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## **FINAL NATIONAL REPORT OF GREECE**

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)  
JUST/2010/JPEN/AG/1534

**2013**

## **Restorative Justice in Greece**

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### **A. Introduction**

The Greek criminal justice system is based on the Continental tradition. Therefore, the stages of the criminal justice process in Greece are: prosecution, preliminary examination, trial and implementation/execution of penal decision. The Prosecutor supervises the whole process as well as the actions of the rest of the authorities (police, prisons and the officers in the justice system); during these stages he/she acts as an independent judicial authority in the name of the State to ensure both the Constitutional Rules and the proper operation of the application of the Law. Moreover, the Prosecutor conducts the penal prosecution and the preliminary investigation and is responsible for checking the imposition of the decisions of the court. The judicial system in Greece consists of a) courts of ordinary jurisdiction for civil cases (The Supreme Court, Courts of Appeal, Courts of First Instance and Courts of Piece) and penal cases, and b) Administrative Courts (Council of State, Administrative Court of Appeals, Administrative Court of First Instance) (See Annex I: Key points of the Greek legal system).

Particular rules manage the operation of these different courts (article 96, par.1 of the Greek Constitution). The decisions of the court underlie to the rules of law and the rules underlie to the Greek Constitution. The Code of Penal Procedure sets the rules of the procedures of Criminal Justice determining the duties and the appropriateness of the services and officers as well as all the stages of the criminal justice process starting with the establishment of guilt and resulting to the imposition of the penalty provided by the Law. Special provisions exist for juveniles. Overall, the main principles of the Greek justice system are:

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- According to Article 93, par.2 of the Greek Constitution, sessions are primarily public. The principle of publicity can break only in special cases which inflict the protection of the dignity of the accused. Juvenile courts are indicative examples of this exception specified by Article 96, par.3 of the Constitution.
- The judgment of the court has to be detailed and documented. With the exception of cases from juvenile courts, the judgment is conveyed in public.
- The presumption of innocence. Practically, this principle obliges the instruments of the State prove the guilt of the accused; if this evidence is lacking, the accused is innocent without having to prove his/ her innocence.

The idea of Restorative Justice (hereinafter RJ) has some Greek roots that can be traced already in ancient Greek philosophy. Indeed, Aristotle's "epanorthotikon dikaion" (Greek phrase for "restorative law") as this is already clearly defined in his "Nicomachean Ethics, Book V."<sup>2</sup>, the participation of citizens in the administration of justice, the implementation of mediation schemes and arbitration by the "Tessarakonta" (Greek work for "Forty")<sup>3</sup> and the Public referees are all exemplary of RJ practices in ancient Greece<sup>4</sup>. However, the restorative actions and ideas in ancient Greece differ from the RJ schemes encountered today.

RJ in Greece has developed over the last decade and especially the past five years. The practice of mediation is central to these developments in legal and social contexts. The restorative practices in the legal framework operate as complementary and alternative to traditional procedures of Greek criminal justice. Provisions that promote the processes of conciliation and mediation between offenders and victims are found in the criminal and the civil law and the law for juvenile offenders. Law 3500/2006 on the confrontation of family violence<sup>5</sup> and Law 3898/2010 on mediation in civil and commercial matters are

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□ Aristotle (n.d.), The Nicomachean Ethics, pp. 252-323.

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□ This institution consisted of forty citizens whose role included the provision of mediation services in cases of physical violence and other disputes.

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□ Artinopoulou 2010a, Restorative Justice, A challenge for criminal justice systems, pp. 5-12; Adam-Magnisali 2008, Administration of Justice in Ancient Athens.

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worthy of reference. Law 3189/2003 on the reform of juvenile legislation is a major breakthrough in the treatment of juvenile offenders. Additionally, RJ is promoted through various mediation programs at social level, especially in school settings and is further promoted in academic and research level.

Historically, the development of RJ in Greece is not based on a general or overarching scheme. Instead, independent and fragmented programs and initiatives are taking place at various time intervals. Even the restorative legal measures are often either the result of European directives or were introduced to improve and speed up justice without further restorative developments on a unified base. Overall, the development of RJ schemes in Greece is based on both law and practice, but meets a number of organizational, operational and financial obstacles that hinder the implementation and development of restorative practices. The current situation is positive, but both the need to develop a wider dialogue on RJ and its practices as well as the need for better coordination and operation of existing practices and measures are very significant.

## **B. Legal Frame of Restorative Justice**

The Greek legislation has introduced the implementation of RJ measures and practices; these provisions developed mostly during the last decade and can be more or less observed in all stages of criminal proceedings throughout formal and semi-formal practices<sup>6</sup>. The restorative measures are implemented as complementary or alternative procedures within the limits of the traditional criminal justice system (hereinafter CJS). In general, the restorative practices that are provided by the Greek legislation, are applied to petty offences, misdemeanors, and felonies. These measures apply to a range of crimes against property and other crimes of the Greek Penal Code (hereinafter GPC), as well as in civil and commercial matters.

A very important restorative provision in the Greek GJS has been the introduction of mediation, which was first introduced by the Law 3500/2006 "On Confronting Domestic

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<sup>6</sup> Symeonidou- Kastanidou, E. (2006), The draft Law on Family Violence, *Criminal Justice 2006*, p. 1013

Violence and other provisions", and more recently by Law 3898/2010 on "Mediation in civil and commercial matters"<sup>7</sup>.

In the first case, Law 3500/2006 introduced penal mediation (Articles 11 to 14) to cases of misdemeanors of domestic violence<sup>8</sup>, allowing the prosecutor to suggest to parties the possibility to resort to mediation before criminal prosecution or before trial. The option for the offender and the victim to resort to mediation is given under conditions that have to do with the offender's willingness and his promise that he<sup>9</sup> will not commit any act of domestic violence in the future, he will accept to reside elsewhere beside the family residence for a reasonable period (if the victim suggests it), he will attend a therapeutic counseling program provided by a public health institution, and he will restore/repair any harm or damage caused by his acts and provide fair compensation to the victim. The process of penal mediation takes place only if both the victim and the offender agree to participate<sup>10</sup>. If the parties reach a final agreement and the offender complied with the terms of that agreement for three years, then the case is closed. Otherwise, the prosecutor may open the case and proceed with the conduct of criminal proceedings.

The introduction of mediation in criminal cases of domestic violence came into full force in 2007 and was the result of harmonizing Greek legislation with EU directives, such as the decision on the standing of victims in criminal proceedings<sup>11</sup> and the recommendation concerning mediation in penal matters<sup>12</sup>. The introduction of mediation

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□ See Ministry of Justice, Transparency and Human Rights website: [www.ministryofjustice.gr](http://www.ministryofjustice.gr), follow Legislation (in greek).

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□ See also Artinopoulou 2010b, Victim Offender Mediation in Cases of Domestic Violence.

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□ The pronoun "he" is used here for the flow of speech and not necessarily as demonstrative of the gender of the offenders.

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□ If anyone of them or both refuses, then the criminal proceedings take place without any substantive or procedural negative consequence.

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□ Council of European Union (2001), *Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings* 2001/220/JHA.

