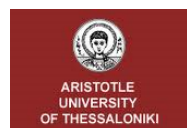




## Specific Programme Criminal Justice

### European Commission

Directorate-General Justice – Directorate B: Criminal Justice



INSTITUTE OF CONFLICT RESOLUTION  
SOFIA - BULGARIA

# **3E-RJ- MODEL Record and Assessment Tool on RJ: *RECORD QUESTIONNAIRE - A.2* *RJ at Prosecution Level***

## **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**

Country concerned: \_\_\_\_\_

User's name: \_\_\_\_\_

## General and Procedural Characteristics of RJ at PROSECUTION LEVEL (A.2)

Concerning the reference country and according to your professional experience (please **colorize** the answer of your preference):

**Record\_Question.  
A.2:**

### Question 1

*If answering is "i", "ii" or "iii" I, please, mention briefly some of the most important examples. If answering is "iv", go on by ignoring the sub-questions which the second part of their indicative number is the same as in the sub-question concerned. ("a" or "b")/  
You may also add any Comment*

**At prosecution level:** (either pre-charge or post-charge stage and usually before trial)

**1. a. Are there RJ measures and procedures that *are expressis verbis* provided in legislation?**

i. YES, WIDELY

ii. YES, MODERATELY

iii. YES, LIMITED

iv. NO, NOT PROVIDED

*(if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question*

**1. b. Are there RJ programmes and practices that *are implemented without being provided expressis verbis in legislation*, either by using opportunities of legislation and legal system or the discretion of competent CJ authorities and officials?**

i. YES WIDELY

ii. YES, MODERATELY

iii. YES LIMITED

iv. NO, NOT IMPLEMENTED

*(if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question*

## Question 2

*If answering is “ii” or “iii”, please, mention briefly some of the most important examples/You may also add any Comment*

### **Record\_Question.**

**A.2:**

#### **At prosecution**

**level:** (either pre-charge or post-charge stage and usually before trial)

#### **2. a. RJ measures and procedures that are *expressis verbis* provided in legislation:**

- i.** ...are general, concerning all categories of crimes.
- ii.** ...are special, concerning only specific categories of crimes.
- iii.** ...are both general and special (some measures are provided generally for any category of crime and others are provided only for specific categories of crimes).

*(if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question)*

#### **2. b. RJ programmes and practices that are usually implemented without being provided in legislation:**

- i.** ...are general, concerning all categories of crimes.
- ii.** ...are special concerning only specific categories of crimes.
- iii.** ...are both general and special (some practices are implemented generally to any category of crime and others are implemented only to specific categories of crimes).

*(if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question)*

### Question 3

*If answering is "ii" or "iii", please, mention briefly some of the most important examples/You may also add any Comment*

#### **Record\_Question.**

**A.2:**

#### **At prosecution**

**level: (either pre-charge or post-charge stage and usually before trial)**

#### **3. a. RJ measures and procedures that are *expressis verbis* provided in legislation:**

- i.** ...are general, concerning all groups of offenders.
- ii.** ...are special, concerning only specific groups of offenders (apart from the group of Juveniles).
- iii.** ...are both general and special (some measures are provided for any group of offenders and others are provided only for specific groups).

*if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question*

#### **3. b. RJ programmes and practices that are usually implemented without being provided in legislation:**

- i.** ...are general, concerning all groups of offenders.
- ii.** ...are special, concerning only specific group of offenders.
- iii.** ...are both general and special (some practices are implemented generally to all groups of offenders and others are implemented only to specific groups).

*if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question*

### Question 4

*If answering is “ii” or “iii”, please, mention briefly some of the most important examples/ You may also add any Comment*

#### **Record\_Question.**

**A.2:**

#### **At prosecution**

**level:** (either pre-charge or post-charge stage and usually before trial)

#### **4. a. RJ measures and procedures that are *expressis verbis* provided in legislation:**

- i.** ...are general, concerning all groups of victims.
- ii.** ...are special, concerning only specific group of victims.
- iii.** ...are both general and special (some measures are provided for any group of victim and others are provided only for specific groups).

*if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question*

#### **4. b. RJ programmes and practices that are usually implemented without being provided in legislation:**

- i.** ...are general, concerning all groups of victims.
- ii.** ...are special, concerning only specific group of victims.
- iii.** ...are both general and special (some practices are implemented generally to all group of victims and others are implemented only to specific groups).

