

**WHAT RESTORATIVE JUSTICE-RELATED TRAININGS
DO, CAN AND SHOULD
LEGAL PROFESSIONALS HAVE IN EUROPE?**

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INTRODUCTION

As David Miers and Jolien Willemsens pointed out in their overview about restorative justice in 25 European countries¹, concerning the application of restorative justice in criminal cases “[...] the most common gatekeeper is the public prosecutor [...], followed by the court...”.

Although this finding is probably not surprising for any expert working in the field of restorative justice, there has been hardly any research done on how legal practitioners gain information about this philosophical approach and the related practical methods. Moreover, as it can be read in a recent comparative study about the recruitment, evaluation and career of prosecutors and judges, empirical works “that contribute to the effective and efficient working of the judicial systems is substantially extraneous to the academic traditions of Continental Europe”, and there is a lack of research interest in the working/training/recruiting mechanisms of the European judiciary systems. (Di Frederico, 2005: VI). These aspects, therefore, stressed the importance of not only studying the role of restorative justice in the training systems of legal professions, but also of gaining more insight into the general issues of the training systems available for actors of the judiciary systems.

As a consequence, this issue became an important topic of the COST Action A21² on “Restorative Justice Developments in Europe”. This international network – which was started late 2002 and will run until the end of 2006 – involves researchers from some 20 countries. The network intends to stimulate the exchange among different, already existing research projects and experts in the field of restorative justice. The main objective of this Action is “to enhance and to deepen knowledge on theoretical and practical aspects of restorative justice in Europe, with a view to supporting implementation strategies in a scientifically sound way”³.

The current paper firstly discusses the main reasons underlying the importance of studying the training models of legal practitioners. Following this overview, the results of a small-scale research will be presented that was conducted by two Hungarian researchers of the COST Action A21. This data collection was part of the activities of the Action’s working group focusing on policy-related issues of implementing restorative justice. Within the framework of this survey, representatives of 16 European countries reported about the training system available in their countries for legal practitioners in the field of restorative justice.⁴ The final part of the study will provide some recommendations concerning the training of legal professions in the restorative justice area.

¹ Miers, D. and Willemsens, J., 2004: 163.

² For more information, see <http://www.euforumrj.org/projects.COST.htm>.

³ Technical Annex of the Memorandum of Understanding of COST Action A21 (2002): 4.

⁴ The questionnaire can be found on: <http://www.digitaldream.hu/phpsurveyor/index.php?sid=2&newtest=Y>

As a preliminary remark, it has to be already noted that this exercise cannot be considered as a representative study on the subject. The main objective of the COST Action is to help the exchange of knowledge and not the actual conduction of empirical research (and therefore there are no any financial, human and infrastructural sources provided for conducting research). Therefore, the currently presented findings only intend to illustrate the thoughts summarised in this paper about the issue of training legal practitioners. Nevertheless, the numerous working group meetings that were organised within the current COST Action provided valuable occasions for discussing the main issues concerning the roles and attitudes of legal professionals in various European countries. In addition, a highly competent German trainer, Gerd Delattre could also participate in one of the meetings (27 October 2005, Maastricht). He commented on the draft version of the current article as well as shared his main experiences in training of and cooperating with legal professionals. The recommendations summarised at the end of the current paper includes many of his suggestions as well.

It is also important to point out that the current study aims to emphasise and involve some of the main findings of additional international activities as well that were run in the last few years in the field of restorative justice. More precisely, firstly, the data collection of the Information Committee of the European Forum for Restorative Justice (hereafter European Forum) presented in the publication, “Mapping Restorative Justice in Europe – Developments in 25 European Countries” (edited by David Miers and Jolien Willemsens); secondly the AGIS 1 project of the European Forum focusing on creating a training model for legal practitioners⁵ and thirdly, the AGIS 2 project of the European Forum on “Meeting the challenges of introducing restorative justice in Central and Eastern Europe”⁶ have inevitably contributed to gain a more detailed insight about the subject of this paper. Therefore, the current study will include some of the relevant findings of the previously mentioned projects as well. The aim behind it is in not only to give a more thorough picture about the subject, but also to bridge these other important activities and add to the exchange process amongst them.

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⁵ For more information, see <http://www.euforumrj.org/projects.AGIS1.htm>.

⁶ For more information, see <http://www.euforumrj.org/projects.AGIS2.htm>.

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1. JUSTIFICATION

The current research's main intention was to achieve some of the objectives of the COST Action A21 defined in the Technical Annex of its Memorandum of Understanding (p:11):

[...] the fact that legal authorities (prosecutors, judges) and lawyers are often hard to convince or to motivate to co-operate in restorative justice programmes. Training on knowledge, attitudes and skills is of the utmost importance in order to involve this crucial group. For that reason, some examples of good co-operation will be selected, on the basis of which conclusions might be drawn on the kind of training needed for these legal professionals. This will allow to:

- (a) get a view on whether training for criminal justice practitioners exists, in what form and on what level;
- (b) get a view on whether criminal justice practitioners are motivated to follow such training.

Besides these clear goals, it is worthwhile to stop here for some seconds and discuss the importance of such research in a little bit more detailed way.

While thinking about the main motivations behind this study, basically two primary questions can be raised: firstly, why is it essential to focus on the legal practitioners concerning the implementation of restorative justice; secondly, why is it important to have an overview on the state of affairs of their training systems in the different countries?

1.1. WHY DO WE NEED LEGAL PRACTITIONERS?

Regarding the first question, it might seem evident that the position and tendencies of legal professions (i.e. of the 'owners' of the criminal conflicts) significantly shape the present and future of restorative justice in any societies. This influence is even more visible in legal systems that follow the principle of legality, since in such countries criminal acts always need to be handled by the criminal justice system and therefore by legal practitioners.

Secondly, legislation and the effective cooperation with legal professionals can stimulate the broader, more frequent and systemic application of restorative justice in penal cases as alternatives to the traditional sanctioning measures.

Furthermore, several countries, especially those that have only recently started to implement restorative justice, often suffer from the general lack of legitimacy of informal, community-based responses to criminal offences. As a consequence, the legitimising roles of formal frameworks, especially of legislation and the role of the judicial profession cannot be underestimated. In other words, laws and the support of legal practitioners are amongst the most significant aspects of the effective implementation, since they are crucial in providing reasons, justifications, clear positions, protocols, institutions, and credibility in the society from a top-down direction (balancing the original 'grassroots characteristics' of restorative initiatives).

Therefore, it can be assumed that promoters of restorative justice need legislation and the effective ways of cooperating with legal agencies, particularly in those countries that are in the initial stage of implementing this concept into their justice systems.