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is widely accepted, although is being criticized as to its suitability in this type of crimes, raising issues of transgender inequality and imbalance of forces. Furthermore, the lacks of appropriate structures and of sufficient training are also mentioned<sup>13</sup>.

In 2010, mediation in civil and commercial matters was introduced by Law 3898/2010, as a result of the integration, into Greek legislation, of the European Directive 2008/52/EC "on certain aspects of mediation in civil and commercial matters"<sup>14</sup>. According to the Law, recourse of the parties to mediation occurs either on their own will, or after the encouragement of the court, or if a court of another Member-State orders to do so, or if it is imposed by law. The law also includes related provisions concerning the definition, the training and the remuneration of mediators, the procedure overall, the training, certification and accreditation institutions, and the promotion of mediation by informing the general public about the Act. In brief, the mediator must be a lawyer accredited as mediator<sup>15</sup>, by a licensed institution<sup>16</sup> of training in mediation that operates as a nonprofit corporation and under the supervision of the Ministry of Justice, Transparency and Human Rights for the certification and accreditation of mediators.

This Law received strong reviews on the narrow restriction of professional practice only by accredited lawyers, as numerous comments referred to the protection of the interests and of the Lawyers Bar Association, about the risk of lack of impartiality and neutrality which often characterizes the nature of the legal profession, and about the

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<sup>13</sup> Council of Europe, Committee of Ministers (1999), *Recommendation no. R (99) 19 of the Committee of Ministers to member States concerning mediation in penal matters*.

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<sup>14</sup> Artinopoulou 2010a, *Restorative Justice, A challenge for criminal justice systems*, pp. 112-113; Artinopoulou 2010b, *Victim Offender Mediation in Cases of Domestic Violence*, pp. 182-184.

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<sup>15</sup> European Parliament and Council (2008), *Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters*.

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<sup>16</sup> Specifically, the law states "A mediator is a third person in relation to the parties, that is required to undertake mediation with appropriate, effective and impartial manner, regardless of how it is defined or undertaken to perform that mediation. The mediator must be a lawyer accredited as mediator, as defined in Article 7. If it is a cross border dispute [...], the parties may appoint an accredited mediator who does not have the lawyers' capacity." (Art. 4, paragr. c', of Act 3898/2010).

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<sup>17</sup> Specifically, the Act defines that "Institutions of training of mediators can be non-profit corporations which are constituted by at least one bar association and at least one of the chambers of the country, and operate after the authorization by the service of Article 7." (Art. 5, paragr. a', of Act 3898/2010).

contradictions and contrasts between the definition of the mediator in the Greek Law 3898/2010 and those in European directives and international resources which define mediator as any third neutral person adequately trained in mediation<sup>17</sup>. Besides the introduction of mediation in criminal, civil and commercial law, article 214A<sup>18</sup> of the Greek Code of Civil Procedure provides amicable settlement outside of courts in cases of private disputes, with the participation of the lawyers of the parties or any other third person of common choice.

So far, we have described the introduction of mediation in the GJS which constitutes an alternative procedure to the traditional penal or civil proceedings. Restorative measures are also found to be a complementary part of the traditional Greek criminal justice procedures. On the police level, police officers may in some cases informally attempt to reconcile the parties in order to avoid referral to the prosecutor<sup>19</sup>.

On the prosecution level, the prosecutor may advise the parties to resolve their dispute or conflict out of court and try to reconcile<sup>20</sup>. More recently, penal conciliation (Article 308B of the Greek Penal Procedure Code, hereinafter GPPC) was introduced by Article 17 of the Law 3904/2010 (Government Gazette A' 218/23-12-2010) on "Rationalization and improvement of the administration of criminal justice and other provisions". According to Article 17, the prosecutor, acting at the request of the accused and after having press charges in cases of felonies against property<sup>21</sup>, may invite the defendant and the victim or their lawyers to conciliation. The achievement of conciliation is taken

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□ Comments posted on the website of the Ministry of Justice, Transparency and Human Rights for consultation during the period that the draft law on mediation in civil and commercial matters was being consulted (27 April 2010 to 7 May 2010); <http://www.opengov.gr/ministryofjustice/?p=183> (in Greek).

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□ Originally introduced by Act 2298/1995 and later amended. See Ministry of Justice, Transparency and Human Rights: [www.ministryofjustice.gr](http://www.ministryofjustice.gr) Follow Codes, Code of Civil Procedure (in Greek).

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□ Lambropoulou 2010, op cit, p. 141; Artinopoulou 2010b, op cit, pp. 179, 180; European Forum for Restorative Justice 2008, Restorative justice, p. 10.

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□ *ibid*

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□ Art. 375 (embezzlement), 386 (fraud), 386A (electronic fraud), 390 (perfidy) and 404 (usury) of GPC. The penal conciliation, though, is not applied in cases that the victim of the above crimes is the State, public entities and local authorities.

into account in the next stages of the proceedings, and if the accused is found guilty, the sentence will not exceed three years. According to the above article, if either the defendant or the victim does not have a legal counsel/advocate, the prosecutor shall compulsorily appoint one from a list of counsels formatted by the competent Bar Association. The prosecutor sets a time limit of fifteen days to the legal counsels/advocates of both parties on drafting the conciliation record on which there shall be certified the attribution of the appropriated object or the full restitution of the victim. If this is completed before the defendants' plea, then the inquiry process is considered as also completed for the defendant that participates to the conciliation process but also for the abettors that accept this result. If the process is completed after the defendants' plea, then the restrictive measures of article 282 GPPC are raised after a compulsory ordinance of the prosecutor. On the other hand, if the conciliation is not achieved, then the defendants' request for penal conciliation is considered as never imposed and all the relevant material are destroyed and not taken into consideration at any stage of the process. In cases of attempt of the felonies that are provided for penal conciliation, the conciliation record refers to the compensation of the victim for moral damage. In cases of more than one offender/abettor, then the compensation paid by one of them benefits also the others. If one of the perpetrators/abettors does not wish to participate to the penal conciliation process, then the case is separated and the traditional process unfolds normally for the one who denied the referral to the above RJ process. The same happens in case that the defendant(s) is accused also for other offences besides those that are provided for penal conciliation according to the law. Within five days from the day that the conciliation record is completed, the prosecutor imposes the case to the prosecutor of appeals who refers the case to the competent court, which, after taking into account the conciliation record convicts the offender and sentences him/her to a penalty of deprivation of liberty that not exceeds three years. Taking into account the general conditions of the offence, the court may decide that no sentence should be imposed to the offender. Against the decision of the court no appeal can be deposited.

At court level, the judge often informally encourages the litigants to resolve their case or to compromise outside of court<sup>22</sup>. Moreover, many articles of the GPC (e.g. Articles 289,



384 and 406A, as mentioned in Law 3904/2010 and Law 3160/2003<sup>23</sup>) propose to discharge the accused from any penalty for crimes against property<sup>24</sup>, arson, explosions, etc., as long as the offender with his own will fully restore/repair the damages or the harms he caused to the victim, and/or reduce the risk caused by his acts, within the deadlines prescribed by law (e.g. until the beginning or the end of the evidence procedure) and depending on whether it is a misdemeanor or felony (e.g. before the examination of the accused in any way by the authorities in case of felony).

