



Minutes of the Second Meeting of the European Council for Juvenile Justice

“European Strategy for the Development of Juvenile Justice”

11th November 2010 Rome (Italy)



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The IJJO as well as EJJO do appreciate the collaboration of the Department of Giustizia Minorile of the Ministry of Justice of Italy, its General Director Dr. Serenela Pesarin, the Istituto Centrale di Formazione as host of this event as well as would like to thank the efforts and expertise of all the members of the European Council for Juvenile Justice have taken part of this meeting.



“This project has been funded with support from the European Commission. This publication reflects the views only of the author, and the Commission cannot be held responsible for any use which may be made of the information contained therein.”



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Council for Juvenile Justice

November 2010



*Ministero della Giustizia
Dipartimento per la Giustizia Minorile*

INTRODUCTION

With the objective of promoting the advances reached since its constitution and of establishing narrower lines of collaboration between its members, on the 11 of November 2010 the Second Meeting of the European Council for Juvenile Justice was celebrated in Rome, within the framework of the Fourth International Conference of the International Juvenile Justice Observatory.

This Second Meeting relied on the collaboration of the Department of Juvenile Justice of the Ministry of Justice of Italy, as host country of said conference, holding the meeting of the Council in the Istituto Centrale di Formazione del Personale del Dipartimento per la Giustizia Minorile of the Ministry of Justice under the framework of the IV IJJO International Conference ‘Building Integrated Juvenile Justice systems: Approaches and methodologies regarding mental disorders and drug misuse’.

The meeting was inaugurated by the Director General of the Department of Juvenile Justice of the Ministry of Justice of Italy, Dr. Serenela Pesarin, the Chairwoman of the European Observatory of Juvenile Justice, Mrs. Sylvie Rousteau, and the Chairman of the International Juvenile Justice Observatory, Dr. Francisco Legaz Cervantes; noticeable among all of them was the will determination to promote European juvenile justice of integration, which gives a future to every one of the children and young people that find themselves in conflict with the law.

The Second Meeting of the European Council for Juvenile Justice counted on the participation of more than 70 professionals and experts linked or belonging to the corresponding sections of the Council: Civil Services Section, NGO Section, Academic Section, representing the 27 Member States.

The main objectives which the Observatory follows are to exchange common solutions and good practices to make juvenile justice systems efficient, with the respect to the best interest of the child and in order to facilitate their social and professional insertion; to draft special recommendations on the programmes and actions to be developed by the European institutions and other intergovernmental organizations playing a role in managing common problems on the global agenda. And to study and analyze in depth the influences of EU decision on juvenile justice policies and to make sure that juvenile justice issues are part of EU institutions strategies.

It has to be pointed out that in this meeting the EJJO had the honor of being able to rely on the participation of Mr. Aleksandar Romanovic, member of the Directorate-General of Justice of the European Commission and of Mrs. Ruth Farrugia, representative of the European Council, who stated the priorities and the activities developed by their organizations, respectively through the EU Agenda for the Rights of the Child 2011-2014 and the Guidelines on Child-friendly Justice of the Council of Europe.



Throughout the course of the Second Meeting some of most relevant themes and worries put forward by the participants of the First Meeting in 2009 were the object of discussion, among which were listed: the application of international standards in European juvenile justice systems, the contribution of the academic world and research in the implementation of international standards and how the process of social and work place integration of minors and young offenders is key in the fight against recidivism.

The results of the work developed by the participants in each of the Sections of the European Council of Juvenile Justice in this Second Meeting have been presented before the competent European institutions, and more specifically before the European Commission, through three Green Papers coordinated by three experts on each one of the debated themes. The themes and experts responsible for the coordination for each of them are below:

– The Green Paper of the Public Administration Section is on the **‘Implementation of international standards in European juvenile justice systems’**, coordinated by Dr. Ineke Pruin – University of Greifswald (Germany)-.

– The paper corresponding to the NGO Section has as its central theme **‘The social insertion of minors and young offenders, key in the fight against recidivism’**, developed under the coordination of Mrs. Severine Jacomy – Vite (Swiss consultancy agency specialized in the Rights of the Child)-.

– In the case of the Academic Section, the Green Paper deals with: **‘Juvenile Justice in the EU: the contribution of academia to the setting and implementation of international standards’**, coordinated by Dr. Ursula Kikelly – University of Cork (Ireland)-.

This meeting was organized with the support of the Prevention of and Fight against Crime Programme European Commission - Directorate-General of Home Affairs.

WELCOME ADDRESSES

Dr. Francisco Legaz

Chairman of the International Juvenile Justice Observatory. Belgium.

The Chairman of the International Juvenile Justice Observatory welcomed all the Council members and thanked them for their participation and collaboration.

He took this opportunity to publicly thank the Ministry of Justice of Italy for the interest and support they gave to the Observatory enabling us to celebrate our 2nd Meeting in Rome, and for offering us the Istituto Centrale di Formazione. He especially thanked and mentioned the dedication and commitment of Mrs. Sylvie Rosteau, who, from the beginning has been receptive to taking up the challenge of being Chair of the European Juvenile Justice Observatory. He thanked her for her generosity and enthusiasm.

As a background picture, Dr. Legaz mentioned briefly that it was in 2006, during the 2nd IJJO International Conference, held in Brussels that the International Juvenile Justice Observatory (IJJO) decided to take the necessary steps to create its European branch, the European Juvenile Justice Observatory (EJJO). The origins of this initiative lied in a framework of differences and similarities of the different juvenile justice systems in Europe.



Accordingly, the EJJO aims to be a continental reflection space to develop initiatives, establish codes and standards of good practice within the service of the education and integration of European children and young people in conflict with the law.

Therefore, the EJJO established the European Council for Juvenile Justice as a central workspace and instrument of reflection, which held its 1st Meeting in 2009 in Paris and Brussels. With the support of the European Commission, the European Council for Juvenile Justice announced its objectives, its activities and structure before the professionals of public administrations, universities and NGO´s.

