



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.3* *RJ at Court 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 COURT LEVEL (A.3)

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

Record_Question. A.3:

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 court level:

(either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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.3:

At court level:

(either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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.3:

At court level:

(either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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.3:

At court level:

(either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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.3:

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

- i. AS ALTERNATIVES (e.g. by suspension of sentencing)
- 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 suspension of sentencing)
- ii. EITHER ALTERNATIVES OR COMPLEMENTS
- iii. COMPLEMENTS

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

At court level: (either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

*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*

Question 6

Record_Question. A.3:

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)

At court level: (either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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

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**Record_Question.
A.3:**

**At court level:
(either pre-trial stage
or pre-sentence, or
during and post-
sentence as an
alternative to
incarceration, as part
of or in addition to a
non-custodial sentence)**

Question 7

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 process 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).**

Question 8

(You may choose more than one question)

8. a. The referral to RJ process 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 process 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.3:

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 court level: (either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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.3:**

At court level:
(either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

Question 11

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

Question 12

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.3:

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 court level: (either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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.3:

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 court level: (either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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

At court level:

(either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

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

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

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

Record_Question. A.3:

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 court level: (either pre-trial stage or pre-sentence, or during and post-sentence as an alternative to incarceration, as part of or in addition to a non-custodial sentence)

How many cases have been referred to the RJ process of court level during the last five years? Out of how many cases in total?

How many cases have been evaluated as successful referral? Out of how many referred cases in total?

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: