



CLEAR Rights

Additional training modules

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Module on Diversion



Learning objectives

- Familiarise with the concept and the several possibilities for diversion
- Understand the importance of diversion measures for children and the role of lawyers in informing the child and encourage the use of diversion in each case
- Learn about the practices of diversion offered in their own legal context and the range of applicability



Skills: International law, children's rights, procedural rights



Duration: Approx. 2 hours – 2.30 hours



Why to choose this module and its added value

The purpose of this module is to go beyond the legal definition of diversion and go in-depth in the presentation of what diversion is and what its objectives and characteristics. In doing so, participants will be made aware of the meaning and the role played by diversion in a criminal proceeding for a child, the benefits of using diversion and non-custodial measures, and the importance for the lawyers to know the existing possibilities – so to inform the child client in the best way possible and in looking for a solution that is in their best interests. Existing promising practices will be presented, to give the participants an overview about how diversion and non-custodial measures are implemented in different systems. As diversion does not come without challenges, the constraints of this instrument will be introduced to the participants to make them aware of the risks that certain forms of diversion fall into, and to provide recommendations on how to avoid and/or face these risks.



Presentation – 40 minutes

In the first part of the module, the trainers should introduce participants to the legal and conceptual framework of diversion according to international standards and definitions. Participants need to be made aware of the main international legal instruments on child justice, and the specific instruments that internationally define and regulate diversion. In

this first presentation, it is important to provide participants with a broad overview that make them clearly understand:

- Relevance of diversion for children:
 - ⇒ International legal and policy framework
 - ⇒ Harmful effects of the criminal proceeding on children
- Main definition(s) of diversion and its main goals
- Diversion in practice:
 - ⇒ What kind of practices can be found internationally
 - ⇒ Examples of promising practices
 - ⇒ Benefits and challenges of diversion practices

Brainstorming – 40 (20+20) minutes

Participants should be split into smaller working groups and discuss about some questions they should reflect upon, after the initial presentation:

- Are you aware of any diversionary measure in your country? Can you identify and share any example?
- What factors need to be taken into account by decision-makers in choosing diversion for child suspects or accused of a crime?
- What challenges could you identify – both from a children's rights perspective and the lawyers' perspective?
- What do you think should be the role of the lawyer in this?

Each group can be assigned 2 questions to go in-depth with, discuss for about 20 minutes and then come back to the plenary to share their thoughts and continue the discussion in the bigger group for other 20 minutes approx.

National Context: Presentation and case study – 40 minutes

The second presentation of this module – after having introduced the international framework and having shared a common understanding of diversion – should focus on the specific national context. For this presentation, alternatively a lawyer already specialised in child justice, another judicial professional or an academic could be invited to present about:

- The legal framework of diversion in the country, identifying where in law and policy documents diversion is explicitly mentioned or is referred to
- The practices of diversion existing for children in the country and their application
- The role of the lawyer in supporting the child having access to these diversionary programmes
- The trainer could provide also a case study of diversion with a child to discuss in-depth with the participants

Based on the country and on the availability of diversionary practices in the specific country, this presentation will be more or less long, and the overall module can extend up to 2 hours 30 minutes approximately.



Materials needed

- Power point presentation provided attached to this module, on diversion at international level (PPT Annex 1)
- Power point presentation/lecture provided by the local professional on the context of diversion specific of the country



Additional resources:

F. Dunkel, Diversion: A Meaningful and Successful alternative to Punishment in European Juvenile Justice Systems, in J. Junger-Tas and F. Dunkel (eds) Reforming Juvenile Justice, 2009

Terre des hommes foundation 'Lausanne' in Hungary, [Alternative ways to address Youth \(Away\) project](#), Research synthesis report, 2018

Unicef, [Diversion not Detention: A study on diversion and other alternative measures for children in conflict with the law in East Asia and the Pacific](#), 2017

Module on Restorative Justice



Objectives of the module

- Familiarise the participants with the concept of restorative justice and the links with child-friendly justice.
- Raise awareness about the importance of implementing restorative justice measures for children.
- Raise awareness on what a restorative justice process consists of and what the role of the lawyer could be in ensuring access for the child to the process



Skills: International law, children's rights, procedural rights



Duration: Approx. 2h 30 minutes



Trainer: For this module we recommend involving one or a pair of restorative justice facilitators/trainers, that can cover the introduction and explanation of the concept – with examples and practices possibly from other countries – and can then guide the participants through the role play.



Why to choose this module and its added value

Restorative justice refers to an innovative approach of responding to crime, which is more and more encouraged by international standards and institutions, and used across countries. It is an “approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired and justice achieved” (European Forum for Restorative Justice definition, see at <https://www.euforumrj.org/en/restorative-justice-nutshell>).

