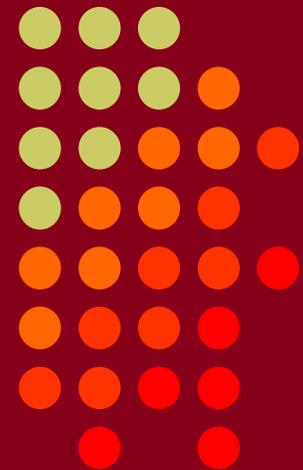


Communication of victim-offender mediation: working towards a professional consensus

Borbala Fellegi

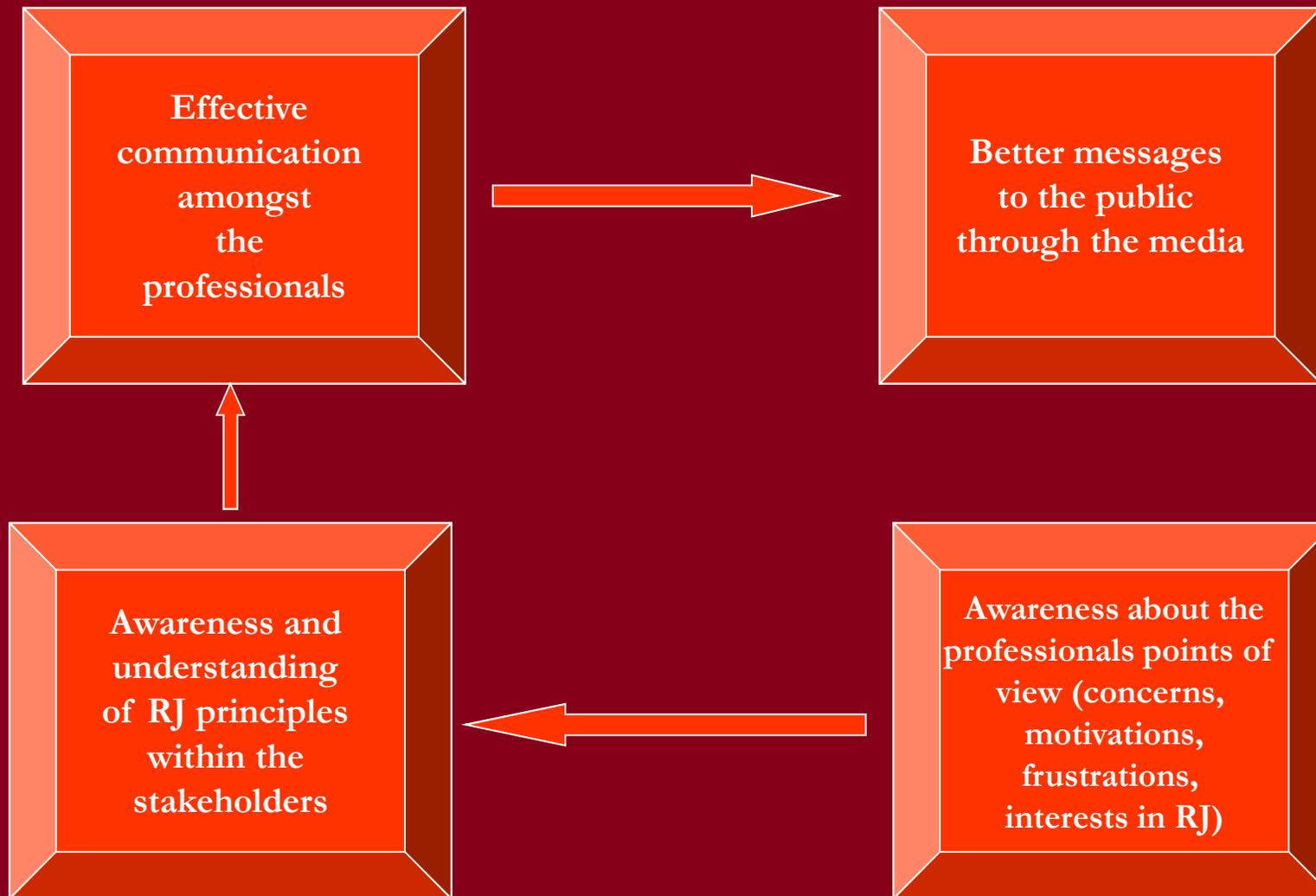
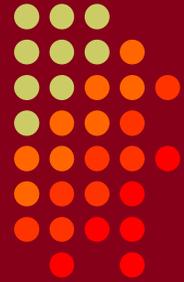
Presentation at the Fifth Conference of the
European Forum for Restorative Justice

