

EU policies on security, justice and relevant to intercultural conflict settings – is there a place for restorative justice?

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Executive summary

As EU policies play an increasingly important role in the area of peace, security and justice in Europe, this research report aims to study the different policy areas dealing with the ALTERNATIVE project's main concepts, such as **justice, security, conflict, diversity, interculturality** and **restorative justice** at the EU level.

The European integration process started in the 1950s. From the initial economic cooperation of six countries by today the EU developed into a strong economic and political union of 28 Member States. With the deepening of the economic integration, the assurance of the free movement of persons and, later, the elimination of internal borders were necessary. These steps raised concerns about the internal security of the EU and on how to deal with cross-border and organised crime. The coordinated control of the EU's external borders and the common regulation of migration policies also became necessary. In the same time, due to its economic performance and to the overall globalisation trends, immigration grew and Europe became more and more **diverse**.

The most important policy area related to the concepts above is the EU's **Area of Freedom, Security and Justice** (AFSJ). Justice and home affairs, as well as common foreign and security policy gained legal basis at the EU treaty level in 1993, although available legislative mechanisms in these two pillars remained different from other EU policy issues until the Lisbon treaty, which came into force in 2009. With the elimination of the previous three pillars system and with the reform of the legislative procedures security, justice, migration and fundamental rights issues become part of the more democratic EU framework.

Now, the decision-making follows the ordinary legislative procedure, in which the Commission's or Member States' proposals are adopted by the Council and the European Parliament, where unanimity voting has been replaced by simple or qualified majority voting. These changes intensified EU actions in these policy matters. Binding and directly applicable regulations, binding directives to be transposed by the Member States, decisions, recommendations and opinions constitute the legal acts, which establish and form EU policies. Nevertheless, soft policy tools, such as supporting activities, coordination and funding also shape these policy areas.

We could note that within the AFSJ the concept of **security** stays in the centre. The EU's internal and external security policies are interrelated, especially in issues such as terrorism and organised crime. The EU Internal Security Strategy mentions dialogue as the means of resolving differences in accordance with the principles of tolerance, respect and freedom of expression and integration, social inclusion and the fight against discrimination as key elements for EU internal security. However, concrete steps taken do not always reflect these statements and in many EU actions technological security solutions are preferred.

The rapidly developing EU policy field of **criminal justice** aims to strengthen mutual recognition of judicial decisions as well as setting up common minimum rules in Europe. Subsidiarity is significant limitation for the EU to act in this field as Member States regard criminal justice as an important field of their sovereignty. Therefore, the scope of EU's actions is limited to criminality with a cross-border element. More, the implementation of EU legislation in this

field is often insufficient and slow in the Member States. Even so, important steps have been taken to approximate national rules of the criminal procedure. The recent Directive on victim's rights (Directive 2012/29/EU) enforces the right to safeguards in the context of **restorative justice** services. Proponents of restorative justice lack from the Directive the establishment of the right to access restorative justice services and the more balanced focus on restorative justice not only from the victim's, but from the offender's and the community's perspective.

Restorative justice is mainly considered to be a way of responding to crime/conflict/harm, by bringing together – whenever possible – all stakeholders (victim, offender and/or members of the community). Affected persons in a conflict are invited to meet voluntarily in a neutral forum offered by a mediator(s) (or facilitator(s)), in the form of mediation, conferencing, or peacemaking circle. During this meeting, there is a great focus on dialogue, on the empowerment of the participants, on the reparation of the harm towards the victim, on the restoration of balance in relationships and on the reintegration of the offender into the community.

The EU policy development in the field of **migration** shows a slow move from a strong security-based approach to a more balanced approach. Through decades the topic of migration was interrelated with concepts such as security, crime and control, which may contributed to the growth of intolerant and hostile attitudes towards immigrants in Europe. While supporting the Member States' activities in integration, the EU tries to emphasise the economic added value and demographic necessity of migration. Actions aiming at the integration of immigrants more and more acknowledge that integration is a dynamic, **two-way process** of mutual accommodation by migrants and by the societies that receive them, therefore actions targeting only migrants are not sufficient. In this respect aiming for inclusion, instead of integration might be a step forward.

Inclusion of the Roma, who face deprivation, exclusion and discrimination all over Europe, raises similar challenges as of the inclusion of migrants. The EU became a strong leading force in the last years to further Roma inclusion, focusing on education, employment, health and housing issues. Both in case of the Roma and migrant inclusion punitive anti-discrimination measures have been proposed. Acknowledging that racism and xenophobia needs to be tackled, we argue that a more profound, everyday level of hostility and negative attitudes may exist in societies. As some EU instruments already highlighted the importance of intercultural dialogue, we also would like to emphasise the potential of restorative justice approaches to conflicts within intercultural settings.

The new concept of **EU Citizenship**, granted automatically to nationals of EU Member States, besides implying new rights, has the potential to contribute to a formulation of a common European identity. Improvement of inclusion strategies are also important to contribute to meet the targets set out in the Europe 2020 strategy, especially concerning the aims of better employment rates, prevention of early school drop-out and reducing poverty.

The **conclusion** of the report is that restorative justice approaches in conflicts within intercultural settings may contribute to better understanding, mutual tolerance, more amicable relationships and formulation of common European values. Wider application of these approaches could also empower participants, lower societal tensions and promote active citizenship. While these outcomes certainly contribute to the societal stability and better economic performance of the EU, they are also relevant to further the democratic foundations of Europe.

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