



*Autorità Garante
per l'Infanzia e l'Adolescenza*



Restorative Justice in the Juvenile Criminal System



National Survey on Effects, Programmes and Services



Ministero della Giustizia

Istituto
degli
Innocenti





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Survey report by

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Acronyms

AGIA	<i>Autorità garante per l'infanzia e l'adolescenza</i> (Italian Authority for Children and Adolescents)
CGM	<i>Centro per la giustizia minorile</i> (Centre for Juvenile Justice – Ministry of Justice)
CoE	Council of Europe
CRC	Convention on the Rights of the Child
EFRJ	European Forum for Restorative Justice
IdI	Istituto degli Innocenti
IPM	<i>Istituto penale minorile</i> (Juvenile Prison)
UN	United Nations
EU	European Union
UNODOC	United Nations Office on Drugs and Crime
USSM	<i>Ufficio di servizio sociale per i minorenni</i> (Office of social services for minors – Ministry of Justice)

Foreword

Why this work on restorative justice in the juvenile criminal system - the second by the Italian Authority for Children and Adolescents? The reasons are manifold.

First and foremost, it fulfils a precise task assigned to this Authority by the Law that established it: Article 3(1)(o) of Law no. 112 of 12 July 2011, in fact, calls for encouraging the development of the culture of mediation and of any institution capable of preventing or resolving by agreement conflicts involving children, while promoting the training of professionals in the field.

On the basis of this mandate, a study and proposal document on victim-offender mediation in juvenile criminal proceedings had already been published in 2018. That work was legal and procedural in nature as it investigated how the main type of restorative justice - victim-offender mediation - fits into juvenile justice.

This second study aims at offering additional and different perspectives of a more substantive nature.

We are at a time in history when there is increasing talk of restorative justice. While this was a subject previously known only to a few insiders, mostly enthusiasts, pioneers in initiating and carrying out experiments, which sometimes turned into stable but still locally circumscribed experiences, curiosity and the desire to explore a 'different' approach to justice have increasingly grown. As a result, opportunities for exchange, awareness-raising and training have multiplied, and the debate around this paradigm has involved an increasing number of practitioners and professionals. Legislators have felt involved: in recent years, more than one bill has been drafted on the subject, albeit with varying success and fortune.

In the face of such a movement, there was a need to provide professionals, institutions and citizens with some tools so that they could learn more about this topic to answer, first of all, the following spontaneous and fundamental questions, also in view of investments into public policies: What is restorative justice 'for'? How does it 'work'? Is it worth investing in this direction, and if so, why? First and foremost, such significant developments in managing social conflicts - like the one offered by restorative justice - require a solid knowledge base to support innovative public policies. At the same time, they pose the fundamental challenge of their 'narration'.

Secondly, it seemed important to investigate what restorative justice actually means in Italy today: we have heard more frequently talks about victim-offender mediation, but what else can restorative justice be? What other types of meeting are there between the protagonists of a criminally relevant case, along the lines of what happens in other jurisdictions?



Finally, the rapidly changing scenario concerning restorative justice service providers called for a new national mapping, after the one carried out in 2018, in order to provide an up-to-date snapshot in a constantly changing landscape.

To answer these questions, this Authority has promoted a two-year research project in cooperation with the Ministry of Justice and the Istituto degli Innocenti, with whom it has created a Project Steering Committee. Alongside this, it has set up a Scientific Committee, consisting of Prof. Adolfo Ceretti, D.ssa Maria Pia Giuffrida and Prof. Giovanni Grandi. The European Forum for Restorative Justice was also involved.

The issue has become all the more relevant when the latest legislative initiative, i.e., Legislative Decree no. 150 of 2022, was approved thus providing Italy for the first time with an organic discipline on restorative justice. From being a niche subject, placed in regulatory gaps, the legislative framework has changed radically, posing the challenge of providing a service to all, according to rules and principles that are now firmly established.

On the other hand, there is a great need for new ways to *do* justice. Every day we read about episodes of violence, both individual and collective, that leave a sense of bewilderment, fear, but also helplessness, in the face of traditional reactions and responses that do not seem to work.

The aftermath of the pandemic, with the social wounds and personal and relational fragility that have emerged in young people (but not only in them), makes it all the more urgent to find new tools that can heal the wounds, reknit the threads, and restore confidence in the possibility of living together happily.

Suggesting a meeting between the offender and the victim is far from being easy, and can be considered a 'do-gooder' way of sorting things out. On the contrary, it is a challenging proposal: those who have used violence are asked to look through the eyes of the other, to understand and take on board the consequences of their actions through their stories, to become aware of the fact that behind every law there is a person in flesh and blood asking to be respected. Even for those who have suffered because of the offence, restorative justice dares to offer an almost incomprehensible proposition: to come face to face with those who have harmed them. Why should that be desirable?

It will be the living voices of the protagonists collected in this document that will answer this question.

According to one of the young people interviewed, justice 'should lead the world to be a better place by fostering and improving the interaction between the individuals who live in it'.



There is a community to be rebuilt, because it is in the relationship with oneself and others that people grow and define themselves.

Restorative justice aspires to meet this challenge.

This work aspires to ease the path of restorative justice in Italy.

Carla Garlatti
Italian Authority for Children and Adolescents

Introduction

In order to talk about restorative justice, one needs to be clear about the concept of criminal justice, its function and its origin: crime.

A crime is human behaviour punished by criminal law. This sounds like a tautological definition, but it is not. In fact, crime is the evaluative definition given by legislators who decide what and how to punish based on ethical, political, economic, social, or simply capricious, evaluations. Even though they are punished in different manners, some crimes are, so to speak, universal and eternal because they have always (and everywhere) been considered as such: think of murder and theft. This category generally includes actions condemned by current morality, and is considered essential to maintain social order. However, other types of human behaviour transition several times from the sphere of unlawfulness to that of neutrality, and vice versa, although they more or less retain the same ethical disvalue. Blasphemy and adultery, for example, are morally and religiously reprehensible. They were once considered very serious crimes whereas today they are, at least in Italy, criminally irrelevant. On the contrary, environmental pollution, which for a long time was considered merely a symptom of civic miseducation, is now heavily prosecuted. An important consequence of this interchange, which is sometimes unjustified and incomprehensible, is citizens' unawareness of the obligation and the consequence of its violation. And since *ignorantia legis non excusat* (ignorance of the law excuses not), they understand punishment as a kind of abuse.

Once the principle has been accepted that every State, everywhere and since time immemorial, has established a catalogue of crimes and penalties, the problem of the theoretical justification of punishment arises. The following question: 'Why punish?' has been answered in various ways.

The first, so-called classic, is that of *malum pro malo* (evil for evil), that is to say the retribution attached to the violation of the precept. Georg Wilhelm Friedrich Hegel gave, as usual, a triadic dialectical explanation: if crime is the negation of law, punishment is the negation of crime, i.e., the negation of negation, and thus the reaffirmation of law itself. Fascinating theory, like all Hegelian phenomenology, but detached from reality. Indeed, one can reply that *factum infectum fieri nequit*, i.e., a thing done cannot be undone, and, as Alessandro Manzoni says, once you have taken a slap in the face, not even the Pope can take it away. In judicial experience, this concept is expressed by the usual reaction of the victim's relatives after a conviction: "Yes, justice is done, but this will not give our son his life back." In conclusion, according to the critics of this theory, it is revenge in legal form.

The second answer is more practical: you punish in order to intimidate. This concept is split into so-called general and specific prevention: in the first case, the warning is addressed



to the community, and in the second to the individual. In theory there would be nothing to object to, were it not that this theory can also be disproved twice. Firstly, by statistics, which shows that there is no relationship between the severity of punishments and the number of crimes, and that, on the contrary, in countries where the death penalty is in force, certain crimes increase. And secondly by criminological psychology, which teaches us the indifference of potential offenders to the extent of the penalty for the simple reason that, when they plan and commit some crime, they always think they will get away with it.

A third response, that is also partially accepted by the Italian Constitution, is re-education. A sentence, which must never be contrary to a sense of humanity, must aim at re-educating the offender. Apart from the rough aspect of this expression, which reminds us of the Stalinist gulags and positivist determinism, our approach to punishment, with a prison system that is still partly medieval and with the presence (albeit only theoretical) of life imprisonment, does not seem suited to reinstating in the prisoner the model of a citizen. And indeed, no sensible person believes that prison can re-educate or change. If some conversion takes place between prison bars, as it did, the causes are to be sought elsewhere: either in a penitential crisis or in the reflection of the individuals who recover removed or forgotten principles from the depths of their conscience.

The fourth answer is a so-called multifunctional syncretism: punishment is somewhat justified for all the reasons stated so far. It is not a theoretically valid answer because just as four idiots do not make an intelligent person, and four mistakes do not make a truth, four insufficient answers do not provide a plausible explanation. Nevertheless, it is useful from a practical point of view, and is accepted by our jurisprudence.

There is another reason, however, which nobody talks about but is the foundation of all sanction systems. Punishment serves to allay the social alarm caused by crimes. It shows that there is a State because it keeps its commitment towards its citizens. If the legal system provided a penalty for a crime, and then refrained from punishing it, the consequences would indeed be fatal: the State would lose credibility, and generate disobedience. Citizens would then take the law into their own hands, causing anarchy. Punishment, in essence, is like Antisthenes' virtue: it has its justification in itself. The State is sovereign in determining the crimes to be repressed. However, once it has bound itself to this obligation, it must maintain it *ne cives ad arma veniant* (to prevent citizens from resorting to weapons) and substitute themselves to its guilty inaction.

This answer may seem, and indeed is, still unsatisfactory, because it often conflicts with our innate sense of justice and even common sense. Nonetheless, this

bewilderment depends on the very wording of the question. The pure reason of law has in fact always posed the question of 'why punish'. The practical reason poses, or should pose, the question of 'what to punish', and especially 'how to punish'. It is in this context that restorative justice is placed: because it offers a new perspective to the notion of crime:

no longer just the violation of a norm, but also the breaking down of personal and social relationships.

Since, as Pascal taught, many misunderstandings would be avoided if we first agreed on the meaning of the words, we include the definition given to this new legislation on page 131. Restorative justice is understood as any process “which enables those harmed by crime and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party with tools such as victim-offender mediation, any type of restorative conference, (...) the circle, and any other tool entailing a meeting and dialogue between victims and offenders, together with the possible inclusion of other individuals affected by the crime”.

It is not an easy task. A few days ago, in a long and moving interview, I perceived the overwhelming thirst for justice shown by the mother of Giogiò, brutally shot dead by a minor for trying to defend a friend. However much time cushions many pains and dampens emotions, it will be very difficult for this mother to accept a dialogue with her son’s murderer. Nonetheless, just as perfection is the enemy of good, so the impossibility of extending this conciliatory novelty to the most odious forms of crime should not prevent us from applying it to those situations where it is feasible, and sometimes necessary.

Its usefulness will extend to society itself, which will be led to re-accept the victim and the offender after this difficult journey, and will be able to understand, by overcoming resentment, insecurities and a sense of impunity, how to achieve a different form of justice. This is the meaning and objective of the following text.

This document, in fact, clearly and pragmatically illustrates how restorative justice is a service at the intersection of criminal justice and social policies. The legislation, which has recently introduced an organic discipline in Italy, expressly provides for a stable and continuous coordination and interlocution between the various actors operating in that world, also through the sharing of language.

The study presented in the following pages takes the form of an exploratory process based on a structured and multidimensional research, with progressive narratives of painful stories by the same protagonists - victims and offenders - that intersect to converge in a mutual change of attitudes and intentions: for the offender, dropping justifications and minimisation, understanding the evil that has been inflicted, and the related assumption of responsibility; and for the victims, understanding previously unknown stories and fragilities, overcoming fear and anger, being satisfied with the changes made by the offenders, and future pacification between families.

It starts with a series of questions: What is the purpose of victim-offender mediation for a minor who has committed an offence? Can meeting and talking to the victim that the minor has harmed be helpful? And what advantages does a victim gain from meeting the offender?



First of all, the focus groups and the interviews have revealed, for example, how the victim-offender mediation - by offering a space to listen, tell, understand and repair - has enabled the young people who have expressed their intention to overcome their sense of guilt and shame constructively, to become aware of the harm caused and its effects and, therefore, to regain their self-esteem.

In essence, mediation can lead - and indeed has led - to overcoming the desire for revenge, and building a feeling of mutual respect and acknowledgement, all the way to a kind of pacification of the relationship.

This research also shows that mediation, in the face of a feeling of mistrust towards traditional justice, has offered an opportunity to discover a different approach from the punitive/rehabilitative one. This approach allows for a better understanding of the harm caused and the rights protected by society. Within the relational dimension of restorative justice, in fact, the criminal precept is rediscovered as a shared value rather than the penalty, i.e., the behaviour to be followed rather than the sanction resulting from its violation. This is a new and effective way of conceiving general and special prevention, with a view to curbing recidivism.

Perhaps it is too early to assess the results of this new perspective, which can be added to the individually unsatisfactory ones I mentioned at the beginning. And yet, it is an essential path to follow. Simplifying and humanising the judicial process is essential to the recovery of minors: and reparation is perhaps the last attempt to overcome the conflict between the people involved who are disappointed by the perceived sense of exclusion and ostracism in ordinary procedural justice.

Carlo Nordio
Italian Minister of Justice

Methodological note

1. The Research Framework

The study of restorative justice in the juvenile criminal justice system presented in the following pages takes the form of an exploratory journey since so much remains to be done on this issue. This journey is based on structured and multidimensional research.

Research activities have been based on three cognitive objectives: a) identifying and exploring the **effects** of restorative justice programmes for its protagonists (offenders, victims and communities¹), also from the point of view of family members and professionals; b) studying restorative justice **programmes** in use in Italy during trials and when the sentences are being served; and c) **mapping** centres and agencies offering such programmes in Italy. In order to gather information related to each of these objectives, specific research tools were set up.

The **first phase** of the research was devoted to the **first objective**, i.e., analysing the effects of restorative justice pathways on victims, offenders and communities, in particular family members. The Steering Committee selected seven areas in Northern, Central and Southern Italy where restorative justice services in the juvenile criminal system have been provided for many years on a permanent basis and in conjunction with public institutions and authorities: Turin, Milan, Trento, Ancona, Salerno, Catanzaro and Palermo.

Inter-institutional focus groups were first organised in the seven areas and held online between March and April 2022. Representatives of the following institutions participated in the focus groups: Juvenile Courts and Prosecutors' Offices in Juvenile Courts, Centres for Juvenile Justice (CGMs), Offices of Social Services for Minors (USSMs), Juvenile Prisons (IPMs), and Restorative Justice Centres. A total of 52 juvenile justice practitioners participated in the focus groups.

Focus groups and semi-structured interviews in the same areas were conducted with young and adult victims, and underage offenders, identified by the local practitioners according to common criteria (see Annex no. 3) among those who had taken part in a mediation pathway. Prior to a focus group or an interview, participants were asked to fill in an online questionnaire. Focus groups and interviews saw the participation of 20 offenders and victims (including two family members, mothers, and three adults), whereas the questionnaire was completed by 15 participants.

¹ The term 'offender' refers to a person who has been convicted of an offence. However, for the purposes of this research, and echoing the provisions of Directive 2012/29/EU in recital 12, this term also refers to a person under investigation or being accused prior to any declaration of liability or conviction, and without prejudice to the presumption of innocence. For more details on the relationship between presumption of innocence and restorative justice, please refer to the previous work by the Italian Authority for Children and Adolescents: AGIA, *La mediazione penale e altri percorsi di giustizia riparativa nel procedimento penale minorile* (Victim-Offender Mediation and Other Restorative Justice Pathways in Juvenile Criminal Proceedings), ch. III, pp. 33 ff., 2018.



Finally, semi-structured interviews were conducted with ten parents of victims and offenders. Focus groups and interviews took place from April to June 2022, mostly in person.

In the **second phase**, concentrated between July and September 2022, the **second** and **third objectives** were pursued. They related to restorative justice programmes in use in Italy and the mapping of actors delivering such programmes, respectively. A questionnaire was designed and sent to the providers identified by the CGMs (Centres for Juvenile Justice) according to some common criteria (see Annex no. 4). All 36 providers who had been invited to participate in the second phase of the survey completed the questionnaire. The questionnaire was partly focused on mapping, and partly on studying restorative justice programmes. This latter focus was further explored through three online focus groups, held in September 2022, with contact persons of centres and agencies that had been providing restorative justice for more than three years (36 participants).

2. The Tools

From a strictly methodological point of view, the research was based on a mixed-method approach, using both typical quantitative research tools – standardised and with comparable results, such as questionnaires – and qualitative research tools, such as focus groups and semi-structured interviews. The overall purpose was to delve into the various issues and focus on aspects not yet investigated.

It is useful, also with a view to have a better understanding of the findings, to clarify some aspects concerning the following two research tools.

A focus group is based on a discussion involving a group of slightly more than a dozen selected participants – often with specific characteristics or roles – led by one or more moderators (or observers) and dealing with a topic to be investigated in depth.

In this research, focus groups were used to gather information from the various actors working in the juvenile justice system (first objective), and from contact people and managers of centres and agencies delivering restorative justice programmes (second objective). Focus groups were also used to facilitate dialogue with underage victims or offenders with regard to the effects of these programmes. In this case, participants of focus groups – preceded by a questionnaire aimed at jogging participants' memory in relation to their journey – were only offenders or only young victims (adult victims were interviewed instead). The outline also provided for lighter issues to be discussed to create a relaxed climate conducive to listening and talking² with interventions by participants regulated with a talking piece, a ball of wool in this case.

² See Annex no. 5.

Semi-structured interviews are based on an outline consisting of a series of common questions, which are put to all interviewees in a certain order. The order of the questions to reprise or delve into certain issues that have presented themselves during the interviews can be changed depending on how the discussion evolves. In this research, interviews were used to find out the views of parents of minors involved in restorative justice programmes³, but also in cases of adult victims or where, in a given area, there were not enough young offenders or victims to conduct a focus group.

Questionnaires allow for standardised data collection through a list of questions with single or multiple closed answers, semi-closed answers (with the 'other' mode) and open answers. All answers are subsequently analysed and coded by researchers. These tools are chosen to map the presence of centres and providers operating in Italy in the field of our interest, for various reasons: a) they make it possible to collect data on the organisations or other aspects we are already familiar with; b) they make comparisons possible; and, c) with a view to the future, they make it easy to update the situation under investigation. Questionnaires were also used for the first research objective on effects, and were used with victims and offenders. In this case, however, rather than for information-gathering, questionnaires were introduced to jog participants' memory about topics related to restorative pathways before the focus group or the interview.

Legislation introducing an organic discipline of restorative justice in Italy was approved almost at the same time as the conclusion of the data collection phase. Since this legislation was passed when the research tools had been developed and used to collect information, the terminology adopted during this research, and also in this report, does not always coincide with the terminology provided therein. Wherever possible, the terms were translated into those that have now become compulsory, whereas, where faithfulness to the nomenclature used in the research tools dictated it, the terms chosen and used *before* the reform were left.

3. Sources and Definition of Dimensions

For each objective and related research tools, certain dimensions were identified for investigation. In the process of defining these dimensions, several sources proved to be important.

At first, in the preliminary stages of the research, a **bibliographic review** was conducted on the wider debate on the topic, ranging from theoretical reflections of philosophers, sociologists and jurists on crime as a breakdown of a social balance and on the need to deal with the consequences of such a breakdown, to the considerations of political

³ See Annex no. 6.



scientists and analysts who look at restorative justice as a legal practice and public policy, to reconstructions concerning the role of the main protagonists – victims, offenders and the community – and the different approaches of the different programmes (mainly victim-offender mediation, various types of conference and circle). The contributions that were analysed were of a different nature, theoretical and operational, and impacted not only the content to be investigated but also the tools to be used.

In the second instance, online **interviews** with two representatives of the **European Forum for Restorative Justice** influenced the identification of dimensions and tools⁴.

The first interview, in relation to the research objective on the effects and impact of restorative justice, was conducted with Professor Tim Chapman, former Chair of the EFRJ. In addition to emphasising the importance of putting victims together with offenders at the centre of restorative pathways, Professor Chapman argues for the relevance of a narrative approach, open to the stories of the protagonists and the changes faced after the offence-event. The challenge that he proposed for this research – and which we have attempted to take up – is to safeguard the uniqueness of each restorative justice ‘story’, giving due space to the protagonists’ individual narratives, and to bring out the common and recurring lines. This work should be done in order to provide political and institutional decision-makers with elements of understanding and evaluation to then draft coherent public policies. There is ample evidence of this approach both in the dimensions investigated during the focus groups and in the presentation of the results concerning the effects of restorative justice on the protagonists involved in these practices (Part I).

The second interview, carried out close to the start of the second phase of the research, was on restorative justice programmes, and involved Silvia Randazzo PhD, a collaborator of the Forum, researcher and consultant on juvenile restorative justice. The information and knowledge that was provided focused on the programmes in use in Europe and gave important input when structuring both the questions on programmes included in the questionnaire, and the focus group outline on practices other than victim-offender mediation.

On the basis of this preliminary work, the **dimensions** and **sub-dimensions** were developed, which will be more specifically described in the individual parts of the research. The following table summarises objectives, tools, targets and dimensions.

⁴ <https://www.euforumrj.org>

Table 1 - Objectives, Research Tools and Dimensions

Objective	Tool/target	Dimensions	Main sub-dimensions
The effects of restorative justice	Online questionnaire for victims and offenders	Effects of restorative justice for offenders, victims and the community	The effects of restorative justice: - on the relationship with oneself - on the relationship with the person involved - on the relationship with families and the community - on the concept of justice
	<i>Focus groups</i> and semi-structured interviews for victims and offenders	Expectations of restorative justice	
	Inter-institutional <i>focus groups</i> with practitioners in the social and juvenile criminal area	Role of services in relation to the impact of restorative justice	
Restorative justice programmes in use in Italy	Online questionnaire for the contact people in Italy's restorative justice centres and agencies	Characteristics of restorative justice programmes	Type Geographical reach Trial stage Proposal to young people below the age of criminal responsibility Proposal for serious offences
	<i>Focus group</i> on programmes other than mediation with contact people from centres and agencies operating for more than three years	Restorative justice programmes other than victim-offender mediation Methodology and organisation Effects and results Obstacles and opportunities	Nature Name People involved Assessment criteria when proposing a programme other than mediation Preparation methods Number and role of mediators Implementation Reactions to the proposal Level of satisfaction Community involvement Verification over time
Map of centres and agencies	Online questionnaire for the contact people in Italy's centres and agencies	Organisation and structure of centres and agencies delivering restorative justice programmes	Nature Activity Location Funding
		Training and awareness-raising	Type Content
		Networks in restorative justice programmes	Nature Geographical reach Content Obstacles and opportunities

Context Note: the Organic Discipline of Restorative Justice and Minors

On 1 November 2022, Legislative Decree no. 150 of 2022 came into force, implementing Law no. 134 of 27 September 2021, delegating to the Government the power for the efficiency of the criminal justice process, as well as powers on restorative justice and provisions for the speedy settlement of legal proceedings⁵. The Decree contains the first organic regulation of restorative justice for the Italian legal system. It regulates definitions, principles, guarantees and anything else concerning the inclusion of restorative justice programmes in the criminal justice system, both during the trials and when the sentences are being served.

The question of whether this discipline also covers minors is answered by Article 46 of the Decree entitled 'Rights and Guarantees for Minors'.

This Article states that the new organic discipline must also be applied to minors, insofar as compatible and in a manner appropriate to their personalities and needs, taking into account their best interests in accordance with Article 3(1) of the 1989 UN Convention on the Rights of the Child. The application of the legislation, under these conditions, refers to all cases in which a restorative justice programme concerns minors, in whatever capacity they are involved. Therefore, they could be minors named as offenders, victims under the age of 18, or - in the extended programmes - family members (children, siblings, etc.) of the persons directly involved, neighbours or, in general, young members of the community somehow affected by the event.

Given the sensitivity surrounding the participation of minors, regardless of their specific position, the second paragraph of the same provision stipulates that such cases must see the involvement of mediators with 'specific aptitudes' with regard to their training and the skills acquired over time.

This guarantee clause on the specific skills of mediators dealing with minors can be read in conjunction with Article 59 on the training of expert mediators.

Paragraph 5 lists the topics to be discussed during the training including, among others, juvenile law. With reference to the competences and skills that must be mediators' starting point, paragraph 6 calls for special attention to be paid, among others, to minors.

In general, therefore, the organic discipline fully covers minors, with some *additional* considerations: a) the appropriateness of the rules, to be calibrated on individual cases according to the personalities and concrete needs of the minors, having as guiding criterion

⁵ The full text of the organic discipline of restorative justice is published in the Annexes.



the ‘best interest’ principle of the UN Convention on the Rights of the Child (CRC); and b) the specific aptitude of the mediators involved.

If restorative justice, according to the rules of the new general discipline, fully concerns minors as well, a prerequisite for its implementation is information about this possible avenue.

It is no coincidence that there is a new reference to underage people in Article 47, entitled ‘Right to Information’. This Article states that the offender and the victim must be informed without delay by the judicial authorities, at any stage and level of the criminal proceedings or when beginning to serve a sentence, about access to restorative justice programmes. In the second paragraph, this duty of information is attributed to a whole range of further actors, including, specifically, juvenile institutions and services of the Ministry of Justice.

Furthermore, paragraph 4 stipulates that information on access to restorative justice programmes must also be provided, among others, to whoever exercises parental responsibilities, guardians, support administrators, special administrators for cases referred to in Article 121 of the Penal Code.

Information must be ‘effective’ (cf. para. 3) for everybody, and must be provided in a manner appropriate to the age of the recipient (cf. para. 5).

On the other hand, effective information tailored to the recipient is the necessary step to express the free, conscious and informed consent that can be used on its own to initiate a restorative justice programme (see Art. 48 - ‘Consent to Participate in Restorative Justice Programmes’).

On the particularly delicate issue of the consent of minors, the law has found a balanced solution. It has identified the age of 14 as a significant threshold in terms of capacity for discernment and autonomy of choice. The law also provides for different rules depending on whether the child is under 14 or has already reached the age of 14.

In particular, the second paragraph of Article 48 states that, in the case of persons under the age of fourteen, whatever their position in the matter, consent shall be given, after having heard and obtained their approval and taking into account their capacity of discernment, by the person exercising parental responsibility or, in the cases referred to in Article 121 of the Penal Code, by the special administrator. Therefore, there are three conditions underpinning this threshold: a) minors must consent to participate in the programme and, therefore, must be specifically heard; b) consent must in any case be evaluated in the light of their capacity for discernment in concrete terms, it being possible to establish that they lack the minimum requirements of understanding and awareness necessary to be able to decide on the appropriateness of the meeting with the other party; and c) the actual consent by the individual exercising parental responsibility is required.



Above the age of 14, on the other hand, the holder of consent is either the minor or the person with parental responsibility (or, in the cases referred to in Article 121 of the Penal Code, the special administrator). In the event of a conflict between them, and in particular when there is consent of the minor but not of the parent or special guardian, the mediator, having heard the people concerned and considered the interests of the minor, decides whether to proceed on the basis of the minor's consent alone. Subject to careful evaluation by the mediator, who takes on the important role of guarantor, the will of a minor over the age of 14 can therefore overcome parental opposition. However, the limitations inherent in the minor's capacity to act remain unaffected.

By virtue of, and in the light of, these specific guarantees, provided for in the legislation and described above, the Organic Discipline of Restorative Justice therefore fully covers any programme in which a person under the age of 18 is involved in any position.



*Autorità Garante
per l'Infanzia e l'Adolescenza*

PART I

The Effects of Restorative Justice: What Is It For?



The Effects of Restorative Justice: What Is It For?

Preamble

What is the purpose of victim-offender mediation for a minor who has committed an offence? What is the point of meeting and talking to the victim who a minor has, in the most diverse ways, harmed?

And for those who suffer an offence? What advantages does a victim gain from meeting the offender? What changes when a victim is also a minor or an adult?

And for the community, *first and foremost* the families but also the wider community, what use is mediation involving a son or a daughter, or a close person, either as a victim or offender?

These and other questions served as prompts to **listen to** young offenders⁶, young and adult victims, parents, justice practitioners, who have all experienced restorative justice pathways first-hand or as supporting adults.

Each story is unique. Everyone brings personal expectations and motivations to the dialogue and the meeting with the 'other', and finds effects and results that belong to that experience, that relationship, that journey. To account for this uniqueness, when reporting what came up from listening to these people, as much space as possible was left to **individual voices** during interviews and focus groups. Restorative justice, in fact, can be explained in abstract and general terms, but it can only be understood and grasped through the words of those who have experienced it directly.

In giving the utmost prominence to actual experiences, there are, however, certain themes, certain changes, certain effects that - from the accounts of individuals - came to the surface in a particularly strong, recurring way, so much so that they can be defined as general findings. It is important to account for these too in order to 'tell' what the meaning and sense of restorative justice is, also as a public policy.

Therefore, for each protagonist of restorative justice (offender, victim, community), the following pages will all be structured in the same way: a) an initial overview of the general findings gathered from listening to them; b) this overview will be immediately followed by the *voices* of the protagonists, divided by the individuals who generously shared them (the experience and effects of mediation experienced first-hand by offenders and victims); c) the

⁶ As anticipated in the methodological note (cf. p. 17), in order to ensure the necessary consistency of the findings with the tools that were used, it was not always possible to adapt the terminology of this report to the terms adopted by the intervening legislation. In these pages specifically, 'offender' must be understood as 'the person named as the perpetrator of the offence, as per Article 42 of Legislative Decree no. 150 of 2022 (the Organic Discipline on Restorative Justice) that was approved during this research



changes that parents have seen in their children, and then on themselves and other family members; and d) the impact that justice practitioners have been able to glimpse from their own particular vantage point.

The narrative that is reported here reflects the dimensions and sub-dimensions identified when designing the research on the effects of restorative justice. In particular, a reflection was solicited from offenders, victims and parents on the effects of restorative justice in the relationship with the event (the offence and its consequences), in the relationship with oneself, in the relationship with the 'difficult other' (victim or offender), in the relationship with the family and the community, and finally in the relationship with justice. Another theme closely linked to the reflection on effects, was that of expectations of the journey being taken.

The voices presented below follow a narrative development that - in a choral mode - also temporally retraces the stages that have been experienced: what happened, what it entailed, the suggestion to use mediation, what changed after the meeting.

To close this first part of the research, a cross-sectional analysis of the findings is outlined. The analysis is no longer organised according to the individual protagonists (what restorative justice does for the offender, the victim, the community), but according to the research dimensions and sub-dimensions. This approach was used to compare the answers given by everybody on the same issues.

The offences, which have not been deliberately reported individually in order to protect the confidentiality of the interviewees, are manifold. They range from attempted murder to traffic offences, from theft to robbery and receiving stolen goods, from maltreatment in the family to child pornography (sexting), from brawling, to personal injury, defamation and threats.

Concerning the numbers of persons interviewed, the number of offenders involved, who were minors at the time they committed the offences, was 8, the victims - minors and adults - 12, the parents 10, the practitioners 52.

In almost all cases, the restorative justice pathways that were followed consisted of direct mediations, and thus involved face-to-face encounters between offenders and victims. In some cases, where the victim was also a minor, there was also the active involvement of the parents who, therefore, reported a direct experience. In three cases, however, mediation was indirect, having taken place through drafting and exchanging letters, supported and passed on by the mediators.



1. What Does It Do For Juvenile Offenders?

1.1. General Findings

What is the purpose of restorative justice for a juvenile offender? Before *listening to* the personal answers that each person gave with reference to their own experience, which is unique and cannot be included in any framework, the recurring themes touched upon by those involved in listening, i.e., the offenders, *first and foremost*, their parents and the practitioners who supported them, are described below.

Restorative justice, in its most common form, i.e., mediation, has brought about many changes and effects that have had an impact in the lives of young people who have committed an offence.

The focus groups and the interviews have, first of all, revealed how victim-offender mediation, by offering a space to listen, tell, understand, make amends, has **made** it possible to **go beyond guilt and shame** constructively and actively. Phrases like “feeling relieved of a burden”, “being able to look people in the eyes again”, “having found greater peace of mind” were repeated both in the accounts of the direct protagonists - the minors who talked about their experiences - and in those who observed them as supporting adults, parents and practitioners.

It was precisely the latent sense of guilt that not infrequently was an element that created a wall in trying to become aware of the harm inflicted, contributing to excuses with which to defend oneself against one's shame. Instead, restorative justice, in the words of the people involved, enabled **the acquisition of awareness of the harm that was caused and its effects**.