He mentioned and congratulated the European Institutions for their obvious concern over the development of tools and action lines aimed at improving the situation and



defending the Rights of the Child. On behalf of the IJJO and the EJJO he declared their willingness to collaborate in common future activities. The experience of the European Council for Juvenile Justice will serve as a reference to develop the Latin-American and African Councils for Juvenile Justice which are the next challenges for the International Observatory.

Dr. Legaz also expressed the desire of the IJJO to continue supporting the development of these councils, making way for the possibility of creating an International Council for Juvenile Justice on a worldwide scale. Only the desire to promote a universal and integration juvenile justice system will be what leads to this ambitious goal, making it possible for all children and young people in conflict with the law to have a future.



That 2nd Meeting aimed to give continuity to the topics that were dealt with and presented in the 1st Meeting. He invited all the members to actively participate in each of the Sections by sharing their knowledge and experiences.

On behalf of the IJJO and its European branch he expressed his gratitude to Ineke Pruin, Severine Jacomy-Vite and

Ursula Kilkelly. These were the three European experts who coordinated the debate in each of the Sections and who assumed the challenge proposed by the EJJO for the development of three Green papers that, with their cooperation, will be presented to the European authorities.

The Chairman mentioned his conviction that everyone who was gathered there felt the strong will to improve our juvenile justice systems in a way that allows for efficient intervention when treating our children offenders in Europe. Therefore he wished that day of work would be fruitful as well as satisfying for all of them.

Mrs. Sylvie Rousteau

Chairwoman of the European Juvenile Justice Observatory. Belgium.

Mrs. Rousteau started her speech with the background of the EJJO which established in 2009 that the purposes of the European Council for Juvenile Justice were to formulate recommendations on the development and evolution of juvenile justice in

Europe; gather quantitative and qualitative information on the situation of children, adolescents and young people in conflict with the law and propose coordinated actions between public administrations, non- governmental organizations and academic and training centres, in all the EU Member States.

Secondly the EJJO Chairwoman referred to their collaboration with the General Directorate of the Judicial Protection of Youth of the French Ministry of Justice whose support and collaboration she greatly appreciated and the First meeting of the Council in Paris on November 30th and December 1st 2009 organised by the Observatory.

That meeting held in Paris had as its main objective, the creation of spaces for reflection, the exchange and development of good practices among 27 European entities responsible for intervention in the field of juvenile justice. The academic branch of the Council held a meeting in Brussels. Representatives from 27 universities and academic centres specializing in criminology and juvenile criminal law took part in this meeting.

Those meetings as well as the current meeting in Rome, were supported by the European Commission and financed by the Directorate-General for Justice and Home Affairs. She informed all participants that over 2010, the EJJO continued the development of its main lines of action as the advocacy work to the European institutions, the participation in European Union projects and research and more specifically the follow of the European Council for Juvenile Justice.

Mrs. Rousteau mentioned that thanks to the links established between all participants and to their cooperation and availability, the EJJO continues to work on the development and growth of the Council and aims to go one step further in its constitution.

This Second meeting dealt with some of the most relevant issues and concerns pointed out during the first meetings, such as: the evaluation of the implementation of international standards in the European juvenile justice systems; the contribution of academia to the setting and implementation of international standards and the social reintegration of young offenders as a key factor for combating recidivism.

Mrs. Rousteau also expressed her gratitude for all the participants, for their presence and participation and a special thanks to the Istituto Centrale di Formazione as hosted of this event and to Mrs. Stefanelli for her availability.

On behalf of the European Juvenile Justice Observatory, she expected that the meeting were one more step to the improvement about the state of juvenile delinquency in Europe. She highlighted that all of the participants must not forget that they are not only delinquents but as well children and young people. We have to help them to change in respect to the law and respecting their rights she wished them a productive and satisfying day's work.

Mrs. Serenela Pesarin

Direttrice Generale Dipartimento Giustizia Minorile, Ministry of Justice. Italy.

Mrs. Pesarin started her talk by congratulating the IJJO for its organization of and collaboration on the IV IJJO International Conference held days before. She also said it was an honor for the Dipartimento de Giustizia Minorile as well as for the Istituto Centrale di Formazione to have participated as host of the second Meeting of the European Council for Juvenile Justice. Mrs. Pesarin introduced her presentation by highlighting that when professionals talk about youth, they tend to simplify things. When a minor enters the penal system, it's first of all due to a failure of his parents, of local authorities, of the educational system. In Europe, laws vary from Country to Country, like the language spoken. That's the reason why the meeting that took place was so important. It would be necessary that we all might speak a common language to address the needs of minors that are the same Europe-wide.

Mrs Pesarin presented the origin and first Italian steps of Juvenile Justice, in Italy, the Youth Panel among the Department of Justice was established in 1934. In the same year the first Tribunal for Minors was created. The first model of youth justice, she said, was a punitive one (called "retributive model"). In 1948, the article 27 of the Italian Constitution introduced the concept of rehabilitation and reinsertion. Starting from that year the model changed into a new one, called the "rehabilitative model", which was characterized by a multidisciplinary approach, where psychologists and specialized lawyers played a crucial task. In 1977, the social and the administrative services that dealt with minors, administrated by the Department of Justice came under the competence of the local authorities. Nowadays, the Youth Panel belongs to the Department of Justice.

The General Directorate explained that the Decree 448/1988 formulated the principle according to which the deprivation of freedom might be seen as an exception. It introduced the necessity to give the minors a hearing before arriving to a sentence and established the "trial system".

She highlighted that, our model of justice is called "restorative", as it gives more importance to actions of restoration and to those which foster the assumption of responsibility rather than to punitive actions.

Mrs. Pesarin presented her perspective about the current crisis professionals are facing: teachers want to act like psychologists and parents don't fulfill their role. It's a crisis of adults. Also, the media play on the the fear of the public. She mentioned that it's a lie to say that youth violence has increased. Around 40.000 complaints among attorneys of the Republic in charge of minors can be counted. Between these 40.000 minors, 18.000 are taken by the social services. Italy has to face specific problems: minors that act under the umbrella of mafia, minors belonging to immigrant families, young victims of human beings' trafficking, border line cases and isolated young people.