*if the space is not enough, you may refer to an annex that could be added at the end by pointing out to the specific Question*

## Question 5

You may also add any Comment

### **Record\_Question. A.2:**

#### **5. a. RJ procedures that are provided in legislation are used rather:**

- i. AS ALTERNATIVES (e.g. by diversion from prosecution)
- ii. EITHER AS ALTERNATIVES OR AS COMPLEMENTS
- iii. AS COMPLEMENTS

**...to the traditional CJ procedures of this level.**

#### **5. b. RJ programmes and practices which are implemented without being provided are usually:**

- i. ALTERNATIVES (e.g. by diversion from prosecution)
- ii. EITHER ALTERNATIVES OR COMPLEMENTS
- iii. COMPLEMENTS

**...to the traditional CJ procedures of this level.**

*if the space is not enough,  
you may refer to an annex that could  
be added at the end by pointing out  
to the specific Question*

*if the space is not enough,  
you may refer to an annex that could  
be added at the end by pointing out  
to the specific Question*

### **At prosecution**

**level: (either pre-charge  
or post-charge stage and  
usually before trial)**

## Question 6

### **Record\_Question. A.2:**

*According to your answer, please give namely the legal criteria or the general standards for referral to RJ procedures/You may also add any Comment*

#### **6. a. The referral to RJ process is *expressis verbis* provided as:**

i. COMPULSORY FOR THE COMPETENT AUTHORITIES  
(according to provided legal criteria)

ii. COMPULSORY IN SOME CASES AND PART OF THEIR  
DISCRETION IN SOME OTHERS

iii. PART OF THEIR DISCRETION (according to provided general standards)

#### **6. b. The referral to RJ process is usually implemented (in programmes and practices that are not provided in legislation) as:**

i. COMPULSORY FOR THE COMPETENT AUTHORITIES  
(according to provided legal criteria)

ii. COMPULSORY IN SOME CASES AND PART OF THEIR  
DISCRETION IN SOME OTHERS

iii. PART OF THEIR DISCRETION (according to general standards)

*if the space is not enough,  
you may refer to an annex that could  
be added at the end by pointing out  
to the specific Question*

*if the space is not enough,  
you may refer to an annex that could  
be added at the end by pointing out  
to the specific Question*

### **At prosecution**

**level: (either pre-charge  
or post-charge stage and  
usually before trial)**

**Record\_Question. A.2:**

**Question 7**

**Question 8**

(You may choose more than one question)

**At prosecution**

**level:** (either pre-charge or post-charge stage and usually before trial)

**7. a. The competent authority for the referral to the RJ process is:**

- i. THE PROSECUTION AUTHORITY
- ii. THE COURT
- iii. ANOTHER CJ AUTHORITY/SERVICE(namely):\_ \_\_\_\_\_
- iv. OTHER (please also specify the legal nature of it, if it is a public, municipal or private agency etc): \_\_\_\_\_

**....according to *expressis verbis* provisions.**

**7. b. The competent authority for the referral to the RJ programmes is usually:**

- i. THE PROSECUTION AUTHORITY
- ii. THE COURT
- iii. ANOTHER CJ AUTHORITY/SERVICE(namely): \_\_\_\_\_
- iv. OTHER (please also specify the legal nature of it, if it is a public, municipal or private agency etc): \_\_\_\_\_

**...when it is implemented.  
(in programmes and practices that are not *expressis verbis* provided in legislation).**

**8. a. The referral to RJ procedure can be derived by an initiative of:**

- i. THE PROSECUTOR
- ii. THE VICTIM
- iii. THE OFFENDER
- iv. THE LEGAL COUNSEL/DEFENCE LAWYER
- v. OTHER: \_\_\_\_\_
- vi. NOT PROVIDED

**...according to *expressis verbis* provisions.**

**8. b. The referral to RJ procedure can be derived by an initiative of:**

- i. THE PROSECUTOR
- ii. THE VICTIM
- iii. THE OFFENDER
- iv. THE LEGAL COUNSEL/DEFENCE LAWYER
- v. OTHER: \_\_\_\_\_

**...when it is implemented.  
(in programmes and practices that are not *expressis verbis* provided in legislation).**



**Record\_Question. A.2:**

**Question 9**

(you may choose more than one answer)

**9. a. After the referral, the actual process of RJ - provided is delivered and managed by:**

i. THE PROBATION AUTHORITY

ii. A SPECIALIZED CJ AUTHORITY/SERVICE(namely):

