



## **EFRJ feedback and recommendations on the EC Recommendation on *Integrated child protection systems***

Leuven, 23 May 2024

Following up on the 4th meeting of the EU Network for children's rights (30 April 2024), the European Forum for Restorative Justice (EFRJ)<sup>1</sup> would like to share its views on how it can effectively support the achievement of the *Commission Recommendation on developing and strengthening integrated child protection systems in the best interests of the child*.

We are very pleased that the Recommendation includes restorative justice as an important approach and practice that Member State should take into consideration for increasing child-friendly justice.

Nevertheless, we would like to draw the attention of the European Commission (EC) to the importance of a holistic restorative justice approach in all matters that involve children.

We would like to take this opportunity to briefly present restorative justice and its specific approaches when dealing with children before presenting our specific recommendations.

In Annex 1 we included a list of references to relevant studies and international instruments on restorative justice and children's rights to support our arguments.

Through projects, policy, training and awareness raising activities, and in cooperation with several stakeholders and experts from the field of child friendly justice, the EFRJ developed an important knowledge on the use of restorative justice with children. In Annex 2 we present a short overview of our work in this domain and links to relevant sources.

We are honored to have the opportunity to cooperate with the EU Network for children's rights and its members.

We remain at full disposal for any further information.

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<sup>1</sup> The European Forum for Restorative Justice (EFRJ) is the leading European network for supporting the development of restorative justice in Europe. Founded in 2000 at the KU Leuven Institute of Criminology, the EFRJ is a membership organization that currently comprises around 500 members (either individual or organisational), from Europe and beyond.



## What is restorative justice?

*“Any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party.” (EU Victims’ Rights Directive, Directive 2012/29/EU)*

Restorative justice is an evolving approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved. Active participation by the victim, the offender and possibly other parties (the community) is a core element of restorative justice, with voluntary participation based on informed consent. Restorative justice practices such as victim-offender mediation, conferencing and circles are used in Europe and beyond to bring together people who experience harm in society, the justice system, organisations, schools or families. Involved parties engage in a respectful, facilitated dialogue over specific questions, mostly about the harm, responsibility and restoration.

Research findings tell us that victims and offenders have a much more satisfactory experience of justice than with the formal, traditional process. Studies consistently state that restorative processes improve closure and healing for victims and achieve at least 85% satisfaction rate among victims, reducing their fear of further harm and reducing post-traumatic stress symptoms. Research furthermore confirms that restorative justice stimulates desistance from offending and increases offender compliance with restitution when compared to other traditional criminal justice processes<sup>2</sup>.

Restorative justice approaches are developed taking into consideration the specific needs and capabilities of the parties involved. They offer a flexible process, but always in a non-stigmatising and empowering way. During the preparation phase, well-trained facilitators identify needs, risks and expectations and support the parties in deciding how they would like to participate or not to participate in a restorative justice process.

## Restorative justice with children: a restorative child-friendly justice

Restorative justice takes children seriously, creating a safe space for them to be heard, to take responsibility and involving them in all matters that concern them. The focus on harm and undoing injustice is especially important for children and adolescents. Restorative justice for young people should be done in a child-friendly way by specially trained practitioners and with additional attention

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<sup>2</sup> European Forum for Restorative Justice (2017). Effectiveness of restorative justice practices: An overview of empirical research on restorative justice practices in Europe. European Forum for Restorative Justice. Leuven. Belgium. Retrievable on [www.euforumrj.org](http://www.euforumrj.org).

for power imbalances and safety in preparations, during meetings and during aftercare. In practice restorative justice adopts models such as youth victim offender mediations (e.g. in Belgium, the Netherlands), family group conferences (e.g. in New Zealand) and youth conferences (e.g. in Northern Ireland).

International instruments<sup>3</sup> such as the [UN Principles of Restorative Justice \(2002\)](#), the [Council of Europe Recommendation on restorative justice in criminal matters \(2018\)](#), the [CoE Guidelines on child-friendly justice \(2010\)](#), the [EU Victims' Rights Directive \(2012\)](#), and the [EU strategy on the rights of the child \(2021-2024\)](#), promote the use of restorative justice to address the harm caused by a crime, also in cases when young people are involved. In cases of children in conflict with the law, as called for by several international documents (see Annex 1), restorative justice processes are to be prioritised with a focus on reintegration, support and empowerment.

## **A holistic approach to restorative justice with children**

Often, restorative justice is seen just as an alternative to detention or as a diversion tool. We would like to call for a wider, broader and more holistic understanding of restorative justice and its applications, as prevention and response to harm and conflicts.

Restorative justice approaches with children are applicable in various settings where conflicts may occur, including family, schools, and the criminal justice system. Restorative justice is particularly valuable to protect vulnerable children, empower children in identifying and managing emotions to prevent (and/or respond to) conflict and violence, give them a safe space to express themselves and to be heard when dealing with matters relevant to them.

To fully implement the dynamics of a restorative child-friendly justice, it is crucial also to work on the promotion of a restorative culture (with language, attitudes, etc.) in educational and family settings, where children and their caregivers can adopt on a daily basis soft-skills in dealing with conflicts. Restorative justice should be the preferred way to deal with peer violence or conflicts between children, as well as a basis to replace punitive disciplinary procedures in educational settings. Also, a restorative culture is to be encouraged among professionals working with children: to ensure proper teamwork in the best interests of a child, professionals should be trained also in working restoratively with each other (e.g. through practices for active listening, encouraging responsibility, feeling empathy, trust building).

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<sup>3</sup> A more detailed reference list on the international and European framework on restorative justice with children can be found in the Annex 1.



As stated by the UN Special Representative of the Secretary-General on Violence Against Children: *“Holistic restorative justice for children is [therefore] based on a multi-sectoral approach involving effective communication and coordination among different service providers and different sectors.”*<sup>4</sup>

Several EFRJ members and professionals from the field of children’s rights developed a European model for restorative justice with children and young people<sup>5</sup> based on a holistic approach. They developed a framework that organizes restorative processes at the different stages of risk and seriousness in relation to the harm caused by a child or young person. Irrespective of the stage the primary purpose is to ensure that the rights of the person harmed have been protected and their needs addressed and met as far as they can be. It follows that restorative justice should not be seen primarily in the context of criminal justice systems.



Figure: A Holistic Policy Framework (Chapman, 2016, p.73)<sup>6</sup>

<sup>4</sup> UN Special Representative of the Secretary-General on Violence Against Children (SRSG-VAC). (2013). Promoting restorative justice for children.

<sup>5</sup> More information on this project and materials can be found in the UNODC website here: [https://www.unodc.org/e4j/data/\\_university\\_uni\\_/protecting\\_rights\\_restoring\\_respect\\_and\\_strengthening\\_relationships\\_a\\_europe\\_an\\_model\\_for\\_restorative\\_justice\\_with\\_children\\_and\\_young\\_people.html?lng=en](https://www.unodc.org/e4j/data/_university_uni_/protecting_rights_restoring_respect_and_strengthening_relationships_a_europe_an_model_for_restorative_justice_with_children_and_young_people.html?lng=en)

<sup>6</sup> Chapman, T. (2016). Protecting rights, restoring respect and strengthening relationships: A European Model for restorative justice with children and young people. *Protecting rights, restoring respect and strengthening relationships: a European model for restorative justice with children and young people*, 41-48.





### **Level 1. To prevent and contain harmful actions involving children and young people within civil society**

**Immediate outcomes:** issues resolved without recourse to criminal justice.

**Medium term outcomes:** children and young people learn to participate in decision-making and relate to others and authority responsibly and safely with empathy, truthfulness and respect.

**Long term outcomes:** stronger civil society, more active citizens, greater social cohesion.

### **Level 2. To prevent offending resulting in prosecution**

**Immediate outcomes:** fewer children and young people being processed by the courts and receiving formal court orders.

**Medium term outcomes:** people who have been harmed have their needs met, children and young people responsible for offending learn to make reparation for the harm that they cause.

**Longer term outcomes:** children and young people avoid harming others out of empathy and respect.

### **Level 3. To use detention only as a last resort**

**Immediate outcomes:** fewer children and young people in detention.

**Medium term outcomes:** Victims and community reassured about their safety and justice being done and vulnerable young people gaining access to the resources and support they require to meet their needs and to reintegrate.

**Longer term outcomes:** The lives of young people in trouble improve, less public fear of youth crime and less reoffending.

### **Level 4. To make detention more humane and effective in reintegrating young people**

**Immediate outcomes:** Less discipline problems and distress experienced in detention by young people and staff.

**Medium outcomes:** greater involvement of families and community in supporting young people in detention.

**Long term outcomes:** The lives of young people in trouble improve, less public fear of youth crime and less reoffending.

## **Restorative child-friendly justice as a pillar of Integrated child protection systems: EFRJ recommendations**

Putting children at the centre of decision-making in matters that concern them is an overarching priority in the new EC Recommendation on Integrated child protection systems. By putting the best interest of the child at the centre, restorative justice approaches to conflict prevention and resolution offer children the possibility to meaningfully engage in addressing the issues that affect them or the aftermath of harm, while safeguarding their rights.

Hereinafter, we present our recommendations (A) to the EC to support a more wider accessibility for children within and beyond the Recommendation on Integrated child protection systems and (B)



responding to the specific EC questions on the EU Network for children's rights and the effective implementation of the Recommendation.

#### **A. EFRJ recommendations to the EC to support a more wider accessibility of RJ for children**

1. Our primary recommendation is for the EC to consider a broader and more holistic understanding of restorative justice and its applications, as prevention and response to harm and conflicts, as explained above.
2. The most effective tools the EC could provide for this purpose are legislation and policies, awareness raising among relevant professionals and policy makers and funding. In particular:

##### Legislation and Policies:

Working towards making restorative justice more accessible for children, by including specific actions and provisions in upcoming legislation and policies, especially:

- As means to promote that restorative justice responses are accessible and available as diversionary measures and as alternatives to detention for children suspected, accused or convicted of crime;
- As means to promote the recovery and social reintegration of child victims and offenders;
- As means to effectively guarantee the tailored support of child victims and to contribute to the prevention of secondary victimization resulting from their participation in the criminal justice process;
- As means to invest in the development and implementation of child-centred individual multidisciplinary needs' assessment's tools and procedures (art.7 Directive 2016/800/EU and art. 22 Directive 2012/29/EU) that focuses on risks and individual needs of the child, with the aim to identify specific protection and support measures, including the eligibility for restorative justice processes and the offer of a restorative justice option;
- As means to provide effective, accessible and quality mechanisms and tools to empower children, family members, (school) educators and other staff members in using restorative justice approaches and practices to prevent and respond to conflicts outside of the criminal justice settings.