OPENING SESSION

Mrs. Cristina Goñi

Director of the European Juvenile Justice Observatory. Belgium.

Presentation of the conclusions from the three first meetings.

Mrs. Goñi presented steps and goals achieved over 2010 by the European Juvenile Justice Observatory which had continued working on the development of its main action lines and in particular in development of the European Council for Juvenile Justice, as its main working body for debate.

She referred to previous activities that with the aim of presenting the progress made regarding the constitution of the European Council for Juvenile Justice. For example the EJJO, in cooperation with the IJJO, had organized the Second Meeting of the European Council for Juvenile Justice in Rome, in the framework of IV IJJO International Conference. This Second meeting had the support of the Department of Juvenile Justice Ministry of Justice of Italy, which hosted it at Istituto



Centrale di Formazione del Personale del Dipartimento per la Giustizia Minorile Ministry of Justice of Italy.

Mrs. Goñi gave a talk to the more than 70 professionals and experts who were taking part in the Meeting, under the three relevant sections of the Council: Public Administration Section, Section NGOs and Academic Section, representing the 27 EU Member States and presented to participants the Council's background. She also informed them about the specific working rules and procedures of the Council and its Sections.

She highlighted that one of the EJJO objectives is to bring stakeholders and the representatives of European institutions together, and thus the EJJO was pleased to count on the participation of representatives of the Directorate General of Justice of the European Commission and the Council of Europe. She listed participants for the role of EU representatives of European institutions on the meeting and she also gave them the opportunity to present the priorities in their agendas with regard to the policies and activities in the field of juvenile justice such as the Communication on EU agenda for



the Rights of the Child 2011 - 2014 of the European Commission and the Guidelines on Child-friendly Justice of the Council of Europe.

Mrs. Goñi explained the proposal of the meeting which dealt with some of the most relevant issues and concerns pointed out by participants during the first meeting on 2009, such as: the implementation of international standards in the European juvenile justice systems, the minimum guarantees in the treatment of children and juveniles deprived of their liberty and the social reintegration of young offenders as a key factor for combating recidivism.

Mr. Aleksandar Romanovic

Directorate of General Justice. Directorate Fundamental rights and Rights of the Child. European Commission.

Presentation of the European Commission's Communication on the Rights of the Child (2011-2014)

Mr. Romanovic began his talk by thanking the IJJO as well as the EJJO for having invited and including him in the Second Meeting of the European Council for Juvenile Justice. He mentioned that in the year 2010 especially, the co-operation with the Observatory and its members had been very close and fruitful. Included in some of the co operational activities are the Child-friendly -Justice Experts group, Fifth EU Forum on the Rights of the Child, Public Consultation, etc. He mentioned that the DG of Justice was looking forward to a continued partnership in the future.



Firstly the representative of the EC presented the background on Children Rights as well as their priority of making the European Union recognise that there are still far too many violations of children's rights inside and outside the EU. Since the launch of the Communication "Towards an EU Strategy on the Rights of the Child", in 2006, the protection and promotion of children's rights has been one of

the priorities of the European Commission. The 2006 Communication established a basis for promoting and protecting children's rights in the EU's internal and external policies. It developed structures and a method.

He spoke about the main objectives of the 2006 Communication which were to improve the effectiveness of EU policies pertaining to the rights of the child; to increase cooperation with stakeholders; to help children enforce their rights; and to identify priorities for EU action. Although the broad objectives of the 2006 Communication have been fulfilled, much remains to be done.

Secondly, and in the framework of the Lisbon Treaty which had come into force the Charter of Fundamental Rights is now legally binding. Children's rights form part of the Charter of Fundamental Rights of the European Union.

Under Article 24 of the Charter children are explicitly recognised as citizens with their own rights. This recognition marked a significant advancement towards seeing children not just as in need of protection but also as independent and autonomous holders of rights. The objective of the Commission is to do all it can to give life to the Charter and to make sure that it is applied.

After this first addressing Mr. Romanovic talked of how the Commission was preparing a new Communication on the Rights of the Child. The Communication took stock of previous achievements, highlighted major shortcomings, and identified future challenges. It was based on contributions from a wide public consultation and on the results of a targeted consultation with experts from specific policy areas. It also took into account the needs and concerns of children from all EU Member States who took part in a targeted consultation, which was carried out in 2010.

Afterwards he explained how the Commission carried out a number of preparatory actions to obtain input from different stakeholders which included the EU Public Consultation, a Qualitative Study developed with children to promote child participation and the Experts groups meetings.

Regarding the wide public consultation for the preparation of the Communication which took place between mid June and the end of August, Mr. Romanovic mentioned that 120 contributions were received from citizens, public authorities and various organisations with a wide spectrum of focus and activities in the area of children's rights. He highlighted that all contributions were being carefully analysed and will be published on the website of the DG of Justice. The DG was also happy to receive contributions from the IJJO and from its European branch, for which he thanked them.

Regarding the Child Participation and the qualitative study with children, the representative of the DG of Justice explained that the Commission supported the view that full recognition of children's rights and specifically the principle of the best interests of the child requires that children be given a chance to voice their opinions and participate in the decisions that affect them.



Providing children with means to express their views at EU level was a part of an ongoing process, which has been given top priority.

As a result the DG of JUSTICE carried out targeted consultation with children in the form of a Eurobarometer qualitative study. The results were published on 14 October and presented during the EU Forum on the Rights of the Child the same day.

Children were consulted on the topic of children's rights. The study included children aged between 15 and 17, from all 27 EU Member States and from different socio-economical and ethnic backgrounds - including Roma, Sinti, Traveller children, and children with special needs. They discussed issues they see as most important in terms of their rights and the various obstacles they face in exercising these rights. They also gave their views as to what they expect from the adult world, including parents, teachers, and decision makers.

