

We, at Restorative Justice Nederland, were quite shocked to read about the recent draft of an amendment to the Austrian Criminal Code since it contains clauses that would bring about the termination of the practice of applying Victim-Offender-Mediation (Tatausgleich) in cases of Domestic Violence.

We feel that it really would be a wrong decision to end Austria's practice in this field, since it is highly esteemed within and outside of Austria. Austria's practice is carefully designed methodically. It has also been well researched: see for a recent publication a.o. L. Drost et al, Comparative Report, Restorative Justice in Cases of Domestic Violence, Best practice examples between increasing mutual understanding and awareness of specific protection needs (JUST/2013/JPEN/AG/4587), November 2014 (available via: [www.euforumrj.org](http://www.euforumrj.org) or [www.verwey-jonker.nl](http://www.verwey-jonker.nl)). The research findings show that this method has beneficial effects, not only for the women who are victims in those cases but also since it helps to prevent further 'intimate' violence and therefore prevents new victimization. It's for those reasons that it serves as an inspiration and a good practice model for the Netherlands and many other countries.

We would therefore strongly ask the law-makers to find appropriate legislative means and ways of keeping and continuing this practice of applying the 'Tatausgleich' in the field of domestic violence.

Also we feel that it's not recommended to prohibit Victim Offender Mediation or other diversionary measures in cases of hate violence. We agree that it's crucial to take violence against people based on their ethnicity, gender, sexuality or race very seriously. But to prohibit all diversionary measures in this field also will prevent the application of certain restorative practices that can have a positive impact on both victims, offenders and communities. Research in different countries has led to the conclusion that it's worthwhile to keep this restorative option open to victims and to further invest in victim offender mediation in cases of hate violence. See a.o. *Hate Crime and Restorative Justice*, M. Walters, Oxford University Press, April 2014, and *Contextualizing Restorative Justice for Hate Crimes*, T. Gavrielides, 2012.

Restorative practices should not be seen as a 'soft option' by legislators, but as one of the options that might be applicable under certain conditions and safeguards if victims want this. By prohibiting victim offender mediation in these cases, the need for restoration of certain individual victims are ignored and not taken seriously. This means that a lot of citizens have to live with unsolved crime issues which beside unhappiness for them will raise the cost of the health system. But crucial is also that victims should be in a position to choose for themselves and not be unnecessary limited in their search for justice by law makers who appear not to be very sensitive towards the needs and rights of victims.

We feel that the current amendment is not in line with the European Victim's Directive. Therefore we urge the lawmakers to find both in the domain of domestic violence and hate-crimes appropriate legislative ways to keep restorative practices available for victims that would like to make use of victim offender mediation or other restorative options.

On behalf of the Board of Restorative Justice Nederland,

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