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INSTITUTE OF CONFLICT RESOLUTION  
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# Key-Practitioners' Report of FINLAND

3E-RJ-MODEL

The 3E Model for a Restorative Justice Strategy in Europe.  
Greece, United Kingdom, Bulgaria, Finland, Hungary, Poland, Spain  
(including research also in Turkey, the Netherlands, Denmark, Germany)  
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The 3E-RJ- Model  
for a Restorative Justice Strategy in Europe  
Concerning Act\_10 & 11 of the EU "3E-RJ-MODEL" PROJECT

## **3E-RJ-Model**

### **The national report on key-practitioners' interviews, Finland**

#### **Introduction**

Interviewers: Dr. Mirva Lohiniva-Kerkelä and researcher Pirjo Laitinen

We interviewed six key-practitioners: judge, prosecutor, police, mediator and two lawyers, one in public and one in private sector.

Judge in district court of Lapland (Rovaniemi), had 12 years' experience in her profession and she had got special training in RJ only in civil cases, especially conciliation in issues concerning the custody of the children.

Prosecutor in local prosecution office of Lapland (Rovaniemi), had 2 years' experience and she had got special training in RJ in the training program organized by the office of the Prosecutor General (supreme prosecutor in Finland).

Police, deputy head of daily (smaller and regular) crime investigation group in local police unit of Lapland (Rovaniemi), had 17 years' experience. He had not any special training in RJ, but had been participating in yearly organized training days, where also mediators from local mediation offices take part.

Mediator, responsible of mediation at mediation office of Rovaniemi, had 16 years' experience and she had participated yearly in supplement training on RJ issues.

Lawyer, advocate, Sodankylä legal aid office, had 34 years' experience and she had not any special training in RJ.

Lawyer, advocate, private practice in Sodankylä, had 25 years' experience and he had not any special training in RJ.

## **1. A General Approach of Restorative Justice**

### **1.1 On Restorative Justice within the Criminal Justice System**

Key-practitioners' opinion about the way that Restorative Justice is implemented in Finland is quite coherent. The majority of interviewees agreed on the fact that Restorative Justice lines smoothly with the Criminal Justice System as well as may provide an alternative, effective and cost-effective response to crime for both the state and also for the parties involved.

Representatives of the official criminal justice system pointed out that means of restorative justice (possibility to make referral to mediation and take the possible mediation agreement into account in consideration of all levels) can make the process more flexible, give more discretionary power and give alternative measures in solving the case and it can also stop the official criminal process. According the police's opinion the mediation could be combined into official criminal process (specially to preliminary investigation) in a better way so that it is not kind of "extra" process.

According to mediator's opinion it can help towards the reform of Criminal Justice System and may provide an alternative, effective and cost-effective response to crime for both the state and also for the parties involved. The lawyer in the private sector was rather skeptic and did not choose any of the alternatives. According to him the mediation is only one bureaucratic step more in the system.

### **1.2 On the objectives of Restorative Justice**

According to key practitioners' experience on the field of Restorative Justice all the listed goals were mentioned. So in the way it is implemented in Finland, it can help towards the community development, can support the victims of crimes by encouraging them to express their needs and by enabling them to participate in the process, can help the

offenders of crimes by encouraging responsibility and can even contribute to the reduce of recidivism.

The judge and the prosecutor both agreed that restorative justice can help the offenders of crimes by encouraging responsibility and the police didn't choose directly any of the alternatives. The mediator had most positive opinion and she chose all the alternatives, but lawyers were more doubtful about the fact, how all the objectives have been reached in Finland. The lawyer in the public sector noticed that this still provides better concern for the rights of the victim.

## **2. Restorative Justice Frame of Implementation**

### **2.1 On levels and forms of implementation**

The majority of interviewees agreed that Restorative Justice is implemented quite well on police level, on prosecution level and on court level. General expressed opinion was that it is good that the most active levels are police level and prosecution level. Some of the interviewees agreed that it could be expanded on correctional level of the Criminal Justice System in Finland.

### **2.2 On categories of crimes**

The main categories of crimes that Restorative Justice is mainly implemented according to the interviewees are assaults, criminal damages to property, thefts and other smaller property crimes. Almost all of the interviewees agreed that all other crimes than serious violence or sex offences can be object of mediation. An exception to this general opinion had the mediator, who thought that all categories of crime can be object of mediation. The majority of interviewees also saw that mediation is not the best possible mean to be used in cases of family violence or violence in intimate relations.

### **2.3 On Children and Young Offenders**

The majority of interviewees agreed that RJ is implemented quite well on the different levels of the Criminal Justice System in Finland concerning children and young offenders and it could be more expanded in quantity. They also pointed out that it is important to pay attention to equal positions of participants (for example when other part is very young).

