

Restorative Justice in Belgium

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RJ practices in Belgium

- Victim-offender mediation (dominantly)
- Family group conferencing (modest practice)
- Peacemaking circles (pilot project)



RJ can be beneficial for victims and offenders

- Recognition in practice, research and at different policy levels
- Council of Europe Recommendation R(99)19 concerning mediation in penal matters (1999)
- UN Basic principles on the Use of Restorative Justice Programmes in Criminal Matters
- EU-directive 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.



Benefits for victims and offenders

Varies from case to case, but often mentioned are:

- Having a say, being able to participate actively in their own case
- Communication with the other party, obtaining information, answers
- Giving and receiving an apology
- Receiving financial reparation
- Decrease in anxiety and anger (victims), decrease of symptoms of post-traumatic stress
- Indications that it can be a factor supporting offenders in the process of desistance

RJ practices in Belgium

| Penal mediation | Restorative mediation | Mediation and conferencing for juveniles |
|---|---|---|
| Code of Cr. Proc. since 1994 | Code of Cr. Proc. since 2005 | Juvenile protection law; since 2006 |
| Adult offenders | Adult offenders | Juvenile offenders |
| Application limited as to seriousness of the offences | No limits as to seriousness or type of offences | No limits as to seriousness or type of offences |



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|---|---|--|
| <p>Pre-trial diversion Part of the criminal procedure</p> | <p>Pre-trial and post-trial Parallel to criminal procedure</p> | <p>Pre-trial and trial Part of the criminal procedure</p> |
| <p>Prosecutor proposes</p> | <p>Persons who have a direct interest in a criminal procedure have a right to access; The judiciary has an obligation to inform and the possibility to propose.</p> | <p>Prosecutor or judge propose; Has a priority status: has to be considered before any other measure</p> |



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|---|--|--|
| Mediation by a justice assistant | Professional mediators staff of an NGO doing only mediation | Professional mediators part of an NGO dealing with juvenile offenders |
| Report to the prosecutor, but also held to professional secrecy | No reporting required Agreement to judicial file if parties agree | Very brief report Agreement transferred |
| Extinction of the prosecution | The judge can take into account, but must mention in the judgement that mediation took place | Prosecutor and judge take into account if mediation or conference agreement executed |

Accessibility

- A right to access? Only in restorative mediation
- An effective right to access?
 - Referrals/information by the judiciary and other justice professionals (victim support, probation workers, prison staff...)
 - Awareness of the general public (self-referrals)
 - Proactive way of approaching potential participants
 - Quality information
 - Possibility to access when ready for it

Quality of mediation

- Voluntariness
- Confidentiality
- Impartiality of the mediator/facilitator

Influenced by:

- Training of mediators
- Organisational context
- Procedure



RJ in Belgian prisons

- 1996: Minister of Justice stresses the importance of introducing the victim in the stage of detention
- 1998-2000: action research in 6 prisons
- 2000: one RJ advisor appointed in each Belgian prison → main tasks:
 - Providing information on RJ to prison staff and prisoners; create openness and make people receptive



- Organising activities, often in collaboration with external partners, e.g.
 - Information sessions for inmates on the topic of the civil party
 - Sessions with inmates on the consequences of crimes to victims (victim support – victim in focus)
 - Make VOM possible at the stage of imprisonment
 - Set up a compensation fund

- 2008: the RJ advisors became members of the management staff and RJ is one of their tasks, but working on a 'restorative detention' stays part of the mission of the prisons (obligation to develop a 'minimum package').
- 2012: unequal implementation → a new impulse is given by the central administration to develop RJ related activities and to set up a compensation fund in more prisons.

Challenges for the future

Lots of expertise developed.

Firm legal framework.

Developing RJ is still an ongoing process with many challenges:

- Creating more knowledge and awareness with professionals
- Keeping the topic on the agenda
- Creating more public awareness and support

Thank you for your attention!

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