17 April 2008, Verona

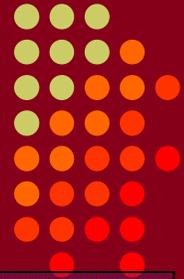


STARTING POINT

Link between professionals' internal
and external communication



What we mean by the implementation RJ? Parallel activities in the field of:



legislation

promotion

institutional
building

research

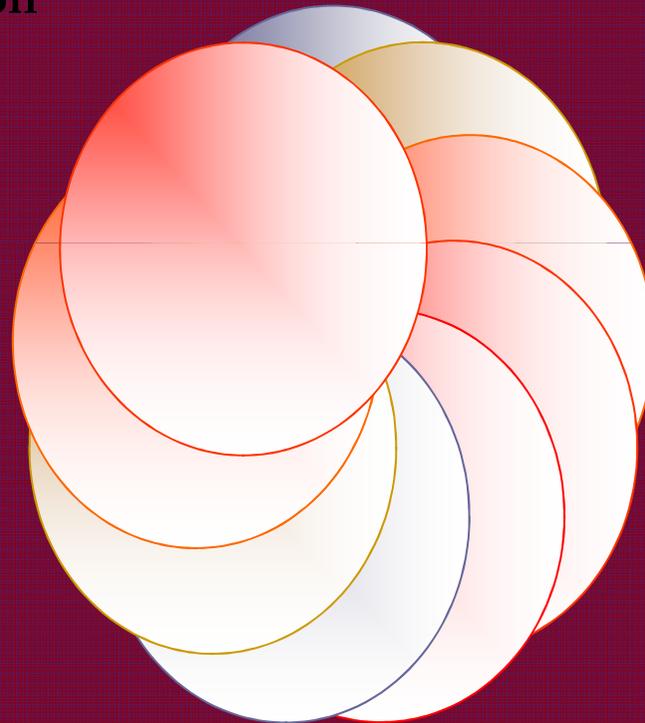
pilot
projects

training

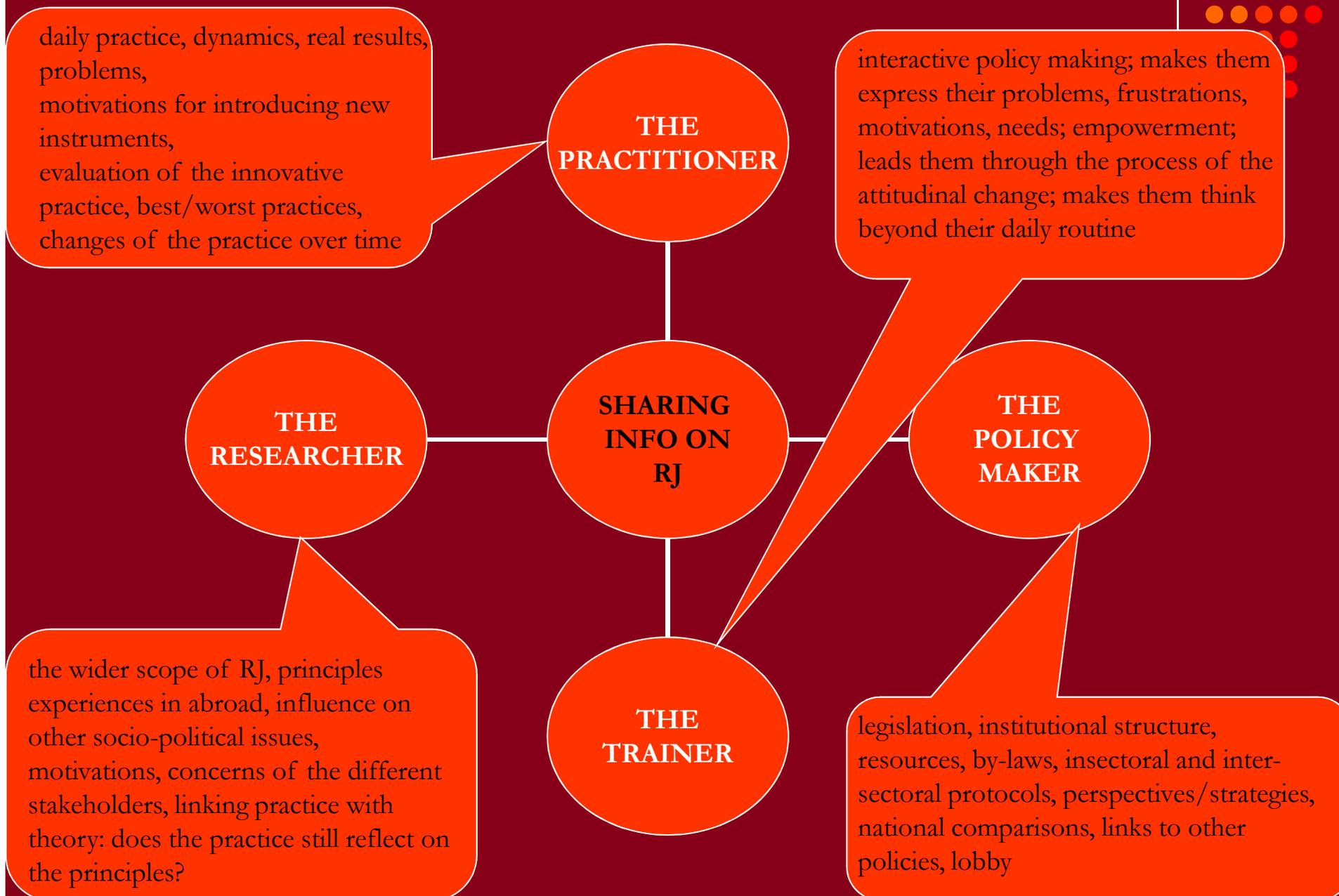
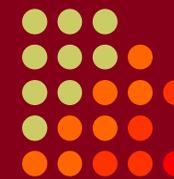
exchange
networking

standards & guidelines

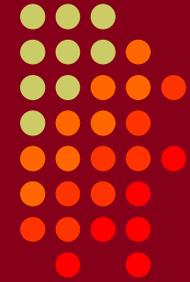
financial &
informational resources



Who are the main actors shaping the awareness of the professionals concerning RJ?



AS A RESEARCHER....



I. Theories, principles
behind RJ, experiences in
other countries



there is room (and need)
for applying RJ principles
on various levels,
regardless if it is
institutionalised
or not