The decisive element in this respect was the meeting with the offender. In fact, the effects described by the interviewees have first and foremost to do with the attribution of a face and a name to the person who has experienced the consequences of the harmful actions, a **process of personification** of the victim, previously reduced to a ‘thing’. Listening to what happened through the eyes of those on the other side was the necessary step to **overcome prejudices, stereotypes, justifications and forms of minimisation** of the damage caused, opening instead to an empathetic understanding of the experience of others and the assumption of responsibility *towards* the other.

Even when young people started from some injustice they had suffered or their own victimisation, without acknowledging the pain inflicted on the other person, their accounts highlighted how mediation, thanks to the two-way reinterpretation of the incident in a non-judgemental and non-punitive context, led to a different openness in **understanding and assumption of responsibility**.

The **desire to make** as much **reparation** as possible arose from all this through symbolic or material acts that made visible the recognition of the suffering inflicted and the injustice of the act that had been committed.



Unintentional offences deserve a separate discussion because mediation seems to offer young people the opportunity to come to terms with an event they did not really intend to cause, and to make peace with themselves first and foremost in respect of consequences, even serious ones, they had not asked for.

In general, frequent changes were also reported in terms of self-perception, both in the sense of **liberation from feelings of stigma** and social shame, and in the acquisition of the **ability to embrace one's own elements of fragility** and vulnerability. This helped to build a reconstructed image of themselves and a renewed ability to **project oneself into the future**, detaching oneself from the event that crystallised personal stories to a precise frame and allowing the acquisition of a new sense of security and confidence.

Alongside internal changes, external effects were often a **change in communication methods and conflict management**, with the development of greater listening and dialogue skills.

As far as the **relationship with the victim** is concerned, mediation led to building a feeling of mutual respect and acknowledgement as shown by handshakes, drinking coffee together or spontaneous exchanges of numbers at the end of the meeting or even just referring to a feeling of inner peace in being able to meet informally again without tension. This could be indirectly referred to as **pacification of the relationship**.

In the relationship with one's own social circle - first and foremost with the family - and with the community at large, mediation fostered the transition from a self-centred approach of the minor to the ability of seeing the experience, the needs, and ultimately the existence of others, alongside oneself. As for the **family**, after the meeting with the victim, **greater openness and possibility of dialogue** was reported, often due to overcoming the sense of shame and guilt that blocked all communication. In some cases, victim-offender mediation was the necessary step for a real reconciliation with one's family network or with some of its members - not infrequently the father figure - in particular. On the contrary, the **friendship network** was less involved in the process of change. This is because it was often part of the relational system that had contributed to the deviant action. If anything, the effect in these cases was a breakdown of the relationships because, after mediation, they were considered to be negative. With respect to the **community at large**, understanding the harm caused led to a new understanding and **sharing** of the meaning of the **rules of coexistence**.

Regarding the understanding of **justice** in its broadest sense, mediation, in the face of a widespread feeling of mistrust towards traditional justice, offered an opportunity to discover a different approach from the punitive/rehabilitative one because, according to the protagonists, it enables a better understanding of the harm caused and the rights protected by society. In the relational dimension of mediation, the criminal precept is in



fact rediscovered as a shared value, i.e., the part of the norm that points to the behaviour to be followed and not the punishment, thus creating a solid form of general and special prevention, with a view to curbing recidivism. Appreciation was also expressed for the **simplification and humanisation of the judicial process**, which was deemed to be more suitable for minors.

Direct statements collected during focus groups and interviews are presented below. First the offenders, then their parents and finally the practitioners report 'what restorative justice has done' for offenders, according to their own experience. The excerpts follow the narrative progression that characterised the listening process. At the same time, the dimensions and sub-dimensions identified in the research are highlighted⁷.

1.2. The Voices

1.2.1. Young Offenders

What happened

"I was playing with a friend of mine with my hands. I dropped him, he didn't feel well, we went to hospital. He had perforated his spleen".

"I wrote a Facebook post against someone".

"I am a shepherd. There was a fight over the flock. I came to blows with another shepherd".

"I was seeing a girl from whom I had received some intimate photos. I was very young. To get my friends' approval, I sent the photo to some of them and they did the same as me. It was a chain, until these photos ended up with several people I didn't even know existed".

"On the slip of paper, I wrote 'mistake' because if I had been clear headed, I would not have committed that offence. I was 16. I don't want to tell what happened".

"There was this friend of mine who had been beaten up by a girl. I went to talk to this girl. There were more than 70 people; with instigation I came to do something I had not planned".

⁷ See the methodological note on p. 15, and the preamble to Part I on p. 26.



"I have done things that should not be done. I was in the company of some people doing this thing and the police happen to find us; some mayhem ensued, I panicked and fled and after a few hours I turned myself in".

"When the police arrived at my place at 7am, my world fell apart".

"It all started with anger and disappointment because I came to do something wrong, a crime".

"Because they had made a video of what had happened, I did not recognise myself in that video. I did not recognise myself; I was no longer me".

"The girl left; she could no longer talk to anyone; she had to move. I felt guilty as hell".

"I felt guilty towards the victim; I felt sad when I thought of her. I asked myself: who knows how she is?".

"I didn't realise the mistake; I thought I was right ... then I found out I wasn't all that right".

"I got the proposal from this lady from social services. I accepted because I was looking for any way to alleviate my guilt, to try to make amends for what I had done".

"I accepted immediately. I felt better talking about this. Now I feel safer, I am calmer".

"They told me: 'we will get you to talk to the victim about what happened'; and I accepted without hesitation because the part that hurt the most was the moral harm I had caused to the victim. Without this process, I would have practically buried myself for the rest of my life".

"The thing that drove me was that I couldn't live with the guilt of having wronged a person I didn't even know, of having harmed them in any way".

"After I spoke with the victim and the mediators, we resolved all differences; I was fine. I started crying from relief; I really got a weight off my chest. If it had not been for this facility, I don't know how I would have lived well with myself".

Before mediation

The mediation proposal

After mediation, in relation to oneself



"I felt like a weight had been lifted off me. I understood my mistake".

"So much has changed in me. I lived with a weight in my heart that, I don't know, was a terrible thing. When I was able to apologise to the offended party, a weight was lifted off me.

This goes beyond everything, putting pride aside and realising one's mistake".

"It changed me a lot too. I am calmer, without that weight on me, lighter".

"I felt calmer too, because she knew what I was thinking and I knew what she was thinking, before, during and after. I feel better".

"Through mediation I realised that you should not use your hands to harm people. Before I do something [now] I think 20 times, even 50".

"In my head I understood that it was not right what I had done just to make myself look good in my friends' eyes. I understood my mistake but with mediation I was able to better understand how she felt".

"If I went back now, I wouldn't do it again. I'm not as I used to be; it wouldn't happen today".

In relation to the victim

"Hearing how she told the story, what she had heard, what she had felt, made me realise so many things".

"I thought she wanted to explain all her anger; instead, we both started crying. We understood each other. I learnt to see different points of view".

"She saw me as an ugly person who didn't think about what she was doing. But when we spoke, I saw her differently, a quiet girl compared to what I had been told. Mediation made me see the person differently".

"On the other hand, it also takes courage to go in front of someone who has done something serious to you".



"I know I hurt this person. This work made me realise that I am not the most important person in the world; there is everybody else".

"With my family there was a real wall; I couldn't talk to my parents; they couldn't understand what was in my head. I was ashamed to even look them in the eyes".

**In relation to
family
and friends**

"I felt really bad, they couldn't understand what had happened with me given what I had done. And I couldn't understand why they had got so hung up on it and couldn't look at it in a broader way".

"I tried to put myself in my parents' shoes; it's not a good thing at all".

"After the meeting I looked at my father for the first time in eight months, because before I could not; I had to apologise to this person. When I left the mediation centre, I went to him and took him by the hand, something that had never happened before, and from there it all loosened up a bit".

"After the mediation, perhaps the relationship with my family has improved. I have tended to be more open and have tried to understand them".

"My friends at that time were the ones who sent the pictures around; I cut them off my life completely. I didn't feel like talking to them about it".

"There was a handshake, a couple of words, we exchanged e-mails to keep in touch even though we never heard from each other afterwards".

**What
reparation**

"We shepherds, we meet all the time. Mediation has helped me a lot for our meetings, when we bump into each other: we have a chat".

"There was a handshake. This journey has meant a lot to me".

"I didn't even know it existed. There's a lot to take on board. It is one thing to just punish, it is quite another to make this person realise what he has done wrong".

What justice



“Mediation makes sure that things don’t happen again; that’s what justice should do”.

“This justice is fairer than justice. Punishing someone who makes a mistake is necessary; every mistake has a consequence. Justice is fair but this also helps you psychologically, it helps you really understand”.

“If you catch someone and take them to jail, without saying anything, they may say they will not do it again. But why? Because they no longer want to go to jail. However, with mediation, yes, you have made a mistake, you get some punishment but you talk to the person, you understand what you feel, you understand what you are doing wrong. You realise that something you have done is not right even though you may be able to justify it in your mind”.

“Even before this, I thought that justice did not work; I still do. It’s not that it teaches anyone anything; in fact, I think it encourages criminal thinking. Mediation should be the justice: you don’t just have to pay for the mistake you’ve made, you have to understand the mistake you’ve made. I realised this thanks to the mediation centre, it’s something that lifts your heart, you feel really good about yourself”.

**If you were
asked for advice**

“I would advise moving on, it is the best thing to move on. In my opinion it works, perhaps not in all cases, for example if there is no willingness on either side. However, if the willingness is there, it is a great opportunity”.

“I would recommend trying it out because it avoids contact with lawyers; it is something more informal and allows you to talk to mediators who guide you towards reason, both on one side and the other”.

“It is a useful journey; I would recommend it. People often think that they have the right idea in their heads, but it is important to get help. On one’s own it is more difficult, it is a different journey”.



"I would honestly recommend it to anyone who has to go through legal proceedings; at least you know what you have done and you won't do it again. You understand the harm you have done to the other person; you understand that in this world we are all the same. It is not that you can afford to do some things at the expense of others".

1.2.2. Parents of Young Offenders

"I didn't know anything until the municipal police called me, but I saw my daughter changed. She was not going out very often at all and was very quiet".

"My son had closed himself off, isolated himself, didn't speak to us. I didn't realise what was going on. I'd say 'It's part of adolescence', because it happened after all the time we were in lockdown".

"Something changed, above all he looked discouraged. Towards school, his classmates ... he no longer trusted them".

"It was hard. He said that he did not recognise himself, that he did not know why he had reacted like that; also because he had never hurt anyone".

"My son felt guilty for what he'd done. That year he did not move on to the next class; he refused to study".

"My daughter felt it was an injustice; she didn't think it was fair that they considered her that way. I told her that through mediation she could prove who she was. She did so, albeit with difficulty. Sometimes it is difficult to talk to each other face to face; it is better through someone. Now she is much more relaxed. She is more at peace".

"I don't know what they talked about. My son started to take the incident differently, he was calmer".

"My son felt guilty until he realised that it could happen. With mediation he was helped to realise that he had not done it on purpose".

"My daughter said she was wrong, that she was sorry and apologised. It was a lesson; she said: 'never again'".

Before mediation

**After
mediation, in
relation to
oneself**



"For my son, I cannot say that it was successful. He showed up, said he was repentant, but it did not make him mature enough to complete his probation and pay once and for all, and in that sense, it did not turn out well".

"It was certainly an experience that matured him. For him, they were jokes, they were playing; he had not taken into account that there could be such consequences. Now he is more careful about the possible consequences of his actions, he is more cautious".

"Sometimes, however, it is not enough, something more than mediation is needed. In parallel with the meeting, our son was not effectively supported to the extent that he continued with the probation. An adopted child, with a very difficult adolescence and clashes with his family, we as parents could not do more. We trusted the Court's social workers to do it. He didn't make it; so, in some cases mediation alone serves only up to a point".

In relation to the victim

"My son felt guilty towards the victim; he too was worn out. He couldn't explain to me what triggered him ... but he felt bad, really, towards the victim".

"My daughter was not aware of what had happened, she told me a whole different story. When you tell a story, talk about someone, you then have to understand what they are like, know them. Thanks to mediation, we found out how it really is. My daughter and the other girl made up immediately, they had a lot to share".

"It was painful but beautiful. If we had not done so, the victim would have been left with the same hatred, the same fear".

"They exchanged phone numbers, they met. I think it was liberating for everyone".

"Even with the boy's parents we spoke a couple of times; they too understood that my son is not a danger".

In relation to family and friends

"After the mediation, our son was able to talk to us, he talked to the psychologist, he was also able to explain a little bit what had happened".



"I saw him change. With them he was able to open up, because perhaps with us he was afraid of being judged. He also talked to us; but before he couldn't say why; maybe he couldn't believe what he had done either".

"With us in the family he was introverted, not really expansive. It was an opportunity to open up, it was a way to talk about oneself".

"There were also effects on my son's relationships with his friends. He was able to understand one thing about friends who are real and those who are fake. He had got involved in this through someone who was not a good friend. In fact, he no longer sees or talks with this guy".

1.2.3. Practitioners

"Initially, offenders are full of shame; they feel that, having committed an offence is something that stigmatises them. Thanks to the meetings, they move from a feeling of shame to a more constructive sense of guilt, with an assumption of responsibility and a willingness to make amends". (Mediator)

**Before
and after
mediation**

"Our defendants, out of defensive instinct and immaturity, tend to minimise events and fail to grasp what the other has been through. When we see them again, it seems to me they have developed a greater capacity for empathy, especially towards the offended party. Mediation helps them to put themselves in the victim's shoes. This acts as a deterrent from committing further crimes". (Deputy Prosecutor).

"Young offenders truly understand what it means to have violated a rule. Initially, they see themselves as victims of the system. It is an offender-centric way of thinking. The discovery of the profound meaning of the norm in terms of its value can only take place when meeting the victims and their burden of suffering". (Mediator)

"It struck me when a young man during the first interviews told me that he had met the victim's wife, remembered that she was pregnant and this had upset him very much. Then he mediated: I found him much changed: before there was total closure, he opened up a lot". (Educator - IPM)



In relation to oneself

“There is a quality improvement. Compared to understanding what a crime is, not just the sanction, and the consequences it brought on the victim: not your usual robbery, but that robbery”. (Social worker - USSM)

“Young people have in mind a stereotyped idea of the offended party, e.g., that they just want money, want revenge or are angry with them. And then they come across a realistic offended party, meet a person and no longer have only an image in their head. The change is due to this”. (Mediator)

“It is a valuable tool for both awareness-raising and future adherence to the rules. It leads offenders to reflect on the reasons that led them to that conduct and on the consequences for the victims. (Deputy Prosecutor)

“These young people get in touch with their own emotions and especially with those of the other party. Inevitably they change. You can have beautiful interventions, but when you touch your emotions, real change can happen”. (Social worker - CGM)

“In juvenile criminal proceedings there is often a tendency to shift the focus to the personality of the underage offender. Mediation helps to focus better on what happened. Every offence is different, conducts and effects are different. Youngsters are more aware after the mediation”. (Judge)

“Greater self-awareness was seen, sometimes an awareness of the offence that cannot be taken for granted”. (Deputy Director - IPM)

“When these youths are in front of people who don’t judge them, it is as if they can slowly and truly face the harm and the suffering they have caused, thus setting in motion a real process of assumption of responsibility”. (Mediator)

“At first it is difficult and painful; then it is also a pleasant discovery; they see that emotions that they thought were negative - a sense of fragility, sensitivity seen as synonymous with weakness - can be a beautiful thing and even please the other party. They thus acknowledge this side of themselves”. (Social worker - CGM)



Where there have been pathways to accountability, there has been a different appreciation of mediation; the offence has been reconstructed in a different way, and the rules of relationship and communication have been re-established”.

(Prosecutor)

“When mediation was imposed, there was contrived support. They participated, but they didn’t care; mediation didn’t affect their lives at all, and they told me so”. (Director - USSM)

“I think the change is due to the physicality of the other, to the fact that the other is present and not just represented. When young offenders are faced with someone who asks them questions, they have to answer those questions”.

(Mediator)

“Meeting and acknowledging victims are the most difficult thing to do. Victims reported the crime, had their faults and did not accept them; they brought the offenders into this circle of hell. The encounter with the victims completely changes the set-up”. (Director - USSM)

“They often consider the offence as an abstract thing, with no real repercussions. Then, when you find the actual people with their emotions, physicality, thoughts in front of you, the castles they had built collapse, and the journey towards empowerment begins”. (Social worker - CGM)

“In the young people in IPMs who choose to try mediation, you can feel their need to meet the people they have caused suffering to. This is extraordinary. We are talking about few cases but there are encouraging signs”. (Educator - IPM)

“From an offender-centric view, offenders shift to a dual view. They begin to see themselves from the outside and realise that what they have done is a matter of relationship. Even if it is against a stranger, a crime is a relational fact”.

(Mediator)

“A lot of times they think they were playing pranks, for example in the area of bullying. Even hearing the other person say ‘no, I don’t feel like meeting you’ is very important; it reveals the seriousness of the gesture”. (Mediator)

**In relation
to the
victim**



In relation to family and friends

“What do we detect? That divergence of outlook also affects families and context. The ability to change position also concerns families”. (Mediator)

“Mediation brings about well-being; it leads to a form of pacification both in the relationship with the other and in the eyes of others who have seen the events and their effects”. (Deputy Prosecutor)

“This newly acquired mode of communication is also taken back home by the entire household”. (Mediator)

“Parents are very important in offering support afterwards. If the youths take steps forward, build respect, recognition and then the parents say that it means nothing, the steps forward are nullified. So, it is important to make parents understand the value of mediation. They are often the first obstacle to mediations that are not feasible, because they act as a filter”. (Mediator)

What reparation

“The encounter becomes very pregnant when the real feelings come out, and then the real needs, badly expressed through violent behaviour. Reparation takes place when each person recognises that they are in need of help. Offenders discover that being strong does not mean not having fears or always showing oneself capable of doing things, but showing oneself as one is”. (Mediator)

“We often request mediation for minors frequenting the same context, e.g., school. It has important outcomes. Afterwards, the offenders who took part in the hearing show their happiness at having met the victims”. (Deputy Prosecutor)

“After the mediation, the youths seem relieved. There seems to be a mental space more projected into the future through planning and intentions, it is as if they have come to terms with the past”. (Mediator)



“Mediation is crucial if the offence involves people who know each other. Otherwise, there remains the fear of meeting, of looking at each other. At school or among friends, it is crucial to prevent these conflicts from recurring and worsening. The youths understand that they can be with each other, when they put the right distance between them”. (Social worker - USSM)

“Many times, mediation ends with agreements on how to behave in the event of a meeting: we only have to say hello, or don’t even look at me. An agreement is built on the demands of the other, starting from the victim’s needs”. (Mediator)

“There are also changes with respect to justice. I notice this more in minors who are in the advanced stages of the process, because they have been impacted by justice for longer: they discover that there is also a non-judgemental type of justice”. (Social worker - CGM).

What justice

“In a relational sense, the concept of justice also provides an opportunity to make reparation. Guilt leads to something; they offload a burden that weighed on them considerably: ‘I did that thing, it stays with you, but I was able to make partial reparation’. This is fundamental, thinking that reparation makes you feel better”. (Social worker - USSM).

“In the concept of justice: offenders understand that they do not only have a responsibility towards an abstract norm, which they have violated, but that they have a responsibility towards someone. They understand that the principles that a norm protects are concrete for a person, their freedom, dignity”. (Mediator)

2. What Does It Do for Those Who Have Suffered an Offence?

2.1. General Findings

Does restorative justice also serve the victims? Why would victims want to meet those who harmed them? And what effects and changes can such a meeting bring about?

Choosing to meet the individual who has caused harm, even serious harm, may seem like a paradoxical, unnatural, counter-intuitive decision. On the other hand, the stories collected during the focus groups and interviews with the victims, both young and adult, highlighted



the fact they all had their own reasons for wanting to meet the offenders. These meetings had important effects – sometimes not as imagined – in their relationship with themselves, with each other, with their social circle, and with justice.

Again, each experience is personal and unique. However, some themes were touched upon recurrently, and, before leaving room for the individual voices, it is worth mentioning them briefly here.

First of all, the **importance for victims to feel seen**, to perceive that someone cares about them, to be accepted and listened to after the damaging event that involved them. Even being just contacted by the mediation centre, finding out that there is a service that cares about how offended people feel, leads to an initial sense of institutional **acknowledgement** that the justice system, particularly the juvenile one, does not offer.

Meeting offenders then, again on the basis of the protagonists' accounts, leads to multiple changes, *primarily* on an emotional level. Within this dimension, issues related to **overcoming feelings of fear, shame**, and even **guilt** that sometimes feel those who suffer violence were frequently reported. The victims – especially those who were minors at the time of the events – state that, thanks to mediation, they have **gone beyond the feeling of powerlessness** that oppressed them, recovering positive self-judgement.

The question many of the victims wanted to seek an answer to is **why** this happened, in order to understand what was behind a certain action. Answering this question through the words of the only person who can really do it has in many cases offered a sense of relief, of regaining control of the situation. It has also provided the opportunity to **put a full stop** on the story and **look beyond** it, in some cases restoring the lost **social safety** net and allowing a return to **feeling part of the community**, in the face of an initial feeling of marginalisation and loneliness following the crime.

Through the encounter, which enabled a two-way re-interpretation of the incident possible, the more or less explicit **desire for revenge** is often overcome, thanks to the offender's **acknowledgement** of the damage done and the fact that what happened should not have happened and will not happen again. Indeed, the stories point out how seeing that the offenders have understood their own mistakes and the extent of the harm inflicted is a source of satisfaction and pleasure. This allows the victim to feel better and gain closure about the incident without a desire for revenge, but rather with a sense of **pacification**. Conversely, where this recognition has been missing or experienced as contrived or insincere, a feeling of frustration remains.

An important role is played by the **material damage** resulting from the offence, the recognition of which – even in terms of only partial or symbolic compensation – is experienced as important in order to be able to move on beyond the incident.



Another relevant aspect is the encounter with the **human face of the aggressor**: for many, mediation has led from an abstract or at least imaginary idea of who the offenders were to the discovery of people, different from the ones that had been imagined, with their own backgrounds, frailties, desires. People with lives with which one can even empathise, or understand and welcome into one's life in a different way, helping the victims to **overcome fear or anger**.

The differences between the experiences and reflections of **victims** who were **minors** at the time of the events - or at least very young - from those of **adult victims** deserve separate consideration.

The dynamics of a peer-to-peer meeting after a crime is very different from that of an underage youth talking with a mature person. In the latter case, in fact, the adult is not infrequently involved, or feels involved, in an **educational capacity** or at least as facilitator of a journey towards awareness and reintegration of the minor in question. Such a perception, again according to the stories that were collected, can have conflicting implications and effects. Sometimes offenders embody what victim really feel to be their role, both personal and social, and this allows them to find **satisfaction in seeing the changes** that dialogue brings about in young offenders, in terms of understanding the scope and consequences of their actions, as well as in building a different outlook on the future. In some cases, this **also alleviates the feeling of guilt** for 'getting young persons into trouble', especially if one did not imagine them to be underage at the time of the police report. What presents itself in these cases is the feeling of having contributed - where mediation has a positive outcome - to the rehabilitation and reintegration of a young person in difficulty, with a consequent **sense of recognition of one's own pro-active role, of social inclusion and usefulness**.

However, even **when mediation does not have the desired effect**, i.e., when adult victims do not see a real acknowledgement and understanding of the harm caused by the young person, if they nevertheless felt adequately listened to and accepted by the practitioners, a positive assessment of the process is given by the interviewees, having considered it a useful event for themselves and an opportunity to be offered in any case to the other, with each person being free to take advantage of it or not.

Where, on the contrary, **the experience of victimisation has not been** adequately taken into account and **acknowledged** as such, at least by the practitioners and regardless of the educational value it can offer, or where the victim has felt **used** as a 'means' for the growth of the juvenile offender, mediation shows that it does not have a positive effect, leaving instead a sense of **frustration** and dissatisfaction. This also relates to the lack of acknowledgement of the physical or material harm that has been suffered, which in such cases takes on greater significance.



Adult victims also asked to **meet the parents** of the youths, or to have a meeting that could be on an equal footing and not restrained by educational requirements more or less prompted by the 'unequal' context. These demands can also be traced back to the need to alleviate the fatigue and pain that the victims, in their imagination, believe to be felt by those who most closely experience the vicissitudes of the minors. Not infrequently, in fact, especially if the victims are parents themselves, has identification with the adults close to the offenders been reported.

A very delicate aspect concerns cases in which offenders and victims belong to the same household, as in the case of **mothers who are victims of their children**. Statements about these circumstances, although numerically unrepresentative yet significant in their specificity, point to the urgency of a targeted and structured support in which the restorative pathway is certainly an important but not exhaustive element with respect to the needs and problems of the parents-victims, the children-offenders and any other family members⁸.

When it comes to **underage** or, in any case, young **victims**, the meeting - in addition to what has already been described in general from an emotional point of view - can bring about specific changes on the outside, in particular the acquisition of the capacity for a **different conflict management**, a greater ability to **listen** and to heed. Many minors reported how, by meeting the people who had committed the injustice, they became **aware** of how easy it is to be on the side of the aggressor. They realised that it could happen to them too, sometimes being encouraged to change their groups of friends, sometimes to experiment and learn different ways of relating to others, with a **general prevention** cascade effect.

As far as the relationship **with one's own family** is concerned, once the initial sense of guilt and shame - especially towards the parents - was overcome, a **greater capacity for dialogue** and openness was reported, or at least a return to normal relations.

There is, on the contrary, no particular sharing of the process in the wider social and friendship circles. Under age victims have sometimes reported regaining their own **autonomy** following mediation and initial over-protection by their parents after the damaging event.

Returning to what both under age and adult victims stated in relation to the **restorative outcome**, for many the decisive level was the relational one, of pacification and overcoming the conflict, even when money was offered which was, however, deemed inappropriate or offensive. For others, the material level - in view of the damage suffered - would have played an important role and was not always sufficiently acknowledged.

⁸ On the subject, see Drost L. et al. (2015), *Restorative Justice in Cases of Domestic Violence*, European Forum for Restorative Justice; Garbarino F. Giuliani P. (2022); *Vulnerabilità e giustizia riparativa: un modello criminologico nelle relazioni strette e nella violenza di genere*, (Vulnerability and Restorative Justice: a Criminological Model in Close Relationships and Gender-Based Violence), in Mastropasqua I. and Buccellato N.; *2° Rapporto nazionale sulla giustizia riparativa in area penale* (2nd National Report on Restorative Justice in the Criminal Justice Arena), Gangemi Editore, Rome, pp. 133-152.



Finally, with regard to the way in which **justice** is seen, the path taken made it possible to consider reparation as **overcoming** the purely **punitive model** in favour of a process that makes it possible to truly understand the harm caused by the offender and suffered by the victim. Reparation is thus seen as a means of **overcoming conflict**, with tangible repercussions on the daily lives of all those involved. In this way, justice, in the words of those involved, moved beyond revenge. Above all, it allowed an **active involvement** that was much appreciated by the victims who, on the contrary, were disappointed by the sense of ostracism and exclusion perceived in ordinary procedural justice. They spoke of a type of justice that in this way acquires a **more human face** for all, made by people for people.

The statements collected from the protagonists during focus groups and interviews are presented below. The victims who were minors at the time of the events, the adult victims, the parents of the former and finally the practitioners report 'what restorative justice has done' for the offenders, according to their own experiences. The 'voices' – in unison – confirm the narrative flow that characterised the listening. The dimensions and sub-dimensions on which the survey was structured are highlighted⁹.

2.2. The Voices

2.2.1. Underage Victims

"I was still on crutches. We meet these guys who start teasing me, some of them come up and start pushing me. I had to think about balance, not about running ... I was immediately kicked in the breastbone and fell to the ground. Then they threw a punch. I felt pain in my breastbone, in my hand".

What happened

"If you don't experience something you can't judge ... there are no words ... it was fear, anxiety, a whole set of things that can't be explained, that I can't explain".

"To me, right inside me, I felt ... yes, I felt, fear".

"I also remember the day, some things you don't forget".

"Since that day I've been avoiding physical contact; if I have to hug someone, I shy away, I feel oppressed because they touch the rib that was hurting me. I have the feeling that I still feel that pain".

⁹ For more details, see the methodological note on p. 17, and the preamble to Part I on p. 28.



Before mediation

"The more time went by the more the photo and video went around, some said 'I saw the chat', some 'I really saw the video'. I was anxious, afraid, I say terrified, that it might go to grown ups. I used to say, what can I do? Nobody wants me any more, I was ashamed".

"When the attack took place, I was inside this bubble and I could hear neither cars passing by nor mopeds, nor people nearby, nor doors closing. I could only hear them, footsteps, hands ...".

"They would stop me to ask if I was the one who had taken them. It bothered me".

"That was a sad period of time. I live in a small town with 4,000 people. There are few of us and we talk a lot. So, even at school everyone knew".

"I don't want to tell you what happened without telling what I did to others. When that happened, I thought I deserved it".

"I felt different because before I was always seen as someone who never had a problem with anything. Instead, afterwards ... I hated high-waisted trousers; I started wearing long jumpers ... I wanted to cover myself, because to think that he had seen me naked, and not only him, made me sick".

"You feel a sense of sadness because you say, if I wasn't riding with my bike past there, if we hadn't stopped to hear what they were saying ...".

"When I thought of him, I kind of hated him. I mean, it's not that I hated him, but I was unable to find an explanation for that. I used to say: why did he do this to me?".

"However, knowing that you've had this nasty fight with these guys, that you see them in school, gives a sense of ... I won't say helplessness, but ... of submission. But it shouldn't, it doesn't have to be that way".

"When I saw him, I always tried to turn around; I could never look him in the face, never. My palpitations would start, I would turn away, try to change direction or lower my head".



"I wanted to ask all three of them a simple question. I wanted to ask them: Why? I wanted to find a rational aspect in something that has nothing rational about it".

The mediation proposal

"We decided to take the mediation route to clarify the situation, so that we would not always have the fixed thought 'what if I met him in the street ...'".

"I didn't want to talk to mediators initially; I said 'I don't need them, I can do it by myself'. But I knew it wasn't true, and I said, if I don't try it, I won't know how it will turn out".

"I really appreciated the fact that the other two agreed to have this meeting; they were curious to understand what I thought. A meeting about what had happened - peaceful, non-destructive, very straightforward - with no insults or turns of phrase that are too strong nor too weak".

"I no longer had that fear. Because through talking, even with the words the mediator used, I pushed aside anxiety and fear. I started to feel calmer".

After mediation, in relation to oneself

"Within myself, I felt more ... relieved. Just the part ... inside, to process the fact, to understand what had happened. Well, the desire to know. It helped me to feel good and understand what had happened".

"When you are on your own, you have twisted thoughts. When you are all together, you also understand their thinking, what they wanted to do, because the moment there is action, you are all angry and you have a sense of fear, so much so that you don't even hear external noises".

"It is a new thing, an experience that gives you hard-earned emotions. The gift of this process that you are going through with others is the pleasure of working hard and feeling some strong emotions".

"I felt understood, it helped me a lot in the way I had to look at myself, without belittling myself any more. Because I was calling myself a bad person. It was through mediation that I learnt to look at myself with different eyes".



"In going through a mediation process, we find ourselves asking and answering what has happened, and we cannot play this down. Once you finish, you are much more aware".

"The mediation meeting helped me to get a fresh perspective on things. It changed my life because it helped me understand how easy it is to get into trouble".

"Now I avoid getting into trouble. Now I think it's better not to hang out with some people; I see them and say hello. That's it".

"I have learnt that when you are meeting someone, you have to shut up and listen to them. You talk once they have finished. This does not make you look weak".

"Before, when I saw two people going at it, I would stand there cheering. Now I think about what to do, not only for myself but also for others. I try to figure out how to help".

In relation to the offender

"You see it live, you say: ok; now we are all here, let's discuss and then come to some conclusion".

"After looking into his eyes, knowing all that I had been through, I wondered what he was going through".

"At first, I couldn't, I didn't know how to start talking about the event. Fortunately, we were then able to talk for more than two hours, and came to the conclusion that we wanted to explore the possibility of friendship".

"I was angry, I wanted to give him a hard time. I thought: if not with real punches, at least I could report him to the police. With the mediation, we clarified things. Afterwards we were outside joking about things at school, as if we were friends".

"I saw the offender - and he also saw himself - in a totally different light. Then we went out for coffee. I saw a different person, a normal person, who had had a moment of weakness that caused him to be aggressive".

"To move forward, I have to close with the past, leave it behind ... and this also means being able to look at Alessandro¹⁰, that's his name, with the eyes not of before the event, but with the eyes of a normal friend".

¹⁰ Alias



"I know he no longer hangs out with those guys; I think what happened to me saved his life. Of course, I would have preferred some other means".

