is really trained to work with children, thus child-friendly mechanisms and strategies are needed to support children involved in the justice system, as well as how different professionals could work more together, as an operative team for example.

In **Greece**, themes are more related to the specificity of using restorative justice with children: 1) the basics of children rights and restorative justice; 2) the use of restorative justice in serious crime involving child victims (e.g. domestic violence, sexual abuse, child

exploitation and neglect); 3) the significant differences between children and their communication capacities (due to age, gender, origins, living place, culture, mental health, experiences); 4) abuse of power and/or power dynamics between children and adults during a RJ encounter; 5) (the limits of) restorative justice in cases of consistent and repetitive offences as bullying. In terms of practices, training is needed on: 1) non-verbal communication when working with children; 2) restorative circles as therapeutic and storytelling methods; 3) evaluation and follow-up of a RJ process.

In **Albania**, some additional ideas came from children: 1) initiation of a RJ process (e.g. with the offender's apology); 2) the information given to children concerning the process (steps, results, advantages); 3) the role of parents, teachers, police officers in explaining the process to children; 4) attention to the individual temperament and personality of each child.

### Training young people

Another group in need of basic training on their legal rights and on restorative justice are young people. The proposal from Greece is to educate children in being active and responsible citizens and to learn techniques for dealing with emotions and responding to conflict. In one of the schools, students received a 20-25 hours training in peer mediation. *"In 90% of cases, the information on incidents in school come from different children (in person or via a small box placed in the school) or reported directly by the children in conflict."* This is important and shows that children feel involved and participate in such a project if they are given the possibility to do so. Moreover, as a Romanian respondent stated, information on restorative practices in schools is crucial to raising awareness about these options and another respondent talked about the importance of encouraging the "habit of dialogue" in schools and families. Still, a Greek respondent talked about the teachers' lack of trust in believing that children can take responsibility and help to address conflict through peer-to-peer mediation. Another respondent also added the challenges of coordinating social work with schools, as schools are not specialised in child abuse and youth delinquency.

## 7.4 Child perceptions of restorative justice

The national researchers made use of the tools developed for the i-RESTORE project to encourage children to reflect about restorative justice and children's needs (see Methodology and Appendix 1).<sup>[66]</sup> Groups were addressed and sometimes individuals were addressed. Child Advisory Boards were used and also specific groups of youngsters who had experienced a restorative justice encounter were addressed.

In **Romania**, none of the consulted children had heard about restorative justice. The discussion, then, was facilitated following the short film "The Woolf Within." Their first thoughts were around the harmony that resulted from people helping one another, including the offender. For the high school students, the offender Peter *"came out of the darkness"* and was about to evolve with the victim, Will's, help, illustrating the transformative power of restorative justice. The group of child offenders felt that a restorative meeting allows for discussion and growth, that through such a meeting, they could apologise to the victim. They also mentioned that *"a bad person can walk on good footprints"*, and that it is good to learn from mistakes. They also felt that Peter learned and was rehabilitated and that Will is a good man who gave Peter a second chance. The group of high school students also felt that restorative justice can be useful, though it will depend on the offence. Restorative meetings in cases of homicide would be difficult, as they will depend on the culture and the victims. The child offenders expressed the same concern that restorative justice in Romania might not be that possible, because *"it is hard with the Romanians."* When addressing the needs of both Peter and Will, respondents believed that Will's needs are to overcome his fears, to defend his family and to reduce his chances of re-victimisation, while Peter's needs are to leave the past behind, to build a family, to stop consuming drugs and to have money.

With regard to applying restorative justice to cases involving children in **Romania**, there were different observations depending on the respondents. In

<sup>[66]</sup> One tool was developed around the short film "The Woolf Within", which presents the stories of Will, a victim of a robbery, and Peter, his offender, and their journey in participating in a RJ meeting. The other tool is a case study with a three-part story of the offender David, of the victim Jason and the RJ meeting and parties' supporters in the aftermath of a traffic offence.

general, the high school students felt that it could be a positive tool, while child offenders were not in favour of such a mechanism as they feared revenge. Both groups of children considered that it is easier for such a restorative meeting to happen if both parties do know each other because *“they have a history together”* or if *“you know who you’re talking to.”* Other reasons for the child offenders included that, in this case, the other party *“can help you”* or *“withdraw their complaint.”* In **Albania**, the group answered that they believed mediation would be relevant for children, namely to improve relationships and prevent reoccurrence. Restorative justice would also be beneficial to the offender by ensuring that he/she does not have to enter the formal criminal justice system and will not face stigma due to the criminal act.

In **Greece**, following the presentation of the case study on the traffic offence, during the consultation with school children, one participant observed the lack of information regarding the victim. When addressing what the victim felt, the children considered that *“the worst thing was the health issue that caused him to not be able to work and go back to school”*, and the damage, they continued, was not just physical and financial, but also emotional because *“he will not feel free.”* They also added that whilst the victim will be angry at first, this feeling would diminish and turn into disappointment and unhappiness. They also believed the victim might feel better and less angry if he knew about the offender’s background, because *“otherwise maybe he would think he did it on purpose.”*

Even before presenting to the participants the option in the case study for the parties to meet, the children already considered that the possibility of meeting would be beneficial, as the parties should *“get to know each other.”* Meeting with the victim would make the offender *“understand his actions on a larger scale.”* Another child stated that the restorative meeting would allow them to *“sort out the issue in a more civilised manner, and make sure that they are at peace with each other... it would take the weight off their shoulders.”*

Many of the children found justifications for the offender’s behaviour, claiming it was *“not intentional”*, due to the fact that *“he was intoxicated”* or *“drunk”* or that *“he was not aware”* and *“not sure what had happened.”* This perception is likely to be linked to their belief of what they considered beneficial for the

offender, namely a course for alcohol addicts the offender was required to attend, because the offender would meet other people in the course who have gone through the same addiction and it would make him realise what consequences could arise. The children also believed that the community work would help the offender to *“become more selfless and start thinking about others.”*

At the same time, one of the participants observed the importance of fairness in terms of punishment, comparing the harm to the victim and the offender’s punishment. The child noted that the outcome *“was not much punishment”* because *“the surgeries that the victim went through took place within a period of three months and in three months he would get his license back.”*

The **Romanian** high school children believed that to have a safe RJ meeting, there must be a good psychologist as a facilitator, a pleasant meeting environment, established rules and pre-set questions. This group did not believe that the participation of parents is useful in such meetings concerning children, as parents often would create fights amongst each other, making the conflict about themselves. The children opted instead to have a friend as a supporter. For the **Greek** discussion, however, the respondents believed that the presence of parents could help to make children feel safer. They also suggested the presence of a doctor, a common teacher and a mediator. Where the offender has apologised, they did not see any risks for the children, though at the same time they did recognise that the offender might be aggressive and/or threaten the victim. The **Albanian** victims also indicated that in addition to having a trusted person, a safe environment was characterised by one that reminded them of a familiar place and a place where not too many people were present.