Moreover, the necessary legal protection of all persons involved in the mediation process (the inclusion of due process safeguards and the respect for fundamental rights such as legal assistance, and for general legal principles such as equality and proportionality) also

significant reasons for intensively involve legal practitioners in the system of restorative justice.⁷

Concerning the contributing role of legal frameworks and the importance of intensive partnerships with legal representatives, it is important to highlight the significant role of procedural regulations, bylaws and protocols as well. Several research findings show that even in countries where there has been a long tradition of restorative justice, there could be much more referrals to, for example, victim–offender mediation, than there are currently.⁸ According to discussions with experts working on the implementation of restorative justice in several European countries, one of the reasons behind this gap is the lack of clear protocols in the referral procedure and the lack of awareness of legal authorities on restorative justice.

1.2. WHY DO LEGAL PRACTITIONERS NEED TO CONSIDER THE RESTORATIVE APPROACH IN THEIR ACTIVITIES?

The underlying principles of restorative justice and restorative practices have received great interest not only from criminal justice practitioners and academics, but also from policymakers in charge of defining criminal justice policies. This is reflected in the increasing number of restorative justice programmes that are being implemented at all levels of the criminal justice system, applied with different types of crimes committed by juveniles as well as adults.

It is estimated that more than 900 projects were already in operation in Europe in 1998 (Aertsen, 2001). One can therefore rightfully say that most of the Member States of the European Union are currently at the forefront of the victim-offender mediation development.

However, the potential of restorative justice in improving justice systems in the European countries has been recognised not only on national levels, but also at the level of international institutions. In the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (Council of the European Union, 2001), Article 10 states that Member States are to seek to promote mediation in criminal cases for offences which they consider appropriate for this sort of measures and to ensure that any agreement between the victim and the offender reached in course of such mediation in criminal cases can be taken into account. According to Article 17, each Member State shall bring into force laws, regulations and administrative provisions to comply with Article 10 before 22 March 2006. The main contribution of this Framework Decision to the implementation of restorative justice is its mandatory effect on Member States. However, it does not provide detailed requirements or guidelines about the proposed ways of its realisation.

Therefore, this regulation is well complemented by the detailed guidelines of the Council of Europe. With the adoption of Recommendation No. R (99) 19 on mediation in penal matters (Council of Europe, 1999), the Committee of Ministers of the Council of Europe

⁷ European Forum (2004), *Final Report of the AGIS project on "Working towards the creation of European training models for practitioners and legal practitioners in relation to restorative justice practices"* (JAI/2003/AGIS/129): 4.

⁸ In a country as Germany for example, with 400 local mediation programmes, it has been calculated that the number of judicial files on assault that could be taken into consideration for mediation is about 100.000 a year, compared to the 15.000 cases of all crimes effectively selected for mediation at present. (E. Weitekamp, 1999:123).

has played a significant role in setting out the principles of victim-offender mediation and recommending governments to consider them.

33. Mediation is a relatively new phenomenon in most European countries. It needs to have a wide acceptance by society at large as well as by the criminal justice system with which it will work closely. Common understanding and mutual respect are of the utmost importance. In particular, there is a need to show that mediation brings additional qualities to the criminal justice procedure, and the mediation services must be able to demonstrate a high level of competence. In order to achieve this, regular contacts and consultations between members of the mediation services and members of the criminal justice system (including ministries of justice, courts, prosecution and police) should be encouraged.

This initiative also contributed to the document the Economic and Social Council of the United Nations issued later on the “Basic Principles on the use of Restorative Justice Programmes in Criminal Justice” (2002). This resolution is supposed to guide the development and operation of restorative justice programmes in the member states.

III. Operation of restorative justice programmes

12. Member States should consider establishing guidelines and standards, with legislative authority when necessary, that govern the use of restorative justice programmes. Such guidelines and standards should respect the basic principles set forth in the present instrument and should address, *inter alia*:

- (a) The conditions for the referral of cases to restorative justice programmes;
- (b) The handling of cases following a restorative process;
- (c) The qualifications, training and assessment of facilitators;
- (d) The administration of restorative justice programmes;
- (e) Standards of competence and rules of conduct governing the operation of restorative justice programmes;

Moving to a broader level of international regulation of criminal justice policies, other UN principles such as the Beijing Rules (United Nations, 1985) or the Riyadh Guidelines (United Nations, 1990) should also be mentioned. By signing these documents, member states accepted to meet the overall requirement of harmonising their criminal justice system with the social protection network as well as of providing complex social crime prevention programmes. According to these documents, diversionary institutions, alternatives to prison and community sanctions should get priority in responding to crime, especially in the case of child and juvenile offenders. Implementing the principles and practices of restorative justice therefore largely fits in the framework of the abovementioned UN documents as well.

All the above mentioned policy agreements and guidelines highlight the significant role of legal professionals in the effective implementation and application of restorative justice. These agreements mean a double-sided relation between legal practitioners and restorative justice: on the one hand, the main roles in restorative justice lead to legal authorities (who mostly play as gatekeepers by selecting and referring cases); on the other hand, representatives of the legal system also need to include more and more elements in the criminal justice system that help meeting the abovementioned requirements, such as the widened use of alternatives, the purpose of reintegration, victim support, cost-effectiveness, etc.

1.3. WHY SHOULD WE KNOW MORE ABOUT THEIR TRAINING SYSTEM?

Now it can be seen, why legal professionals are essential in the discussion about restorative justice. But what do they know about this approach?

The study of the ways in which they might gain information about restorative justice is a highly difficult challenge from several aspects. Firstly, we should clarify who we mean by 'legal practitioners'. Legal professions might refer to different activities (for example according to the question, if we consider the qualification or the practiced job) that makes it difficult to respond to this question.

Secondly, it is useful to have an overview and comparative picture about their general training system in the European countries in order to see the position of restorative justice in them. Although there have been initiatives taken to unify their education system⁹, they still have highly diverse training structure throughout the European countries, especially concerning their post-graduate education.

Thirdly, it should be also clarified what we mean by restorative justice, otherwise we can hardly investigate in which forms they can learn about it. It is also debatable what can be considered under the term of 'teaching restorative justice' according to what is regarded as part of this subject.

It is clear that all these three questions are far from being evident even within one country (as an example Switzerland can be mentioned where there are completely different systems in the different Cantons). Hence, the study of the complex question of "training system of legal practitioners in the restorative justice area" is highly challenging due to the difficulties of the regional differences as well as of the conceptualisation, operationalisation and measurement of each element of the subject.