"I was glad to talk to him because I realised that he had changed after what had happened".

"When we went out, we started talking, joking; the last time we saw each other was yesterday. People who know this story are wondering how I can do this and say that I am crazy. I don't think I'm crazy. I think he understood, I understood more than anyone, so I forgave him".

"If someone proves to you that they have understood their mistake, I don't think they should be convicted ... if they have understood, I think that can be enough".

"With mum the relationship has changed a lot in a good way; if I have to say something more intimate or ask for advice, I can say it more easily. If after all that has happened, she can understand me, then she can understand everything about me".

"My parents were already strict before, after the fact they called me to find out where I was, my life was no longer mine, they wanted to control everything. I started arguing with them. They wanted to protect me but I no longer felt that independence. It got better after the mediation".

"With dad, before, I had a beautiful relationship. When everything happened, I was ashamed, a lot. We don't talk as we used to. I thought: how dare I speak ... and I kept quiet. After the mediation, things changed completely".

"With friends in general he hasn't changed ... maybe I was trying to avoid the people he was relating to. I was trying to keep the people who were not particularly close to those people".

"We took a picture as we shook hands. It was significant because I did not expect this young man to say hello to me afterwards. I saw real repentance".

**In relation to
family and
friends**

What reparation



“My friend asked me if there was anything he could do to make me feel calm, such as becoming a volunteer or taking some courses. Anything that was good for him was good for me, anything other than violence. As long as he helped someone”.

“They asked us if we would say hello to each other after the meeting. The boy answered before me saying that we would do so; he apologised to me and took on his own responsibilities”.

“In my case after the mediation we went out for coffee together. With one of them we still meet up, we say ‘hi’ to each other”.

“After the mediation, his lawyer called me to tell me that there was some money for me. I said I was against it, I just wanted him to repent and not do the same to others. But he told me it was compulsory. When we met at the police station, the boy’s uncle and brother told me that it was the money that made me feel good. I wanted to forget about it but by then I had signed; I felt morally shattered; I walked out of there with my head down. I didn’t know what to do with that money”.

What justice

“Before, it was something like ‘he who breaks pays’. With restorative justice, we also come towards each other. In Court everyone tries to defend themselves, but here we find a common path. Maybe he still has to pay for the harm done, but instead of pointing the finger at him, it is better to make him realise where he went wrong. If he didn’t understand it before, now we understand it together. It seems better to me”.

“In court, the minors’ lawyer tried to put me on the spot. In mediation there was a different climate. I now realise that justice is not a punitive act but a restorative one”.

“With the report and the trial there would have been hard feelings, he would have thought of making me pay sooner or later. Instead, I was able to talk calmly and we cleared things up”.



"If you have a conflict and you file a police report, there will be a second conflict in court, so it does not solve your problem. On the contrary. You raise the tension between the two sides even more. It resolves the conflict on paper, someone decides who is right and who is wrong, but it does not resolve the conflict in everyday life. However, mediation is what is really needed to resolve a conflict".

"There have been some big things, which should not be played down but rather enriched with fairer words. For me, justice is a process that should turn the world into a better place by fostering and improving the interaction between the people who live in it. This is what I'd say".

"I would say to accept it because it is an experience from which, if the others are truly repentant, I don't say that a friendship can be born because some distrust is always there, but a civilised relationship".

**If you were
asked for advice**

"I would tell other guys to do it because between victim and aggressor there is a way to live together in the same world. You have to be able to live in the same world with that person".

"I really appreciated the mediation, the opportunity to discuss things between us directly in a protected, healthy environment, to get to the heart of the matter".

"I would recommend it. If you want to know what happened, it's better for yourself, to have a little more self-esteem, a little more inner power".

"It is really worth it, to try a little bit to remove the desire for revenge, to go further, and to be aware that a conflict is resolved by talking and not in Court. I would say this".

"I would recommend the mediation route 1000 per 1000. It's the thing that helps you the most, you avoid a lot of things and you both try to understand why you did it and why maybe he did it, the real reason, whether he did it for fun, out of malice ... so this thing I really recommend it the most".



2.2.2. Adult Victims

What happened “I didn’t see anything, just the blow in the middle of my face, my nose, my mouth ... in fact, I have all my teeth about to go, I don’t know how much more they can hold. I started screaming because I felt a hot, hot feeling on my mouth, on my face, I saw blood dripping down my shirt, I started screaming”.

“Robberies, thefts, assaults; they happen every day all over the world, so it was no big surprise. The surprise at that juncture is that it happened to me”.

“I think it was a crime committed out of naivety. This girl did not realise at all that she had done something serious: taking a car as a minor, without a licence, crashing into someone and not even having the good sense to stop. I had to get a new car; I suffered a two-week injury”.

“What upset me the most was that, since this boy was a minor, I could not act as a plaintiff. The parents never showed up; I did not receive an e-mail or an apology; on the contrary, they showed up asking for an explanation because the boy had some bruises. Almost blamed for what had happened but I was the victim”.

“It makes me laugh, because my mistake is that I was not very careful. At least I had to hold him away a bit with my hand, but nothing; what can I say?”.

The mediation proposal

“I didn’t know what mediation was; I was contacted and had a one-to-one meeting first, and then I also agreed to meet ... what should we call the boy? Let’s say the aggressor”.

“I was called by the mediators and said, ‘I have no problem, I have no grudge, apart from the pain, I have no problem, I am ready to talk, to discuss things”.

“I took part in it and accepted precisely because I had something to say and was given the opportunity. I didn’t think I could change the situation, but I wanted to say a few things and that’s why I accepted”.



"They asked me 'Are you willing to make peace?' I said: 'Look, peace is the virtue of man, one must always strive to be at peace. But my rights are my rights, as long as they stand'".

"It was important for me not to have negative feelings towards someone. For me, for my life. And if this mediation had helped him to realise that he could not change what he had done, but his attitude could, that might have been important and would have been important to me".

"When I came out of there, I felt a lot lighter, honestly, a lot calmer".

"It enabled me to actually see and feel this toxic dynamic, perhaps more than a toxic dynamic. It is not there to forgive, but to understand".

"It was important to close the circle, to see that she was working on herself, that my police report had helped. Because when I reported it and found out she was underage, I felt guilty. I read the paper, looked at my partner and said, oh my God, she's 16 ... I got her into trouble. The first thing I thought of was that. So, seeing her a little more together also helped me".

"For me, mediation did not bring about any particular benefit or change in me, because I can manage my own affairs; I was calm. I hope it changed something in the guys; from what I saw in the girl yes, in the boy ... I don't know".

"The meeting brought me back down to earth. In the beginning there was a name, someone up there, in the air ... and then you have them in front of you and they say: 'You know, I work there', and you connect the place to memories, to thoughts. You start building a reality plan: that was important for me".

"The mediation was disappointing: not the mediation itself, but listening to this boy. I think he did not understand the seriousness of what had happened. The feeling I had was that he was there because 'maybe this way the judge is going to treat me better'. But mediation did what was in its power: it put two people in front of each other and created the opportunity to redress. Then if you do not want to, you can do very little! Everyone does what they can, what they want, the best they can".

**After mediation,
in relation to
oneself**



"For me personally, I was pleased, because I enjoy talking. I am Muslim, we say 'peace be with you'. There is no point in raising the flame, afterwards with all the water in the world you can't put it out. We must seek peace, and it is dialogue that brings us closer.

In relation to the offender

"The first thing that struck me was that this girl was from a good family, very beautiful, very polite. The first thing she did was apologise to me; she was repentant; she realised she had done something wrong; she even asked me how I was, what had happened afterwards."

"For me he had no face, he only had a name; he could have been anyone, I had no idea who he could be. Now I know who this person is. I have thoughts if I walk past the restaurant where he works ... I have an extra piece in my life".

"We had a nice long chat. The boy apologised. I told him: 'It's not that I have to do anything with the apology, the important thing is that it becomes an experience for you'. The girl did not even want to talk at first; she felt very guilty. I asked if I could talk to her directly, then she opened up. For me, the boy has understood nothing and does not want to understand. The girl yes, she feels it, she understands".

"If we think that they are youngsters in the prime of their lives, with so many things to learn and every right to make mistakes, pathways like this give a chance to create a better future for them, but also for us. If we think of kids who make mistakes as people who have already ruined themselves, in my opinion the first ones to lose out are us".

"I would have gladly met the parents, and indeed I want to say just that, in a mediation with minors, it is essential that the parents are there".

"When the girl came out, she met her father and he took her to task. I told him, 'Don't you dare tell her that! The victim here is me, and I haven't said half a word of what you said!' There, I was hurt. So, one piece of advice is to also talk to the parents; it means a lot. To my knowledge, however, they were not involved. Definitely not with me".



"I injured my finger ... but it's not a problem; it could have happened even with an accident on the road, it's not that. It is the significance I give to this. I'm not talking about money, I'm not talking about compensation, I'm talking about understanding the actual seriousness of the offence".

What reparation

"I would like my rights to be respected. I also sent photos of my teeth to the doctor in Tunisia, who costs almost half as much. If they want to meet me halfway, then I will meet them halfway too. Nothing. The relationship ended there and I don't know what to say; I hope the matter will be resolved because my teeth are starting to bother me, I can't chew any more, or anything, so ...".

"For me, the main thing is to participate by understanding how important an apology is and how important it is to at least *try* to make amends. It is not possible sometimes, but it is important to show the intention. A sincere apology after something that could no longer be changed, this thing would have made all the difference".

"Even if it was the great value of the bicycle, if you don't start with the human value, you never get anything done. First of all, human relationships".

"We left each other under the building where the mediation centre is based, exchanged phone numbers, wished each other the best. I made myself available if she needed anything. Then it ended there, she was not someone who became part of my life or vice versa. For me it was already resolved, that was the closing of the circle.

"When they proposed this to me, I was amazed, I didn't think there was such a service. As far as the trial is concerned, I still don't know anything; we still haven't had any compensation; I haven't heard from the court in aeons. I try to call and no one answers. With restorative justice we are on another level. I was contacted several times, we talked, resolved various issues ... I wish procedural justice would go on in the same way".

What justice



"I was sidelined by the law and justice because the offender was underage. Justice tries to protect the aggressor, which is also right, but when there is an assault, the victim is the victim. To feel like an aggressor in certain situations, that upsets me".

"From a procedural point of view, no, I am not at all satisfied. I had to chase the Court even to find out when the hearings were going to be held. I did not get the papers. There was a strong sense of abandonment. It's been years. I never even know if I will receive anything; not that I care about money, but I would have liked some feedback. At least someone to tell me: 'We are working on it. We will get there in our own time'. There was absolutely no such thing".

"Mediation could be a tool. An offence can have many reasons behind it, without justifying it. Because the same offence does not have the same motives, and does not have the same consequences. So, understanding them is very important. And I guess with a judge such things don't come up. I believe that everyone's story is important as it can create a level playing field for everyone".

If you were asked for advice

"To someone in a situation similar to mine, I would absolutely recommend participating. With a more serious offence it might have been more difficult, but I would have believed in it anyway. Because I think it's necessary for young people to do things like that."

"If restorative justice helps to make one understand, to make sense of what one has done for good or bad, this can be important. The way it was proposed to me, I thought it was an interesting thing. I've been there, I've tried it, I've been contacted again and I strongly believe that, if it doesn't completely change justice, it can help to make people see things from a different point of view. So why not, indeed, a strong yes".

"Would I recommend mediation? Definitely! Definitely! It is always dialogue. Because people can have things inside they cannot express; but an expert will help them".



2.2.3. Parents of Underage Victims

“My daughter has always been a cheerful, smiling girl, but at that time she was sad, always angry, often crying. She had clammed up”.

**When it
happened**

“My son was shaken. It was one of the first times he went out alone with friends; he didn’t think such things could happen, despite the warnings. He was really hurt because he realised that anything can happen and you have to be ready”.

“I noticed a change on his return from the trip. All the mothers told me: it’s being 13, 14 years old, maybe the first loves, the first disappointments ...”.

“If he had wanted to fight back, he would have had the upper hand but he did not fight back both the first and the second time he was attacked. I was always afraid that he would hurt others because he is very big. The psychologist tells me that I must be happy to have brought him up this way because otherwise I would have a violent son. But I don’t know if I did the right thing; both times I was afraid of losing him”.

“He was frightened that he was not able to react, to say the things he wanted to say. The meetings really helped him to reflect on this: that it can be normal that you don’t know how to react at that moment, and you don’t know what to say. This helped him a lot”.

**Before and
after mediation,
in relation to
oneself**

“He told me that when he saw them in school, he was afraid. I used to tell them not to look at them, not to give them a chance to get hooked. He expressed this discomfort. I noticed the relief after the mediation”.

“This journey gave him a craving for rules, for justice. Law is his favourite subject. He chose to take a referee course and developed a sense of protection towards others. If there is a kid in trouble he steps in; he says that no one should go through what happened to him”.

“My daughter came out of it ... reborn. Also because she had lost her smile, her eyes were dull, her complexion dull. Then slowly slowly, she was also able to gain more confidence”.



"It is an experience that has taught him something: go for the things that matter, not for trivialities. Ruining your life over stupid things: no. I hope it enabled him to get his priorities right; I think so".

"I cannot say whether the mediation process has had any effect. I hope it taught him to always seek dialogue rather than revenge. We had one meeting and solved everything. I hope it conveyed this management skill to him".

"Maybe if we hadn't met the mediator, my daughter wouldn't be here by now, I wouldn't be here talking about her".

"After the meetings I saw that he was more relieved. Maybe I gave little importance to what happened, but the fact that he was warmly received and listened to by people who were there for him at that moment helped him a lot".

In relation to the offender

"There was more understanding. He did not justify what had happened but said: 'Actually, that boy has those problems and so maybe he acted that way because he has specific difficulties of his own'. The other one got carried away, but on his own he is not as aggressive, as bad, as when they are all together".

"Slowly slowly, they got them both talking. And they talked a lot, but a lot. They even reached a meeting point. I eventually realised that he was a good kid, not a bad kid".

"I didn't believe in it. Instead, I saw the boys talking with the mediator, chatting. I don't think that boy did it just because he was there; my son told me that when they met outside, he greeted him. I think it helped".

"We were contacted by the mediators who suggested a chat with the attackers to understand what had happened and to understand each other's point of view. We suggested it to our son; he said this would help him a lot and it actually helped him a lot because he was able to put himself in the other person's shoes".

"The boys now say hello to each other, they have met a couple of times. The mediation was a good opportunity".



"I asked my son if it was true that he had already been beaten and why he hadn't told me; he told me that I would never let him go out again. He thought that the thing could not be solved and, therefore, the only alternative for us adults was not to let him go out any more, to protect him. He was putting up with it because he was afraid I'd deny him his freedom, but he realised that things can be solved".

In relation to the family and social network

"My son wouldn't tell me anything, I couldn't talk to him. Then, with mediation, you meet a capable person who can get you to open up and you get it all off your chest".

"After the mediation he talked about it more with us, he felt freer to talk about it. Perhaps, before it created fear and suffering in him; it awakened a range of negative emotions. But then he would speak more openly, even about the fear he'd felt".

"I will never forget my daughter's words in front of the mediator: 'My father no longer looks at me with the same eyes; he hates me; I have let him down ...'. Because they had a beautiful relationship, they understood each other with their looks. Instead, that time it was terrible, terrible. Then slowly, after the mediation, my daughter was at peace, calmer".

2.2.4. Practitioners

"At one hearing, a boy I was following for a murder was surrounded by an educator, a social worker, etc. But I did not see anyone comforting the victim's parents. This gave me food for thought. I thought, how is it possible that no attention is paid to the victims?" (Educator - IPM)

Before mediation

"They usually report the offence to the police and then they are left alone. If they have the resources they start working with psychologists, otherwise they are lonely and isolated. All the more so if they live in the same environment as the offender: there is also a feeling of fear, of shame for having reported their partner or the neighbourhood gang". (Mediator)



**After mediation,
in relation to
oneself**

“In the juvenile justice system, there is little room for victims who cannot act as plaintiffs; even if there is a lawyer, they do not have much of a voice. The constant feeling is that there is not enough room in the criminal process. But victims are there and would like to make their voices heard. There is a need to listen, to be present. Restorative justice offers a real answer to this.” (Judge)

“They are in dire need of acknowledgement, that they exist because of what they have been through. Mediation is the only time when they can ask fundamental questions, for example ‘Why did this happen to me?’, and find a truth”. (Mediator)

“The moment mediation is successful, victims no longer have the need for the process to end with a sanction because relief comes from mediation, the relationship is restored, as is that sense of acknowledgement that is the main aspect of the victim’s suffering”. (Prosecutor)

“Another effect we have identified is the fact that mediation allows the offended party to take charge of a situation that concerns them and manage it actively, a form of empowerment. Empowering offended parties and giving them the opportunity to make their voices heard, and handle a situation that concerns them”. (Mediator)

“Victims have the opportunity to process the event again, rediscover their own assertiveness, their own self-confidence, to have a greater sense of security”. (Mediator)

“She felt crushed by the judicial system because it was investigating, whereas with mediation she felt an active part of the process: ‘I can ask them to do something’. She was asking to be part of the game, she was not totally passive, she could ask the State, the system, the people to do something to make it clear that she exists”. (Director - USSM)



“Young people who are victims of group offences feel anxious, crushed; they have not been able to react and this makes them feel guilty, they lose self-confidence and trust in others. They struggle to get out of their homes, to take the metro, to re-inhabit their spaces. Meeting those who hurt them helps them to get out of that corner. They can regain self-confidence, leave the stigma behind, speak their minds even with anger and vehemence, and find a balance with the party that has subjugated them”. (Mediator)

“There was bullying at school; strangely enough the victim was at the first hearing, with his father: he was very angry, he insisted on producing a folder full of medical reports. He didn’t want to know about the mediation I was suggesting, but I sent him anyway. At the next hearing, the same people showed up with completely different looks and smiles. I was stunned”. (Judge)

“They can answer the questions they have about the offender: ‘Why did you choose me as the victim of your robbery?’ ‘Why did you decide to send those pictures to that person?’. Questions that would otherwise go unanswered and that are important to the victim”. (Mediator)

**In relation to the
offender**

“The positive effects can be seen when certain rifts are healed, for example in a school, or even when the indictment has been withdrawn because it pacifies minds and restores certain balances”. (Deputy Prosecutor)

“Victims observe the offenders, relate to them, it is as if they ‘walk into’ their stories, into the distinctive nature of the situation. They thus lose their victim status and start dealing with the problems of adolescence; it also becomes less of a psychological burden. This is what I have observed in some cases”. (Honorary Judge)



"For example, a case between neighbours, a boy who had wounded an elderly man with a pellet gun. It went from a very tense situation where the elderly man did not want to leave his flat, to a situation where the boy cried; the elderly man said he looked like his grandson, and the boy offered to shop for him. In the elderly man's life, the encounter with the boy was pivotal; he had just lost his wife, had locked himself in his flat imagining a boy full of aggression but instead he met a boy who wanted to make amends. After the mediation the elderly man felt a new person". (Social worker - USSM)

"The bank manager, looking at the robbers, began to change her frame of mind; her skin returned to its natural colour. She asked questions in order to understand their attitude; she fully understood the fact that these kids were adolescents and calmed down. Victims too have a stereotyped image of offenders; the physical encounter reflects their true nature". (Mediator)

In relation to family and community

"Over time we have learnt how important it is to work in parallel with families, especially when the victims too are underage. There have been meetings between the parties that were positive and transformative, but then the parents nullified the steps forward their children had taken. So now whenever we can, we try to work in parallel with families". (Mediator)

"An adult victim was helped a lot in getting to know the father of one of the boys, who personally apologised, because parents live with the shame of what their children have committed. After the robbery, the 'previous social safety net' was rebuilt because we saw that this man was being a real father and that this incident had alerted him". (Mediator)

"A different story altogether is when there is a diatribe between groups or families. Perhaps it is because of situations that have dragged on for decades, at which point the complaint against the minor is just another chapter to try and hit the entire family. I remember mediations where the respective families were also at the table: when things went well, the atmosphere changed not only among the kids, but among entire families". (Social worker - USSM)



“We must not see a penal institution as a happy island. It is a place where different relationships are established, sometimes offenders in prison become victims of offences committed in the institution itself. Everyone has a heavy burden of problems, they come from different social backgrounds, they are forced to live in confined spaces, complying with even simple rules becomes difficult and this leads to conflicts. It is as if the prison became an arena for victim-offender mediation and restorative justice, which could also be applied in internal conflicts”. (Prison Police Inspector - IPM)

“They ask that it does not happen again and that those who caused so much pain understand that they should not to do it again in the future. Then there is the matter of reparation. After the mediation meeting, the importance of financial compensation is often treated as relative, dampened, because the real needs were others: profound acknowledgement, listening, truth”. (Mediator)

What reparation

“I refer in particular to an episode in which a young girl, a victim of a sexual offence, went through a mediation process, with great suffering. She told me: ‘I want these guys to make me appreciate how much they have understood and to become multipliers so that it won’t happen again because they have understood’”. (Director - USSM)

“One young guy, when asked what reparation is, told us that reparation does not erase; it’s like when you repair the wheel of a bicycle; it’s not the same as before, but it works again; the bicycle becomes useful for something once again”. (Mediator)

“I am reminded of someone else, an elderly lady who was robbed and accepted a letter, to which she replied. From a dramatic moment, a positive relationship was established. She stepped out of the role of victim and also took on a social responsibility: she wanted to know how the boy had fared during the journey he had taken and how he was doing”. (Social worker - USSM)



“Many situations do not end with the word ‘forgiveness’, but by sharing pieces of life that had led to that experience. And every time the victims felt acknowledged, this was the most important moment. Only the meeting with that person could give them that satisfaction, ending the journey and healing the rift that was there”. (Mediator)

What justice

“There are changes in the notion of justice. Initially, they feel excluded, their lawyers say they cannot act as plaintiffs and this creates anger. With mediation they at least feel acknowledged as people with a voice. Just some space where they can express themselves and tell their story is sometimes seen as reparation”. (Social worker - CGM)

“Justice is seen by the victim as something distant. Let’s think of victims who learn of a judicial pardon or the irrelevance of a fact that was very important for them. With mediation, victims become the protagonists of this other space where they can re-establish new balances, starting with the acknowledgement of the wounds inflicted on them”. (Mediator)

“Perhaps for the most serious and sensitive offences, restorative justice is, for victims, a more appropriate response than others”. (Judge)

“Mediation also gives a sense of justice. Victims sometimes lodge a complaint a long time before, and do not know what happens to it. When we step in, mediation gives meaning, weight and value to the justice that was done in the meantime, especially for serious offences that are particularly significant for victims who are waiting for answers”. (Mediator)

“They tell us about a type of justice that is different from what they thought, a justice that listens, where victims are able to say things about themselves and what happened, what the very often dramatic consequences were in their lives. They say: ‘This is the first time I have been able to say how I feel’”. (Mediator)

“They see a justice that is more on the side of the people rather than the institutions. They can see justice as something that is done by people, for people”. (Mediator)



3. What Does It Do for Families and the Community?

3.1. General Findings

The often forgotten third player in restorative justice is the community, i.e., the group of people who are more or less close to those directly involved in the offence and feel the consequences and effects of what has happened. First and foremost, close and extended families (parents, brothers, sisters, but also uncles, cousins, etc.) of offenders and victims are part of the community. Then, there are the circle of friends, school and sports mates, teachers and all the other people who revolve around the protagonists. Mention must also be made of those who may not directly know the people involved in the offence, but still feel its effects. Think of the boys in a neighbourhood who saw a fight, or parents who fear their children crossing a particular park. Every crime is not only a personal, but also a community and social affair. Therefore, a community can be actively involved in restorative justice pathways¹¹. But even where it is not actively involved, it can still benefit from its effects indirectly.

Hence, the importance of questioning the impact that restorative justice has on a community, starting with the closest one, the family.

During focus groups and interviews, young offenders and underage and adult victims were asked what effects they could see - after the mediation process - on those close to them.

Parents of young offenders and underage victims were similarly asked about whether and how mediation had produced changes no longer on their children but on themselves and other members of the families and social circles. As for the parents, in some cases these are people who also took part in the mediation process by meeting the parents of the other party. In other cases, however, they say that, as part of their children's journey, the effects of restorative justice were long term. In both cases, and this emerges from the accounts, these are real and transformative effects, multipliers of the effectiveness of the mediation.

After a completed mediation process, practitioners too were asked about what changes they had observed - from different angles - in the families and communities surrounding the children they supervise from a professional point of view.

Let us therefore see the general findings.

Faced with worry or anxiety, typical of the families of both offenders and victims, mediation carried out by the children brings about a sense of **pacification**, of finding the **inner peace** they once had.

In fact, mediation frequently helped parents **overcome the sense of guilt** they carried within, whether it was for their children's misconduct, for which they blamed themselves

¹¹ In this regard, see Part II of this paper, in particular with respect to restorative justice programmes other than victim-offender mediation.



to a greater or lesser extent, or for believing that they had failed to protect them from the damaging event. This led to heightened **awareness** and their coming to terms with what happened.

It also enabled a more open **dialogue** with the children, allowing parents to realise the difficulties children had gone through that they had not been aware of, and also leading to the knowledge and discovery of unexpected sides of their children they did not know.

During the dialogue, a **shared perception** of what had happened was often reconstructed where at first there was disagreement between parents and children on the weight and understanding of the events, sometimes in the sense of greater severity perceived by the parents, sometimes in the opposite sense, i.e., downplaying of the experience, for example of victimisation, by the children.

A not infrequent important cascade effect of offender-victim mediation was also the **rebuilding of relationships within the family unit**, where the offence, either committed or suffered, had brought about major conflicts or tensions.

There was also a lot of talk about pacification with the '**other side**', be they children or parents. Not infrequently, parents of both victims and offenders, identified with the other set of parents. Mediation enabled, especially in small contexts, to **rebuild relationships between families**, if not of a friendly nature, at least of possible coexistence and civil dialogue in everyday life.

With specific reference to the social circle of the victims, mediation led, according to participants' accounts, to a general **overcoming of judicial perspectives and claims** and wanting retribution, after being heard and acknowledged.

The whole family did not always agree with the decision to participate in restorative justice from the beginning. It was often a **female figure** who encouraged participation, with a particular focus on the possible relational implications that such a path could offer. **Male figures**, fathers or partners, sometimes expressed mistrust or opposition to the meeting. In other cases, they showed more appreciation for the pragmatic implications that such a course of action offers: shortening time, saving court costs, and so on. However, in both cases they retrospectively appreciated the benefits, also for themselves, to be gained from this experience on an emotional level and in rebuilding relationships within and outside the family.

With regard to the **friendship circle** and in line with what has already been described above, a frequent problem in recounting the experience to the peer group presented itself. The positive change on the part of offenders is not always appreciated by 'former' friends and it is not easy to share the meaning of the journey they have been on. The effects of this journey, therefore, are not always understood by these friends.



On the other hand, by broadening the scope to include the **community as a whole** (school, neighbourhood, town, etc.), some peculiar experiences structured in such a way as to make visible the pacification and reparation between the parties, through the involvement of multiple social and institutional actors as well as the citizens themselves, enabled a significant **cascade effect** of the benefits of mediation (on the broader social context too), in terms of **settlement of conflicts**, rebuilding a sense of **safety** and **sharing rules**. In some cases, this also led to greater awareness that restorative approaches can also be used **preventively** and characterise the work of educational institutions, such as schools, and criminal justice, such as juvenile criminal institutions.

Another significant effect of restorative justice pathways that gave a voice to everybody who was involved in community offences was to **raise** the community's **awareness** itself **of** the **needs** and **requirements of the minors** in a given area.

With respect to the **concept of justice**, the criminal route is frightening because of the time, the conflicts, and the coercive nature of interventions. Specifically for the families of victims, it brings with it a sense of abandonment and lack of listening. On the contrary, the parents of both offenders and victims reported appreciation for a form of justice that - through listening and dialogue, and giving the opportunity to speak 'important' words - is able to bring relief and **peace of mind** to the entire family circle.

Below are the accounts given during the focus groups and interviews. The first 'voices' are those of offenders and victims who describe the impact of restorative justice on their families and wider social circles. This is followed by the parents of offenders and underage victims who tell how mediation has affected the family, primarily themselves. Finally, practitioners describe what they have observed about the people close to those who have gone through restorative justice programmes, and the community in general. Here too, the excerpts follow the narrative progression that characterised the listening, highlighting the dimensions and sub-dimensions involved¹².

3.2. The Voices

3.2.1. Offenders and Victims of Crime

"Something has changed with the parents, your own flesh and blood. A friend might even put on a good face and tell you he is sorry, then he goes home and doesn't even care, but family is family. If something happens, my mother thinks about it night and day."

Before mediation

¹² For more details, see the methodological note on p. 17, and the preamble to Part I on p. 28.



“While I was not afraid to meet this person in the street, my brother was afraid for me. My parents had become even more protective; they were very worried and would no longer let me do certain things. My mum would wait for me at the bus stop and if I didn’t arrive at the scheduled time, she would call me immediately to ask where I was”.

“When she heard about this, for my mother it was a disappointment; we cried a lot. I saw the suffering in her eyes; at that moment she did not recognise who I was, thinking I was violent all the time. She was afraid of not knowing who she was with every day”.

“The car that was hit was not mine, but my partner’s: we had to sell it, it was a shambles; he had to do all the rounds, put in extra things that were not due, worries that we did not have and should not have had at that time, and he was not expecting all these things. So, he was also involved in this. And then the night in hospital, because going to the accident and emergency department for a collision means being there for eight to nine hours; so even just those things ... then everybody is involved”.

After mediation

“My mother agreed, and she was calmer afterwards”.

“The meeting was a relief not only for me, but also for my family”.

“Now dad, when he sees Luigi⁸¹³, or when Luigi sees dad, they greet each other, they talk, and fortunately his mum and dad too”.

“We then talked with my mother; during the mediation she listened and realised that it was me, but that at that moment there were so many things that I had inside and that came out the wrong way”.

¹³ Alias.



“At the beginning my partner said ‘But what are you going to do?’, because there are always those who say ‘The offender must pay, you must throw away the key’. And then he was happy too; in the end he indirectly benefited from the meeting. The first thing I said to him when I got out of there was: ‘I am happy because I see that, thanks to this path, the girl has understood something’. So, from there on he changed his mind, he said: ‘If it’s something that can help, that can also make you feel better, then go ahead’”.

“Mediation helped my mother but also the other girl’s parents. It helped them psychologically, calmed them down, made them feel safe”.

3.2.2. Parents of Young Offenders

“I received a letter from the municipal police at my workplace; I was upset”.

“When I heard about the offence, because my son hadn’t told me anything, I was really shocked, I wasn’t expecting it; he was always a quiet boy, I couldn’t understand”.

**When it
happened**

“When I heard about it, I said: ‘it’s not possible, it’s not him’. For several days I could not believe it, I could not believe it”.

“As a mother it was really difficult. I had never been on the wrong side of the law. It’s not good what my daughter did, I got angry with her. It messed me up”.

“I received a call and agreed to meet. The phone call was very warm; they convinced me to try it”.

**The mediation
proposal**

“We were given three options. This was something I didn’t know at all, and it seemed the best solution. However, we had no particular expectations”.

“I immediately agreed because I wanted the kids to discuss things, to understand what had happened between them and to make my son realise that it had happened without him wanting to hurt him. I also expected help for the injured party; we are all parents; it could also happen to my daughter to be the victim”.



"I said yes to the mediation proposal because I wanted to talk to the parents. When we heard that there was this opportunity, we immediately said yes; we wanted to meet his parents, apologise and find out what they thought about it".

"I felt disappointed as a mother and wanted to sort it out. I don't like violence; I felt guilty for my daughter, I wanted to do my bit as a mother, and apologise".

**After mediation,
in relation to
oneself**

"The thing that helped me very much was understanding that I hadn't realised that my son was distressed. This episode was a consequence of this distress. We then embarked on this journey with him".

"This journey has helped me a lot. I learnt that you must always keep an eye on your children. I missed this but not because I was unaware of it, I missed it because at that age they don't say anything, they have their friends and their life. I have learnt to be more attentive, despite daily commitments".

"It helped me from a psychological point of view, because I wasn't noticing the changes in my son. He had changed so much during that time, and I wasn't seeing him, he would refuse to speak; it was difficult. We couldn't explain his behaviour, the reason for that ... it was all, all strange. I looked at him as a stranger, that was not my son. Then, after this meeting, he started talking to us as well, and we understood".

"I learnt to know my daughter, the people she meets, how she expresses herself, how she acts, how she takes umbrage and how she shows she is sorry. At home it is rare to see all these things. We ended with grief, hugs, tears, but understood what had happened".