Children were consulted on many of the issues covered by the public consultation. Many of their views and concerns will be visible in the future EU Strategy on the Rights of the Child.

Finally and regarding this issue, Mr. Romanovic highlighted that children opinions and needs as they want to be active participants in the decisions being made about them and to feel that their opinions are being respected. Children want adults to have more confidence in them, show greater respect for their views and involve them more in decisions. In general children want more support for those in society who are less well off, more information on children's rights and on whom to turn to for help and guidance, and more facilities where young people can spend their free time. They want existing laws to be implemented to provide a better safeguard for children. Children are ready to take on responsibilities, but they also relish the opportunity to be children and have a care-free childhood.

The right to participate is among the top issues to which children referred in the context of the consultation, particularly with regard to areas of their lives where there are expectations being set and demanded of them in terms of achievement and attainment (school, further education or jobs) and also in the context of families undergoing separation and divorce: children want to be active participants in the decisions being made about them and to feel that their opinions are being respected.

In the framework of preparatory activities, the Commission also carried out targeted consultation with experts from specific policy areas. Three expert groups were organised in the past year: on "bullying and cyber-bullying", on "invisible children" (most vulnerable children) and on "child-friendly justice".

Some of the members of the European Council for Juvenile Justice, a body of the EJJO

also participated in the expert group on child-friendly justice. The representative of the DG of Justice spoke of its plan to organise such groups on selected topics in the years to come, thus the DG of Justice will continue to count on the ideas, support and co-operation of the EJJO as well as on their Council's members.

In his conclusions he presented the European Commission's Communication on the Rights of the Child (2011-2014) and the main objective of the future Communication which was to develop an evidence-based child rights approach towards EU policies and actions affecting children which included:

- ensuring respect for the Charter of Fundamental Rights of the EU.
- respecting the standards and principles of the UNCRC.
- supporting Member States and co-operating with them in order to protect and promote the Rights of the Child.

In addition to these specific actions, the Communication will seek to address general/horizontal issues, such as: child participation, mainstreaming, lack of appropriate data and co-operation with stakeholders.

To conclude, Mr. Romanovic wished to reiterate once more how much the Commission valued its partnership and co-operation with the IJJO, the EJJO and its members. This partnership was extremely important in the preparation of the Communication, but it will be even more important in its implementation.

Dr. Ruth Farrugia.

Member of the Council of Europe Group of Experts in charge of preparing the Guidelines on child-friendly justice.

Presentation of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice.

The goal of Mrs. Ruth Farrugia speech was to present the background, process, method and main topics which were promoted upon the development of the CFJ Guidelines of the Council of Europe. The IJJO and its European branch, the EJJO within network of individual experts such as Mrs Farrugia, international and national organizations, were among the several organizations that make up this Group of Specialists on child-friendly justice.

The objective of the Group of Specialists was to produce comprehensive guidelines on child-friendly justice, which will assist member states in ensuring that children have favorable access to justice.

In segment of her talk she presented the background of the CFJ guidelines, which

began at the 28th Conference of the European Ministers of Justice, which took place in Lanzarote in October 2007, and paved a constructive way forward with the adoption by the Ministers of Justice of Resolution No. 2 on child-friendly justice. In addition to this Resolution, the Committee of Ministers entrusted the European Committee on Legal Co-operation (CDCJ), the European Committee on Crime Problems (CDPC), the Steering Committee for Human Rights (CDDH) as well as the European Commission for the Efficiency of Justice (CEPEJ), in co-operation with other competent bodies of the Council of Europe, with the task of preparing European guidelines on child-friendly justice. Since April 2009, a group of experts in the field of juvenile justice and children's rights has been working on the preparation of these European guidelines.



Mrs. Farrugia mentioned that the guidelines contribute to improving the treatment of the child in all circumstances where he or she is, for whatever reason, likely to be brought into contact with civil, administrative or criminal justice. To this end, the guidelines build on the existing national, European and international standards and make substantial references to the case law of the European Court of Human Rights.

The representative of the COE (Group of experts) presented the origin, need, principles, evolution and main aspects which have been taken into account for the elaboration of the Guidelines of the Council of Europe on Child-friendly - Justice.

To begin with she raised the reasons for these guidelines as the Resolution No. 2 on child-friendly justice adopted at the 28th Council of Europe Conference of the Ministers of Justice (Lanzarote, 25-26 October 2007) and The Committee of Ministers instructed four Council of Europe bodies to prepare guidelines on child-friendly justice with a view to enhancing children's effective and adequate access to and the field of justice, in any sphere - civil, administrative or criminal.

Mrs. Farrugia referred to the method that the Council of Europe as well as the group of experts created to give an aim the guidelines Intergovernmental committees dealing with civil and administrative law (the European Committee of Legal Co-operation - CDCJ), criminal law (the European Committee on Crime Problems - CDPC), general human rights (the Steering Committee for Human Rights - CDDH), and the European Commission for the Efficiency of Justice (CEPEJ). She also mentioned the Programme "Building a Europe for and with children" - child-friendly justice: Council of Europe's Strategy on Children's Rights for 2009-2011.

Following that, the representative of COE put emphasis on pointed out) the terms of reference for the group of specialists on child-friendly justice (CJ-S-CH) of the guidelines on CFJ, she highlighted the following goals; to produce a draft of the European guidelines on child-friendly justice including monitoring mechanisms to assess and promote access to children’s rights in civil justice and to identify possible lacunae in law and in practice, and propose remedial solutions.



The Scope and purposes COE pretended through Guidelines Mrs. Farrugia presented are (1) The recognition of the place and role, the views, rights and needs of the child in judicial proceedings and alternatives to such proceedings]. (2) The intention to apply to all processes in which children are brought into contact with all competent bodies and services involved in implementing criminal, civil or administrative law. (3) The aim to ensure that, in any such proceedings, all rights of children are fully respected.



