

## THE HISTORY OF IMPLEMENTING MEDIATION IN CRIMINAL PROCEDURE IN EUROPE

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**Annotation:** *The introduction of mediation in criminal procedures in Europe has significantly reshaped justice systems across the continent, offering a more restorative approach to conflict resolution. Mediation, which brings together offenders and victims to address harm and seek repair, contrasts with traditional punitive measures and has gained traction over the past few decades. This article explores the historical development of mediation in criminal procedures in Europe, from its early beginnings to its present status in various European legal systems.*

### **Early Origins and Restorative Justice Roots**

Mediation in criminal cases has its roots in early European societies, long before the rise of centralized legal systems. In the past, many communities resolved disputes through restorative practices, where offenders were required to compensate victims and restore harmony within the community. These practices, often led by community elders or local leaders acting as mediators, emphasized reconciliation and reparations over punishment.

However, with the rise of state-administered justice systems during the Middle Ages, the focus shifted from community-led restorative practices to state-imposed punishments. Criminal law became retributive, with the state taking control over disputes and enforcing penalties on offenders in the name of public order. This retributive model dominated European criminal justice for centuries, until the emergence of restorative justice movements in the mid-20th century reignited interest in alternative approaches like mediation.

### **The Revival of Mediation: Restorative Justice in the 1970s and 1980s**

The modern revival of mediation in criminal procedures began in the 1970s and 1980s, during a period when many European countries were grappling with the limitations of their punitive justice systems. High recidivism rates, overcrowded prisons, and an increasing recognition of the unmet needs of victims spurred a search for alternative justice models that focused on rehabilitation and healing rather than punishment.

Restorative justice, which promotes reconciliation between victims and offenders, gained momentum during this time. Mediation became a central component of restorative justice, offering a structured process where victims and offenders could

engage in dialogue, seek reparations, and agree on ways to address the harm caused by the crime.

The concept of mediation in criminal cases was influenced by developments in North America, particularly the establishment of the **Victim-Offender Reconciliation Program (VORP)** in Canada in 1974. This program brought victims and offenders together to mediate criminal conflicts, and its success drew attention in Europe. Inspired by this model, European countries began experimenting with mediation programs as part of their criminal justice reform efforts.

### **Key Milestones in the Implementation of Mediation in Europe**

#### **Norway: The Establishment of Conflict Councils (1981)**

Norway was one of the first European countries to formally introduce mediation into its criminal justice system. In 1981, Norway established *Konfliktråd* (Conflict Councils), a nationwide system of mediation aimed at resolving both criminal and civil disputes. The Conflict Councils brought together victims and offenders to mediate under the guidance of a trained facilitator, with a focus on reaching a mutually agreed resolution.

Mediation in Norway's Conflict Councils is voluntary and can be used at different stages of the criminal justice process, including before a case reaches court. The Norwegian model emphasized restorative outcomes, such as apologies, reparations, or community service, and became a key influence on other European countries looking to implement similar programs.

#### **Finland: Integrating Mediation into National Law (1983)**

Finland followed closely behind Norway, establishing a formal framework for mediation in criminal cases in 1983. The Finnish mediation system was initially designed to address minor offenses, such as property crimes and assaults, with the goal of reducing court backlogs and offering victims a greater role in the justice process. Mediation in Finland emphasized reconciliation and reparations, allowing offenders to make amends to victims through dialogue and compensation. In 2006, Finland further integrated mediation into its criminal justice system by enacting comprehensive legislation that formalized victim-offender mediation (VOM) across the country. The Finnish model demonstrated the benefits of mediation in reducing recidivism and improving victim satisfaction, solidifying its place within the national criminal justice framework.

#### **Austria: Mediation for Juvenile Offenders (1990s)**

Austria played a pioneering role in applying mediation to cases involving juvenile offenders. In the 1990s, Austria introduced *Tatausgleich* (offense settlement) as part of its juvenile justice system, allowing young offenders and their victims to engage in mediation to resolve conflicts outside the courtroom. The Austrian model focused on



rehabilitation, offering juvenile offenders an opportunity to take responsibility for their actions while avoiding the long-term consequences of formal prosecution. Austria's success in using mediation to divert juvenile offenders from the criminal justice system provided a model for other European countries seeking to address juvenile delinquency through restorative means.

### **Belgium: A Comprehensive Approach to Restorative Justice (1990s)**

Belgium emerged as a leader in the field of restorative justice and mediation during the 1990s, integrating mediation at multiple stages of the criminal justice process. Mediation in Belgium can occur pre-trial, during trial, or even post-sentencing, offering flexibility in addressing both minor and serious offenses. Belgium's approach emphasizes community involvement, with mediation being seen as part of a broader effort to repair harm and reintegrate offenders into society. One of Belgium's key innovations was the establishment of the *Mediante* program, which provided mediation services for both adult and juvenile offenders. The success of this program, particularly in cases involving serious crimes, demonstrated the potential for mediation to address complex conflicts and deliver restorative justice in a wide range of criminal cases.

### **EU Directives and the Spread of Mediation (2000s-Present)**

The 2000s marked a period of significant growth in the implementation of mediation in criminal procedures across Europe, driven in part by the European Union's push for greater harmonization of restorative justice practices among member states. The **EU Victims' Rights Directive (2012)** was a key milestone in this regard, encouraging member states to offer mediation services to victims of crime as part of their broader rights to access justice.

The directive emphasized the importance of victim-offender mediation as a means of promoting reconciliation and offering victims a greater voice in the justice process. It called on member states to ensure that mediation services were available and accessible, particularly for vulnerable groups such as children and victims of domestic violence. This directive helped standardize restorative justice practices across the EU and encouraged countries to integrate mediation more deeply into their criminal justice systems.

### **Conclusion**

The history of implementing mediation in criminal procedure in Europe reflects a broader shift toward restorative justice, as European societies have sought to find alternatives to purely punitive approaches. From Norway's Conflict Councils to Belgium's comprehensive mediation programs, mediation has proven to be an effective tool for addressing crime in a way that emphasizes healing, accountability, and restoration.

Today, mediation is an integral part of the criminal justice systems in many European countries, offering victims and offenders a path to reconciliation and resolution. As the practice continues to evolve, its role in promoting restorative justice is expected to expand further, providing a more humane and constructive approach to resolving criminal conflicts.

This article traces the historical development of mediation in criminal procedures across Europe, highlighting the key countries and milestones that shaped its integration into contemporary justice systems.