\_\_\_\_\_

iii. A SPECIALIZED SOCIAL PUBLIC

AGENCY: \_\_\_\_\_

iv. A NGO or A SOCIAL PRIVATE AGENCY

v. A PARTNERSHIP BETWEEN (e.g. “i+ii” or “ii+iii” or “iii+iv” or “i+ii+iii”): \_\_\_\_\_

vi. OTHER: \_\_\_\_\_

**9. b. After the referral, the actual process of RJ schemes implemented is usually delivered and managed by:**

i. THE PROBATION AUTHORITY

ii. A SPECIALIZED CJ AUTHORITY/SERVICE(namely):

\_\_\_\_\_

iii. A SPECIALIZED SOCIAL PUBLIC AGENCY: \_\_\_\_\_

iv. A NGO or A SOCIAL PRIVATE AGENCY

v. A PARTNERSHIP BETWEEN (e.g. “i+ii” or “ii+iii” or “iii+iv” or “i+ii+iii”): \_\_\_\_\_

vi. OTHER: \_\_\_\_\_

**At prosecution**

**level: (either pre-charge or post-charge stage and usually before trial)**

**Question 10**

(You may choose more than one question)

**10. a. The involvement of:**

i. CRIMINAL JUSTICE OFFICIAL/S:

\_\_\_\_\_

ii. LEGAL COUNSELS/DEFENCE LAWYERS

iii. TRAINED MEDIATORS/FACILITATORS

iv. SOCIAL WORKERS

v. THE VICTIM (local authorities, neighbours etc)

vi THE COMMUNITY (local authorities, neighbours etc):

\_\_\_\_\_

vii. OTHER (e.g. teachers, professors, colleagues etc):

\_\_\_\_\_ **...is**

***expressis verbis provided at the actual process.***

**10. b. The involvement of:**

i. CRIMINAL JUSTICE OFFICIAL/S:

\_\_\_\_\_

ii. LEGAL COUNSELS/DEFENCE LAWYERS

iii. TRAINED MEDIATORS/FACILITATORS

iv. SOCIAL WORKERS

v. THE VICTIM (local authorities, neighbours etc)

vi THE COMMUNITY (local authorities, neighbours etc):

\_\_\_\_\_

vii. OTHER (e.g. teachers, professors, colleagues etc):

\_\_\_\_\_ **...is usually implemented at the actual process.**

**Record\_Question.  
A.2:**

Question 11

Question 12

**At prosecution level: (either pre-charge or post-charge stage and usually before trial)**

**11. a. RJ procedures are supervised by:**

- i. THE PROSECUTION AUTHORITY
- ii. THE COURT
- iii. A SPECIALIZED CJ AUTHORITY/SERVICE(namely):\_\_\_\_  
\_\_\_\_\_
- iv. OTHER (please also specify the legal nature of it, if it is e,g, a public, municipal or private agency):\_\_\_\_\_

**....according to *expressis verbis* provisions.**

- vi. SUPERVISION NOT PROVIDED

**11. b. RJ programmes are supervised by:**

- i. THE PROSECUTION AUTHORITY
- ii. THE COURT
- iii. A SPECIALIZED CJ AUTHORITY/SERVICE(namely):\_\_\_\_  
\_\_\_\_\_
- iv. OTHER (please also specify the legal nature of it, if it is e,g, a public, municipal or private agency):\_\_\_\_\_

**...when implemented.**

- vi. SUPERVISION NOT IMPLEMENTED

**12. a. ....the evaluation of implementation of the procedure and the follow-up of each case is made by:**

- i. THE PROSECUTION AUTHORITY
- ii. THE COURT
- iii. A SPECIALIZED CJ AUTHORITY/SERVICE(namely):\_\_\_\_\_
- iv. OTHER (please also specify the legal nature of it, if it is e,g, a public, municipal or private agency):\_\_\_\_\_

- v. EVALUATION IS NOT PROVIDED

**....according to *expressis verbis* provisions.**

**12. b. ...the evaluation of implementation of the programme and the follow-up of each case is made by:**

- i. THE PROSECUTION AUTHORITY
- ii. THE COURT
- iii. A SPECIALIZED CJ AUTHORITY/SERVICE(namely):\_\_\_\_\_
- iv. OTHER (please also specify the legal nature of it, if it is e,g, a public, municipal or private agency):\_\_\_\_\_

**...when implemented.**

- vi. EVALUATION NOT IMPLEMENTED

**Record\_Question. A.2:**

**Question 13**

*(you may choose more than one answer)*

**13. a. RJ measures and procedures that are provided may include the following forms:**

- i. VICTIM OFFENDER MEDIATION or CONCILIATION
- ii. COMMUNITY BOARDS/CONFERENCING
- iii. FAMILY GROUP CONFERENCING
- iv. PEACE CIRCLES or HEALING/SENTENCING CIRCLES
- v. REPARATIVE PROBATION
- vi. ALL THE ABOVE TYPES
- vii. OTHER: \_\_\_\_\_
- viii. NOT PROVIDED

