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STUDY REPORT

**“CHILDREN IN CONTACT WITH THE LAW
AND THE IMPACT OF THE APPLICATION
OF RESTORATIVE JUSTICE
AND MEDIATION”**



Tirana, 2015

The study was conducted in the framework of the project on “Institutionalization of restorative justice and victim-offender mediation for juveniles in Albania”, funded by the European Union and is implemented by Save the Children in partnership with the Albanian Foundation for “Conflict Resolution and Reconciliation of Disputes (AFCR).

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1. INTRODUCTION

This study is carried out in the framework of the two-year project, “Institutional development of Restorative Justice and Victim-Offender Mediation for Juveniles in Albania”, implemented by Save the Children and the Foundation of Conflict Resolution and Reconciliation of Disputes, supported by the EU Delegation in Albania and Save the Children Norway.

The study was carried out during the second year of this project and it aimed at exploring the impact of mediation and restorative justice on the children and juveniles in contact with the law, while analyzing the real situation in Albania.

The study aims at achieving the general objective of the project mentioned above, that is: Establish access to restorative justice for the juveniles in contact with law, especially for the marginalized groups, through building capacities of institutional stakeholders and civic society in the field of restorative justice.

This study is focused on the assessment of involvement of children and juveniles in the restorative justice program, as well as the impact of these programs on children and juveniles in contact with law.

The objectives of this study are:

- To describe the social and family profile of the children and juveniles who are involved or tend to get involved in conflict situations, as well as the relationship of this profile with the level of insight into and involvement in the Restorative Justice program.
- To compare the attitudes of three social categories of children and juveniles: members of Roma community, children and juveniles in the pre-detention centers of the Institutions for the Executions of Penal Verdicts, and school children, regarding the perception on restorative justice.
- To analyze the perception of juvenile justice professionals on the impact of the mediation and restorative justice on diverting children and juveniles from the penitentiary system and on reducing recidivism.
- To present recommendations and suggestions regarding the efficient ways of implementing restorative justice in Albania, the role and specific duties of the institutions in charge of carrying out this process.

2. WHAT IS MEDIATION AND RESTORATIVE JUSTICE?

Deviation (or deviance) might be defined as “non-conformity to a given set of norms that are accepted by a significant number of people in a community or society” (Giddens, 2004:122). Deviant behaviors are not always criminal activities, because the latter refer to violation of norms of primary importance for the existence of a society. In this context, people who commit crimes should be treated differently from those who engage in deviant forms of behavior which do not constitute high social risk. The former category falls under the criminal justice, whereas the latter under what is increasingly spoken of as mediation and restorative justice. What is Restorative Justice and Mediation?

Article 1 of the Albanian Law “On Mediation in Dispute Resolution”, adopted on February 24, 2011, provides that “Mediation is an out-of-court activity in which the parties seek resolution of a dispute through a neutral third party (the mediator), in order to reach a mutually acceptable solution to the dispute and which does not conflict with the law.” (Law no. 10385, dated. 24.02.2011).

Many researchers are of the opinion that the basic difference between trial and mediation is to be traced in the Latin root of these two words. In this aspect, in the words of R. Sabato, among others: “to mediate” means the intervention of a third party who bears “median” attitude, or of a mediator, who will stand between two extreme positions taken by the parties in dispute. The root of the word also means “to heal” or “to medicate”. Therefore, the word “mediation” means the way we approach the parties to mend the cause of their disagreement, aiming at the reestablishment of relations the parties previously had. (See: Dervishi, 2002: 26-27).

Therefore, mediation is considered to be a process, an extra-judiciary dispute resolution alternative. Generally, all mediation definitions are oriented towards a common element, that of the role of the mediator as a third neutral party, who facilitates the communications between parties in reaching a settlement in full respect of their free will.

Mediation is an alternative of dispute resolution through agreement, consent and apology. In case parties are not satisfied with the outcome of the mediation, they might address their case to other alternatives for dispute resolution, such as the judiciary, arbitration, administrative court, etc. According to the law on mediation, mediation in the criminal field is applied for disputes under review by the court following the request filed by the plaintiff, or as a complaint of the plaintiff, under Articles 59 and 284 of the Code of Criminal Procedure, as well as on any particular case where the law provides for it. (Semini, 2011:8-12).

Mediation and restorative justice are inseparably interconnected, because they are part of the same process. The objective of the restorative justice should be that of making the punishment of the defendant play a re-educational and rehabilitating role, in order for the defendant to become a law-abiding member of the community after having served the sentence. Restorative justice places the victim, as well as the offender, upon the impact of the dispute resolution, while trying to improve the balance between material and psychological losses.

Although it is difficult, the dialogue and the agreement serve as central and potential elements of restoring justice. This is precisely the focal point of alleviating the aftermath of the offence, despite the increase in the number of offenders. (Semini, 2011:8-12).

Restorative justice and mediation programs for children and juveniles in contact with the law have become a successful part of criminal justice in many European countries. The objectives of these programs, according to the practitioners in this field are many and they respond in due time to the repairing the damages caused by the criminal offence, positively influence the educational and preventing processes, as well as the correct understanding of the offender's accountability.

As such, we will mention two restorative programs or models among the most important ones:

1. *Victim-Offender Mediation (VOM) Programs*: In these programs, through the role of certified mediators, it is aimed at organizing the meeting of the victim with the offender, in order to discuss from their point of view the offence and its consequences as well as the opportunities and necessary steps to repair the damage.
2. *Community conferencing programs* are similar to the victim-offender mediation, but apart from the victim and offender, they involve family members and also other community members as well.

Mediation may be successful at any stage of the dispute. It might be intertwined with a warning by the police. It might go parallel to the trial or it might be provided during the execution of the sentence or after it, etc. Another important issue is whether mediation will affect or not court decisions.

The system of restorative justice helps in fulfilling certain important needs of the offenders, such as:

- To help them understand and take responsibility of their actions;
- To improve their situation, while deviating from the criminal conduct;
- Personal emotional transformation, especially regarding the sense of shame that they feel for the actions committed and harm inflicted;
- To encourage and integrate them in the community life (Gjoka, 2011: 77-78).

Through restorative justice:

- The offenders, who feel guilty about their actions, have the opportunity to apologize;
- The offenders have the opportunity "...to explain to the victim how and why they behaved that way";
- The offenders are accountable and they assume responsibility for their actions towards the victim;
- The criminal offenders can compensate their victims for the damage done. (ibid).

In his book, “The Little Book of Restorative Justice”, Howard Zehr, the researcher, throws light on the fact that “Restorative Justice is a compass and not a map” (Howard, 2002:10). In his opinion, the Restorative Justice Movement originally began as an effort to rethink the needs and roles implicit in crimes. The process of Restorative Justice fulfills the needs of the victim, the offender, and community which cannot be met in the criminal justice system. (ibid)

3. METHODOLOGY

3.1. Research components

As it was mentioned in the previous section, the study is focused on the assessment of the children and minors involvement in the restorative justice program, as well as the impact of these programs on the children and juveniles in contact with the law.

Main components of the research:

- The description of the social and family profile of the children and juveniles who are involved or tend to get involved in conflictual situations, as well as the relationship of this profile with the level of insight into and involvement in the Restorative Justice program.
- The presentation of the perceptions/opinions of the children and juveniles surveyed (under three categories: members of Roma community, children and juveniles in the pre-detention centers of the Institutions for the Executions of Penal Verdicts (I.E.P.V), and school children) regarding the level of understanding of mediation and restorative justice, and their attitudes on the importance of being involved in the restorative justice programs.
- The analysis of the perception of professionals who work with children and juveniles in contact with the law, regarding the restorative justice impact on this social category.
- The identification of best practices and case studies of minors involved in restorative justice practices.

3.2. Research methods

The collection of the data is carried out through a combination of quantitative and qualitative methods. Literature reviewing, as a first step, served for the preparation of the instruments and it also set the foundation for the study's framework.

The quantitative method served to obtain general information. It also helped in finding what is typical, median and representative.

The focus of the quantitative part of the study were the children and juveniles of ages 14 - 18 and 19 - 21, especially from vulnerable groups, who are in pre-detention centers, members of the Roma community and children and juveniles attending schools where the peer mediation program was implemented. This age group was purposefully selected, not only because this category is part of the restorative justice programs, but also because intervention through restorative justice programs, as educational process, tends to be more efficient in this category.

The qualitative method of data collection served for a more detailed and thorough analysis. It includes the interviewing process and that of the case studies.

The qualitative method may be described as an efficient model which takes place in its own environment and which gives the researcher the opportunity to get more involved in the present experience (Creswell, W. 2003).

The process of direct (individual and focus-group) *interviewing* aimed at obtaining insight information from the professionals working with the children and juveniles who have committed criminal offences. Among these professionals we may mention: police officers at police stations and I.E.P.V, representatives of the Roma community, school psychologists, teachers, probation officers, State Police instructors as well other justice experts.

The instrument used for the collection of these data is a half structured interview. . It contains key questions which guided the interviewing process, and it also gave room to the generation of ideas and discussions on a broader plan. The data were then processed through the thematic analysis.

The case studies also aimed at giving more insights on the ways children have benefited from the restorative justice through VOM or community conferencing, depending on the criminal disputes they were involved in. Three cases studies were analyzed: a dispute among children in school, referred by the State Police, a second case referred by representatives of the Roma community, and a third case referred by the I.E.P.V having minors in its pre-trial detention center.

The quantitative method used in this study is that of a survey, whose instrument is a structured questionnaire. The respondents were minors of ages between 14-18 and juveniles between 19-21, involved in criminal disputes. Among them, there were minors from different I.E.P.Vs, pre-detained or detained, minors whose cases were referred by the Police Departments, minors from the Roma community, and high school minors who were part of criminal disputes. The questionnaire contains three sections of data. The first one aims at obtaining information on personal and family data of the minor; the second one is focused on the collection of data on the conflictual situation, on the deviant behavior and conviction of the minor; and the third section aims at obtaining information regarding the understanding of the restorative justice.

The application of the three above-mentioned methods, and the analysis of the data by these instruments (triangulation), enables a higher level of reliance on the study. Triangulation is a typical strategy to improve the validity and sustainability of the research and of the assessment of the findings (Mathison, 1988). Triangulation describes the combination of two or more theories, sources of data, methods in a study (Halcomb and Andrew 2005, Williamson 2005), and it appropriately assists the logical making of the study.

3.3. Geographic coverage of the study

The study was carried out in Tirana, Vlora, Durrësi, Korça, Elbasan, Shkodra and Lezha. These cities were purposefully selected, not only because they geographically represent the Albanian

context, but also because the services of mediation and restorative justice have been provided for a considerable amount of time, by laying the “foundation” which is sociologically appropriate for the investigation of the issue at hand.

3.4. Sampling

As far as the direct (individual and focus-group) interviews are concerned, there was utilized a combination of purposive/convenience sampling and the snowball sampling. At the beginning of the interviewing process, there were involved several experts in the field who achieve the goal of the study (purposive sampling). These experts, in turn, recommended other individuals who meet the same needs (snowball sampling).

Six focus-groups were arranged and a series of free interviews with 80 experts in the above-mentioned fields were conducted.

1044 children and juveniles took part in the survey. The sample was randomly and partly intentionally selected. The children and juveniles in schools were selected from schools of sub-cultural heterogeneous composition, from the most problematic classes, as indicated by the teachers.

The three study cases considered in this study are carefully selected from the cases that were managed during the implementation of the dispute resolution program through the classic mediation, VOM, and community conference. This program has been provided by the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes since 2014.

The cases involved conflicts among children and juveniles, aged 14 – 21 years old and they describe the way these disputes are administered through the above-mentioned program.

3.5. Certain limiting factors to the carrying-out of the study

There were certain limiting factors to the carrying-out of the study.

Firstly, methodologically speaking, it was difficult to build an instrument to be utilized by the children and juveniles involved in criminal disputes, or by those involved in everyday disputes.

Secondly, there is limited number of studies in this field, which would serve as instructional models for this study and as a starting point for further research on the restorative justice impact on children and juveniles in contact with law. There are studies regarding restorative justice, but they are partial ones aiming at assessing the impact of restorative justice on specific institutions (such as the Probation Service) and are not comprehensive.

Thirdly, Although the goal was to interview all the minors and juveniles at the pre-detention centers of the I.E.P.Vs, in order for the survey to be a Census-type survey, such an endeavor resulted unsuccessful due to the system’s dynamics: unavailability of the minors at the interviewing stage

because they were attending court sessions, they were meeting family and relatives, or because they willingly chose whether to participate the survey or not.

Fourthly, difficulties were encountered in taking down deep opinions and insights during direct interviews. Part of the respondents were reluctant to give thorough and exhaustive answers, and limited themselves in giving superficial ideas.

4. FINDINGS ANALYSIS

4.1. Quantitative data analysis

4.1.1. The social and family profile of the children and juveniles and involvement in the restorative justice programs

4.1.1.1. The social and family profile of the respondents

This part of the study aims at analyzing the social and family profile of the children and juveniles who are involved in disputes or tend to be part of them, as well as the relationship between the profile and the level of understanding and involvement in the restorative justice program.

In order to set the context, it was opted for a quantitative approach, which is based on the interviewing of 1044 minors in several parts. 7 questionnaires were considered invalid due to the irregularities in their filling in, and as a result the findings were considered invalid as well. The analysis is focused on the findings obtained by 1037 questionnaires.

The analysis of the data on age, gender, place of residence, economic conditions, involvement in dispute, aims at sketching a socio-psychological profile of the minors surveyed and as far as generalizations allow for that to happen, for all the Albanian youth. The sample of more than one thousand respondents from a wide range of categories mentioned above, make it for us to be in a very good position to draw conclusions that are not limited to the respondents only.

Age and gender categories of the respondents

The questionnaires have targeted minors and juveniles aged 14 – 21 years old. The largest group is that of 17 – 19-year-olds which is represented by 690 respondents in the sample. 129 respondents belong to the age group 14 – 16, whereas 218 belong to the age group 20 – 21. In percentages these data, are illustrated in the following chart:

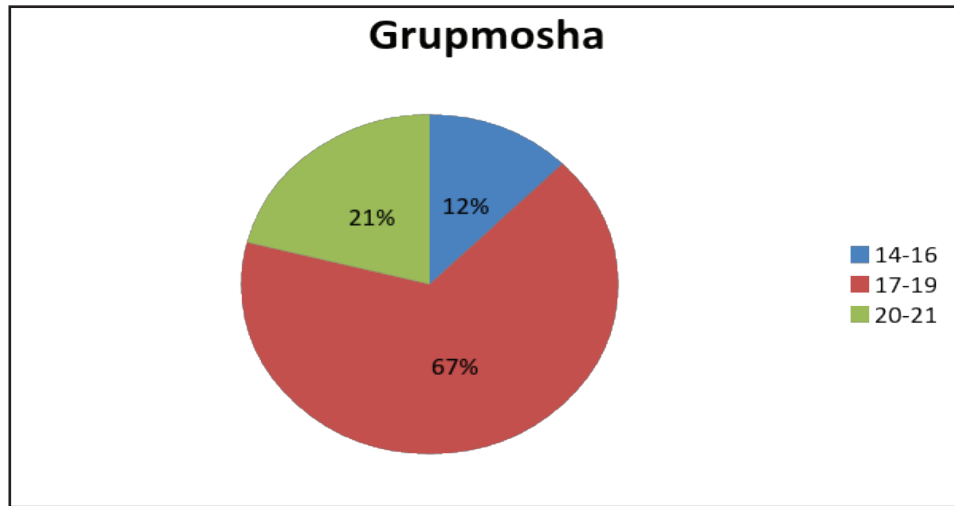


Chart no. 1: Respondents' Age Groups

As far as gender is concerned, the division of the targeted group has been almost equally done, 50.2% females and 49.8 males.

Other categories of the respondents

The respondents, as demonstrated in the beginning of this study, were selected among minors attending school, among Roma community and among those who were being held in pre-detention centers accused of having committed criminal offences, and among the juveniles who were serving sentences. A more detailed analysis of the respondents' characteristics will follow up in the other chapters. The categories of the respondents are illustrated in Chart no.2.

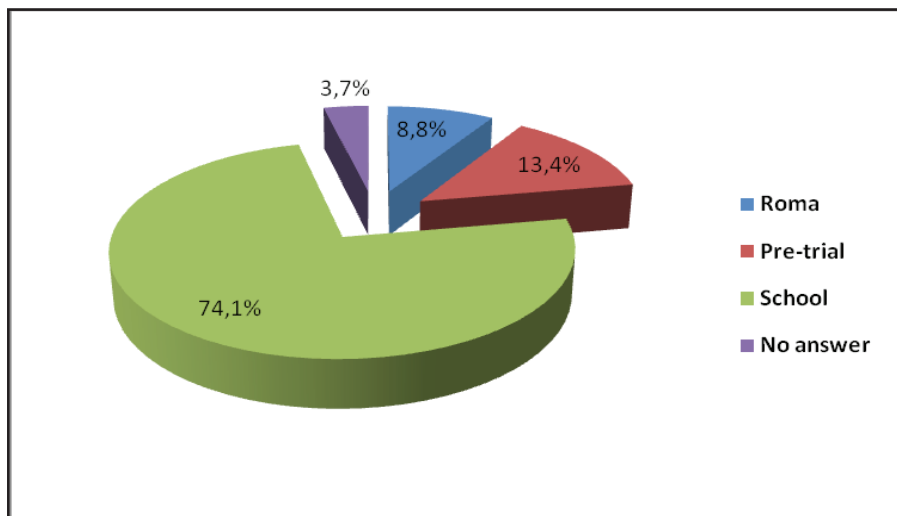


Chart no. 2: Respondents' categories

Origin and place of residence

As far as the origin of the respondents in sample selection is concerned, we strived for a good representation in the study's group. Table no.1 illustrates the distribution of respondents per qark.

| Qark | No. of respondents | Frequency |
|--------------|--------------------|-------------|
| Durrës | 174 | 16.7 % |
| Tiranë | 242 | 23.3% |
| Korçë | 190 | 18.3% |
| Lezhë | 41 | 4.0% |
| Shkodër | 149 | 14.4% |
| Vlorë | 137 | 13.3% |
| Elbasan | 104 | 10.0% |
| Total | 1037 | 100% |

Table no.1: Respondents' origin

To further complete the presentation of the place of origin, information was collected on the category of the respondents' place of origin. In the categories of the places of origin by subcategories "city", "village", "suburbs", there was observed a division as follows: 66% of the respondents live in the city, 17.3% of them in the village, and the remaining 16.7% in the suburbs.

Self-perception on the family economic situation

By analyzing the perception of the economic situation of the families, the respondents are member of, the situation is presented as follows:

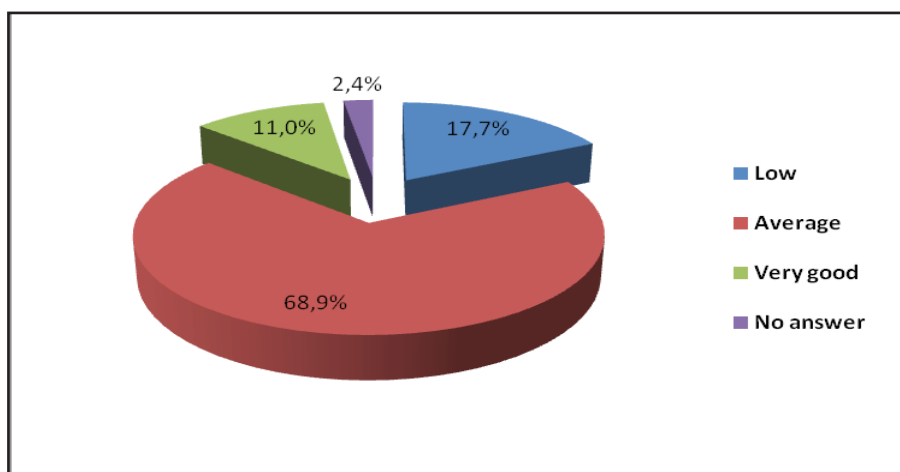


Chart no. 3: Self-perception of the families' income level

As suggested by many studies, when asked on the income level and on the social stratum they belong to, the majority of the people prefer to classify themselves as belonging to the middle class, with an average income level (Giddens, 2004: 225-226), but in the Albanian context this is debatable, therefore this information should not be considered fully valid.

Meanwhile, within the general target, the situation of those who are convicted of law violations is more difficult. Those who report lower level of income, in this group, constitute 25% as opposed to 17% of those who report lower level of income in the general target. Whereas a decrease of 9% is observed in the number of those who report high level of income.

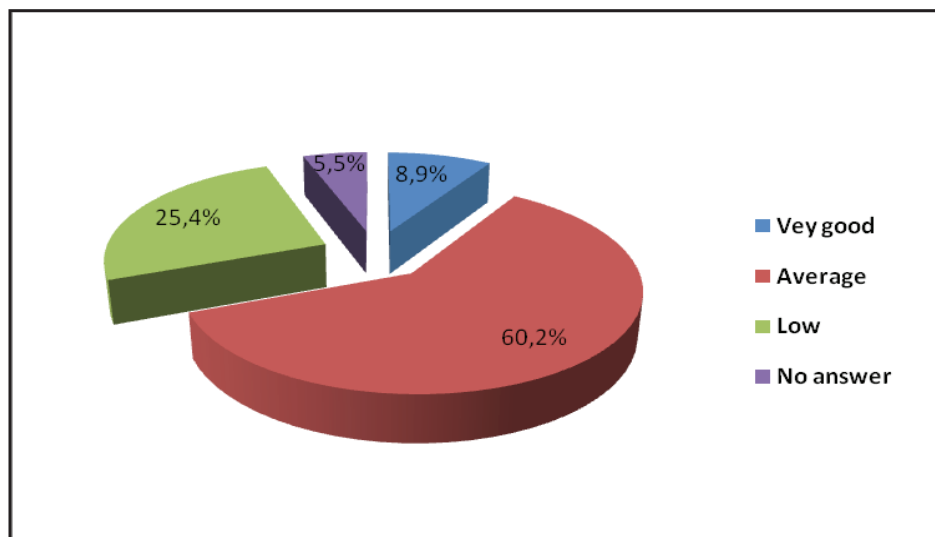


Chart no. 4: Self-perception on the families' income level regarding the children and minor categories in detention centers

Family structure

Special attention in the questionnaire was given to the structure of the respondents' families in order to better investigate the impact that this structure has on the frequency of minors getting involved in disputes or serious indictable offences. Approximately 68% of all children and juveniles have stated that they live with both their parents. In this category there are also the children and juveniles who have declared that they live with their siblings and grandparents in certain cases. Approximately 23% of the respondents have stated that they live with a single parent (including those who have declared that they live with siblings and grandparents in certain cases) and 9% of the respondents have given other answers.

The findings regarding family structure among children and juveniles in the pre-detention centers of the I.E.P.V are very interesting. Approximately 76% of the respondents in pre-detention centers have stated that they live with both parents; around 17% of them have declared that they live with a single parent and roughly 7% have given other answers.

These data do not shed sufficient light on the impact of the family structure on the potential of involvement of minors in conflict with the law. Furthermore, these data do not explore the family problems that might affect the involvement of the minors in disputes and criminal offences, for example regarding the relationship with parents and other members of the family. Therefore the data should be partially taken into consideration.

Education

The study indicated that the majority of the respondents have completed the 9-year primary educational level. Roughly 61% of the respondents have responded this way. Around 30% of the respondents have stated that they have completed secondary education. Among them, there was a category of university students who have stated to have completed university studies (roughly 14%), but while processing the data, this act was taken into consideration and the change regarding the completed level of education was carried out accordingly.

Around 6% of the respondents have stated that they have completed elementary level of education, whereas 3% classify themselves as “unschooled”.

The study indicated that in general, the children and juveniles from the city have a higher level of education than those living in villages or suburban areas.

Up to this point, the data related to social and family profile of the children and juveniles participants to the study are presented descriptively. What follows is an analysis regarding the involvement of this target group in disputes and deviant behavior, as well as the way the social and family profile impacts the level of understanding and the level of inclusion in the restorative justice program.

4.1.1.2 The conflict, deviant behavior, conviction

The respondents’ profile and level of involvement in conflicts and deviant behavior

The data of the study indicate that in general, the level of involvement of girls in conflicts or engaging in deviant behavior is lower compared to boys. 274 girls have positively answered the question whether they have been involved in a conflict or engaged in deviant behavior, whereas 348 respondents, who answered positively to the same answer, were boys.

From the total number of the respondents to the question on conflictuality or deviant behavior, we learn that these forms of behavior have targeted: peers, adults, family members or institutions. The assessment of conflictuality or deviant behavior per category is as follows:

| Have you ever been involved in conflicts or deviant behavior against: | Number of respondents | Frequency in percentage |
|---|-----------------------|-------------------------|
| Peers | 527 | 50.8% |
| Adults | 56 | 5.4% |
| Family members | 30 | 2.9% |
| Institutions | 9 | 0.9% |
| Not involved | 415 | 40.0% |
| Total | 1037 | 100% |

Table no. 2: Involvement in conflicts or deviant behavior

Out of 30 respondents who have positively answered as having been involved in conflict with family members, 23 are girls (or around 77% of this category) and only 7 are boys (around 23% of the respondents). This shows, in a certain way, that the limitation of the activities for girls to home only, causes the breaking out of conflicts with other family members. These data are graphically presented below.

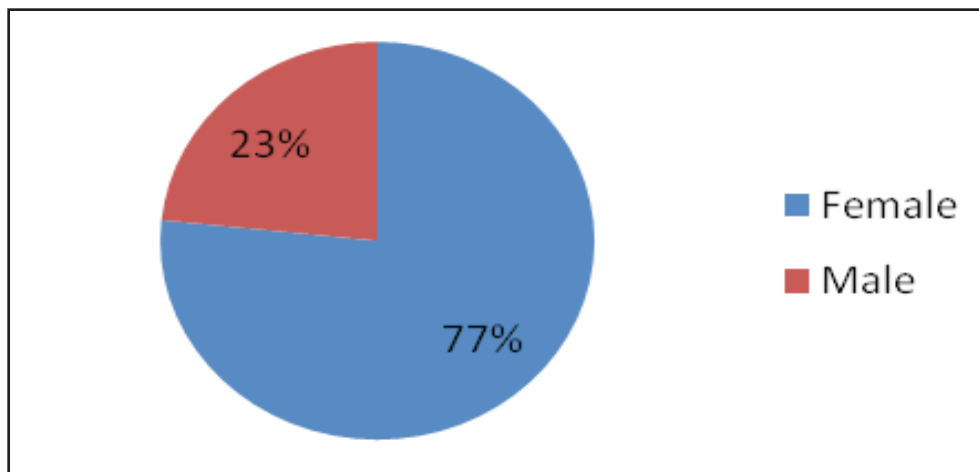


Chart no.5: Involvement in conflicts with family members, per gender

Although the target of respondents who have positively answered this question is small, what we can infer is that young girls are faced with a more hostile environment at home. They find conflict as a way to set a free space for their actions and attitudes.

Another interesting piece of information is the one related to the relationship of the place of residence of the children and juveniles and the level of involvement in conflicts and deviant behavior.