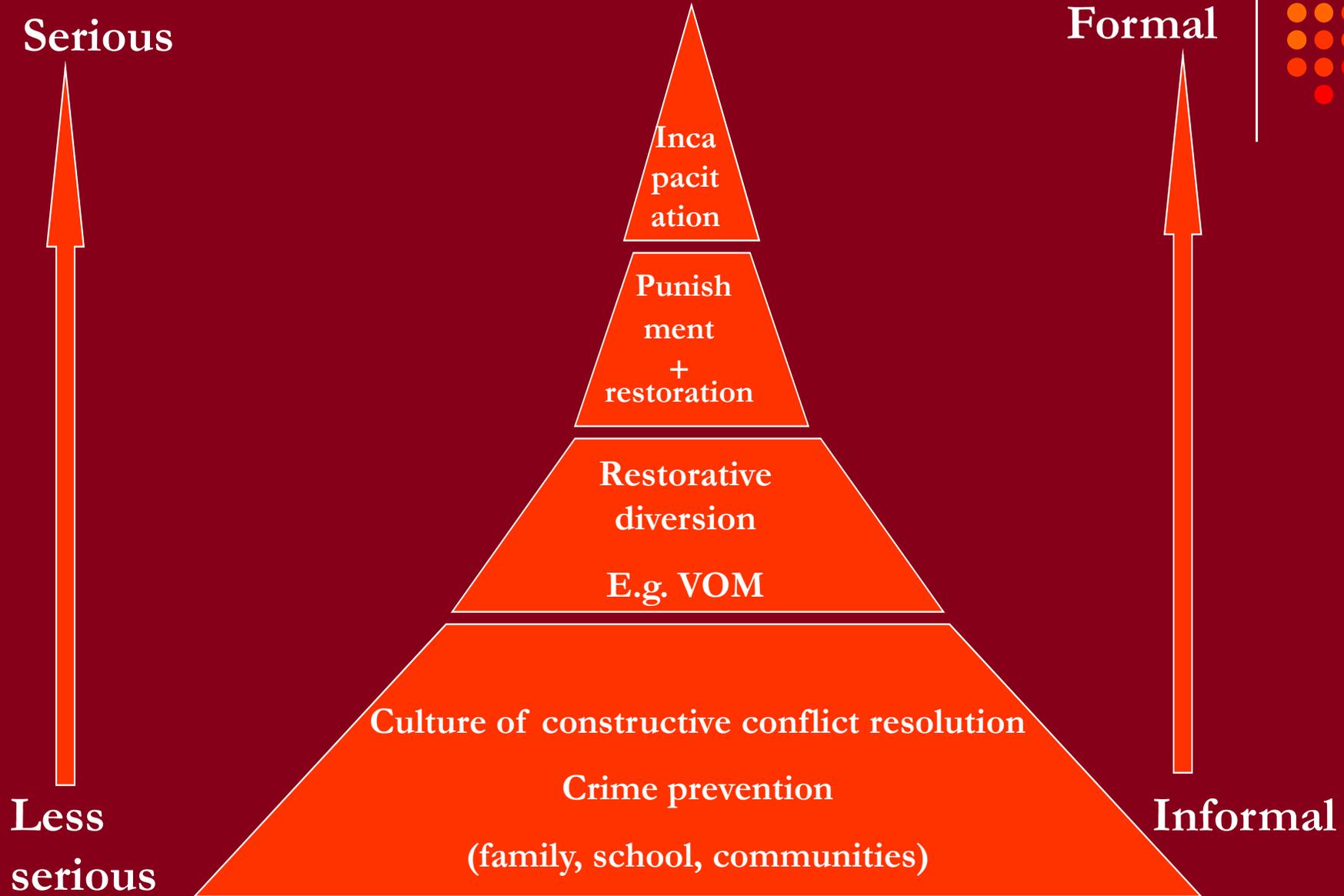
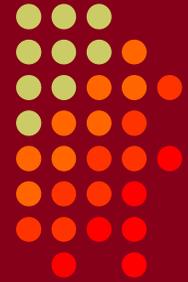
MESSAGE

II. Empirical
findings



how complex the effect is;
what should be measured
and considered
while evaluating and
further developing the
RJ system

What do I mean by general applicability of RJ principles?

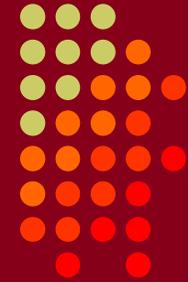


Based on Walgrave, 2006

RJ programmes within the criminal justice system



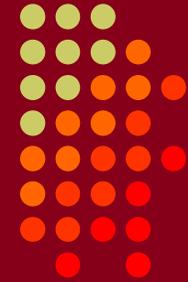
EMPIRICAL DATA from national and international research



Direct indicators

- Number and type of cases referred to mediation
- Role, protocols, weight of the different referral agents
- Duration of cases (preparation, meeting, follow-up)
- Content and format of agreements
- Agreement rate
- Compliance rate in short and long-term
- Re-offence rate
- Involvement of volunteers
- Costs of RJ processes
- Number and extension of supporters involved into the RJ processes in each case
- Attributes of victims, offenders, community rep-s (age, gender, ethnicity, SES)
- Attitudes of the participants (motivations, concerns, satisfaction, needs)
- Motivations of CJ and social service professionals (motivations, concerns, satisfaction, needs/recommendations)
- Dynamics of RJ processes (balance amongst the parties; room for free expression; communicational styles; turning points; chances for forgiveness; chances for apology; signs of shame, shaming, remorse, responsibility-taking, integrating attitude, other verbal and non-verbal communicational signs)