At the correctional level, RJ measures for adults are quite limited. The court has the option to impose community service orders to adult offenders, which will be carried out at designated governmental, public, nonprofit or private organizations and services (article 82, paragraphs 7 and 8 of GPC), and under the supervision of the Probation Services<sup>25</sup> of the Ministry of Justice, Transparency and Human Rights. Furthermore, the Central Scientific Council of Prisons (K.E.S.F.)<sup>26</sup> often engages in dialogue with the Ministry of Justice for the continuous improvement of the correctional measures, but it has not proposed the introduction of any restorative practice during incarceration or upon release from prison yet. Finally, EPANODOS<sup>27</sup>, a non-profit agency operating under the supervision of the Ministry of justice, helps the resettlement and reintegration of ex-

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<sup>23</sup> Lambropoulou 2010, op cit, p. 141; Artinopoulou 2010b, op cit, pp. 179, 180; European Forum for Restorative Justice 2008, op cit, p. 10.

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<sup>24</sup> See Ministry of Justice, Transparency and Human Rights: [www.ministryofjustice.gr](http://www.ministryofjustice.gr) Follow Legislation (in Greek).

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<sup>25</sup> Art. 375-374, 375-377, 381, 382, 386-406 GPC.

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<sup>26</sup> See Ministry of Justice, Transparency and Human Rights, Follow Penitentiary System, Prevention and Control of Crime (Probation services are mentioned as Services of Social Assistance Guardians).

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<sup>27</sup> It is an agent of correctional practice, which proposes measures to improve the conditions of the correctional facilities and to train and conduct training programs for staff and prisoners (Art. 8 of Act 2776/1999 Penitentiary Code; Art. 12 paragr 2 of Act 3090/2002).

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<sup>28</sup> Operating since 2007 (art. 81 paragr. 2 of Penitentiary Code). For more information see: [http://www.epanodos.org.gr/index\\_en.html](http://www.epanodos.org.gr/index_en.html)

offenders back to society, promotes their working skills by providing them access to the labor market and offers consulting and psychological support<sup>28</sup>.

Especially for juvenile offenders<sup>29</sup>, Law 3189/2003<sup>30</sup> on the "Reform of penal legislation for juveniles and other provisions" is of a great importance. This Law restated the educational and therapeutic<sup>31</sup> measures for the reformation of juvenile offenders and increased penal nonage at the age of 13 years. The educational measures are imposed in cases which the juvenile offender is under the age of 13 years, or when his/her act is a petty offence, or when is deemed not necessary to be imposed incarceration to restrain the juvenile from committing new crimes. Among the proposed educational measures is the reprimand of the minor; the conciliation between the juvenile offender and the victim in order to settle the case out of court and for the juvenile offender to express apology and manage the consequences of his/her act; the community service; the attendance social and psychological programs in relevant public or private agencies or services; and other measures that have to do with the lifestyle or the upbringing of the juvenile. Victim-offender mediation was introduced by this Act in the legislation for juveniles, although it had been already introduced via Law 3500/2006 on domestic violence where penal mediation may take place even when the victim of domestic violence is a minor, but only with supervision of the public prosecutor (Article 11, paragraph 3 of Law 3005/2006).

In addition, diversion from prosecution is possible when the juvenile offender has committed a petty offence or misdemeanor, and the prosecutor considers that there is no need to press charges, as he has the ability to impose (to the juvenile) educational measures and a payment of EUR 1000 to a charity or an NGO (article 45A GPPC). Law

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□ Although a important service for the reintegration of ex-offenders, its services cannot be considered restorative yet, as it has not engage to any of the main restorative justice schemes (e.g. victim-offender mediation, conferencing, ect).

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□ See also Lambropoulou 2010, op cit; Papadopoulou 2006, Victim-Offender Mediation for Minors in Greece; Artinopoulou 2010a, Restorative Justice, pp.98-108.

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□ See Ministry of Justice, Transparency and Human Rights website, follow Legislation (in Greek)

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□ The therapeutic measures are imposed when the minor is mentally ill, or suffers from disruption of his/her cognitive function, or other physical disease or dysfunction, or substance use.

3189/2003 also promotes the reduction of custodial sentences for juveniles offenders who are 18 years old, as far as the court considers that it is not suitable to impose custodial sentences for the punishment of the juvenile (Article 130, paragraph 1 GPC). Additionally, juvenile offenders who have completed half of their custodial sentence are released on parole; under special circumstances, this also applies when they have served at least one third of their sentence in prison (article 129 GPC).

More recently, Law 3189/2003 was reformed by Law 3860/2010<sup>32</sup> on "Improvements on penal legislation for juvenile offenders, prevention and treatment of juvenile victimization and delinquency" which increased the limits of penal nonage at the age of 15 years and set the imposition of custodial sentences only when it is proved thoroughly that the educational or therapeutic measures are not sufficient in each case. Moreover, law 3860/2010 made some reforms on the Minor Protection Services and established the "Central Scientific Council for the prevention and confrontation of the victimization and the criminality of juveniles" (K.E.S.A.TH.E.A.). Child Protection Services and Juvenile Probation Services<sup>33</sup> deal with the treatment of juvenile offenders out of court and provide support to juveniles to whom the court has imposed educational or therapeutic measures. The newly K.E.S.A.TH.E.A.'s<sup>34</sup> mission is to coordinate and organize the actions and measures (including educational measures) for the prevention and treatment of juvenile victimization and delinquency, and cooperate with the Minor Protection Services and other organizations and agencies, and suggest relevant improvements to the Ministry of Justice. President of the Board is Prof. A. Pitsela, the scientific project leader of our 3E RJ program.

The Acts and the provisions in the GPC and the GPPC described above, provide a legal base for RJ in Greece. Mediation and other restorative measures may apply to both juvenile and adult offenders. However, RJ schemes are not widely applied to GJS as

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□ See Ministry of Justice, Transparency and Human Rights website, follow Legislation (in Greek)

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□ They operate under the jurisdiction of the Ministry of Justice, Transparency and Human Rights. See [www.ministryofjustice.gr](http://www.ministryofjustice.gr) Follow Prevention and Control of Crime.

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□ See Ministry of Justice, Transparency and Human Rights, follow Prevention and Control of Crime; See also K.E.S.A.TH.E.A.: <http://www.kesathea.org> (in Greek)

general procedures which can be used in any criminal case. Legal provisions define the use of every restorative measure as to when and in what cases they can be used.