**In relation to the
victims and their
families**

"First of all, it was useful for me because I could apologise; that was what I wanted from the beginning, from the moment I found out. Because as a mum, I obviously also put myself in the other side's shoes, as it could have been the opposite, be the victim's mum. And they were really nice because they accepted this".



"I felt the need to talk with the other mother; I think it would have been right to discuss things, also among adults. In my opinion there should have been a meeting between us parents".

"A discussion between parents means that nuances are understood, a step backwards is taken and a whole mechanism that could be avoided is avoided".

"The meeting with the mother was beautiful. There was anger and as a mother I understand her. It shocked me because we cried, we laughed ... let's call it a roller-coaster. There was anger, sadness, pain, even on my part. It was not easy. It was a meeting between two mothers".

"There was a moment, after we had vented our nervousness, when we mothers went out for a cigarette. We hugged each other, it was an outburst, a liberating moment. I didn't know anything, I had to understand her pain".

"Her parents then came to my husband's office, it was useful for us too".

"I think it was helpful for them too, because talking through lawyers causes a bit of anxiety, there is a lot of fear. But then, when you talk parent to parent it is different. Talking directly to each other sounds simple but it is not insignificant, no".

"I thought a lot about the mother, the girl's eyes, my daughter's eyes. Giving peace of mind to someone costs nothing. I believe that mediation is a route that should be taken before criminal proceedings".

"We are all a bit disheartened regarding justice. Because we see that so much importance is given to some things while other, much worse things go unnoticed. Bottom line is, where is the justice if I have to put up with everything? My son was also scared, he was afraid that whatever he said would come back to bite him. For me justice is when I also give the other person a chance to say their point of view; there are many shades and colours, not just black and white".

What justice



"I don't know what I think about justice. Maybe there would be voluntary work for him, as our lawyer said, and he was ready to do that too. But thanks to mediation, he felt more relieved about the situation, and he was very positive about it".

"I think this mediation process was magic. The practitioners' work was fantastic. I would recommend it to everyone because it did me good. I didn't want to do the counter-claim: I wanted to do something else like this even though I didn't know it existed."

3.2.3. Parents of Underage Victims

When it happened

"At that moment my world collapsed on me; I didn't know what to say. Are you talking about my daughter? It was raining outside, I couldn't even cry, believe me ... but it's happening to me. Is it my daughter?"

"I asked myself: why my son? Maybe there is no why".

"I came back home, believe me, I had a thousand thoughts; I was thinking about my husband. How do I tell him? How do I explain it to him?".

"Within the family there was a lot of stress because this boy who had attacked him acted with almost Mafia-like methods; we saw him under the house lying in wait for my son. We too were reckless, we did stupid things, but we were not used to this".

Before mediation

"I felt guilty, I said my daughter did this because I failed as a mother".

"It hurts when you feel guilty because you have not protected your child. I want him to be independent, I want him to go his way".

"That desire to understand why came up within me ... Is he wrong? Does he provoke them? You ask yourself all these questions as a parent; sometimes you also feel wrong and think that you have not been able to pass on any value".



"After the police report, many people told me I was wrong; they said it was boyish pranks, things that had always happened, and that I was exaggerating because he was an only child. Then I felt guilty for leaving him alone".

"I too as a parent paid some consequences because I did not find much solidarity, some people told me: 'They are kids, it was a stunt'. But if the adults had not intervened, that stunt would have been much worse".

"The choice to go to the police had created some distance between me and my husband. Maybe he would have wanted our son to handle it on his own, I think I did the right thing".

"We live in a small town; I let you imagine my discomfort. Not that I cared what people thought, but I thought, it's a small town, people's eyes will all be on my daughter".

At first, I thought I would reopen a wound. But then I said, 'If there is a possibility of coming together why should I take it away from my son?' Because of my fear of experiencing certain things? He said: 'Mum, let's go'. And off we went".

"The policewoman told me: Now criminal proceedings will be instigated; find yourselves a lawyer. But I didn't do it because I didn't want to go ahead with criminal proceedings. I wanted to talk to this family, but not on a legal level".

"The lawyer of the boy who beat him up suggested this route to us. We were not aware of this possibility; I joined with great enthusiasm because it seemed to me a quick thing that would not overburden the Courts, which are already busy as they are, and would also save money on lawyers."

"I expected something that would be 'child-friendly', and my expectation was fulfilled".

"Fortunately, I had no expectations, so everything went very well. I didn't know anything so I was struggling to understand. Then I understood and I was happy".

"I am no longer angry now. In the end, the only things you have are words, and words must be used correctly. I think there is a need for these activities".

The mediation proposal

After mediation, in relation to oneself



"It brought me relief, and helped me not to underestimate the event too much. For me it was over there and then, but I realised that it was not over for my son, and this helped me to process the situation. This was also the case for his father: he was dramatic to the max and it helped him to put the situation into perspective".

"I paused to think: if something more serious had happened, would I have wanted to meet the other people? Would I have wanted to talk? Would I have liked to understand why? Maybe so, because it gives you peace anyway. Forgiveness is yours to give. It's a job that makes you feel good. We were able to take positive things from this experience. I think we would have benefited even if it had been a more complicated situation because meeting each other helps".

"It's been a positive experience and it's a pleasure to say as much. Words are important, they must be used in the right way and at the right time".

"The fact that we came to a solution quickly was definitely positive for our family; it took away the stress we were carrying around, because when someone threatens your son, you are worried. The fact that everything was resolved was certainly a great relief".

"At first it was terrible. When we came home from the first meeting, my husband said to me: 'I will never go there again because it is too humiliating for me'. But then afterwards he saw our daughter in pain, she could no longer even sit at the table next to him because her sense of shame was terrible, so he continued. Now they have a beautiful, more mature relationship again. Mediation has contributed a lot to this".

In relation to offenders and their families

"We live in a small town; I was afraid of finding my neighbour. As you get to know the family, you discuss things, you understand why some of the kids' attitudes are different, you get an idea".

"I think these activities do help. Because it is painful for those who experience such things, but it will also be painful for those who have done them. Knowing that everyone knows you made a mistake. I don't know what I would do if I experienced it from the other side of the fence, I don't know how I would feel".



“The children had their own meeting, and in the meantime we parents remained separated. Then, all together, children and parents, with the mediators, we had a meeting together. It was useful. The children told us what they had said to each other, what they felt”.

“We did the mediation. I already knew the boy’s parents. His mum was very angry. She says to me: ‘My son must now stand trial’. I say: ‘Look, it is not that I brought you here because I want compensation or whatever. I hope your son understands what he has created in my daughter, what he can create in other girls. I hope your son will understand’. Now with the family we have a normal relationship, because we were able to talk thanks to those meetings”.

“The boy’s parents were angry because we had taken legal action, instead of going round and ring the bell and discuss things with each other. Instead, I think that we would not have understood each other if we had done this on our own. Just think: with your son who arrives crying, what could happen? The only thing is to get out of the way and let someone else decide. Or have someone telling you to speak in a different way. With the mediators it was also possible to talk to each other as parents”.

“I also saw that the other boy’s parents had calmed down, there was trust in them. If you are emotionally involved, it is good to rely on those who have more expertise than you”.

“The law has a very long timeframe; if we had not met, this would have been consigned to oblivion until the judge’s call. From an emotional point of view, these things either you solve them yourself by getting help, or, if you have the opportunity to talk and discuss, it helps you; it helped me a lot”.

“I reckon that this is something that, as soon as the money runs out, will disappear like a lot of useful things. It would be great if it became an integral part of justice instead”.

“With mediation you feel more accepted and looked after. And then rehabilitation is also possible; this is not just about punishment. You can work on the emotional growth of the community and on improving relationships”.

What justice



"I am very happy with the way things have turned out, that everything has ended thanks to mediation. Also because, to go to trial, to ruin a kid's life for a mistake ... because at 14 it's like talking to a child.

3.2.4. Practitioners

Before and after mediation, for the families

"Families came to mediation with different attitudes. The offender's family tended to downplay the offence - they are kids, underage, they didn't understand ... On the other side, there was the victim's family, eager for retribution, typical of those who expect jail and severe punishment for kids".
(Mediator)

"If the restorative justice meeting is positive, everybody is positively affected by it, and you feel that they too feel better. Being part of a system, like the family, when you are well, the others too feel better. It is a cascade effect that can be seen in everyone". (Director - USSM)

"Sometimes there is a need to mediate with families as well. Otherwise, they are excluded from what the minors are experiencing. It was necessary to make them aware of what was happening. Thus, they acquire the sense of mediation".
(Social worker - CGM)

"Outside, there were parents, acquaintances, those who had supported the kids. We had two mediators for these people and in fact there was another mediation. The participants were on edge. There were their fears, seeing each other's parents for the first time, with their own stories too, for better or worse. These are important meetings". (Mediator)

"When the victim is the community, like when some public property is vandalised, we also work with families who are often in conflict with each other because their children have committed an offence together". (Social worker - USSM)



“We are trying to foster mediation pathways where there is a direct family relationship between victims and offenders, in cases of maltreatment, for instance. If mediation is successful, there are repercussions on the entire core dynamics, on the entire microcosm revolving around this dyad. What is necessary is for offenders to take on accountability for the event, and for victims to accept accountability vis-a-vis their relationship with the offenders”. (Prosecutor)

“The issue of friends is a serious problem. It is the theme of social and friendship identity. If the minors make a positive change, the friendship network does not immediately appreciate it. Many times, it is precisely because of criminal proceedings that you change friends. Through the redress for the community, you are able to build different networks, you change perspectives, you change your circle of friends”. (Director - USSM)

**For friends
and the close
social network**

“Reconciliation between suspect and offended party has repercussions on the peer group. All the participants in that small microcosm, the scene of that crime, can see the work being done during the meetings between offender and victim, with respect to their mutual demands and needs”. (Prosecutor)

“You need to tell what restorative justice is to friends and your social network. It is important to find the right way to tell a story, in different ways, such as accounts given in small or large groups, where young people could share their experience of mediation. Narration, which is what characterises mediation, becomes a key to engaging the community as much as possible”. (Social worker - USSM)

“Effects on the community occur when the conflict and its potential escalation are neutralised. Maybe they stop meeting outside school for showdowns, which involve a whole range of other people, friends, cousins. Working with the two direct parties involved also has effects and benefits for the community they live in, including online, on social media”. (Mediator)



“With respect to the effects on the community, the aspect that most comes to mind is on the school community. Some mediations involved teachers, headmasters, school mates. The approach adopted by teachers, headmasters and anybody else who works in schools has begun to change, moving away from thinking in terms of sanctioning conflicts towards redressing them ... even before reporting the event to the police”. (Social worker - CGM)

“We worked with a class of young people, in parallel with the mediation. On top of the offence, which created a painful situation, there was a reflection by them, and a step forward was made to find a different formula, and overcome the trauma that the entire class was feeling that had affected everyone around them”. (Mediator)

“The effects of restorative justice on the community is a revolutionary idea. The IPM is a very closed and rigid community; here, talking about mediation was possible in small steps. On the subject of sanctions in the Disciplinary Board, instead of the classic rigid sanctions, restorative justice pathways have been introduced. I see the next steps in other community contexts with optimism”. (Judge)

“The positive repercussion is at the level of our prison micro-community, in cases of rifts between youngsters, and between youngsters and practitioners, especially the prison police”. (Educator - IPM)

**For the
community at
large**

“There are extended interventions involving children, families and representatives of the local community. The smaller the places where things happen, the greater the involvement. There is more closeness, more knowledge”. (Social worker - USSM)

“For crimes in public or institutional places, young people often think they have done nothing wrong because that space belongs to no-one. However, when they meet people who have been restricted in the use of that space and have lost the trust placed in that place, it is very helpful to discuss what really happened”. (Mediator)



“In other situations, we have been faced with public administrators who, through mediation, have grasped the distress of a group of young people, young people who live in small municipalities that offer them nothing, and then come up with all sorts of tricks. The fact that public administrators realise this and acknowledge young people means that youth policies will change”. (Social worker - USSM)

“When working on a project on drug dealing offences, where you have no idea who the victim actually is, meeting people who have suffered because of the addiction of their loved ones, well, the youngsters realised what they had done. At first, they had not understood that they had caused some harm to society, but then they started appreciating that there was a victim”. (Social worker - USSM)

“In a recent community mediation meeting, there was a young man who had set fire to the pine grove in his community. We held the meeting with the mayor, the municipal council, the residents. The community also takes responsibility; it is an odd victim a community that does not take responsibility for the upbringing of its children”. (Mediator)

“A small group of youngsters had set fire to the games in a park. They did not want to do it; they had set fire to some rope but at night the fire had spread to the entire playground. Parents, the mayor, the head of the municipal police, the facilitators of the church youth club, all the friends were involved. A lot of mending was done within the relationships. In the end, together, they worked to repair the garden. While they were repainting the benches and putting up the games, the grandparents with the youngsters were there, they had known them all their lives, and a dialogue ensued. There was a physical repair job but also the mending of relationships within the youth club, which had split between the good and not so good, and with the population. A different harmony was created between the parents, who were previously in a conflict (‘It was your son who did it, not mine’, etc.). There were many meetings to arrive at that redress; the institutions do not always have the time and energy for such work”. (Social worker - USSM)



What reparation, what justice

“With respect to the community, we can make sense of the school, the neighbourhood, when reparation activities make the result of mediation visible. We have had kids who decided to be seen at school taking something from the vending machine together, to show that the conflict had subsided”. (Mediator)

“I remember the trial of some youngsters, following a clash during a match between locally well-known teams, both between fans and on the pitch. A mediation process was initiated - there had been fights and injuries - which ended with a friendly match with many fans from the opposing teams attending. It was a great example of community involvement that sent a message: the conflict had been overcome. The community saw this match and everyone benefited from the course of action that was taken”. (Deputy Prosecutor)

“After the lockdown, one of the first evenings of freedom and in a moment of extreme euphoria, some youngsters woke everyone up, broke mirrors, street signs, letterboxes, destroyed everything. The municipality was very open to dialogue, the youngsters were amazed to see not a punitive action, but rather that the municipality, after showing them the facts (e.g., the cost of changing the mirrors), was eager to understand what to do for them. The community said: ‘There is something we did wrong too; let us try to repair it together’. And they offered to clean the streets of the city, saying that they understood that taking care of their places meant taking care of themselves”. (Mediator)

“The community - whether participating in the restorative pathway as a member of a circle or as a recipient of reparative action - feels that justice is closer. In the meantime, it acknowledges that someone at the institutional level is dealing with what happened. It can then make its contribution and offer its voice”. (Mediator)



4. To Conclude: a Cross-Sectional Overview

Having highlighted the findings of this survey on the effects of restorative justice on parties involved, it seems useful to offer a comprehensive overview of what has emerged, comparing across the board the use – or potential use – of this model of justice for all involved.

Focus groups and interviews – with young offenders, young and adult victims, parents and practitioners – were structured according to research dimensions and sub-dimensions already described in the methodological note⁹¹⁴. For some of these dimensions and sub-dimensions, it is interesting to note that, despite the diversity of roles and positions, there are numerous intersections between the effects of restorative justice on the relationship with oneself, on the relationship with the other person (offender or victim), and on the relationship with the family and community.

4.1. Effects of Restorative Justice in the Relationship with Oneself

With regard to changes in the **relationship with oneself**, all the various stakeholders – offenders, victims, family members representing the community – mention **overcoming a sense of guilt** that, although with different origins and forms, is often common before mediation. Similarly, the theme of **shame**, which was overcome thanks to restorative justice, is often shared.

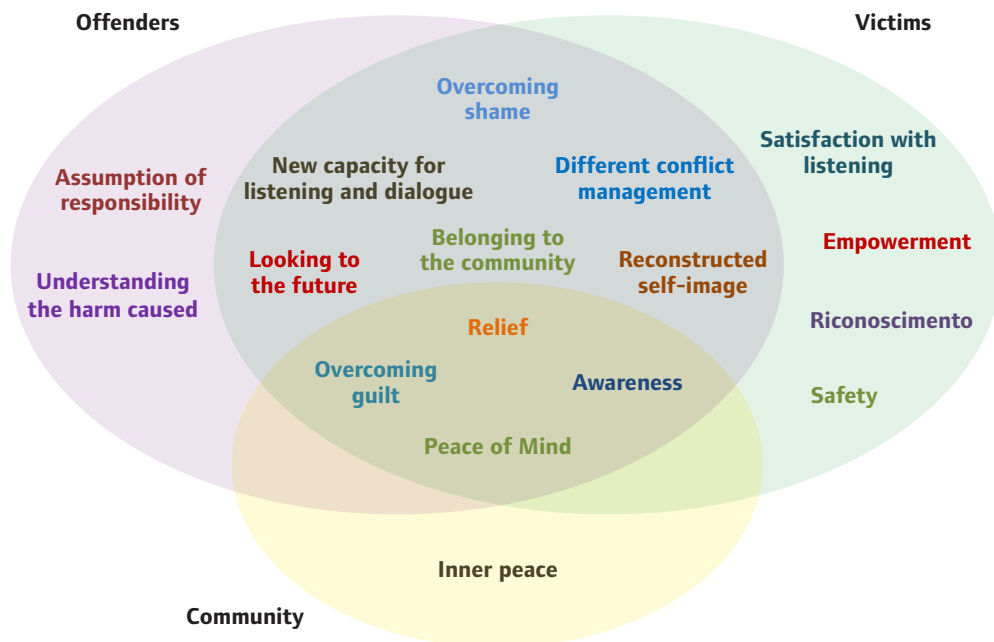
In describing what changed after mediation, words such as ‘**awareness**’ of the harm caused or the harm that could have been caused (in the case of the victim), ‘**relief**’, regained ‘**peace of mind**’ were common to everybody. Both offenders and victims mentioned the reconstruction of positive judgement and a **reconstructed self-image** as an effect. But also feeling part of a community once again, having **overcome feelings of stigma and marginalisation**. For victims, in particular, the regained sense of belonging to the community is sometimes also linked to regaining social **safety**.

It is also common for offenders to **take responsibility** and **understand the harm caused**. For victims, more specifically, there is a common **feeling of having been heard** and **acknowledged**, as well as being able to move **beyond the sense of helplessness** caused by the offence.

Finally, shared benefits are the effects of mediation related to the **newly found possibility of looking and projecting oneself into the future**, having put a full stop to what has happened. The acquisition – following the meeting – of **new ways of communicating and managing conflicts**, having experienced a different climate of listening and dialogue, is another shared benefit.

¹⁴ See p. 17.

Figure 1 – Effects of Restorative Justice on the Relationship with Oneself



4.2. Effects of Restorative Justice on the Relationship with the 'Difficult' Other

In terms of the relationship with one's 'difficult other', i.e., the person met during mediation, who could be the offender or the victim, once again specific individual effects caused by a restorative justice process emerge. However, many common aspects come to the fore as well.

The word that recurs across the board for everyone – offenders, victims, members of the closest community, i.e., the family – is '**pacification**'. An encounter with the 'other', then, allows the offender and the offended party to experience a process of **personification** of the individual who had been reduced to a thing or the one about whom an abstract or imaginary idea had been built. This means **overcoming prejudices and stereotypes**, and discovering a human face.

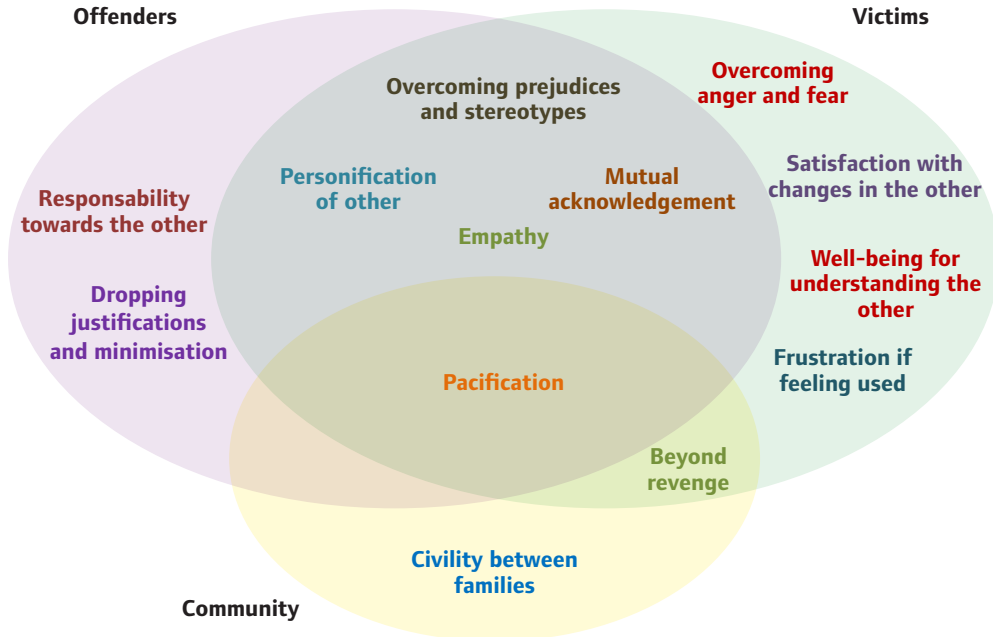
Another aspect shared by victims and offenders is the openness to **empathetic understanding** of the experience and **acknowledgement** of the 'other', something which meetings and dialogue lead towards. For offenders, more specifically, this means establishing respect and assuming **responsibility towards the victims**. They also **drop justifications and minimisation** of the harm caused. In turn, victims feel **comforted**

by the fact that they can see that the **extent of the harm** has been **understood** by the offenders.

For victims, the empathetic process means discovering and understanding previously unknown stories, fragilities and experiences. This makes it possible to **overcome** feelings such as **fear** and **anger**, and to go **beyond the desire for** revenge and **vengeance**, a factor also mentioned by families. For victims, observing the **changes** that dialogue brings about in offenders is also a source of **satisfaction**. However, when they feel that their presence is merely a **tool** used in the offender's educational pathway, without some real acknowledgement of their experience, first and foremost by the practitioners, a sense of **frustration** is reported.

A specific effect related to the immediate community, finally, is the reinstating of **civilised relationships**, at least detectable in a peaceful daily coexistence, **between the families** involved.

Figure 2. Effects of Restorative Justice on the Relationship with the 'Difficult' Other





4.3. Effects of Restorative Justice on the Relationship with Families and the Community

The relationship with the community, starting with the closest one, i.e., the family, is also affected by the effects that a restorative justice pathway unfolds. In this case too, there are numerous overlaps in the narratives of offenders, victims and – for the community – parents.

Among all those involved, an improvement in the ability to have a **dialogue within the family**, greater **openness** in relationships, and in many cases a real **pacification** in some specific intra-family relationships that had been undermined by the offence are reported after mediation.

Thanks to the restorative justice meetings, both offenders and victims reported having **overcome** their **sense of shame** and **guilt** towards their loved ones, often the cause of communication breakdowns. For the former, restorative justice was often an opportunity to foster the transition **from a self-centred approach** to one capable of **seeing others**, with their own experiences, expectations, needs. After the mediation, parents, for their part, reported a deeper **understanding** of their children, even in relation to aspects of their character they did not know, and greater **awareness** of their difficulties. Moreover, restorative justice gave them the opportunity to form a **common perception** of what had happened, in the face of initial downplaying or, on the contrary, exaggeration of the severity of the facts.

Under age victims have sometimes reported regaining their own **autonomy** following mediation, after initial over-protection by their parents due to the damaging event.

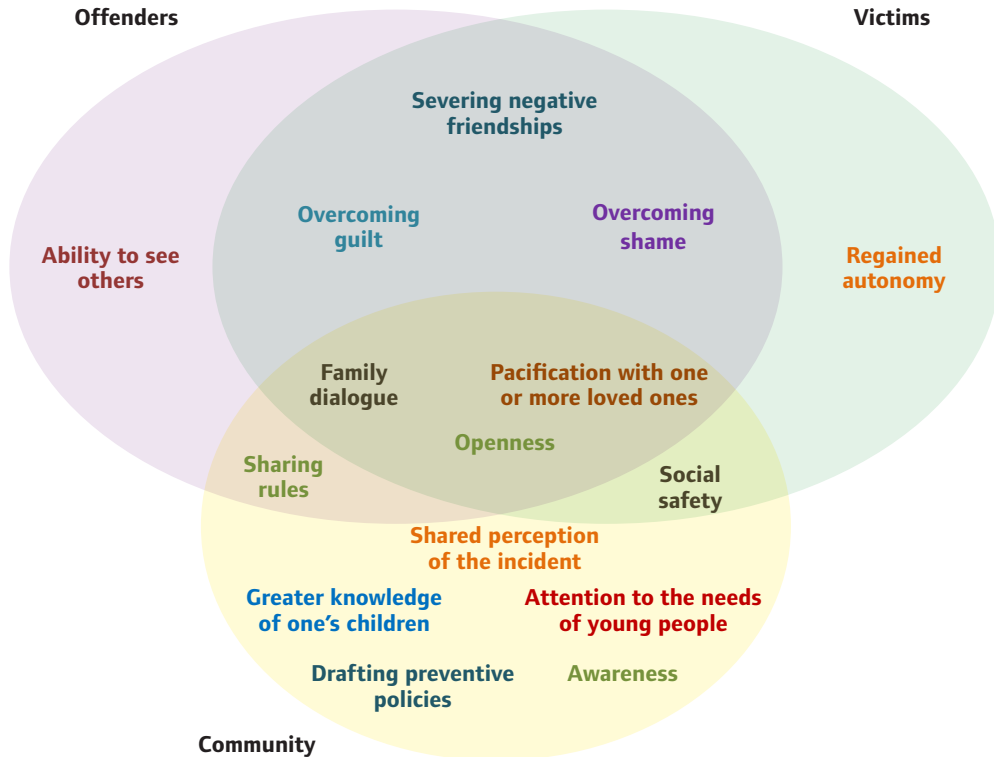
With reference to the **friendship network**, there is a shared confirmation of the **meagreness of the effects** of restorative justice, with only some very limited involvement either because friends were the cause of the deviant action, or because of the difficulty in communicating and recounting the work done. At most, mediation is sometimes followed by **severing those relationships** considered negative in retrospect.

In relation to the **community at large**, rebuilding a sense of **social safety** was reported as a cascade effect of mediation, particularly by victims and family members. In the interventions involving local administrators and institutions, a further effect of the meetings is **raising awareness** of the **potential**, also **preventive**, of restorative approaches, as well as **raising awareness** of the **needs** and requirements **of the youths** living in a given area.

Finally, for both offenders and the community, mediation was a suitable way of redefining and sharing the **sense of rules** necessary for peaceful social coexistence.



Figure 3. – Effects of Restorative Justice on the Relationship with Families and the Community





*Autorità Garante
per l'Infanzia e l'Adolescenza*

PART II
**Restorative Justice
Programmes in Use in Italy**



Restorative Justice Programmes in Use in Italy

Preamble

What restorative justice programmes are used in Italy in the juvenile criminal system? As anticipated, the second part of the survey is dedicated to answering this question, through a survey of the programmes in use at the centres and agencies that deliver restorative justice services.

This section is built on the outcomes of two different research pathways, based on two different tools¹⁵: a) analysis of the answers to the questionnaire aimed at delving more deeply into some aspects related to the use of restorative justice programmes in general; and b) a qualitative reconstruction of what emerged during the three focus groups specifically dedicated to programmes other than victim-offender mediation.

All the centres and agencies which, as of June 2022, were providing restorative justice services in the juvenile criminal field in Italy during the trial phase and when the sentence is served, were invited to answer the questionnaire. They were identified and recommended by the Centres for Juvenile Justice (Ministry of Justice) on the basis of certain criteria agreed upon by the Steering Committee. The criteria were:

- Victim-Offender mediation and restorative justice centres or services in public bodies;
- Third-sector organisations delivering restorative justice programmes in cooperation with one or more juvenile criminal justice institutions (Courts, Prosecutor's offices, Department for Juvenile and Community Justice, local authorities, etc.) through protocols, conventions or other formal agreements;
- Third-sector organisations delivering restorative justice programmes in the juvenile criminal field through specific projects (at least one in the last three years);
- Public and third sector organisations that are carrying out a trial run or are structuring themselves to offer a restorative justice service in the juvenile criminal justice field.

The same organisations, excluding those that are carrying out a trial run or structuring themselves, were then invited to the focus groups on restorative justice programmes other than victim-offender mediation. Almost all of the organisations involved participated in the survey.

The contribution of the European Forum for Restorative Justice, which - through one of its expert members, Silvia Randazzo, in an ad hoc interview - provided a general overview on the use of restorative justice programmes in Europe was also used to establish the research tools.

¹⁵ See methodological note, p. 17.



The study focused on a number of research dimensions and sub-dimensions mainly relating, for the questionnaire, to the type and dissemination of programmes, the trial phase during which they are delivered and the provision of such pathways to young people who are below the age of criminal responsibility, and in the case of serious offences. With regard to restorative justice programmes other than mediation, the focus groups investigated dimensions and sub-dimensions concerning: a) the nature, names and participants in the different pathways; b) methodological and organisational aspects (evaluation criteria in choosing to propose a programme other than mediation, methods employed to prepare the meetings, number and role of mediators, how programmes are actually carried out); c) the effects and results of these programmes (reactions to the proposal, level of satisfaction, forms of community involvement, possible follow-ups over time); and d) obstacles and opportunities for practitioners who use and disseminate extended pathways.

In the following pages, the information that was gathered is presented in an order that goes from the general - data provided by centres and institutions regardless of the type of programme - to the particular, identifying specific aspects that are typical of each tool.

1. A Terminology Not (Yet) Shared

Analysing restorative justice programmes is a complex operation, first and foremost for terminological reasons. Figuring out which tools can be considered restorative justice programmes, and which cannot, was an initial problem that was definitely not easy to solve.

Even more challenging was delving into individual programmes used in Italy, especially those other than victim-offender mediation. There is, in fact, a significant variety of names assigned to the different ways of setting up extended meetings that include offenders, victims and other parties. This variety needs to be discussed before defining the content. The term 'circle', for instance, is used in practice to refer to experiences of a different kind, some of which do not even fall under the general umbrella of restorative justice proper. Conversely, different words are sometimes used to describe the same type of meeting (e.g., victim-offender mediation extended to families, and family group conferences).

When designing the research tools, in the absence of a national regulatory framework, the choice was made to refer to terms and definitions from a number of supranational sources, in particular the 2018 Council of Europe Recommendation CM/Rec(2018)8¹⁶, and the second edition of the 2020 United Nations Handbook on Restorative Justice Programmes¹⁷.

¹⁶ <https://rm.coe.int/168091ebf7>

¹⁷ https://www.unodc.org/documents/justice-and-prison-reform/20-01146_Handbook_on_Restorative_Justice_Programmes.pdf



It was therefore clarified, when consulting the different stakeholders involved in completing the questionnaire and participating in the focus groups¹⁸, that **restorative justice** was to be understood exclusively as any process “which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party” (CoE Recommendation CM/Rec(2018)8, §3) with tools such as victim-offender mediation, any type of restorative conference (community conference, family group conference), the circle, and any other tool entailing a meeting and dialogue between victims and offenders with the possible inclusion of other individuals affected by the crime (see CoE Recommendation CM/Rec(2018)8, §4 and 5).

Given the different names and terms used, what is meant by this research was subsequently clarified in greater detail:

- **Family group conference**, an extended meeting that can also be called with different names that includes not only the offender and the victim but also their family members;
- **Community conference**, a meeting that can also be called with different names attended not only by the offender and the victim, but also by members of the community other than family members (e.g., teachers, representatives of the community and the institutions, etc.);
- **Circle**, an extended meeting that can also be called with different names conducted with a ‘talking circle’ methodology.

Therefore, there were no agencies or organisations involved providing services of a re-educational and re-socialisation nature, voluntary services, community service, social reparative actions not requiring a meeting between the parties, and the like. These are all tools that are sometimes referred to in practice as ‘forms of restorative justice’, but did not meet the supranational canons mentioned above.

With the approval of **Legislative Decree no. 150 of 2022**, Italy has equipped itself with a legal instrument that clarifies once and for all what falls under the umbrella of restorative justice: “any programme enabling a victim, the offender and other members of the community to participate freely, consensually, actively and voluntarily, to the resolution of issues arising from the offence, with the help of an impartial, adequately trained third party called a mediator” (Art. 42(1))¹⁹.

With regard to **individual programmes**, Article 53 covers restorative justice programmes:

- **Mediation** between the offender and the victim, **extended to relatives**, or between the offender and the victim of a **similar but different offence**;

¹⁸ See Annexes 8 and 9.

¹⁹ However, see also Articles 43, 44, 45 and subsequent.



- **Restorative dialogue;**
- Any **other** mediator-led **programme involving a dialogue** carried out in the interests of the victim and the offender.