Restorative justice not only reduces the risk of secondary re-victimisation and violence of children during the criminal justice proceedings and while deprived of liberty, but it also reduces the risk of stigmatisation of the child in the community. Even though restorative justice is not explicitly mentioned in the UNCRC, the principles of dignity, participation, best interest and protection, as well as the principle of detention as last resort and the rehabilitative purpose of the justice system for the child, all advocate and support the restorative thinking processes for children in contact with the law in any capacity.

The application of Restorative Justice (RJ) is very versatile, as it is not used uniformly with diversion purposes, but can in some systems also be applied within detention – among other rehabilitative interventions – and the outcomes/agreements are not in all systems taken into account to lighten the sentence, stop the proceeding or influence somehow the sentencing. RJ can and should also be available at all stages of the proceeding and children in contact with the law can be referred to the RJ services by the police, the prosecutor or the court. Restorative justice practices have the benefit to avoid the detrimental effects of the formal proceeding and of detention. In doing so, the focus on dialogue and on the restoration of the harm caused is crucial, as well as the involvement of all the parties interested in and by the offence committed by a child, including the community. That works for the child's rehabilitation and reintegration into the community, and to reduce/eliminate the risk of victimisation and stigmatisation, without neglecting the victim's (often a child as well) needs and instead giving them an equally central role with the other main player, the offender.

Despite being a consolidated instrument in the criminal justice system especially in its application with children, the knowledge and awareness about restorative justice among judicial professionals, including lawyers, is very limited, across countries. However, restorative justice can play a key role in the protection of the rights of children in conflict with the law – as briefly explained above. Given the crucial role that lawyers play in ensuring that the child's rights are respected in a criminal proceeding, we believe it is essential for them to learn and familiarise with the concept and potential of restorative justice, and support the child client in seeking restorative solutions/responses.



Presentation – 60 minutes

In the first part of this module, the trainer/s should introduce the participants to the concept of Restorative Justice and briefly frame it in the main legal and policy instruments existing at the level of the UN, EU and Council of Europe (some are mentioned among the resources below).

A power point presentation is attached to this document that could be used for this purpose. We also encourage the trainer/s to use short video testimonies/video documentaries to show what a restorative process looks like – usually the most effective way to convey the sense and meaning of such meetings. Video materials and consolidated manuals and teaching materials are available on the website of the European Forum for Restorative Justice, which can also be directly contacted to have access to videos used specifically for training purposes, in multiple languages (and not publicly available for confidentiality reasons).

This presentation will need to be integrated with a presentation of the specific restorative justice mechanisms and practices provided in the national context (if any), with the concerned legal framework and information about the application with children.

Role play – between 60 and 75 minutes

A role-play, together with video materials and testimonies, is one of the most effective tools to train professionals on restorative justice, and they are included in most of the training on this matter. Given the limited time, the trainer/s should be able to prepare and

explain the role-play already towards the end of the previous presentation. The role-play can be based on a case-study previously introduced. The idea is to prepare a role-play in which the offender is a child, and that puts a particular emphasis on the role of the lawyer. Firstly (15-20 minutes), the trainer/s will explain the main contents and the guidelines for the role-play: what is required of the participants, the different roles, the script in the main lines, and give some key details about how a restorative meeting is conducted. Some volunteer participants will offer to be part of the role-play, and depending on how many trainees volunteer to get involved, the trainer/s will act as well. People who do not have any role in the role-play, will be asked to take notes about the verbal and non-verbal communication expressed by the parties, making notes of possible feelings and interests for each specific role/party.

The role-play is developed (approx. 30-40 minutes). After the role-play, a moment of follow-up and discussion (15-30 minutes) is facilitated by the trainer/s to collect feedback from the participants especially about the role of the lawyers and of the child.

Closing presentation – Approx. 20 minutes

The trainer/s will take the time is needed to wrap up the follow-up discussion after the role-play and to clarify as much as possible the doubts/concerns emerged among the participants. Thus, the final presentation will be used by the trainer/s to draw some conclusions in exchange with the participants, specifically about the role of the lawyer in ensuring the access of children to restorative justice solutions.



Materials needed

- Power point to introduce restorative justice with children (PPT Annex 2)
- Power point presentation on the national restorative justice practices (to be prepared by the trainer and integrated to the general introduction to RJ with children)
- Guidelines on how to conduct a role play (see <https://www.euforumrj.org/en/re-justice-2019-2021>)
- Other video and training materials that the trainer/s will find appropriate to the context and that can also be found at <https://www.euforumrj.org/en/re-justice-2019-2021>



Additional resources:

EFRJ website, Child justice information: <https://www.euforumrj.org/en/restorative-justice-and-childjustice> and thematic brief: <https://www.euforumrj.org/sites/default/files/202011/Thematic%20Brief%20on%20Restorative%20on%20Child%20Justice.pdf>

Randazzo, R., and Wolthuis, A., Restorative justice with children and young people in relation to criminal behaviour, in Peurača, B. (ed.) (2022). Training trainers in mediation and restorative justice: The Toolkit of the Erasmus+ Mediarej project. Zagreb: Udruga za kreativni socijalni rad, available at <https://www.euforumrj.org/en/mediarej-2020-2023>.