On the other hand, such a comparative overview might have a great importance in finding good practices and the main gaps of the different models. Moreover, countries that have just recently started implementing restorative justice can highly benefit from such an outline. It is clear that the further success of implementing this approach into justice systems primarily depends on the establishment of well-tailored practices and models. Mapping the diverse schemes of the European countries in the field of training and running restorative programmes can inevitably help 'newcomer' countries, especially from the Central and Eastern European region. Learning about the different existing models, about their advantages and disadvantages can inevitably help in formulating long-term structured policies and in making the implementation process more effective from the very beginning.

This latter aspect also contributed to the decision of the Hungarian researchers to focus on this domain of the COST Action A21 and work towards an overview of training models throughout Europe.

⁹ by for example establishing organisations, such as the European Law Faculties Association (ELFA), for more information see <http://www.elfa-afde.org/>.

2. METHOD AND CONCEPTUALISATION

The overview is based on a web-based survey that was filled out by national ‘information providers’ from 16 European countries between July 2004 and January 2005.¹⁰ The respondents were mostly legal practitioners. The only requirement towards them was to have a general overview about the situation in their country concerning the training possibilities at least in their profession.

In the survey we used the term ‘restorative justice’ (RJ) as a broad approach to crime and criminal justice, while ‘victim-offender mediation’ (VOM) as the method mostly used in European countries.

In order to clarify the subject, the meanings of other relevant terms were also indicated in the questionnaire according to the UN Basic Principles (2002):

“Restorative justice programme” means any programme that uses restorative processes and seeks to achieve restorative outcomes.

“Restorative process” means 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. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.

“Restorative outcome” means an agreement reached as a result of a restorative process. Restorative outcomes include responses and programmes such as reparation, restitution, and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender.¹¹

We categorised legal professions into the following three groups: qualified lawyers (trained legal adviser), practising lawyers (representing people in court), prosecutors and judges. There were discussions in the COST working group about involving police officers as well, since they also have a significant role in referring cases to mediation. However, the group finally agreed to focus on the narrowly defined legal practitioners¹², since the initial project plan of the COST Action also put the main emphasis on the ‘traditional’ legal professions.

Via the survey respondents were asked to give a picture about the training system in their country in the restorative justice area. In order to find the most competent information providers and be more efficient with the data collection, so-called ‘national contact persons’ were asked from each country to search for legal practitioners in their country who might have a good overview of their national training systems, explain the research to them and ask them to fill in the survey.

Therefore, members of the research team only needed to contact the national contact persons. By this way we tried to target the group of respondents as well as possible and

¹⁰The survey can be found on
<http://www.digitaldream.hu/phpsurveyor/index.php?sid=2&newtest=Y>
The database is available on:
<http://www.digitaldream.hu/phpsurveyor/admin/admin.php>

¹¹ United Nations Economic and Social Council, Basic principles in the use of restorative justice programmes in criminal matters [E/CN. 15/2002/L. 2/Rev.1]

¹² COST Working Group Meeting, 15-16 September, 2003, Lisbon

intended to overcome that challenge that we have not necessarily had thorough information and contacts from all the involved countries. In order to provide reliable information about the countries involved, before its finalisation the draft study was revised by the national contact persons once again, and their comments were added to the text.

It is important to mention that during the conceptualisation of the subject it became more and more clear: an international comparative analysis of such a complex issue without any financial resource is highly challenging. Therefore, we would like to raise some points concerning the limitations of this study.

As it can be seen from the previous description, this data collection cannot be considered as a representative study, but only rather as an information gathering process with the help of national reporters. Since in most of the countries there is no official overview or information sources available about the training system of legal professionals, especially not with special focus on restorative justice, we intended to involve as many respondents as possible in the survey in order to have a more reliable picture. However, it resulted in two consequences: firstly, there is no guarantee that the respondents were all perfectly informed about the state of affairs in their countries; secondly, while from some countries we only received one response, from others we received several.

The ideal case would have been that 3-4 professions (qualified and practising lawyers, prosecutors and judges) are represented from each country among the respondents. However, we had to conclude that it was far too ambitious. From the majority of the countries we had 1-2 responses and we had 4 from Bulgaria and 10 respondents from Spain/Catalonia (mostly depended on the activity of the national contact person).

This is another reason we could not deal with the data in a quantitative way, since this overrepresentation would have resulted a significant bias. We rather summarised the different answers from one country into one aggregated answer. These summarised answers are not supposed to lead to any bias, since we usually asked about *possibilities* in the survey (“is it possible in your country that...”). Hence, as soon as one answer indicated “yes” from a country, we could assume that it was possible there.

However, we have to pay attention to the fact that it is highly difficult to overview the training system available in even only one country. Since the research did not ask for detailed country reports about the state of affairs in each country, and the study could include only a limited number of respondents from each jurisdiction, we have to be aware of the limitations of this survey.

Another difficulty is that there are significant diversities amongst the different regions of certain countries (e.g. Catalonia in Spain, or the different cantons in Switzerland). Therefore, one answer from a certain country might not necessarily be valid for another region of the same country. There were comment boxes provided in the questionnaire to provide possibilities for explaining such particularities. To conclude, while the current study can draw the main tendencies of the European training systems, it has to be noted that it does not necessarily give a comprehensive picture about the countries involved.

Concerning the question formats, we needed to take into account that it is difficult to ask experts to report about their country’s state of affairs in a thorough way due to lack of time and the workload they usually have to deal with. As a consequence, in order to make their answering easier, it was useful to ask easily answerable, closed questions as many as possible.

By the structure of the survey and the help of the web-base system, we tried to follow this way by making the answering as simple and fast as possible. However, this type of survey always has the risk that it cannot deal with the individual differences. In order to compensate for this 'closed' structure, we provided space in case of most of the questions for sharing further comments with us and detailing their answer concerning the actual question.

The survey's questions related to the following three areas:

- 1. the tasks and roles that the different legal practitioners can have in relation to victim-offender mediation or restorative justice;
- 2. different characteristics of the available training systems (obligatory – optional; graduate – postgraduate; training providers; content, etc.);
- 3. personal opinions
 - about legal professionals' attitudes towards restorative justice;
 - about the importance of their training;
 - about the ways in which they could be more motivated in participating in trainings and in cooperating with restorative projects.

3. SUMMARY OF THE RESPONSES

The following paragraphs will firstly present the responses to each question in more details, indicating the differences among lawyers, prosecutors and judges. It is followed by a summary highlighting the main perceptions concerning the questioned issues.