##### Awareness-raising and Funding:

- Support awareness raising activities on the benefits of restorative justice as prevention tool and as response to harm and conflicts.



- Provide financial support for projects offering capacity building of justice professionals on the rights of the child and child-friendly justice, with a focus on restorative approaches to harm for children offenders, child victims and witnesses of crime.
- Provide financial support for projects that contribute to the strengthening of cooperation amongst relevant stakeholders that work to support, protect and empower children and young people in conflict with the law.

3. We very much support that the Recommendations on Integrated child protection systems calls upon Member States to take an integrated coordinated and multidisciplinary approach to child protection. In particular:

- *to support and protect child victims, with age-appropriate services, is needed for victims of crime as well as for children who are suspects or accused persons, in particular for the individual assessment of the child's specific circumstances, needs and vulnerabilities (page 7);*
- *to provide child protection professionals with specific multidisciplinary and inclusion-led education, training and guidance on specific competences related to children's rights and child protection standards (page 16);*
- *to set up comprehensive multidisciplinary referral mechanisms for complaints concerning violence against children (page 18).*

The EFRJ strongly recommends to include restorative justice professionals and services in this multidisciplinary approach.

#### **B. EFRJ recommendations addressing the specific EC questions on the EU Network for children's rights and the effective implementation of the Recommendation**

- Question 1: *What would be the most effective way for the EU Network for children's rights to contribute to the different recommendations?*

Working towards a synergy and effective cooperation amongst relevant stakeholders that work in the fields of protection, support and empowerment of children is crucial in the development and implementation of an Integrated Child Protection System. This should also be reflected in the cooperation of the members of the EU Network for children's rights. This shall include meetings for all members of the network as well as other relevant stakeholders to reflect on the Recommendation as a whole, together with meetings targeted on in-depth discussion of specific themes present in the recommendation (i.e. child-friendly justice).







- *Question 2: For these exchanges to be efficient, how should they take place?*

For these exchanges to be efficient there should be a space created for EU network members to get to know each other and gain awareness on each other's role in the promotion and protection of children's rights. Meetings and other activities for members of the network shall prioritize this exchange of knowledge, including opportunities for interaction between members and other relevant stakeholders. In (online) meetings, this can mean allocating proper time for discussion, questions, break-out sessions and workshops, which have been prepared by participants following guidelines provided in advance by the organisers (EC). Clear guidelines, questions and discussion topics should be set in advance by the EC in order to facilitate these discussions and make them as effective as possible.

In-person activities, such as study visits as well as common training activities are key to the promotion of cross-sectorial cooperation of services. The EC should support (also financially) these kind of in-person activities.

- *Question 3: Which tools, activities, or any other kind of support from the EU could be useful in the implementation of the Recommendation?*

In order to effectively support members States to implement the Recommendation, clear guidelines on how to set up national action plans and protocols, or model action plans could be developed by the EC with the support of the EU Network on children's rights and other relevant stakeholders.

- *Question 4: As a stakeholder, how would you see your contribution to this implementing process and supporting tools?*

As an expert organisation on restorative justice in Europe we promote research, policy and practice development so that every person, including children and young people, may have access to high quality restorative justice services, at any time and in any case. Our main focus is on the application of restorative justice to criminal matters but other areas, such as family, school and community mediation are also in our focus, as we promote the development of a holistic restorative culture.

- We submitted our request to be member of the EU Network on children's rights in February 2022. As members of the EU Network on children's rights, we could actively participate in meetings and other activities foreseen by the EC in order to strengthen cooperation amongst relevant stakeholders that contribute to the promotion of children's rights, bringing our expertise on restorative justice.







- We would recommend to plan specific moments to discuss restorative justice and its potential implication on an Integrated Child Protection System in order to raise the awareness and knowledge of the members of the EU Network for children's rights and to promote synergies. The EFRJ would be honoured to have the opportunity to share our expertise.
- Disseminate the Recommendation and the work done by the EC and the EU Network on children's rights and any other relevant information on children's rights through our communication channels and events.
- At a policy level, we will continue to advocate for a wider accessibility to restorative justice for children, contribute on relevant public consultations<sup>7</sup>, drafting of policy oriented papers on the field of children's rights, with a specific focus on child-friendly justice and restorative justice.
- Making use of EC funding opportunities to continue our contribution through (research) projects<sup>8</sup> aimed at ensuring availability and accessibility of high quality restorative justice practices that are inclusive and child-sensitive, in order to contribute to the promotion and protection of the rights of child victims and child offenders. In our (research) projects we participated in activities including:
  - Capacity building and awareness raising of restorative justice amongst legal, youth justice and other professionals.
  - Creation of training materials for practitioners on restorative justice with children
  - Co-creation of awareness raising materials with the involvement of young people through the setup of Child Advisory Boards.
  - Providing for targeted advocacy and awareness-raising opportunities to make accessibility of restorative justice for children a reality.
  - Creation of opportunities for experience sharing amongst European relevant stakeholders working on the field of children's rights and restorative justice.
- Continue to offer high quality training provisions on restorative justice and children targeting restorative justice professionals as well as professionals working in the field of children's rights (we count on a pool of trainers with more than 60 members from all across Europe).