Manual for trainers and annexes – Restorative justice for judges and public prosecutors, available at <https://www.euforumrj.org/en/re-justice-2019-2021> in English, Spanish, Italian and Greek.

i-RESTORE: Protecting Child Victims through Restorative Justice (2019-2021): training materials and free e-learning available at <https://www.euforumrj.org/en/irestore-2019-2021>.

Pali, B., and Randazzo, S., Practical Guide Implementing Restorative Justice with Children, 2018.

Wolthuis, A. & Chapman, T. (eds), Wolthuis, A. & Chapman, T. (eds), Restorative Justice in a Children's Rights Perspective, The Hague: Eleven Publishers, 2021.

Legal and policy instruments:

- Venice Declaration on the Role of Restorative Justice in Criminal Matters, Council of Europe, 2021
- Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters
- UN Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice (2015) https://reliefweb.int/sites/reliefweb.int/files/resources/Model_Strategies_violence_children.pdf
- European Union Victims' Directive 2012/29
- 2002 in the UN "Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters"
- Vienna Guidelines for Action on Children in the Criminal Justice System, 1997

Module on Children deprived of Liberty and Non-custodial measures



Objectives of the module

- Raise awareness on the principle of detention for children as the last resort
- Learn about the harmful effects of detention on children's development and mental health
- Learn and understand the importance and the several possibilities for non-custodial measures, in response to the principle of detention as last resort for children



Skills: International law, children's rights, procedural rights



Duration: Approx. 1.20 hours



Why to choose this module and its added value

Thanks to this module, lawyers will learn more about children's rights while deprived of liberty and how to assist and protect them: specifically, they will learn the international standards about the use of detention as last resort (CRC art 37) and why it is so important to ensure this right for young clients. Lawyers will be more aware of the role of the lawyer of children deprived of liberty and how to interact with the child. They will also familiarise with the possibilities of non-custodial measures for children offered in their own legal contexts, and will understand the importance of encouraging their application to protect children from the harmful effects of detention.

We suggest that this module is offered as an "introduction" to the modules on diversion and restorative justice. It does in fact offer explanations of the reasons why lawyers should appropriately assist children to avoid detention as much as possible and to revert to other responses.



Trainer: for this module we recommend the involvement of an expert on children and adolescents' development and mental health, specialised on child justice, that can present about the impact of deprivation of liberty on the mental health and development of children and teenagers.



Presentation – 20 minutes

The trainer/s will introduce the participants to the principle of detention as last resort in the international law on children's rights, and the role of the lawyer in ensuring this principle with their child clients.

Some introductory slides are provided in attachment to this Guide, that will have to be integrated with a few slides about the role of the lawyer.

Presentation – 30 minutes

To corroborate and emphasise the importance of using detention as the very last resort when responding to child offending, the trainer/s will dedicate a second part of the presentation to explore the impact of deprivation of liberty on the mental health of children in detention. The UN Global Study on Children Deprived of their Liberty can be used as a source, and the trainer/s may also decide to invite a mental health expert for this presentation.

Presentation – 40 minutes

The trainer can then present to the participants the existing monitoring mechanisms at International and European level, and the remedies for violations of children's rights when children are deprived of their liberty. The national monitoring instruments will also be presented, and the trainer/s will discuss them with the participants, also focusing on the interaction of the lawyers with children in detention, looking at: What information should a child deprived of liberty receive? How to keep contact with your child client deprived of liberty?

A power point presentation about the international monitoring instruments is attached to this Guide. It will have to be integrated with national instruments at local level and focus on the role of the lawyer.

Presentation – 30 minutes

Finally, the trainer/s will present the possibilities for non-custodial measures available at local level, and how lawyers should encourage their use in the best interests of their child clients.

A couple of introductory slides are provided for the broad context, but they will have to be developed based on the specific local context and the availability of non-custodial measures.

Materials needed

- Power point presentation about the international law protecting children deprived of their liberty (PPT Annex 3)
- Power point presentation about the impact of detention on the mental health of children (to be provided by the trainer and/or by the specialist invited)
- Power point presentation about monitoring mechanisms at international level + at local level (PPT Annex 4 – to be integrated with national instruments at local level on monitoring in detention and with the role of the lawyers at local level)



- Power point presentation about non-custodial measures, with brief intro of the international level and focus on the national context (PPT Annex 5)



Additional resources:

UN Global Study on Children Deprived of their Liberty, 2019.

Forde, Kilkelly and Malone, Alternatives to detention for juvenile offenders. Manual of good practices in Europe, 2016