3.1. GENERAL DATA

Altogether we received 33 responses to the survey from 16 countries. Respondents represented the following countries:

Country	No. of respondents	Country	No. of respondents
Austria (AU)	2	Israel (IS)	1
Belgium (BE)	2	Italy (IT)	1
Bulgaria (BU)	4	Norway (NO)	2
England (EN)	1	Poland (PL)	1
Finland (FI)	1	Portugal (PR)	2
France (FR)	1	Slovenia (SL)	1
Germany (GE)	3	Spain/Catalonia (SP/CA) ¹³	10
Hungary (HU)	1	Switzerland (SW)	1

At the time of responding, Hungary was the only country where restorative justice/victim-offender mediation did not exist¹⁴, although, according to the comment of the respondent from Switzerland “RJ is almost unknown in Switzerland”.

The activities/professional areas of respondents were the followings:

Profession	No.
Lawyer	15
Prosecutor	8
Judge	3
Researcher	5
Practitioner	2

3.2. TASKS THAT THE DIFFERENT PRACTITIONERS CAN HAVE IN RELATION TO THE PROCESS OF VICTIM-OFFENDER MEDIATION OR RESTORATIVE JUSTICE PRACTICES

Respondents were asked to indicate the possible tasks of each type of practitioners:

- identification that the case is suitable for mediation or for other restorative practices;
- referring the case;
- acting as a mediator or a as a facilitator;

¹³ Out of the 10 respondents 9 were from Barcelona. Some of their answers might be relevant only regarding the system in Catalonia, but not necessarily in entire Spain/Catalonia. Therefore, the analysis will refer to this country by indicating “Spain/Catalonia/Catalonia” that might mean Spain/Catalonia, or only Catalonia.

¹⁴ Therefore, Hungary is not taken into account in the summary of those responses that belong to questions supposing the existence of VOM in a country.

- supporting the client with legal advice;
- supporting the client with legal advice during the VOM or RJ process;
- follow up of the implementation of the agreement;
- acceptance of the agreement;
- taking the agreement into account in his/her decision.

3.2.1. Lawyers¹⁵

The most important role of lawyers is the general support of clients with legal support, followed by supporting them during the VOM/RJ process. They are also active in identifying the relevant cases for mediation, referring them as well acting as mediators.

In Norway and in Switzerland as well as in the previously mentioned countries legal advice from lawyers is not available during the process of mediation.

Identification and referral were indicated as possible tasks everywhere, except in France, Italy, Poland, Slovenia and Switzerland.

In 7 countries (AU, EN, FI, FR, GE, SP/CA and SW) lawyers need to accept the agreement of the parties before taking further steps in the process.

Lawyers also follow-up cases after the mediation session in most of the countries, except in France, Italy, Poland and Slovenia.

Lawyers can act as mediators in 7 countries: in Belgium, Bulgaria, England, Finland, Germany, Spain/Catalonia and in Switzerland.

Additional roles were indicated in England, where being a “volunteer mediator in a community mediation service is as likely a route for a lawyer to actually handle cases restoratively” and in Poland, where they can advice the prosecutor or the judge to refer cases for mediation.

It is only Italy, where lawyers do not have any role in the VOM procedure.

3.2.2. Prosecutors

Prosecutors mostly 1.) refer, 2.) identify cases or 3.) take the agreement of a mediation into account while making decisions about the case.

Generally saying, prosecutors seem to be the most important actors concerning the referral and identification of cases.

With the exception of Switzerland, prosecutors can refer and identify cases in all the questioned countries.

They are important in following-up cases in 7 countries (AU, BE, GE, NO, PR, SLO, SP/CA), accepting the agreement in 7 countries (AU, BE, BU, FR, GE, PR, SP/CA) and

¹⁵ Due the similarities of the responses concerning practising and qualified lawyers, during the summary it was possible to group them into one category (“lawyers”). Significant differences will be indicated when appropriate.

taking agreements into account in 10 countries (AU, BE, FR, GE, IS¹⁶, IT, PL, PR, SLO, SP/CA).

In Belgium, Bulgaria¹⁷ and Germany prosecutors can also act as mediators.

Concerning England, the possibility for lay magistrates to act as volunteer mediator was also mentioned.

3.2.3. Judges

The primary roles of judges are the referral (all countries, except Slovenia and Bulgaria) and identification (in all countries) of suitable cases as well as the consideration of the agreements before final sentencing.

In 7 countries they can provide support for the parties during the VOM procedure.

Only in 6 countries (AU, BE, EN, GE, PR, SP/CA) were judges mentioned as actors following-up the implementation of agreements.

In 11 countries (AU, BU, EN, FR, GE, IS, IT, PL, PR, SP/CA, SW) they take agreements into account and in 7 countries (AU, BE, EN, GE, IS¹⁸, PR, SP/CA) judges also need to accept agreements.

Similarly to the previous practitioners, also judges can act as voluntary mediators in England.

To conclude the possible tasks of legal practitioners, it can be mentioned that these professions are very important everywhere in the mentioned areas, except in Italy and in Switzerland.

3.3. SOME CHARACTERISTICS OF THE AVAILABLE TRAINING SYSTEMS

This part of the survey asked respondents, whether the available restorative justice-related trainings are

- obligatory or optional for legal practitioners in order to act in their field;
- part of the graduate or post-graduate education;
- are available in the formal education system;
- provided by governmental/for-profit/non-profit organisations;
- acknowledged by a certificate of becoming a mediator/facilitator; and finally,
- primarily focusing on general information, theory or practice

3.3.1. Lawyers

In order to become a lawyer, participation in some kind of trainings in the field of restorative justice is obligatory in 2 countries: Spain/Catalonia (8 hours in a practice course) and in Germany.

¹⁶ In Israel prosecutors *might* take the agreement into account, however they are not obliged to do so.

¹⁷ It is not regulated though. Prosecutors do mediation-like activities in an informal way, including some restorative elements.

¹⁸ The comment above is valid also for judges in Israel.

In 7 countries (BE, BU, EN, GE, NO, SP/CA, SW) there are optional trainings available for lawyers. These are mostly organised by Universities and by Law Associations.

According to the structure of the courses, they are primarily based on theoretical exchange, but some practical activities are also available, usually with the use of role playing. In England, Germany and Spain/Catalonia field practice in the area of mediation is also available for lawyers.

There are no specific trainings for lawyers in Austria, Finland, Israel, Italy, Norway and in Poland.

In 7 countries (BU, EN, FI, HU, PR, SP/CA, SW) trainings are available before graduation, and in 9 countries (BE, BU, EN, FI, GE, NO, PR, SP/CA, SW) restorative justice is taught on post-graduate level.

In 9 countries (AU, BE, BU, EN, IS, IT, NO, PL, PR, SP/CA) training is not available in the formal education system. NGOs provide courses in 5 countries (BE, BU¹⁹, EN, GE, SW), governmental organisations in 3 countries (BE, IS, SP/CA) and for-profit organisations also in 4 countries (BE, EN, FR, GE, SP/CA).

