

Children in the justice system
- whether victims or offenders -
are first and foremost children.

Restorative Justice and Child Victims' Rights

Children are usually more vulnerable
to victimisation than adults.



Victims' Directive 2012/29/EU

The Victims' Directive (Directive 2012/29/EU) is a big step forward for victims of crime. It constitutes the most important legislative advance in terms of the victims' rights.

The Victims' Directive is also the most important supranational instrument on the regulation of restorative justice in the EU due to its binding status.

It establishes minimum standards on the rights, support and protection of victims of crime, strengthens the rights of victims and their families.

It repeatedly refers to the particular vulnerability of young people as victims and it has a special focus on child victims and ensures that the child's best interests are a primary consideration in its application.

It recognises on the one hand the benefits of restorative justice for victims of crime, and on the other hand it focuses on important safeguards to prevent secondary and repeat victimisation.

UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (2005) (Art. 36)

It recognises the vulnerability of children who are victims of a crime and are exposed to a significant risk of second victimisation as a result of their participation in the criminal proceeding. These Guidelines encourage the use of informal and community practices, such as restorative justice.

Council of Europe Recommendation (2008) 11 on the Rules for Juvenile Offenders subject to sanctions or measures (Rule 12)

“Mediation or other restorative measures shall be encouraged at all stages of dealing with juveniles.”

Charter of Fundamental Rights of the European Union (2010) (Art. 24)

Right to protection for every child; the best interests of the child as primary consideration in all actions related to children; children's effective participation.

Restorative justice

Definition

Restorative justice means any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party (Art. 2.1 (d) Directive 2012/29/EU).

Requirements

According to Article 12 of the Directive 2012/29/EU, Victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services, subject to at least the following conditions:

- RJ services are used only if they are in the interest of the victim;
- Subject to any safety considerations;
- Victim's free and informed consent;
- The victim can withdraw at any time;
- The victim should be provided with full and unbiased information about the process and the potential outcomes;
- The offender has acknowledged the basic facts of the case;
- Voluntariness of participation;
- Confidentiality of the process.

Promising practices on RJ

The Victims' Directive also acknowledges the variety of the RJ services, as “including for example Victim-Offender Mediation, family group conferencing and sentencing circles” (Recital 46).