### **C. Actual Situation of Restorative Justice**

The implementation of the restorative measures which were mentioned above –even promising- is not so encouraging at the moment. Both the implementation of victim-offender mediation in cases of domestic violence, and victim-offender conciliation scheme in juvenile legislation are rare<sup>35</sup>. However, the lack of statistical data and empirical research on the implementation and effectiveness of these restorative practices do not allow us to any further reliable analysis, and probably prevent the further development of restorative practices and measures in Greece. This may be due to the absence of a central agency or center for RJ that will coordinate and evaluate the implementation of restorative measures. Mediation in civil and commercial matters (Law 3898/2010) has spent little time on the force of Law, so it is rather premature to draw any conclusions. Overall, the main reasons for the limited use of restorative measures are:

- the lack of adequate training of competent services<sup>36</sup> to the purposes and practices of RJ,
- the mistrust that is observed in these services concerning the implementation and effectiveness of the restorative procedures, due to legalistic attitudes and/or 'traditional' criminal justice system representations,
- the lack of appropriate structures (e.g. mediation centers) with qualified staff to carry out the restorative procedures,

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□ Artinopoulou 2010a, op cit, pp. 100-102, 113-114; Artinopoulou, 2010b, op cit, pp. 183-185; Lambropoulou 2010, op cit., pp.143-147; European Forum for Restorative Justice 2008, op cit, pp. 12-13.

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□ So far, the cases of mediation are referred to public services with no expertise in mediation. Victim-offender conciliation in cases of juvenile delinquency are referred to the Juvenile Probation Services, and the cases the victim-offender mediation in domestic violence cases are referred to the National Centre for Social Solidarity. For more information about National Centre for Social Solidarity visit [www.ekka.org.gr](http://www.ekka.org.gr)

- the reduced financial resources and the workload at the existing services where mediation cases are referred to.

All these reasons, which are in turn also consequences of the lack of a wider debate on RJ and its practices; this is further reflected on the absence of any pilot projects before the implementation of the legislative provisions<sup>37</sup>.

The absence of any national RJ program or initiative in Greece has also played a very important role. Greece's participation in the AGIS Project of the European Forum for Restorative Justice has been the only country participation in a funded program for the comparative study between Member States concerning RJ<sup>38</sup>. The only source of legal information on RJ for citizens and legal professionals are the very laws which do not explain the background of restorative practices, its goals and objectives, so there is a risk of incorrect and inappropriate implementation of restorative measures and of creation uncertainty in legal professionals and other agencies<sup>39</sup>. The reduced financial resources (including public funds) and the coordination problems between the agencies of criminal justice policy in Greece are potential causes that hinder the organization and conduct of such national RJ programs and initiatives at least the last two years.

RJ in other sectors of Greek society is evolving positively but slowly, as a growing number of efforts promote RJ as an alternative method of resolving disputes and conflicts. A first bottom-up initiative concerning social mediation in Greece occurred in the Municipality of Korydallos (a municipality of Athens) in 2000. "Social Mediation Center of Korydallos Municipality" ran as a non-profit civil company for the peaceful settlement of disputes between citizens from 2000 to 2006. Its operation had very positive results, since 80% of disputes resolved through mediation and only 20% eventually was brought to justice<sup>40</sup>. Municipality of Korydallos corresponded to the

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□ Artinopoulou 2010a, op cit, pp.100-102, 112-114; Artinopoulou 2010b, op cit, pp. 182-183; Lambropoulou, 2010, op cit, pp. 144-147.

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□ European Forum for Restorative Justice 2008, op cit.

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□ ibid, p.14.

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preconditions for setting a RJ programme because of the ability to support alternative management of small crime and delinquency problems with standard social services of the local community. This initiative introduced a pilot settlement of an exemplary "Social Mediation Centre" for the provision of services to the local community regarding peaceful conflict resolution. Actually, Social Mediation Centre had been a non-governmental organization under the aegis of Municipality of Korydallos.

Additionally, expert social scientists collaborated with volunteers from the municipality in the following tasks: training of volunteers as mediators for the arrangement of conflict between neighbors as well as the promotion of peaceful problem-solving and communication between citizens via using the services of "Social Mediation Centre". Wider "citizen involvement" in mediation in the Municipality of Korydallos was promoted through conferences in the local level. Regulation of crime and delinquency by mobilizing and sensitizing citizens towards out-of-court conflict resolution processes as well as dialogue and communication reinforcement had been the main objects of the project of Korydallos. The "Social Mediation Centre" of Korydallos was reorganized and started in 2005. The operation of this initiative remains limited. The replacement of mayors and members of board of the municipalities create potential obstacles in such initiatives because priorities and agendas in local level are rearranged. Training and expert supervising and evaluation are also hard in instable conditions.

In addition, school mediation programs<sup>41</sup> that offer training of students and teachers of primary and secondary schools have already carried out and continues to take place in many areas of Greece (Athens, Thessaloniki, Crete, etc.)<sup>42</sup>. The primary disadvantage of these programs is that they are not part of any national program promoting school mediation. Instead, they are organized as independent initiatives of each school. Thus far, in assessing these programs, school community seems to be very positive and

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<sup>41</sup> In Artinopoulou 2010a, op cit, pp. 117-118 (footnote 251); Juvenile Justice Department of the Italian Ministry of Justice 2010, Restorative justice and Crime prevention, pp. 96-97.

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<sup>41</sup> More details follow at part D of the document.

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<sup>42</sup> Artinopoulou 2010c, School mediation, Training pupils in dealing with violence and bullying; Thanos 2011, Mediation in School and Society; Kanelopoulou and Neratzaki 2009, Conflict resolution in schools-The example of the German School of Athens; Senteris and Kintaoglou 2011, School Mediation: Implementation at the Stavroupolis 5th Gymnasium of Thessaloniki.

supportive in the implementation of school mediation. Trained mediators assess positively the training experience and the implementation of mediation in disputes between students. Although not many, the cases of disagreements or conflicts that are referred to mediation seem to be resolved definitively almost always. The relative recent implementation of these programs can not provide any further aggregated quantitative or qualitative analysis of these programs yet, both because of the small number of cases, but rather the absence of a national initiative to coordinate research and school mediation in Greece<sup>43</sup>.

Some NGO's as well as some academics play an important role in the promotion of RJ practices. Concerning the contribution of NGOs, the Hellenic Social Mediation Center (2009-present) and the Hellenic Mediation and Arbitration Center (2006-present) are two NGOs working to promote mediation in Greece. The Hellenic Social Mediation Center<sup>44</sup> with partners criminologists and psychologists, seeks to promote and raise awareness of citizens in peaceful conflict resolution and mediation, collaborate with other agencies and scientific societies for the prevention and treatment of violence, and provide mediation services. It has joined the Civil Society Parliament of Greece<sup>45</sup> alongside with other NGOs for the promotion and preservation of the role and the rights of NGOs. In 2010, the Hellenic Social Mediation center cooperated with the Teaching Center of Primary Education of University of Crete and other associations and organized a training program in school mediation for teachers that was followed by an experts meeting on School Mediation<sup>46</sup>.

The Hellenic Mediation and Arbitration Center<sup>47</sup> with partners active lawyers, aims primarily to raise awareness of the legal world for the institution of mediation and the

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□ The majority of these programs are evaluated by their own creators who in most cases are teachers and without the existence of any common standards for evaluation.

