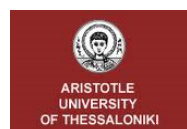




Specific Programme Criminal Justice

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SOFIA - BULGARIA

User Manual for the 3E-RJ-MODEL Record and Assessment Tool

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

November 2011

**Directions for the Use of the Record and Assessment Tool of
Restorative Justice's practices and obstacles
Concerning Act_3 and_4 of the EU "3E-RJ-MODEL" PROJECT**

The present Tool has been planned in order to be used by **Restorative Justice (hereinafter RJ)** experts and practitioners for the record of the RJ actual situation on national level and also the assessment of the obstacles and the dynamics for its further diffusion in the country concerned.

This Tool is consisted of:

- a) The **"Compass"** of the 3E-RJ-Model Record Tool (attached in the end of the present Manual, last page), which is the first step on the use of the Tool. The completion of the "Compass" shall give to the User the general orientation and guidance about the Questionnaires that he/she should complete next, concerning the actual situation of his/her country. According to the positive answer to each one of the **12 sub-questions** of the "Compass", the User will have to complete the Complementary Record Questionnaires (see below) that are indicated separately in the "Compass".
- b) A set of **12 "Record Questionnaires"**: the first 6 of them (**Record_Question. A.1-A.6**) are planned to record important general information on RJ process, in each one of the different levels of the **Criminal Justice System (hereinafter CJS)** in the country concerned, that is RJ measures, procedures, practices and programmes at **police level (Record_Question. A.1)**, **at prosecution level (Record_Question. A.2)**, **at court level (Record_Question. A.3)**, **at correctional level (Record_Question. A.4)** and **at re-integration level (Record_Question. A.5)**. Also there is requested information on initiatives that are **informal, that means that they are not an official part of the CJS (Record_Question. A.6)**, like schemes and programmes that are not coming to the attention of CJS authorities or are unfolding totally parallel and independently to the formal traditional CJ or RJ process. The other 6 of them (**Record_Question. B.1-B.6**) are also planned to record important general

information on RJ process in each one of the different levels, but only in case that in the country concerned there are differences in the provisions and the implementation of RJ process **between adult and juvenile offenders**. RJ process on each one of the different **Juvenile Justice System (hereinafter JJS)** levels are recorded, that is RJ measures, procedures, practices and programmes separately for Juveniles at **police level (Record_Question. B.1), at prosecution level (Record_Question. B.2), at court level (Record_Question. B.3), at correctional level (Record_Question. B.4), at re-integration level (Record_Question. B.5)**. Also there is requested information on **informal initiatives** that are **not an official part of the JJS(B.6)**, like schemes and programmes that are not coming to the attention of JJS authorities and services or are unfolding totally parallel and independently to the formal traditional JJ or RJ process. If such differences between Adults and Juveniles do not exist in the country concerned, in any of the above levels, the User will not have to complete any of the Record_Question. B.1-B.6. Otherwise, the "Compass" of the Record Tool will guide him/her on his/her choice.

In all Records Questionnaires (apart from A.6 and B.6), there is a set of 19 general questions concerning the RJ process (the referral, the actual process, the supervision, the follow-up process etc). These questions are repeated in each one of the levels concerned, so that the Record Questionnaires shall be complementary to one another about the country concerned. In the end of the Questionnaires, statistical data and data on the financial cost and the time of the process are requested. If such data do not exist, the User should add an explanatory comment without giving a specific answer to that question.

Also, in all Records Questionnaires (apart from A.6 and B.6), there is a division between: **(a) legal measures that provide *expressis verbis* for RJ procedures** (indicated with the letter "a" in all sub-questions of the Questionnaire e.g. **1.a, 2.a, 3.a, 4.a** etc), and **(b) programmes that implement RJ practices, with the absence of detailed legal provisions, but within the CJS (or JJS, respectively)**, that means that they are programmes that are implemented under the supervision or/and with the cooperation ora/and with the acceptance and recognition of the CJS or JJS authorities and services, affecting or referring to or being referred by the traditional CJ (or JJ, respectively) process (indicated with letter "b" in all questions of the Questionnaire e.g. **1.b, 2.b, 3.b, 4.b** etc). The above division is necessary as in many countries, mainly countries of Common Law, RJ process is often implemented, through the the

legal system flexibility and the opportunities given by it and by the discretion of the competent authorities and services, without any specific or detailed legal frame. In addition, the above division is necessary, even for some countries of Continental Law, where legal provisions on RJ process do exist, but still some other RJ practices are the result of the discretion of the competent authorities and services or a *de facto* legal situation based on practice and tradition, without being provided *expressis verbis* in legislation.

In Record-Questionnaires A6 and B6, on the other hand, with 10 questions in each, it is attempted a brief record of **informal initiatives and practices**, like for example programmes of municipalities or local communities concerning the resolution of a conflict between an offender and a victim, not coming to the attention of CJS authorities and services or unfolding totally parallel and independently to the official traditional CJ or RJ process, without being affected by them or affecting their regular development. The main purpose of this record is to become aware of the general social RJ trends of the country concerned, through the bottom-up development of RJ frame.

The main difference between this category of informal programmes and initiatives and the one described above as RJ process that is implemented within the CJS (or JJS, respectively) but without being provided *expressis verbis* in legislation (see all “b” sup-questions of Record_Questionnaires A1-A.5 and B.1-B.5) is the involvement and the participation of CJS (or JJS, respectively) authorities and services. In the informal initiatives, there is no involvement of them. Such initiatives could usually be derived from the private sector or the local community, or the municipality, or even state or public social authorities and services which are not a part of the official CJS (or JJS, respectively).

All the categories of RJ process in all the Record Questionnaires (A1.-A.6 and B.1-B.6), though, require an effort of a conflict resolution between an offender of a crime and a victim, while other social disputes (e.g. commercial disputes) and other alternative dispute resolution (e.g. colleagues arbitration) are being excluded from the present Tool (see also the “Glossary” below), unless they have a criminological side.

- c) The “**Assessment Questionnaire**”, lastly, that will have to be completed anyway, irrespectively to which one of the above Record Questionnaires must be completed, is consisted by three parts: the first is directed towards the main technical, organizational or/and operational obstacles for the further diffusion of RJ in the country concerned. The

second part, is concentrated around the ideological obstacles. Eventually, in the third part, the perspectives and the dynamics of RJ in the country concerned are examined briefly. The completion of this Questionnaire is based upon the User's personal approach and according to his/her professional experience. In total there are 53 questions, eight of which are opened.

Generally for the use of the Tool, it is important to underline that the User is not obliged to answer to questions that cannot assess or about which no relevant data exist. In that case, he/she should add an explanatory comment. Generally, he/she can add any comment on any doubt or reservation he/she holds on any of the questions.

GLOSSARY

Exclusively for the needs of the present Tool, there are given some key-definitions on few general and maybe controversial terms. In case that there are differences in the meanings of the following terms in the country concerned, the User may use space for comments in each one of the questions or in the Annex at the end of each questionnaire, in order to make the necessary clarifications:

Restorative Justice (RJ) process: *any measure, procedure, programme, practice and initiative which aims to resolve the conflict between the offender of a crime and its victim by restoring the harm done, within a voluntary and organized **process** – which can replace or complete a traditional CJ or JJ one - by including actively the affected parties (the offender, the victim and where appropriate, members of the community), being based mainly on the understanding and the dialogue between them, generally with the help of a neutral third party/person that delivers, manages or/and facilitates the process.*

RJ may include mainly one or more of the following forms through which the actual process is delivered and managed: victim offender mediation/conciliation, community boards/conferencing, family group conferencing, peace circles, healing/sentencing circles, reparative probation.

RJ may include, as part or as a result/outcome of the actual process, mainly the following types: a dialogue between the victim and the offender, an agreement between them, a written apology, a community punishment, compensation making of commitments, the completion of an education or other programme.

Alternatives sanctions, such as compensation, probation or community service, are not included solely in the definition of RJ, unless they are part or result/outcome of the RJ actual process.