The number of village residents involved in conflicts is 102, whereas the number of city residents involved in conflicts and deviant behavior is 421. The number of the suburban residents involved in conflicts is 94. The frequency in percentages is illustrated below:

| Involved in conflict, or engaged in deviant behavior (against) | Numbers of respondents | Frequency in percentages |
|--|------------------------|--------------------------|
| City | 421 | 67.8% |
| Village | 102 | 16.3% |
| Suburbs | 94 | 15.1% |
| No answer | 5 | 0.8% |
| Total | 622 | 100% |

Table no.3: Involved in conflicts per place of residence

Regarding the relationship between the income level, the level of education, and the involvement of children and juveniles in conflicts, it is observed that the group of children and juveniles with primary education and average income level has stated that is involved in conflicts more than the other groups. The chart below illustrates this finding.

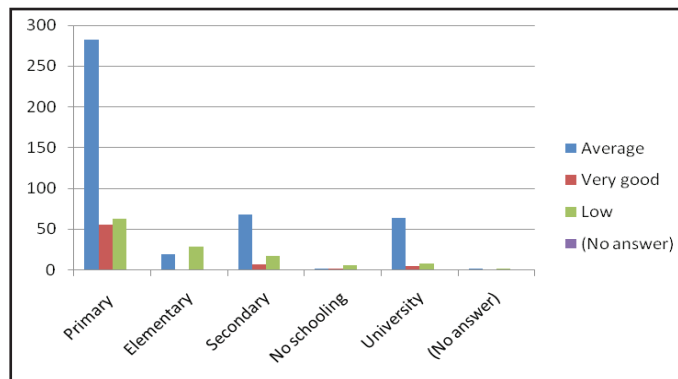


Chart no. 6: The relationship between the economic situation, educational level and involvement in conflicts

The profile of respondents, criminal offences and conviction

Around 13.8% of the respondents (who are in pre-detention or detention) have positively answered to the questions whether they are accused of committing a criminal offence (or convicted of committing the offence).

Among the children and juveniles who are accused and convicted, the most frequent offence is theft. 70 out of 148 children and juveniles, accused or convicted, who participated this study, (roughly 47.2%) are accused or convicted of this type of offence. The other type of offence, which is frequently encountered, is assault, which is reported by 17 respondents or around 11.4% of the total number of those accused and convicted who participated this study. 4.7% of the total number of those accused and convicted, who have participated the study, has reported other criminal offences, with violent elements. Whereas the remaining part was involved in crimes such as accidents, unlicensed driving, drug dealing, rape, etc.

If we look into the relationship between the economic situation, level of education and the charge or conviction of committing the criminal offence, we can observe that the group who have responded that have completed primary education and have average monthly income make the major group of children and juveniles who have been charged or convicted of the crime. The chart below illustrates this finding.

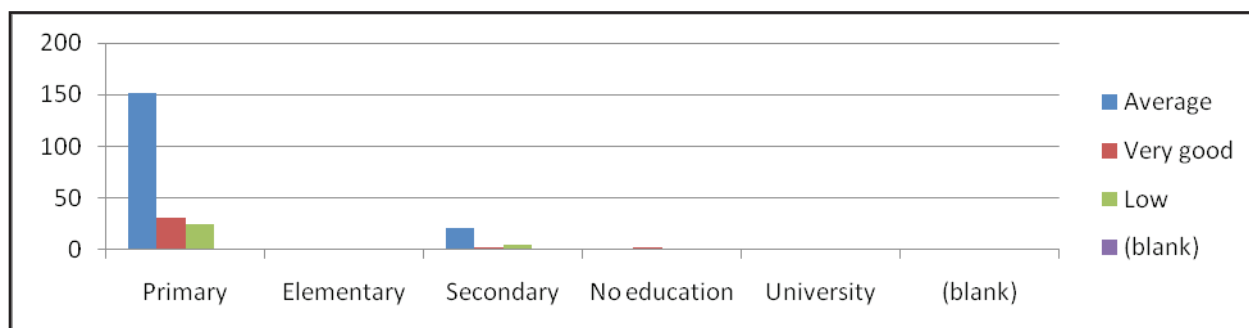


Chart no. 7: The Relation between the economic situation, level of education and the charge for the criminal offence

As stated above, the self-perception regarding the level of income, especially for the Albanian context, is a piece of information which should not be considered as fully valid, because there might often be discrepancies between what the children and juveniles might report in the survey and what really happens in their families. Experience shows that the family economic situation directly impacts the social status of the children and juveniles and the living conditions in the closed institutions. This sets a kind of social hierarchy among the members of this group.

4.1.1.3. Recidivists

Recidivists constitute a relatively small group within the general target of the respondents of this study, but their specific share within the group of juveniles who are charged or convicted is not that small (34 out of 148 or 32.9 %). What we observe is that the majority of recidivists reside in the city. Roughly 55.8% (19 children and minors out of 34) have stated that they live in the city. 20.5% of the recidivists (7 children and juveniles out of 34) state they live in areas labeled as suburban, whereas in the village this percentage is only 17.6% (6 children and juveniles out of 34).

These relations demonstrate that the risk of repeatedly falling into deviant behavior is greater in the city, where the family bonds and the impact of the close social group start to weaken and the opportunities to integrate in the community might be limited.

The relation between the level of education and the recidivism seems direct. Among the recidivist respondents, 10 had completed the elementary education, 16 of them the secondary education and 4 of them had no education at all. (4 respondents have decided not to disclose any information regarding this issue).

4.1.1.4. Inclusion in the restorative justice programs

As it was highlighted in the beginning of this subchapter, one of the objectives of the study is to investigate how the social and family profile of the children and juveniles who are involved in conflicts or tend to get involved, impacts the level of understanding and involvement in the restorative justice programs.

Upon being questioned whether they have ever heard about restorative justice, 652 respondents have positively answered, but only 28.4% of the respondents who have had prior information on restorative justice (185 out of 652), have been involved and have benefited from this program. Roughly 44.8% of the children and juveniles who have benefited from the restorative justice program are girls (83 out of 185) whereas around 54% are boys (100 out of 185). Around 61.6% of the children and juveniles who have benefited from the restorative justice program are from the city (114 respondents out of 185), 17.8% are from the village (33 respondents out of 185) and 18.3% of those who have benefited from the restorative justice program are from the suburbs (34 out of 185). A small percentage of the respondents have not provided any information on the place of residence.

It should be emphasized that the restorative justice program, apart from conflict management aspect, is an educational program as well. For this reason, a major part of the above-mentioned project covers the primary and secondary schools of the cities mentioned above, in order for the restorative justice and its principles to be acquired by the children and juveniles through the extracurricular activities and be used as instructions for establishing constructive human relationships. Therefore, based on the findings, 64.3% of those who have benefited from the restorative justice program state that they have completed the primary education (119 respondents out of 185) and around 22.7% state that they have completed the secondary education and/or they are attending the first year of the university studies (42 respondents out of 185). The interesting fact is that only 12.9% state that they have no education or that they have completed only elementary education (24 out of 185). This category has benefited from the restorative justice program mainly by directly solving their disputes through the victim-offender mediation or community conferencing.

Around 17.2% of the children and juveniles who have stated that they have benefited from the restorative justice program (32 respondents out of 185), have reported that they have low family income, have no income at all or that they are poor. Roughly 70.2% have stated that they have stated they have average family income (130 respondents out of 185) whereas only 8.6% of them have

stated they have high family income (16 respondents out of 185). (Roughly 4% of the respondents have not provided information for this issue).

These findings do not grant any specific significance regarding the relation of the level of family income and the degree of involvement in restorative justice program. These programs are provided to all social categories, while putting more emphasis on the socially marginalized groups, to children and juveniles who live in poverty, who have dropped out school, who come from stigmatized social communities, etc. but regardless of this fact, the self-perception of the respondents concerning the family income didn't provide any indications of this. The use of other sources for the obtaining of data, such as the detailed interviews with experts in the field who deal with children and juveniles in contact with the law, might shed more light in this regard.

It is a very interesting fact to consider that among the children and the juveniles under prosecution and who are accused of criminal offences, 59.5% (88 children and juveniles out of 148) are already informed on mediation and restorative justice and 25% (37 children and juveniles out of 148) have stated that they have benefited from this program. Taking into consideration the fact that with this category of children and juveniles, the survey process was carried out face to face and not through self-reporting, due to the difficulties that this category has with the reading process, it was observed that the contemporary process of mediation was often confused with the traditional one. Nevertheless it should be mentioned that all these children and juveniles were the target group of this project.

4.1.2. The information and perception on restorative justice. Juxtaposition of perceptions among different social categories of Roma community, children and youth in pre-detention centers and youth in schools

This section aimed at collecting information on how the participants of the study resolve the disputes, which way they opt for, what information they have regarding mediation and what their perception is regarding restorative justice. The data obtained by the survey are analyzed along three categories of respondents: members of Roma community, children and juveniles in pre-detention centers and children and juveniles in schools. In this way, this chapter achieves the second objective of the study, presented in the introduction.

The three above-mentioned categories are part of the restorative justice programs, and they address needs, which are as similar as different and therefore, their perceptions are of great interest for this study.

Upon being asked: "If you were involved in a conflictual situation or criminal offence, how would you react?", the majority of the respondents, 54.9%, said that they would prefer the judiciary. The chart below illustrates in percentages the answers given by the respondents.

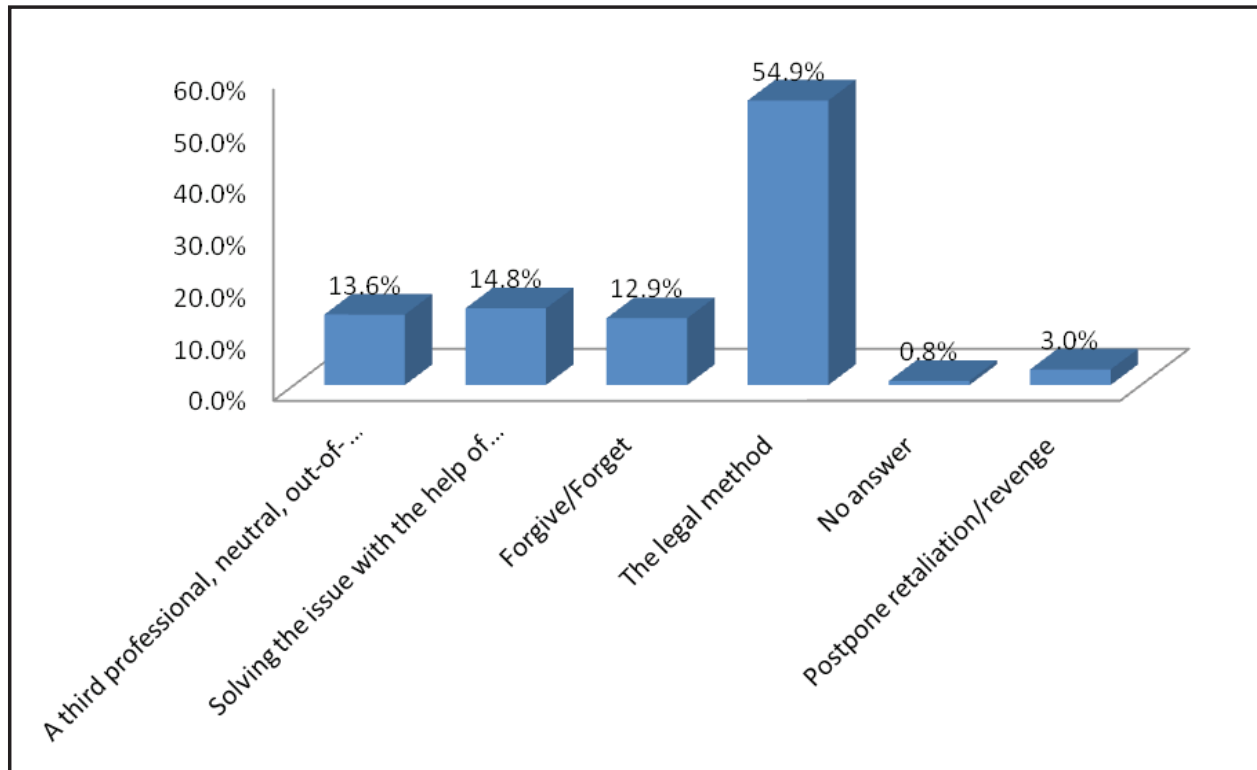


Chart no. 8: Response to a conflictual dispute or criminal offence

It is interesting to see that this alternative is mostly followed by the school children and juveniles (66.1% of the respondents in schools or 492 respondents), less by the children and juveniles in the pre-detention centers (19.4% of the respondents in the pre-detention centers, or 25 respondents), who have mostly marked “*we would forgive/forget*” (29.5% or 38 respondents) and members of the Roma community have mostly marked “*we would contact a neutral, professional out-of-court party*” (31.9% of respondents of this community or 29 respondents). Owing to the fact that many children and juveniles of this community were directly involved in the restorative justice program under the “Institutional development of Restorative Justice and Victim-Offender Mediation for Juveniles in Albania” project, they were already familiar with this alternative and they also recognized it as very important tool in resolving their disputes. The understanding and inclusion in this program made them aware of the efficiency of the restorative justice alternative compared to litigation. It is obvious that if other members of the Roma community, who were not previously involved in restorative justice programs, were to be part of the study, the findings would have been different. The objective of our study was not the generalization of the findings regarding all the Roma community, but the identification of the attitude of Roma children and juveniles related to the application of the restorative justice program.

| | Roma community | Pre-detention center | School |
|--|----------------|----------------------|------------|
| Opt for a third professional, neutral and out-of-court party | 31,9 | 17,8 | 10,6 |
| Resolve the issue through family/friends/relatives | 30,8 | 22,5 | 11,6 |
| Forgive/forget | 17,6 | 29,5 | 9,4 |
| Go to court | 13,2 | 19,4 | 66,1 |
| No answer | 3,3 | 3,9 | 0,0 |
| Postpone vengeance/retaliation for a later time | 3,3 | 9,9 | 18,7 |
| Total (%) | 100 | 100 | 100 |

Table no. 4: Methods for solving conflictual situations

Generally, the respondents opt for the above alternative because they think that this is the best way to solve their dispute. Upon being asked: “*Why do you consider this alternative as the most appropriate one for solving your dispute?*”, the children and juveniles who were part of the survey, answered as illustrated below in percentages and by categories:

| | Roma Community | Pre-detention | Schools |
|---|----------------|---------------|------------|
| Because they trust this alternative | 38,4 | 27,6 | 28,7 |
| Because that's how the issue is better solved | 41,9 | 56,9 | 63,0 |
| Because of being a no-cost alternative | 9,3 | 4,9 | 2,3 |
| Because the dispute is solved quickly | 10,5 | 10,6 | 5,9 |
| Total (%) | 100 | 100 | 100 |

Table no. 5: Reason for the precedence of this alternative for conflict resolution

For the three categories of minors, the best (most efficient) resolution to their dispute is of primary importance. 41.9% of respondents from the Roma community (or 36 respondents), 56.9% of respondents from the pre-detention and detention centers (or 70 respondents) and 63% of the respondents from schools (or 458 respondents) have reported that they have opted for the above alternative because they believe it to be an efficient solution to their issue.