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□ Contact e-mail: diamesolavisi@hotmail.com

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□ Civil Society Parliament Of Greece: <http://koinoniamko.gr/>

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□ School Mediation meeting: <http://diamesolavisi.blogspot.com/> (in Greek)

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□ Hellenic Mediation and Arbitration Center: [www.hellenic-mediation.gr](http://www.hellenic-mediation.gr)

promotion of mediation in the business field; it has conducted trainings in mediation for lawyers in 2009 and 2011. In 2011, the Hellenic Mediation and Arbitration Center cooperated with the UIA Mediation Commission in the organization and conduct of "UIA World Forum of Mediation Centres and met the Officers of the World's Leading Commercial Mediation Centres" in Athens. Moreover, a seminar on mediation for lawyers was offered by Mediation Center of Thessaloniki Bar Association in 2009<sup>48</sup>.

On the academic and scientific level, the engaging of Greek Criminologists in the field of RJ is relatively limited but evolving rapidly<sup>49</sup>. It is the Emeritus Professor St. Alexiades at the Aristotle University of Thessaloniki, who first published a paper on victim offender reconciliation (1996) and afterwards he included RJ issues in his books<sup>50</sup>. RJ in the Penal Treatment of Juvenile Delinquency is thoroughly analysed by Angelika Pitsela, Professor at the Law School of the Aristotle University of Thessaloniki<sup>51</sup>. Professor of criminology at Panteion University of Social and Political Sciences in Athens, Vasso Artinopoulou has also published a number of books and papers on RJ<sup>52</sup>. She is teaching a relevant course

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□ Thessaloniki Bar Association: [www.dsth.gr](http://www.dsth.gr)

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□ For example: Alexiadis 1996, Reconciliation between victim and offender; Alexiadis 2007, Restorative Justice: A different treatment of the "crime issue"; Maganas 2007, Special Issues of Penal Law and Penal Procedure, pp. 27-41; Pitsela 2004, Penal control of the juvenile delinquency. And other references on RJ in texts on criminology and juvenile.

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□ Alexiades, Stergios (1996), Victim Offender Reconciliation, in Artinopoulou & Maganas (eds) *Victimology and Aspects of Victimization*, Nomiki Bibliothiki, Athens. See also, Alexiades, St. Restorative Justice: Another treatment of 'criminal phenomenon'. In Honorary Volume for Prof. I. Manoledakis, vol. II, Sakkoulas Editions, 2007, pp. 991-1017.

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□ Since 2000, Prof. A. Pitsela has studied the criminal justice diversion in juvenile delinquency. See Pitsela, A. Diversion in the criminal procedure in the austrian criminal justice system for juveniles. In National Center of Social Research Volume, in honour of Prof. H. Daskalakis, *Criminals and Victims in 21th century*. Athens, 2000 pp.553-580. Pitsela, A. *Penal Treatment of Juvenile Delinquency*. E' Edition, Sakkoulas Editions, Athens, Thessaloniki, 2004.

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□ Artinopoulou, V. (2010a), *Restorative Justice, A challenge for criminal justice systems*. Athens: Nomiki Bibliothiki Publications, (in Greek). – This is the first book about RJ written in Greek, Artinopoulou, V. (2010b), "Victim Offender Mediation in Cases of Domestic Violence: The Greek Experience". In *European Best Practices of Restorative Justice in the Criminal Procedure*, Conference Publications. Budapest: Ministry of Justice and Law Enforcement of the Republic of Hungary, pp. 177-186, Artinopoulou, V. (2010c), *School mediation, Training pupils in dealing with violence and bullying*. Athens: Nomiki Bibliothiki Publications, (in Greek), Artinopoulou, V. (2011), "The gray zones of restorative justice". In *J. Farsedakis' honorable volume*. Athens: Nomiki Bibliothiki Publications, pp.755-774.



at Panteion University and is running as scientific director the Hellenic Social Mediation Center.

Moreover, few doctoral dissertations are in progress in the fields of criminology and law in the greek universities<sup>53</sup>. Hopefully the research findings from the above Ph.D. theses will promote the RJ dialogue in Greece and contribute to a better understanding in RJ implementation issues.

Finally, an undergraduate semester course on "Restorative Justice and Social Mediation" (lecturer Prof. V. Artinopoulou) is included at Sociology Department (Panteion University) curriculum<sup>54</sup>. The aim of this course is to raise awareness to students about the current restorative trends in judicial systems and in other societal settings. Modules at other universities may include RJ in their content. For example, associate professor Angeliki Pitsela refers to RJ in the criminology and Law courses which she teaches at the School of Law of Aristotle University of Thessaloniki<sup>55</sup> with special emphasis on juvenile legislation.

#### **D. Informal Referrals and Informal Initiatives**

Restorative practices in Greece are, for the most part, informal and are performed by community-volunteers who are trained by experts and act as mediators in conflicts between neighbors or peers. Their character is rather preventive and preparing but they are also very effective in dealing with violence and conflict. Such RJ programs have a "local" character in order to enhance social bonds and norms and make communities

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□ Two Ph.D. theses at Sociology Department (Panteion University) are supervised by Prof. Vasso Artinopoulou in the field of RJ. The first is Mrs. Iro's Michael, Ph.D. dissertation under the title: "Restorative Justice and Correctional Psychology: Study of Admission Restorative Justice Practices in Prison" (2010-present) and the second one is of Mrs. Anastasia's Konidari, under the title: 'Restorative Justice in Greece: Attitudes and Representations in the criminal justice system'. Mrs. Effie Papaioannou<sup>□</sup>, is also a PhD candidate at National and Kapodistrian University of Athens, Faculty of Law. Her Ph.D title is: "Restorative justice in Greek Penal System" (2010-present) and is supervised by T. Tzanetaki, Assistant Prof. of Penal Law.

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□ Panteion University, Sociology Department website: <http://sociology.panteion.gr/>

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□ School of Law, Aristotle University of Thessaloniki website: <http://www.law.auth.gr/index.php?lang=en>

self-sufficient in dealing with problematic relationships. The first “restorative justice” and “mediation” initiatives arisen in local or smaller communities, for example the local community of a municipality (such as, for example, the “Social Mediation Center of Korydallos’ Municipality”) and a smaller community of a school. These restorative programs are bottom-up in character, originated by citizen initiatives and community-oriented as well. However, the development of such programs is more sporadic than constant and systematic. This is due to the lack of networking between experts who apply these practices; in turn, this is mostly because these programs have grown up recently in Greece.

The School Mediation programs followed after the first attempt of Korydallos’ Municipality to introduce alternative conflict resolution in local community level in Greece. In 2006, peer mediation was settled in the 2<sup>nd</sup> High School of the city of Aspropyrgos implementing the European Program “Comenius” for peer mediation and other initiatives for schools without violence<sup>56</sup>. Two years later (in the school period of 2008-2009), a pilot application of a peer mediation program took place in Ionideios High School of Piraeus (in Athens)<sup>57</sup>. “Ionideios” project was an initiative of the school committee supported by students and teachers. A whole school investigation took place in the first stage of program implementation. The types of school violence as well as student’s needs and ideas determined the final character of the “Ionideios school mediation program”. 10% of the total number of students was elected by their peers to be trained as “peer mediators”. The 30-hour training of students included communication and conflict resolution skills as well as practice and supervising in the application of “mediator’s duties”. The on-going evaluation of the program reflected a general sensitization of all the students who participated in mediation training which contributed to more qualitative relations with their friends and families<sup>58</sup>. What is more, peer mediation was promoted by students and teachers as a more formative way to deal

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□ Artinopoulou V., 2010c, op cit, pp. 105-106; Giannatou A., 2009, “Peer Mediators: method for violence prevention by students”.