<sup>7</sup> The EFRJ and Terres des Hommes drafted a joint paper during the consultation period of the EU Strategy on the rights of the child (2021-2024): [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Estrategia-de-la-UE-sobre-los-Derechos-de-la-Infancia-2021-24-/F540877\\_es](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Estrategia-de-la-UE-sobre-los-Derechos-de-la-Infancia-2021-24-/F540877_es)

<sup>8</sup> The EFRJ has been a partner in the EC DG-JUST co-funded projects *i-Restore (2019-2021)* and *i-Restore 2.0 (2022-2024)*. The first *i-Restore* focused on the use of restorative justice in cases involving child victims by improving knowledge among national stakeholders on child-victim friendly restorative justice and empowering children to advocate for better protection of child victims. Following on the lessons learnt from this first project, it became clear that merely developing models of restorative justice would have no impact on children if this did not go along with ensuring that these models were effectively accessible to them. This led to the continuation project *i-Restore 2.0*, on accessible quality restorative justice processes for children in contact with the law in Europe.





## EUROPEAN **FORUM** FOR RESTORATIVE JUSTICE

Connecting People to Restore Just Relations

We remain at full disposal of the EC and the EU Network on children's rights for any support we can give to the implementation of the Recommendation on developing and strengthening integrated child protection systems in the best interests of the child.

For further information please contact the EFRJ Policy officer, Laura Hein: [laura.hein@euforumrj.org](mailto:laura.hein@euforumrj.org)

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## ANNEX 1

### References from the international and European framework on restorative justice with children

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Legal standards, both national and international, provide children with the appropriate rights and safeguards when accessing justice. A child-friendly approach is promoted to various extents in international human rights instruments issued by the United Nations and by regional bodies such as the Council of Europe and the European Commission in the form of conventions, directives and recommendations.

#### European Union

##### Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (2012)

The Victims' Directive is the most important supranational instrument on the regulation of restorative justice in the EU due to its binding status. Under the Victims' Directive, children are always considered as vulnerable victims, especially those suffering from secondary and repeated victimisation, of intimidation and of retaliation. The Victims' Directive introduces restorative justice mainly through recital 46, article 2.1.d, article 4j (right to receive information from the first contact with a competent authority), and article 12 (right to safeguards in the context of restorative justice services). It introduces an obligation for the Member States to inform victims as to the availability of restorative justice services and to facilitate referrals to these services, and provides safeguards for victims of crime in relation to restorative justice.

##### Directive 2016/800/EU on procedural safeguards for children who are suspects or accused persons in criminal proceedings (2016)

The Directive 2016/800/EU provides a number of procedural safeguards for children who are suspected or accused of having committed a criminal offence. The use of non-custodial measures, alternative to detention, is encouraged and provided for. The explicit reference to restorative justice among these measures is missing, but the article about training (20) provides that "Member States shall encourage initiatives enabling those providing children with support and restorative justice services to 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".

##### EU Strategy on the rights of the child (2021-2024)

Building up on the 2011 Agenda and aiming to bring all existing and future EU actions and policies on children's rights under one single umbrella, the EC adopted in March 2021 its first ever Strategy on the rights of the child (2021-2024). The Strategy proposes a series of targeted actions across six thematic areas. Thematic area 4 focuses specifically on child-friendly justice, emphasizing the right of children to effective participation and of being heard in judicial proceedings that are adapted to their age and needs and have respect for their rights. Amongst the actions foreseen for this thematic area, the EC calls Member States to "develop robust alternatives to judicial action: from alternatives to detention, to the use of restorative justice and mediation" and compromises to "contribute to training of justice professionals on the rights of the child and child friendly justice".





Thematic area 4 also puts its focus on the particular challenges of child victims. Child victims still face difficulties when reporting crime due to a lack of awareness and information on their rights and a lack of accessible age and gender-appropriate reporting and support services.

#### EU Strategy on victims' rights (2020-2025)

The particular challenges faced by child victims are also mirrored in the EU Strategy on Victims' Rights (2020-2025), adopted by the EC in June 2020. One of the problems that the Commission identifies in the text of the Victims' Rights Strategy is the incomplete transposition of existing EU rules on victims' rights, such as the Victims' Rights Directive. A full implementation, says the Strategy, "requires that appropriate structures are in place providing for general and specialist support services, as well as protection in accordance with victims' individual needs. Moreover, all actors in contact with victims must be trained and fully aware of victims' rights." (p.3) The Strategy also recognises the value of restorative justice in achieving one of its core objectives, empowering victims of crime. It understands that "restorative justice services provide victims with a safe environment to make their voice heard and support their healing process". But warns that, in practice, there is a lack of knowledge about restorative justice services among professionals and victims, and that potential benefits of such services depend on availability, accessibility and quality of restorative justice services in Member States.