This is an open list, which does not categorise in a definitive manner how restorative justice can be carried out, but leaves room for the most varied formats and approaches of restorative justice that have been tried out and can be tried out in the various parts of Italy, as long as the canons specified by the law are complied with.

The terms adopted by the law do not coincide with the English-speaking terms contained in the international documents used for the research. Nevertheless, they widely relate to them, also according to the Explanatory Report of the Decree²⁰: ‘restorative dialogues’ can include conferences, while ‘other programmes involving a dialogue’, according to the link in the Report, include circles.

In this sense, even with the different terms, the classification of programmes used for this research can easily be transposed according to the new and now binding terminology adopted by the legislator. Only the meetings between offender and victim extended to their respective family members differ: in the research, they have been included in conferences and are called ‘family group conferences’. Instead, a specific form of mediation called ‘extended to relatives’, is included in the list of Legislative Decree no. 150 of 2022.

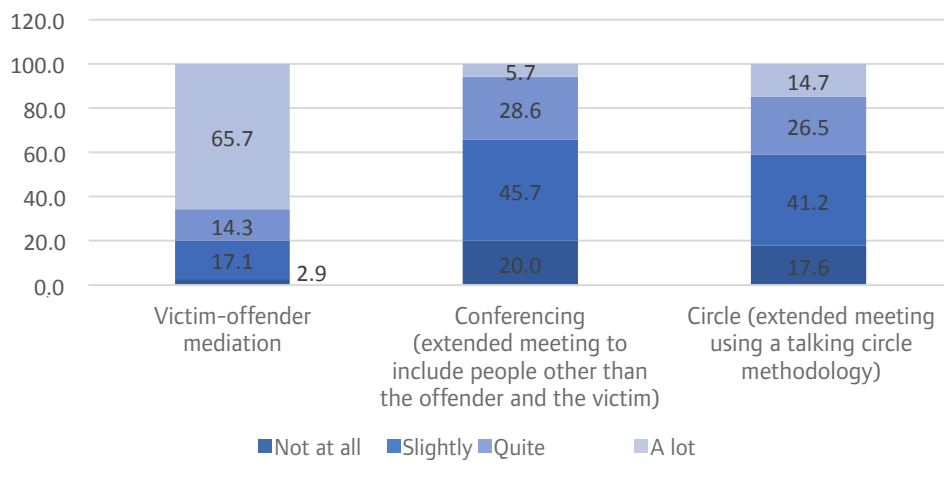
In the following paragraphs, for the sake of consistency with the research tools that were used, an analysis of the data collected will be presented according to the structure and terminology adopted in principle, and in the absence of the national rule. Appropriate cross-references will, however, be provided in order to facilitate the connection with the provisions of the Legislative Decree and in view of the dissemination of the new nomenclature.

2. Restorative Justice Programmes in General: Geographical Reach and Integration

The initial finding from the analysis of the questionnaires concerns the prevalence of victim-offender mediation compared to other types of programmes (Figure 1). Approximately 80% of the respondents stated that, of the overall work done, victim-offender mediations are ‘very’ and ‘quite’ common; in contrast, 34.3% and 42.2% expressed the same opinion about conferencing and circles, respectively.

²⁰ Downloadable at this link: https://www.gazzettaufficiale.it/act/serie_generale/chargeDetailActo/original?act.datePublicationGazette=2022-10-19&act.codeRedact=22A06018&list30days=false

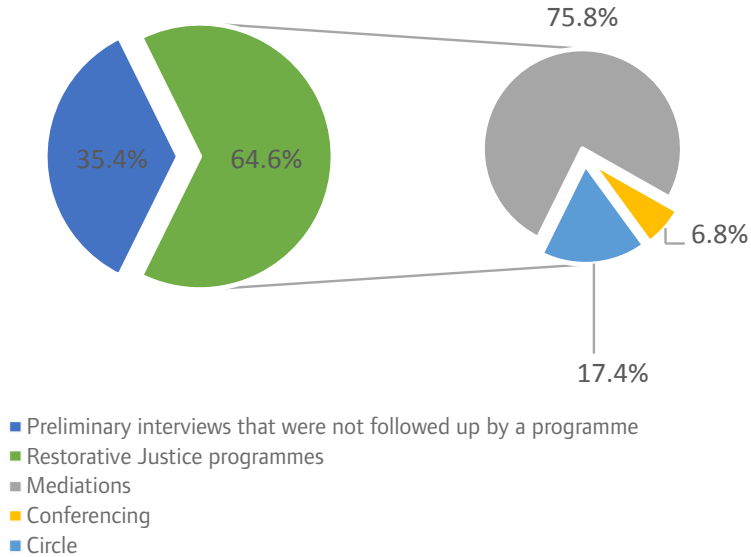
Figure 1 - In relation to your organisation's work, how common are the following restorative justice programmes? (percentage values)



This trend is also confirmed by the absolute 2021 figures. In that year, there were 1210 restorative justice cases handled by participating centres and agencies. This figure takes into account preliminary talks that were not followed up with a programme as well as completed programmes. When delving into this information, the 782 restorative justice programmes carried out, accounting for 64.6% of the total cases, are predominantly mediations²¹ - a fact also supported elsewhere in the document - followed by circles and conferences.

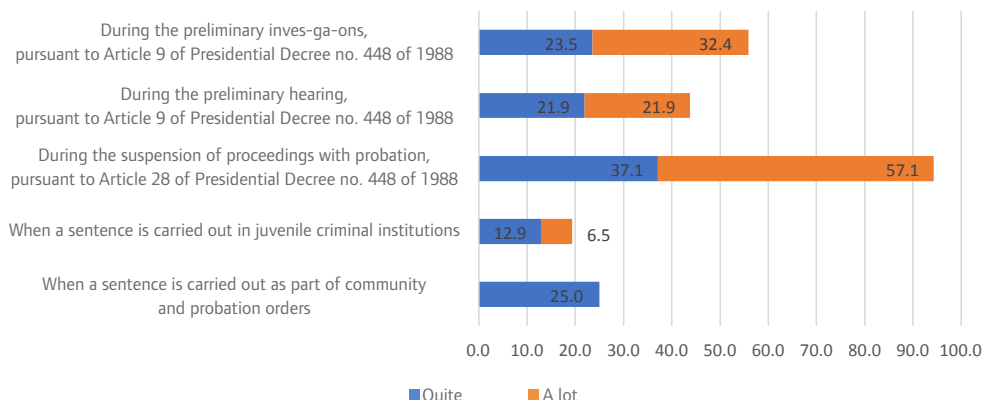
²¹ In absolute numbers, there were about 600 mediations, a number that seems consistent with the 800 mediations recorded in 2019 by the Ministry of Justice (see Mastropasqua I., Buccellato N. (edited by.), 2° Rapporto nazionale sulla giustizia riparativa in area penale, Gangemi, 2022 - 2nd National Report on Restorative Justice in the Criminal Justice Arena, Gangemi, 2022, p. 165). The drop can be reasonably ascribed to the pandemic between the two years, which led to a temporary suspension and then a gradual resumption of the activities of restorative justice centres and agencies.

Figure 2 - Cases dealt with by centres and agencies in 2021 (percentage values)



With regard to the integration of the programmes in the juvenile criminal system, the answers given by the contact people of the centres and other agencies clearly show the connection between access to restorative justice programmes and probation (approximately 94% between 'very' and 'quite') and, to a lesser extent, the inclusion of these programmes in preliminary investigations (55.9% between 'very' and 'quite'). In the remaining cases, the answers concerning a less frequent inclusion (during preliminary hearings), which becomes small or nil when the sentence is carried out (Figure 3), are prevalent.

Figure 3 - The integration of restorative justice programmes into the juvenile criminal system in the following phases is common in the activities of the organisation you represent. (Answers: 'quite' and 'a lot'; percentage values)



It is impossible to make a proper comparison with the findings on this same aspect in the 2018 survey²² carried out by the Authority for Children and Adolescents. However, it is useful to highlight that the survey showed that, in the 19 districts of the Court of Appeal with one operational public or private organisation providing restorative justice programmes, there were 9 cases and 7 cases where the prevailing referrals concerned the preliminary investigations, and the probation phase respectively.

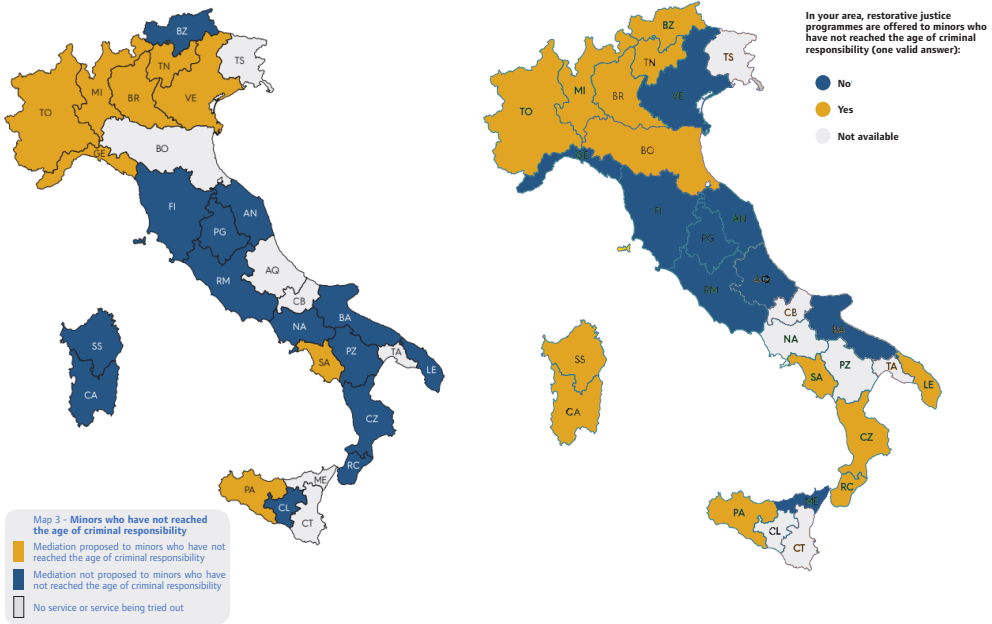
However, with regard to the proposal of using restorative justice programmes for young offenders below the age of criminal responsibility in the various Court of Appeal districts, it is possible to compare the 2018 snapshot with the 2023 one (Figure 3). In this case, the possibility of access to restorative practices by juvenile offenders who are below the age of criminal responsibility seems to be more common than five years ago.

²² At the time, the data was collected according to the districts of the Court of Appeal and not by centre/organisation, as in this research. The reference to the data commented on here is in Map 2, p. 54 in Agia, La mediazione penale e altri percorsi di giustizia riparativa nel procedimento penale minorile. Documento di studio e di proposta, 2018 (Agia, Victim-Offender Mediation and Other Restorative Justice Pathways in Juvenile Criminal Proceedings. Study and proposal document, 2018).

Figure 4 – A map of the proposed access to restorative justice programmes for juvenile offenders below the age of criminal responsibility (2018-2023)

2018

2023



A further aspect that the questionnaire highlighted concerns the offer by centres and agencies of restorative justice programmes even for particularly serious offences: more than 90% of the contact people state that this service is offered by their organisations.



3. Victim-Offender Mediation

Victim-offender mediation, as mentioned above, is the programme most frequently used by the centres and agencies participating in the survey. This trend is not exclusive to Italy. In fact, as highlighted in the contribution made by the European Forum for Restorative Justice²³, it is also widespread and prevalent, albeit with some exceptions, in the rest of Europe.

Box 1 – Victim-Offender Mediation in the UN Handbook on Restorative Justice Programmes²⁴

Victim-offender mediation (VOM) programmes (also known as victim-offender reconciliation programmes, or victim-offender dialogue programmes and, in Europe, penal mediation) were among the earliest restorative justice initiatives. They are the most common type of restorative justice programmes reported by countries. They offer a direct or indirect process wherein the victim and the offender engage in a discussion of the crime and its impact that is facilitated by an impartial third party trained for this purpose, either in a face-to-face meeting or through other indirect means. At the very least, they offer the opportunity for an assisted dialogue to take place, directly or indirectly, between the offender and the victim.
(*UN Handbook on Restorative Justice Programmes*)

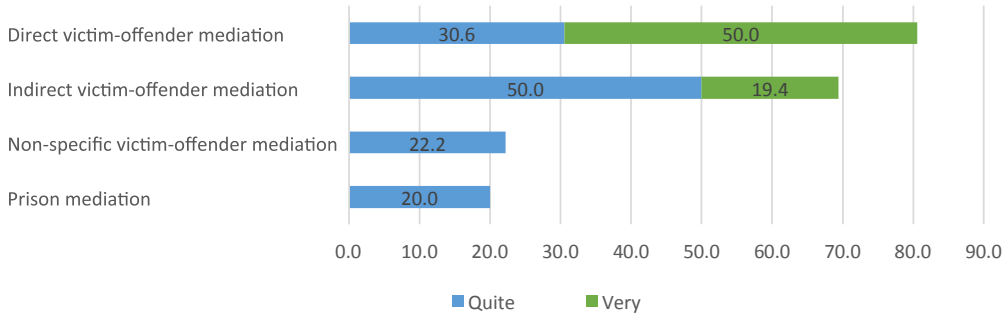
Going into further detail, the most frequently practised form is direct mediation, in which the offender and the victim meet in person; this is followed by indirect mediation where, in the absence of a face-to-face meeting, mediation takes place through the exchange of messages in oral or written form with the help of mediators. Seldom, if at all practised, are non-specific forms of victim-offender mediation, during which one of the parties was not involved in the incident but has had a similar experience, and prison mediation, in the case of conflicts between prisoners or even between prisoners and prison officers.

²³ See § 1.

²⁴ UNODC, *Handbook on Restorative Justice Programmes*, 2nd ed., 2020, p. 24.



Figure 5 - With respect to types of mediation, how frequent are the following practices? (Answers: 'quite' and 'very'; percentage values)



The reference to the content and impact of victim-offender mediation is the core of the first part of this report, which focuses on the effects of such pathways according to the views of protagonists and practitioners. Below are just some excerpts from the open-ended questions of the questionnaire, relating to some mediation experiences considered particularly interesting by the practitioners.



Box 2 – Significant experiences of victim-offender mediation in practitioners' answers

"We remember a mediation meeting for a serious injury offence; specifically, one of the boys had hit the other in the face with a knife, leaving him with a permanent scar. Following the meetings, the injured party went with the offender to the final probation hearing to inform the judge of the importance of the meeting".

"Particularly significant was this direct mediation approach adopted between an offender and a victim of sexual violence. The meeting, which took place after suitable preparation of the parties, was particularly intense and meaningful for both participants and especially for the victim who, at the end of the mediation, stated that the approach and the meeting had been beneficial".

"Mediation for a fight between minors was followed by a circle with the girls' parents. This led to mutual understanding between the families and the rebirth of the friendship between the two girls".

"In one case of group bullying, mediation was arranged with a surrogate victim (the chairman of an anti-bullying association, himself a victim of bullying at school). The mediation was very successful; the offenders became more aware of those behaviours that do not seem harmful but can instead be unbearable. For the surrogate victim the meeting was very helpful, and a partnership between the restorative justice centre and the association was established".

4. 'Other' Restorative Justice Programmes

Although less common than mediation²⁵, experiences and practices within other restorative justice programmes, that are also becoming increasingly common in Italy and are characterised by a meeting to include more people than just the offender and the victim, were collected through questionnaires and especially through focus groups²⁶.

From the outcomes of the focus groups, some common lines can be discerned concerning 'extended' restorative justice programmes in general, linked - according to the research dimensions identified²⁷ - to the selection criteria, the participants, the preparation of the meeting, the role of the mediator, the effects observed and the obstacles to their dissemination. Other aspects, more specifically related to individual types of programme, will be described in the relevant sections.

²⁵ See § 2.

²⁶ See Annexes 8 and 9.

²⁷ See methodological note, p. 17.

On the first point - the **criteria** used to select cases to be managed with a collective approach - many interviewees stated that for some types of offences, in particular those that have caused damage to a public property or have a wider impact on the community, such participatory tools are more frequently used.

“Certain circumstances create the need for community mediation, especially when it is felt that there are repercussions for the community itself. Examples are fights between young people, with the elderly ending up being afraid to leave their homes. Situations where you go beyond the fact itself, and redress has to be more far-reaching than the individual offence”. (Mediator 1)

On another front, a small social context but with a strong identity (small villages, neighbourhoods, school environments) also seems to be a factor that more easily leads to holding a meeting with a larger number of participants.

“In a small municipality, a park had been identified to mend the social injury produced by the offence; it was a park run by a neighbourhood committee. These meetings with organisations protecting collective interests and representing communities proved to be positive. I don’t know whether they were circles or community conferences but they worked. They saw the participation of offenders, surrogate victims and communities”. (Mediator 2)

Participatory pathways are also offered for offences committed in groups or detrimental for several victims.

“As far as minors who commit crimes in groups are concerned, we experimented with a programme involving offenders, victims and communities. These are initial experiments, so we don’t have plenty of case histories”. (Mediator 3)

These forms of restorative justice are not adopted for offences considered to be particularly sensitive and characterised by a strong personal connotation, such as sexual offences and maltreatment in the family.

According to the reconstructions given by the practitioners, the decision to favour a specific programme appears to be contingency- and situation-related, and not governed by predetermined criteria. The decision to extend the family circle is taken during the mediation process on the basis of the needs that come up following initial contacts between practitioners and family members of the offender and the victim, if underage. The same holds true for community conferences and circles. In some cases, the choice depends on the willingness to participate on the part of those involved, starting with members of the community, but also representatives of the institutions, who are sometimes very responsive, but at other times not necessarily open to such proposals, not least because of a lack of knowledge of the tool.



In general, utmost respect is paid to the principle of voluntary restorative justice, which also guides the choice of the type of programme to be adopted:

“Sometimes people prefer to talk about what happened in more private circumstances. So, the criterion chosen is people’s wishes. There are cases where I had imagined holding large conferences but the parties just wanted to meet in private, and this should be respected; it is already a lot”. (Mediator 4)

As well as offenders and victims, the **people participating** in these meetings – and this depends on the situation and the case – are family members (parents, but also siblings, grandparents, uncles, cousins, etc.), friends, neighbours, people with whom one shares significant social environments (schools, communities, penal institutions), representatives of the local community, and representatives of institutions. People can be involved because they too are affected by the crime (“A crime does not only affect the lives of the offender and the victim but of all the people close to them; so, sympathy expressed in words and support should also be offered to those close to them, giving them the opportunity to express themselves in relation to a traumatic experience. But also to the community, on which the crime has an unavoidable impact”, Mediator 1), or act as ‘support persons’, at the request of the offender or the victim, as described in the following statement:

“A boy had taken part in a workshop [of awareness-raising on restorative justice] and then asked for mediation. When preparing the meeting with the injured party, he involved two boy scouts who had participated in the workshop: he wanted these two boys as support persons, not his family; without them he would not have been able to meet the victim”. (Mediator 5)

According to the experiences of the people involved in this research and depending on individual cases, the **number of participants** in such meetings, in general, varies considerably and ranges from 6 to 20.

Individual **preparation** is almost always necessary before the meeting; sometimes, for particularly large and structured groups, preparation can be carried out in the various subgroups. The basic principles of restorative justice, which hold true for all participants at every stage of the programme, such as willingness to participate, confidentiality, non-judgemental attitude, also apply to these programmes. However demanding it may be, suitable preparation of the plenary meeting – in relation to its meaning and purpose, as well as with reference to the rules that will govern it – is considered crucial to its success.

“In our experience, preparation is crucial for conferences so that everyone is on board in the best possible way: what you are going to do and why. So much so that the first question to be asked at the meeting is why we are here and what has brought us to this meeting. Sharing the rules is just as important: in individual meetings they are explained and then recalled in the larger meeting”. (Mediator 6)

“Every participant has been prepared, there is motivation, desire, a feeling of wanting to be there. It is a very time-consuming job. We don’t even know how many individual meetings beforehand are enough for everyone to be prepared responsibly, with care”. (Mediator 6)

As far as **mediators** are concerned, their role is to facilitate exchanges and dialogue between participants. The survey highlighted the need for more guidance for mediators in ensuring the circulation of the word, because of the need to help the group focus on the topics of the meeting, and to ensure adequate space for everyone to listen and express themselves.

“In mediation, the mediator is a mirror and lets the parties speak freely; in the group, listening and a non-judgemental attitude are always present, but there is also, in our experience, a basic minimum requirement to lead and facilitate in order to ensure that young people focus on the issues. There is no objective, but the group is different from mediation where the silence of the mediators is crucial”. (Mediator 7)

In meetings with a higher number of participants, the **number** of mediators tends to increase from two to at least three. In some cases, the number of mediators is proportional to the number of participants (even up to the simultaneous presence of 6 mediators). In some cases, however, a maximum of two mediators are expected, regardless of the size of the group.

Lastly, the need for specific **training** for mediators to manage extended programmes was raised: in some centres and organisations, self-training was carried out; elsewhere, the work done abroad was drawn upon through readings or direct exchanges. Actual training on restorative justice programmes other than mediation rarely takes place.

“It is not so obvious that mediators can handle so many people in a conference. So, we held some training meetings, a kind of self-training, both on family groups, family dynamics and getting into the families’ stories, and on the use of conferencing”. (Mediator 8)

“On training, it was an achievement for us to come up with these other modalities, partly by talking to our non-Italian colleagues, partly by drawing on our own experience, and then embarking on new practices”. (Mediator 6)

With regard to the **effects** of such extended programmes, also in comparison with victim-offender mediation, they are described - given the organisational effort they require - as very incisive, capable of producing significant changes beyond the offender-victim dyad, restoring well-being to the surrounding social circle and the community as a whole.

“From what I could gather, the group has extraordinary power. I would almost only do groups, they are ‘explosive’. The level of satisfaction, based on what I have seen, is always very high. You get returns that you would not expect, and from people you did not imagine. It is always surprising”. (Mediator 9)



“Managing very large groups is very tiring for a mediator, but the social impact of this activity is very important: in the face of a great deal of public anger, we came out with a very different atmosphere”. (Mediator 8)

“Every intervention involving a community has a very important impact, even on those who are physically not there but are close”. (Mediator 4)

4.1. Restorative Conferences

What the legislator has called ‘restorative dialogue’ (Art. 53, Legislative Decree no. 150 of 2022) tends to correspond to what is known abroad as the restorative conference which in turn takes the following specific forms: community conference and family group conference²⁸. The latter, however, entailing participation of offenders’ and victims’ family members, has been specifically placed by recent legislation among forms of mediation and called ‘mediation extended to relatives’. This choice acknowledges the terminology and organisational set-up already widespread in Italy, in the contexts in which this type of programme is used. In fact, during the survey, practitioners frequently reported that such meetings are listed as forms of extended mediation, and not as conferences.

Nevertheless, this paragraph, for consistency with the research tools adopted before the legislation was drafted, will outline the findings on all types of programmes, however they are called, involving persons other than the offender and the victim and which are related to the international conference model.

²⁸ On the subject, see Shapland et al. (2011), *Conferencing. A Way Forward for Restorative Justice in Europe. A Practical Guide*; Zinsstag E., Teunkens M., Pali B. (2011), *Conferencing. A Way Forward for Restorative Justice in Europe*.



Box 3 - Restorative Conferences in the UN Handbook on Restorative Justice Programmes²⁹

Restorative conferences, such as community conferences and family group conferences, differ from victim-offender mediation in that they involve more parties than the primary victim and the offender. In the conferencing model, other persons affected by the offence, such as family members, friends, community representatives, and, depending on the model, the police or other professionals, are brought together by an impartial third party who acts as a facilitator of the conference.

(UN Handbook on Restorative Justice Programmes)

With regard to the **family group conference**³⁰, the fact that the active involvement of families is a key to make restorative justice programmes effective and efficient was strongly highlighted in several instances.

“We have felt the need to resort to other forms, such as family groups, when we realise that it is the families who are in conflict more often than the children themselves, who may have already clarified things with each other”. (Mediator 10)

“When the conflict is between children, sooner or later it also takes root between the parents”. (Mediator 11)

A family group conference is mainly used when both parties, victim and offender, are minors or at least young enough to still be strongly connected with their respective family networks³¹.

From practitioners' accounts, two main **ways of proceeding** have been identified with respect to the involvement of family networks (mainly parents, but not only). The first involves the participation of the victims' and offenders' families in the final phase of the restorative process: at the end of a direct mediation, family members are 'let in', in order to add value to the efforts made by the young people, to share the significance of the process and to communicate the outcome. This is because “families are inevitably involved in the conflict generated by the offence or that generated the offence and ask to be supported in understanding what children do in mediation”. (Mediator 12)

The second way of proceeding is based on parallel pathways in terms of involvement: in the first phase, mediation between offender and victim takes place and, at the same time but in a different place, the meeting between the respective family members is held. Later on, the meeting that brings everyone together is held. This approach is considered particularly useful

29 UNODC, Handbook on Restorative Justice Programmes, 2nd ed., 2020, p. 27.

30 These also include practices with different names, such as mediation extended to family members.

31 In this respect, the comparison with what emerged in the first part, with adult victims expressing their desire and need to also engage with the families of young offenders is interesting. See Part I, § 2.1.



when the offence arises from bitterness between adults, or when adults are the obstacle to conflict resolution among minors. In both cases, offering parents at the beginning of the process the opportunity to hold their own meeting is considered useful. Very rarely is the meeting that is extended from the very beginning held (only one account to this effect).

Irrespective of the way of proceeding, the **effects** of these approaches appear to be positive for all people involved.

“Every time an intervention is extended to family members, the feedback is very positive. The need for parents to express what they have experienced, both for their own sake and in light of the suffering of their children, is met. This is especially true for the relatives of victims who have fewer opportunities to be heard, whereas those of offenders are heard by more practitioners. Rather than just having a description of a tool, they internalise it by experiencing it themselves”. (Mediator 11)

“By involving family and friendship networks, we are able to address the conflict more comprehensively. The meeting is enriched, with its effects extending to the entire network, which also includes the wider community, because all the people involved become protagonists of the process they went through and what they experienced, involving even more people”. (Mediator 12)

Conversely, **community conferences**³² often appear to be related to specific offences affecting communities. This is evidenced by the following contributions:

“We are experimenting with community conferences for some particular types of offences, such as crimes related to drug possession and dealing. There, we do not have a direct victim, but an entire community is the victim. In this case we organise a meeting between the offender and the community in the person of the mayor, the head of the provincial police force, law enforcement agencies, or in the case of small towns the citizens themselves.” (Mediator 13)

“It has always been used for drug-related crimes, to create connections with the community. We have invited surrogate victims so that they could be the voice of the victims, and community members, such as citizens’ committees, relatives of drug addicts, associations of Mafia victims”. (Mediator 4)

“We have been using conferencing a lot lately, especially on three types of crime: murders with social impact on small to medium-sized municipalities, neighbourhood riots, and damages caused by supporters and fans” (Mediator 8).

In the case of community conferences, the **effects** - and the differences between this programme and direct mediation - are well illustrated by a metaphor employed by a practitioner:

³² Approaches with different names, such as ‘community mediations’, are included here.



"I note a difference concerning the effects of the few times direct victim conferences have been used, compared to mediation. In mediation the effect is like throwing a pebble into the pond, with circles widening; with the conference - thanks to the involvement of community and institutions representatives - these circles generate other drops that create other circles". (Mediator 14)

Below are the answers to the open question of the questionnaire concerning the most significant experiences of conferencing.

Box 4 - Significant experiences of restorative conferences in practitioners' answers

"We organise conferences for all the offences impacting the social sphere. For example, for some major damage to a train, after individual interviews with the offenders, we contacted Trenitalia, which sent one of their managers. The conductor and students travelling on that train who had suffered injuries were considered injured parties too. The idea is to expand more and more towards the community".

"A conference that saw the participation of two juvenile offenders who had committed a very serious crime that involved the local area. Thanks to the collaboration with the mediation centre, the conditions that would enable the offenders to be re-integrated and, at the same time, ensure that they took on their responsibilities in terms of reparation could be re-created".

"A very significant conferencing experience: for a murder offence (with a huge echo at national level) involving two minors, a decision was made, at the end of the educational pathway within the community, to hold a conference with representatives of the local community to which the minors belong (a small village). The very positive outcome enabled both minors to reintegrate socially and overcome the stigma".



4.2. Circles

Among the ‘other’ restorative justice programmes, also by express reference to the recent Italian legislation and in particular the accompanying Explanatory Report³³, circles stand out.

Box 5 - Circles in the UN Handbook on Restorative Justice Programmes³⁴

Indigenous people have traditionally used talking circles for decision making, spiritual ceremonies, healing, sharing and teaching. The use of a circle process has been adapted to the modern criminal justice system. (...) Positive solutions can be generated by such communal dialogues.

(UN Handbook on Restorative Justice Programmes)

Just like conferences, people other than the offender and victim (family members, friends, community members and institutional representatives) take part in the meeting. The **methodology** differs from the conference, not so much in the characteristics of the participants as in the way they are given the floor, which is characterised by a circular setting³⁵. The dialogue, as described in the various accounts, is punctuated by questions posed by the mediator. Participants’ turn to speak, which follows the order of the circle, is made visible by passing an object, which can symbolically recall the theme of the meeting or is a significant element for the participants, and is called ‘talking piece’. Sometimes, the joint meeting is preceded by specific meetings for each group of interested parties.

“The methodological difference is the use of the talking piece and a more active role of the mediator with respect to the input and thus to the questions that require an answer when holding the talking piece”. (Mediator 4)

“Talking groups were suggested to offenders and victims beforehand. Afterwards, the victims were not willing to come to a joint meeting, which was therefore held with offenders and community representatives. The victims, however, were present through their writings”. (Mediator 3)

Some of the **offences** most frequently addressed by circles are offences related to damages. In these cases, according to the reconstructions of the practitioners, the local community is considered to be the specific victim with respect to the public property that

33 See Explanatory Report on Legislative Decree no. 150 of 10 October 2022, in the Official Journal, General Series no. 245 of 19 October 2022 - Extraordinary Suppl. no. 5

34 UNODC, Handbook on Restorative Justice Programmes, 2nd ed., 2020, p. 30.

35 See European Commission (2013), Developing Peacemaking Circles in a European Context, European Forum for Restorative Justice; Fellegi B., Szego D. (2011), Handbook for Facilitating Peacemaking Circles, European Forum for Restorative Justice.



has been damaged, and extended meetings are organised with the offenders, institutions, law enforcement agencies and community representatives.

“So, in these cases a circle is created, the possible outcome is to manage spontaneously the planning of activities in the interest of the community, without pushing in any way because it is something that comes out of the circle”. (Mediator 15)

This approach is also used “after direct victim-offender mediations, when we realised, especially for offences committed by many offenders or detrimental to several victims, that an additional programme was needed; and we carried out these meetings using the talking circle as a methodology”. (Mediator 12)

The circles are also used when specific victims are absent and with the participation of one or more surrogate victims.

“To date, we have experimented with circles in cases of bullying, in situations where there was a large number of offenders and the victims were absent because they did not feel like participating or felt fragile. We asked ourselves how to work with these kids not in educational terms but in terms of restorative justice. We thought of a circle attended by the kids, surrogate victims and representatives of the school community, such as anti-bullying coordinators, headmasters or the most involved teachers”. (Mediator 14)

“Circles are spaces to be used to speak and discuss; offenders, victims and communities always take part in them. The victims, however, are often represented by associations or significant people or young victims of specific crimes with whom we come into contact in the area”. (Mediator 16)



Box 6 - Significant experiences with circles in practitioners' answers

"A circle was held with a group of minors (known through media and national news) who had committed a serious crime against a person belonging to the same community. After about 18 months, a circle was held with some members of the community identified among those who had been particularly upset and shaken by the event in some way. Subsequently, as these participants included high school teachers from the town affected by the crime, they asked that the reparation process be initiated in favour of the school population. Therefore, a pathway was created with an integrated group of young offenders and school children who, starting with a circle, held the meetings throughout the school year. At the end of the year, the integrated group of young people produced a document on restorative justice and the importance of 'reparation' that was submitted to the citizens at a public event".

"We have recently organised a circle involving, together with the minors who had damaged public properties (municipal flower boxes, street lighting, etc.), the councillor for social policies, a police officer (the law enforcement agency that had dealt with the case) and a social worker from the USSM. At the end of the meeting, and in light of what had come up (e.g., boredom, lack of community centres, bars as the only places for socialising), a suggestion was made to the young people to participate with ideas and contributions in the municipality's reorganisation of activities for young people. The youths also expressed their willingness to talk to younger kids about their experience in order to steer them away from bad company".