‘Child – friendly - justice’ refers to justice systems which guarantee the respect and the effective implementation of all children’s rights at the highest attainable level, giving due consideration to the child’s level of maturity and understanding and the circumstances of the case.

The principles which were taken as a reference for these developments, Mrs. Farrugia stresses, were the importance and need of Child Participation, always prioritising the Best interests of the child, main important Human and Children Right Dignity, Protection from discrimination and finally the Rule of law

The Guidelines on the CFJ were derived from several processes and moments she detailed as the following main points; General elements of child-friendly justice; Child-friendly justice before judicial proceedings Children and the police, Child-friendly justice during judicial proceedings and Child-friendly justice after judicial proceedings.

The general elements of child-friendly justice which the representative of the COE raised and identified during the process were; Information and advice, Protection of private and family life, Safety (Special preventive measures), Training of professionals,



Multidisciplinary approach and the issue concerning conditions of Deprivation of liberty . In regard to topics that need to be studied within Child-friendly justice during judicial proceedings, the Group of experts have identified the following aspects: Access to the court and to the judicial process, Legal counsel and representation, Right to be heard and to express views, avoiding undue delay, Organization of the proceedings, child-friendly environment and child-friendly language and Evidence / statements by children.

PUBLIC ADMINISTRATION'S SECTION

Dr. Ineke Pruin

University of Greifswald, Germany.

The evaluation of the implementation of international standards in the European Juvenile Justice systems.

Dr. Pruin started her speech highlighting the number of international standards which are devoted to protecting juvenile offenders (for instance the Convention on the Rights of the Child of 1989, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice of 1985, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty of 1990 etc.). She pointed out that these instruments stipulate that countries should provide special, “child friendly” systems of juvenile justice that avoid criminalisation and detention, and which strive to provide alternatives to imprisonment and to other “classical” or “conventional” responses to offending. Countries within the territory of Europe also have to take into account the Recommendations of the Council of Europe, which can be – due to the comparatively stronger degree of uniformity of systems in Europe – far more concrete and precise than the UN-Rules (for example the Council of Europe’s Recommendations Rec(2003)20 concerning “New ways of dealing with juvenile delinquency and the role of juvenile justice” or Rec(2008)11 concerning “European rules for juvenile offenders subject to sanctions or measures”).



Dr. Pruin provided the background the last 10 to 15 years and she stressed that a number of comparative research studies and surveys have been dedicated to examining juvenile justice systems in Europe. The results from these studies provide us with a great deal of information on the systems that are in place. She exposed as an example of this showed how, the findings of this research have brought differences between these systems to light in terms of the theoretical approaches employed, the age groups that they

encompass, the applicable sanctions and measures and the underlying philosophies. While in some countries juvenile offenders are treated as “children in trouble and in need of care”, other jurisdictions view them as “criminals” and respond to them in a similar manner to how they would react to an adult offending.



Dr. Pruin urged that professionals and stakeholders could infer that, especially since the ratification of the Convention on the Rights of the Child (which prescribes the introduction of procedural safeguards for juvenile offenders), many juvenile justice systems in Europe have undergone major reforms in order to (better) accommodate the requirements stemming from the international standards, a development that has not been limited to Eastern European countries. However, there are no uniform or standardised instruments for examining whether and to what extent the different juvenile justice standards are regarded both in the law and in practice.

Many countries collect data on juvenile offenders with the help of statistics. They sometimes revert to special state-run evaluation and research services that are responsible for collecting data on issues concerning criminals and/or prisoners. In other countries the evaluation procedures lie in the hands of university researchers.

In general, the state and standards of data collection in the context of juvenile justice are often not sufficient to allow an evaluation of whether or to what extent juvenile justice standards are implemented. Among the examples which Dr Pruin mentioned were the standards express that diversion should play a prominent and special role in juvenile justice. However, how can we prove that diversion plays an important role in a country if, like in Ireland, the number of juvenile offenders diverted by the police can only be estimated?

Another example she referred to was the use of restorative justice schemes. The standards promote the use of restorative justice, for example victim-offender mediation. But how do we know if restorative justice is widely used if we do not know the number (and success rate) of victim-offender-mediation procedures, like in Germany for example? What is rather worrying is the fact that many European Countries do not have data about all the juvenile offenders who are deprived of their liberty. Whereas in juvenile justice systems following a more justice oriented approach, data is regularly kept on young prisoners, the number of juvenile offenders in mental health institutions is often difficult to ascertain.

During this working group of the Public Administration ´s section, two representatives (from England/Wales and Germany) further emphasised the fact that there are actually no more capacities for data collection. At present practitioners spend a quarter of their working time filling out questionnaires and forms, and each new questionnaire from the European authorities might well reduce the quality of their responses.

Dr. Pruin claimed that it should therefore search for ways to work with existing data more effectively rather than postulate more and more data. A minimum amount of relevant indicators measuring juvenile justice, disaggregated to age, offence types, all available sanctions or measures, including diversion of juvenile offenders to the welfare system or to mental health institutions, would help to alleviate the lack of information we have in this field.

She explained that if stakeholders in Juvenile Justice talks about the implementation of juvenile justice standards, we should not only concentrate on the number of implemented standards, but also on the quality of their implementation. At times, countries run juvenile justice projects only for a limited period of time (often due to financial shortages), for instance projects for the preparation of the release of juvenile prisoners (in Slovakia). Often these (or other) projects are not evaluated, and so the knowledge base on the effectiveness of juvenile justice sanctions and measures remains limited. Where they are evaluated, the results are often not comparable as there are no unified evaluation-standards for juvenile justice projects. And even where there are reliable evaluation results, these are often not taken into consideration when it comes to law reforms. In some countries researchers recognize that international juvenile justice standards are not deemed relevant when it comes to law reforms. Instead, security and punitiveness are sometimes the leading arguments.