The same case study was also used in one of the consultations in **Romania**. The discussions that followed were to better understand children’s opinions based on first having limited information concerning the conflict, to getting a comprehensive understanding of the conflict. Concerning their perceptions about what the victim David might need or think, the children answered that he might want to understand *“why me?”* If David could learn more about Jason, he would see him as a human, who made a mistake. Some of the child respondents, however, felt this way

but shared that they would not want to meet Jason if they were in David's position. After the meeting, the children observed that Jason *"truly [had] a full understanding of the unconsciousness of his actions."* They also suggested that Jason needs to be *"reintegrated in the community"*, while finding a way to pay back David through actions such as finding a job and offering compensation for the medical expenses or to support David in his physical recovery. In the focus group with the Albanian CAB, a similar answer was given, namely that offenders should pay for the damages and support the victim in his struggle in the hospital.

In **Albania**, a focus group discussion was held with child victims who underwent a mediation procedure. The respondents reported several consequences of the act committed against them, leaving them to feel angry, stressed, fearful and they suffered from a loss of dignity. When going through the mediation, the child victims indicated that it was important for them to have support, primarily from their parents. Two of the children referred to a need for a psychologist to be present during the mediation, while another child felt safer with the presence of a police officer.

With regard to informational needs, the Albanian child victims indicated that it was important for them to have clear and simple information about the mediation procedure, about the steps that needed to be followed, about the results and about the advantages of mediation. Outcomes of the mediation that were experienced by the respondents included having a comprehensive process that was educational, positive and provided security; teaching both parties how to communicate better, following rules. Moreover, it was found to be useful particularly as it allows victims to ask the offender about his or her behaviour, brings peace to the victim and positive experiences due to the presence of a parent or a psychologist.

One of the children in the focus group had heard about restorative justice before, though also noted its lack of application, and where it is applied, it is not done so in the correct way. Respondents mentioned that restorative justice can only work if both parties are willing to discuss and understand each other.

In terms of its appropriateness for children, they believed it was an option, as long as the practice ensures that both parties want to participate. In fact, one respondent even believed it would work better for children, as they are more responsive to change and children have a *"whole new life ahead of them."* Restorative justice may also bring about a liberating opportunity, as victims would be able to understand why the perpetrator did what he or she did. Where there is trauma, other means could be considered, such as a letter; in these cases, professionals should consider that the victim may need more time to recover, before participating in the procedure.

Respondents saw a danger where the victim is a child, and the perpetrator is an adult, arguing that this scenario may bring flashbacks and could further harm the victim. What is important is to ensure that children are not manipulated in any procedures and that they truly want to participate.

When asked if the group would take part in such a practice, they replied that they would give it a chance, especially as the offender, in order to have a second chance. From the victim's perspective, the children responded that it would be important for them to know why the offender acted as he or she did. At the same time, one of the respondents acknowledged that it is difficult to know what one would actually do in such a situation. The type of crime would also affect their decision to participate, for example, *"if it was theft or assault, it would be easier to forgive someone. But if it was something like murder or rape, then it would be more difficult."*





## Part 4 - Final remarks



## 8. Conclusions

This research report, as well as all other activities planned within the framework of the i-RESTORE project, aims at promoting the use of restorative justice in cases involving child victims. The project focuses on three countries (Albania, Greece and Romania) to improve knowledge amongst national stakeholders on child victim-friendly restorative justice and empowering children to advocate for better protection of child victims.

The research phase of i-RESTORE includes a comparative review of current laws, policies, strategies, practices, capacities, research, training and initiatives related to restorative justice and children rights. In addition to a short international review on existing materials globally, national research was conducted in Albania, Greece and Romania. The national reports combine information from policymakers and practitioners in criminal justice about their understanding of restorative justice and child victims, and information by young people concerning their experiences and needs in relation to justice matters. In i-RESTORE, further steps will be taken to empower children to advocate for better protection of child victims in restorative justice; to build capacities and foster mutual learning among national policy makers and practitioners in criminal justice to implement child victim-friendly restorative justice; and to raise awareness and advocate

for child sensitive restorative justice approaches in cases involving child victims. Below, we list the main conclusions from the research review and the empirical study of i-RESTORE.

### 8.1 Restorative justice with child victims

While the i-RESTORE research shows that few studies have examined restorative justice in cases involving child victims, there is still a need for far more research to understand impact, behaviours, reasons to participate, risks, useful child-friendly approaches and a number of other issues. Tali Gal's work (2011) suggests that we can apply a lot of the findings for **child offenders** (the harm-doers) to **child victims** (the ones harmed), though this should not rule out a focus specifically on child victims. Here one can think of their especially vulnerable state and need for protection, for example. Below you can find a list of the needs and rights of child victims and child offenders based on the international and European human rights standards mentioned in chapter 3, guided by the UNCRC and often overlapping:

These needs and rights need to be taken into account by States and institutions when dealing with

### Needs of child victims

- Protection
- The right to recover from harm done to them
- Providing assistance for this recovery and reintegration
- Providing an environment which fosters the health, self-respect and the dignity of the child
- Prevention from re-victimisation
- Attention to power imbalances
- Use individual needs assessment to identify specific protection
- Look at legal safeguards and a rights-based approach
- The importance of good and regular training in all these aspects for professionals working with child victims (and or child suspects)

### Relevant for both the young offender and the young victim

- Role of parents needs to be taken seriously
- Child friendly proceedings and participation (five steps of meaningful participation)
- Taking into account the evolving capacities of the child
- Making sure gender differences are addressed and programmes adapted accordingly
- Right to an individual assessment

### Rights of child offenders

- Fair trial and special child-oriented approach
- Pedagogical objectives: best interests of the child; learning from mistakes
- Minimum age of criminal responsibility (MACR) at 14 (General Comment 24 sets a new international minimum level)
- Diversion as a first choice
- Detention as a measure of last resort (and for the shortest appropriate period of time)
- Individual assessment (focusing on both risks and needs)
- Focus on restoration and reintegration
- Attention to victim protection in the criminal procedures

children in conflict with the law. Also, a deeper understanding of the **differences between adults and children** is crucial to expand restorative justice to younger people.

A great focus of the report is on practical recommendations and **promising practices**, which is extremely crucial at this point with regard to the development of restorative justice and child victims. Further research should continue to understand points such as how to attain a child-friendly approach; what interventions are working specifically for child victims; and what types of trainings would be necessary to achieve better implementation by professionals.