4.3. Obstacles to the Dissemination of Programmes Other Than Mediation

When asked about the **obstacles** that prevent restorative justice programmes other than mediation from being properly and widely adopted, numerous reflections were offered. Initial comments concern the **lexical** and conceptual **confusion** that still reigns in the field of restorative justice.

"The main obstacle is confusion. There are those who talk about restorative justice for rehabilitation activities, for victim support services, or only for the meetings. I think a good job to do would be to clarify what restorative justice is about, what victim assistance is about, and what treatment is about". (Mediator 11)

Something that was highlighted and is closely linked with this critical issue is the **lack of specific knowledge** - even among practitioners - **of programmes other than mediation**. The consequence is that there is a lack of recognition of such pathways by services and in trial proceedings.



“There is little knowledge about restorative justice programmes because only victim-offender mediation is known, and it is hard to imagine the possibility of adopting different programmes in agreement with whoever refers a case”. (Mediator 12)

“With mediation, it is clear that the judge takes this into account; with these tools we have not established anything with the judiciary with regard to their potential impact on the trial”. (Mediator 3)

On the other hand, a central problematic issue is the **lack of** a widespread **restorative justice culture**. This applies first and foremost to institutions, such as police forces and schools, but also to representatives of local authorities, who are often unfamiliar with this paradigm and can, depending on the case, be an obstacle to people’s participation, or refuse to participate where it would be important.

“We have had parents who did not have the courage to talk to other parents because the police had told them not to, and the others were hurt by that. It would be important to involve the police, but also public prosecutor’s offices and the Courts. If one person changes, everything changes”. (Mediator 17)

“A critical issue is passing on the value of broad participation, perhaps because we are not culturally prepared; the reaction to the programme is:

“Oh God. What do I need to say?” or “What do I need to do?”. And this applies to institutions as well. There is a refusal to participate even from school representatives”. (Mediator 4)

“In conferences and circles, it is a matter of dealing with institutions that say they have nothing to do with justice, that do not feel involved. Instead, reparation pushes us to ensure that the local area becomes a more important protagonist. This is our main challenge”. (Mediator 8)

Besides the institutions, there is also a lack of widespread awareness in the community about the possibilities of dialogue and reparation for those who also experience the direct or indirect consequences of a crime in a given area. This leads to some difficulty in involving people in extended restorative justice programmes.

“One difficulty is that civil society does not always respond, the neighbourhood is not always interested. A lot has been achieved but a lot still needs to be done”. (Mediator 5)

As with the community, it is difficult to involve **victims** due to the lack of knowledge of such tools, the lack of specific training on how to contact them, and the absence of dedicated support services. Projects created for juvenile offenders - or perceived as such - may create distrust or anger, in the face of the emptiness and loneliness that victims most often experience after the crime.



“We have difficulties in involving the victims and the community, because of a problem of culture, of not knowing what it is all about. We experience a lot of mistrust when dealing with victims due to the fact that we start from a project that was prepared for offenders. Our starting point is not the victims but the offenders because the Juvenile Court or the Centre for Juvenile Justice has done a project for offenders. Victims are contacted afterwards. Even with this mechanism alone, victims are manipulated or feel as if they are; the second victimisation is already there a bit. This also depends on the culture; it would be important to start with the victims”. (Mediator 18)

“If the institutional interlocutor who first deals with victims fails to avert victimisation, we find ourselves in situations where victims will never want to access a restorative justice pathway because they will be experiencing a form of victimisation. Therefore, the lack of victim services has a very negative impact”. (Mediator 12)

On the subject of **mediator training**, something has already been said³⁶. An obstacle to the correct and widespread implementation of programmes ‘other’ than mediation has also been seen in the absence of specific and practical training in this field.

“How we manage groups and discussions is fundamental. Managing an offender-victim meeting is much easier than an extended group. Ad hoc training would be important”. (Mediator 8)

“Training is very important. I believe that running large groups requires some expertise, but without losing the specific content of restorative justice. If the training was important for mediation, the implementation of all the other tools was related to the fact that you read something, you had some experience with it, you had someone more experienced supporting you initially, but you need something more structured on how to act. Once you have mastered the tool, you can use it flexibly. Training is also important to understand when you are in the field of pure experimentation and when you are implementing something that is already there”. (Mediator 3)

“Now it is very clear that it’s crucial to know how to do it. You cannot improvise, you have to know how to answer the questions you have asked us, who to involve, why involving, how to involve, etc.” (Mediator 6)

Again, with regard to mediators and their respective organisations or centres, a further problem was the **absence of a stable network** of exchange between centres, and sharing restorative justice practices.

³⁶ See § 5.



“Another critical issue is the lack of dialogue among restorative justice centres, because talking and discussing among us, which is becoming indispensable, can help us improve practices and the effectiveness of interventions other than mediation. Since interventions are few and far between, we should work on shared practices”. (Mediator 12)

A material obstacle to the adoption of extended restorative justice programmes is also the presence of **physical barriers** that prevent participants from meeting. This is the situation faced by prisons, where great difficulties have been encountered in finding ways to bring restorative justice closer to young inmates³⁷. Difficulties have also been identified with regard to organisations operating over very large areas, where it is difficult to ask people participating in the programmes to travel long distances.

“One of the few possibilities we have to carry out a proper restorative justice programme in prison would be to take the young people out to meet communities and victims. The current and very simple problem is that the Surveillance Judge has not granted any permit for months, given the long-term presence of Covid, although this is something we should have overcome by now”. (Mediator 19)

“You often go on site if you can. Distance makes all the difference; the fact that we cannot work on groups is because they are far apart. Online work might be of help but it is not the same as face-to-face work”. (Mediator 1)

Finally, a key issue is the awareness that investing in restorative justice programmes ‘other’ than mediation requires more human and financial **resources**. This is because these extended pathways require more energy and work on the part of practitioners (more contacts to be made, a greater number of preliminary interviews to be held, a more complex organisational set-up, etc.). This restrictive criterion – together with a certain rigidity that sometimes characterises the project actions that fund interventions – is experienced as constraining with respect to possible restorative meetings that could prove to be significantly valuable for the community.

“On the one hand, there is the problem of having to react to rather regimented planning, which leaves no room for different approaches and necessary improvisations. On the other hand, these alternative tools are expensive, because they involve a lot of people, require more meetings, and this is brought to our attention”. (Mediator 20)

“Funding is often hourly and does not include all the preparation that is needed when so many people are involved”. (Mediator 15)

37 On this point, see § 5.



“For complete healing, it would be really crucial to widen the circle to involve family members, schools and so on. So, it is all work in progress and we hope to get there because it is the future”. (Mediator 10)

5. Awareness-Raising Interventions on Restorative Justice

The focus groups held with practitioners working in restorative justice centres and agencies also highlighted much work done on offenders³⁸, possibly with the involvement of their relatives, as well as with civil society and institutional representatives. Although they are not genuine restorative justice programmes as they do not involve the presence of specific or surrogate victims, it was considered appropriate to present their characteristics because they evidence a significant commitment for the actors working in this field, and because not infrequently they are considered a ‘bridge’ towards a request to participate in a restorative justice programme.

The work in question is particularly common in juvenile prison, but also in cases followed by the USSMs, with young people on probation and, in some cases, in schools for criminal events.

Within juvenile prisons, in particular, the main experiences are ‘awareness groups’, complying with the essential rules of restorative justice (willingness to participate, confidentiality, etc.), and structured in three main ways. In the first case, these are pathways aimed at groups of juvenile detainees, designed to initiate reflection on victims and the possibilities of reparation, and then, perhaps, launch effective restorative justice programmes. In the second case, IMP’s internal staff are involved: parallel pathways are therefore initially planned for juvenile detainees and, separately, for prison officers, or other professional figures, ending with extended meetings during which the subgroups discuss reparation issues. Finally, the third modality envisages the involvement not only of young prisoners and practitioners, but also of people from outside the institutions, who may be groups of students or peers belonging to associations or representing civil society and communities. Again, after a series of meetings for individual groups on the subject of reparation, a plenary meeting is organised during which an in-depth discussion on personal experiences is held that can also involve role-plays and simulated mediations. However, the individual offence is not always highlighted due to the difficulty of discussing it with a large number of people; for this reason, some institutions subsequently offer individual meetings, where the request to initiate a mediation process can be submitted.

38 A cross-cutting element, coming both from the outcome of the focus groups with practitioners and the inter-institutional focus group on the effects of restorative justice, is the special attention paid to offenders, against a weaker presence of direct victims. This tendency is linked to issues of a different nature, related to the criminal justice system within which restorative justice is embedded, the difficulties of involving victims, the absence of services dedicated to them as well as organisational and privacy issues.



Peer involvement also occurs outside prisons, in the case of juvenile offenders in the care of USSMs, often on probation²⁵. The following contribution of a female practitioner who participated in the focus group is emblematic of these experiences:

“We’ve called them restorative justice workshops. The structure is as follows: 4-5 meetings with young people who are in the care of the USSM, usually on probation [...] and a meeting with a peer group from the local community where we are based [...], to prepare them. Then the final meeting [...]. The content of the meeting is exercises in feelings, empathetic listening, working on the relationship that is created between them. We also use simulated mediation, we ask the minors if they want to tell their stories, asking one of them to impersonate the victim [...]. We use mask exercises to get them into the idea of looking into each other’s eyes. Then we usually share in a circle, depending on the situation, from a generic question (how do you relate to the crime?) everyone can say what they feel either from the side of those who have committed crimes, or from the side of those who have been touched as a community or have a different experience (perhaps they have been a victim, or close to a victim). We conduct this exchange with the talking piece”. (Mediator 18)

Another mode focuses on offenders and their family members and is used in cases where “the victim refuses to meet or is not available and we find ourselves extending mediation to those family members of the offender who, to a significant extent, are themselves indirect victims of the offence committed by their son or daughter”. (Mediator 13)

Finally, similar experiences are organised in schools, especially in cases of offences committed by under-14s. In these cases, the class as a group is involved, as the following excerpt shows:

“In schools, in situations that were not subsequently criminalised because the offender was under 14 or because there was no police report. However, they were criminally relevant, and in addition to mediation, before and during, there was always the possibility of meeting the class. We did not separate the problem by moving it elsewhere; processing must be open to the whole group. It is a bit different, but it starts to look more like a circle. Significant experiences, which begin to create some method, but there is work to be done”. (Mediator 9)

These experiences do not take the form of restorative justice programmes but are more “redress interventions” (Mediator 10), awareness-raising pathways, pathways used to imagine the victim is present, pathways to heal not only the external rift caused by the offence but also the rifts within the offenders themselves. In the view of practitioners, these are extremely positive pathways, both for the offenders and for the other parties involved. In many cases they are an important step towards reparation programmes, drafting of a letter or asking to initiate direct mediation. This is evidenced by the following excerpt:



“The aim is twofold: in addition to bringing civil society and juvenile offenders together, it is also to open up the juvenile offenders to mediation, so that after this experience they ask to meet the other party; they are being accompanied to a direct meeting with the injured parties. We are even talking about serious offences, where the idea of meeting the injured parties right away is more difficult, whereas with the workshops the number of people making this request increases”. (Mediator 5)



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PART III

**A Map of Restorative Justice Services
in Italy**



A Map of Restorative Justice Services in Italy

Preamble

This part of the survey has a twofold objective. On the one hand, it enriches the knowledge and debate on restorative justice with new data and information on public and private actors delivering restorative justice programmes in Italy. On the other hand, it updates the information already contained in the work of the Authority for Children and Adolescents of 2018, *‘La mediazione penale e altri percorsi di giustizia riparativa nel procedimento penale minorile. Documento di studio e di proposta’*³⁹ (Victim-Offender Mediation and Other Restorative Justice Pathways in Juvenile Criminal Proceedings. Study and Proposal Document). Overall, it provides an up-to-date map of centres and agencies delivering restorative justice programmes related to juvenile justice in Italy.

In order to involve all relevant centres and agencies – but being careful to only deal with those that *actually* deliver restorative justice programmes in the juvenile penal arena – the cooperation of the Centres for Juvenile Justices (Ministry of Justice)⁴⁰ was requested. The input of these Centres was invaluable in identifying the organisations and inviting them to participate in this research. As mentioned in the methodological note, the mapping exercise was based on the completion of a questionnaire⁴¹ by the agencies and centres involved.

The following pages deal with the mapping issues addressed in the questionnaire, in particular: information on the organisation of centres and agencies, training and awareness-raising activities, and structuring of networks.

1. Structure and Organisation

The questionnaire was compiled by 36 centres and agencies delivering restorative justice programmes involving juvenile offenders. They all operate in at least one of the 26 Court of Appeal districts in which the Italian territory is divided.

Information on the organisation and structure of the centres and agencies shows (Figure 1) that more than 70% of these belong to cooperatives or *soggetti del privato sociale* (private organisations with social objects). In some cases, these are restorative justice and mediation centres of a stable nature and are characterised by an exclusive mission in this sense (25%); in others, they are entities that deliver restorative justice programmes through specific projects (47.2%). Restorative justice and mediation centres established by a public body (22.2%) are less represented. The latter are composed of staff of the same body and

39 <https://www.garanteinfanzia.org/sites/default/files/2020-03/criminal-justice-reparation-minors.pdf>

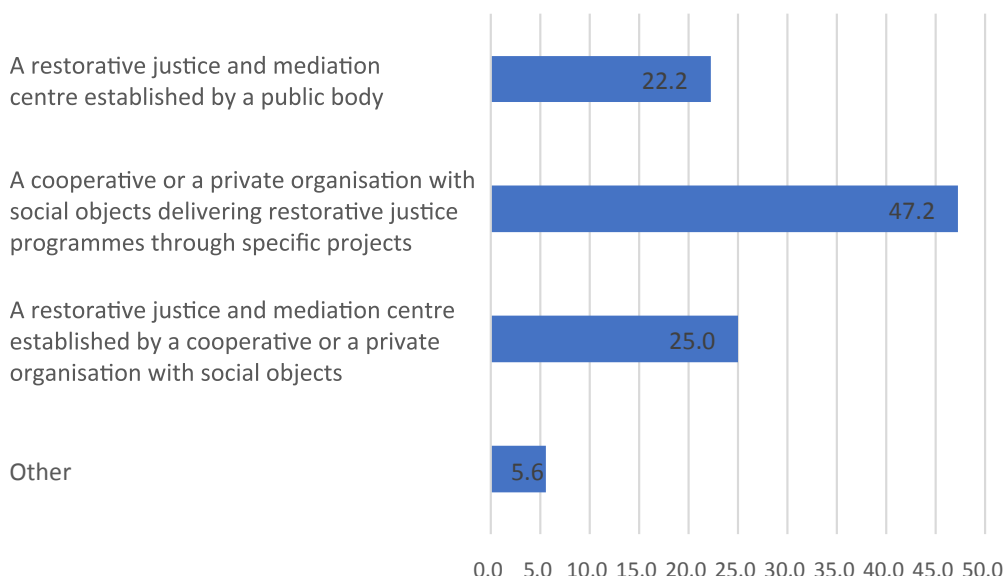
40 See attached note, no. 4.

41 See attached questionnaire, no. 9.



of contracted private mediators, except in one case where the staff is entirely from the relevant public body. Approximately 5% of the respondents do not recognise themselves in the options provided, mostly in cases where the distinguishing feature is the fact that there are specific public-private agreements in place.

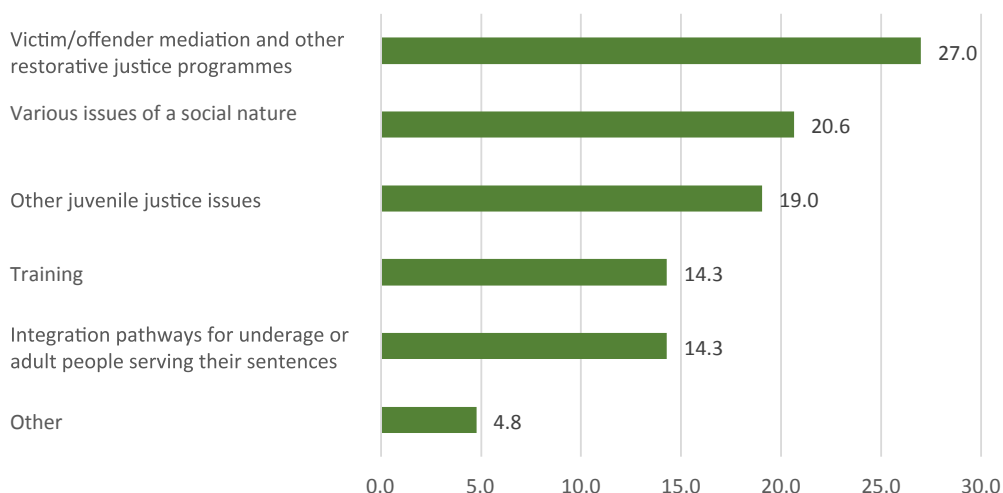
Figure 1 - Your centre/agency is:
(percentage values)



Most of the centres set up by a public body were established through a protocol involving the Italian Ministry of Justice, in particular the Department for Juvenile and Community Justice and its local branches. In the remaining cases, they were set up by regional or municipal institutions.

The bulk of private organisations with social objects are registered in the list of the Centre for Juvenile Justice for their area. On the main, according to their Statutes, these cooperatives and associations deal specifically with restorative justice and mediation (27%) and to a lesser extent with issues of a social nature (20.6%), other juvenile justice issues (19%), integration pathways for people who are serving their sentences or being trained (in both cases 14.3%) or other issues (4.8%) (Figure 2).

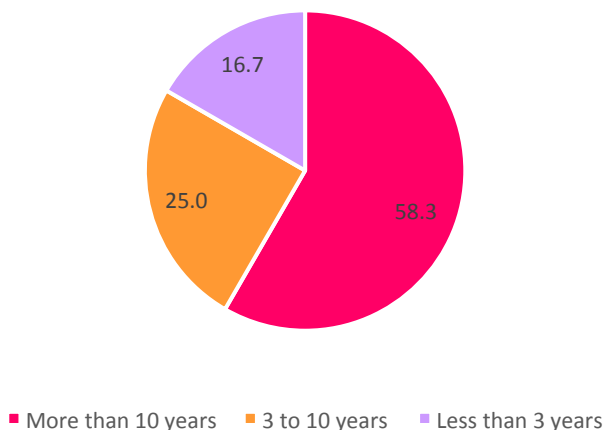
Figure 2 - In the case of a private organisation with social objects and according to its statute, the cooperative or association you represent deals with:
(percentage values - multiple answers)



Although the majority of the centres belong to a cooperative or a private organisation with social objects, only one third of them carry out restorative justice programmes in their own premises or in premises belonging to other organisations. In the remaining cases these activities are carried out in premises belonging to the Italian Ministry of Justice or made available by the municipality of the provincial capital.

A large majority of the centres and agencies that participated in the survey (58.3%) have been carrying out restorative justice activities for more than 10 years, 25% between 3 and 10 years and 16.7% for less than 3 years. Therefore, there are organisations that, in the vast majority of cases, can count on more than ten years of experience (Figure 3). To corroborate this trend, it should be noted that more than half of the responding centres stated that they have been continuously carrying out activities related to restorative justice programmes since their foundation.

Figure 3 - How long ago has the organisation you represent started restorative justice activities in the juvenile criminal justice field? (percentage values)



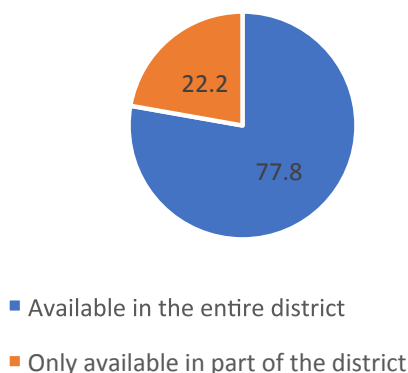
As anticipated, some issues addressed by the questionnaire enabled an analysis of the transformations that have occurred in the world of restorative justice within the juvenile criminal justice field over the last four years. According to the 2018 survey of the Authority for Children and Adolescents, in five Court of Appeal districts (Bologna, Campobasso, Catania, Taranto and Trieste) at that time there were no restorative justice organisations or they were trying out restorative justice programmes. The current survey shows a greater spread of such organisations in Italy. There was only one case where the service is absent or not registered whereas in the remaining Court of Appeal districts restorative justice programmes are provided by one or more organisations. In 13 districts, services are delivered by one centre or agency, whereas in the remaining cases there are two or more centres and agencies (Figure 4).

Figure 4 - Centres and agencies in the districts of Courts of Appeal



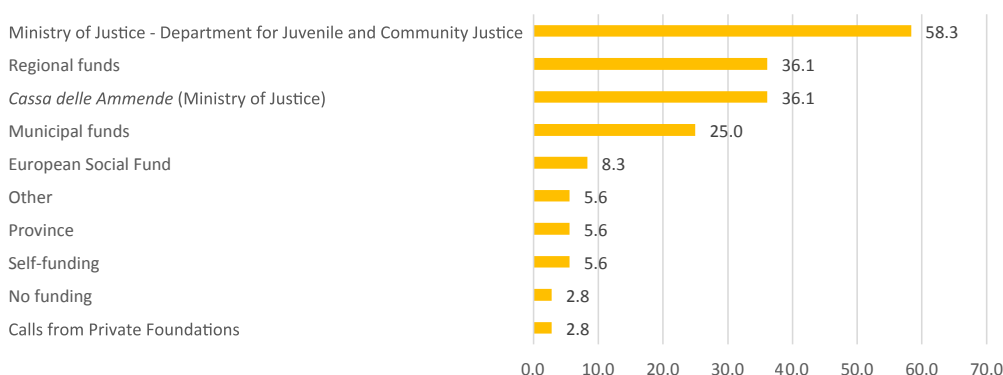
The service is for the most part available throughout the entire Court of Appeal district where the organisation is based (Figure 5). Moreover, out of 36 responding centres, six states that their centres operate in more than one Court of Appeal district.

Figure 5 - In relation to the district of the Court of Appeal, in the area in which the organisation you represent operates, the service is:
(percentage values)



Funding for the activities of the centres mainly comes from the Department of Juvenile and Community Justice and, secondarily, from the *Cassa delle Ammende* (Italian Ministry of Justice) and regional funds⁴². Municipal and European funds are not without weight but have a minor role (Figure 6).

Figure 6 - In relation to your organisation, what are the prevailing sources of funding for restorative justice activities?
(percentage values - multiple answers)



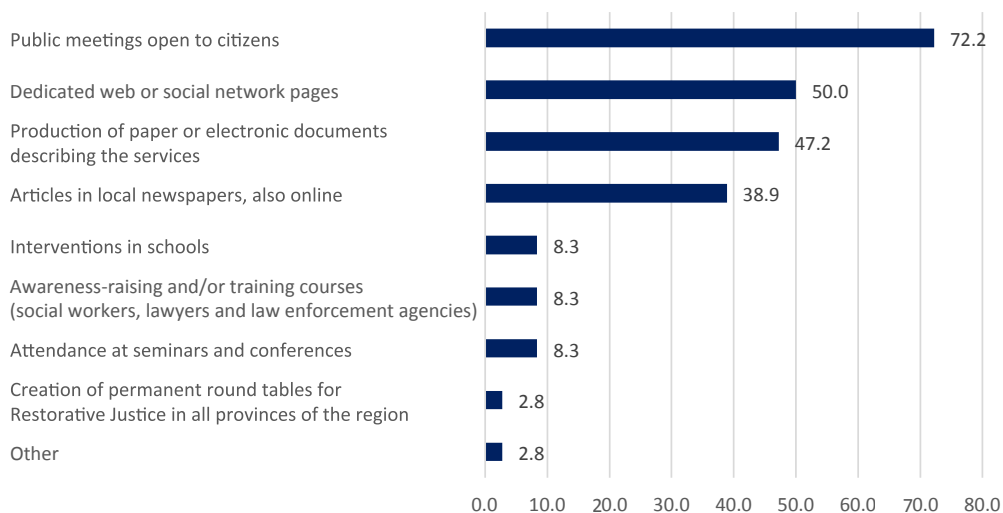
⁴² Compared to broader regional planning, only a quarter of the centres report that activities related to restorative justice programmes are included in Regional Social Plans or Area Plans.

2. Training and Awareness-Raising Activities

More than four-fifths of respondents stated that their organisations provide training and refresher courses for mediators. A closer look at how these activities are performed reveals that in some cases these are structured training and/or refresher courses provided by accredited bodies; in other cases, attendance at conferences and seminars on the subject. Finally, many respondents refer to self-training or supervisory activities within their organisations but with more informal characteristics. With regard to the topics, training focuses on in-depth studies on restorative justice programmes (especially, but not only, victim-offender mediation), both in relation to theoretical and operational approaches, and on topics widely related to adolescence, forms of underage deviance, and the juvenile criminal field.

With regard to awareness-raising, almost all centres carry out activities aimed at making restorative justice issues known within their communities. The main methods used to inform and involve the population are public meetings open to citizens, followed by the use of web pages or social networks on the topic, and the production of paper or electronic documents describing the services (Figure 7).

Figure 7 - Have community awareness-raising activities on restorative justice been carried out? (percentage values - multiple answers)





3. Networks in Restorative Justice

The importance of networking is an increasingly widespread need on which there is consolidated convergence. In this specific area, it also appears that the organisations involved in restorative justice deal with and foster partnerships within their own contexts that are aimed at delivering programmes. Almost all the centres stated that they pursue this objective with agreements among the institutions concerned, e.g., by identifying contact persons, setting up technical round tables and organising discussion meetings. The purpose of these agreements and partnerships is to identify general criteria and procedures for the implementation of restorative justice programmes, and adopt a more operational approach in relation to the discussion of specific individual cases.

The need to network is also found in a broader perspective, with actors and institutions other than those already involved in partnerships in their own areas (in this case 'area' is to be understood in a general sense, and does not coincide with the district of the Court of Appeal). In fact, four out of five centres have relations with organisations from other areas. With respect to the modalities of these partnerships, both structured and informal relationships and approaches were noted. In this case too, partnerships are aimed at identifying general criteria for action and discussing specific cases.



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CONCLUSIONS

**Towards Developing
Informed Public Policies**



Towards Developing Informed Public Policies

1. General Reflections and Operational Considerations

In conclusion, it seems useful to take up and summarise some of the findings that emerged across the various phases of this research. This is in order to contribute, also in the light of the recent regulation approved by Legislative Decree no. 150⁴³ of 10 October 2022, to a reflection on the operational dimensions of restorative justice as a public policy, in relation to the issues touched upon in this work: the effectiveness of restorative justice, its various programmes and the actors involved, as well as the mapping on the delivery of restorative justice services in Italy.

The recently enacted legislation is bound to profoundly affect the development and use of restorative justice in Italy. Knowledge of this paradigm is now a necessity in all areas of justice, both juvenile and non-juvenile. The terms and meanings are the subject of precise definitions and descriptions. Compliance with the fundamental principles governing restorative justice is expressly required by law, which carefully details it. The recognition of programmes other than victim-offender mediation alone is now enshrined in the legislation. Furthermore, with respect to the nature, organisation and operations of the centres and agencies providing restorative justice services, the picture today is bound to change, thanks to the establishment of Centres for Restorative Justice according to the modalities set by the new legal framework.

In general, it is worth emphasising that the approval of Legislative Decree no. 150 of 2022 took place in the final stages of this study, and that many of the considerations that came up during the research and many of the issues raised by those working in this field find context and answers in the aforementioned Decree.

Nonetheless, the research also brought to light additional reflections beyond what is specifically regulated by the norm, aspects that were described as relevant for the effectiveness of the interventions and thus of interest to those who are called upon to give substance and life to restorative justice services.

Moreover, in order to move from theory to practice, in the medium term the new regulatory provisions will have to be followed by a coherent dynamic evolution of public policies and the various professional sectors. On many fronts, making the law fully operational will require major changes in language, organisation, training and perspective.

⁴³ The full text can be found in the annexes.



Some of the findings of the research and related reflections can be used to share and strengthen not only the framework within which this study is set, but also its outcome, i.e., the operational guidelines.

The following paragraphs therefore summarise the considerations, also from an operational point of view, that emerged from the research on five important aspects: a) the general conditions that contribute to the effectiveness of restorative pathways; b) the added value offered by the involvement of family units and communities; c) the need to strengthen inter-institutional networks; d) the need to strengthen the networks with the different local actors; and e) the awareness-raising action on the culture of restorative justice.

1.1. Restorative Justice 'Works'

First and foremost, the research emphasises the fact that restorative justice can have important positive effects for the people involved. In this sense and very succinctly, restorative justice 'works'.

The effects it produces, for victims, offenders and members of communities (families, first and foremost), concern all the dimensions that have been investigated: the relationship with oneself, the relationship with the other party, family relationships and relationships with other members of the community, as well as the relationship with justice. In general, restorative justice can promote virtuous circles of reconstruction of social cohesion and processes of pacification, with major effects in terms of prevention and generation of a new sense of safety and trust.⁴⁴

A number of conditions - facilitating or hindering factors - also emerged that are shown to affect the effects of restorative justice. Below, and without claiming to be exhaustive, are some operational approaches that take up the main findings of the investigation on this front, many of which only confirm and corroborate what is now provided for by the organic discipline of restorative justice:

- Restorative justice programmes must **concretely ensure the active, free, voluntary and informed participation of those involved and the confidentiality of the**

⁴⁴ What emerged from this research at a qualitative level is also reflected in other works that are also quantitative in nature, in terms of reduction of recidivism, and victims' and offenders' satisfaction with how they experienced justice. The following is a short list of these works: L. W. Sherman, H. Strang et al., *Are Restorative Justice Conferences Effective in Reducing Repeat Offending? Findings from a Campbell Systematic Review*, Journal of Quantitative Criminology, 31, 1-24, 2015; L. W. Sherman, H. Strang, *Restorative justice: the evidence*, The Smith Institute, London, 2007; W. Bradshaw, D. Roseborough, M. S. Umbreit, *The Effect of Victim Offender Mediation on Juvenile Offender Recidivism: A Meta-Analysis*, in Conflict Resolution Quarterly, vol. 24, no. 1, Fall 2006; H. Strang, L.W. Sherman, *Victim Evaluations of Face-to-Face Restorative Justice Conferences: A Quasi-Experimental Analysis*, Journal of Social Issues 62(2), 281 - 306, 2006; W. R. Nugent, M. S. Umbreit et al., *Participation in Victim-Offender Mediation Reduces Recidivism*, in VOMA Connections, no. 3, 1999.

exchanges: the full beneficial effects that restorative justice is able to achieve for the people involved would otherwise be undermined.

- The ability to **include and involve victims** is an essential key to the functioning of restorative justice: work must be done to **overcome the obstacles that today make their effective participation difficult**, such as difficulties in contacting them, late contacts with respect to the facts, little or no knowledge of the service, mistrust for a service seen as offender-centric, the impossibility for victims to apply for this service themselves, and the absence of any dedicated services.
- The meeting place has a significant impact on the functioning of restorative justice: **promoting proximity and providing welcoming and confidential spaces** for both parties, in order to ensure that restorative justice is geographically close to the people and to guarantee their confidentiality, is a positive factor. For minors in juvenile prisons or other similar institutions such as rehabilitation centres, it is important that they are allowed out when appropriate.
- Restorative justice is at its best when the meetings are in presence: **face-to-face meetings should be favoured** because online solutions do not guarantee the same effectiveness and should be limited to circumstances where they really are the only feasible alternative.
- For the process to be fully effective, **taking into account the generational dynamics** in different situations is necessary. At the same time, the necessary equidistance between mediators and involved parties needs to be ensured: restorative justice works differently depending on whether the meetings are between peers or between people with a significant age difference.
- **Attention** must be **paid to aspects concerning the restorative outcome, freely agreed by the parties**: it is the tangible sign of an intangible mutual acknowledgement, which may take a symbolic form or be of a material nature. It belongs to the parties but may also have - where possible and with the consent of the parties involved - value and significance for the community.

1.2. Involving Families

This research showed a significant multiplier effect of restorative justice effectiveness and participant satisfaction when families were actively involved.

The extension of the restorative process to family members (parents, siblings, other significant members) guarantees first of all listening and support to the people who also inevitably suffer, directly and indirectly, from the consequences of the offence.

The involvement of families also allows victims and offenders to make use of a neutral space to tell their stories in a different way than they would at home. It also offers family members, *primarily* parents, the opportunity to listen to their children's experiences in a different way, with the support of professionals.

Extended meetings also make it possible to address and possibly pacify intra-family conflicts that the offence may have caused.