After following trainings, certificates can be obtained in 7 countries (BE, BU, EN, GE, PR, SP/CA, SW), although, according to the comments, often these are not officially accredited.

In Spain/Catalonia and in Portugal master and post-graduate degrees can be obtained in general conflict resolution.

3.3.2. Prosecutors

Following restorative justice-related courses is only obligatory for prosecutors in England and Finland. However, in Spain/Catalonia there is a session of penal mediation before they would start to work as prosecutors.

There are optional trainings available for them in 9 countries. In Austria, Belgium, France, Israel, Portugal and Slovenia even optional trainings are not available.

Concerning the structure of the courses, the providence of theory and practice is more or less balanced in the questioned countries. In England, Germany and Spain/Catalonia field work is also available.

Most of the trainings are provided after graduation, but it has to be noted that the specialisation of prosecutors does start also only after the basic degree.

The available courses are usually not specifically for prosecutors but rather general university lectures or practical VOM trainings in which prosecutors can also participate.

3.3.3. Judges

In order to become a judge, participating in restorative-related trainings is not obligatory in any of the questioned countries.

The possibilities for optional trainings are very similar to the above-described system of prosecutors. It might be interesting to mention here that in Spain/Catalonia, free courses of

¹⁹ There is a tendency in Bulgaria for trainings to be organised primarily by non-for-profit organisations, training institutions and universities.

12/20 hours given by the CGPJ (Consejo General del Poder Judicial) and CEFJE (Centro de Estudios Jurídicos y Formación Especializada) are available for judges.

In Belgium, France, Israel, Norway and Portugal even optional courses are not available for judges.

According to the responses, it can be assumed that the structure of the trainings is more based on theory than on practice.

Besides restorative courses that are included in the general curriculum of law universities, training programmes specifically available for judges are usually provided after graduation (because of the same reason as in the case of prosecutors, i.e. specialisation for becoming a judge can start only after obtaining a general law degree).

Concerning both prosecutors and judges it can be summarised that in 11 countries (AU, BE, EN, GE, IS, IT, NO, PL, PR, SP/CA, SW) specific training is not available for them in any formal educational system. In 6 countries (BE, EN, GE, PL, SLO, SW) trainings are provided by NGOs, in 5 countries (AU, EN, GE, NO, SP/CA) by for-profit organisations, while in 6 countries (FR, GE, NO, PL, SLO, SP/CA) governmental institutions provide specific trainings for judges and prosecutors. As for examples, here are some specifically indicated institutions:

- in France the “École Nationale de la Magistrature” provide trainings only for prosecutors and judges and sometimes for public social workers;
- in Norway under the activity of Mediation Boards prosecutors are invited to take part in the training program for mediators and to follow cases that are handled by mediation;
- in Poland the Ministry of Justice is an important training provider;
- in Slovenia the Supreme State Prosecutors Office was mentioned, while
- in Spain/Catalonia it was commented that “the Catalan Government offers talks, communications and information to judges, prosecutors and lawyers about penal mediation and restorative justice”.

Certificate for these two professions are available in 6 countries (AU, BU, EN, GE, SLO, SW).

Some impressions can be made based on the table below about the main focus of the content of trainings that are available in the different countries:

COUNTRY	IN FOCUS		
	MOST	MIDDLE	LEAST
Austria	Practice	theory	general info
Belgium	general info	theory	practice
Bulgaria	general info	theory	practice
England	practice	theory	general info
Finland	practice	theory	general info
France	general info	theory	practice
Germany	general info	theory	practice
Hungary	theory	general info	practice
Israel	general info	theory	practice

Italy	general info	theory	practice
Norway	general info	practice	theory
Poland	general info	practice	theory
Portugal	theory	general info	practice
Slovenia	theory	practice	general info
Spain/Catalonia	general info	theory	practice
Switzerland	general info	theory	practice

Respondents made the following additional comments on the training system in their countries:

- In Bulgaria all law students undergo one unified training, i.e before graduation there are no special courses for lawyers, judges and prosecutors.²⁰
- In Poland prosecutors, judges, police officers, practising layers, probation officers and other practitioners employed by the criminal justice system are not allowed to be a mediator.
- In France trainings are only developed for social workers, psychologists and civil volunteers. However, the number of trainings in family mediation is increasing. Some of them are designed for prosecutors to use this method in criminal cases that include family conflicts.
- In Italy there is a basic distinction between lawyers (private professionals) and magistrates (both public prosecutors and judges) who are civil servants. They follow the same university curricula in law but their post-degree training is different. The magistrates' training is organised by their head organization, the Higher Council of the Magistracy. It organises one lecture on VOM in each course for juvenile judges and prosecutors. As far as lawyers are concerned, no lectures on VOM are provided for them.
- In England it is important to express how little emphasis it put on RJ/VOM training within the criminal justice system.
- In Portugal restorative justice practices are only available for youth offenders. Referrals are mainly done by judges.

3.4. PERSONAL OPINIONS ABOUT THE ATTITUDES AND TRAININGS OF LEGAL PRACTITIONERS

In the last part of the questionnaire, respondents were asked to share their opinions and indicate on a 5-points scale

- how much they think legal practitioners accept the idea and use restorative justice practices in their work;
- how much they are motivated in actively cooperate with restorative projects;
- how important it is to provide general information, theoretical or practical trainings of restorative justice for them;

²⁰ It can be assumed that this is the same in most of the countries.

- how would it be possible to encourage legal professionals to participate in trainings and to motivate them to more intensively use the concept of restorative justice in their work.

It is clear that this part of the survey is very subjective and can only give an impression about the personal views of the responding experts. However, it might be interesting to have a look at the responses, even if the reader needs to take into account that the following figures cannot be considered as representative at all. Moreover, the numbers cannot be considered as absolute measures; they are only for showing relative differences among the different countries and professions.

Concerning the acceptance and motivations of legal practitioners towards the restorative approach, responses from the different countries indicated the following figures²¹:

Country	Acceptance	Motivation	Country	Acceptance	Motivation
Austria	4	4	Israel	2	2
Belgium	3	3	Italy	2	2
Bulgaria	4	4	Norway	4	4
England	1	1	Poland	3	3
Finland	N/A	N/A	Portugal	2	2
France	3	2	Slovenia	4	3
Germany	2	2	Spain/Catalonia	2	2
Hungary	2	2	Switzerland	5	5

Generally, it can be pointed out that the average of all responses was between 2.5 and 3.

Concerning the acceptance, judges were indicated as the mostly accepting group, followed by prosecutors and finally lawyers.

Regarding the question of motivation, prosecutors were mentioned as most motivated practitioners, followed by judges and again, finally lawyers.