## 8.2 International standards on restorative justice and child justice

Within international legislative documents, the importance of restorative justice, which focuses on the harm done by involving the victim, offender and community, has been acknowledged and encouraged. Restorative justice is a priority response to crime and to the harm created by crime. It can be seen as **a right for young people to access restorative justice**. The rights of parties on different aspects have also been given attention, recognising the need to treat them in a way that recognises their plight, often encouraging

meaningful participation or as part of an individual assessment. At the same time, the focus is still often on the offenders, including children, likely due to the emphasis that has been given within human rights to due process and procedural safeguards. **Victim rights**, and especially the rights of child victims, on the other hand, are indeed a newer area receiving attention and this may be one explanation for the lack of equality in the protection of (young) victims. This is also clearly the case in the three countries included in this study.

As early as 1989, when the UN Convention on the Rights of the Child was released, protections for **child victims** were put forward in a way that recognised this group as vulnerable. With the emancipation of victims' rights in the decades that followed, child victims were also given more voice and more rights. With the evolution of RJ standards, child victims and child offenders also obtained the possibility to meet after a criminal offence. What do the standards say about the position of child victims in relation to restorative justice? Chapter 3 explored the relevant rules laid down in the UN Convention on the Rights of the Child, sometimes further explained by general comments on aspects like the right to be heard and child justice. The new General Comment 24 includes that the use and implementation of restorative justice should be a priority. With this priority, the role of victims in relation to child offenders becomes more obvious (cf. the above table summarising the rights of child victims and child offenders which are sometimes overlapping).

At the same time, new standards focus on the more general attention to child victims and child-friendly procedures. They all point at the importance of the right to access a restorative justice intervention such as mediation or conferencing. Crucially, if governments and professionals use such methods it must be done in **'a rights based' way**.<sup>[67]</sup> This would include proper information sharing; taking into account the child's views; solid preparation; attention to safety and power differences; involving parents but also looking at their position; checking the need to use support persons; paying attention to legal safeguards; and most importantly, avoiding secondary victimisation. As specified in the new UNODC Handbook on Restorative Justice Programmes: "The successes

of such an approach, from a child's rights and needs perspective, depends on the extent to which the child is participating voluntarily, is adequately prepared and is supported along the way."

Laws and policies lack separate sections specifying the **needs for children** using restorative justice interventions, such as mediation and conferencing in a child-friendly way. Mechanisms do, however, provide rights for children more generally, and as was explained earlier, this falls within the following areas: information on all procedures and decisions; voluntary, respectful, child-friendly, inclusive training for adults and professionals; sensitivities to risks and accountabilities. These priorities are laid down in the UN Convention on the Rights of the Child and further reflected in a number of international legal standards and instruments. It was also reflected in some recent child-friendly justice policies in Albania, Greece and Romania, inspired by the UNCRC and European recommendations.

### 8.3 Training on restorative justice for children

This i-RESTORE report explored the existing training programmes and materials that can assist professionals developing a programme on restorative justice for child victims (in Albania, Greece, Romania and beyond). It includes some relevant training programmes (e.g. in restorative juvenile justice, in child friendly justice, or addressing young people in learning and practicing restorative approaches to conflict) and materials (e.g. practice guides, toolkits and videos). There are useful training materials that address children and justice and together they form a solid foundation that provides direction for professionals working with children. However, availability and access to training differs in each country.

The research showed that training needs to take a child-friendly approach, prioritising a focus on adequate protection and support of child participation in a RJ process (needs-rights model) to avoid secondary victimisation. Training should also focus on the

<sup>[67]</sup> Moore, S. (2008) Rights Based Restorative Practice Evaluation Toolkit, Human Rights Center, University of Minnesota; Moore, S., and Mitchell, R. (2011) Theorising Rights-Based Restorative Justice: The Canadian Context. The International Journal of Children's Rights Vol 19, 1, 81-105.

complexity of children's vulnerability (e.g. developmental immaturity, limited knowledge, experience, self-control) and the fact that victimisation increases such vulnerability. In terms of practical competencies, training should aim at providing a set of relational and restorative skills for transforming professional and private lives to encourage a wider restorative culture, beyond the use of restorative justice with child victims. This is also reflected in schools in Greece, where peer-mediation programmes are designed to educate children in managing conflicts and preventing the escalation of violence amongst peers.



In training for RJ practitioners (e.g. mediators, facilitators), it is useful for practitioners to “wear children lenses” in every stage of the RJ process, i.e. during preparation, while facilitating the encounter, when following up the outcomes of the encounter and to have a continuous development training on children rights and needs, child development and relevant legislation on children rights and restorative justice. Unfortunately, this is not the case in any of the countries studied in this project, where continuous training courses were followed by mediators on their own voluntary initiative.

Training for justice professionals (or volunteers) working with children involved in the justice system needs to include education on relevant human rights instruments and national legislation (e.g. restorative justice, victims' rights, children rights, diversion), as widely proposed in Albania, but also on practical child-friendly approaches to working with children.

Moreover, in order to better improve access to restorative justice for children, the training should include specific sections dedicated to the benefits of restorative justice for children and communities (and maybe finances) and to the coordination strategies between the justice sector, restorative justice, schools, relevant NGOs, families, local communities and health workers. Indeed, the importance of multidisciplinary work and cooperation has been stressed in the three countries involved in i-RESTORE.

Training children and young people is important to teach them about their rights, but also about their duties as citizens and community members. A training in peer mediation, as in Greece and Romania for example, could teach them to address conflict constructively, to express emotions, to develop social skills and, thus, to prevent incidents of violence, conflict and crime. These skills could make them less prone to use violence or become victims of violence. Also, the promotion of peace and conflict studies among young people could encourage them to get acquainted with structural and cultural forms of violence that lead to feelings of injustice and insecurity, thereby preventing a history of violence and discrimination that repeats itself.

It may also be important to foresee training for parents and teachers. Without their support, it may be difficult or even impossible to guarantee that children have access to RJ programmes. One could think of basic training in RJ values, models, benefits and challenges and witness some stories in which it was used with children and young people. Additionally, training for practicing restorative justice and other relevant practices (on conflict management and resolution), which could be useful in their private and professional lives.

To conclude, a holistic and child-friendly approach to training and actual RJ practices is needed, as all actors who are in contact with children and/or with the justice system can help to build the basics for granting restorative justice to children and make the right to access a reality. To make this a reality, it is crucial to ensure that training and practices exist to deal with conflicts in schools, families, and communities, thereby introducing restorative justice as a daily practice to children, their parents, their teachers and others who are part of their community. In addition, training and practices within the

justice system are needed, both for child victims and child offenders, ensuring that all justice actors are knowledgeable about the benefits of restorative justice and are aware of the services providing this option. Promoting a restorative culture can also help, for example, in the way support is provided after a conflict following on from a crime (e.g. victim support, offender's reintegration, family counselling). It is vital that specific tools using the main principles of child-friendly justice are developed and adapted to the unique audience and local context.

