



## The 5th Meeting of the European Council for Juvenile Justice

Valencia, Spain  
15-17 February 2017



# **RESTORATIVE APPROACHES**

## Introduction to the working groups

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# Presentation prepared based on ECJJ materials

- ECJJ research on restorative juvenile justice publications:
  - **F. Dünkel, P. Horsfield and A. Parosanu (2015):** *Research and Selection of the Most Effective Juvenile Restorative Justice Practices in Europe: Snapshots from 28 EU Member States. Volume I.*
  - **T. Chapman (2015):** *Protecting Rights, Restoring Respect and Strengthening Relationships: a European Model for Restorative Justice with Children and Young People. Volume II.*
- ECJJ materials
- other EU documents

# Restorative justice

*“any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator”*

Economic and Social Council, UN (2002)

# Three usual models/practices

## 1. victim-offender mediation

- participants: victim, offender, mediator

## 2. restorative conferencing

- participants: victim with supporters (e.g. family members), offender with supporters (e.g. family members), facilitator

## 3. peace-making circles

- participants: even larger spectrum - police officers, prosecutors, probation officers, etc.

# Why is it useful and helpful?

- It aims at addressing **the needs** of both the victim and the offender
  - It builds **the understanding** of the causes and consequences of the offence
  - It is focused on **repairing the harm** caused
- ⇒ opens more space for **offender's accountability** for the offence

# Presumptions

- **Participation** should be consensual (on both sides)
- **Agreement** on how to solve a conflict should be consensual
- In line with the **best interest of the child** (on both sides)

## ⇒ **ESSESNTIAL REQUIREMENTS:**

- ⇒ voluntary participation,
- ⇒ confidentiality of the process,
- ⇒ neutrality of the facilitator.

## **Promotion of restorative justice** - especially in juvenile cases

- Restorative approaches are promoted and recommended by:
  - the Council of Europe
  - the European Union
  - the United Nations
- ECJJ focused many research and project activities on promoting restorative approaches and continues to do so

# Legislation - EU countries level

- **all EU countries provide** forms of restorative justice to resolve criminal conflicts, in legislation and/or in practice
- **space for improvement:**
  - improving legislation and spectrum of interventions/models
  - improving practice: evidence-based and research focused



# “Good legislation frame”

*\*recommendations for EU countries*

1. Legislation should provide law enforcement authorities, prosecutors and the members of judiciary with the options to promote restorative justice processes **at all stages of the criminal proceedings.**
2. Legislation should provide **clear guidance and structure** for their use (guiding principles).
3. Legislation should ensure the **quality of the services** in restorative practice and **equal application of fair trial** guarantees to restorative measures for both the victim and the offender.

# Benefits of restorative justice I.

ON AN INDIVIDUAL LEVEL ⇒ promotes good values:

- Participation, respect and **empowerment of participants**
- Preference for **consensual outcomes** over imposed ones
- **Flexibility** of the process and the outcomes
- **Commitment** of parties to the agreement reached through the process
- **Lower tendencies towards anti-social behavior** and re-integrative potential for both victims and offenders

# Benefits of restorative justice II.

## ON THE COMMUNITY LEVEL ⇒ promotes good values:

- Creates a community of care around youth in conflict with the law (**lower risk of stigmatization**)
- Enables communities to **understand the underlying causes of crime**, to promote community well-being and to prevent crime
- Increases **community engagement** and facilitation of the involvement of community residents in the resolution of problems of crime and social disorder

# 10 Points for Improving the Implementation of Restorative Justice

ECJJ research study outcomes

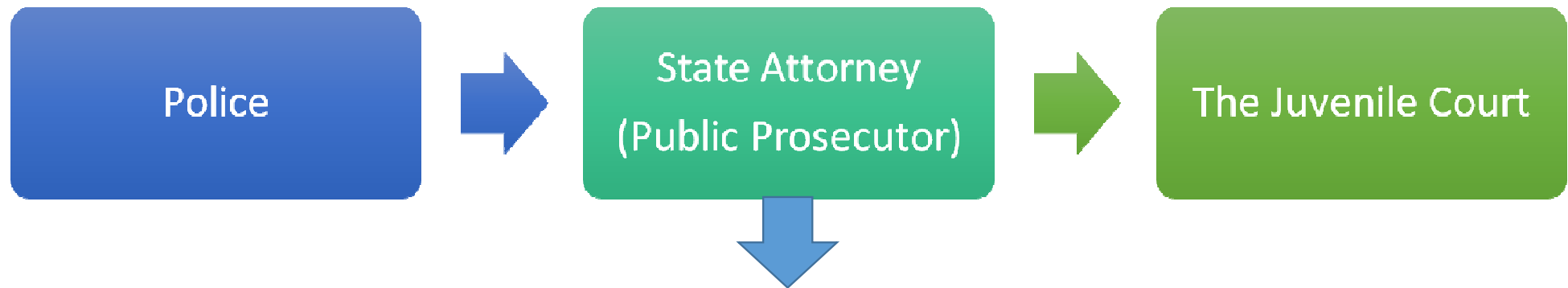
1. Restorative processes and practices should be made **available at all stages of criminal proceedings and be offered to all victims and offenders, not being restricted** on grounds of offence severity, offending history and offender characteristics;
2. Legislation should ensure the respect of **fair trial guarantees**, especially of children's and victim's rights, in restorative justice;
3. Efforts to build strategies and initiatives that seek to enhance the restorative value of **community service**;
4. Broader restorative justice strategies should promote initiatives to introduce **conferencing and peace-making circles** into the justice systems;
5. Efforts to provide **information for practitioners** on the benefits of a restorative approach for victims, offenders and communities at large, and to build support for restorative justice at all levels of society;

6. Effective **training** should be provided for all relevant law enforcement and justice actors, as well as for the facilitators
7. To explore ways of **reforming the penitentiary climate** and culture by using restorative practices;
8. Decision-makers should be able to take the **outcome** from such processes into consideration in their decisions;
9. **Inter-agency cooperation** and knowledge sharing between judicial decision-makers and practitioners in order to increase the effectiveness restorative justice processes;
10. Restorative justice initiatives should be based on tested and evaluated experiences, and be subject to monitoring and **evaluation**.

# Example of Croatia

\* contribution to the debate for the working group \*

# Linear criminal process



## POSSIBILITY OF DIVERSION IF A JUVENILE SUCCESSFULLY PERFORMS CERTAIN OBLIGATIONS:

- to **apologize** to the victim,
  - to **repair** the damage
- to get involved in the **victim-offender mediation**
  - to perform **community work**
- to get included in the **drug addiction program**
- to get included in the **psychosocial treatment**
  - to go to the **driving school**
- **other obligations** set by the State Attorney

⇒ 8% of all  
diversion measures



# Croatian legal context and practice in short

## Some good points

- widely used,
- focused on the best interest of the child
- first time offenders are priority but recidivist are not excluded
- consent is needed by both parties for mediation process

## Some space for improvement / not in accordance with recommendations

- offences that are punishable by a prison sentence of up to 5 years of prison or by a fine (for adults)
- police has no authority of diversion measures
- not enough mediators - investment in trainings
- improving evidence-based research and evaluation of practice

Thank you!