As for the question, how much it is important to provide information for the different practitioners, it can be summarised that responses were in the range between 3.7 and 4.5. A slight estimation can be drawn that providing training is the most important for prosecutors, followed by judges and lawyers. The most important is to share general information, followed by theoretical courses and finally, the teaching of practice.

Regarding the different type of trainings, respondents indicated that

- providing general information is the most important for
 - 1. prosecutors
 - 2. judges
 - 3. practising lawyers
 - 4. qualified lawyers
- providing theoretical trainings is the most important for
 - 1. judges

²¹ The table shows the modus (most often used) numbers in each country. 1= not at all; 5 = very much

- 2. prosecutors
- 3. practising lawyers
- 4. qualified lawyers
- and providing practical trainings is the most important for
 - 1. qualified lawyers
 - 2. practising lawyers
 - 3. judges
 - 4. prosecutors.

If we want to have a look at each profession's acceptance and motivation as well as the importance of trainings for them in the different countries, we can summarise the followings:

Lawyers' acceptance and motivation

- is the least in: England, Italy, Portugal, Germany;
- middle in: Belgium, Bulgaria, Hungary, Spain/Catalonia, Poland, Israel;
- and the strongest in: Switzerland and Norway.

The importance of lawyers' training is

- the least in: Germany, Norway;
- and the most important in: Belgium, Hungary, Portugal and Spain/Catalonia.

Prosecutors' acceptance and motivation

- is the least in: England, Israel, Spain/Catalonia; Portugal, Hungary;
- middle in: Belgium, Bulgaria, Poland, Germany;
- and the strongest in: Switzerland and Norway.

The importance of prosecutors' training is

- the least in: Germany, Norway;
- and the most important in: Belgium, Italy, Hungary, Portugal and Spain/Catalonia.

Judges' acceptance and motivation

- is the least in: England, Portugal, Germany, Spain/Catalonia;
- middle in: Belgium, Bulgaria, Hungary, Israel, France;
- and the strongest in: Poland, Switzerland and Norway.

The importance of judges' training is very important everywhere, especially providing general information and theoretical courses.

Concerning respondents' views about how it would be possible to encourage these professionals to participate in VOM/RJ training programmes more intensively, the main types of answers were the followings:

- providing more information by informative, well-organised trainings, campaigns, debates, workshops, seminars, conferences;
- making general training courses on restorative justice obligatory included in the university curricula;
- changing legal practitioners' mentality;
- making international exchange possible in the legal field; demonstrating best practices in other countries

- encouraging them to do internships in connection with restorative justice;
- motivating them personally;
- highlighting incentives;
- demonstrating empirical findings about the benefits of restorative programmes;
- stressing the cost-benefit aspects;
- conducting pilot projects;
- making in-depth, qualitative studies about legal practitioners' attitudes and decision-making processes;
- establishing community justice centres;
- establishing consistent and detailed legal framework, policy guidelines that formalise the position of restorative justice in the criminal justice system.

Regarding the question how it would be possible to motivate these professionals more effectively to use VOM/RJ training, respondents mainly mentioned the essential need for

- establishing its basic legislative framework;
- providing more information; more trainings;
- convincing them about their interest in cooperation with mediation projects;
- highlighting the importance of other aspects than only maintaining their hegemony role in the criminal justice system; emphasising that some decentralisation in the justice system does not necessarily make their profession needless;
- implementing automatic referral protocols;
- stimulating intra- and inter-sectoral partnerships, networking activities; intensive cooperation with other actors working in relation to the criminal justice system, such as psychologists, criminologists, social workers, educators, prison personnel, victim support workers, etc.;
- creating broader concepts for promoting mediation;
- making study trips possible in abroad; observing different schemes;
- starting pilot-projects in cooperation with penal courts;
- efficiently involving the media in reporting about restorative justice, best practices and successful cases;
- giving incentives to them (e.g. reduction of their work);
- highlighting the interests of victims, offenders, communities and the society in the application of restorative justice;
- conducting and presenting evaluations of ongoing projects;
- presenting and observing real cases;
- highlighting the role of the justice system in supporting victims and in 'social peace';
- establishing the nation-wide, high quality institutional system of restorative services.

After presenting the detailed responses of the survey, and before giving a summary of the paper, let us highlight some common elements of the issues discussed above.

4. GENERAL REMARKS

4.1. ROLES OF LEGAL PRACTITIONERS

Concerning the different roles of legal practitioners it can be concluded that they play significant roles in all the involved countries in the field of identification, referral and follow-up of cases, in taking the agreements into account while making further decisions as well as acting sometimes as mediators.

But why is it important to consider their possible tasks while thinking about developing further cooperation with them?

By *identifying* and *referring* cases to victim-offender mediation, legal practitioners are the main gatekeepers and stakeholders in the practice of restorative justice. They are supposed to make appropriate decisions and select those cases in which mediation can really add surplus besides (or instead of) the traditional justice process for the parties. For these purposes it is essential that legal actors have the most up-to-date information about the theory, practice and the most recent research findings of restorative justice.

As concerns their role *as mediators*, it can be pointed out that usually it is excluded that a legal practitioner act in his/her traditional role and also as a mediator in the same case. However, experiences emerging from following and observing the practice can largely help them to gain relevant information about the potential of restorative justice. Involving them in the practice is a possible way also to shift them from that concern that mediation takes their roles (and power) away from their hands. Via active cooperation with legal practitioners in the practice of mediation, their importance can be clearly acknowledged, even if their roles might change as restorative practices are getting more intensively applied in the justice system.

Moreover, the formal involvement of legal experts in the practice of mediation can be even more beneficial in countries with strong legalistic traditions, since the legitimacy power they have in these societies would give credibility to the restorative approach as well.

If there are significant overlaps between legal professionals and mediators, i.e. they are the professionals who primarily act as mediators, providing thorough trainings for them might be even more crucial in order to avoid the risk of 'misusing' the technique and shifting to 'giving legal advice' under the label of 'mediation'. (As an example, in Hungary in the case of civil mediation lawyers have almost completely taken over mediation since its legislation (2002). Furthermore, because of the lack of standards and training requirements in mediation, the domination of the legal profession in the field has started to create very different ideas in the general public about what mediation might really mean.)

It is interesting to see from the responses that judges and prosecutors are crucial actors in selecting and referring cases. However, they are not very much involved in the *follow-up* of cases. Therefore, it is questionable how they can gain detailed picture about the outcomes of mediations.