In general, the main participants agreed the existing data is often collected only for administrative reasons (e.g. to evaluate workloads etc.), but is not evaluated for research reasons. We do therefore need a closer connection between academic researchers and juvenile justice practitioners throughout the evaluation process of the relevant data. Furthermore need politicians must be willing to use evaluation results on the effectiveness of programmes and projects. There are two positive developments in this field: In

Greece, recently (July 2010) a “Central Scientific Council for Prevention of Juvenile Victimization and Juvenile Delinquency” was founded.

Dr. Pruin concluded that regarding European Council for Juvenile Justice purpose that if this council shall influence law reforms and decisions in the field of juvenile justice. In Germany, the Constitutional Court declared that it could be seen as a breach of prisoner’s rights if laws or decisions by the juvenile justice authorities are infringe international juvenile justice standards. It would help to have, at the governmental level, identifiable persons who are responsible for the monitoring of the juvenile justice system, like for example the newly established Juvenile Justice Commissioner in England and Wales.

For a better implementation of juvenile justice standards she highlighted we must not only rely on the governments but we have to think about the influence of society. If society were informed and convinced of the standards, it would make the implementation process easier. Dr. Pruin ended her intervention urging that the society has to be informed if we consider the impact of practitioners: The implementation process could be promoted through the provision of training for all practitioners working in the field of juvenile justice.

NGO'S SECTION

Mrs. Severine Jacomy – Vite

Swiss consultant in Children Rights.

*The social reintegration of young offenders as a key factor for combating
recidivism.*

The European Parliament and the Member States of European Union (EU) have declared 2010 “The European Year for combating poverty and social exclusion”. Among the many vulnerable groups who should benefit from this initiative are children, adolescents, and young people in conflict with the law, whose social reintegration - acknowledged as particularly challenging further to custodial measures or detention - should be promoted, reinforced and harmonised across Europe both in the best interests of the child and as a key factor to prevent recidivism.

Early on in the development of international standards on the rights of children in conflict with the law, and with a view to their successful reintegration, the role of external interventions from civil society has been perceived as crucial (“Beijing Rules”, Art 25.1). The present paper is based on the experience, opinions and recommendations of NGOs specialised in the reintegration of child and young offenders active in the 27 Member States of the European Union as service providers and/or child rights advocates.

Mrs. Jacomy introduced the topic by mentioning that European societies need to urgently and strategically invest in the social integration of all vulnerable groups at macro level, so that juvenile justice systems are not left alone to address by themselves root causes of offending, dire socio-economic situations, cultural and educational gaps, psychosocial and mental health issues that are beyond its realms.

The principle of Child-Friendly-Justice was another starting point in Mrs. Jacomy’s strategy of presentation. Children and young people must be allowed and enabled through child-friendly practices and procedures to fully benefit from good governance, rule of law and human rights in the administration of justice. This entails access and support to child-friendly information, participation, legal representation and assistance, the right to appeal, complaint and compensation, as well as other provisions foreseen in international and European instruments (standards/frameworks).

The need to focus on reintegration after release from custody was referred to in particular by Mrs. Jacomy and most of the NGO Section members. As one of the central goals and desirable outcomes of any juvenile justice process, reintegration is an issue for all young offenders, including those who benefit from diversion or alternative non-custodial measures. However, it is understood that such measures will in principle sustain or

strengthen these children's integration in the community, while by definition custodial measures tend to fence them off at least from their regular family life, and at most from the entire community. Hence, this paper considers that reintegration is a particularly acute concern for those who have been detained or placed in a custodial setting, as a result of their offending behaviour. They face the combined challenge of overcoming the impact of institutional care and the stigma and consequences of their offence(s). They face huge internal and external risks and obstacles to a smooth reintegration in society.



Regarding the topic of the inclusion of reintegration from non-penal custody most of the participants who discussed this measure/process/procedure etc said that reintegration is a challenge not only for those held in detention or custody under penal measures, but also for those under closed or semi-closed correctional, educational, protective or administrative placement such as “child offender under the minimum age of criminal responsibility”, “underage minors with deviant behaviour” (eg. Bulgaria),

“unaccompanied minors”, “asylum seekers”, “child victims of trafficking”, etc. While the legal status and individual situation of these children is fundamentally different from those who have gone through the juvenile justice system, some of the keys to their successful reintegration are similar and should be considered alongside existing thematic recommendations for these specific groups of children.

Reintegration after pre-trial detention was a subject which was given a special mention. Another essential element of reflection on reintegration is the issue of pre-trial detention, the duration of which is by definition unplanned but often excessive, where rights and opportunities are limited, and where reintegration in the community in the case of direct release is not taken into account.

The need for coordination and capacity was a common opinion held cited by most of the participants. Across Europe, the role of probation services appear to vary, but to play an increasing role not only in the coordination and implementation of a variety of alternatives to children being put into custody, but also in reintegration, support and services for those sentenced to custodial measures. Researching and defining this role of probation professionals in the reintegration of young offenders across the EU in order to further promote and strengthen could be a possible place for improvement.

These are detailed indicators of coordination and which increase capacity for effective support to young offenders' reintegration which should be developed and used to collect more systematic data on the issue across Europe. As a result, minimum European

standards for instance on the staffing ratio and level of qualifications for key professionals with rehabilitative functions (eg. psychologist and social worker) should be considered.

Regarding programmes and measures currently, Mrs. Jacomy and participants agreed that in most if not all countries in Europe, schooling and vocational training are the primary concerns and regulated components of reintegration strategies of custodial institutions for young offenders. In addition to basic academic knowledge and technical skills, education and training programmes may include cultural activities, computer skills and vocational counselling. While it is a welcome fact that education and training are given serious consideration, it must be noted that these policies may fail to address: (1) the reasons for which young people usually dropped out before coming into contact with the law; (2) the fact that non-offenders with a successful education also struggle with unemployment; (3) vocational training options defined along the lines of gender and low skilled, which may tend to maintain pre-existing situations of discrimination or exclusion.

As the most covered, regulated and resourced type of reintegration “services”, the purpose and contents of education and training in custody should be assessed in combination with the primary beneficiaries (inmates and former young offenders) and targets (not only potential employers, but also continuous and higher education

professionals, recruitment agencies, etc) under the premises that education and training should not solely be about employability.