## 8.4 Practical safeguards for restorative justice with children

While restorative justice is an opportunity for children who come into contact with the justice system, it is also useful to acknowledge some challenges from the field as identified in the previous chapters.

It is essential that scholars and policymakers recognise and address the inability of restorative justice to have effects on the **trauma of victims**, and not aim to replace other potentially needed therapy or counselling. Indeed, as one study found regarding restorative justice and child sexual violence victims, models may be designed in a way that does not prioritise the young victims' needs. This may become problematic for their experience and lead to secondary victimisation. Children are at risk of not having a say about the process, for example whether or not the case proceeds to restorative conferencing or what the outcome for the offender may be. This risks tying into their developmental capacity and their readiness to accept authority because of the presence of this in their everyday lives.

Ensuring safeguards for child victims of **sex offences** and domestic violence or child abuse requires even more attention as a result of their extra vulnerable state, not only as a result of age, but also the type of trauma they have endured and the power relationship always present in this type of crime. Critics of this type of intervention argue that it provides a platform for offenders to re-assert their power relationship. Another risk for restorative justice relates to the importance of understanding **power and control relationships** in order to prevent further trauma to

the victim. For this reason, professionals should be proactively aware of how victims will react to restorative methods and act accordingly.

Another potential challenge in relation to child victims reflected in this overview is the **role of parents** or other caretakers. While law and policies generally require the consent of parents, their involvement may lead to perceptions of silencing for young victims, as they will not be able to share their own perspective and needs. For this reason, practitioners should present the option to speak with children in a separate meeting and to have mediators discuss resistance on the part of parents in more detail with them. This is clearly reflected by some children (from Greece and Romania) who contributed to the i-RESTORE project and reflected on the involvement of their parents in a RJ process, fearing that this would increase conflict among them.

At the same time, much is possible with proper preparation, attention to these risks, good trainings of professionals involved and additional care. If this is all in place and the child does want to take part, it may still be possible to use restorative interventions in these kinds of cases.

With regard to safeguards, the 2016 Office of the Special Representative of the Secretary General on Violence Against Children on "Promoting restorative justice for children" also referred to the need for a **competent authority** to have an effective judicial overview at all times. This authority may be a child justice court, a court-appointed social worker or legal professionals. Judicial reviews may strengthen validity of the outcome and also offers a safeguard that it takes place in the legal setting. Where courts may intervene, it becomes more difficult to disobey or ignore a mediation or conferencing agreement.

Importantly, well-functioning **complaint procedures** must be in place when children are in youth care, in conflict with the law or victimised by crime. All institutions dealing with children should have such procedures, but also both RJ interventions and professionals should be able to be reviewed. If they do not carry out their work appropriately, for example, by abusing their power, parties and others should have access to a complaint procedure, mechanism or court case guided by disciplinary law.

## 8.5 Gender disparities

When discussing the way forward, gender disparities undoubtedly need more investigation. In general, the current and recent initiatives fail to provide sufficient attention to gender disparities in restorative justice for victims. Several projects do report on the **over-representation of boys in custody**, but more precise information on victims is lacking.

Disparities can, when it concerns victims, also depend on the nature of the crime and the following treatment programme. Treatment of victims of **sexual violence or domestic violence** may already include RJ approaches, where this is not the case for child victims in the regular criminal process.

More attention should be paid to differences in gender when speaking about child victims, a topic which is clearly lacking in the programmes of the three countries involved in this project. Vulnerabilities may be exacerbated when attention is not paid to girls and their **needs or characteristics**. For example, Stubbs (2004) wrote about the gendered nature of apologies and forgiveness, describing the pressure that women and girls feel to accept apologies.<sup>[68]</sup> Particularly as children, girls may have compounded reasons to feel pressure leading to inauthentic expressions of emotion or detrimental safety concerns.

Gender disparities were briefly addressed in the UN Special Representative of the Secretary General on Violence against Children report, though largely in terms of female offenders who face further violence while in custody. Many of their rights are stipulated in the UN Rules on the Treatment of Women Prisoners and Non-Custodial Measures for Women and Girls Offenders (the Bangkok Rules). Again, not much is yet

known on **victimisation experiences** in relation to gender differences and this question has been relatively crucial for practitioners and policymakers in Greece. Last but not least, gender disparities also exist among **RJ professionals**. In Belgium, a great majority of mediators, and also social workers, are female. This is the case in more countries. This may influence the dynamics of the conversations within a RJ process. Further research is needed, especially on better understanding the impact of gender in different cultural and religious contexts. In Austria, both a male and a female mediator are involved in mediations for domestic violence.

## 8.6 Towards a child-friendly approach

Without discrimination, it is the right of the child to have proper access to justice, to be involved in all proceedings and to have their specific needs considered during the process, outcome and throughout interactions with those involved in restorative justice. Indeed, as Gal argued, children are not solely in need of protection, but of recognition as full partners deserving of efforts that will increase their well-being, empowerment and participation. Though the i-RESTORE project suggests that initiatives already exist that clearly consider these issues, the next steps will include gaining a more detailed understanding of the specific needs of children in restorative justice and what mechanisms are best suited to achieve their needs, theoretically, but primarily practically throughout Europe and abroad. Indeed, future projects must continue to understand what is working in terms of practice and how countries can support one another in improving their own systems and capacities, as has been done for Albania, Greece and Romania in this i-RESTORE project.

<sup>[68]</sup> Stubbs, J. (2004). Restorative Justice, Domestic Violence and Family Violence. UNSW Sydney: Australian Domestic and Family Violence Clearinghouse Issues Paper 9.



## 9. Recommendations

Through the completed projects and training provisions listed in the literature review and the research findings from Albania, Greece and Romania, it is possible to formulate key recommendations within the area of restorative justice and child victims. They are based on the international priorities in terms of children's rights and victims' rights and provide more insight into how to achieve these goals in the countries involved. The recommendations are grouped and presented under key areas: 1) implementation of child-centred approaches; 2) law and policies; 3) training for professionals; 4) awareness; 5) gender and diversity; 6) access to restorative justice for child victims; and 7) child participation. The more general recommendations are addressed to governments and policy makers, the more practical recommendations are for practitioners, civil society organisations and children.