It is important to emphasise that the consistent follow-up of mediated cases has the potential to provide important information for legal professionals about specific cases and the outcomes of restorative interventions. It can firstly stimulate their further cooperation with restorative projects; secondly, it can make the application of mediation more relevant concerning future referrals. In other words, if legal practitioners were intensively involved in the follow-up of cases and of the implementation of agreements, they would clearly see the outcomes of their referrals. It could beneficially re-effect on the role of identification and

might contribute to make the system more effective by selecting the right cases for mediation.

Similarly to the previously discussed process, if legal practitioners *take agreements into account* while making their final decisions in sentencing, as well as if *agreements of parties are more and more accepted* by the judicial authorities, it can also help them to act as effective gatekeepers in the procedure. Their involvement in these activities can be highly beneficial in selecting the most appropriate cases for mediation. As a consequence, the capacity of this alternative measure would be much more used. Hence, it could contribute to make criminal justice systems more effective and better tailored to the specialities of each case.

4.2. TRAININGS OF LEGAL PRACTITIONERS

According to the responses given in the survey, we can conclude that trainings in the field of restorative justice are usually not obligatory, but rather optional in the educational system of legal professions. They are provided mostly on the post-graduate level, when legal practitioners start to specialise themselves after obtaining the general law degree.

Trainings are mostly provided by universities and for-profit organisations, although the roles of NGOs and governmental organisations are also significant in supplying relevant courses. However, it is important to highlight the potential of governmental organisations (especially if they also provide accreditation) in increasing the credibility of such trainings.

In most of the involved countries, the formal education system has no significant role in providing trainings. Even when they are organised in the framework of universities, these are often for-profit activities of these educational institutions. Increasing the role of nation-wide institutions and universities in providing trainings might efficiently stimulate legal practitioners to participate in training courses in the restorative justice field.

Concerning the structure of the trainings, they are mostly theoretical course, although practical education is also available in several countries. Field practice was only mentioned in a small number of countries.

On the other hand, the content of the trainings primarily focuses on providing general information; secondly on demonstrating the practice and thirdly on discussing the theory of restorative justice.

It can be concluded in the restorative field that there are no specifically organised trainings for the different legal professions. On the undergraduate level lectures are usually provided in the framework of the general law training. On post-graduate level courses are voluntary and usually available for anyone who is interested in the theory or practice of restorative justice.

As a consequence, there is a lack of specific trainings tailored to the activities of the different legal professionals. However, such profession-based courses could have the potential to emphasise the key points of restorative justice from the particular viewpoints of each profession. In other words, specific trainings for lawyers, prosecutors or judges could put a stronger emphasis on the particular aspects of restorative justice in their field with special regard to their roles in the procedure. Such courses could discuss the advantages, disadvantages of referrals; could go into more details of procedural issues; could give a

deeper insight into the different types of cases as well as could map the needed cooperation with other agencies.

Based on the comments of respondents, it can be assumed that if legal professionals include mediation in their practice, often they individually construct their ways for proceedings and for cooperating with services providing mediations. There is still a significant need for profession-specific exchange that could stimulate the sharing of experiences and knowledge within each legal profession.

5. CONCLUSIONS AND RECOMMENDATIONS

The current paper intended to give a more detailed picture about the available training systems for legal practitioners in the restorative justice area. It firstly discussed some of the main reasons why this issue is quite important to explore. On one hand, arguments were made about the importance for legal practitioners to recognise the relevance of restorative justice as a more and more widely used approach of criminal justice systems and therefore as a subject that should receive space in their education system. On the other hand, the significant role of legal professions was emphasised concerning the implementation and development of restorative justice.

This overview was followed by the presentation of a small-scale research conducted within the framework of the COST Action A21 on the available training modules in 16 European countries. The outline discussed the main tasks and types of trainings to which legal practitioners might have access. Respondents could also share some personal reflections about legal practitioners' attitudes and the importance of their training. The presentation of the responses was ended with some more general remarks on the issues above.

To summarise, we can point out that there is no unified training system in the European countries. However, it is not surprising, since even restorative justice and victim-offender mediation is highly diverse among the countries. Moreover, the unification of such systems would be quite unrealistic, since legal and training systems are very different in most of the involved countries.

Nevertheless, consistent overviews on the subject could be essential for developing the restorative justice system, especially in countries that are still at the initial stage of the implementation process. Such outlines could well serve as guidance for further policies by, on one hand, presenting good practices and, on the other hand, by showing some typical pitfalls of existing systems.

Further comparative studies could aim to give a more detailed insight into the specific issues that each type of legal practitioners should mostly learn about. Differences could be drawn based 1) on the already existing restorative schemes, 2) on the role of professionals and volunteers in each country as well as 3) on the actual tasks that legal practitioners have in the process of restorative justice in the different countries.

Finally, let us summarise some points as recommendations of this research process. Although the next paragraphs do not intend to provide an exhaustive list about the main issues raised concerning the training of legal practitioners, it tries to sum up some of the main aspects that were emphasised by the respondents of the web-based survey, by the working group members, by the invited consultant as well as by the relevant literature. The following suggestions relate to the issues of 1) strategy, 2) target group, and 3) methodological as well as structural framework of trainings, including the content-wise aspects of courses.

5.1. Strategic issues

Restorative justice should be part of the formal education system of legal practitioners. Its integration in their general curriculum could largely contribute to their general awareness and to strengthening nationwide protocols.

Besides more specific trainings on the post-graduate level, providing general information and courses in the general university curricula could also contribute to the wider acceptance and use of mediation among legal practitioners. It is important to stimulate the nationwide implementation of successful training models. National accreditation of trainings and officially acknowledged certificates could largely motivate legal practitioners in participating in courses as well as would increase the credibility of trainings and of restorative projects.

While organising trainings it is important to take the local factors into account. In other words, the effectiveness of any training is highly questionable, if there are no future possibilities for case-referrals. Working together with local services can be useful in ensuring that the institutional setting that might allow and even increase the number of cases to be referred to mediation, following the training. However, it has to be noted that case-referrals can only partially be increased by training; other activities, such as the public promotion of mediation in the community are also essential in increasing its volume.

It is recommended to make and follow strategic plans both about the training and the application of mediation in a certain context. Its formalisation in the framework of a contract with the local agencies, such as the local government can also strengthen the feasibility and sustainability of long-term trainings and services. Trainings are more effective if they are embedded in such an institutional system that allows the continuation of working with the trained legal practitioners.

This latter point leads to the more general recommendation, namely, training systems should be part of a broader strategy of promoting the theory and practice of restorative justice among the actors of the criminal justice system. Therefore, in order to maintain the communication within the professional community, all kinds of trainings on any level should include the possibilities for regular intra- and inter-sectoral supervisions, exchange and consultations on both national and international level. Continuous dialogue between legal practitioners and the other actors in the field of restorative justice should guarantee the possibilities for giving feed-back and up-to-date information to each other as well as for revising and improving the actual procedural protocols of restorative justice.

