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Critical reflection on the development of restorative justice and victim policy in Belgium

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Workshop II

Youth Justice / Vulnerable Groups Panel

Critical reflection on RJ and victim policy in Belgium

- Objective:
 - exploration of the complementarity of restorative justice applications and victim policy
- Content:
 - Victim policy in Belgium
 - Belgian RJ applications
 - Complementarity

Victim policy in Belgium

- Adaptation of legislation, *e.g.*
 - financial aid ('85)
 - victim assistance level of police ('91 and '92) and victim reception at prosecutorial services ('97)
 - Rights to victims in penal procedure ('98)

Victim policy in Belgium

- Creation of victim support services
 - Welfare : psychosocial support
 - Police : primary assistance by all actors
 - Short term support
 - Practical information
 - Referral
 - Public prosecutor : reception by all actors
 - Non-psychosocial support through criminal procedure (from complaint to release of offender)
 - Victim form

Victim policy in Belgium

- Reinforcement of victim position in criminal procedure, *e.g.*
 - Declaration aggrieved party
 - Copy file
 - Complementary acts
- Coordination
 - Protocols
 - National Forum for Victim Policy

Belgian RJ applications

- Mediation at level of police, before prosecution, after prosecution and execution of punishment
- Plus other RJ applications
- Two examples for adult offenders
 - Penal mediation
 - Mediation for redress

Belgian RJ applications

- Penal mediation
 - Article 216ter code of criminal procedure
 - Reaction to general feeling of impunity and distrust in justice
 - Diversionary program: formal dismissal of case if condition(s) fulfilled by offender
 - Condition of mediation underused
 - Administrative settlement rather than promotion of communication between parties involved
 - Victim often not involved

Belgian RJ applications

- Mediation for redress
 - No legal base
 - Not diversionary in nature
 - Serious crime
 - Focus on communication and involvement of all parties
 - Also in prison
 - General satisfaction of parties involved
 - Remark: only a minority of mediation processes initiated by victims

Complementarity

- Compliance to victim rights statement
 - Observation of implementation of victim policy: victim rights not fully met
 - RJ applications:
 - In theory: promising
 - Mediation for redress:
 - victim satisfaction even though no agreement reached
 - the importance of communication over agreement
 - Penal mediation:
 - No compliance to victim rights nor to RJ paradigm

Complementarity

- Despite similarities between victim policy and RJ, univocal development
- Paradoxes
 - *e.g.* victim statement in frame of conditional release

Conclusion

- RJ and victim policy could be complementary
 - Occasionally combined
 - Usually however parallel development
 - Or instrumentalisation
- Since some victims do benefit from RJ, offer both restorative and retributive way of dealing with the offence