### 9.1 Implementation of a child-centred approach

1. Guarantee that the RJ process is one which is child-centred by, inter alia, ensuring that the child can participate in all cases or situations where said child is involved and that the child is heard in these processes. This is equally applicable to the child justice system.
2. Ensure the RJ process is sensitive to the child's level of maturity and special protection needs. This should be effectuated through a process which is sensitive to the developmental capacities of the children, particularly their ability to understand and participate.
3. In order to better support children and prevent further victimisation, establish good cooperation and interaction with services from all sectors, especially noting that restorative justice cannot replace other potentially needed therapy or counselling.
4. Safety must be considered in all restorative justice interactions with children and adults alike. Mediators should be aware of potential power imbalances and the impact they may have on the child victim. This should be done by identifying well in advance the power dynamics and imbalances (e.g. adult-child relationship) which can prevent further conflict and victimisation.
5. Mediators should use understandable, non-patronising words, and tone of voice, posture and clothing should not suggest power differences. An active role should be given to children in supporting mediators to better understand their needs.
6. Use of visual aids should be incorporated into the RJ process, such as: graduated colour wheels for

feelings; pre-prepared faces showing typical emotional responses to offences; using body parts to identify feelings (e.g., stomach, heart, lungs, gritted teeth, clenched hands, speech bubbles); scales to demonstrate strength of feelings or size of problems; cartooning to describe the child's story (Chapman, Gellin & Anderson, 2015).<sup>[69]</sup>

7. Work with parents to ensure that they do not become the voice for their children, but rather support their children in being able to express themselves and participate to the greatest extent possible. Other support persons besides the parents should be sought out by RJ practitioners since children's loyalty towards their parents may prevent them from speaking freely.
8. Promote the use of well-trained support persons that can facilitate true child victim participation in a RJ process.
9. Children's concerns (e.g. fear of revenge and retaliation) should be listened to in order for the child to be able to fully participate in the process.
10. Provide children with pre-set questions that will come up during the restorative justice procedure, if they wish to have them, in order for the children to better prepare for the encounter.
11. Develop a customised supporter list for children participating in restorative justice, depending on who they see as important to feel safe (e.g., parents, friend, police officer), bearing in mind that there is no one-size-fits all strategy.
12. Allow for (child) participants to have a reflection period, given the novelty of the process and the need for its continual evaluation.

## 9.2 Laws and policies

13. The creation of specialised laws for minors and child justice (where not already in existence) that indicates the minimum age of criminal responsibility,

deals with anti-social behaviour and other important definitions according to international standards.

14. Ensure that the national child justice laws are in line with the CRC and other international instruments, with a clear focus on diversion, pedagogical aspects, reintegration and restoration as well as the use of deprivation of liberty as a measure of last resort.
15. Develop a national strategy on child justice, including strategies on restorative child justice, a national registration of mediators and standardise and evaluate training and practices.
16. Develop a national database on juvenile offenders, juvenile victims and what happens with them from the first contact with the police to a possible sanction.
17. The creation of a mediation law (where not already in existence), specific to or including priorities for restorative justice for young people and follow up on its proper implementation in practice.

## 9.3 Training for professionals

18. Provide training for criminal justice professionals (e.g. judges, prosecutors and police officers) about the core values and implementation of restorative justice in general and more specifically on restorative justice with children. These trainings should enable participants to better understand these practices, the parties' needs, the referral procedure and how to strengthen cooperation between services.
19. Provide training to all RJ practitioners (e.g. mediators, facilitators) on legal matters and criminal procedures, in order to increase the knowledge on legal and other safeguards that apply to children who have been victimized and better support the parties participating in restorative justice.
20. Integrate the general training for RJ practitioners with continuous development training on specific

<sup>[69]</sup> Chapman, T., Gellin, M & Anderson, M. (2015). Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People. European Council for Juvenile Justice, International Juvenile Justice Observatory.

target groups (e.g. children), offences (e.g. bullying and intimidation) and practices (other than mediation).

21. Provide specific training for all professionals working with children who committed an offence or experienced victimisation to learn about communication methods tailored to this specific target group. Training must focus on the awareness that children have rights and that their voices must be heard. The training should also explain the evolving developmental capacities of children and their individual and social differences (e.g. age, gender, level of education, family background, socio-economic conditions).
22. Provide training to different audiences (e.g. mediators, justice professionals, school administration, teachers, children, etc.) and on different topics, which go beyond the only “pure” restorative justice topics. Trainings on these topics could include non-violent communication, dialogue, management of emotions and conflict. These trainings should encourage professionals to avoid using labels such as “victim” (which has a connotation of passiveness and helplessness) and “offender” (which focuses only on one aspect of the identity of the person). Useful alternatives are: the person harmed and the person responsible.
23. Design training programmes that include restorative methods within the training itself, in order to encourage a restorative culture. Some examples are: opening and closing circles, games for building trust, circles run gradually by participants to enhance their skills in facilitation, energy-raising games, mixers to make sure that everyone gets the chance to work with as many different people as possible, role plays to enter in the others’ shoes. When designing these programmes time should be reserved on reflecting, discussing and putting in practice the knowledge taught.
24. Innovative tools should be included in trainings on restorative child justice to practice communication skills and to let children speak more freely. Examples of this could be cards, images, toys, objects, board games and movements.

## 9.4 Awareness and monitoring

25. Develop an awareness raising campaign that targets people working in the child justice field with a specific focus on children’s rights and restorative justice. This campaign should include child-friendly ways of working, such as special areas/rooms for a child-friendly justice to be used in diversion measures and to help to create a suitable environment for restorative justice and mediation sessions. Consideration should be paid on how children could be integrated into these campaigns in a participatory way.
26. Design communication materials with basic information about the existence of RJ services for different target groups (general public, children, teachers, educators, social workers and child protection professionals). These materials should be simple to understand, relate to the steps to take and explain the advantages of mediation. For children, development of video materials and other visual tools should be prioritised.
27. Undertake ongoing research on the needs of child victims and what is best suited to these needs.
28. Collection of data and figures on a national scale.
29. Review, monitor and research new pilots on restorative interventions for youth.

## 9.5 Gender and diversity

30. Give more attention to differences in gender when speaking about child victims and pay additional attention to girls in sexual violence cases.
31. Undertake additional research on the overrepresentation of boys in custody with precise information on victims to be included.
32. When undertaking research examining children specifically in RJ, a focus on gender and diversity should be included.

## 9.6 Access to restorative justice

33. Create clear methods for inviting victims to participate in restorative justice that are personalised and understandable. The offer can be made by letter and phone calls. Specific communication tools are to be developed, with direct cooperation undertaken with children in this respect.<sup>[70]</sup>
34. Regularly offer restorative justice at several stages of the justice procedure. The inclusion of the police is crucial at these stages in order to increase diversion and provide the requisite support to victims.
35. Pay attention to the often unclear roles between child victims and child offenders.
36. Increase cooperation among stakeholders in order to shorten procedures and ease the burden on juvenile offenders, particularly among child-relevant agencies.
37. Improve cooperation among institutions involved in restorative initiatives and make sure a good referral system is in place.