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□ Artinopoulou V., 2010c, op cit.

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□ Ibid, 2010c.

with conflict. For the purposes of dissemination, "Peer Mediation Pilot Application in Ionideios High School" as well as the initiatives of "Aspropyrgos 2<sup>nd</sup> High School" and "German School of Athens"<sup>59</sup> were represented and discussed in the annual Educators' Training Meeting entitled "Crisis and conflict in School Environment" which was organized by the High School Advisors of Athens in 2009.

Teachers have shown interest in training as mediators too. A training mediation program for teachers of Primary Schools was implemented during the "Annual Teachers' Further Education Meeting" in Crete in 2010<sup>60</sup>. But school mediation programs are informal and often implemented as general projects of "Promoting Health Action" which include other initiatives such as violence prevention, drug prevention, environment protection etc. too. "Promoting Health action" projects often last 1-2 years, so "peer mediation" programs could be more effective and constant in school timetables if they had a more formal character.

Other informal attempts are for the most part "unstudied" regarding to practice patterns and evaluation. More or less organized initiatives for reconciliation between victim and offenders can take part in every stage of a criminal justice process. Especially in the first stage of police, the police officers try to reconcile victims and offenders before they exchange charges<sup>61</sup>. This informality is probably due to the limited role of police in the Greek CJS, as it is considered to be a way for a crime to be referred in the CJS and always operates under the orders of the judicial and prosecutorial authorities (Articles 13 and 33 of the GPPC). In the cases of informal dispute resolution, resolving the conflict lies in the discretion of police officer and after all to the good will of the parties. An apology from the offender works in less serious cases in front of a common intention of both the victim and the offender to avoid the troubles (and maybe the cost) of the court process. In cases of serious injuries, the prosecution is carried out by the Probation Officer independently of the informal reconciliation processes. In fact, the practices of

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□ Kanelopoulou and Neratzaki 2009, Conflict resolution in schools.

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□ About this program and evaluation, Artinopoulou V., 2010c, op cit.

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□ Lambropoulou 2010, op cit, p. 141; Artinopoulou 2010b, op cit, pp. 179, 180; European Forum for Restorative Justice 2008, Restorative justice, p. 10.

prosecution where the victim and the offender have to account separate in a competitive approach, make it difficult to agree to a mutual story and to recognize common needs, responsibilities and compensation. However, lack of evidence and research data will not permit any evaluation of how restorative and reconciliation initiatives implied during prosecution.

### **E. The Key-Practitioners of Restorative Justice**

As previously referred to, Law 3898/2010 on mediation in civil and commercial matters defines lawyers who have received relevant training as accredited mediators. The role of lawyers is naturally important for the implementation of mediation in civil and commercial matters. But beside the significant role of lawyers, many other professionals and volunteers contribute to the implementation of RJ schemes.

Police officers informally apply reconciliation schemes to avoid referring micro-conflicts to the already overloaded justice system. The prosecutors may informally (if not specified by law) or formally (e.g. Articles 308B GPC, Law 3500/2006) employ the practice of mediation and conciliation. Judges informally encourage litigants to resolve their dispute out of court or to compromise, and they deal with the rest of the cases that brought to justice taking into account the possibility of victims' restoration and compensation by the offender (e.g. Articles 289, 384, 406A GPC) that will result to fully discharge the offender, the possibilities officially provided by law (Article 3 paragr. 2 of Law 3898/2010) for referral of civil and commercial matters to mediation, and the age of the offender (in cases of juvenile offenders) for the enforcement of diversion and educational measures (Law 3189/2003).

Therefore, we conclude that the role of professionals in the Criminal Justice System is crucial for the promotion and implementation of restorative measures and practices in Greece. However, the same agencies (e.g. police, operating informally) often do not realize that they apply restorative procedures because they use these schemes empirically, since they have never been trained in these. The implementation of mediation by lawyers and prosecutors in the cases prescribed by law is perhaps the only cases that they themselves are aware that they operate in a different of the traditional framework – in the restorative context.

Moreover, other key-practitioners in Greece are the professionals to whom mediation cases are referred in cases of domestic violence and in cases of juvenile delinquency. The cases of mediation in domestic violence incidents are referred to the National Centre for Social Solidarity (hereinafter EKKA) where professionals typically place the offender in a therapeutic counseling program and rarely proceed to mediation. This is probably due to the lack of essential training of EKKA's professionals<sup>62</sup>. In cases of conciliation in juvenile delinquent incidents, Juvenile Probation Officers face mediation with ignorance and suspicion and do not seem to trust the process enough, nor have received any relevant training; so they reason usually avoid it<sup>63</sup>. Both the role of the Juvenile Probation Officers and of the EKKA's professionals is leading the legal implementation of mediation so far, but the lack of information and training is causing mistrust so they do not perform as well as they could the role of RJ practitioners.

NGOs for RJ, such as the Hellenic Social Mediation Center and the Hellenic Mediation and Arbitration Center, are significant key-practitioners for the promotion of RJ in Greece. Their role is to promote, inform and apply mediation in Greece. So far, their contribution has been significant, although still in low tones. Hellenic Mediation and Arbitration Center plays a key role in promoting mediation in business and commercial world, as it has already cooperated in the conduct of an international meeting of world's commercial mediation centers. Whilst the Hellenic Social Mediation Center promotes mediation in social level, having already organized and participated in conducting school mediation programs. Moreover, networks of mediators are created through these two NGOs, and through the Mediation Center of Thessaloniki Bar Association and the website [diamesolavisi.com](http://www.diamesolavisi.com)<sup>64</sup>. Apart from the Hellenic Social Mediation Center which promotes the creation of a network of school mediators and other professionals, all other networks involve only lawyers. Additionally, lawyers accredited as mediators register in the

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□ Artinopoulou 2010b, op cit, pp. 183-185; European Forum for Restorative Justice 2008, op cit, pp. 13.

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□ Lambropoulou 2010, op cit, pp.143-147; European Forum for Restorative Justice 2008, op cit, pp 12-13; Artinopoulou 2010a, op cit, pp. 100-101.

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□ The website [diamesolavisi.com](http://www.diamesolavisi.com) constitutes a good paradigm on gathering information in Greek (and some in English) language about mediation in Greece, but is still in its early stage. See <http://www.diamesolavisi.com>

Hellenic Union of Mediators<sup>65</sup>. This union was created by a team of accredited lawyers-mediators, but it has not been promoted much.

Concerning volunteering, students and teachers voluntarily participate in organizing and conducting educational programs of school mediation. Their role is either the voluntary participation of students in training and implementation of mediation in school community (without any other consideration, such as better grades, exclusion from school responsibilities, absence from lessons), or the voluntary participation of teachers in coordination, training and program implementation. Furthermore, the Hellenic Social Mediation Center is in collaboration with volunteer psychologists and criminologists to promote mediation and organize training programs.