### United Nations

#### United Nations Convention on the rights of the child (1989)

The United Nations Convention on the rights of the child (CRC) does not explicitly mention restorative justice. However, the protection and participation rights clearly support restorative processes for children – whether they are offenders, victims or witnesses – and the articles in the CRC that specifically relate to child suspects and accused (referred to as child justice) and to victims, can be viewed also as strong support for restorative approaches. Articles 37, 39 and 40 of the CRC are relevant for restorative justice.

Art. 39 provides for the duty of States Parties to take all the appropriate measures to "promote the physical and psychological recovery and social reintegration of a child victim". Restorative justice provides a safe space promoting dignity, self-respect and empowerment with the final goal to support the full recovery, as far as possible, from the injustice and harm experienced. This is important for both victims and offenders, as restorative justice calls for a balanced approach to justice, where all parties are given the opportunity to actively participate in their justice process. This is particularly relevant, as in many criminal justice cases, the child who caused the harm has been the victim of previous harms him/herself: restorative justice takes in fact into consideration the full personal story of each individual, their characteristics and their needs on an individual basis, not only focusing on the specific harmful act and going beyond the conceptually artificial identities created by being a "victim" or an "offender".<sup>9</sup>

Art. 37 and 40 are the essence of child justice and fair trial's rights and implicitly emphasise the need for restorative measures, whereas that approach is in line with the leading principles of child justice. In cases involving children, it is also crucial to keep in mind the evolving capacities in the child's development as well as the community of care of the child (e.g. parents, teachers, etc.).

<sup>9</sup> Some criminological literature points out this somehow artificial and over-simplified classification – particularly with children – that also contributes to fuel stereotypes about how a victim or an offender should typically look like or what their needs should typically be. Among others, Goldson, B. and Muncie, J. (2012). Towards a global 'child friendly' juvenile justice?, *International Journal of Law, Crime and Justice* 40. 47 e 64.



Based on the CRC child rights and safeguards, any restorative justice programme that involves children must demonstrate that it is designed and delivered in the best interests of the child (art. 3 CRC), that it facilitates the right of the child to be heard (art. 12 CRC) and that it takes all necessary steps to protect the child from harm (art. 19 CRC). This means that the safety of children and young people engaged in restorative processes must be at the core of all programmes.

The General Comment No. 24 (2019) on children’s rights in the child justice system, replacing General Comment No. 10 (2007) on Children’s rights in juvenile justice puts instead an explicit emphasis on restorative justice, as a possible measure of diversion or of alternative to detention but also as a general principle that should guide the pursuit of the best interests of the child in the administration of justice (12).

#### Vienna Guidelines for Action on Children in the Criminal Justice System (1997)

Restorative justice explicitly appears in article 15 that states that: “Appropriate steps should be taken to make available throughout the State a broad range of alternative and educative measures at the pre-arrest, pre-trial, trial and post-trial stages [...]. Whenever appropriate, mechanisms for the informal resolution of disputes in cases involving a child offender should be utilized, including mediation and restorative justice practices, particularly processes involving victims”.

#### UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005)

These Guidelines recognise the vulnerability of children who are victims and/or witnesses of a crime and are exposed to a significant risk of second victimisation as a result of their participation in the criminal proceedings and encourage the use of ‘informal and community practices, such as restorative justice’ (art. 36).

#### UNODC – Justice in Matters involving Child Victims and Witnesses of Crime: Model Law and Related Commentary (2009)

This Model Law and Commentary were drafted by UNODC in cooperation with UNICEF and the International Bureau for Children’s Rights, with the aim to provide guidance to States in the adaptation of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime adopted in 2005 by the UN Economic and Social Council. This is a tool meant to assist States in adopting new legislations concerning the protection and assistance for child victims and witnesses in justice processes. A great emphasis is made on restorative justice measures, to be made available for children, without undermining the special attention and protection that child victims need to avoid a secondary victimisation.

#### UNODC – Justice in Matters Involving Children in Conflict with the Law: Model Law on Juvenile Justice and Related Commentary (2013)

This Model Law and Commentary were drafted with the aim to provide guidance to States in the process of child justice reform and to assist them in drafting new legislation. It includes all main principles of child-friendly justice and safeguards for children involved in criminal proceedings as suspects and accused. It covers all the phases of a proceeding. In doing so, the Model Law emphasises the principle that deprivation of liberty should be a measure of last resort. It draws the attention on measures that are alternative to custody, including restorative justice – recognised by this Model as crucial to keep children away from the formal justice system.

#### Office of the Special Representative of the Secretary General on Violence against children: Promoting restorative justice for children (2016)

This report is the result of a revision of various models, legislations and experiences of restorative justice from across the globe. It examines the role that restorative justice programmes have in the resolution of conflicts that see children involved as victims, witnesses and offenders. Of particular relevance is that it collects



practices that apply not only to the justice context but also to school, residential care, social welfare settings and the community. It is worth mentioning how restorative justice is considered as “not necessarily an alternative to the criminal justice system. It can also be, where appropriate, a supplement to this system. [...] In their most developed form, restorative justice programmes for children represent a truly holistic approach. Based on the best interests of the child, they go beyond the criminal justice system to include the provision of necessary services and support, including access to education and health services, psycho-social support, vocational training and the provision of alternative activities and interests to avoid children falling back into previous behavioural patterns and engaging in risky behaviour with peers. Holistic restorative justice for children is therefore based on a multi-sectoral approach involving effective communication and coordination among different service providers and different sectors” (p.3).