38. Develop RJ programmes starting from victim assistance or anti-bullying programmes that are already in existence.

## 9.7 Child participation

39. Children should be involved in all issues that matter to them; they have a crucial role in finding solutions to their problems, as active and experienced players.
40. Children can be asked to actively help develop and/or participate in training programmes for professionals and in the actual delivery of RJ programmes.
41. Children are to be involved as active citizens in democratic societies, lobbying for policies which matter to them and raising awareness about their specific needs in case of conflict and crime.

<sup>[70]</sup> For empirical research and practical recommendations, see the EFRJ project “Accessibility and initiation for restorative justice” which resulted in a research report (Laxminarayan, 2014) and practice guide (Biffi & Laxminarayan, 2014).



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## Part 5 - Appendixes

# Appendix 1. Useful materials for training

The table below lists a series of materials (e.g. videos, cards) useful to deliver a training:

Title	Description	Learning points for application to child victims
<b>Short animation: A victim's guide to restorative justice</b>  <a href="https://youtu.be/u50hRINLQVQ">https://youtu.be/u50hRINLQVQ</a>	This short film, produced in 2015 by the UK Restorative Justice Council, uses animation to simplify the complex process for victims of crime who wish to know more about restorative justice, explaining reasons for the encounter as well as identifying the different moments in the criminal justice process where victims can have access to restorative justice.	Because of the simple animation style used, it can be relevant for introducing restorative justice to children.
<b>Short animation: Restorative Justice: Why Do We Need it?</b>  <a href="https://youtu.be/8N3LihLvfa0">https://youtu.be/8N3LihLvfa0</a>	This short film, produced by Brave New Films in 2016, explains restorative justice in comparison to the traditional criminal justice responses. The film has a focus on offenders but it can be used to visualise the benefits of a RJ response to crime.	Because of the simple animation style used, it can be relevant for introducing the differences between restorative and criminal justice.
<b>Moving on: a short film about restorative justice</b>  <a href="https://youtu.be/fWtFtWY3Hh8">https://youtu.be/fWtFtWY3Hh8</a>	This short film was produced by the UK Restorative Justice Council in 2015. It tells the story of a victim of a mugging, who keeps reliving the event in her mind until she meets the young mugger in a RJ conference. This helps her to give words to the impact of the crime and humanise the mugger.	It helps to visualise the consequences of a victimisation experience and the possibility of a RJ encounter.
<b>Protection System and Restorative Justice in Belgium</b>  <a href="https://youtu.be/usvktGwlbdI">https://youtu.be/usvktGwlbdI</a>	Within the framework of the EU funded project AWAY (Alternative Ways to Address Youth), Defence for Children International Belgium produced this short video, explaining how restorative justice and mediation is used in Belgium to address children in conflict with the law as a diversion programme within the juvenile justice system	Because of the simple animation style used, it can be used to explain the steps in a restorative justice and criminal justice system.

Title	Description	Learning points for application to child victims
<p><b>The Woolf within</b></p> <p><a href="https://why-me.org/what-is-restorative-justice/resources/the-woolf-within-translated/">https://why-me.org/what-is-restorative-justice/resources/the-woolf-within-translated/</a></p>	<p>Peter Woolf and Will Riley tell their story of how their lives crossed: Peter was a career criminal and heroin addict when in March 2002 he broke into the home of businessman Will. Peter was sentenced to three years in prison and, in that period, both were offered and engaged in a RJ conference. As a consequence of that meeting, in 2008 Will established the UK organisation “Why me?” and Peter published his first book “The damage done.”</p>	<p>Even though it is not about a young victim, the short film is useful to explain victims’ needs in the aftermath of a crime but also to explain how restorative justice takes place in practice.</p>
<p><b>A Restorative Justice Meeting</b></p> <p><a href="https://youtu.be/dcTHYKX2Lfi">https://youtu.be/dcTHYKX2Lfi</a></p>	<p>This short film, produced by the UK organisation “Why me?”, shows a re-enactment (verbatim theatre) of a RJ meeting that took place in 2014. The actors are portraying real people, whose voices were recorded and fed to them through headphones. The case dealt with involves a young burglar, and shows step by step how the dialogue takes place.</p>	<p>Even though it portrays a young offender and an adult victim, the film is useful to visualise how a RJ encounter looks like in reality.</p>
<p><b>Cards, images and games</b></p> <p>youths/adults on <a href="https://incentiveplus.co.uk/adults">https://incentiveplus.co.uk/adults</a> on <a href="https://www.humanmatters.eu/en/shop">https://www.humanmatters.eu/en/shop</a>.</p>	<p>Trainers may make use of cards, images, objects, board games, movements to discuss strengths and feelings and enhance social and emotional skills. These resources help to practice a restorative language while being trained in restorative justice.</p>	<p>This provides a more accessible way for children to express their needs and emotions. It is related to methods used in creative therapy, adapted to mediation.</p>
<p><b>Video game: Our courts</b></p> <p>(<a href="https://www.icivics.org/games">https://www.icivics.org/games</a>)</p>	<p>This teaching tool in the form of a video game has been developed by the US former Supreme Court Judge Sandra Day O’Connor. The online and interactive educational project <i>Our courts</i> (now called <i>iCivics</i>) allows young players to act and make decisions as judges or legislators, getting a serious consciousness about the importance of political action and civil responsibility.</p>	<p>This can be useful to get young people interested in how the criminal justice system works, but it should be adapted to the local context.</p>
<p><b>Practical guide: “Criminal justice process information for young victims of crime”</b></p> <p><a href="https://vaestoliitto-fi.directo.fi/@Bin/ab4eb39e8ccb882b0b-8d0344a620f48c/1607305463/application/pdf/2172552/Rikosuhri%20Englanti%20vedos.pdf">https://vaestoliitto-fi.directo.fi/@Bin/ab4eb39e8ccb882b0b-8d0344a620f48c/1607305463/application/pdf/2172552/Rikosuhri%20Englanti%20vedos.pdf</a></p>	<p>This guide, produced by Victim Support Finland and other partners, aims to assist any young person who is a victim of crime. The guide’s format makes it accessible and easy to read for young people, or others with limited knowledge and less experience in the criminal justice system. In addition to answering key questions (e.g. How do I report a crime? What is prosecution? Who will be at the trial? Why do I need legal counsel?), the young victim can find information on what happens during mediation.</p>	<p>With easy and short answers and illustrations, this guide may support professionals when formulating the proper language to address children when offering them the possibility to access a RJ process.</p>

# Appendix 2. Overview of training in Albania, Greece and Romania

The table below visualises the findings from the three different countries concerning training:

	Albania	Greece	Romania
<b>Training on restorative justice and mediation</b>	Through its online Program HELP Course on Child-Friendly Justice and the Children’s Rights, NBA, in collaboration with CoE, trained 25 lawyers from all around Albania on the CJJ and children’s protection. The course was developed under the European Programme for Human Rights Education for Legal Professionals (HELP) of the Council of Europe. Another online training through the HELP Program has been agreed with the Council of Europe to cover 30-35 lawyers on child friendly justice and the CJJ where victims can have access to restorative justice.	Mediators attend an 80 hours training and pass an exam of the Ministry of Justice to be registered in the Registry of Mediators of the Ministry of Justice and start mediating commercial and civil cases and cases of domestic violence. The Restorative Justice and Mediation Lab of the Panteion University delivered two trainings on mediation to probation officers. Some probation officers attended additional trainings on their own initiative (e.g. by the Ministry of Justice to court mediators).	23 training providers authorised by the Council of Mediation in nine cities deliver a general training to become a mediator (80 hours, divided into 70% practical and 30% theoretical classes) and specialised training.
<b>Training on restorative justice with children</b>	<p>2020<sup>[71]</sup> - Terre des hommes and AFCR, in cooperation with the Albanian Bar Association: training for lawyers on restorative juvenile justice.</p> <p>2019 - The Probation Service &amp; UNICEF: two-day training on restorative juvenile justice for 75 probation officers and one-day workshop to strengthen cooperation with mediators working with minors.</p> <p>2019 - Terre des hommes and AFCR: Two-day training for representatives of civil society organisations.</p> <p>2019 - Terre des hommes, AFCR, NCM and Centre for Integrative Mediation Germany: Five days of training for 25 mediators</p> <p>2019 - Terre des hommes, AFCR and School of Magistrates: one-day sessions for 60 School of Magistrates Students.</p> <p>2018 - AFCR and Save the Children:</p> <ul style="list-style-type: none"> <li>- Three two-day trainings were attended by 133 judges, prosecutors, police and probation officers and mediators.</li> <li>- One-day workshop for 20 mediators</li> <li>- One day workshop for 38 lawyers</li> </ul>	<p>2018 - European Public Law Organization<sup>[72]</sup> &amp; Hellenic Police Headquarters: trainings for judges, prosecutors, probation officers and police officers on restorative practices as a diversion measure for juvenile delinquents and on the needs of victims, including children victims of domestic and sexual violence.</p>	<p>Trainings for mediators do not focus on victims’ rights, children rights or juvenile justice.</p>

<sup>[71]</sup> This training was postponed because of the Covid-19 pandemic crisis. It is based on the user guide for lawyers on “Friendly Justice for Minors and Restorative Justice” drafted in 2019.

<sup>[72]</sup> Project PROTASIS on the development of a victim-friendly environment during the contact with the police.

	Albania	Greece	Romania
<b>Training on child-friendly justice</b>	<p>2019 - High Court Council: on continuous training of judges working on cases of minors in courts.</p> <p>2018-2019 - School of Magistrates<sup>[73]</sup>: 11 specialised trainings<sup>[74]</sup> on juvenile justice for 76 magistrates, 18 graduated magistrates, two councillors at the Prosecutor General's office</p> <p>Seven officers of the Court Police</p> <p>2018 - Albanian National Bar Association (ANBA): online program HELP<sup>[75]</sup> on child-friendly justice and children's rights<sup>[76]</sup> for 25 lawyers.</p> <p>2020<sup>[77]</sup> - ANBA: online program HELP for 30-35 lawyers on child justice.</p> <p>2018-2019 - General Prison Department<sup>[78]</sup>: training for 150 prison staff, including 12 themes<sup>[79]</sup> on child justice.</p> <p>2019 - Public Police Academy: training for 53 police officers on child-friendly justice.<sup>[80]</sup></p> <p>2019 - Probation Service<sup>[81]</sup>: training of 25 probation officers on child justice.</p> <p>2018 - Order of Psychologists<sup>[82]</sup>: special training (130 hours) for 105 assistant psychologists and assessors of the justice system.</p> <p>2018 - Order of the Psychologist: training for 54 psychologists on juvenile justice, to be nominated juvenile's assistant.</p> <p>2019 - Institution for minors in Kavaje: training on child justice for 70% of the staff members<sup>[83]</sup>.</p> <p>2019 - Institute of Legal Medicine: training on legal-medical in juvenile justice cases.</p>	N/A	<p>2014-2015 - Terre des hommes<sup>[84]</sup>: on children's rights in court.</p> <p>2019 - Terre des hommes<sup>[85]</sup>: on juvenile justice.</p>
<b>Training on restorative justice for young people</b>	<p>2018-2019 - Terre des hommes and AFCR – nine awareness raising activities organised at the school level.</p>	<p>Sporadic initiatives by teachers receiving training in restorative practices and then training their students in peer-to-peer mediation.</p>	<p>2003-2004 - Foundation of Family and Child Protection: on restorative practices in schools.</p> <p>2012 - Centre for Legal Resources (CRJ)<sup>[86]</sup>: in schools on restorative practices.</p>

<sup>[73]</sup> Some trainings were organised in collaboration with SIDA (part of the Albanian-Swedish program for penal justice for minors), others were organised with Caritas.

<sup>[74]</sup> The training course included the following seven topics: 1) Penal justice for minors: international standards for a child-friendly justice and innovations in Albanian legislation; 2) Protection of children's highest interest; 3) Procedural rights of minors in the penal process according to the code of Penal Justice for Minors; 4) Diversion from criminal investigation of minors in conflict with the law; 5) Procedural rights of the minor in conflict with the law; 6) Communication and interviewing of minors from judges/prosecutors; 7) Legal reasoning of the penal sentences; 8) Training institutions to protect Albanian children in a street situation who are exploited for labour in neighbouring countries.

<sup>[75]</sup> HELP is the European Programme for Human Rights Education for Legal Professionals of the Council of Europe ([www.coe.int/help](http://www.coe.int/help)). To know more about the HELP methodology, see: <https://www.coe.int/en/web/help/training>

<sup>[76]</sup> The training course included the following nine modules: 1) Introduction to human rights, children's rights and child-friendly justice; 2) Child-friendly justice: before, during and after judicial procedures; 3) Non-judicial proceedings; 4) General elements: privacy, safeguards and protection measures, right to legal representation, guardianship/legal representation; 5) Interaction with children in the judicial system and main challenges: age of understanding, gender, status, vulnerabilities, participation; 6) Interdisciplinary: team work and collaboration; 7) Deprivation of liberty: condition of detention, reintegration, monitoring and complain mechanisms; 8) Violence against children: introduction and legal framework; definition and typology of violence against children, dealing with victims of violence within the judicial system; 9) Migration and asylum: specific rights of migrant children, unaccompanied children, family reunification, detention and monitoring, administrative proceedings.