As presented above, upon being asked: “Have you ever heard of other alternatives to litigation, such as: Victim-Offender mediation, dialogue or restorative justice?”, 64.2% of the respondents have positively answered (652 respondents) and 35.8% have negatively answered. This percentage indicates the survey’s focus group, because the persons who participated in the survey had already been involved in the restorative justice programs. Nevertheless, this does not mean that the awareness level regarding the importance of restorative justice application is high even for the population as a whole. Therefore, regarding this issue, the study doesn’t intend to make generalizations.

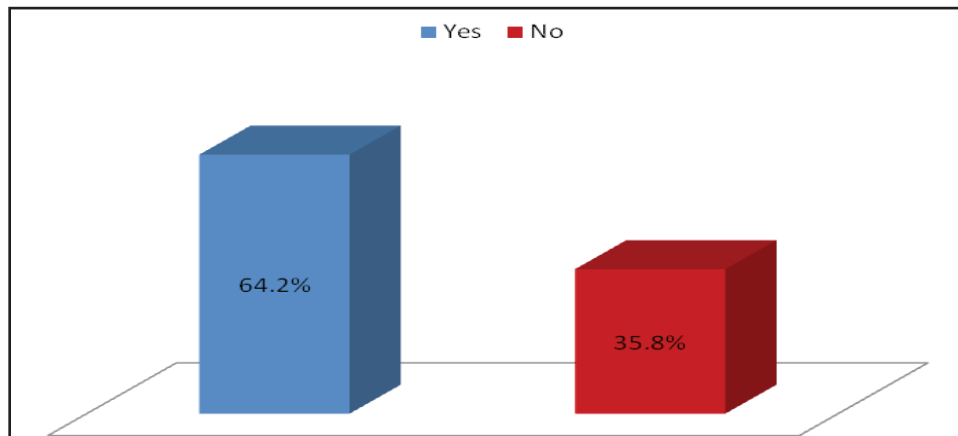


Chart no.9: Information on mediation and restorative justice

If we observe the data divided according to the three above-mentioned categories, we can see that the majority of respondents per category (over 60% per category: 55 children and juveniles from the Roma category, 85 children and juveniles in the pre-detention and detention center and 491 children and juveniles in schools) have stated that they already know about out-of-court conflict resolution.

| | Roma community | Pre-detention | Schools |
|-----------|----------------|---------------|---------|
| Yes | 61,8 | 61,6 | 64,9 |
| No | 38,2 | 38,4 | 35,1 |
| Total (%) | 100 | 100 | 100 |

Table no. 6: Information on mediation and restorative justice per children and juvenile category

Focusing on the category of the respondents who have reported that they already had information about out-of-court conflict resolution, the objective was to obtain data regarding the channels that have provided this kind of information. Therefore, to the question “*How did you get this information?*”, 53.2 % of the respondents (305 respondents) have answered “from the media”, 29.7% (170 respondents) have answered “from acquaintances, neighbors and friends, 13.3% (76 respondents) said they obtained this type of information from mediators and 3.8% (22 respondents) from police officers. Despite of being a modest figure, the last one is very significant as it shows the cooperation of the police institution with the mediation service aiming at peaceful dispute resolution.

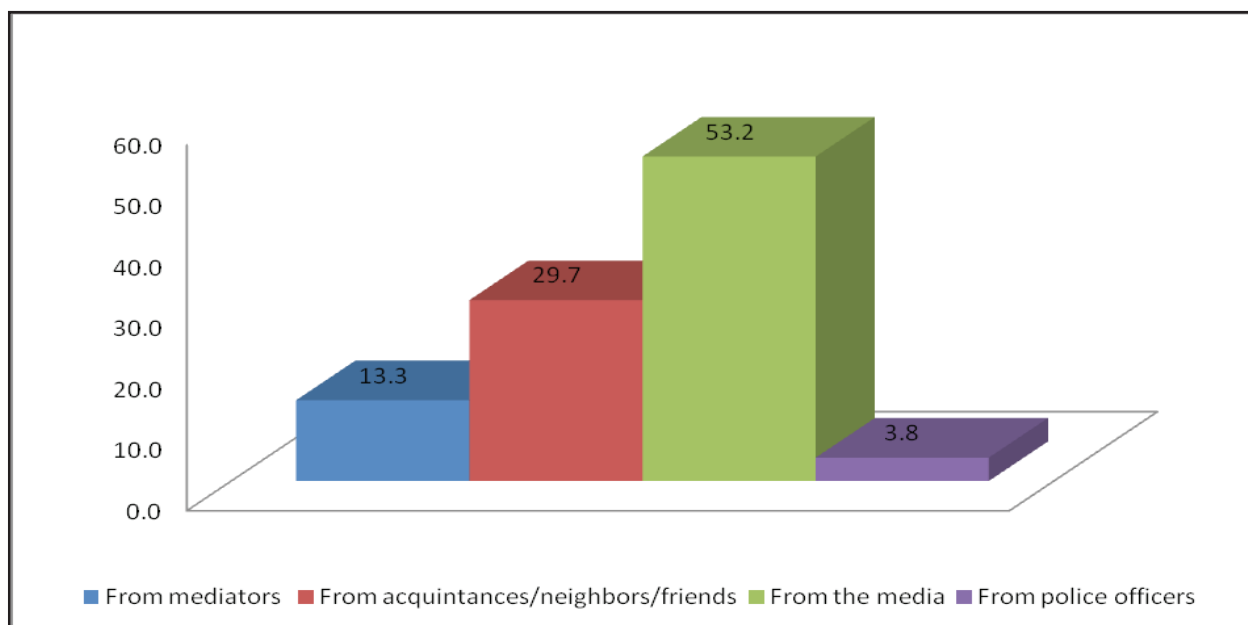


Chart no. 10: Source of information about restorative justice and mediation

The division in three categories indicates that the children and juveniles in schools obtained restorative justice and mediation related information from the media, whereas the children and juveniles in pre-detention centers from acquaintances and friends. Despite the fact that Roma children and juveniles have stated that they have been informed by the media (41.2%) and from acquaintances and friends (31.4%), empirical experience shows that the level of information of the Roma community from the media is very low. The survey process in itself bears the risk of partially genuine answers, so these data require further investigation in future studies. The percentage of respondents, who have obtained information about restorative justice and mediation from mediators, is very significant. There is a higher percentage among children and juveniles in pre-detention and detention centers (25.7% or 19 respondents) due to the fact that the restorative justice and mediation programs are provided in many forms (training sessions, education, and dispute resolution). A lower percentage is observed among Roma community members (19.6% or 10 respondents) and even lower among school children and juveniles (10.5% or 47 respondents).

| | Roma community | Pre-detention | Schools |
|--|----------------|---------------|------------|
| From mediators | 19,6 | 25,7 | 10,5 |
| From acquaintances, neighbors, friends | 31,4 | 51,4 | 25,9 |
| From the media | 41,2 | 16,2 | 60,7 |
| From police officers | 7,8 | 6,8 | 2,9 |
| Total (%) | 100 | 100 | 100 |

Table no.7: Source of information about mediation and restorative justice per category of children and juveniles

When asked whether they have benefited from this service, the children and juveniles who had information of mediation and restorative justice program, the majority of the respondents (71.6%) have answered negatively.

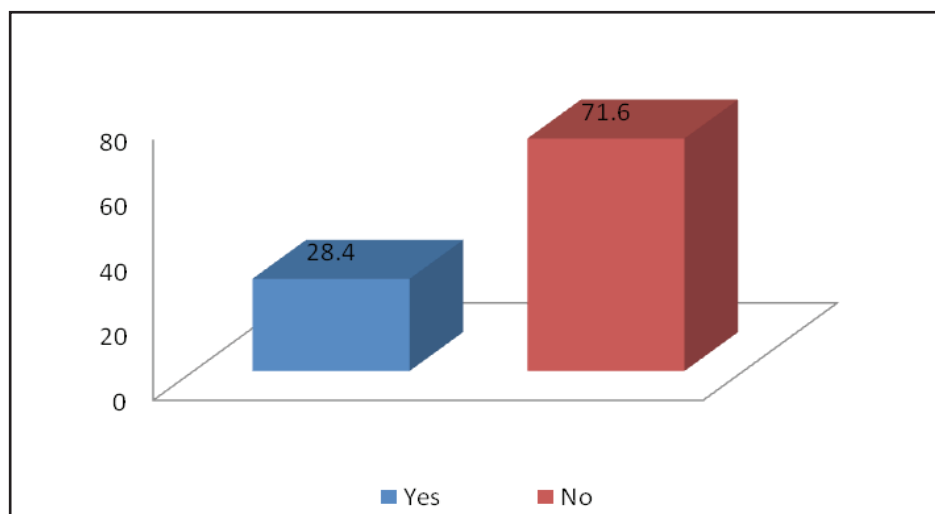


Chart no.11: Benefits from the restorative justice program

In the section “Inclusion in restorative justice programs”, there was a detailed description of social and family profile of surveyed children and juveniles, who have stated that they have been involved in these programs. This profile is closely related to gender, place of residence, level of education and level of respondents’ family incomes.

As it can be deduced from the table below, the majority of the minors who have reported to have benefited from the mediation and restorative justice programs, come from the Roma community (40% of the respondents from the Roma community or 24 respondents) and pre-

detained or detained children and juveniles (35.1% of the pre-detained and detained children and juveniles or 34 respondents), categories which have been targeted by mediation and restorative justice programs.

| | Roma community | Pre-detention | Schools |
|------------------|-----------------------|----------------------|----------------|
| Yes | 40,0 | 35,1 | 23,1 |
| No | 60,0 | 64,9 | 76,9 |
| Total (%) | 100 | 100 | 100 |

Table no.8: Benefits from restorative justice programs per category

Upon being asked “*Has any relative of yours benefited from this service?*”, the majority of the minors, who had information on mediation and restorative justice programs, answered “*Don’t know*” (40% of the respondents from the Roma category or 34 respondents, 32.8% of pre-detained or detained respondents or 39 respondents and 54.9% of respondents in schools or 372 respondents). Furthermore, a significant percentage of respondents have negatively answered the above question by stating that their relatives have not benefited from the mediation service (47.1% of the respondents from the Roma community or 40 respondents, the same percentage of pre-detained and detained respondents or 56 respondents and 32.6% of respondents from schools or 221 respondents). This is due to the fact that bonds among relatives in the Albanian society have weakened and there is no regular flow of information even for especially important issues such as conflict resolution.

| | Roma Community | Pre-detention | School |
|------------------|-----------------------|----------------------|---------------|
| Yes | 12,9 | 20,2 | 12,4 |
| No | 47,1 | 47,1 | 32,6 |
| Don’t know | 40,0 | 32,8 | 54,9 |
| Total (%) | 100 | 100 | 100 |

Table no.9: Information of benefits among relatives from restorative justice

The minors, who in the second section of this survey (Question no.14) have stated that they were involved in a conflict, have been asked the question no.26 “*Do they consider the conflict they were involved as resolved?*”. The aim of this question was the identification of the tendency among children and juveniles involved in the study toward the resolution of the conflicts or not, regardless of the alternatives they make use of. It is observed that the majority of the respondents (65.9%) refer to the conflict they were involved in, as resolved. The chart below illustrates this attitude of respondents.

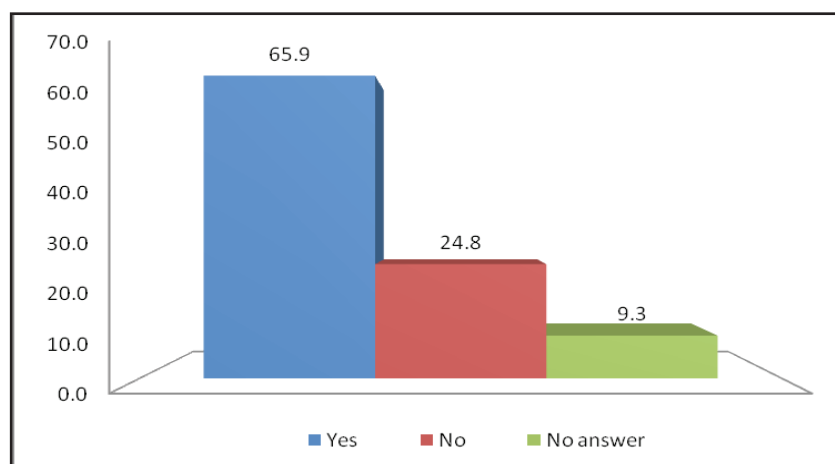


Chart no.12: Considerations regarding conflict resolution

Based on the category division, it is observed that children and juveniles from the Roma community and from pre-detention centers have not provided any answer to the question “Do you consider the conflict you were involved in as resolved?” (37.4% from the Roma community or 34 respondents and 28.1% of pre-detained minors or 39 respondents). Whereas the school respondents have answered “yes” or “no” with the positive answer reaching 69.5% (or 386 respondents). As the table demonstrates, the Roma community children and juveniles and the pre-detained minors show hesitation upon being asked to answer questions regarding the conflictual situations they were involved in.

| | Roma community | Pre-detention | School |
|------------------|----------------|---------------|------------|
| Yes | 54,9 | 58,3 | 69,5 |
| No | 7,7 | 13,7 | 30,5 |
| No answer | 37,4 | 28,1 | 0,0 |
| Total (%) | 100 | 100 | 100 |

Table no.10: Considerations regarding conflict resolution

The respondents, who have answered that they have solved the conflict they were involved in, were asked the question “Have you made contact with the party you had conflict with, after amicably resolving the dispute?”, the majority of Roma community respondents has answered “Yes” (92.6% or 50 respondents), and the majority of school respondents as well (73.4% or 348 respondents). The data from the category of pre-detained and detained children and juveniles who state that despite the conflict resolution, they can’t make contact with the other party (31.4% or 27 respondents) are significantly important.

| | Roma community | Pre-detention | School |
|------------------|----------------|---------------|------------|
| Yes | 92,6 | 68,6 | 73,4 |
| No | 7,4 | 31,4 | 26,6 |
| Total (%) | 100 | 100 | 100 |

Table no.11: Making contact with the conflicted party

Then, the respondents who have positively answered to the above question, were asked to describe the number of times they have met with the other party and from the answers we see that the majority of respondents have answered “occasionally” (46.5% of respondents or 257 respondents).

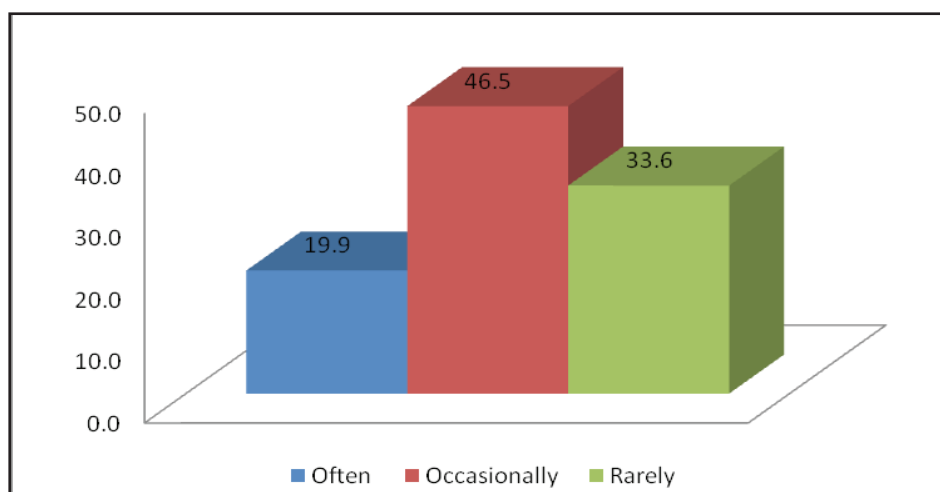


Chart no.13: Frequency of meeting the conflicted party

“Occasionally” is the answer we more frequently find among children and juveniles from Roma community (45.3% or 24 respondents) and among children and juveniles in schools (48.4% or 210 respondents). The category of children and juveniles in pre-detention or detention centers have reported higher frequency of “scarce” communication with the conflicted party (37.9% or 25 respondents).

| | Roma community | Pre-detention | School |
|------------------|----------------|---------------|------------|
| Often | 39,6 | 27,3 | 16,4 |
| Occasionally | 45,3 | 34,8 | 48,4 |
| Rarely | 15,1 | 37,9 | 35,3 |
| Total (%) | 100 | 100 | 100 |

Table no.12: Frequency of communication with the conflicted party per category

Regarding the question “*In your opinion, who is the most suitable person in assisting you with the conflict resolution?*”, the minors participating the study, have stated three main sources of assistance: a member of the family (47.2% or 435 respondents), a professional neutral mediator (18.9% or 174 respondents), a friend (14.2% or 131 respondents). Such findings are very significant, as they show the tendency of children and juveniles, especially those who have already been part of the mediation and restorative justice program, to trust the program.

The data divided in three categories of respondents, revealed that the children and juveniles in pre-detention and detention centers (48.5% or 63 respondents) as well as the ones in schools (49.5% or 347 respondents) consider the family member as the most suitable person in assisting them in a conflictual situation. Whereas the respondents from the Roma community in the majority of the cases (33.7% or 30 respondents) believe the most suitable person to be the professional, neutral mediator. Nonetheless, a family member (28.1% or 25 respondents) and a friend (22.5% or 20 respondents) are still considered suitable alternatives. Apparently, this category of respondents, who have been or are part of the mediation and restorative justice program, have established a sense of confidence toward the mediator as a neutral expert.

| | Roma community | Pre-detention | School |
|---------------------------------|----------------|---------------|------------|
| A police officer | 3,4 | 4,6 | 4,7 |
| A friend | 22,5 | 25,4 | 11,1 |
| A family member | 28,1 | 48,5 | 49,5 |
| A teacher | 3,4 | 3,1 | 1,6 |
| A professional neutral mediator | 33,7 | 13,1 | 18,1 |
| A psychologist | 3,4 | 3,1 | 4,0 |
| A lawyer | 2,2 | 1,5 | 8,3 |
| A social worker | 3,4 | 0,8 | 2,7 |
| Total (%) | 100 | 100 | 100 |

Table no.13: The most suitable source of assistance in case of conflict, per category of children and juveniles

The findings of the survey also shed light on the fact that despite of being or not being helpful programs, the children and juveniles who have participated the survey (roughly 85% or 840 respondents) are willing to accept the mediation as an alternative to resolving the dispute or to get

involved in the restorative justice programs. The question “*Will you be willing to accept mediation or to get involved in restorative justice programs as viable alternatives for conflict resolution?*” has received in the majority of cases a positive answer from all three categories of respondents. The findings are presented in the table below:

| | Roma Community | Pre-detention | School |
|-----------------|-----------------------|----------------------|---------------|
| Yes | 92,0 | 84,1 | 84,8 |
| No | 8,0 | 15,9 | 15,2 |
| Total(%) | 100 | 100 | 100 |

Table no.14: Acceptance of restorative justice programs

Moreover an equally important percentage of respondents in the survey process (87% or 856 respondents) have stated that they would be willing to recommend the mediation and restorative justice program to friends and relatives.

The table below presents the frequencies for all the three categories of respondents. As it is clear from the table, the respondents from the Roma category reported higher positive percentages (93.3% of the Roma children and juveniles who have answered this question or 83 respondents) compared to other categories. The question: “*Would you be willing to recommend the mediation and restorative justice program to friends and relatives?*” was answered this way:

| | Roma community | Pre-detention | School |
|------------------|-----------------------|----------------------|---------------|
| Yes | 93,3 | 79,7 | 87,6 |
| No | 6,7 | 20,3 | 12,4 |
| Total (%) | 100 | 100 | 100 |

Table no.15: Recommending restorative justice to others

The last question in the questionnaire aimed at collecting data regarding the perception of the respondents on the efficiency of the mediation and restorative justice program. The question “*Do you think that if you were involved earlier in time in the restorative justice and mediation program, you would have avoided the committing of criminal offence?*”, which was directed to those who were involved in conflicts and/or had committed criminal offences, was answered as “don’t know” in the majority of cases (52.7% or 512 respondents). This profile of answering is clearly observed among the three categories of respondents. (The chart below).

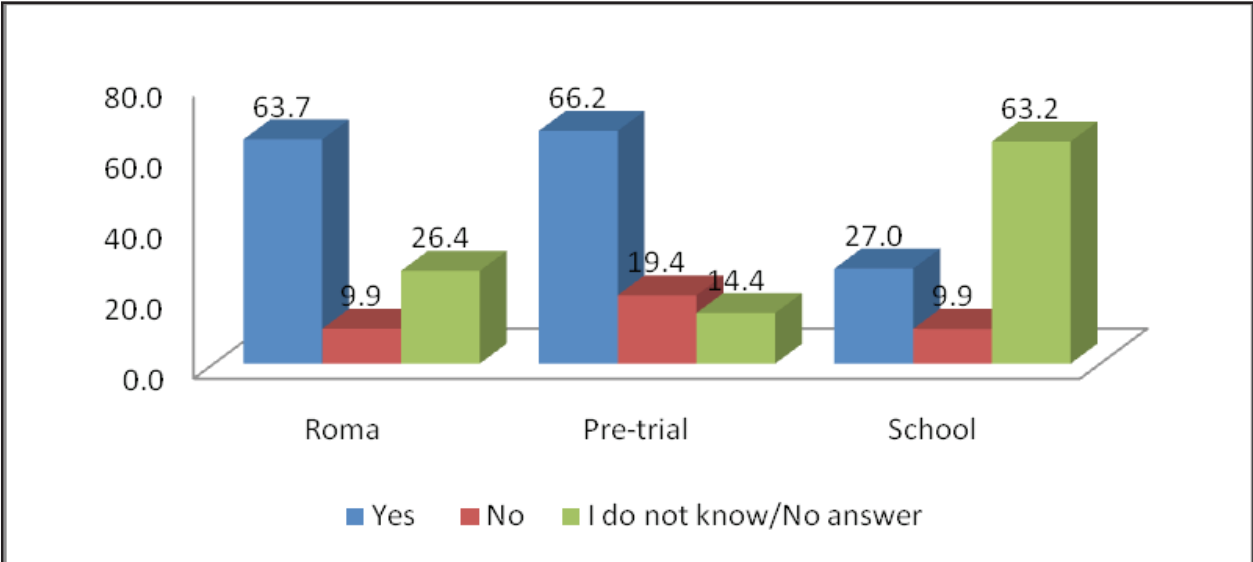


Chart no.14: Awareness regarding the preventive effects of restorative justice

The chart shows a low level of awareness among children and juveniles regarding the positive preventive effects of restorative dialogue in reducing the potential of getting involved in disputes and criminal offences and deviation from recidivism, which still constitutes a challenge to be overcome.

4.2. Qualitative data analysis

4.2.1. Data collected from interviews

4.2.1.1. The impact of the Restorative Justice on the minors involved in the penitentiary system

This subchapter aims at analyzing the perception of the professionals in the field over the impact of the mediation and restorative justice on the diversion of children and juveniles from the penitentiary system and how the application of this justice impacts the reducing the level of conflictuality and recidivism.

From the collected data, it results that some of the respondents were already informed about restorative justice and mediation. They have attended several training sessions organized during the course of the project, while involving facilitators, supporters and partners in providing the necessary expertise on restorative justice.

There is also a number of young professionals who had no information and who are very interested in having information on this issue.

The interviewees report that restorative justice offers the opportunity to achieve the right balance between the needs of the victim, of the offender, and of the community, by actively including the parties in the justice process as much as possible.

“It is very important for the mediator to be a qualified, professional and competent person, with the right qualities and skills in order to offer the best possible mediation service” (Education worker, Korçë).

The interviewees state that the harmonization of the criminal legislation is essential for functional and applicable restorative and mediation practices regarding minors in conflict with the law.

Police officers openly express their concern regarding the gap that exists in the procedure of referring a case for mediation.

“When I refer a case to mediation, what should I do with it? Should I report it to the prosecutor’s office, while the mediation process is underway, or should I stand by for the mediator’s response over the case progress? Is it my responsibility, if a party complains about the case not being handed over to the prosecutor’s office and if the case eventually reaches the prosecutor’s office and then the court, then parties face criminal justice. I am of the opinion that legislation should be improved in favor of restorative justice.” (Police Officer, Durrës).

The education workers at I.E.P.V are of the idea that the legislation should be improved in such a way that the settlement agreement directly impacts on the leniency of minors’ sentencing. Many of the minors who have conflicts with parties outside the institution are interested in obtaining sentence reduction, if there is a settlement agreement between the two parties.

In some cases, certain interviewees have reported an important form of mediation, that of victim-offender mediation, which offers the victims a chance to meet the offender in a safe environment and allows for a mediated discussion to happen between them. The engagement of parties toward a common end makes it easier for the parties to reach a solution that satisfies both parties.

Assisted by a professional mediator, the victim is able to reveal to the offender the physical and emotional effects and financial damage, while making it possible for the development of a plan for the financial reparation to the victim.

Mediation is considered as a viable way as it would prove to be very helpful to the Albanian society, taking into consideration its context, culture, mentality and level of conflictuality. The interviewed experts consider mediation a form of intervention, which addresses the problem and avoids escalation of further conflicts.

The interviewees are of the opinion that restorative justice programs reduce the potential of recidivism among minors because these programs make it possible for the minors not to see the sentence as a punishment but to benefit from the sanctions and measures, which bear an educational impact. Restorative justice is based on reconciliation and not on punishment. It is based on the offender taking on responsibilities and the victim's involvement in negotiating the agreement.

During the interviewing process, the education specialists in the pre-detention centers of I.E.P.V, reported the barriers that minors were experiencing in understanding the positive results of the activities which aim at the reparation or change in behavior. These barriers are linked to the low level of minors' education, their poor family background. The education workers suggested that restorative interventions have a bigger impact when minors are able to experience the results of their actions: *"to learn from experience"*. They deem as very important the sharing of experiences. They also emphasized the need for restorative programs, which open up possibilities for the minor to live emotions that happen as a result of their actions.

In general, the interviewees report that restorative justice is an indispensable alternative, which might be used by the minors' families. There are many cases when families are not willing to resolve disputes because of traditional pride or family pressure, etc. Problems are often so minor that they might quickly be solved through mediation and not escalate into more serious forms.

"Sending a minor to the prosecutor's office or at the police station exerts a psychological pressure on the minor. It causes family stress as well. The minor should be treated in another way. He/she should not be immediately detained. The prison should be seen as a last resort." (Probation officer, Lezhë).

According to the interviewees, detention is one of the heaviest alternatives imposed on the minor and it does not always give the expected effect. This is one of those measures that creates prejudices and which brings about discrimination and exclusion, even when minors try to change and integrate into the society.

"The person stole certain items from a shop and as a result he was detained and sentenced to 2 years in prison. After serving the sentence, he applied for a job as a cook. The court refused to issue

an official document whereby it would show that he was not subject of a judicial review and that he had served the sentence and was now on probation upon reporting obligation". (Probation Officer, Lezhë).

School is also considered an important institution in developing the mediation process, as this alternative increases the potential of preventing conflicts and the escalation of those disputes into violence and consequently criminal offences. The interviewees report cases where schools have asked for the support of people trained by the program in conflict resolution, without feeling the need of referring the case to the police. Mediation in schools, by using a balanced approach through restorative justice, enables the students to accept responsibilities for their actions in school.

During the interviews, the participation of the community in restorative interventions is deemed as necessary and it is also emphasized that, for the moment, community involvement is inexistent in the majority of cases. There is a tendency toward individualism in community, with people focusing on their problems. Communities where people show individualist approach cannot evaluate the role that they play in supporting minors for shaping their personality and identity and to offer opportunities aiming at crime prevention. Raising community awareness is considered very important.

In general, the perception and the opinion of experts who were interviewed are in support of the need for harmonizing criminal legislation, as it is essential for functional and applicable restoration and mediation practices regarding minors in conflict with the law.

4.2.2.2. Acknowledgment of factors that are related to recidivism, as a prerequisite for the implementation of restorative justice

The acknowledging of risk and protection factors is very important in order to understand criminality and recidivism among minors. This understanding helps in focusing on efficient interventions in order to prevent or reduce recidivism among individuals or groups that are faced with these factors. The identification and understanding of these factors helps in planning and designing interventions that develop the individual's potential to break off from or to prevent involvement in criminal activities.

Following the same logic, the interviewed experts say that understanding the recidivism-related factors is considered as a very important prerequisite in the application of restorative justice programs among recidivist children and juveniles.

They further report on criminal offences the minors are mostly involved in, such as: theft, extortion, illegal arms bearing, insult through social networks, bullying, unlicensed driving, drug trafficking, wounding, non-serious injury, and even murder or accomplice in murder.

Different studies have revealed that there is a number of factors belonging to the individual, family, school and community circles that impact on the minor becoming a recidivist. (Chung and Steinberg, 2006; Frederick, 1999; Katsiyannis and Archwamety, 1997).

The interviewees state that demographic features such as: gender, age, race and ethnicity are closely linked to the level of recidivism. Factors such as family, peers and school are accepted as factors that impact on recidivism. The same applies to the drug abuse and untreated mental health problems. Family problems such as: divorce, unemployment, family disputes cause recidivism and lack of attention toward minors, aggravating the conviction and sentencing.

According to interviewed experts, the low motivation, poor school results, the high number of school drop outs, and bad school conditions are risk factors. The study has found that recidivists are mainly convicted of murder and other repeated criminal offences, the cause of such a relapse being the difficult living conditions, lack of continuous education, parental negligence, and association with deviant peers.

“The economic conditions and parents’ employment are among the causes. 90% of the recidivists come from this category. The juvenile has no proper living conditions, no opportunities to meet his/her needs, such as clothing or other needs that come as a result of peer pressure... and therefore he/she “is obliged” to become deviant.” (Education worker, Kavajë).

Another cluster of features related to recidivism have to do with the environment surrounding the juvenile. Studies show that socially disorganized communities do not possess informal means of social control and consequently crime and delinquency goes rampant. According to the findings, recidivism probability and the type of juvenile crime depend on the community the juvenile will reside in after serving the sentence. The association with peers that are involved in deviant acts increases chances of a relapse on juvenile recidivism.

“There are minors who boastfully come for a third time.” (Education worker, Kavajë).

4.2.2.3. The importance of recognizing internal protective factors of minors in order to implement restorative justice for children and youth in contact with law

The identification of protective factors of minors makes the application of restorative justice more accommodating because it points out all internal and external sources, which help in addressing the issues. These protective factors are considered important for the establishment of the road of progress that will help the children and juveniles in becoming healthier, more careful and more responsible. The more assets at minors’ disposal, the more likely it is for them to opt for a healthier lifestyle, to take less dangerous decisions, and to be productive members of the community. Some of the identified and reported protective factors are as follows:

- **Motivation for better results in school.** The interviewees consider school as a very important institution for the reduction of the recidivism and for the change that it might bring along with other institutions to the life of the juveniles. In general, parents are supporters of the school and they want their children to continue their studies because a better education serves to better employment chances.

“Education plays an important role in reducing the number of children in contact with the law and consequently in reducing recidivism. Among recidivists, we observe a low level of education, 4th or 5th grade level. (Education worker, Kavajë).

Search Institute has summarized the following internal protective factors:

- **Honesty.** It is an indicator that the minor wants to reflect and to ask for the support of professionals. As they put it, the minors are struggling to identify and rightfully understand the situation they are in.
- **Accountability, acceptance and personal responsibility.** The minor analyzes the situation and accepts the blame. This helps the professionals to better work with the minor.
- **Interpersonal abilities.** There are minors who show signs of empathy and who seek to establish contacts with education workers and peers as well.
- **Conflict resolution skills.** The juveniles who identify non-violent forms of conflict management show a very important individual factor, which might keep them away from dangerous situations.
- **Positive prospect.** This is closely related to what the minor’s expectations are after serving the sentence and to the support granted to the minors in order to boost their self-confidence. It is the professionals who need to orient the minor toward the identification of the individual sources.

4.2.1.4. The importance of recognizing external protective factors in order to implement restorative justice for children and youth in contact with law

The interviewees state that the external protective factors are related to a very important element, which has to do with involvement of the community and other external actors that set the common ground for the application of restorative justice. The external protective factors make it possible for the minors to build their capacities and to gain a sense of belonging. The involvement of the community forges bonds from within, which may become support for the minors even after they leave the system.

- **Positive communication at family level and support provided by the family.** The interviewees state that there are parents who show great interest in child rehabilitation. On the other hand, there are also parents, who due to distance, poverty and other reasons, do not show great interest and do no help in the process of their child’s rehabilitation and education.

“Occasionally, there were parents, especially fathers, who, because of their pride, did not show interest in the children because their actions have dishonored them. Collaboration is very important for us, but we don’t often have that opportunity.” (Education worker, Kavajë).

Collaboration with the family is very important because family is the one that follows and checks upon the child's behavior and actions. The family sets the boundaries and leads the process of child's upbringing and development. Sometimes, the family superficially addresses the issue. It is satisfied with only the high risk prevention and does not consider the essence of the problem.

- **Supportive and considerate community** helps the minor to integrate more easily and more quickly after sentence serving. In general, it is reported that the community creates a discriminating, judgmental and non-supportive atmosphere regarding the minors and their families.

“As far as the case of Alban is concerned, we have tried to have him employed in a local firm, but no one accepted him. There is lack of supportive services for the minors that come out of prison.” (education expert, Drenovë, Korçë).

- **Service to third parties.** Community work is one of the alternatives offered by the probation service to the minors. In general, the interviewees report that alternative sentence implementation should be one of the most utilized forms for minors. Alternative sentence implementation should go side by side with training programs on juvenile behavior and attitude change.

Search Institute has summarized the following external protective factors, which are also mentioned by the interviewees:

- **Positive school atmosphere.** As reported by the interviewees, school is one of the institutions with the most important impact on juvenile behavior and education, not only at knowledge level but at a human level as well. The more engaged the minors are in the education process, the less likely it is for them to get involved in dangerous/deviant behavior.
- **Social, economic security.** Poverty, unemployment, family problems are all factors that bring about insecurities and instability in the minors' upbringing and development.

“Employment reduces recidivism. Juveniles are less interested in being hired part-time. “What am I supposed to do with 100 thousand lekë?!” – they say. Consequently, they find the easiest shortcut – theft.” (Education worker, Kavajë).

- **Family boundaries, control and support to the minor.** The interviewees report that there are families, which do not show any interest in their children, and do not believe they can change the child's behavior by letting institutions take on that responsibility.

“I can tell you of a minor who tells us: Wait and see, in 7 days time I'll be back as I don't have anywhere to go.” (security worker, Kavajë).

- **Positive peer influence.** Peers have a big impact on minors. Involvement in peer groups that engage in delinquent behavior increases the level of risk among minors.

4.2.1.5. Interventions that address the decrease of recidivism among minors. Restorative justice, an efficient way

Recent studies show that restorative justice has proven to be very effective in addressing the issue of recidivism (Hayes and Daly, 2003; Maxwell and Morris, 2001; Sherman, Strang and Woods, 2000). Among these studies, there is also a meta-analysis study of 35 restorative justice programs which shows that these programs were more effective than the traditional supervising correctional programs of in the reduction of recidivism (Latimer, Dowden, and Muise, 2005).

Based on the collected data, it is reported that recidivism might shrink if the right amount of attention is dedicated to those minors who finish serving their sentence or pre-detention period. Appropriate living conditions should be set up for those minors who live in difficult financial conditions, who do not live in established families, or who face different problems.

Studies reveal that minors' detention or the application of coercive measures such as placement in correctional facilities is a very painful process for every child as they damage the child development and they are counter-productive to their socialization. Interviewed experts state that child support services should be provided in cooperation with the family. The strengthening of the family is a very important element for the whole support process, which should continue to be offered to the recidivist minors. Furthermore, it is generally accepted that freedom denial has rarely resulted in an efficient measure regarding the rehabilitation, re-integration and prevention of further violations. On the other side, the studies in this field suggest that juveniles have more opportunities to get rehabilitation than adults because their personality is still under development, and their brain keeps changing.

“We have seen a phenomenon. Many of the minors, who are detained here for a few days, see this institution as a place they may come back to.” (pre-detention worker, Vlorë).

Juvenile justice comprises many issues such as: delinquency prevention, law enforcement, adjudication and rehabilitation through different alternatives such as mediation, restorative justice, etc. Juvenile justice administration is a field that demands the combination of criminal and social policies, aiming at child protection and treatment.

Measures such as: observing of rights, protection from abuse and exploitation; education; health care; physical, mental and social well-being; help in keeping children away from crimes and are also essential in dealing with minors in contact with the law.

The right intervention for minors who are involved in a criminal offence for the first time is diversion from the criminal justice system and support of the rehabilitation and correctional programs. Whereas, more attention should be given to the recidivist minor.

“The legislation should be more beneficial, and more lenient regarding juvenile conviction”(Police officer, Shkodër).

The combination of criminal policies with other policies in the field of education, strengthening and supporting families, mental health, vocational education and juvenile employment is considered as the most appropriate and efficient intervention for reducing juvenile recidivism. The majority of

the interviewees report lack of services when juveniles finish serving their sentence and walk out of the institution.

“When the juvenile walk out of the institution, he/she is accompanied by an expert and it might be that things have changed when they return to their families. Once, we accompanied a child home, and when he saw his stepfather, he decided not to stay.” (education expert, Drenovë, Korçë).

According to the data collected, a number of Institutions of Verdict Execution offer different services such as: juvenile education, foreign language classes, wood working, plumbing classes, educational activities, sport activities, art therapy, etc.

Some of the institutions that offer services to juveniles are different NGOs such as Meridia, the Foundation for Conflict Resolution and Reconciliation of Disputes, the Center of Integrated Legal Practices and Services, “Përthyerje” Association, religious organizations, etc.

There is a great need for assistance and cooperation with different institutions because there are cases when minors have no family support, they lack parental contact or they leave the rehabilitation/detention institution having nowhere to go.

“Another minor from Rrogozhina who is here, says: “What am I suppose to do at the trash bins?” Actually, he eats properly here, and he changed. This category of minors feels anxious about the world outside the institution. Where are they supposed to go? Where to head to?” (security worker, Kavajë).

Probation officers report difficulties during their work with the juveniles. Many of the cases they had followed face economic hardships. They reside far away and cannot take their children to the show at the probation office as requested by probation officer. Working with juveniles is more difficult because they can't show up. on their own. They have to be accompanied by parents/custodians.

The information, that probation officers collect regarding the minor's family, is rather superficial, and this comes as a result of the large number of cases they deal with and the limited staff available. These officers develop the risk assessment system for the juvenile and an individual treatment plan, but there are no special follow-up plans for minors. Minors can't access the services because of distances and because of the lack of these services in the cities they reside in.

“There is only one Vocational Training Center and that one is in Elbasan. The juveniles from other cities cannot go to attend classes there due to economic issues.” (Probation Officer, Elbasan).

The Probation Service in Shkodër implements a particular program for juveniles. For two months now, in cooperation with non-governmental organizations, several focus groups aiming at awareness raising and informing juveniles and parents, and several individual counseling and support sessions aiming at offence deviation have been organized. The Probation Service cooperates with the Qark and Municipality of Shkodra, with the Child Protection Unit, and Regional Education Directorate in dealing with real juvenile cases. In the process, they have reached out for cooperation with the businesses for integrating in the labor market those juveniles who have finished serving their sentences, but who face difficulties due to prejudices over the criminal offences they have committed.

The Child Protection Unit at commune/municipality level is a very important mechanism that might help the juveniles for a better integration in the society and their families to be strong enough and better assist them. From the data collected, there is no cooperation with this service in the majority of the cases.

The interviewed specialists report a low level of cooperation and engagement of different actors for the addressing juveniles' needs. In the service chain set up to better serve those needs, not all service providers give enough contribution. The referral systems are not functional or in other cases the service providers don't always have the information as to where the minor is supposed to go in order to obtain this service.

As it was highlighted at the beginning of this study, the restorative justice system contributes to the achievement of primary needs of child and juvenile offenders, more importantly of the community life motivation. In this perspective, the provision of Victim-Offender mediation and restorative justice program should constitute an important cooperative link among other links offering services to children and juveniles in contact with the law.

4.2.2. Case studies of conflict resolution through restorative justice program

The objective of this chapter is to illustrate more specifically the resolution of a number of disputes through mediation, abiding by the principles of restorative justice, in achieving the third objective presented in the introduction of this study.

The cases are purposefully selected from all the cases that were resolved through mediation in the framework of "Institutional Development of Restorative Justice and Victim-Offender Mediation for the Juveniles in Albania" Project. In these cases, at least one of the parties involved is between the 14-21 years old.

The below cases are referred by various sources and contain conflictual elements of different origins. Such a selection of cases helps in proving that mediation and restorative justice cover a wide range of issues, and through specific techniques, they infiltrate the human relations, transforming them into constructive relations.

The first case is referred from the Police Directorate of the Qark of Durrës and the subject of the case is a conflict at public high school. The second case is referred from the Roma community in Shkodër and it has to do with a conflict between two juveniles from this community. While the third case is referred from the Institution of the Execution of Penal Verdicts in Vlorë and it deals with a conflict between two minors at the pre-detention center.

In all the three cases, the application of restorative justice, along with mediation, has resulted in the resolution of the case and in the improvement of relations between the parties involved. In this context, the restorative justice is not only a real instrument in dealing with cases, but also an education process which aims at cultivating the sense of apology and tolerance, of harmony and agreement among minors, contributing in establishing a peaceful and emancipated society.

Case no.1

Summary of the dispute

The parties in conflict are two teenagers, a 16-year-old girl and a 17-year-old boy, attending a high school in Durres. Despite of the fact that both went to the same school, they had no social contact with each other. The boy knew the girl as the friend of girls he lived in the same neighborhood with. The girl didn't know the boy. The conflict started when the boy wrote messages to the girl via Facebook. At the beginning, the boy wrote to ask the girl regarding a friend request he had sent to a friend of hers. The girl answered to these messages by making it clear that she didn't want to engage in certain conversation because of him being a complete stranger to her. The boy insisted on his demands, threatening the girl that if she didn't answer back, he would take revenge. In order not to receive other messages from him, the girl "blocks" him. In a couple of days, the girl is told by her friends that there were pictures of her circulating on facebook bearing offensive language against her. Because of this, the girl, feeling ashamed and upset, decided to skip school for a couple of days. In the meantime, the family of the girl has noticed disturbing signs in her behavior. After a week of absence from school, the girl decided to return, but during one of the classes, a teacher asked her about the video clip that was circulating bearing her name. This is the moment the news breaks to all students. The girl, feeling the pressure, reports her case to the police station.

The police officer contacts the parents of both teenagers and with their consent refers the case to mediation.

Preliminary session

The mediator, after receiving the reference letter from the police, made contact with the first party, the father of the girl and with the girl. The party showed no hesitation in leaving an appointment with the mediator. This meeting took place in the school of the teenagers, at the headmaster's office, in the presence of the school's headmaster and psychologist and with the consent of the party. During this meeting, the girl went into the details of the situation. She expressed her resentment not only toward the boy who had circulated the video material but toward the teacher as well who rushed into asking the girl in that way. By evaluating the case, the mediator decided to deal with the case in two dimensions: the dispute between the girl and the boy, and the second dispute between the girl and the teacher. The mediator talked with the teacher and set an appointment with her. During the meeting, the teacher told the story in details and accepted the fact that she had handled the situation in an unethical way and involuntarily harmed the girl.

In a next step, the mediator met with the boy and his father. They both approached the mediation office and they were presented with the goal of the mediation. The father was very cooperative. During the meeting, the boy told his side of the story and expressed his regret for this situation.

The joint session

In the joint session between the girl, her father and her teacher, in the presence of the headmaster and the psychologist, the mediation was carried out in the form of “community conference”. The teacher accepted her responsibility and she promised to show more discretion when communicating with the girl and with students in general.

After that, the mediator talked with the father of the boy and set an appointment with him and the other party (the girl and her father). The girl came to the joint session accompanied by her mother. This meeting was attended by her teacher, as well. It is worth mentioning that both the boy and his father showed no hesitation in apologizing to the girl and they promised not to disturb her in any way in the future. The parties, including the teacher, signed the settlement agreement. The father of the boy stated that the mediation was very helpful as on his own he was having difficulties in approaching the girl’s family not knowing how they would react. He said that he was feeling morally alleviated.

Post mediation

It is a routine practice that after every resolution, the mediator meets with the parties in order to see how their relationship has progressed and whether the agreement has been enforced. The mediator met with the parties in two weeks time in one of the bars near the school. The relationship has been normalized. They were living in harmony and were satisfied with the result of the mediation process.

Case no.2

Summary of the dispute

A, 16 years old (Party I) and B 17 years old (Party II) are neighbors. They are friends, but they work together as scrap collectors after school. One day, after the daily scrap collection, both A and B saw that A had collected more scrap materials than B. Then they started arguing over the money they obtained from the sale of scrap. Usually, they would equally divide the profit, but that day was different as the parts were not equal. At the beginning, they argued verbally. Party I insulted the other party, and then punched him. Because of this, and because he got angry, Party II took a metal object and knocked Party I on the shoulder, wounding him. Several boys of the neighborhood intervened to cool them off and then talked to the representative of the Roma community who works with the mediation office. After presenting the parties with the mediation process, and with their consent, the representative referred the case to the mediation office.

Preliminary session

The mediator made contact with the parents of the first party and set an appointment with them and the boy, we referred to as Party I and his father showed up at the meeting. Party I told his side of the story and dispute with the other party. The father was very anxious regarding the situation, not only because Party II, having worked less, had no grounds for their claim to demand equal amounts of money with his son who had worked more, but also due to the violence that the II Party had shown, he still feared the well-being of his son. The mediator noted everything down and at the end of the session he prepared a summary report containing all issues discussed there. The meeting lasted for 80 minutes and it was carried out in amicable and peaceful atmosphere. Then the mediator made contact with the parents of the other party and set an appointment with them. The meeting with the other party was also carried out in a peaceful and amicable atmosphere. The second party explained the situation and insisted on equal profits from the sale of scrap metal regardless of the fact that they didn't bring in the same amount that day. Certain differences in amount were compensated in other days. Whereas, regarding the physical violence inflicted upon the I Party, the II Party was willing to apologize and for the spanking. The mediator filed a report for this meeting as well. This meeting lasted for 1 hour and a half.

After these separate sessions, the mediator invited the parties to enter the joint session.

The joint session

The joint session was carried out in a peaceful and amicable atmosphere. Both parties were accompanied by their parents. The mediator showed both parties the rules to be observed during the meeting. Parties tried to keep calm and to carefully listen to each other with no interruptions.

Parties agreed for the money regarding the sale of the scarp material to be redistributed upon compensation on the next sale and from that moment on the business rule would be: "profits should be distributed according to the amount of scrap metal collected." Furthermore, the I Party apologized to the II Party regarding the insults, the verbal and physical violence, and the II Party apologized regarding the spanking, and wounding. The parties promised each other not to engage in similar acts again.

Post mediation

The mediator made contact with the parties within 10 days and met them in one of the bars near their neighborhood. The relationship has been normalized. They were living in harmony and were satisfied with the result of the mediation process. Parties filled in a satisfaction form to evaluate their perceptions of the mediation process.

Case no.3

Summary of the dispute

D, 18 years old (I Party) and E, 17 years old (II Party) are two boys who are at the pre-detention center in one of the Institutions of the Execution of Penal Verdicts in Albania. The conflict between them started in the gym, where juveniles go to keep fit following a program approved by the I.E.P.V. The II Party is a member of the center for some months now, and despite being new in the community, he has difficulties in communicating with the other minors. Being unaware of the rules regarding establishment of good relations with the minors in I.E.P.V, he engaged in verbal argument with one of them, who was using one of the gym instruments. He started using offensive language in order for the other party to allow him to use the instrument. The I Party responded with the same language. This caused the II Party to get angry and consequently he tried to pull the other party away from the instrument, involuntarily kicking him with the arm in the stomach. After this reaction, the II Party didn't even bother to apologize and he continued with the insulting language. This action made the I Party react. He was a recidivist and, for quite a long time, a member of the Institution. Being more physically developed and more agile, the I Party took over, pulled the II Party and kicked him with fists and feet, hurting him. The intervention of the Security Guards put a stop to the fight and with the consent of both parties, the case was referred to the Mediation Office.

Preliminary session

The mediator appointed to this case carried out separate meetings with each party. Both meetings were held at I.E.P.V premises, attended by the Social Service officer who had referred this case to the mediation services.

The meeting with the I Party was a quiet one and it lasted 40 minutes. The I Party told his version of the story. He stated that he was involved in the conflict by chance, but the behavior of the II Party was provocative, hence the fight.

The II Party, in his separate meeting with the mediator, claimed that nothing he did was intentional, but by accident and because of feeling nervous in the new environment, he had reacted that way. The II Party felt it difficult to forgive the other Party due to the pain he was still experiencing because of the violence the I Party had exercised against him. This meeting lasted 35 minutes. Then parties were invited to attend a joint session.

The Joint Session

The joint session was held in friendly environment at the I.E.P.V premises. The parties were already familiar with the rules of the session, but the mediator re-presented them. The first party took the initiative to give an alternative for the resolution of the dispute, by extending an apology

regarding the exercised violence against the II Party, but at the same time asked from the II Party not to engage in same acts again. The reaction of the II Party was impulsive and he showed insecurities, but the overall process was normal. The II Party forgave the I Party and promised that he will not engage in provocative actions against the I Party again. Both parties smoothly communicated with each other, promising no future disputes. In the end, both parties willingly consented to signing the settlement agreement. The meeting lasted 50 minutes.

Post mediation

Within 14 days, the mediator made contact with the parties and with the Social Service Officer of the I.E.P.V where the dispute had taken place and asked for information on the relationships between parties. The Social Service Officer stated that the relationship between the minors had come back to normal and that they were satisfied with the result of the mediation. The juveniles peacefully engage in joint activities at the I.E.P.V and they are seen being in the same place without engaging in any problematic behavior.

5. CONCLUSIONS

This section presents a summary of the conclusions of the study. Based on the findings of the survey, we observe that:

- The majority of the surveyed children and juveniles are involved in different conflicts especially with their peers, as natural tendency of the everyday life.
- The quantitative data of the study showed that in general, the involvement of girls in conflicts or deviant behavior is lower than that of boys. In the city, the number of children and juveniles involved in conflicts is bigger than in villages or suburban areas. We also observe that the group of children and juveniles with 9th grade education have stated that they engage more in conflicts compared to the other groups.
- The study indicated that 652 out of 1037 respondents have stated that they already have information about restorative justice, but only 28.4% are involved in or have benefited from this program.
- It is of great interest the fact that among the children and juveniles who are under judicial proceedings and are charged with criminal contravention, 59.5% claim to have information about mediation and restorative justice and 25% of the children and juveniles who are facing court proceedings have benefited from this program.
- The majority of the minors, who have answered that they have benefited from the mediation service and restorative justice program, come from the Roma community (40% of the respondents from the Roma community) and the children and juveniles in pre-detention and detention centers (35.1% of the children and minors in pre-detention and detention centers). These categories, among others, were in the focus of the mediation and restorative justice program.
- The data divided in three categories of respondents indicated that children and juveniles in pre-detention and detention centers (48.5%) and those in schools (49.5%) are of the opinion that the family member is the most suitable person that would help them in conflict resolution, whereas the respondents from the Roma community in the majority of cases (33.7%) trust a neutral and professional mediator.
- The data collected indicated that whether program's beneficiaries or not, the respondent children and juveniles (roughly 85%) are willing to accept the process of conflict resolution through mediation and to get involved in the restorative justice program for solving their conflicts.
- Furthermore, an equally significant part of the respondents (87% or 856 respondents) have stated that they would be willing to recommend the mediation service and restorative justice program to friends and relatives.

- The study indicated that there is a low level of awareness among children and juveniles regarding the preventive positive effects of the restorative dialogue in reducing the probability in getting involved in conflicts and criminal offences and in diversion from recidivism, which still remains a challenge to be overcome. Around 52.7% of the respondents state that they do not know whether their involvement in the mediation process and the restorative justice program would have diverted them from committing criminal offences.

On the other side, from *the direct interviews and focus groups* with the experts of the field, the study indicated that:

- A conclusion drawn is that the children and juveniles who are involved in serious conflicting situations, such as criminal offences or contraventions, come from socially marginalized categories, from poor social groups, or from families of lower socio-economic status compared to the general number of the children and juveniles who participated the study. This conclusion is more defined from the detailed interviews with specialists who treat children and juveniles in contact with the law than from the survey process.
- Part of the interviewees have information about the mediation and restorative justice program, have already been trained regarding these issues and have been involved as partners in providing the restorative justice program. There is also a part of young professionals who do not have any information and are very interested in acquiring information regarding these issues.
- The interviewees report that restorative justice allows for establishment of a balance among the needs of the victim, the offender and the community by actively engaging them in the process of justice as much as possible.
- The interviewees assess that the restorative justice programs reduce the probability for recidivism among juveniles.
- Restorative Justice is considered by the interviewees as an alternative which should be accepted and used more often especially for minors in contact with the law, and not only. It carries in itself the prevention of the escalation of the conflictual situation, the normalization of the human relations, time and cost saving, etc.
- School is considered from the interviewees as a very important institution for the development of the mediation process, as it is an alternative, which increases the chances of problem prevention. The interviewees report of cases when schools have asked to be assisted by persons who are trained by conflict resolution programs, without resorting to reporting the case to the police.
- The interviewees report that the need of community participation in restorative interventions is of primary importance. They emphasize that the community involvement is lacking in the majority of cases. Raising public awareness is deemed as necessary.

- The identification of protective (internal) factors among juveniles helps in better application of restorative justice. Some of the protective factors, identified and reported by the interviewees are: motivation for better school results, honesty, responsibility, interpersonal abilities, conflict resolution skills, positive prospect.
- The study has also indicated that understanding external protective factors is very important for the application of restorative justice among children and juveniles in contact with the law. According to the interviewees, these factors are closely related to an important element, which has to do with the involvement of the community and other external actors which set a suitable ground for the restorative justice application.
- The interviewees indicated that the right intervention in favor of the minors who have committed their first criminal offence is diversion from criminal justice and assistance by the rehabilitation programs and restorative justice.
- The study's qualitative data indicated that the combination of criminal policies with other policies in the field of education, strengthening and supporting families, mental health, vocational education and juvenile employment is considered as the most appropriate and efficient intervention for reducing juvenile recidivism. The majority of the interviewees report lack of services when juveniles finish serving their sentence and walk out of the institution.
- Another conclusion is the low level of cooperation and engagement of different actors for addressing juveniles' needs. In the service chain set up to better serve those needs, not all service providers give enough contribution. The interviewees state that the restorative justice system assists in meeting some of the main needs of juvenile offenders, such as the stimulation of community life.
- In general, the interviewees in all the above institutions positively assess the provision of mediation service and the juveniles' involvement in the restorative justice programs, by considering them not only practical out-of-court solutions to real issues and disputes but above all as an education long-term process.

6. RECOMMENDATIONS

When considering the actors that might directly impact the application of restorative justice, the list might be very long, but grouping them in four main categories might help: 1) state institutions in the justice and education systems, 2) civic society organizations; 3) the media; 4) international organizations. The study help formulate many recommendations for each of the categories.

Increasing the impact on *justice and education system institutions* for restorative justice application

- Providing the restorative justice, victim-offender mediation and community conferencing services for juveniles in contact with the law and beyond, requires the standardization of criminal legislation for juveniles. Experts in the field of juvenile and social justice recommend major changes in the legislation for the juveniles aiming at increasing the juvenile access to justice. This would require the harmonizing of the criminal legislation, which deals with the diversion/referral of disputes from criminal justice institutions and considering them through alternative methods such as mediation and restorative justice, allowing for diversion from the judiciary.
- Investing more on building and developing capacities of professionals who manage criminal disputes targeting juveniles and among others: police officers, prosecutors, judges, detention and pre-detention workers, probation officers and specialists, etc.
- This development would be made possible through delivery of training and educational programs in the field of alternative resolution of criminal conflicts, while understanding and implementing the instrument of restorative justice and victim-offender mediation targeting juveniles in contact with the law.
- Developing educational prevention-oriented programs in pre-university education system related to antisocial and conflictual behaviors in school ages. Such programs focusing on restorative justice and peer mediation, as part of extracurricular and curricular activities would have a direct impact on improving the conflictual situation and prevention of violence in schools.
- Setting necessary mechanisms of institutional cooperation to boost the engagement of different actors of the justice system for the juveniles and of the social system (police, prosecutor's office, the judiciary and social services) to better address juveniles' needs, especially of those who are involved in conflictual situations and criminal offences. The provision of victim-offender mediation and restorative justice program should be considered as a very important link in the cooperation process.

Increasing the impact on *civic society organizations* for restorative justice application

- Civic society organizations should be more active in increasing the promulgation, awareness and education of interest groups and the general public on alternative forms of conflict resolution especially when minors are involved. In this process, careful consideration should be given to the promotion of positive values embedded in the application of restorative justice, victim-offender mediation and community conferencing compared to other forms of juvenile criminal conviction.
- The civic society organizations and other stakeholders should engage a more active lobbying role at state institutions and at the Law Commission at the Albanian Parliament for potential legal changes and improvements for the juvenile justice and more specifically for involvement in the restorative justice and mediation practices.
- The gained experience and the expertise built through the years due to the support of different donors should become part of the cooperation in training programs with the view of building capacities, especially for the staff of the institutions targeting children and minors in conflict with the law.
- There is need for strengthened cooperation and establishment of new synergies between civic society stakeholders targeting children and minors in contact with the law, aiming at restorative justice and mediation practicing in institutional cooperation and beyond.
- Because the mediation service cannot be provided as part of state structures, due to the independent and neutral profile of the profession, it is recommended that the civic organizations, which have in their focus the mediation and restorative justice programs, support the free-of-charge provision of this service for the vulnerable categories and minors.
- The restorative justice programs should not target only the 14-21 age group, but 12-14 age group as well, as the latter although they are not treated by the penal justice, constitute a group that might get involved in deviant juvenile category in a not too distant future.
- Furthermore, the development of programs for the early prevention and treatment of criminal behavior is of primary importance for the reduction of deviant behavior among children and minors in the Albanian context and the reduction of recidivism in this category. Through different programs, the civic society organizations should build cooperative bridges in order to strengthen the family-school-community ties. The provision of restorative justice programs would be necessary for the achievement of this objective.
- The provision of re-integration-related support services for the juveniles after they had served the sentence is of primary importance. It is recommended that the cooperation of civic society organizations with the state structures, and businesses would increase the range of these services and improve their quality. The involvement of children and minors of this category, with the focus on restorative justice, is still vital.

The role of *media* in the application of restorative justice

- The level of information about restorative justice and mediation of the general public is of vital importance. The electronic media and the press might and should play a very important role in upgrading the information while directly impacting the increase of public awareness regarding the values embedded in the restorative justice. This might be done through the provision of special TV programs, newspaper articles, etc. targeting the promotion of restorative justice.

The role of *international organizations* in the application of restorative justice

- International organizations should continue to support the restorative justice programs in the Albanian context. As it was mentioned above, there are still challenges to overcome regarding the understanding and adoption of restorative justice principles by the Albanian society.
- The promulgation of international positive experiences and successful models by the developed societies regarding the application of restorative justice by the international organizations constitutes a very important element, which helps in the successful application of restorative justice in Albania.

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8. THE APPENDIX

Appendix 1: The QUESTIONNAIRE

This questionnaire is being used in the framework of “Children in contact with the law and the outcomes of the application of restorative justice and mediation” project, developed by the Foundation of Conflict Resolution and Reconciliation of Disputes, supported by the EU Delegation in Albania and Save the Children.

We guarantee over the confidentiality of the information provided and that it will be used for study purposes only.

SECTION 1: PERSONAL DATA

1. **Actual age:** 1. 14-15 2. 16-17 3. 18-19 4. 20-21
2. **Gender:** 1. Female 2. Male
3. **Qark of your residence:** 1. Tiranë 2. Durrës 3. Vlorë 4. Korçë 5. Lezhë 6. Shkodër
7. Other _____
4. **You live in:** 1. City 2. Village 3. Suburban Area
5. **Number of family members (including yourself):** 1. 1-2 2. 3-4 3. 5-6 4. More than 6
6. **Civil status of your parents:** 1. Married 2. Divorced 3. Widow/er 4. Deceased
5. Remarried
7. **You live with:**
 1. Both parents
 2. Both parents, siblings
 3. Both parents, siblings, grandparents
 4. My mother
 5. My father
 6. One of the parents and siblings
 7. One of my parents, siblings and grandfather/mother
 8. Relatives
 9. By myself, with no adult custody
 10. Other _____

| | | | | | | | | |
|-----|--|-----------------|---------------|------------|--------------|---------------|--------------------|--------------------------|
| 8. | Your completed level of education: | 1. No education | 2. Elementary | 3. Primary | 4. Secondary | 5. University | 6. Post-University | 7. No answer |
| 9. | The completed level of education of your <u>father</u> : | 1. No education | 2. Elementary | 3. Primary | 4. Secondary | 5. University | 6. Post-University | 7. Don't know/ No answer |
| 10. | The completed level of education of your <u>mother</u> : | 1. No education | 2. Elementary | 3. Primary | 4. Secondary | 5. University | 6. Post-University | 7. Don't know/ No answer |

11. Please indicate your family incomes:

1. 1.very good 2. Average 3. Little 4. other _____

12. In your family, the people who work are:

1. My father and mother
2. My mother, my father and I
3. Only my father
4. Only my mother
5. One of the parents
6. One of the parents and I
7. Only I work
8. None
9. Other _____

13. How would you evaluate the relationship with your family:

1. Very good
2. Good
3. Not bad
4. Bad

SECTION 2: THE CONFLICT, DEVIANT BEHAVIOR AND CONVICTION

14. Have you ever been involved in a conflict or engaged in deviant behavior with/against:

1. Peers

2. People older than you
3. Family members
4. Institutions
5. Other _____

15. Have you ever committed (or been charged with) a criminal offence and convicted for that?

1. Yes
2. No

(Note: If the answer is YES, continue with the next question, if it is NO, go to question no.20)

16. If yes, what type of criminal offence have you committed (or charged with)?

1. Theft
2. Wounding
3. Insulting
4. Extortion
5. Drug trafficking
6. Falsification of documents
7. Other _____

17. What has been your sentence for this criminal offence?

1. I am in the process of being adjudicated
2. I am convicted
3. I am on parole
4. I am sentenced with community work
5. Other _____

18. How many times have you been convicted?

1. Never
2. Only once
3. Twice
4. More than twice

19. Have any of your family members been convicted for committing any criminal offence?

1. Yes
2. No

SECTION 3: INFORMATION AND PERCEPTION OF RESTORATIVE JUSTICE

20. If you were involved in a conflictual situation or criminal contravention, would you prefer:

1. The legal method
2. A third professional, neutral, out-of-the-court party
3. Solving the issue with the help of family/friends/relatives
4. Postpone retaliation
5. Forgive/Forget
6. Other_____

21. Which is the main reason for giving priority to the choice you made above?

1. Because that is the best way
2. Because that is the fastest way
3. Because that is the free-of-charge way
4. Because that is the way I trust
5. Other_____

22. Have you ever heard of other alternative out-of-court methods such as: victim-offender mediation, dialogue or restorative justice?

1. Yes 2. No

(Note: If your answer is YES, move to the next question, if your answer is NO, move to question no.26)

23. If yes, how did you get this information?

1. From the media
2. From police officers
3. From acquaintances/neighbors/friends
4. From mediators
5. From informative leaflets
6. Other_____

24. Have you benefited from this service?

1. Yes 2. No

25. Has any of your relatives benefited from this service?

1. Yes 2. No 3. Don't know

26. Do you consider the conflict you are involved in as resolved?

1. Yes
2. No

(Note: If your answer is YES, move to the next question, if your answer is NO, move to question no.29)

27. Have you made contact with the party you were in conflict with after resolving the dispute in mutual agreement?

1. Yes
2. No

(Note: If your answer is YES, move to the next question, if your answer is NO, move to question no.29)

28. If yes, how many times have you met with the other party?

1. Often
2. Occasionally
3. Rarely

29. In your opinion, who is the most suitable person that might help in conflict resolution?

1. A member of the family
2. A friend
3. A professional, neutral mediator
4. A police officer
5. A teacher
6. A lawyer
7. The social worker
8. The psychologist
9. Other _____

30. Will you be willing to accept mediation or to get involved in the restorative justice program for your conflict resolution?

1. Yes
2. No

31. Will you be willing to recommend the mediation service and restorative justice program to your friends and relatives?

1. Yes
2. No

32. Do you think that your prior involvement in the restorative justice program or mediation would have made you diverge from the criminal contravention (in case you have committed an offence)?

1. Yes
2. No
3. Don't know/No answer

THANK YOU!

Appendix 2: INTERVIEWS' INSTRUCTIONS

- Which are the criminal offences the juveniles in your institution are mostly involved in?
- Who are the other experts/stakeholders you cooperate with for dealing with the juvenile cases and in what cases?
- Has it ever happened that minors have relapsed in criminal conflicts and if yes, what is the percentage of this level of recidivism in your opinion? Do you provide a special treatment for this juvenile category?
- What is the level of cooperation of the parents of juveniles in conflict with the law in your opinion? Do you carry out analysis of social and family context for these children?
- How do you think recidivism might be reduced among juveniles in Albania?
- In your everyday work, do you include programs/procedures/activities aiming at raising juvenile awareness regarding the risk of being involved in criminal conflicts and their possible relapse?
- Are you aware of any specific programs, which aim at educating juveniles in conflict with the law in order to reduce recidivism and conflictuality level in society?
- Have you ever heard of restorative justice and victim-offender mediation? If yes, what is your opinion regarding their efficiency?
- Is this service offered in your institution? Have you ever been involved in the capacity of collaborator? Have you been trained in relation to the Restorative Justice and Victim-Offender Mediation?
- In your opinion, which are some of the challenges in involving juveniles in restorative justice programs? What needs to be improved within and outside the system you are working in?