#### UN Global Study on Children Deprived of Liberty (2019)

The UN Global Study, published on occasion of the 30th anniversary of the CRC (November 2019), in its unique effort to address the current realities of children deprived of their liberty in several settings (including in the administration of justice) puts a great deal of emphasis on restorative justice approaches. An overview of the benefits of restorative justice with children in conflict with the law is presented, with examples of promising practices from across the globe, and the wide availability of restorative justice mechanisms is recommended.

#### UNODC Handbook on Restorative Justice Programmes (2020)

The newly released UNODC Handbook refers to child offenders and child victims in several chapters. Among others, Chapter 6 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.”

### **Council of Europe**

#### Council of Europe Guidelines on child-friendly justice (2010)

While not explicitly mentioned in the CoE Guidelines on Child-friendly Justice, the concept of child-friendly justice very much reflects the principles behind restorative justice processes. Furthermore, as stated in the explanatory memorandum of the CoE Guidelines: “Guidelines 24 to 26 recall that in several member states attention has been focused on the settlement of conflicts outside courts, inter alia by family mediation, diversion and restorative justice. This is a positive development and member states are encouraged to ensure that children can benefit from these procedures, providing that they are not used as an obstacle to the child’s access to justice” (81).

Restorative Justice with children is also encouraged by other CoE Recommendations, such as:

- Council of Europe Recommendation (99)19 concerning Mediation in Penal Matters and its successor the Council of Europe Recommendation CM/Rec (2018)8 concerning restorative justice in criminal matters.
- Council of Europe Recommendation (2003)20 concerning new ways of dealing with juvenile offenders and the role of juvenile justice.
- Council of Europe Recommendation (2008)11 on the Rules for Juvenile Offenders subject to sanctions or measures.





## References from recent and current research initiatives and projects on restorative justice with children

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In the field of restorative justice with children, Tali Gal's research is a crucial reference as she – for the first time – developed a needs-rights model of restorative justice which takes into consideration the complex and evolving needs of children as well as the rights provided in international standards.<sup>10</sup>

Below, we list a series of other projects relevant for this field:

### [European model for restorative justice with juveniles \(2014\)](#)

A European model for restorative juvenile justice was created based on studies of promising restorative justice practices in Belgium, Northern Ireland and Finland. The project emphasised the benefits of a restorative justice approach when working with children and young people.

### [Implementing restorative justice with child victims \(2016-2018\)](#)

The International Juvenile Justice Observatory coordinated a project for implementing restorative justice with children and youth. The project focused on 6 countries, three with more advanced restorative justice programmes (Finland, Northern Ireland, Belgium) and three learning ones (Latvia, France, Bulgaria). As one of the main outputs a [Practical Guide on how to Implement Restorative Justice for Children](#) has been developed.

### [AWAY: Alternative ways to address youth \(2017-2019\)](#)

Terre des hommes in Europe coordinated a EU-funded project on promoting diversion and child-friendly justice, with a focus on restorative justice in Romania, Belgium, Bulgaria, Croatia and Hungary. A [video](#) on how restorative justice and mediation are used in Belgium, as diversion measures for child suspected/accused of an offence, was realised by one of the partners, Defence for Children International Belgium.

### [Civil society in action to build restorative approaches and practices for children and youth in conflict or contact with the law \(2018\)](#)

Led by Terre des hommes in Albania, in partnership with AFCR (Albanian Foundation for Conflict Resolution of Disputes) and Terre des hommes Europe, the aim of this EU-funded project was to promote an adequate justice system for children, promoting alternative justice approaches such as restorative justice. The project focused on the work of justice agencies and civil society organisations delivering training on restorative justice.

### [i-RESTORE: Protecting child victims through restorative justice \(2019-2021\)](#)

Led by Terre des hommes in Europe, in partnership with the EFRJ and Restorative Justice Nederland (RJN), this EU-funded project focuses on restorative justice with child victims. The project offers opportunities for professionals working with children to learn about restorative justice and to ensure that restorative justice fully respects child victims' rights. Throughout its activities, the project will also aim at ensuring meaningful child participation. It is implemented in Albania, Greece and Romania, with expertise from Belgium and The Netherlands.

### [FOCUS on my needs: Working together for children in criminal proceedings \(2020-2022\)](#)

Led by Terre des hommes in Europe, this EU-funded project aims at building the capacities of professionals to work in a multidisciplinary way on individual assessments of children involved in criminal proceedings (victims

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<sup>10</sup> Gal, T. (2011). Child Victims and Restorative Justice: A Needs-Rights Model. Oxford University Press.





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and offenders), while allowing children to benefit from all available support services, including restorative justice. The project is implemented in Bulgaria, Greece, Romania, Serbia and The Netherlands, in partnership with Child Circle, Defence for Children Nederland-ECPAT, Child Rights Centre and SAPI.

### [World Congress on Juvenile Justice \(2015\)](#)

Recognizing that juvenile justice is an aspect of children's rights that has not received the international attention it deserves, the 2015 World Congress on Juvenile Justice organised in Geneva by Terre des hommes Foundation produced a final declaration aimed at promoting the principles of child-friendly justice and restorative justice.