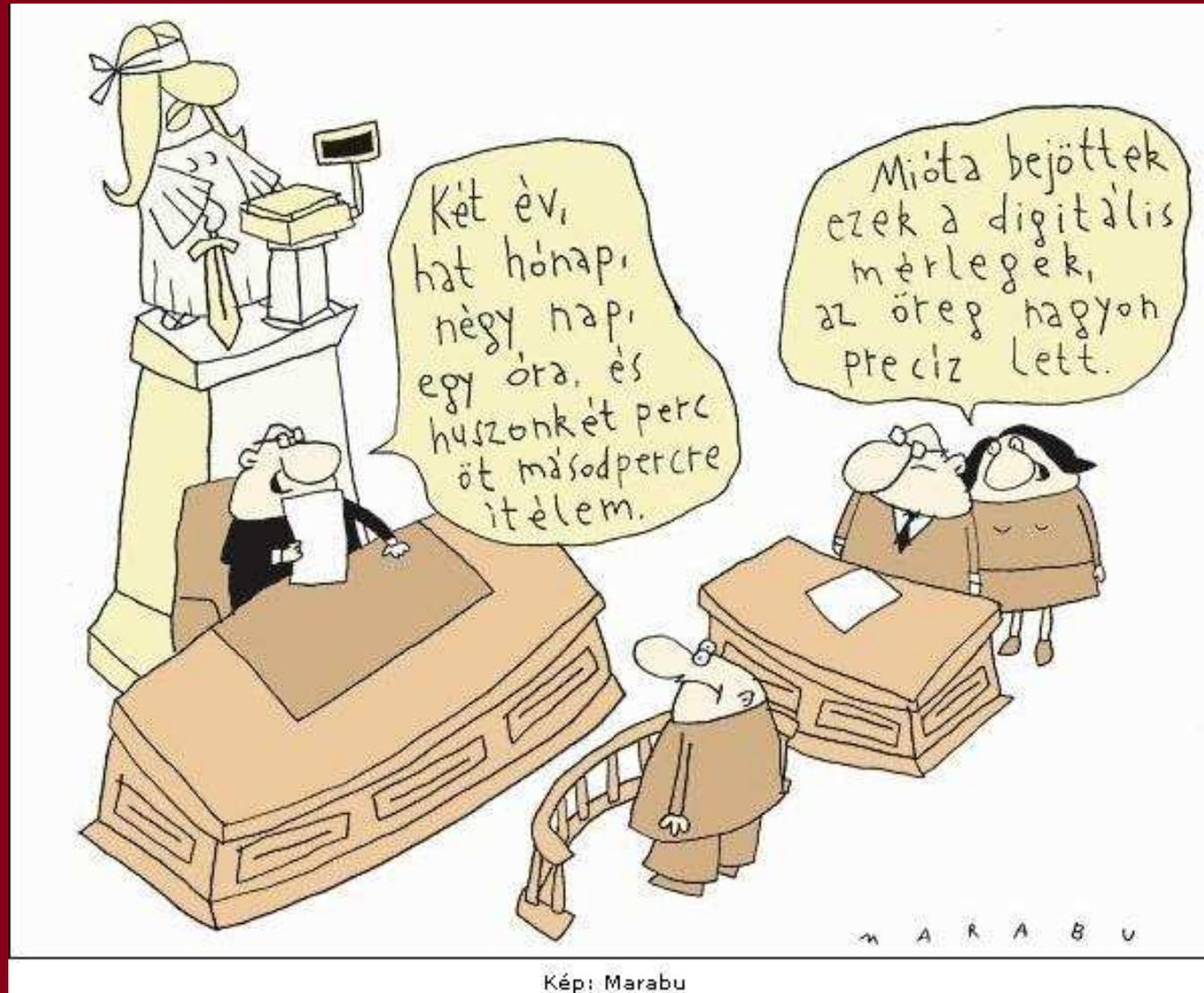
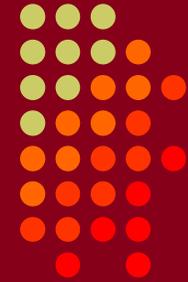
EMPIRICAL DATA from national and international research



Indirect indicators

- The public's and the professionals' expectations towards the CJ (attitudes towards punishment and restoration)
- Efficiency of the CJS
- Costs of the CJS
- ...

Research on judges' and prosecutors' attitudes towards RJ in Hungary



Judge:

“You are sentenced to 2 years, 6 months, 4 days, 1 hour, 22 minutes and 5 seconds.”

Lawyer:

“Since these digital scales have been introduced, he has become quite precise in sentencing.”

