

# **Alternatives to detention & restorative justice**

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**European Forum for Restorative Justice**

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# Outline

1. EFRJ - CJPE
2. Restorative Justice
3. RJ as an alternative to detention
4. International standards
5. RJ in detention
6. Conclusion

# 1. Priority CJPE

- Major focus CJPE work programme:
- protection of victims of crime, suspects, offenders & society in the aftermath of crime and the harm caused
- practical impact in the sectors of prisons, probation & restorative justice
- alternatives to detention / in detention
- radicalisation
- efficiency of justice

# 1. Priority EFRJ

- The European Forum for Restorative Justice **aims to help establish and develop victim-offender mediation and other RJ practices.**
- Every person in Europe shall have the **right of access to RJ services**, at any time and in any case.
- Advise, training, research, cooperation & lobby
- Reaching in Europe: RJ service providers (directly); participants of RJ (indirectly – victims of crime: approx. 200,000; offenders: approx. 180,000), victim support organisations (indirectly), actors of the criminal justice system (indirectly).

## 2. Restorative Justice

- Harm central
- The RJ triangle:  

Victim      Offender      Society
- "The four Rs" of RJ
  - Re-personalisation
  - Representation/participation
  - Reparation/restoration
  - Re-integration
- Forms: VOM, conferencing, circles
- In all stages (prevention – post prison)

***SHUT  
UP!!***



## 2. Does it work?

- Meta studies (US/UK/NZ/Eur) show:
- high satisfaction rates
- feeling of justice increases
- taken serious, taking responsibility
- less recidivism
- a new beginning
- Research: Restorative justice: the evidence, Shermann & Strang 2007; Shapland 2008; Claessen 2013 & 2015

### 3. RJ as an alternative

- Prevention: to stay out of the Criminal Procedure
- Schools, neighbourhoods
- Police; Public Prosecutor
- Judge; Enforcement agencies
- They can all refer to VOM or conferencing
- It can end there, it can also be used in addition to another sanction
- It can lead to: less incarceration, less costs & a more humane society



## 4. International standards

- 1999 Council of Eur Rec No. R (99) 19 on mediation in penal matters
  - 2001 EU Council Framework Decision on the standing of victims in criminal proceedings & 2012 Victim Directive
  - 2002 UN minimum standards on RJ practices
  - all JJ & most CJ instruments since 1996
- > RJ as a priority in reaction on crime**

## 4. RJ in the EU Victim Directive

### *Article 12*

**Right to safeguards in the context of restorative justice services**

- 1. Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Such measures shall ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services, subject to at least the following conditions:**

**Member States shall take measures to [...] ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services [...].**

## 4. New CoE Rec

- Draft Recommendation CM/Rec (2016) XX on the European Rules on community sanctions and measures
- *Aware that with the passage of time, new possibilities for a more effective use of community sanctions and measures emerge and that therefore **imprisonment must be used only as measure of last resort**;*

## 4. Draft Rec 2016

- Idea: establish a set of standards to enable national legislators, deciding and implementing authorities and practitioners **to provide a just and effective use of community sanctions and measures**. This application must take into account the need to protect society and maintain legal order and at the same time support **social rehabilitation**, while also enabling offenders to make **reparation for the harm** they have caused.

## 4. Role RJ CoE Rec

- **Examples of community sanctions and measures that are commonly in use include:**
- alternatives to pre-trial detention
- probation / community supervision as an independent sanction imposed without a sentence to imprisonment;
- suspension of the enforcement of a sentence to imprisonment with imposed conditions;
- community service (i.e. unpaid work on behalf of the community);
- **victim compensation /reparation;**
- **victim-offender mediation;**
- other

## 4. What is needed?

- *Restorative justice approaches call for **distinctive skills and implementing agencies should ensure that staff are trained** to undertake such work appropriately.*
- *This Rule also has implications for the best known form of reparation to the community - community service / unpaid work. If this is to constitute **meaningful reparation** it must involve (and be seen to involve) **work that has value to the community concerned.***

## 4. Rule 9 CoE Rec

9. In appropriate cases, and having due regard to the rights and needs of victims of crime, **offenders should be enabled and encouraged to make reparation for their offences to the victims or to the community.**

*This Rule insists that such RJ practices are **to be encouraged in suitable cases**. Particular care must be taken to make sure that both **the offender's and the victim's interest and rights are fully respected**.*

## 5. RJ in detention

- Working with RJ advocates
- Victim awareness programmes & trainings
- NL: 'house of restoration' > cooperation detention
- Sometimes also for internal conflicts (prisoner-prisoner / prisoner-staff)
  - in NL in youth custodial institutions & several prisons
  - in GER (e.g. Schleswig Holstein prison law) VOM can replace disciplinary procedure and disciplinary measure
  - first aspect that makes it an alternative to conventional imprisonment
- Earlier release as incentive for prisoner
  - second aspect that makes it an alternative to conventional imprisonment



## 5. RJ & detention

- MEREPS project (EFRJ was a partner) and it produced a handbook free to download [http://mereps.foresee.hu/uploads/media/Konfliktuskezeles\\_EN.pdf](http://mereps.foresee.hu/uploads/media/Konfliktuskezeles_EN.pdf)).
- More specific ways of working with RJ in prisons in workshop 3 will be presented by Bart Claes (UK) and Virna van der Elst (Belgium)
- In workshop 4 Christa Pelikan will explain about the use of RJ as an alternative to detention for young offenders in Austria

## 6. Conclusion & discussion

- International standards: RJ as a priority and as a community sanction or measure
- RJ as an alternative to detention
- RJ as a way to change criminal justice
- What to do to get full access to RJ?
- Access should be self-determined: part of RJ's autonomy right of parties – mere referral-based access is a clear contradiction/restraint of parties' autonomy



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## RJ WEEK 2016



## UPCOMING EVENTS

18/10/2016

**PhD**  
Arumida Pali, one of the newly elected Board members of the EFRJ, will defend her doctoral thesis on Monday 17 October 2016 at KU Leuven.

[+ Read more](#)

## DESISTANCE AND RE

**Project**  
The EFRJ has published research reports on 'Mechanisms for desisting from crime within restorative justice practices' are available online. All research reports of projects coordinated by the EFRJ can be downloaded in a .pdf format from the EFRJ website.

[Read more](#)

## Host the EFRJ conference 2018!

The EFRJ invites its members to propose a venue to host the 10th international conference of the European Forum for Restorative Justice, due in June 2018....

[Read more](#)

Thank you for your attention !