On the basis of these reflections, operational summary approaches are outlined below:

- **Involving, whenever possible, offenders' and victims' families** is important: this is invaluable to strengthen and spread the effects of restorative justice in terms of pacification and reconstruction of social bonds.
- **Identifying the most suitable modalities for this involvement**, which may vary, is necessary: it may be a dedicated meeting held to listen and speak, a meeting 'between family members' in parallel with the one between the young people, or an extended meeting following the meeting between the parties.
- It is important to **ensure the necessary flexibility in designing the process on the basis of the specifics of each situation**: listening to the parties and their needs is the essential key when choosing how to involve families.
- It is important to **listen to and take into account, even if the victims are adults, the need to involve the family members** of one or both parties **in the meeting**: adult victims may also need to involve their own family members, or meet the family members of the young offenders.
- In some situations, it may be necessary to **combine restorative justice with other types of pathways**: in intra-family offences, as in the case of family maltreatment, restorative justice may be an important, non-exclusive part of a broader support pathway aimed at rebuilding healthy family relationships.

1.3. Involving the Community

Based on what has already been observed with regard to the families of the people involved, the importance of extending restorative justice programmes to the community stems from the consideration that the consequences of an offence affect many people, in addition to offenders, victims and their families: friends, schoolmates, neighbours, people who witnessed the events, local residents, and representatives of institutions.

Therefore, involving members and representatives of the community - without this broader participation substituting the participation of the victim, a necessary and essential presence in a restorative justice programme - further amplifies the pacification effectiveness of the process, helping to rebuild the safety and social cohesion undermined by the offence.

Below are the operational considerations that can be drawn from the findings of the survey on this theme:

- Where possible, it is important **to foster the involvement of the community** affected by the harmful event, whether private individuals or institutions, **in restorative justice programmes**.
- It may also be important to **involve community members identified as support persons by the parties**: this may be useful to encourage and facilitate the participation of offenders and victims in a restorative justice programme.
- **Suitable forms of funding** should be **envisaged to make it possible to adopt programmes involving communities**: the intensive preparatory work for extended meetings (contacts, interviews to gather information, consensus-building conversations, etc.) has a considerable return, i.e., the greater impact the process has in terms of pacification and prevention.
- It is necessary to **ensure that mediators involved in extended restorative justice programmes** (mediation including relatives, restorative conferences, circles, other programmes) **have the specific skills and training for this part of their job**. These programmes, which may involve a large number of participants in different positions, are more complex, both during the preparatory phase and when facilitating the meetings. Mediators, therefore, need to be well equipped and resourced.
- In order to usefully integrate the tools into the overall pathway followed by the people being supported and given a lack of knowledge and practice of programmes other than mediation in Italy, **there is a need to facilitate their knowledge and recognition among juvenile justice practitioners and institutions**.

1.4. Building Networks

Restorative justice is a service at the intersection between criminal justice and social policies. In order to provide widespread and suitable restorative justice services, stable and continuous coordination and interaction between the different actors operating in the area of juvenile justice and social policies is indispensable. Indeed, the legislation explicitly provides for this. Sharing terms and meanings related to restorative justice must be the starting point of the dialogue which must take its cue from the provisions of the relevant discipline.

In this respect, too, it is possible to outline some more operational approaches that emerged from the research:

- It is necessary to **provide wide-ranging and timely training on restorative justice for all the professionals** that touch upon or cross its contours: magistrates, lawyers,

prison workers, law enforcement officers, social workers, educators, psychologists, etc. This is to ensure an effective and meaningful dialogue between everybody.

- It is also essential to **carry out actions aimed at expanding knowledge and involvement of the local areas and their resources** with regard to institutions (Regions, local authorities, schools, law enforcement officers, etc.), associations and the third sector (neighbourhood committees, the sports world, educational associations, etc.).
- It is necessary to **foster the presence of widespread and quality restorative justice services at local level**: to this end, designing and maintaining meeting and consultation places between institutional actors and private social bodies seem fundamental.
- **Structuring stable networks with institutional and non-institutional players operating in a given area** appears to be important. This would also facilitate their active participation in restorative justice programmes in which their presence may be required, as well as forging alliances for the purpose of raising public awareness.
- Finally, it is important to **develop a 'horizontal' network, between restorative justice centres and between mediators**, in order to strengthen collaboration and exchanges of practices and methodologies at local, national and international level.

1.5. Disseminating the Culture of Restorative Justice

Restorative justice proposes a change of view on offences which are no longer just violations of norms but are evidence of the breakdown of personal and social relationships. The widespread sharing and understanding of this change of outlook is an inescapable prerequisite for the widespread use of restorative justice in social conflicts. Knowing what restorative justice is, knowing that there are centres that deal with it, that it is a service for all, is the necessary starting point on which to work, so that citizens or institutions can more easily access and benefit from this service.

In addition, communities are called upon to welcome, once again, the people directly involved in an offence, in particular victims and offenders, after the process has been completed. Therefore, knowing what participating in a restorative justice programme actually means is also the prerequisite for communities to understand - without anger or a sense of impunity or insecurity, but as the realisation of a different form of justice - a possible reduction or disappearance of the purely punitive approaches.

Hence, the following operational considerations resulting from the findings of the survey:

- **Ensuring that all professionals involved in juvenile justice share a common understanding of the meaning and functioning of restorative justice** is necessary. Initial and continuous training on the topic is vital for all.



- **Disseminating the culture of restorative justice also among institutions and third sector organisations** that revolve around the lives of minors is essential. Where possible, it is necessary to 'weld' the penal context with juvenile contexts where conflicts in their physiological forms (school, sport, educational institution, etc.) are well rooted.
- **Ensuring that the culture of restorative justice is disseminated in life contexts structurally characterised by particular coercion** is particularly delicate and important. Examples are prisons and educational communities, i.e., places characterised by restrictions on personal freedom or particularly restrictive relationships causing conflicts between inmates.
- During training and awareness-raising activities of restorative justice in institutions, professional bodies and associations, **using interdisciplinary dialogue as well as exchanges of experiences, ideas and practices 'between peers'** is valuable. Exchanges between different professionals and the voice and experience of people belonging to the same institution or profession can effectively convey the meaning and sense of restorative justice. This meaning and this sense can also be explained to specific professions.
- It is **also** important to **offer courses and in-depth studies on restorative justice at university level in all the sectors that train professionals dealing with juvenile justice and with the social sphere in general**. This would mean ensuring a widespread knowledge of restorative justice issues from the very beginning of the training of the various professionals who might be involved.
- **Disseminating school mediation as a conflict resolution tool** between peers, and not just between them, is necessary because it is a formidable means to raise awareness and disseminate a restorative justice culture at an early stage. Investing in the school system, promoting training and restorative
- justice experiences, involving families and teachers too, can also make victim-offender mediation or other programmes more easily accessible in cases where conflicts could develop into crime.
- It is essential to **plan and design events to raise awareness among citizens**, through targeted and widespread information and dissemination initiatives: disseminating the culture of restorative justice within the broader community remains the essential and indispensable prerequisite for this paradigm to take root and contribute to building and re-building social bonds.
- Disseminating the culture of restorative justice is ultimately the essential step to **support the operational dimension of restorative justice itself**: from the knowledge phase of this paradigm one can and must move on to its practice, through the support of



centres and the adoption of programmes, together with all that is necessary for restorative justice to be offered and implemented in a concrete and widespread manner throughout the country.



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per l'Infanzia e l'Adolescenza*

Annexes



Annexes

- 1. EFRJ Involvement Note**
- 2. Invitation Note to the Inter-Institutional Focus Groups**
- 3. Note for the Involvement of Protagonists**
- 4. Note to Centres for Juvenile Justice to Involve Restorative Justice Providers**
- 5. Outline for Focus Groups with Offenders and Victims**
- 6. Outline for Interview with Offenders' and Victims' Families**
- 7. Outline for the Inter-Institutional Focus Group**
- 8. Outline for the Focus Group on Programmes other than Victim-Offender Mediation**
- 9. Questionnaire for Restorative Justice Service Providers**



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per l'Infanzia e l'Adolescenza*

U
AUTORITÀ GARANTE PER L'INFANZIA
PROTOCOLLO N. 0001594/2021 del 04/11/2021

European Forum for Restorative Justice
Chair
Tim Chapman

European Forum for Restorative Justice
Executive Director
Edit Törzs

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The *Italian Independent Authority for Children and Adolescents* intends to carry out a national research on restorative justice in the juvenile penal system, in collaboration with *Istituto degli Innocenti*.

The Italian law no. 112 of 12 July 2011 establishing this Authority, indeed, sets as one of its objectives to «favouring the development of the culture of mediation and of any measure aimed at preventing or resolving with agreements conflicts involving persons of minor age, stimulating the training of operators in the sector» (article 3, paragraph 1, point o).

The project is in continuity with our previous work that resulted in the 2018 publication of the proposal document "Criminal mediation and other restorative justice pathways in juvenile criminal proceedings" (attached). Our past research focused on procedures and relationship between restorative justice and criminal proceedings. Our new research will focus, instead, on restorative justice practices in Italy and on the effects and impact that these paths produce in girls and boys, offenders and victims. It will be a qualitative research, to be developed through focus groups, circles and interviews with practitioners - magistrates, social workers, mediators - and youngsters.

In order to carry out the research, this Authority will rely on the expertise of a Scientific Committee composed of academics and mediation practitioners (Professor Adolfo Ceretti, Professor Giovanni Grandi, Dr. Maria Pia Giuffrida). Moreover, a Steering Committee will be set up, involving the Ministry of Justice.

Via de Villa Ruffa, 6 - 00196 Roma



The project starts with a preliminary phase of study and research on the state of the art of restorative justice practices at European level. European experience can offer, in fact, important examples for the dissemination of restorative justice in the juvenile criminal proceedings and relevant ideas about good practices and problems faced and possibly overcome. The European Forum for Restorative Justice is a privileged observatory on these topics.

Therefore, I hereby ask you to contribute to our research through online meetings/interviews. It would be valuable to have your qualified European overview on restorative justice programmes implemented in different countries and on the studies concluded or in progress on their impact. It would also be very useful to deepen, at a later stage, significant national experiences or research. Your participation would be an added value and would give further institutional and substantial emphasis to the research.

In the hope that this research may be the beginning of a fruitful cooperation with the common aim of promoting the well-being of juveniles, I send you my best regards.

Carla Garlatti

Via di Villa Puffa 6 - 00196 Roma



U
AUTORITÀ GARANTE PER L'INFANZIA
PROTOCOLLO GENERALE
Protocollo N.0000108/2022 del 28/01/2022

To the President of the Ancona Juvenile Court

— REDACTED —

— REDACTED —

To the Public Prosecutor at the
Ancona Juvenile Court

— REDACTED —

— REDACTED —

To the Director of the Ancona USSM

— REDACTED —

— REDACTED —

To the Director of the Ancona IPM

— REDACTED —

— REDACTED —

To the Coordinator of the Regional
Centre for Conflict Mediation - Marche Region

— REDACTED —

— REDACTED —

To the Contact Person for Restorative Justice
of the CGM in Bologn

— REDACTED —

— REDACTED —

Subject: Restorative Justice in Juvenile Justice: Qualitative Research on Effects - Request for Collaboration

The Authority for Children and Adolescents, in cooperation with the Ministry of Justice and the Istituto degli Innocenti, has launched a national research study on restorative justice in the juvenile penal system.



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The research is qualitative in nature and has three objectives:

- i) Investigating the effects of such pathways on minors, victims and offenders;
- ii) Exploring restorative justice practices in use in Italy at the trial phase and when the sentence is served;
- iii) Providing an up-to-date map of the presence of restorative justice services related to juvenile justice in Italy.

At a time of widespread and important investments in the field of restorative justice, it seems imperative, on the one hand, to delve deeper into the impact that restorative justice can have on those who participate in such pathways and on the surrounding communities. On the other hand, it is considered fundamental to know the programmes and pathways that are offered in this area based on the experiences that have been made at local level, in order to encourage the dissemination of good practices and help overcome obstacles or critical issues. The aim is to gather useful elements to draft informed public policies and contribute to citizens' awareness of the meaning of an approach to justice based on relationships and orientated towards the reconstruction of the social pact.

With reference to the first objective, two tools will be used for this research: focus groups and interviews in some Italian geographical areas whose restorative justice services in the juvenile penal field have long been delivered in a stable and continuous way and operating through a significant institutional link. The cities in question are: Turin, Milan, Trento, Ancona, Salerno, Catanzaro and Palermo.

The focus groups will be primarily addressed to the direct protagonists of the pathways, i.e., underage victims and offenders who have participated in restorative justice programmes. The focus groups will be held to ask them what these pathways have meant to them and what effects they have produced. Interviews will also be used to give a voice to parents who are willing to participate.

Focus groups will also be employed to gather the views of the practitioners: social workers, educators, magistrates, mediators, prison officers working in the juvenile justice system. Everyone, from their own perspective, will in fact be able to describe what changes and effects they have seen in those who have gone through restorative justice programmes.

Therefore, in view of the important experiences made in your area, we invite you to participate, also through your representatives, in the inter-institutional focus group to be held online on 1 March 2022, from 2.30 to 5pm, on a platform that will be made known to you in good time together with the link for connecting. Each institution will be able to have two representatives, preferably from different professions.



Italian Authority for Children and Adolescents
Annexes - Invitation Note to the Inter-Institutional Focus Groups



Ministero della Giustizia



*Autorità Garante
per l'Infanzia e l'Adolescenza*

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Trusting in your willingness to participate in this research, we would like to inform you that a separate note will be sent with more details on the topics the focus group will be dealing with, on which we would like to hear your views and experiences.

In thanking you in advance for your attention and contribution, we would like to emphasise that your participation is significant for the outcome of the research: a project summary is attached.

You will be contacted by — REDACTED —, member of the research team, for the necessary support in the organisational phase and for the coordination of the work. If you need any clarification or require further details, please do not hesitate to contact us from now at — REDACTED — as well as by telephone at — REDACTED —.

We hope that this may be the beginning of a fruitful process of collaboration in the common endeavour to promote the welfare of underage persons.

Yours sincerely,

Carla Garlatti

*Authority for
Children and Adolescents*

Isabella Mastropasqua

*Representative
of the Minister of Justice*

Aldo Fortunati

*Director of the Childhood and Adolescence Area
Istituto degli Innocenti*



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U
AUTORITA' GARANTE PER L'INFANZIA
PROTOCOLLO GENERALE
Protocollo N. 0000149/2022 del 07/02/2022

To the Director of the Salerno USSM

— REDACTED —

— REDACTED —

To the Head of the
Salerno Conflict Mediation Centre

— REDACTED —

— REDACTED —

To the Contact Person for Restorative Justice
of the Naples CGM

— REDACTED —

— REDACTED —

C.C.

To the President of the Salerno Juvenile Court

— REDACTED —

— REDACTED —

To the Public Prosecutor at the
Salerno Juvenile Court

— REDACTED —

— REDACTED —

To the Director of the Airola IPM

— REDACTED —

— REDACTED —

Subject: Restorative justice in juvenile criminal justice: qualitative research on its effects - Request for collaboration on focus groups with minors and interviews with parents



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Further to our note no. 112 of 28 January 2022, we would first of all like to thank you for your willingness to cooperate in this research project on restorative justice in the juvenile penal system.

We hereby kindly request your cooperation in identifying and proposing voluntary and anonymous participation in the project to minors and parents. For the former, the intention is to create two groups – one of young offenders, the other of underage/young victims – each consisting of 3-5 members.

The criteria to identify participants are as follows:

- Ensuring, where possible, representatives from both sexes;
- Ensuring that young offenders are out of the criminal process;
- Ensuring that their experience of restorative justice, for both offenders and victims, dates back to no

more than five years ago;

- Ensuring that the restorative justice pathways they took part in included direct meetings between victims and offenders;
- Ensuring that they are – preferably, but without this being an exclusion criterion – youths who have come of age. For minors, it will be necessary to obtain the relevant authorisations from those exercising parental responsibility.

The young people selected to participate in the focus group will first be asked to fill out a short questionnaire aimed at initiating self-reflection on their experiences. The focus group, conducted by a research team, will take place in person at the Restorative Justice Centre or other venue that does not directly have anything to do with the criminal process, which is deemed suitable in terms of guaranteeing confidentiality and ‘equidistance’ between the mediators and the parties.

It is also desirable, for logistical and organisational reasons, to hold the focus group with offenders and the one with victims on the same date or within a few days.

We also kindly ask for your support in identifying and contacting some parents – not necessarily of the children participating in the focus groups – who are available for an interview, either individually or in pairs, to be carried out in person or online, depending on preferences and resources.

As an opportunity to share the aims of the project and offer more detailed information to facilitate the organisation of focus groups and interviews with the youths and parents, we invite you to participate – in person or through your representative – in a meeting with all the other representatives of the areas that are taking part in the project. The meeting will be held online on 15 February from 4.30 to 6pm, on a platform that will be made known to you in good time together with the link for connecting.



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In any case, the Directors of the Offices of social services for minors and the coordinators of the Restorative Justice Centres are kindly asked to identify a contact person with whom to liaise for the purposes described herein.

You will be contacted by —REDACTED—, member of the research team for the necessary support

in the organisational phase and for the coordination of the work. If you need any clarification or require further details, please do not hesitate to contact us from now at —REDACTED— as well as by telephone at —REDACTED—.

We thank you once again for your valuable contribution, and are certain that the research, also thanks to your assistance, will promote correct knowledge and understanding of the significance of restorative justice, the needs it is able to meet and satisfy, as well as the potential it can have for all the citizens and for minors in particular.

Yours sincerely,

Carla Garlatti

Authority for
Children and Adolescents

Isabella Mastropasqua

Representative
of the Minister of Justice

Aldo Fortunati

Director of the Childhood and Adolescence Area
Istituto degli Innocenti



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To: Directors
of Centres for Juvenile Justice

Subject: Research on restorative justice in the juvenile penal system – Request for collaboration

The Authority for Children and Adolescents, in collaboration with the Ministry of Justice and the Istituto degli Innocenti has launched a national research project on restorative justice in juvenile criminal justice.

The aim of this qualitative research (see summary in Annex A) is to gather useful information and data to draft informed public policies and contribute to citizens' awareness of the significance of an approach to justice based on relationships and orientated towards the reconstruction of the social pact.

In particular, it has three objectives:

- i) Investigating the effects of such pathways on minors, victims and offenders;
- ii) Exploring restorative justice practices in use in Italy at the trial phase and when the sentence is served;
- iii) Providing an up-to-date map of the presence of restorative justice services related to juvenile justice in Italy.

At a time of widespread and important investments in the field of restorative justice, it seems imperative to delve deeper into the impact that restorative justice can have on those who participate in such pathways and on the surrounding communities. It is also considered fundamental to know the programmes and pathways that are offered in this area based on the experiences that have been made at local level, in order to encourage the dissemination of good practices and help overcome obstacles or critical issues.

With reference to the second and third objectives, relating respectively to restorative justice programmes in use in Italy and the updated mapping, we kindly request your collaboration, through the inter-district contact persons for restorative justice, in order to identify services/agencies operating in the field of restorative justice. The term 'restorative justice' refers to any process "which enables those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party" (CoE Recommendation CM/Rec 2018/8, § 3), through dialogue such as victim-offender mediation, restorative conferences, in its various types, or circles (see §§ 4 and 5, Rec. 2018/8).



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In this direction, we kindly ask you to fill in the table in Annex B, which collects some public and non-sensitive data concerning the centres and third sector organisations operating in the field of restorative justice in the juvenile criminal field, both in the trial phase and while the sentence is served. In particular, you are asked to provide contact information concerning:

- Victim-offender mediation and restorative justice centres or services in public bodies;
- Third sector organisations delivering restorative justice programmes in cooperation with one or more juvenile criminal justice institutions (Courts, public prosecutor's offices, offices of the Department for Juvenile and Community Justice, local authorities, etc.), through protocols, conventions or other formal agreements;
- Third-sector organisations delivering restorative justice programmes in the juvenile criminal field by means of specific projects (at least one in the last three years);
- Public and third sector organisations that are starting a trial or are structuring themselves to offer a restorative justice service in the juvenile criminal justice field.

In order to achieve the objectives, the organisations in question will first be invited to fill in a questionnaire (which will be shared with you, for your information, as soon as it has been validated) and then to participate - with the sole exclusion of organisations carrying out trials or structuring themselves - in a focus group concerning the programmes provided, in particular, programmes other than victim-offender mediation.

For any clarification or request for further details, please do not hesitate to contact —REDACTED—, member of the research team, at the following e-mail address —REDACTED— as well as by telephone at —REDACTED—.

Please send your request, preferably by 22 June, to the following e-mail addresses —REDACTED—.

Looking forward to your usual fruitful cooperation, and thanking you in advance, we would like to emphasise how your contribution is highly significant for the outcome of the research.

Yours sincerely,

Carla Garlatti

Authority for
Children and Adolescents

Isabella Mastropasqua

Representative
of the Minister of Justice

Aldo Fortunati

Director of the Childhood and Adolescence Area
Istituto degli Innocenti



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OUTLINE FOR FOCUS GROUPS WITH OFFENDERS AND VICTIMS

Summary questions relating to research dimensions

A) EFFECTS OF RESTORATIVE JUSTICE ON OFFENDERS AND VICTIMS

What has changed in your life after participating in a restorative justice pathway?

- In relation to the incident (offence and consequences of the offence)
- In relation to yourself
- In relation to the 'other' (victim or offender)
- In relation to the family and the community
- In relation to the concept of justice
- Other

B) EFFECTS OF RESTORATIVE JUSTICE FOR THE COMMUNITY

What has changed in your life after participating in a restorative justice pathway?

- For the family
- For friends and the social network
- For the community at large

C) EXPECTATIONS OF RESTORATIVE JUSTICE

What expectations did you have of the restorative justice pathway? Have they been met?



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Operational Document for Conducting Focus Groups

The focus group is conducted, with some exceptions, in presence, using the circle methodology. The groups, one for victims and one for offenders, will consist of 3-5 young people each. Expected duration: 2h 30min. With the possible support of a talking piece, the questions that are asked are discussed in a circular manner reflecting the way in which participants are seated. The focus group is conducted by two facilitators, who also answer questions as far as possible (e.g., icebreakers). A brief presentation is made about the work that is about to begin, for which the rules of restorative justice apply: voluntary attendance, voluntary decision to take the floor or not, confidentiality and non-judgemental attitude with regard to content.

0. Round of introductions with ice-breaking question (for example, a good thing that happened this week).
1. Question to create a listening climate: What do you need to be able to speak freely here today?

A large sheet of paper with a circle is placed in the middle. Participants are asked to write down in brain-storming fashion the words that come to mind when thinking about the offence. Underlining that this episode marked a 'before' and an 'after', we draw two lines on the back of the same sheet of paper, relating respectively to 'after the offence' and 'after restorative justice'.

This is followed by questions focusing on the period 'after' the offence, which will then be put in relation to the specific questions on 'after' restorative justice (see §3).

2. After the offence: sheet with the first line
 - The offence marks a before and an after. What has changed in your life since the offence?

Stimuli to focus on, in case they do not emerge spontaneously:

- Do you feel that something has changed in yourself, e.g., did you see or feel yourself differently?
- How did the people close to you, such as family and friends, react after the event?
- Has anything changed in your relationship with your family and friends?
- How did you see the offender/victim? What came to mind? or What did you feel when you thought of him/her/them?



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3. After restorative justice: add a second line on the sheet of paper
 - The mediation meeting may have also marked a before and an after. What did you think when the proposal to participate in a mediation came up?
 - You then accepted. Why? What were you looking for? What drove you?
 - Did you find what you were looking for?
 - Did you also find something unexpected?
 - Has anything changed in your life since the mediation meeting?

Stimuli to focus on, in case they do not emerge spontaneously:

- Do you feel that something has also changed in you or in your way of seeing what happened?
 - How did the people close to you, such as family and friends, react after the mediation?
 - Has anything changed in your relationship with your family and friends after the mediation?
 - Did anything change in your view of the offender/victim after the meeting?
 - Was this experience followed by an act of reparation, material or symbolic? If yes, what did it mean to you?
 - Now, one last difficult question. Has your opinion on justice changed after your experience with restorative justice?
4. Lightning question (e.g., what will you do once you leave here?).



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INTERVIEW OUTLINE FOR OFFENDERS' AND VICTIMS' PARENTS

Summary questions in relation to research dimensions

A) EFFECTS OF RESTORATIVE JUSTICE ON OFFENDERS AND VICTIMS

What has changed in the life of your son/daughter after participating in a restorative justice pathway?

- In relation to the incident (offence and consequences of the offence)
- In relation to him/herself
- In relation to the victim
- In relation to the family and the community
- In relation to the concept of justice
- Other

B) EFFECTS OF RESTORATIVE JUSTICE FOR THE COMMUNITY

What has changed for you, as a family, and for the people close to you after your son/daughter participated in a restorative justice pathway?

- For the family
- For friends and the social network
- For the community at large

C) EXPECTATIONS ON RESTORATIVE JUSTICE

What expectations did you have of the restorative justice pathway as parents? Have they been met?

D) ROLE OF SERVICES IN RELATION TO THE IMPACT OF RESTORATIVE JUSTICE

What do you think of the work of the services in relation to the restorative justice pathway?



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Operational document for conducting interviews

Interviews are conducted in person or online, depending on resources and availability, with one or both parents.

1. A concise description of the framework in which the story we are about to discuss is set, with reference to the episodes that the interviewee considers useful to understand the incident.
2. After the offence
 - Thinking about the post-offence phase, what has changed in your son/daughter's life?

Stimuli to focus on, in case they do not emerge spontaneously:

 - What has changed in your son/daughter's relationship with himself/herself?
 - What has changed in the relationship between your son/daughter and your family or friends?
 - After the offence, how do you think your son/daughter saw the offender/victim? What did he/she feel when he/she thought of her/him/them?
3. After the restorative justice process
 - Thinking about the post-mediation phase, what has changed in your son/daughter's life?

Stimuli to focus on, in case they do not emerge spontaneously:

 - What has changed in your son/daughter's relationship with himself/herself in relation to the incident?
 - What has changed in the relationship between your son/daughter and your family or friends?
 - Has anything changed in the way your son/daughter saw the offender/victim after the meeting?
4. What did you expect from this journey as a parent? Have your expectations been met? If not, could you explain why they were disappointed?
5. Do you feel that the mediation process has also had an effect on you and other family members? Do you think it has also had an effect on your social circle?
6. Has your opinion on justice changed after your experience with mediation?
7. Along the way, you met with different actors, such as magistrates, social workers, mediators, etc. What do you think of the work of these or other services in relation to the mediation? Is there something that in your opinion worked very well, and something that could have been done differently?



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RESEARCH PROJECT ON RESTORATIVE JUSTICE IN THE JUVENILE CRIMINAL JUSTICE SYSTEM

Outline for the inter-institutional focus group

Background.

The terms 'restorative justice' refers to what is described in supranational legislation on the subject and, therefore, to any pathway enabling "those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party" (CoE Recommendation CM/Rec(2018)8, §3) using tools such as victim-offender mediation, any type of restorative conference (community conference, family group conference), circles and any other tool entailing a meeting and dialogue between the victim and the offender, together with the possible inclusion of other individuals directly or indirectly affected by the offence (see CoE Recommendation CM/Rec(2018)8, §4 and 5).

The questions around which the inter-institutional focus group will work on are listed below:

A) EFFECTS OF RESTORATIVE JUSTICE FOR OFFENDERS AND VICTIMS

1.1 In your experience, from the perspective of your respective professional roles, what do you see in young offenders who have participated in restorative justice pathways? Can you detect any effects, any changes? If so, what kind?

Here are some hints (which are not to be considered exhaustive):

- In relation to the incident (offence and consequences of the offence)
- In relation to oneself
- In relation to the victim
- In relation to the family and the community
- In relation to the concept of justice
- Other



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- 1.2 In your experience, from the perspective of your respective professional roles, what do you see in victims who have participated in restorative justice pathways? Can you detect any effects, any changes? If so, what kind?

Here are some hints (which are not to be considered exhaustive):

- In relation to the incident (offence and consequences of the offence)
- In relation to oneself
- In relation to the offender
- In relation to the family and the community
- In relation to the concept of justice
- Other

B) EFFECTS OF RESTORATIVE JUSTICE FOR THE COMMUNITY

- 2 From the perspective of your professional roles, have you had the opportunity to observe the effects of restorative justice also for those close to victims and offenders, or more widely for the community? If so, what effects did you see?

Here are some hints (which are not to be considered exhaustive):

- For the family
- For friends and the social network
- For the community at large

C) EXPECTATIONS OF RESTORATIVE JUSTICE

3. What do you expect from a good restorative justice pathway?

Here are some hints (which are not to be considered exhaustive):

- On a personal level
- On a relational level
- On a criminal proceedings level
- On the restorative level
- Other

D) ROLE OF SERVICES IN RELATION TO THE IMPACT OF RESTORATIVE JUSTICE

4. With respect to the role of the services around juvenile justice, also from a network perspective, what hinders and what fosters a positive impact of restorative justice?



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RESEARCH PROJECT ON RESTORATIVE JUSTICE IN THE JUVENILE CRIMINAL JUSTICE SYSTEM

Outline for the focus group on restorative justice programmes other than victim-offender mediation

Background.

The terms 'restorative justice' with reference to the penal system refers to any pathway enabling "those harmed by crime, and those responsible for that harm, if they freely consent, to participate actively in the resolution of matters arising from the offence, through the help of a trained and impartial third party" (CoE Recommendation CM/Rec(2018)8, §3) using tools such as victim-offender mediation (victim-offender mediation), any type of restorative conference (community conference, family group conference), the circle and any other tool entailing a meeting and dialogue between the victim and the offender, with the possible inclusion of other individuals directly or indirectly affected by the offence (see CoE Recommendation CM/Rec(2018)8, §4 and 5).

The focus group will work on programmes *other than* victim-offender mediation, understood as a time for victims and offenders to hold a direct or indirect dialogue with the support of mediators. This tool, therefore, which is more commonly used and well-known in Italy, will *not* be the subject of the focus group.

Given the different names used for programmes other than mediation, let's specify what is meant by:

- Family group conference - an extended meeting, that can also be called in other ways, to include not only the offender and the victim but also their family members;
- Community conference - a meeting, that can also be called in other ways, attended not only by the offender and the victim, but also by members of the community or other supporting people besides family members (e.g., teachers, representatives of the area and the institutions, etc.);
- Circle - an extended meeting, that can also be called in other ways, conducted with a 'talking circle' methodology.

The questions around which the inter-institutional focus group will work on have been listed below.

A) RESTORATIVE JUSTICE PROGRAMMES OTHER THAN VICTIM-OFFENDER MEDIATION

- 1.1. *What types of restorative justice programmes other than victim-offender mediation do you propose? What do you call them?*
- 1.2. *Who participates in each of these programmes?*

Here are some hints (which are not to be considered exhaustive):

- Offenders
- Victims

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- Surrogate victims
- Family members
- People belonging to the social circle
- Community representatives
- Representatives of institutions
- Other

B) METHODOLOGY AND ORGANISATION

B.1 With reference to methodology and organisation, how does the delivery of these programmes compare with victim-offender mediation?

Here are some hints (which are not to be considered exhaustive):

- Criteria in assessing when to propose a programme other than mediation (e.g., type of offence, relational/social context of the parties, trial phase or when serving the sentence, other).
- Ways of preparing for the meeting (ways of identifying and involving people, preliminary interviews, other).
- No. of mediators and their role, any specific training.
- How the meeting is run and conducted (rules, turns to speak, phases, other).
- Other

C) EFFECTS AND RESULTS

C.1. Overall, how do you evaluate the effects or results of these programmes, also in comparison with victim-offender mediation?

Here are some hints (which are not to be considered exhaustive):

- Possibility of involving all interested parties
- Reactions to the proposal of a programme other than mediation
- Actual participation of the people involved
- Restorative, material or symbolic agreements
- Level of satisfaction for the parties and other participants
- Community involvement and impact
- Other

C.2. Are checks planned at intervals? If so, what kind?

D) OBSTACLES AND OPPORTUNITIES FOR RESTORATIVE JUSTICE PROGRAMMES OTHER THAN VICTIM-OFFENDER MEDIATION

D.1. What obstacles are there today and what would favour the delivery of restorative justice programmes other than victim-offender mediation?



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*Autorità Garante
per l'Infanzia e l'Adolescenza*



Ministero della Giustizia

Questionnaire for Restorative Justice Service Providers

With reference to the research project on restorative justice in juvenile criminal justice in Italy, we are pleased to submit this questionnaire to your attention.

The aim of the document is to gather some information in order to present private organisations with social objects providing restorative justice services, and offer an overview of the programmes that are delivered in the context of the juvenile penal system, also with respect to the functioning of the local network.

For many questions, one or more answers can be selected; in other cases, a brief consideration of your professional experience will be asked.

We thank you for your participation.