<sup>[77]</sup> This HELP course was scheduled for February-March 2020 including a face-to-face meeting in April 2020 for 40 lawyers, but this was postponed due to the Covid-19 pandemic crisis.

<sup>[78]</sup> Project "Strengthening the rights of the inmates in Albania" in the context of the Horizontal Support Program for the Western Balkans and Turkey – Stage I.

## Albania

## Greece

## Romania

	Albania	Greece	Romania
<b>Practical guides and other materials</b>	<p>2019 - Albanian Bar Association &amp; Terre des hommes: guide for lawyers on “Friendly Justice for Minors and Restorative Justice.”</p> <p>2020 - Ministry of Justice &amp; UNICEF: publications for lawyers on guidelines for offering legal aid to children in conflict with the law.</p> <p>Order of Psychologists &amp; UNICEF: four informative brochures for judges and prosecutors on the role of the psychologist in the penal, civil or family processes where a minor is involved.<sup>[87]</sup></p> <p>Modules on RESTORATIVE JUSTICE for Juveniles developed in 2019 as part of the cooperation between the School of Magistrates, Terre des hommes and AFCR, that will be used as part of the School of Magistrates Curriculum. This will be available as a text-book for the academic year 2020-2021.</p>	N/A	<p>Centre for Legal Resources (CRJ): Guide of practical application of mediation and restorative practices in schools.</p> <p>UNICEF &amp; Centre for an Independent Journalism: Guide for best practices regarding interviewing children.<sup>[88]</sup></p> <p>Federation of the Non-governmental Organizations for the Child (FONPC): Methodological guide regarding the hearing of minors victims of violence.<sup>[89]</sup></p> <p>UNICEF &amp; Anti-drug National Agency &amp; AntiHIV Romanian Association: Working methodology with youth at risk and users of drugs.<sup>[90]</sup></p> <p>Bucharest Police &amp; Bucharest School Inspectorate: Where there is no law, there is no agreement<sup>[91]</sup></p>

<sup>[79]</sup> The twelve specific themes on child justice included: international tools on child justice, standards of care in prisons, care after release and reintegration, communication, principles of work with minors within the penitentiary system, practice of team work, individual techniques and methods of work, technique of minors’ involvement, safe climate of therapeutic intervention, risk evaluation and protective factors, security, order and discipline and health service for minors.

<sup>[80]</sup> The Public Police Academy organised the “Inter-institutional seminar on minors in conflict with the law”, a two-week “Training on the investigation of the penal crimes with minors”, the seminar “Gender approach on the investigation of the cases with minors, domestic and foreign approach” and two three-day seminars “On drafting the curricula on the technique of minors’ investigation.”

<sup>[81]</sup> Training organised in collaboration with SIDA, part of the Albanian-Swedish program for penal justice for minors.

<sup>[82]</sup> This training was organised in cooperation with the Ministry of Justice, public and non-public universities, the First Instance Court of Tirana, civil society NGOs, and SIDA, part of the Albanian-Swedish program for penal justice for minors.

<sup>[83]</sup> The staff is made up of five employees of the social sector, seven employees of the health sector and 47 employees of the security sector.

<sup>[84]</sup> Project “Curtea Drepturilor Copilului” (Court of Child’s Rights).

<sup>[85]</sup> Project AWAY- Alternative Ways to Address Youth.

<sup>[86]</sup> Project “Calitate in educatie prin mediere si practici restaurative” (Quality in Education through Mediation and Restorative Practices).

<sup>[87]</sup> These brochures aim at facilitating the cooperation between magistrates and psychologists and at clarifying expectations concerning each other’s expertise. They have been distributed in every court and prosecutor’s office and they are available here: [www.unicef.org/albania/reports/role-psychologist-justice-children-processes](http://www.unicef.org/albania/reports/role-psychologist-justice-children-processes)

<sup>[88]</sup> Original title: “Ghid de bune practici privind relatarile cu si despre copii.”

<sup>[89]</sup> Original title: “Ghid metodologic privind audierea minorilor victime ale violentei.”

<sup>[90]</sup> Original title: “Metodologia de lucru cu adolescentii la risc si consumatori de droguri.”

<sup>[91]</sup> Original title: “Unde nu-i lege, nu-i tocmeala.”

# About us

## Terre des hommes

Terre des hommes (Tdh) is the leading Swiss organisation for children's aid. Each year, we provide assistance to over four million children and members of their communities in around 40 countries through our health, protection and emergency relief programmes.

Through our regional and national projects in Europe, we aim to protect children who are victims or at risk of abuse, those affected by migration, or in contact with the law. Tdh is operationally active in Albania, Kosovo, Moldova, Romania, Ukraine, and Hungary and works together with partners in more than ten other countries in Europe.

-  [www.tdh.ch](http://www.tdh.ch) | [tdh-europe.org](http://tdh-europe.org) | [childhub.org](http://childhub.org)
-  [www.facebook.com/TdhEurope](https://www.facebook.com/TdhEurope)  
[www.facebook.com/tdh.ch](https://www.facebook.com/tdh.ch)
-  [twitter.com/TdhEurope](https://twitter.com/TdhEurope) | [twitter.com/tdh\\_ch](https://twitter.com/tdh_ch)
-  [www.linkedin.com/company/terre-des-hommes-foundation](https://www.linkedin.com/company/terre-des-hommes-foundation)
-  [www.instagram.com/tdh\\_ch](https://www.instagram.com/tdh_ch)

## European Forum for Restorative Justice

The European Forum for Restorative Justice (EFRJ) is the largest European professional network on restorative justice. It counts almost 500 members, including 80 organizations, working on restorative justice practices, research and policy in Europe and beyond.

-  [www.euforumrj.org](http://www.euforumrj.org)
-  [www.facebook.com/euforumrj](https://www.facebook.com/euforumrj)
-  [twitter.com/EuForumRJ](https://twitter.com/EuForumRJ)
-  [www.linkedin.com/company/efrj](https://www.linkedin.com/company/efrj)

## Restorative Justice Nederland

The foundation Restorative Justice Nederland is the innovation and knowledge institute for restorative justice and restorative practice in the Netherlands. Its main focus is on criminal law and other areas in which restorative work can be useful, such as in schools, neighbourhoods etc.

-  [www.restorativejustice.nl](http://www.restorativejustice.nl)
-  [twitter.com/Rest\\_Justice\\_NL](https://twitter.com/Rest_Justice_NL)



**Every child in the world  
has the right to a childhood.  
It's that simple.**

Learn more: [www.tdh.ch](http://www.tdh.ch) | [tdh-europe.org](http://tdh-europe.org)



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