All interviewees agreed that parents should be more involved with the mediation, now they are not always present in mediation, though they are informed. According to the opinion of the prosecutor and police the social workers should also be more active in involving. Even at the court in every criminal case where offenders are young delinquents there are not always social workers presented. Some of the interviewees agreed that system could be expanded even on correctional level of the Criminal Justice System, but only in that case if victims or their relatives agree. Nowadays RJ is not implemented at all on the correctional level in Finland.

### **2.4 On Victims and Offenders**

According to key practitioners' experience on the field, they think that in generally there is an equal access to Restorative Justice, but in some distant communities in Lapland (Northern part of Finland) it can be rather difficult to get expert help, for example psychological support due the geographical reasons. For example in Sodankylä you can get mediation services, but for specific psychological/psychiatric support you had to travel to Rovaniemi (130 km from Sodankylä).

According the majority there is enough general information about mediation. Anyhow there ought to be more specific information for both parties, for example information about amounts of compensation of damages and expected punishments which are possible according to common legal praxis in criminal courts. There is also a need for more information about victims and offenders rights.

According to the majority the existing frame of restorative justice could be expanded to a broader number of cases.

The opinions whether there is enough time for making decision about participating mediation varied. The layers' opinion was that there is not enough time because you had to decide immediately after the police investigation if you want to participate in mediation or not. Mediator told that there is enough time, when mediation office contacts victim or offender they give at least one week time for decision. They contact victim/offender again after one or two week. However the prosecutor pointed out that it is possible for participants to express their readiness for mediation even during the prosecution process.

The majority of the interviewees expressed the opinion that the rights and safeguards of both victim and the offender may not be fully protected during the implementation of Restorative Justice in Finland. Especially lawyers, prosecutor and representative of police thought there are problems in mediation, especially when thinking the amounts of compensation of damages, which people have no idea before the court session. Mediators should have legal training that they could tell for parties what the amounts of damage compensation are in certain crimes. Victims have sometimes experienced that they have been pressed to an agreement for minimum damage for example 50 euros or the offender has not paid the damage compensation despite of the agreement. The prosecutor expressed also the opinion that the practices of mediation offices can vary.

## **2.5 On Restorative Justice Process and Services**

According to key practitioners' experience restorative justice universally accepted principles are implemented in Finland.

Social and cultural factors are generally taken into account and interpreters are present in mediation process, when needed. According to prosecutor and police the cases where participants have foreign background are less frequently referred to mediation.

In Finland there is adequate number of trained staff in the services involved in Restorative Justice and there are enough adequate services. Lawyers thought that more legal training for mediators should be included in training. Majority of the interviewees thought that mediators can be both professionals and trained voluntary citizens, but according to lawyers' opinion mediators should always be professionals, not volunteers. According to the prosecutor and judge the skills and the knowledge of mediator is important especially in more difficult cases.

According to the majority's opinion, co-operation works well with social workers, mediators and other professionals.

### **3. On Restorative Justice Obstacles and Good Practices**

**3.1** Majority of the interviewees did not consider mentioned examples as obstacles for the diffusion and the further implementation of Restorative Justice in Finland. Mediator thought that the lack of public awareness could be obstacle, but not the lack of social acceptance towards Restorative Justice. More information and cooperation between authorities and citizens could increase the social acceptance of the system. Both police and prosecutor pointed out that the attitude of police and prosecutor authorities who make the referrals to mediation is often crucial.

**3.2** The most crucial factors which affect negatively as a practitioner during the implementation of a Restorative Justice is that people are not aware of their rights in mediation process and victims can't get damages paid as agreed in the mediation agreement. Especially lawyers are concerned about the unpaid damages, which had to be claimed in civil process after mediation process, which can take a long time. According to the mediator the most crucial factors are; lack of public awareness and lack

of the active community involvement. Conflicts should be returned to people and directed to mediation immediately after conflicts are born, already before the report to the police.

**3.3**The most important component for Restorative Justice good practices is to increase the knowledge about victim's and offender's rights for example the right to withdraw their consent at any time during the process. Mediator told that they have good directions given by national supervising authorities about good practices in mediation process and especially good practices in mediation in cases of violence in intimate relationships.

As an example of good practice both prosecutor and police mentioned regularly organized meetings with police authorities, prosecutor and mediators and a model where the police who had sent most cases to mediation was rewarded once a year.

#### **4. Conclusions, comments and suggestions by the researcher**

There were not very great differences between the answers of interviewees and in common they were quite satisfied to Finnish system. Main things that concerned the interviewees were issue concerning one hand the equality of the participants and on the other hand the rights of victim, especially question about compensation. The greatest concern was that if the victim can't get damages compensated (even paid) in mediation process, she or he can feel humiliated and cheated, if offender can even avoid the punishment. The system should be changed somehow in the way that the right to compensation of damages is real and not only words on the paper. Lawyers are contacted often in these cases when mediation has failed or the process has been unfinished.

It is also very important to pay attention to the equality and equal treatment of participants during mediation. It was also pointed out that the professional skills of mediators are very crucial in order to have succeeded mediation process and outcome.