Contributions of academics and PhD candidates are also very important in the promotion of RJ in both academic and research level. Recently, RJ is a permanent issue included in the conferences and panels, organized by the scientific associations of lawyers, criminologists, and judges. A fruitful scientific discourse is developing in Greece on RJ perspective.

The organization, training, conducting and implementing RJ schemes respect ethical standards and principles underlying the restorative practices. Especially the principle of confidentiality of the process is outlined in the article 10 of Law 3898/2010. Generally, the ethical principles of the European Code of Conduct for Mediators are followed by almost all key-practitioners<sup>66</sup>. The Ethical Code of the Hellenic Mediation and Arbitration Center is additional asset for the members of the center. Finally, non-violence protocols and principles for the mediators are followed up in school mediation programs, which aim in advance to integrate them into the school rules and to form them according to the conditions and needs of each school.

In conclusion, the key-practitioners of RJ are mostly legal professionals. Other key-practitioners of RJ are criminologists, students and teachers. All of them contribute professionally or voluntarily to the promotion and implementation of RJ practices in Greece.

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□ Hellenic Union of Mediators: <http://hellenicunionofmediators.blogspot.com/>

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□ An exception might be the EKKKA's professionals and the Juvenile Probation Officers who have not been trained in mediation yet.

## **F. Case Study**

The Greek Juvenile Justice System provides well-operating paradigms of putting RJ principles and objects in practice. Although victim-offender mediation has been implemented by the Probation Officers instead of expert mediators and despite it does not actually replace the formal criminal process, this type of RJ processes promotes the welfare character of juvenile justice system as well as maximizes the educational objects of trial and imposed penalties. The following case is illustrating the attempt made by the probation officers for juveniles to put into practice the restorative justice philosophy. We followed the whole procedure, as follows, through a formal permission by the Agency of Juvenile Probation Officers in Athens, for the purpose of the present national report.

Two boys were involved in an incident of violence during a break at school. In fact, about 7-8 boys took part in this incident but two boys reached the police station after a serious injury of one boy. The parents of boy A charged boy B for serious physical injuries. Afterwards, the parents of boy B charged both boy A and his parents for threats. In fact, the injured boy's parents were not satisfied by the management of the case by the school headmaster thus referred to the police asking for safety measures. The intention of the victim's parents was to avoid the repetition of such an incident and stop the vicious circle of violence among the boys' companies. At the police station the conflict of the two parties was initially very intense as they exchanged threats, but they finally resulted to take back the charges to avoid the troubles of the court process and their children's stigmatization. As serious physical injury is a serious delinquency case, the Probation Officer conducted the two families 2 years later and recommended victim-offender mediation for the better progress of the juvenile justice process. They both accepted mediation willingly; the two boys had not met during the past years and the incident was actually forgotten. In mediation meeting they mutually described the offence as an accident and agreed that the violence was not "personal" but the victim had been the wrong moment in the wrong place. The Probation Officer asked boy B if working for a month for providing compensation for boy A was a fair treatment. Boy B voluntarily accepted this penalty. Then, boy A was asked if he was satisfied by the outcome. Boy A stressed that he has forgiven boy B and that he only wanted not to

have retaliation by boy B or his friends. The Probation Officer concluded that reconciliation and agreement would be very helpful for the formal juvenile justice process and explained that the final decision about the offender's treatment would be taken in court some days later. After the conclusion the Probation Officer met the two families separately to affirm that they had spoken without fear. The court decisions often impose the proposed penalties, particularly mutual accepted ones which are made in mediation meetings.

RJ process between juvenile offenders takes place few days before the formal court process. The Probation Officer conducts the two parties, informs them about the alternative to try reconciliation before the court process and (supposing they all agree) arranges a meeting between them. Since the role of the Probation Officer is primarily supportive to the juvenile offender, the first conduct is carried out with the offender and his/ her parents. But this supportive role to the offender represents a fundamental feature operating as "safety valve" of the welfare character of juvenile justice system and does not mean that the Probation Officer serves the interests of the juvenile offender during the mediation process. In fact, the Probation Officer keeps equal distance from both the parties of conflict. As mediator, the Probation Officer explains to the parties the stages of juvenile justice process and the probable penalties imposed to the offender by the court, as well as illustrates the educational and delinquency preventive objectives. Furthermore, the probation officer conducts each stage of the RJ process and concludes the synopsis in order to reach the ends of reconciliation and mutual reparation. Finally, he exhibits the "restorative" and "forgiving" rather than "punitive" character of the juvenile justice process by producing the opportunity of authentic expression between the parties and stressing the priority of making both the victim and the offender satisfied by the process.

The RJ process follows all the stages of victim-offender mediation processes (hearing of the different perspectives, expression of feelings, discussion on penalties, authentic apologizing of the offender). The parents (one or two parents) of the two parties are present. Sometimes friends of the parties are present, not for acting as witnesses and be opponent to the other party but for taking on mutual responsibility and supporting the reconciliation process. In a positive climate of confidence, the victim and the offender give their perspectives about the events, express their feelings and



comprehend the impacts of the offence, have the opportunity to discuss agreeable penalties for the offender (in this stage, they do not have the ability to choose a penalty) and are involved in a wider dialogue about social conditions which generate conflict and violence (e.g. in the above paradigm the boys had the opportunity to talk about the frequency and seriousness of school violence in their area).

Decisions in victim-offender mediation are not committing. After the meeting, victim and offender have the opportunity to think about their decision and whether they are really satisfied or not. They are informed that they can even change their decision in the formal court process. In cases where the victim and the offender remain in their agreement, the formal juvenile justice process is shorter in duration and it is more possible to satisfy both sides. The Probation Officer continues looking after the offender. Victim-offender mediation has also a delinquency-preventive character placing among the practices of the juvenile justice system. Concluding, restorative practices in the Greek Criminal justice system constitute an essential preparatory stage of articulation and support to the formal process which maximizes the meet of the objectives of education, accountability, responsibility.

## **G. Current Reforms**

No current reform is in progress regarding the legal frame of restorative justice in Greece. Law 3898/2010 on mediation in civil and commercial matters, Act 3904/2010 on "Rationalization and improvement of the administration of criminal justice and other provisions" and Law 3860/2010 on "Improvements on penal legislation for juvenile offenders, prevention and treatment of juvenile victimization and delinquency" have been the most recent relevant reforms. The application of restorative justice processes has been encouraged as well as widened due to the above reforms. Though it was initially confronted with hesitation while it was first enforced by law 3500/2006 on Domestic Violence, mediation gathered the expectations for the more efficient justice, the simplification of the criminal processes and the reduction of the congestion of courts. Following the tensions of the informal application of restorative justice practices, initiatives regarding school mediation and mediation in multi-cultural environments may be the next priority for the relevant to restorative justice future reforms. A top-down

legal frame on volunteer-mediator programs would complete the institutional gap and recognize these initiatives as formal establishing them as separated programs in the school agendas and timetables.