Leuven, 23 May 2024

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## ANNEX 2

### Background information on the EFRJ work related to children and restorative justice

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#### EUROPEAN FORUM FOR RESTORATIVE JUSTICE

The European Forum for Restorative Justice (EFRJ) is an international network organisation connecting about 450 organisational and individual members active in the field of restorative justice, such as practitioners, academics, trainers and policy makers throughout Europe and beyond. We promote research, policy and practice development so that every person may have access to high quality restorative justice services, at any time and in any case. Our main focus is on the application of restorative justice to criminal matters but other areas, such as family, school and community contexts are also in our focus.

The EFRJ does not defend any one 'best practice' model of restorative justice, but recognises that restorative justice is an evolving approach. However, it is essential that any restorative service should be based on core restorative values and principles and should adhere to standards of good practice.

Below, we give an overview of our work and resources available regarding restorative justice and children:

#### PROJECTS

- **Implementing Restorative Justice with Child Victims (2016-2018)**. Co-funded by the European Union's Rights, Equality and Citizenship Programme. Coordinated by International Juvenile Justice Observatory (IJJO). Partners: EFRJ (BE), National Institute for Health and Welfare (THL) (Finland), Youth Justice Agency (NI), KU Leuven (BE), Ulster University (NI), State Probation Service (SPS) (Latvia), French Ministry of Justice, Institut Français de Justice Restaurative (IFJR), Social Activities and Practice Institute (Bulgaria). <https://www.euforumrj.org/en/implementing-restorative-justice-child-victims-2016-2018>
  - Project output - **Practice Guide Implementing Restorative Justice with Children**: [https://www.euforumrj.org/sites/default/files/2020-11/RJ%20Child%20Victims%20implementing practical guide eng-2-129.pdf](https://www.euforumrj.org/sites/default/files/2020-11/RJ%20Child%20Victims%20implementing%20practical%20guide%20eng-2-129.pdf)
- **i-RESTORE: Protecting Child Victims Through Restorative Justice (2019-2021)**, coordinated by Terre des hommes Foundation (Tdh) in, with partners in Albania, Belgium, Greece, Romania and The Netherlands. Funding JUST programme EC. <https://www.euforumrj.org/en/irestore-2019-2021>
  - Output **e-learning free course via Child Hub platform**: <https://childhub.org/en/series-of-child-protection-materials/i-restore-protecting-child-victims-through-restorative-justice>
  - (21<sup>st</sup> May 2021) i-RESTORE European **Conference on child-friendly RJ** video: <https://childhub.org/en/child-protection-webinars/i-restore-european-conference-child-friendly-restorative-justice>
  - i-RESTORE European **Research Report (2020)**: [https://www.euforumrj.org/sites/default/files/2021-05/european\\_research\\_report\\_irestore\\_en\\_101220.pdf](https://www.euforumrj.org/sites/default/files/2021-05/european_research_report_irestore_en_101220.pdf)
- **i-RESTORE 2.0 (2022 – 2024): Accessible Quality Restorative Justice processes for children in contact with the law in Europe**, coordinated by Terres des hommes Romania. Partners: Terre des hommes Regional Hub in Hungary, Terre des hommes Hellas, European Forum for Restorative Justice (Belgium),

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Restorative Justice Netherlands, HALT (Netherlands), and Social Insurance Board (Estonia). Funding JUST programme EC. <https://www.euforumrj.org/en/irestore-2022-2024>

### POLICY WORK

- Feedback on the **EU Strategy on the rights of the child (2021-2024)**. Joint paper with Terres des Hommes submitted in August 4<sup>th</sup> 2020 to the EC.
  - Joint paper: [EFRJ-Tdh Contribution to EC strategy Rights of the Child 2021-2024 0.pdf](https://www.euforumrj.org/en/irestore-2022-2024) (euforumrj.org)
  - More info on: <https://www.euforumrj.org/en/node11/feedback-eu-strategy-rights-child-2021-2024>
  - Link to the comment submitted to the EC: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Estrategia-de-la-UE-sobre-los-Derechos-de-la-Infancia-2021-24-/F540877\\_es](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Estrategia-de-la-UE-sobre-los-Derechos-de-la-Infancia-2021-24-/F540877_es)

### EFRJ TRAININGS

- EFRJ 8<sup>th</sup> edition of the **Summer School (22-26<sup>th</sup> July, 2019) on Child-Friendly Restorative Justice**, Gdansk, Poland. More info: <https://www.euforumrj.org/en/summer-school-2019>
  - *Main topics:*
    - *Access to RJ for minors.*
    - *Preparatory meetings for minors, their families and communities of support.*
    - *Facilitation of a RJ process involving minors.*
    - *Experiencing different languages for engaging with minors.*
    - *Training of RJ practitioners dealing with minors.*
    - *Supervision and support of RJ practitioners dealing with minors.*
    - *Cooperation with other institutions (e.g. child care, victim support, schools)*
  - *Final booklet:* <https://www.euforumrj.org/sites/default/files/2019-11/booklet-gdansk-draft.pdf>
- EFRJ online training **Restorative Justice for Children (10 & 12 November 2021)**. More info: <https://www.euforumrj.org/en/events/restorative-justice-children>
- EFRJ 1<sup>st</sup> edition of Winter Academy (30<sup>th</sup> January- 3<sup>rd</sup> February 2023), Leuven. Course on **Restorative Approaches for Young People. In Education and institutions**. More info: <https://www.euforumrj.org/en/restorative-approaches-young-people-education-and-institutions>
- EFRJ 2<sup>nd</sup> edition of Winter Academy (5-9<sup>th</sup> February 2024), Leuven. Course on **The Voice of Children in a Restorative Justice Process: Facilitating Restorative Justice Processes in Cases Involving Children and Young People**. More info: <https://www.euforumrj.org/en/voice-children-restorative-justice-process>