The Research Team



A. General Information

Name of organisation	
District(s) of Court of Appeal in which the organisation operates	
Person in charge (name and surname)	
Qualifications of the person in charge (mediator or other)	
Name, surname and qualification of the person compiling the questionnaire (if different from the person in charge)	

B. Information on Organisation and Structure of Centres and Agencies Delivering Restorative Justice Programmes

1. Your organisation is (please provide only one answer):

- A restorative justice and mediation centre established by a public body
 - operating with its own staff
 - working with mediators who come from private organisations with social objects which have an agreement with your organisation
- A restorative justice and mediation centre established by a cooperative or a private organisation with social objects
- A cooperative or a private organisation with social objects delivering restorative justice programmes through specific projects
- Other, please specify

2. If it is a restorative justice and mediation centre established by a public body, please state the year it was established



2.1. In the case of a centre established by a public body, what type of official document was drawn up to set it up? (one answer only)

- Decision, resolution or other deed of municipal competence
 - Decision, resolution or other deed of regional competence
 - Protocol or other deed with the involvement of the Ministry of Justice (Department for Juvenile and Community Justice and its local branches)
 - Other, please specify
-

2.2. Where is the centre or organisation's operational headquarters? (one answer only)

- Premises in the region
 - Premises in the provincial capital
 - Premises of the Union of municipalities
 - Metropolitan city premises
 - Premises of the Ministry of Justice (Department for Juvenile and Community Justice and its local branches)
 - Other, please specify
-

3. If it is a private organisation with social objects, could you state the year in which it started its restorative justice activities?

3.1 If it is a private organisation with social objects, is it registered on the list of the Centre for Juvenile Justice?

- Yes
 - No
-

3.1.1 If yes, at which Centre(s) for Juvenile Justice?



3.2 In the case of a private organisation with social objects and according to its Statute, the cooperative or association you represent deals with (percentage values - multiple answers):

- Victim-offender mediation and other restorative justice programmes
- Other juvenile justice issues
- Integration pathways for underage or adult people serving their sentences
- Various issues of a social nature
- Training

Please specify the type of training

-
- Other, please specify
-

4. The delivery of restorative justice programmes by the organisation you represent has been carried out (one valid answer):

- On a continuous basis since the start-up year
 - Intermittently
 - Other, please specify
-

5. In the area in which the organisation you represent operates, in relation to the district of the Court of Appeal, the service is (one valid answer):

- Available for the entire district
 - Only available for part of the district
 - Other, please specify
-

5.1. If the service is only available for part of the district, could you please specify the reasons for this?



6. In relation to your organisation, what are the main sources of funding for restorative justice activities? (multiple answers possible)

- Ministry of Justice - Department for Juvenile and Community Justice
 - *Cassa delle Ammende* (Ministry of Justice)
 - Regional funds
 - Municipal funds
 - European Social Fund
 - Other, please specify
-

7. Are activities related to restorative justice programmes included in the regional social plans/area plans? (one valid answer)

- Yes
- No
- I don't know

C. Training and Awareness-raising

1. Does your organisation provide training and refresher courses for its mediators? (one valid answer)

- Yes
- No

1.1. If yes, what kind? Please specify briefly the duration and frequency of these training activities



1.2. If yes, could you briefly state the issues addressed?

2. Have community awareness-raising activities on restorative justice been carried out?
(one valid answer)

- Yes
- No

2.1. If yes, what kind? (multiple answers possible)

- Public meetings open to citizens
- Production of paper or electronic documents describing the services
- Dedicated web or social pages
- Articles in local newspapers, also online
- Other, please specify

D. Networks in Restorative Justice Programmes

1. Does your organisation adequately look after the way networks and partnerships aimed at delivering restorative justice programmes are structured? (one valid answer)

Not at all ☐ Slightly ☐ Quite ☐ A lot ☐

2. Does your organisation look after the agreements between the institutions interested in delivering restorative justice programmes (e.g., by identifying contact persons, setting up technical round tables, organising discussion meetings): (one valid answer)

- Yes
- No



2.1. If yes, the object of these agreements and partnerships mainly concerns (one valid answer):

- General criteria and procedures for the activation of restorative justice programmes
 - Specific individual cases (e.g., assessing the desirability of referring cases, assessing the programme to be proposed, etc.)
 - Both aspects
 - Other, please specify
-

3. Does your organisation maintain relations with organisations in other areas involved in restorative justice programmes? (one valid answer)

- Yes
- No

3.1. If yes, they are non-local partnership (one valid answer)

- Structured and formalised
 - Unstructured and informal
 - Other, please specify
-

3.2. If yes, the discussions that take place within the framework of such partnerships mainly concern (one valid answer)

- General criteria and procedures for the activation of restorative justice programmes
 - Specific individual cases (e.g., evaluation of the appropriateness of referring cases, evaluation of the programme to be proposed, etc.)
 - Both aspects
 - Other, please specify
-

4. From a network perspective, could you state what would facilitate a better delivery and widespread use of the different restorative justice programmes?



E. Restorative Justice Programmes

Filter question. How long ago has the organisation you represent started restorative justice activities in the juvenile criminal justice field?

- More than 10 years
- 3 to 10 years
- Less than 3 years
- The organisation is in the structuring phase or has to start activities

[This question creates a filter between centres and agencies with temporary services and those still in the structuring phase. For those who choose the first three answers, the part of the questionnaire on programmes begins (from question 1). Those who choose the last answer are asked the following question:]

- What kind of programmes do you intend to offer?
- Mediation
- Conferencing
- Circle
- Other, please specify

1. In relation to your organisation's work, how common are the following restorative justice programmes? (one answer for each line)

Victim-Offender mediation	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Conference (extended meeting to include people other than the offender and the victim)	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Circle (extended meeting using a talking circle methodology)	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Other, please specify _____ _____ _____	Not at all ☐	Not very ☐	Quite ☐	Very ☐



2. With regard to forms of mediation, how frequent are the following practices in your organisation's work? (one answer for each line)

Direct victim-offender mediation	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Indirect victim-offender mediation (no in-person meeting, but oral or written mediated exchange of messages)	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Non-specific victim-offender mediation (one of the parties is not involved in the actual incident but had a similar experience)	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Prison mediation	Not at all ☐	Not very ☐	Quite ☐	Very ☐

3. With respect to one of the three main programmes (mediation, conferencing, circle), could you briefly describe an experience that you consider particularly significant?



4. With respect to the following activities, could you state for the organisation you represent what the figures are for the last year (2021)?

	Number
Cases referred to the centre or agency you represent	
Total underage offenders involved (in referrals)	
Total victims involved (in referrals)	
Preliminary interviews that were not followed up by a programme (cases of non-feasibility or otherwise)	
Mediations	
Conferences	
Circles	
Other	



5. In the activities of the organisation you represent, the integration of restorative justice programmes into the juvenile criminal system in the following phases is common (one answer for each line):

During the preliminary investigations, pursuant to Article 9 of Presidential Decree no. 448 of 1988	Not at all ☐	Not very ☐	Quite ☐	Very ☐
During the preliminary hearing, pursuant to Article 9 of Presidential Decree no. 448 of 1988	Not at all ☐	Not very ☐	Quite ☐	Very ☐
During the suspension of proceedings with probation, pursuant to Article 28 Presidential Decree no. 448 of 1988	Not at all ☐	Not very ☐	Quite ☐	Very ☐
When the sentence is being served in juvenile prisons	Not at all ☐	Not very ☐	Quite ☐	Very ☐
When the sentence is being served as part of community and probation orders	Not at all ☐	Not very ☐	Quite ☐	Very ☐
Other, please specify	Not at all ☐	Not very ☐	Quite ☐	Very ☐

6. In your area, restorative justice programmes are offered to minors who have not reached the age of criminal responsibility (one valid answer)

- Yes
- No

7. In the activities of your organisation, restorative justice programmes are also proposed for particularly serious crimes (one valid answer)

- Yes
- No



*Autorità Garante
per l'Infanzia e l'Adolescenza*

Regulatory Annex



Title IV

Organic Discipline of Restorative Justice

Chapter I

Principles and General Provisions

Section I

Definitions, Principles and Objectives

Art. 42

Definitions

1. For the purposes of this Decree:

a) 'Restorative justice' shall refer to any programme that enables the victim of the crime, the person named as the perpetrator of the offence and other community members to participate freely, consensually, actively and voluntarily in the resolution of issues arising from the crime, with the help of an impartial, suitably trained third party called mediator.

b) 'Victim of the crime' shall refer to the natural person who has directly suffered any pecuniary or non-pecuniary damage from the crime, as well as the family member of the natural person whose death was caused by the crime and who has suffered damage as a consequence of the death of that person.

c) 'Person named as the perpetrator of the offence' shall refer to

1) the person named as such by the victim, even before indictment;

2) the person under investigation;

3) the defendant;

4) the person who is subjected to a rehabilitation order;

5) the person irrevocably convicted;

6) the person in respect of whom a judgement has been handed down stating that the crime is not prosecutable or for whom there is no need to prosecute, due to the absence of the conditions for prosecuting, also pursuant to Article 344-bis of the Code of Criminal Procedure, or when valid cause has arisen to justify withdrawal of prosecution.

d) 'Family member' shall refer to: a spouse, a party to a civil partnership within the meaning of Article 1(2) of Law no. 76 of 20 May 2016, a de facto cohabitee within the meaning of Article 1(36) of the same Law, a person who is related to the victim or the person named as the perpetrator of the offence by a stable emotional bond, as well as

relatives in a direct line, brothers, sisters and tax-dependent persons of the victim or the person named as the perpetrator of the offence.

e) 'Restorative outcome' shall refer to any agreement resulting from the restorative justice programme aimed at redressing the crime and capable of representing the mutual acknowledgement and the possibility of rebuilding the relationship between the participants;

f) 'Restorative justice services' shall refer to any and all activities related to the preparation, coordination, management and delivery of restorative justice programmes.

g) 'Centre for Restorative Justice' shall refer to the public service mentioned in Chapter V, Section II, in charge of the activities necessary for the organisation, management, delivery and implementation of restorative justice programmes.

2. The rights and powers granted to the victim of a crime are also granted to the legal subject harmed by the crime.

Art. 43

General Principles and Objectives

1. Restorative justice in criminal matters shall conform to the following principles:

a) The active and voluntary participation of the person named as the perpetrator of the offence and the victim of the crime and any other participants in the management of the detrimental effects

caused by the crime;

b) Fair consideration of the interest of the victim of the crime and the person named as the perpetrator of the offence;

c) Community involvement in restorative justice programmes;

d) Consent to participate in restorative justice programmes;

e) Confidentiality of statements and activities carried out in the course of restorative justice programmes;

f) The reasonableness and proportionality of any consensual restorative outcome;

g) The independence of mediators and the equiproximity between them and the participants in restorative justice programmes;

h) The guarantee of the time necessary to carry out each programme.

2. Restorative justice programmes tend to promote the acknowledgement of the victim of the crime, the accountability of the person named as the perpetrator of the offence and the re-establishment of ties with the community.

3. Access to restorative justice programmes shall be ensured to those who have an interest in them with the guarantees provided by this Decree and is free of charge.



4. Access to restorative justice programmes shall always be preferred, without discrimination and with respect for the dignity of each person. It may only be restricted in the event of concrete danger to the participants resulting from the conduct of the programme.

Section II

Access to Restorative Justice Programmes

Art. 44

Principles of Access

1. Restorative justice programmes governed by this Decree shall be accessible irrespective of the type of crime or its seriousness.

2. The programmes referred to in paragraph 1 may be accessed: i) at any stage and level of criminal proceedings, ii) when the sentence or rehabilitation order is being served, iii) when the sentence or rehabilitation order is carried out, iv) if there is a decision not to prosecute or acquittal due to lack of evidence, also pursuant to Article 344a of the Code of Criminal Procedure, or v) when valid cause has arisen to justify withdrawal of prosecution.

3. In the case of crimes punishable on indictment, the programmes referred to in paragraph 1 may be accessed even before the indictment has been submitted.

Art. 45

Participants in Restorative Justice Programmes

1. The following parties can participate in restorative justice programmes, with the guarantees set out in this Decree:

a) the victim of the crime;

b) the person named as the perpetrator of the offence;

c) other persons belonging to the community, such as family members of the victim of the crime and of the person named as the perpetrator of the offence, support persons indicated by the victim of the crime and by the person named as the perpetrator of the offence, bodies and associations representing interests affected by the crime, representatives or delegates of the State, Regions, local authorities or other public bodies, public safety authorities, social services;

d) anyone else with an interest in it.

Section III

Underage Persons

Art. 46

Rights and Guarantees for Minors

1. In carrying out restorative justice programmes involving in any capacity persons who are minors, the provisions of this Decree, insofar as they are compatible, shall be applied in a manner appropriate to the personality and needs of the minors, taking into account their best interests in accordance with the provisions of Article 3(1) of the Convention on the Rights of the Child of 20 November 1989, ratified by Law no. 176 of 27 May 1991.

2. Having regard to their training and skills acquired, mediators with specific aptitudes shall be assigned to carry out restorative justice programmes involving minors in any capacity.

Chapter II

Guarantees of Restorative Justice Programmes

Section I

Provisions on Participants' Rights

Art. 47

Right to Information

1. The person named as the perpetrator of the offence and the victim of the crime must be informed without delay by the judicial authorities, at any stage and level of the criminal proceedings or when beginning to serve a sentence or when the rehabilitation order is carried out, of access to restorative justice programmes and available services.

2. The information referred to in paragraph 1 shall also be provided to the persons concerned by the institutions and the social services, including juvenile ones, of the Ministry of Justice, by the local social services, by the victim support services, by the public safety authority, as well as by other practitioners who are in contact with the same persons for any reason.

3. Individuals referred to in Article 45 shall have the right to receive effective, comprehensive and objective information from mediators on available restorative justice programmes, how to access and conduct them, potential outcomes and any agreements among participants. They shall also be informed of the guarantees and duties provided for in this Decree.



4. The information referred to in this Article shall be provided to the person exercising parental responsibility, the guardian, the support administrator, the special guardian in the cases referred to in Article 121 of the Penal Code, as well as to the defence counsel of the victim of the crime and of the person named as the perpetrator of the offence, if appointed.

5. Information shall be provided to recipients in a language they understand and in a manner appropriate to their age and abilities.

Art. 48

Consent to Participate in Restorative Justice Programmes

1. Consent to participation in restorative justice programmes shall be personal, free, informed and expressed in writing. Consent is always revocable even by showing an intention to revoke.

2. In the case of persons who have not reached the age of fourteen, consent shall be expressed, after having heard and obtained their consent and taking into account their capacity of discernment, by the person exercising parental responsibility or, in the cases referred to in Article 121 of the Penal Code, by the special guardian.

3. In the case of a minor who has reached the age of fourteen, consent shall be expressed by that person and by the person exercising parental responsibility or, in the cases referred to in Article 121 of the Penal Code, by the special guardian. If the person exercising parental responsibility or the special guardian does not give consent, the mediator, having heard the persons concerned and considered the interest of the minor, shall establish to proceed on the basis of the latter's consent alone. However, the limitations inherent in the minor's capacity to act remain unaffected.

4. In the case of a person judicially defined as incompetent, consent shall be given by the guardian after hearing the incompetent person. In the case of an incapacitated person, consent shall be given by this person and the guardian. In the case of a person subject to support administration, consent shall be given by the person, alone or with the assistance of the support administrator, on the basis of the provisions referred to in Articles 405 and 407(4) of the Civil Code.

5. Consent for the entity shall be given by the pro tempore legal representative or his/her representative.

6. Consent shall be obtained during the first meeting by the designated mediator, in the presence of the lawyer of the victim of the crime and the defence counsel of the person named as perpetrator of the offence, when they request it.

Art. 49

Right to Language Assistance

1. The person named as the perpetrator of the offence, the victim of the crime and other participants who do not speak or understand Italian shall have the right to be assisted by an interpreter free of charge in order to knowingly take part in restorative justice programmes.

2. A translation of the mediator's report shall be made available for the same cases.

3. Knowledge of the Italian language shall be presumed until proven otherwise for those who are Italian citizens. The use of a language other than the mother tongue of the person concerned shall only be allowed where the person concerned has sufficient knowledge of it to ensure effective participation in the programme. The assessment of knowledge of the Italian language shall be carried out by the mediator.

4. The interpreter and translator shall be appointed even when the mediator has personal knowledge of the language or dialect to be interpreted.

5. The provisions of Articles 144 and 145 of the Code of Criminal Procedure shall apply *mutatis mutandis*.

Section II

Duties and Guarantees of Mediators and Participants

Art. 50

Duty of Confidentiality

1. Mediators and staff of restorative justice centres shall be bound to confidentiality about activities and acts performed, statements made by participants and information acquired by reason or in the course of restorative justice programmes, unless participants consent to the disclosure, the mediator considers the disclosure to be absolutely necessary to prevent the commission of imminent or serious crimes, or the statements in themselves constitute a crime.

2. Participants shall be obliged not to disclose statements made and information acquired in the course of the restorative justice programme before its conclusion and the finalisation of the criminal proceedings by an irrevocable criminal judgement or sentence.

3. After the conclusion of the restorative justice programme and the finalisation of the criminal proceedings by an irrevocable criminal judgement or sentence, the publication of the statements and information acquired shall be allowed with the consent of the interested person and in compliance with the rules on the protection of personal data.



Art. 51

Non-Use

1. Statements made and information acquired in the course of the programme may not be used in criminal proceedings and when serving the sentence, without prejudice to the content of the report referred to in Article 57 and without prejudice to Article 50(1).

Art. 52

Protection of Secrecy

1. The mediator may not be obliged to testify before a judicial authority or to make statements before any other authority about acts performed, the content of the activity carried out, as well as about statements made by participants and information learned by reason or in the course of the restorative justice programme, unless the participants consent to the disclosure or the mediator considers this absolutely necessary to prevent the commission of imminent or serious crimes and when the statements in themselves constitute a crime. Insofar as they are compatible, the provisions of Article 200 of the Code of Criminal Procedure shall apply to the mediator.

2. No papers or documents relating to the subject matter of the programme may be seized at the mediators' premises or at the places where the restorative justice programme is carried out, unless they constitute the body of the crime.

3. Wire-tapping of conversations or communications in places where the restorative justice programme takes place shall not be allowed, nor of conversations or communications by mediators concerning facts learnt by reason or in the course of the same programme.

4. The outcome of seizures and wire-tapping of conversations or communications breaching the provisions of this Article may not be used unless they constitute evidence of a criminal offence or, in the case of wire-tapping, relate to facts about which the mediators have testified or which they have otherwise disclosed.

5. The mediator shall not be obliged to report crimes of which s/he has become aware by reason or in the course of the restorative justice programme, unless participants consent to the disclosure, the mediator considers the disclosure to be absolutely necessary to prevent the commission of imminent or serious crimes or the statements constitute a crime in themselves.

Chapter III

Restorative Justice Programmes

Section I

Conduct of Restorative Justice Programmes

Art. 53

Restorative Justice Programmes

1. Restorative justice programmes shall comply with the relevant European and international principles and shall be carried out by at least two mediators with the guarantees provided by this Decree. They include:

- a) Mediation between the person named as the perpetrator of the offence and the victim of the crime, also extended to relatives, or between the person named as the perpetrator of the offence and the victim of a crime other than the one being prosecuted;
- b) Restorative dialogue;
- c) Any other mediator-led programme involving a dialogue carried out in the interest of the victim of the crime and the person named as the perpetrator of the offence.

Art. 54

Preliminary Activities

1. The first meeting between participants in restorative justice programmes shall be preceded by one or more contacts with the mediators and by interviews between the mediator and each of the participants with the aim of providing the information required by Article 47(3), gathering consent, and verifying the feasibility of the programmes.

2. The lawyers of the person named as the perpetrator of the offence and of the victim of the crime shall be entitled to attend the preliminary interviews at the request of the persons concerned.

Art. 55

Conduct of Meetings

1. Restorative justice programmes shall take place in spaces and places appropriate to the programmes and suitable to ensure confidentiality and independence.



2. In conducting the meetings, mediators shall ensure respectful, non-discriminatory and equal treatment of participants, guaranteeing suitable time for the needs of the case.

3. The persons concerned shall participate personally in all stages of the programme and may be assisted by support persons, also in relation to their capacity, without prejudice to Article 54(2).

4. The mediator, also at the request of the prosecuting judicial authority, shall send communications on the status and timing of the programme.

Art. 56

Regulating Restorative Outcomes

1. A restorative outcome at the end of the programme may be symbolic or material.

2. A symbolic outcome may include formal statements or apologies, behavioural commitments that can also be public or addressed to the community, agreements on accessing certain people or places.

3. A material outcome may include compensation for damages, returning stolen goods, taking action to eliminate or mitigate the harmful or dangerous consequences of the crime or to prevent the crime from having further consequences.

4. The parties shall be guaranteed the assistance of mediators in the implementation of agreements on a symbolic outcome.

5. The lawyers of the person named as the perpetrator of the offence and of the victim of the crime shall be entitled to assist participants in defining agreements on a material outcome.

Section II

Evaluation by the Judicial Authority

Art. 57

Report and Communications to the Judicial Authorities

1. At the end of the programme, a report drafted by the mediator describing the activities carried out and the positive outcome achieved shall be submitted to the prosecuting judicial authorities. Further information shall be provided at the request of the participants and with their consent.

2. Without prejudice to the provisions of Article 58, the mediator shall also inform the prosecuting judicial authorities of the non-execution of the programme, its interruption or failure to achieve a restorative outcome.

Art. 58

Evaluation of the Outcome of the Restorative Justice Programme

1. The judicial authority, for the determinations of its competence, shall evaluate the development of the programme and, also for the purposes of Article 133 of the Penal Code, any restorative outcome.

2. In any case, the failure to carry out the programme, the interruption of the programme or the failure to achieve a restorative outcome shall not have an adverse effect on the person named as the perpetrator of the offence.

Chapter IV

Training of Expert Mediators in Restorative Justice Programmes and Requirements for Practising Mediation

Section I

Training of Expert Mediators

Art. 59

Training of Expert Mediators in Restorative Justice Programmes

1. The training of expert mediators shall ensure the acquisition of the necessary knowledge, skills, abilities and ethical principles to carry out restorative justice programmes with impartiality, independence, sensitivity and equiproximity between mediators and the parties.

2. Expert mediators shall receive initial and continuous training.

3. The initial training shall consist of at least two hundred and forty hours, one third of which shall be devoted to theoretical training and two thirds to practical training, followed by at least one hundred hours of internship at one of the Centres for Restorative Justice referred to in Article 63.

4. Continuous training shall consist of no less than 30 hours per year, dedicated to theoretical and practical training and the exchange of national, European and international practices.



5. Theoretical training shall provide knowledge on the principles, theories and methods of restorative justice, as well as basic notions of criminal law, criminal procedure law, penitentiary law, juvenile law, criminology, victimology and other related subjects.

6. Practical training shall aim at developing listening and interpersonal skills and providing competences and skills necessary to manage the negative effects of conflicts, with specific focus on victims, minors and other vulnerable persons.

7. Practical and theoretical training shall be delivered by the Centres for Restorative Justice and Universities working in partnership, according to their respective competences. In particular, the Centres for Restorative Justice shall be entrusted with practical training, to be provided through expert mediators included in the list referred to in Article 60 who have at least five years' experience in restorative justice services and have proven competence as trainers.

8. Access to the courses shall be subject to possession of a qualification not less than a university degree and the passing of a cultural and aptitude admission test.

9. Participants in the training course shall acquire the qualification of expert mediators in restorative justice programmes upon passing the final theoretical-practical test.

10. A Decree of the Minister of Justice, adopted in agreement with the Minister of Labour and Social Policy and the Minister of Universities and Research within six months of the date of entry into force of this Decree, shall regulate the forms and timing of the practical and theoretical training referred to in paragraph 7, as well as the arrangements for the tests referred to in paragraphs 8 and 9. The costs for participation in the training activities and the final theoretical-practical test shall be borne by the participants.

Section II

Requirements for Carrying Out this Activity

Art. 60

Requirements for Practising as an Expert Mediator - List of Expert Mediators

1. In addition to the qualification referred to in Article 59(9), inclusion in the list mentioned in paragraph 2 shall be required to exercise the activity of expert mediator in restorative justice programmes.

2. By Decree of the Minister of Justice, in agreement with the Minister of Labour and Social Policies and the Minister of Universities and Research to be adopted within six months from the date of entry into force of this Decree, a list of expert mediators shall be established at the Ministry of Justice. The list shall contain the names of expert mediators, and show their qualifications as trainers, if any. The Decree shall also establish: i) the criteria

to assess the experience and skills of expert mediators in order to be admitted to the training activity; ii) the criteria for registration and removal, also for reasons arising, from the list; iii) the modalities for the review of the list; and iv) the date from which the participation in the training activity referred to in Article 59 is a mandatory requirement for the exercise of the activity of expert mediator.

The same Decree shall regulate the incompatibilities with the exercise of the activity of expert mediator, as well as the requirements of good repute, and any fee for registration on the list.

3. The establishment and maintenance of the list referred to in paragraph 2 shall be carried out within the framework of the human, financial and material resources already existing and available at the Ministry of Justice under existing legislation, without any new or increased burden on the State budget.

Chapter V

Restorative Justice Services

Section I

Coordination of Services and Essential Levels of Performance

Art. 61

Coordination of Services and National Conference for Restorative Justice

1. The Ministry of Justice shall deal with the national coordination of restorative justice services, exercising the functions of planning resources, proposing basic standards for performance levels and monitoring the services provided. For these purposes, it shall use the National Conference for Restorative Justice.

2. The National Conference shall be chaired by the Minister of Justice or a representative of the Minister. It shall be attended by one representative for each Region or Autonomous Province, one mayor or his/her representative for each Region or Autonomous Province, appointed by the National Association of Italian Municipalities, one representative of the *Cassa delle Ammende* (Ministry of Justice) and six experts with technical and scientific advisory functions.

3. The National Conference shall be convened annually by the Minister of Justice or a representative of the Minister and shall be held by videoconference.

4. The Conference shall draw up an annual report on the state of restorative justice in Italy, which shall be submitted to Parliament by the Minister of Justice.

5. The experts referred to in paragraph 2 shall be appointed by Decree of the Minister of Justice, in agreement with the Minister of Universities and Research, from persons of



recognised competence and experience in the field of restorative justice, taking into account the need to ensure a balanced representation of expert mediators and academics. Tenure as an expert shall be for two years, with the possibility of renewal for a further two years.

6. The Administrations shall implement the activities referred to in this Article with the human, material and financial resources available under current legislation, and, in any case, without new or increased burdens on public finance. Participation in the activities of the National Conference for Restorative Justice shall not entitle participants to remuneration, fees, allowances or reimbursement of expenses of any kind or however they are called.

Art. 62

Essential Performance Levels

1. An agreement reached during the Unified Conference referred to in Article 8 of Legislative Decree no. 281 of 28 August 1997 is necessary to establish the essential and uniform performance levels of restorative justice services, in accordance with the principles and guarantees set by this Decree, within the limit of the availability of the fund referred to in Article 67, paragraph 1.

Section II

Centres for Restorative Justice

Art. 63

Establishment of Centres for Restorative Justice and Local Conference for Restorative Justice

1. The Centres for Restorative Justice shall be established in local authorities as identified in accordance with this Article.

2. A Local Conference for Restorative Justice shall be established for each district of the Court of Appeal with the participation of representatives from:

- a) the Minister of Justice;
- b) the Regions or Autonomous provinces covered by the district of the Court of Appeal;
- c) the Provinces or Metropolitan Cities covered by the district of the Court of Appeal;
- d) Municipalities, seats of judicial offices, included in the district of the Court of Appeal;
- e) any other Municipality, within the district of the Court of Appeal, where restorative justice processes are in place.

3. The Local Conference shall be convened at least annually by the Minister of Justice or a representative of the Minister.

4. The Local Conference shall be coordinated by the Minister of Justice or a representative of the Minister and shall be held by videoconference.

5. The Local Conference for Restorative Justice, after reviewing the restorative justice processes in place, after hearing the experts referred to in Article 61, paragraph 2, the President of the Court of Appeal, the Attorney General at the Court of Appeal and the President of the Bar Council of the Municipality where the Court of Appeal has its seat, also representing the district Bar Associations, shall identify, by means of a memorandum of understanding, in relation to the human, material and financial resources available, one or more local authorities to be entrusted with the establishment and management of the Centres for Restorative Justice on the basis of the following criteria:

- a) the need for local services;
 - b) the need for all the Centres to ensure the provision of the full range of restorative justice programmes for the whole district, on a local or functional basis;
 - c) the need for the Centres to ensure, in carrying out their services, the essential performance levels and compliance with the principles and guarantees set out in this Decree.
6. The Administrations shall implement the activities referred to in this Article with the human, material and financial resources available under current legislation, and, in any case, without new or increased burdens on public finance. Participation in the activities of the Local Conference on Restorative Justice shall not entitle participants to remuneration, fees, allowances or reimbursement of expenses of any kind or however they are referred to.

Art. 64

Forms of Management

1. In the provision of services, the Centres for Restorative Justice shall ensure the exact and uniform levels referred to in Article 62.

2. Centres can make use of expert mediators from their local authorities. They may also equip themselves with expert mediators by entering into contracts pursuant to Articles 140 et seq. of Legislative Decree no. 50 of 18 April 2016, or by making use of third-sector organisations pursuant to Article 55 of Legislative Decree no. 117 of 3 July 2017, or by means of an agreement entered into pursuant to Article 56 of the same Decree.

3. The contracts or agreements shall specify, among other things, the characteristics of and the modalities for carrying out the restorative justice programmes, their duration, the obligations and the modalities of insurance coverage, the financial reports, the forms of administrative control of the local authority, the cases of forfeiture and termination for non-compliance, among which the non-compliance with the principles and guarantees governed by this Decree.

4. Staff carrying out restorative justice programmes must, in any case, qualify as expert mediators and be included in the list referred to in Article 60, paragraph 2.



Art. 65

Processing of Personal Data

1. The Centres for Restorative Justice shall process personal data, also belonging to the categories referred to in Articles 9 and 10 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, that are strictly necessary for the exercise of the competences and the achievement of the purposes referred to in this Decree, for the purposes of substantial public interests referred to in Article 2-sexies, paragraph 2, letter q), of Legislative Decree no. 196 of 30 June 2003, and shall assume the capacity of data controllers.

2. Processing shall be carried out in compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 and Legislative Decree no. 196 of 30 June 2003.

3. The types of data that may be processed, the categories of data subjects, the persons to whom the personal data may be communicated, the processing operations, as well as the appropriate and specific measures to protect the rights of the data subjects shall be defined by Decree of the Minister of Justice, to be adopted pursuant to Article 17(3) of Law no. 400 of 23 August 1988, after consulting the Data Protection Authority, within one year of the date on which this Decree comes into force.

Art. 66

Oversight of the Minister of Justice

1. The Local Conference shall submit an annual report on its activities to the Ministry of Justice. It is, in any case, within the Ministry's power to request information on the status of restorative justice services at any time.

2. The information acquired shall be evaluated for the purpose of the determinations to be made pursuant to Article 67(1).

Art. 67

Funding

1. A fund to finance restorative justice interventions shall be established in the budget of the Ministry of Justice, with an endowment of EUR 4,438,524 annually as of the year 2022. By Decree of the Minister of Justice, in agreement with the Minister of Economy and Finance, after obtaining the opinion of the Unified Conference referred to in Article 8 of Legislative Decree no. 281 of 28 August 1997, the share to be transferred to the entities

referred to in Article 63(5) for the operation of the Centres for Restorative Justice and for the provision of related services, within the availability of the fund established under this paragraph, shall be set on a yearly basis.

2. The Regions and Autonomous Provinces, Metropolitan Cities, Provinces, Municipalities and the *Cassa delle Ammende* (Ministry of Justice), within the framework of their respective policies and competences, may contribute, within the limits of the resources available in their budgets, to the funding of restorative justice programmes.

3. Within the limits of the availability of the fund referred to in paragraph 1, without prejudice to the funding of the actions necessary to guarantee the basic levels of restorative justice services, the determination of the amounts to be allocated to the entities referred to in Article 63(5) shall take into account, on the basis of proportionality criteria, the amount of own resources annually used by the same entities to fund restorative justice programmes, duly documented and reported to the National Conference referred to in Article 61.

4. The costs referred to in paragraph 1, amounting to €4,438,524 per year as from the year 2022, shall be covered by a corresponding reduction of the Fund for the implementation of the mandate for the efficiency of the criminal proceedings referred to in Article 1, Paragraph 19 of Law no. 134 of 27 September 2021.

5. The Minister of Economy and Finance shall be authorised to make the necessary budgetary changes by means of his/her own Decrees.



Restorative Justice. Voices of a Meeting.

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