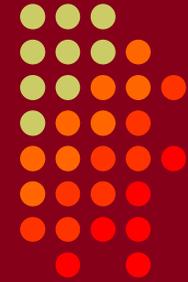
Research on judges' and prosecutors' attitudes towards RJ in Hungary



- **METHODOLOGY**
- **THEIR MOTIVATIONS**
- **THEIR CONCERNS**
- **THEIR NEEDS/RECOMMENDATIONS**

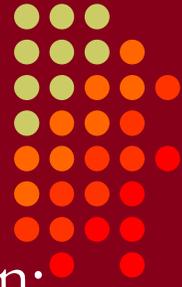
1. MOTIVATIONS

- Victims' needs
- Effective cooperation with parties
- Requirements towards effective sanctioning + emphasising the role of procedural elements: dialogue, informing, emotions, education, individualisation, personalised, humanised
- Happy to give out the decision power to the parties!
 - If procedural guarantees are assured
- Community sanctions
- A tool to make the CJS less rigid, to contribute to the paradigm-shift: from bureaucracy-orientation towards the victim-orientation
- Reducing stereotypes
- Trust in the probation system
- Special mission for mediation in case of juveniles



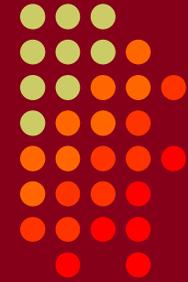
2. CONCERNS

- Fear of victims
- Projecting their negative attitudes to the parties (“they would not want”, “would not be genuine”), test question: “Would you accept to take part? Yes, of course!”
- Diversion = no consequence?
- Safeguards: fundamental rights are assured, no re-victimisation, genuine voluntariness
- Generalisation results scepticism
- Net-widening
- Difficult procedure, more administration, no clear guidance on applying discretion
- No trust in the civil society
- Institutional limitations (resources, infrastructure, training, routinisation, lack of awareness)
- Rich people: pays and goes?
- Lawyers as mediators?



3. Special issues

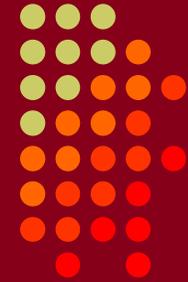
- Domestic violence: support
- Juvenile – adult offenders: differentiation
- Serious offences: controversies
- Stereotypes against Roma people: controversies
- Victimless crimes, drug offences: : controversies
- Traffic offences: controversies



4. Needs

- Mediation also in robbery cases
- Need for restorative principled community working projects, also for juveniles
- Assurance of legal safeguards, genuine voluntariness of the parties, control of the process
- Dealing with the fear of victims, making them cooperative
- Proper information/credible communication about the principles of mediation towards the related professionals and the public
- Mediator should step in the process as soon as possible
- Simple case-management protocol, not too much space for discretionary decisions
- Vision of a multidisciplinary penal policy
- Long-term legislative reforms, trust (not 'ad hoc' policies)

COMMUNICATION AS A TRAINER...



Some tips...

- InterACTIVE sessions
- ACTIVE involvement of the audience into the content, form, objective and structure of the course/presentation
- Let THEM ventilate
- Let THEM summarise their problems that they are seeking solutions for
- Let THEM bring their own cases into the role plays
- Start with a role play of a simple conflict to make THEM feel the difference between the judge's (understanding both sides) and the mediator's (observing the parties' communication) roles
- Make THEM highlight the differences between the dynamics of a court and a mediation procedure
- Use the circle method for some of the discussions

CONCLUSION

- the successful implementation is a common goal, we alone will not make it happen, we need to cooperate with all the stakeholders in this process
- the others' motivations and concerns are as important as ours, try to map the interests of all the stakeholders
- ask more, state less
- involve all the stakeholders into the discussions about the future steps to be taken
- don't be impatient, accept the others' speed (they might be slower than our ambitions due to some institutional limitations), sometimes signs of attitudinal change can only be seen later
- try to highlight the common points and interests
- give positive feedback about the value of others' work, about any small change you see; for expressing critics use a constructive approach, also.

**IN SHORT: Represent the principles of RJ
while communicating about RJ**





THANK YOU FOR YOUR ATTENTION!

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You can download this presentation from:

www.fellegi.hu/files/Verona_pres_2008April_BorbalaFellegi.ppt