



## **SEVeso Project – Support Eco-Victims: strategies and tools for supporting rights and compensation for the victims of environmental harm**

### **D.3.1. METHODOLOGICAL STUDY ON THE APPLICATION OF RESTORATIVE JUSTICE (RJ) AND DELIBERATIVE DEMOCRACY (DD) TO ENVIRONMENTAL CRIMES**

#### **ABSTRACT**



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This report examines the methodological reasoning that led to the development of a mixed framework combining the methods of deliberative democracy (DD) and restorative justice (RJ). It will be applied to the management of dialogic participation processes, and the development of environmental policy guidelines in the two case studies selected within the SEVeso project: the Lakes of Mantua and the Taranto Area.

The SEVeso project studies from socio-legal, organizational, and victimological perspectives, the victims of environmental disasters caused by industrial development, focusing on two emblematic national cases in a comparative manner. The case studies (the “Lakes of Mantua” and the “Taranto Area”) were identified via the complete list of areas exposed to the risk of pollution described in the S.E.N.T.I.E.R.I. report (Pirastu, Lavarone et al., 2011) and using as selection criteria, among others, the extent of environmental damage, the severity of the social and health impact on eco-victims, and the presence of conflicting interests (economic interest, employment issues, public health, environmental conditions in the area).

This report is part of the milestone 3 of the project, which includes a set of activities aimed at studying and applying restorative justice (RJ) techniques and methods, together with deliberative democracy techniques and methods, to the case of environmental crimes.

The research group's decision to work on the construction and application of a mixed methodological framework to cases of environmental damage and conflict stems from the need to fill certain gaps in RJ, in particular with regard to its application to environmental crimes.

RJ is an approach to justice based on the ambition of repairing the damage caused by crime and actively involving the victim, the offender, and the community in a consensual and voluntary process of dialogue, with the aim of restoring broken social relationships.

RJ is applied in numerous contexts, from minor offenses to more serious crimes, from those committed by adults to those committed by minors. However, to date, it has rarely been applied to environmental crimes, perhaps due to the following critical issues: 1) the large extent and high complexity of the issues related to these types of crimes; 2) the need to involve, through meaningful participation, a wider range of social actors than those usually implied in common RJ processes (victims, offenders, mediators/facilitators); 3) the difficulty of identifying victims (in environmental crimes, the damage is not directed at a single individual or a small group, but at a community—or the environment itself) and perpetrators (in cases where, for example, corporate responsibility is distributed among many individuals); 4) the high possibility that the interests of the parties are in conflict (even among the victims themselves; for example, the situation of workers who are sometimes victims of the industrial process but at the same time have a strong interest in not interrupting industrial production); 5) the imbalance of power between the parties involved, also due to unequal access to technical information.

Therefore, the research staff believes that the incorporation of deliberative democracy methods into RJ, tested in the SEVeso case studies, could help overcome these critical issues through tools that involve the participation of citizens and stakeholders in the decision-making process, the structuring of dialogic processes based on the sharing of balanced and reliable information, the development of shared definitions of public problems, and the formulation of constructive solutions.

The framework aims to investigate, apply, and test methods to support, empower, and engage victims or citizens who feel that the problem affects them, encourage accountability of all stakeholders involved, reduce secondary victimization, and propose solutions to improve environmental conditions, taking into account all the interests at stake in the case.

The application of the framework to the SEVeso project case studies enables us to analyze its effectiveness in managing environmental damage and conflicts and, at the same time, identify the changes and adjustments needed to the method, that has been developed *ex ante*, during its implementation.

The construction of the methodological framework starts with an analysis of the two methods of DD and RJ.

In particular, attention is paid to comparing the participatory and deliberative models, the objectives and methods of DD, the structuring of processes, the different formats of DD, and the methods of engaging and selecting participants.

In addition, a conflict assessment is carried out, i.e. a preparatory activity for the DD processes that aims to produce a map of the parties involved (stakeholders) and identify the issues, critical points, and conditions such that the parties concerned are encouraged to legitimize and actively participate in a policy-making or a public involvement process. This is a key element as it represents a common point with the information activities that precede the RJ process and which involve a preliminary phase of gathering information about the crime, the perpetrator and the victim of crime, and the possible solutions to be discussed in the group, which will be conveyed to the participants at the beginning of the process.

Then, with the same objective of identifying the elements that would make up the new methodological framework, the analysis addresses the definition, objectives, methods, and specific characteristics of RJ. This analysis also focuses on a type of RJ process with characteristics that make it particularly adaptable to combining with elements of DD, namely the Community Circles.

The analysis of the specific features of DD and RJ makes it possible to identify their contact points, which also formed the starting point for the development of the methodological framework applied in the SEVeso project.

From the analysis of the contact points, we move on to the development of the mixed framework and, in particular, to the definition of the strategies that constitute the method designed. These include: a) the establishment of a Steering Committee (CDR) or Committee/Group of Guarantors (GdG) with the aim of monitoring certain activities of the processes, such as the drafting of the key information document, and increasing the legitimacy of the process; b) the drafting of a written key information document that is as balanced and accessible as possible, including technical information relating to the case study; c) the creation of a group of participants based on the model of citizens' juries (DD) and community circles (RJ); d) the management of communication channels and

interaction with the outside world; e) the public visibility and transparency of processes; f) the conduct of processes based on combined facilitation techniques (between DD and RJ) which include, on the one hand, the management of emotional, cognitive, and relational dynamics (closer to RJ) and, on the other, discussions concerning the link between collective problems and public policies (closer to DD).

These strategies are then applied specifically to the case studies through a series of choices aimed at maximizing the effectiveness of the framework in dealing with cases of environmental damage in the areas selected by the SEVeso project.

In particular, we decided to set up a multi-stakeholder Committee of Guarantors with the task of endorsing project choices and supervising the progress in the process. Furthermore, we decided that the key information document would be developed by the project staff and reviewed and validated by the Committee of Guarantors on the basis of the multidisciplinary expertise of this group of persons.

We chose the “Community Circle” format, a RJ approach similar to the mini-publics of deliberative democracy, which favors recruiting participants based on their different perspectives on the issue and their direct involvement in the harmful situation.

With regard to the recruitment of participants in the community circle, we decided to seek out citizens in the area using the snowball method, also on the basis of the recommendations of the Committee of Guarantors.

Concerning the conduct of the dialogue process, key strategies from both RJ and DD were adopted, such as organizing preliminary individual interviews with participants, collectively processing the trauma, constructing a shared definition of the problem, identifying the issues to be addressed, and engaging in dialogue with experts and stakeholders with different orientations and skills.

The methodological framework is developed with the objective of making the most of RJ and DD strategies in combination, with the objective of conducting dialogic processes that focus on environmental crimes and conflicts, involving eco-victims and perpetrators of environmental damage, and defining shared solutions to repair the damage and support economic and industrial development that is more respectful of health and the environment.

Although the methodological framework is constructed on the basis of a careful analysis of experiences in applying DD and RJ to different contexts, particularly in the field of environmental damage and conflict, only its application to real cases can allow a better assessment of its validity and effectiveness in pursuing the set objectives.

This will be implemented through the organization of “Circle Dialogues” in Mantua and Taranto, which we will discuss in the following reports (D3.2 and D3.3) of the SEVeso project.