Work schemes were mentioned for young offenders in juvenile prisons and institutions in various European countries. Yet, it must be noted that they are sometimes organised on an ad hoc basis (eg. Latvia) and regulated under the same legal framework as adults (eg. Greece). Gradual working schemes as a

training option or as a way of earning (employment) generally receives very positive feed-back from youth prisons’ inmates and employers, especially when they are organised outside the institution (personal relationships, increased motivation, time passing more quickly, etc).

The availability of anti-aggression and cognitive behavioural programmes appear to be on the rise across Europe. In contrast, the definition conformity of substance addiction programmes is quite vague and heterogeneous, from urgent therapeutic interventions and restrictions (eg. Italy) - especially in pre-trial detention and/or upon admission in correctional institutions and prisons - to incentives for voluntary involvement in drug free programmes or units (eg. Ireland).

Contacts with the outside world are facilitated mainly through training and work schemes outside the institution mentioned above, as well as through basic visit regulations. Although the rehabilitative value of sustained personal relationships and extended social networks is readily acknowledged, this area of work is not much developed beyond the passive observation of the positive impact of such contacts and special measures (see below).

Regarding general recommendations, which Mrs Jacomy collected and presented were:

- To establish a European platform to revisit the existing outputs-based focus on education and training and related national regulation and practice, with a view to developing more outcomes-oriented, realistic and holistic guidelines/directives for the reintegration of young offenders, taking into account current policy gaps and good practices across the EU.
- To develop and support national level strategies and programmes to actively nurture positive family and social networks of young offenders in custody, including inter alia through the involvement of family members in restorative justice processes, home visits and preparation of the family for the release of the youth in custody, activities in custody targeted at external audiences, proactive contact and events with local education, leisure, culture and business key players.
- To better define and promote the rights of young offenders to express their views and modalities for these to be taken into consideration at all stages of the judicial procedures, including detailed participatory rulings of custodial settings (access and support to individual information, self-expression and representation, democratic and collective representation mechanisms, availability of choice, etc.) allowing them to become agents of their own reintegration.

Mrs. Jacomy closed the working group by giving the following conclusions; absence of re-offending as a relative indicator of reintegration, and the need for evaluation criteria (which challenge the success of reintegration policies and programmes).

She also highlighted that restorative justice must be considered a way to change the perception / understanding of offending (questioning public support to retributive justice), to define reintegration (young offender's self-assessment and victims' situation as an element of reintegration) and potentially affect trends in re-offending.

ACADEMIC'S SECTION

Dr. Ursula Kilkelly

Faculty of Law, University College, Cork, Ireland.

Juvenile Justice in the EU: the contribution of academia to the setting and implementation of international standards.

The discussion between this working group centred on the Role of academia – the relationship between law/policy/reality/academic research: engaging with politicians, the political process, the legal process, using the research to change law reform and policy, at national level, but also at European level feeding into the EU strategy in this area; the importance of countering popular misconceptions which lead to support for punitive responses to juvenile crime. Importance of evidence-based approaches, disseminating our research mainly when we speak about what Academia means. We consider academics as teachers – training future lawyers, judges, citizens.

Standards - Implementation of international standards – Guidelines on Child Friendly Justice and 2008 Council of Europe Standards on sanctions and measures are particularly important and relevant - are key to research – need to use these in research, across jurisdictions.

Need/advantage of using use the Council for comparative research, across jurisdictions – particular subjects are more appropriate than others - detention, its systems and structures, its use, the care of children in detention in all fields – welfare, health institutions, penal, asylum) The importance of the standards as legal instruments, use of their law in legal and judicial system was highlighted by most of the participants.

Policy - Bringing evidence together from across our various jurisdictions – establishing and presenting consensus informed by research – presenting it as the IJJO Academic Council position on a range of subjects of importance - importance of adopting a policy position – responding to extreme cases that could be influential – making the case for avoiding juvenile justice altogether but also responding more generally to events (particularly key events) as they occur.

Economic Context – opportunity as well as a challenge – what case can be made for reform – diversion, as a means for prevention and early intervention, for social justice approaches? Decisions being made currently – in UK (winding down of youth justice board) and in Portugal, as presented by Dr. Leote (decision to imprison children for first time in 100 years) ...have relevance in an economic context and we need to be aware of this.

The Academic Section Green Paper – will reflect both elements – position paper on key issues – and proposed comparative research based on international standards.

Implications for criminal policy were mentioned as important issue by Dr. Valkova as well as she stressed there is no research on influence of new mass media – joint research possibilities – regulation of JJ law. Lack of research in both areas which is important cross-jurisdictional issues.

The importance of input from evidence-based policies in EU strategies was also commented upon by Dr. Farrugia as well as the issue of detention – quality of care and how it affects YP.

Dr. Haines asked the question is YJ doing harm? – avoiding use of JJ systems the best strategy. How do you sell this to politicians and practitioners?

Dr. Storgaard highlighted the absence of a relationship between research and reality – much of our work mirrors this – how can we focus the minds of the politicians/decision-



makers on the reality, countering the demand for more punitive responses. New research in Scandinavia on this: public do not demand the punitive response. Could we do something about this? It must be linked with reality.

Dr. Montalvo explained new law 10 years ago – law working well –public opinion – politicians want to make it more punitive – but studies show no increase in offending. What about the reality? Problem is with girls, more recently. Five years ago – two

serious cases – public opinion was influenced by this.

Professor Duenkel proposes that the problem is not public’s mind, but the government’s position. We can challenge them with data (victim’s survey) that undermines the argument that the public want more punitive responses.

Dr. Valkova spoke of the damage of the serious cases – vindicates the right wing / extreme response. Need to develop a technique to stop politicians! Serious cases provoke extreme emotive responses.