## **H. Evaluation and Recommendations**

The introduction of victim - offender mediation and other restorative measures in more and more laws, and the hitherto implementation of formal and informal local programs and initiatives and the promotion of research and knowledge about RJ in social, educational and academic contexts, are neither trivial nor insignificant, although they are in need of improvement and development. The RJ measures and practices found in criminal and in civil Greek law provide the opportunity of out of court settlements of cases through victim-offender conciliation or mediation or the restoration and compensate of the victim. The terms that are used are mainly: 'victim-offender conciliation', 'penal conciliation', 'mediation' and 'penal mediation'.

The official restorative measures have a top-down character. Cases such as offences reach the courts with a delay of 12-18 months approximately. As restorative alternatives are imposed during the regular criminal justice process, victim-offender mediation is not effective because offenders often commit more offences until they account in court for a single act. In fact, mediation should be an immediate alternative for reconciliation and conflict resolution. The stage of prosecution would be offered as ideal for restorative attempts if the victim and the offender were able to stop the criminal justice process presupposing that they agree to a common story and arrange compensation in this stage. By arranging RJ alternatives via the traditional criminal justice process, offenders and victims receive the character of mediation as "punitive" and victims tend to demand high monetary compensation. "Reintegrating shame" and "symbolic character of compensation" as central principles of restorative processes, are overshadowed in these cases. A preparation for offenders and victims should also be provided by experts trained in restorative practices as well as psychologists and social workers.

Despite the considerable efforts to introduce official RJ schemes in GJS, these schemes are usually applied under the control of prosecutors or court authorities, or of lawyers,

demonstrating the strong legal tradition of the country, but also a weakness of the GJS to be released from the strict legal-centric and paternalistic system of crime control and punishment<sup>67</sup>, maintaining the control of the restorative measures within its limits. Moreover, the lack of any national RJ initiative or effort to apply RJ practices in all social contexts keeps all the RJ programs in school or social settings on an informal level without a backup support for the future. The fact that RJ measures and practices were introduced randomly in the legal and the social framework constitutes a disadvantage to the current situation of RJ in Greece.

The gap between theory and practice does exist in the case of Greece. The absence of appropriate national (public, semi-public or private) structures for the coordination and promotion of RJ nationwide, the lack of training of competent services to the aims, the objectives and the conduct of restorative practices, the lack of resources, the workload of services, and the general lack of coordination and dialogue on RJ in Greece, are obstacles to the development of restorative ideas and practices in the fields of conflict resolution and justice. Therefore, in order to improve and promote RJ in Greece, we suggest the following recommendations:

- Training police, prosecutors, judges and other professionals that are occupied in agencies where formal restorative practices take place, aiming to raise awareness about RJ and for the better quantitative and qualitative implementation of the existing RJ schemes.
- Expansion of restorative services beyond the legal system, to other social services and establishment of mediation centers across the country in order to decongest the GJS and introduce additional RJ schemes.
- Create a central (governmental, semi-public, academic or non-profit) organization for the coordination, organization, promotion and research of restorative practices in Greece.

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□ Artinopoulou, V. & Petoussi, V. (2011) *Legalism and Paternalism in Greece: Powerful Trends in the Reification of Risk in the treatment of juvenile offenders*. In In François, A., Massin, V., Niget, D. (eds) *Violences juvéniles sous expertise(s), XIXe-XXIe siècles / Expertise and juvenile violence, 19th-21st century*, Presses Universitaires de Louvain.

- Extend professional rights to practice mediation by accredited mediators of other professions, in addition to lawyers. Entrance in a national register of mediators will be required in order to evaluate the qualifications of each mediator
- Organize and promote national RJ programs with the cooperation of relevant NGOs, government structures, academic and other scientific and non-scientific agencies, that will aim to introduce RJ practices in all sectors of society.
- Create a national database on RJ in Greece for gathering all data on RJ programs and initiatives, the legal framework, the key-practitioners, the relevant writings, the empirical research and statistics concerning restorative practices in Greece.

## **I. ANNEX\_**

### **KEY POINTS OF THE GREEK LEGAL SYSTEM**

The Greek legal system<sup>68</sup> is a member of the family of European laws and is especially influenced by German and French law. For the most part, Greek law is codified and, unlike Anglo-American common law, only enacted laws either in the form of codes or other statutes are the sources of law in addition to custom and international law (Civil Code, Art. 1). The importance of custom, however, is minimal and it is used only in accordance with enacted law *intra* or *praetor legem* and never *contra legem*. Pursuant to Art. 28(1) of the Greek Constitution, the generally accepted rules of international law as well as ratified international treaties become part of domestic law.

The division between civil (private) and public law is important in the Greek legal order. Public law is made up of constitutional, administrative, international and criminal law, criminal and civil procedure. General principles of civil law, law of obligations, property law, family law, the law of succession and the various branches of commercial law. The importance of civil law as the heart of the legal system has diminished, while governmental intervention continues to expand and the state with its administrative regulation covers more aspects of life<sup>69</sup>.

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□ <http://jurist.law.pitt.edu/world/greececor2.htm>, accessed at 29/9/11

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□ [http://video.minpress.gr/wwwminpress/aboutgreece/aboutgreece\\_legal\\_system.pdf](http://video.minpress.gr/wwwminpress/aboutgreece/aboutgreece_legal_system.pdf), accessed at 29/9/11.

As a practical matter, legislation is the most important source of law. Although judicial decisions and the works of legal scholars are not considered sources of law, they can be very influential. The role of the courts is to interpret legislation. This is best seen in cases where general concepts or clauses in a statute are applied to a particular case. Greek courts do not possess a law-making capacity as such. Courts, therefore, are not formally bound by judicial precedent. Nevertheless, courts only seldom depart from prior established practice reflected by a series of decisions. Established practice in decisions of the higher courts and especially those of the "Areios Pagos" (the Supreme Civil and Criminal Court) play an important role in the decision-making process of the lower courts. In a similar manner, the works of legal scholars have the potential of influencing both the legislators in enacting the law and the courts in interpreting it.

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- Links to legislation and other relevant websites (in alphabetical order)

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- Hellenic Mediation and Arbitration Center: [www.hellenic-mediation.gr](http://www.hellenic-mediation.gr)
- Hellenic Social Mediation Center: Contact e-mail: [diamesolavisi@hotmail.com](mailto:diamesolavisi@hotmail.com)
- Hellenic Union of Mediators: <http://hellenicunionofmediators.blogspot.com/>
- Ministry of Justice, Transparency and Human Rights, Hellenic Republic: [www.ministryofjustice.gr](http://www.ministryofjustice.gr)
- National Centre For Social Solidarity: [www.ekka.org.gr](http://www.ekka.org.gr)
- School Mediation meeting: <http://diamesolavisi.blogspot.com/> (in Greek)
- School of Law, Aristotle University of Thessaloniki website: <http://www.law.auth.gr/index.php?lang=en>
- Sociology Department, Panteion University website: <http://sociology.panteion.gr/>
- Thessaloniki Bar Association: [www.dsth.gr](http://www.dsth.gr)
- Website diamesolavisi.com: [www.diamesolavisi.com](http://www.diamesolavisi.com)
- Website of the Ministry of Justice, Transparency and Human Rights for consultation: <http://www.opengov.gr/ministryofjustice/>