Criminal Justice System (CJS): *the system of the state institutions, authorities, services and practices (legislatives, policing, court and correctional) that is directed at upholding the social control of crime and sanctioning those who violate criminal law with criminal penalties and rehabilitation efforts. **Criminal Justice Authority/Service** is considered any state authority, service or office that is integrated in the CJS. **Criminal Justice Official** any person who works in a CJ authority/service and serves the CJS aims. As **Specialized CJ Authority/Service** is considered state authority, service or office that is integrated in the CJS and specialized to supervise or/and deliver and manage or/and follow-up or in any way facilitate the process concerned (the RJ process), in controversy to the **Specialized Social Public Agency** which may be any state agency/service/office/organization that offers social services and is specialized on RJ process but is not integrated into the CJS.*

Juvenile Justice System (JJS): *the system of the state institutions, authorities, services and practices (legislatives, policing, court and correctional) that is directed at upholding the social control of criminality and delinquency of Juveniles, usually as a part of the further CJS. **Juvenile** is considered any person under the age of 18 years old. **Juvenile Justice Authority/Service** is considered any state authority, service or office that is integrated in the JJS. **Juvenile Justice Official** any person who works in a JJ authority/service and serves the JJS aims.*

Crime: *an act or an omission that infringes the criminal law.*

Discretion: *the power of the competent authority to decide and act according to ratio legis, based on guiding principles.*

Police: the state service charged with the control of crime, the law enforcement and the order maintenance. Only public police is included not the private one. **Police Officer** is considered any person who serves at the Police (policeman).

Prosecution authority: the state service or office of Public Prosecutor.

Victim-offender mediation is considered the RJ form where the affected parties utilize the services of a trained facilitator (mediator), who meets with them in an attempt to resolve their difference, express their feeling and develop a new understanding of the situation. For the needs of the present tool, mediation and conciliation belong in the same category of RJ forms.

Family group conferencing is considered the RJ form that includes a wider circle of participants than mediation, by including also other persons connected to the affected parties, such as family or friends.

Community boards/conferencing includes a small group of people, with intensive training, that conducts public meetings with the affected parties, in order to discuss the impact of the crime, usually until all agree on a deadline and specific actions for the offender to take.

Peace or healing/sentencing circles involve a wider circle of participants than the RJ mediation or conferencing, aiming also to the establishment of RJ ethos in the environment that are held (usually the neighbourhood or the school of the affected parties), by including also opportunities for a social transformation.

Reparative probation is a RJ form in which the offenders (and victims if possible) meet with a panel of trained volunteers in order to discuss the impact of their crime and ways in which they can make fair and reasonable amends.

Compensation: the financial amount paid to compensate the injury, loss or harm suffered as a result of crime.

THE “COMPASS” of the RECORD TOOL (Please, **colorize** the answer of your preference)

In the country concerned, are there any RJ measures, procedures, programmes or initiatives provided or implemented:

...at police level?	YES, there are. <i>(In this case, please complete Record Questionnaire A.1)</i>	NO, there are not.
...at prosecution level?	YES, there are. <i>(In this case, please also complete Record Questionnaire A.2)</i>	NO, there are not.
...at court level?	YES, there are. <i>(In this case, please also complete Record Questionnaire A.3)</i>	NO, there are not.
...at correctional level?	YES, there are. <i>(In this case, please also complete Record Questionnaire A.4)</i>	NO, there are not.
...at re-integration level?	YES, there are. <i>(In this case, please also complete Record Questionnaire A.5)</i>	NO, there are not.
... without coming to the attention of the Criminal Justice authorities or totally parallel and independently to Criminal Justice procedures?	YES, there are. <i>(In this case, please also complete Record Questionnaire A.6)</i>	NO, there are not.
...at police level, separately for juveniles?	YES, there are. <i>(In this case, please also complete Record Questionnaire B.1)</i>	NO, there are not.
...at prosecution level, separately for juveniles?	YES, there are. <i>(In this case, please also complete Record Questionnaire B.2)</i>	NO, there are not.
...at court level, separately for juveniles?	YES, there are. <i>(In this case, please also complete Record Questionnaire B.3)</i>	NO, there are not.
...at correctional level, separately for juveniles?	YES, there are. <i>(In this case, please also complete Record Questionnaire B.4)</i>	NO, there are not.
...at re-integration level, separately for juveniles?	YES, there are. <i>(In this case, please also complete Record Questionnaire B.5)</i>	NO, there are not.
... without coming to the attention of the Juvenile Justice authorities or totally parallel and independently to Juvenile Justice procedures, separately for juveniles?	YES, there are. <i>(In this case, please also complete Record Questionnaire B.6)</i>	NO, there are not.