The need for a reality check and correspondence with reality was mentioned by Dr. Platzer as well as the value is of comparative nature. YJ indicators looking at detention across jurisdictions, how is each country doing? Such research provided by the Academic world could be very useful. He continued his speech about the need for a study of the way we treat young offenders in residential communities. Aren’t so many youth in prisons, but many in residential centres and no information about them. No national or regional standards. No data on their efficiency.



Dr. Duenkel pointed out that there is no data; we need much more information on who they were. Many countries use this but there is little data. Is there also data relating restorative justice? New mediation laws also highlighted. But we have very little information about these.

Mr. Foussard, IJJO Director presented document – give an expression of their work – what is the message:

1. Question of compliance with international standards – what about encouraging signature to the CFJ Guidelines;
2. Political, economic, social position. What implications does this have?
– Age of criminal responsibility – same point is being made here.

Dr. Platzer considered the idea of a press release – a range of topics presented informed by the research.

One of the objectives of the Council is to raise public awareness. Dr. Vrablova stressed the fact that there is no separate criminal law for Juveniles, no specialisation for judges, prosecutors, no criminological institutes – very difficult situation. A new Minister for Justice might change this.

Dr. Picotti considered gives a more consensus of the juridical effect of the guidelines. Development of implementation of CRC/YJ instruments important. He explained that the judiciary were more sensitive to implementation of international standards. Keen to use them. He raised the question that there could be effect on the courts, to the European Court, EU Charter of Fundamental Rights, etc. He considered the need to put more emphasis on legal status/quality of instruments and their potential legal effect. Juridical effect/justice/rules.

Prevention – complicated, dangerous, technical area were problems observed during UK launches. There were good and bad experiences. This issue deserved a place in the debate.

Dr. Duenkel addressed the fact that jurisdiction of the Court is important. Let's not look at the MACR because there is no consensus here. The UK will never agree to 12 or 14. Council of Europe 2008 Standards – good to take an empirical look at institutions of detention – welfare or prisons – have done some research in this area already. He raised the idea of the creation of a network but trying to find funding for this could be a challenge. He asked the question how do we check the content – in some cases they simply do as well as they can with the resources they have.

Dr. Farrugia was examining the quality of care – let's deal with the reality. Can we influence the quality of care (even if we don't like detention being used)?

Mr. Foussard referred to political change – economic circumstances are dictating responses – YJB closed in the UK, Portugal – juvenile system will be put in prisons for

the first time in 100 years –criminalising violence in schools - concerns exist about the new backdrop of economic crisis.

Due to last success concerning Roma people Dr. Varadi raised situation of Roma in Hungary – no research allowed!



Dr. Storgaard linked topics such as Justice, care, prevention and she also focused on the response to crime. From a Danish perspective it would make sense to do what Frieder was proposing, but what about reintegration if we want to prevent re-offending? She recognised that they know very little about this in Denmark. Could do this across jurisdictions. The other issue mentioned was pre-trial detention – ¼ are detained pre-trial and all are detained together with those convicted. Isolated detention is not contrary to the CRC so we can do this.

Dr. Farrugia representative continued with the issue of detention deprivation of liberty in a wider context – asylum – secure care – are we considering this from a criminal perspective alone?

Dr. Duenkel responded with the question: systems etc would be part of the analysis of detention. Important to get involved in legislation at an early stage – at parliamentary stage – good experience of this in Germany.

Dr. Farrugia argued as well with significance of standards in the legal/court process.

1. The three following issues were raised by Hungarian representative following: Education – training for judges etc – no or little training on mediation for judges;
2. Not enough research in Hungary – need more – media was interested in research.
3. Training in law faculties is important also. Research is really important to ensure lawyers, judges are adequately trained. Here we can have an impact.

Dr. Platzer finished with the following reflection; policy statements – policy brief committee would be required to react quickly? How would we do this in a way that is well written, articulate, informed by research.

CLOSING MEETING

Mrs. Cristina Goñi

Director of the European Juvenile Justice Observatory. Belgium.

Next steps forward of the ECJJ; the Standing Committee.

As presented at the First Meeting of the European Council for Juvenile Justice in 2009, the Council consisted of 81 professionals and experts representing the different sections and all EU Member States.



In order to speed up the decision-making process and management within the European Council on Juvenile Justice, the EJJJO set up a Standing Committee.

The Committee will be composed by one expert of each Member States, coming from one of the three sections of the European Council for Juvenile Justice: Public administrations, NGOs and academia sections. This Standing Committee will have 27 members.

The Standing Committee's functions cover e.g. the institutional representation of the Council, presenting proposals and recommendations on behalf of the Council to the EJJJO Governing Council.

The EJJJO through its Standing Committee will regularly inform the other members of the Council of any proposals for collaboration and participation as well as lines of work that will be discussed by the Committee and funding lines associated with it.

Appointment of Standing Committee members will shortly be made by the Governing Body of the European Juvenile Justice Observatory upon prior invitation and agreement by each one of the members.

This working group will act as the first Standing Committee and will be assigned the mission to propose specific working methods and operating rules to the European Council for Juvenile Justice, which will need to be accepted by the Governing Council EJJJO.

Mrs. Goñi referred that as from now, each member of the Council will receive a formal invitation. Upon acceptance of their appointment, the European Council for Juvenile Justice will be formally set up.

Dr. Francisco Legaz.

Chairman of the International Juvenile Justice Observatory.

Mrs. Cira Stefanelli.

Direttrice Istituto Centrale di Formazione Directorate Generale Juvenile Justice.
Ministry of Justice, Italy.

After the fruitful work day all of us had, on behalf of the IIJO as well as the EJJO Dr. Legaz thanked all those present for their participation in the 2nd Meeting of the European Council for Juvenile Justice and invited them to continue to strive towards the development of joint projects to facilitate the education and integration of children and juvenile in conflict with the law as well as in preventing juvenile delinquency.



The Chairman thanked the Istituto centrale di Formazione and especially Mrs. Stefanelli for their availability from the outset and throughout the development of the meeting and finally for being such great hosts.



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