### WORKING GROUP ON RESTORATIVE SCHOOLS

The Restorative School Working Group has been established by the EFRJ in 2020 by motivated experts from the field. It is focusing on the question of how restorative practice (the term usually used for the application of Restorative Justice values and principles applied in settings other than criminal justice) can be used in schools to build healthy relationships amongst all members of a school community and repair these relationships when they are damaged by challenging behaviours, conflict or crime.

More on this Working Group: <https://www.euforumrj.org/en/restorative-schools-working-group>

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More on Restorative Schools: <https://www.euforumrj.org/en/restorative-schools>

### WEBINARS

- **Alternatives to Detention and Restorative Justice** (20<sup>th</sup> February 2020). Terres des Hommes and EFRJ. <https://www.euforumrj.org/en/alternative-detention-and-restorative-justice>.

In this webinar, two key experts (Ingrid van Welzenis and Tim Chapman) discuss the benefits of alternatives to detention, the impact of community-based options and how restorative justice applied with children contribute to implementing more effective and efficient child-friendly justice processes.

Video: [https://www.youtube.com/watch?v=gqZD3hwSjY4&ab\\_channel=ChildProtectionHub](https://www.youtube.com/watch?v=gqZD3hwSjY4&ab_channel=ChildProtectionHub)

### MATERIALS

- Thematic brief on **Restorative Justice and Child Justice**: <https://www.euforumrj.org/sites/default/files/2020-11/Thematic%20Brief%20on%20Restorative%20on%20Child%20Justice.pdf>
- EFRJ Brief on Restorative Schools: [https://www.euforumrj.org/sites/default/files/2022-11/Restorative\\_Schools\\_Brief\\_print.pdf](https://www.euforumrj.org/sites/default/files/2022-11/Restorative_Schools_Brief_print.pdf)
- Randazzo, S. & Wolthuis, A. (2022). **Restorative justice with children and young people in relation to criminal behaviour**. In B. Peurača (Ed.), *Training trainers in mediation and restorative justice: The Toolkit of the Erasmus+ Mediarej project* (pp. 16-23). Zagreb: Udruuga za kreativni socijalni rad. <https://www.euforumrj.org/sites/default/files/2022-09/AFMediarejHandbook3-ok%20%281%29.pdf>
- Wolthuis, A., & Chapman, T. (eds) (2020). *Restorative Justice and Children's Rights in criminal justice*. The Hague: Eleven Publishers.
- Chapman, T., Gellin, M., Aertsen, I., & Anderson, M. (2017). *Protecting Rights, Restoring Respect and Strengthening Relationships: European Model for Restorative Justice with Children and Young People*. European Council for Juvenile Justice, International Juvenile Justice Observatory.
- Chapman, T., Gellin, M., & Anderson, M. (2017) *Toolkit for Professionals: Implementing a European Model for Restorative Justice with Children and Young People*, European Council for Juvenile Justice, International Juvenile Justice Observatory.
- International Juvenile Justice Observatory (2018). *Implementing Restorative Justice with Child Victims*. Retrieval on: <http://www.oijj.org/en/implementingrj-introduction>

### POSTS

- Post **"A call upon young people in the justice system to participate in Covid-19 times"**, written by Maartje Berger (Netherlands). <https://www.euforumrj.org/en/call-upon-young-people-justice-system-participate-covid-19-times>
- Post **#SolidarityOverDistance. Discussion with Annemieke Wolthuis**. <https://www.euforumrj.org/en/discussion-annemieke-wolthuis>

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The interviews is a part of the **#SolidarityOverDistance updates.**"

- Post ***“Child-friendly restorative tools. Reflections from working with children in conflict with law and children who’ve been harmed”*** by Arti Mohan.

<https://www.euforumj.org/en/child-friendly-restorative-tools>

### COOPERATION

In 2023, the EFRJ and the European umbrella organisation Child Friendly Justice European Network (CFJ-EN) signed a Memorandum of Understanding planning common initiatives in the area of restorative child friendly justice.

On May 2024 we organised a webinar together with UNICEF where we presented restorative justice and its implications when working with children to UNICEF child protection colleagues working in Europe and Central Asia. Further cooperation initiatives between EFRJ and UNICEF are currently under discussion.

### ADDITIONAL INFORMATION AND CONTACT

The EFRJ has expertise through its members, committees and working groups and its pool of registered trainers (with about 60 trainers with different expertise and language skills). We have long standing experience in setting up and managing collaborative projects, offering consultancy and disseminating information through various communication channels.

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