5.2. Target group

It is useful to negotiate agreed targets with the relevant authorities before embarking on the training.

Police officers should be involved in trainings. Due to their work that includes the possibility of having direct contacts with victims, they might be more open for referring cases to mediation, compared to other legal professionals.

Concerning the optimal composition of the trained groups, there are diverse views among the experts. According to the Recommendations by the European Forum, mixed groups are useful, since prosecutors and judges “have gone through the same education and work in the same system”. Furthermore, it can be expected that they are “interested in optimising the cooperation between them – as the essence of mediation is to cooperate - and in developing similar standards for dealing with mediation in criminal matters” (European Forum, 2004: 13). Furthermore, mixed groups can broaden the perspectives in the brainstorming process.

On the other hand, mixing different groups for training purposes is not necessarily beneficial. It might help them to resolve differences, but is equally open to conflict and role-defensiveness. A single group might be more comfortable with their own if they have to

challenge their set ways. However, attention has to be paid to avoid that a professionally more homogeneous group shift the main lines of the discussions, and start to blame other professions (create scapegoats) concerning certain difficulties in their everyday work. Nevertheless, instead of deciding this issue in one way or the other, it is more important that the actual trainer bear these possible risks and the necessary balance in mind while working with the group.

5.3. Methods, structure and content of trainings

Training should be made attractive for legal practitioners by emphasising the judiciary's roles and importance in providing mediation. Also, it needs to be clearly demonstrated in which ways restorative justice might be part of their daily work. Instead of labelling their practice, by for example regarding them too punitive, the main goal should be to reach agreements on how restorative elements could be included in their concepts and practices.

Trainers need to be able to answer the personal questions and concerns of legal professionals. Therefore, it is recommended that trainers also be trained for working with criminal justice professionals in order to speak each other's language. Moreover, it is useful if police officers, prosecutors and judges are involved in the planning of training courses.

As a result of well-designed training systems, not only the number of referrals to mediation should significantly increase, but also visible attitudinal changes should be perceived in their approach towards restorative justice.

Practical forms of training can be highly useful. Alternative teaching forms, such as field practice (e.g. in prison, victim support service, in VOM service), or the "training on the job" model that provides the possibilities for constant feedback and supervision concerning the everyday application of mediation in a particular setting are greatly supported by experts in the field.

In order to constantly inform legal practitioners, publishing articles in their professional journals with special focus on their particular interest can also play an important role besides providing trainings. Moreover, presentations of international experts can play as 'door-opener' activities towards the legal professions.

General courses on restorative justice are the most useful, if they are included in the undergraduate curriculum of law schools. The content of the training should depend on the future role of the trained lawyers. For those legal practitioners, who will be primarily active in the identification, referral, control and follow-up of cases, shorter but focused, informative training sessions could significantly increase the effectiveness of their activities as well as raise their awareness about restorative justice. For those, who might act as mediators, much more complex and in-depth trainings should be available. These courses could be mostly fit in the post-graduate education of professionals. For these trainings international guidelines and exchange can be highly useful in order to improve training systems according to the commonalities of the different countries.

Skills, knowledge and attitudes are equally important factors in trainings. The emphasis on each of them should be tailored according to the future roles of the trained group.

Any kind of training should be considered as a continuous process. Following the initial courses, opportunities for further consultation and supervision should also be available in an in-service format in order to constantly shape legal professionals' knowledge, attitudes and

skills in relation to mediation. These occasions should provide space for exchange, mutual feedback, and evaluation as well as for sharing personal concerns.

Training should aim to make legal practitioners aware of the underlying principles of restorative justice and should make them interested in the extensive use of this approach in their daily work. The course sessions should include discussions about legal professionals' own perceptions about the principles, values, roles and overall functions of the judicial intervention as well as of their own practice; about the theory and practice of mediation and restorative justice; about its procedural elements and position within the criminal justice system; about the possible outcomes of mediation; about the basic skills required; and finally, about victims', offenders' and communities' perspectives.

All in all, establishing and improving training models for legal practitioners in the field of restorative justice should be a platform for criminal justice experts to have possibilities for continuous dialogue on one main issue that can be regarded even as a normative question: namely, how justice system could become more just.

REFERENCES

AERTSEN, I. (2001), *Restorative Justice Activity in Europe*, Paper presented at a Russian Restorative Justice Conference, Moscow, May 22-24, 2001: 4.

Council of Europe (1999), *Mediation in Penal Matters*, Recommendation No. R(99)19 adopted by the Council of Ministers of the Council of Europe on 15 September 1999.

Council of the European Union (2001), Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA) [17 October <http://www.coe.int/T/E/human_rights/Trafficking/3_Documents/International_legal_instruments/Victims_criminal150301.pdf>].

DI FREDERICO, G. (2005) [Ed.], *Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Europe: Austria, France, Germany, The Netherlands and Spain*, Bologna: Research Institute On Judicial Systems, National Research Council.

European Forum for Victim-Offender Mediation and Restorative Justice (2004), *Final Report of the AGIS project on "Working towards the creation of European training models for practitioners and legal practitioners in relation to restorative justice practices"* (JAI/2003/AGIS/129), unpublished material.

MIERS, D. and WILLEMSSENS, J. (2004), *Mapping Restorative Justice – Developments in 25 European countries*, Leuven: European Forum for Victim-Offender Mediation and Restorative Justice.

Technical Annex of the Memorandum of Understanding of COST Action A21 on "Restorative Justice Developments in Europe"(2002), COST 238/02.

United Nations (1985), *Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*, Adopted by General Assembly resolution 40/33 of 29 November 1985 [17 October 2005 <http://www.unhchr.ch/html/menu3/b/h_comp48.htm>].

United Nations (1989), *Convention on the Rights of the Child*, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. [17 October 2005 <<http://www.unhchr.ch/html/menu3/b/k2crc.htm>>].

United Nations (1990), *Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines")*, Adopted and proclaimed by General Assembly resolution 45/112 of 14 December 1990 [17 October 2005 <http://www.unhchr.ch/html/menu3/b/h_comp47.htm>].

United Nations (2002), *Basic principles on the use of restorative justice programmes in criminal matters*, UN Economic and Social Council. Annex to ECOSOC Resolution 2002/12 of 24 July 2002.

WEITEKAMP, E. (1999), "The Paradigm of Restorative Justice: Potentials, Possibilities and Pitfalls" in J.J.M. VAN DIJK, R.G.H. VAN KAAAN and J. WEMMERS, *Caring for Victims. Selected Proceedings of the 9th International Symposium on Victimology*, Monsey: Criminal Justice Press.