**At prosecution level:**  
**(either pre-charge or post-charge stage and usually before trial)**

**13 .b. RJ programmes and schemes that are implemented usually include the following forms:**

- i. VICTIM OFFENDER MEDIATION or CONCILIATION
- ii. COMMUNITY BOARDS/CONFERENCING
- iii. FAMILY GROUP CONFERENCING
- iv. PEACE CIRCLES or HEALING/SENTENCING CIRCLES
- v. REPARATIVE PROBATION
- vi. ALL THE ABOVE TYPES
- vii. OTHER: \_\_\_\_\_

**Record\_Question. A.2:**

**Question 14**

*(you may choose more than one answer)*

**14. a. RJ measures and procedures that are provided at this level could include as part or as a result/outcome of the actual process:**

- i. A DIALOGUE BETWEEN THE VICTIM AND THE OFFENDER
- ii. A WRITTEN APOLOGY
- iii. AN AGREEMENT BETWEEN THEM
- iv. COMMUNITY PUNISHMENT
- v. A. COMPENSATION
- vi. MAKING COMMITMENTS
- vii. THE COMPLETION OF AN EDUCATION OR OTHER PROGRAMME
- viii. ALL THE ABOVE TYPES
- ix. OTHER: \_\_\_\_\_
- x. NOT PROVIDED

**At prosecution level:**

**(either pre-charge or post-charge stage and usually before trail)**

**14. b. RJ programmes and practices that are implemented at this level usually include as part or as a result/outcome of the actual process:**

- i. A DIALOGUE BETWEEN THE VICTIM AND THE OFFENDER
- ii. A WRITTEN APOLOGY
- iii. AN AGREEMENT BETWEEN THEM
- iv. COMMUNITY PUNISHMENT
- v. A. COMPENSATION
- vi. MAKING COMMITMENTS
- vii. THE COMPLETION OF AN EDUCATION OR OTHER PROGRAMME
- viii. ALL THE ABOVE TYPES
- ix. OTHER: \_\_\_\_\_

**I. After the referral, does the offender or the victim have the right to interrupt the RJ process and remain only within the traditional CJ one?**

- i. ONLY THE OFFENDER HAS THE RIGHT
- ii. ONLY THE VICTIM HAS THE RIGHT
- iii. NO ONE HAS THIS RIGHT
- iv. BOTH OF THEM HAVE THE RIGHT

**If the actual process is not successful, in what way this could affect the CJ process?**

**At prosecution**

**level: (either pre-charge or post-charge stage and usually before trial)**

**II. Under what terms and conditions could this right been exercised?**

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*if the space is not enough,  
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to the specific Question*

**Record\_Question. A.2:**

**Question 17**

*If answering is yes to the previous question, please try to give the information below.*

**I. Are the cases referred to RJ process of this level recorded officially?**

- i. YES
- ii. NO

**II. Since when?**

**III. Are there sufficient statistical data for the last five years?**

- i. YES
- ii. NO

**At prosecution**

**level: (either pre-charge or post-charge stage and usually before trial)**

**Question 18**

**Question 19**

**At the specific level level, the time needed for the RJ process to be completed is longer or shorter in compare to the traditional CJ one?**

- i. LONGER
- ii. SHORTER
- iii. EQUAL
- iv. NOT ABLE TO COMPARE
- v. NOT COMPARABLE THE ONE TO OTHER

**How much time is in average needed for the actual process of RJ to be completed?**

**At the specific level, the total financial cost for the RJ process is higher or lower in compare to the CJ ones?**

**I. For the state:**

- i. HIGHER
- ii. LOWER
- iii. EQUAL
- iv. NOT ABLE TO COMPARE
- v. NOT COMPARABLE THE ONE TO OTHER

**II. For the victim:**

- i. HIGHER
- ii. LOWER
- iii. EQUAL
- iv. NOT ABLE TO COMPARE
- v. NOT COMPARABLE THE ONE TO OTHER

**III. For the offender:**

- i. HIGHER
- ii. LOWER
- iii. EQUAL
- iv. NOT ABLE TO COMPARE
- v. NOT COMPARABLE THE ONE TO OTHER

## **ANNEX**

### **COMMENT TO THE QUESTIONS**

QUESTION 1  
COMMENT:

QUESTION 2  
COMMENT:

QUESTION 3  
COMMENT:

QUESTION 4  
COMMENT: