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Conference of the Ministers of Justice of the Council of Europe

“Crime and Criminal Justice – the role of restorative justice in Europe”

(13 and 14 December 2021, Venice, Italy)

- Dear Secretary General of the Council of Europe, Ms. Pejčinović Burić,
- Dear President of the Parliamentary Assembly, Mr. Rik Daems,
- Dear President of the Venice Commission, Mr. Gianni Buquicchio,
- Dear colleagues, Ladies and Gentlemen

Benvenuti a Venezia!

It is a pleasure and an honour to welcome you all to Venice and officially open the Conference of the Ministers of Justice of the Council of Europe, on restorative justice.

Despite all the difficulties we are facing in our countries concerning the Pandemic, I am glad that such a relevant number of Ministers and delegates were able to travel to Venice and **attend in presence** this Conference.

Today's event is the **first Ministerial Conference under the Italian Presidency** of the Council of Europe, which started last 17 of November.

I would like, at the beginning of my speech, to congratulate Hungary on their chairmanship that has just ended and on the important conference that was held in Budapest at the beginning of last October.

The Council of Europe is the construction where our justice systems are guarded and fortified. Dialogue among nations and effective multilateralism have their home at the Council of Europe. We need to **preserve this common home and to further strengthening the work of the Council of Europe**, based on the respect of human rights, democracy and the rule of law.

Ministers and colleagues,

Allow me to get into the matter of our conference, the restorative justice on a literary note.

There are evergreen masterpieces of the human creativity that help us better understand the deepest core and the inner source of our mission.

I pray that discord, that insatiable evil,
may never rage in this *polis*, [...]
may never seize greedily
upon disasters of vengeance in the *polis*
– disasters in which blood is shed in requital for blood.
May the citizens share joy instead,
in a disposition of mutual esteem.

The literary quote is taken from the *Eumenides*, the last tragedy of the trilogy *Oresteia* by Aeschylus. It was written some 2500 years ago.

Conflict versus concord; revenge versus reconciliation. This is the dilemma that our systems are called to deal with today as they were at the origin of our civilization.

Eumenides is an account for the transformation of justice: from the primitive **justice as revenge** – represented by the Erinyes, monsters that bring about rage, devastation, and violence in the city of Athens – to **justice as a process** in front of the tribunal – the Aeropagus, that was set up by the goodness Athena – and again, **to justice as reconstruction of harmony and concord in the city** – the Eumenides, the new name of the goodness of justice.

From Erinyes to Eumenides, where the Greek prefix *eu-* stays for “well”, “good”: justice that used to be the equivalent of revenge and self-destruction becomes the guardian of the city welfare and peace.

This is what restorative justice is about: the possibility of a justice system that tames the rage of violence and reconstruct civic bonds among citizens.

Restorative justice is already an experience in many of our countries. Our discussion – each session of our discussion - will be introduced by experts of restorative justice. Our debate will be supported by images taken from real experiences of restorative justice around the world. During the dinner we will listen to some extraordinary protagonists of the experience of restorative justice in South Africa after the apartheid, judge Albie Sachs and prof. Pumla Gobodo-Madikizela, moderated by Mario Calabresi, whose father was the first victim the age of terrorism in Italy and today is an outstanding journalist and writer.

But first of all, let's start our reflection from what has already been done within the context of the Council of Europe.

We have the Recommendation n. 8 of 2018. Moreover, restorative justice has been in our agenda, thanks to an initiative of the **Government of Georgia**, during its Chairmanship, in May 2020, with a focus on fostering child participation and restorative justice.

Let's recall the definition of *restorative justice* contained in the Recommendation of 2018, which is *the* point of reference for our debate.

« Le terme « justice restaurative » désigne tout processus permettant aux personnes qui ont subi un préjudice/ résultant d'une infraction /et aux responsables de ce préjudice de participer activement/, s'ils y consentent librement/, au règlement des problèmes résultant de l'infraction, avec l'aide d'un tiers qualifié et impartial (ci-après le « facilitateur ») ».

La recommandation continue et dit que la justice restaurative « prend souvent **la forme d'un dialogue** ... entre la victime et l'auteur de l'infraction, auquel peuvent aussi participer [...] d'autres personnes touchées [...] par cette infraction ».

« La justice restaurative – continue encore le texte de la recommandation – peut être utilisée à chaque étape du processus de la justice pénale ».

La lecture de la Recommandation du 2018 nous offre la possibilité d'une clarification préalable : la justice restaurative n'est **pas un outil de clémence**.

Tous les systèmes juridiques de nos Pays, même les plus sévères en matière pénale, connaissent des outils de clémence comme la grâce, les amnisties, etcetera. Ces outillés de

clémence sont nécessaires. Mais, ici, avec la justice restaurative **nous ne sommes pas dans le domaine de la clémence**, du pardon, de la miséricorde...

Il faut être très clair à cet égard !

La justice restaurative est une **justice qui aide l'offenseur à assumer sa responsabilité vis-à-vis de la victime et vis-à-vis de la communauté**, à travers la rencontre et le dialogue.

Vérité, responsabilité, rencontre, dialogue sont les mots qui font partie de la culture de la justice restaurative.

- What goals and objectives do we try to pursue?

(i) Our societies are growing polarized and conflictual. We consider **our responsibility to contribute to stop the escalation** of conflict, and hatred, and violence, for the common good.

(ii) We also want to **prevent radicalization** and promote the **desisting from crimes**, diminishing recidivism;

(iii) furthermore, we find necessary to **relieve the victims from the burden of trauma caused by a crime**, whatever the crime is.

(iv) in our opinion, it is a duty of public institutions to **provide and offer a second chance to the offenders**, especially the young offenders, and to reintegrate them into social life;

(v) Finally, while implementing our policies on restorative justice, **we believe we will contribute to spread a culture of conflict resolution and reconciliation**, to the benefit of all.

This is **the vision behind our decision** to dedicate our discussion to restorative justice.

In order to prepare this Conference, a **Senior Official Meeting (SOM) was held in Como, last October**. During that meeting, senior governments' officials, experts and professionals from member States and the Secretariat of the Council of Europe discussed the concept note distributed by the Presidency in preparation of the Ministerial Conference, which includes proposals for the debate.

My country decided to bring restorative justice to the attention of Member States' Ministers of Justice in a **crucial and particularly fruitful moment for Italy in terms of reforms of the criminal justice system**.

Last September the Italian Parliament approved a major reform, including "a comprehensive framework on restorative justice" [...], in compliance with the EU Directive of 2012 and the principles internationally established, encompassing those established by the Council of Europe.

The Italian reform attests to a renewed **Italy's commitment to fully implement the 2018 Council of Europe Recommendation**, which encourages member States to adopt the principles of restorative justice and promote restorative justice programmes in their national systems.

(a copy of the Italian reform has been distributed).

Available **empirical studies** highlight that a criminal justice system which includes restorative justice does not lose in terms of security and gains in terms of offender responsibility, desistance and, at least in some studied areas, containment of recidivism.

Safety and security and respect of human dignity are concurrent not opposing goals.

Furthermore, research shows that restorative justice programmes are particularly appreciated by the people involved, including families and local communities.

In front of the dilemma “repair or revenge”, in most cases both victims and offenders choose repair.

Mesdames et messieurs, chers collègues,

Partant de la convergence entre les résultats de la recherche empirique, l'élaboration scientifique et les recommandations du Conseil de l'Europe (ainsi que celles des Nations Unies et de l'Union Européenne), **la mesure à prendre aujourd'hui – et dans un avenir immédiat – est une application étendue de la justice restaurative.**

Plus précisément, nous pensons que les Etats membres devraient s'engager d'une façon plus régulière à :

(a) élaborer des plans d'action nationaux et **mettre en œuvre la recommandation de 2018** dans les domaines de la justice des mineurs et des adultes ;

b) **collaborer à des études et des recherches** sur les différents modèles de justice restaurative existant dans les Etats membres du Conseil de l'Europe, avec le soutien du Secrétariat ;

c) poursuivre **l'échange de bonnes pratiques** et d'expériences afin de favoriser la formation à la justice restaurative de tous les acteurs concernés et la plus ample sensibilisation culturelle et sociale.

J'espère, aussi, que cette collaboration nous amènera à atteindre – dans des délais appropriés – les **objectifs suivants**:

a) accessibilité aux programmes de justice restaurative par toutes les personnes intéressées, dûment informées de cette possibilité

b) possibilité de faire de la justice restaurative un droit subjectif ; j'aimerais appeler ce droit comme « **droit d'accès à la justice restaurative** », l'autre côté du « droit d'accès à la justice ».

c) développement d'une culture de la justice qui respecte et valorise la dignité des personnes ;

d) vaste action de sensibilisation à la mise en place de parcours de formation universitaire adéquats, pour les médiateurs, les magistrats, les avocats, la police judiciaire, les opérateurs sociaux.

Dear Ministers and colleagues,

The actions and the objectives I just mentioned are included in the **Final Declaration**.

The text of this document, *Venice Declaration on the role of restorative justice in criminal matters*, has been **already circulated among delegations last weeks**.

The **document reflects the aim of the Conference of Venice**.

Unless there are specific, last-minute requests to amend the document, **we will adopt it tomorrow**, at the conclusion of the Conference.

Let me finally wish you good work, and to all of us a successful Conference!

And enjoy Venice, this magic and unique city!