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The Evaluation of the Implementation of International Standards in European Juvenile Justice Systems

IJJO Green Paper on Child-Friendly Justice

INTERNATIONAL JUVENILE JUSTICE OBSERVATORY

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The Evaluation of the Implementation of International Standards in European Juvenile Justice Systems

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1. Introduction

In November 2010, the International Juvenile Justice Observatory held the second meeting of the European Council of Juvenile Justice. All three sections of this European Council (Academic Section, NGO Section, Public Administration Section) decided to work on different issues which are assessed as being in need of development. The Public Administration Section decided to publish a Green Paper on the question in how far European juvenile justice systems have implemented international juvenile justice standards and how the level of implementation can be measured.[1]

The aim of this Green Paper is to discuss what the European member states need in order to evaluate the level to which international human rights standards on Juvenile Justice have been implemented in their juvenile justice systems, to identify prevailing problems which hamper evaluations and comparisons and to present existing national and international good practice approaches.

The Green paper starts with an overview of the basic principles of the international juvenile justice standards. Section 3 discusses the question of the binding character of international juvenile justice standards. Section 4 provides information about the knowledge of the level of implementation of these standards and, with the help of some examples, shows how juvenile justice standards are implemented into law and practice. Section 5 is dedicated to existing tools and instruments for the evaluation of juvenile justice systems both at the national and international level. Finally, section 6 contains conclusions and recommendations in the hope that they might be subject to further discussions and developments in order to improve European juvenile justice.

[1] See also the Green Papers developed by the Academic Section *"Measures of Deprivation of Liberty for young offenders: how to enrich International Standards in Juvenile Justice and promote alternatives to detention in Europe?"* and the NGO Section *"The social reintegration of young offenders as a key factor to prevent recidivism"*.

2. The international juvenile justice[2] standards

A number of international standards are devoted to protecting juvenile offenders. In particular the following international documents contain principles or recommendations[3] that affect juvenile justice[4]:

- The Convention on the Rights of the Child (1989) (CRC), adopted by General Assembly resolution 44/25 of 20 November 1989,
- General Comment No. 10 (2007): Children's rights in juvenile justice (GC No. 10), adopted at the 44th session of the Committee on the Rights of the Child (CRC/C/GC/10, 24 April 2007),
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985) (Beijing Rules), adopted by General Assembly resolution 40/33 of 29 November 1985,
- The United Nations Guidelines for the Prevention of Juvenile Delinquency (1990) (Riyadh Guidelines), adopted and proclaimed by General Assembly resolution 45/112 of 14 December 1990,
- The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) (Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990.

These instruments stipulate that countries should provide special, "child friendly" systems of juvenile justice that avoid criminalisation and detention, and which strive to make available alternatives to imprisonment and to other "classical" or "conventional" responses to offending. Countries within the territory of Europe should also have regard to Recommendations of the

2. In this paper, the term "Juvenile Justice" is used in a broad sense and is defined, according to the Council of Europe's Recommendation Rec (2003) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice as "the formal component of a wider approach for tackling youth crime. In addition to the youth court, it encompasses official bodies or agencies such as the police, the prosecution service, the legal profession, the probation service and penal institutions. It works closely with related agencies such as health, education, social and welfare services and non-governmental bodies, such as victim and witness support." More definitions can be found for example in the articles of Doak 2009, p. 19, footnote 2: "all legal provisions and practices (including social and other measures) relevant for treating children in conflict with the law", or Junger-Tas 2006, p. 506.

3. For the binding character of these instruments see Section 3. below.

4. This enumeration is restricted to the more "classical" standards in the field of juvenile justice which contain numerous regulations or recommendations for juvenile offenders who breach the Criminal Law. For recent developments in the field of criminal justice matters as such see Kilkelly 2011. All UN-documents can be found under: http://www.un.org/en/documents/index.shtml. The documents are published and/or commented on by for instance Höynck/Neubacher/Schüler-Springorum 2001, van Bueren 2006, Belser/Hanson/Hirt 2009.

Council of Europe[5], which can be – due to the comparatively stronger degree of uniformity of systems in Europe – far more concrete and precise than the UN-Rules:

- Council of Europe's Recommendation Rec(2003)20 concerning "New ways of dealing with juvenile delinquency and the role of juvenile justice", adopted by the Committee of Ministers on 24 September 2003(CM/Rec(2003)20) and
- Council of Europe's Recommendation Rec(2008)11 concerning "European rules for juvenile offenders subject to sanctions or measures", adopted by the Committee of Ministers on 5 November 2008(CM/Rec(2008)11 – ERJOSSM).

Especially the "European rules for juvenile offenders subject to sanctions or measures" contain extensive detailed instructions for the treatment of juvenile (and young adult) delinquents (142 rules). For the aim of this Green Paper it seems convenient to concentrate on the question to what extent the main principles laid down in different standards have been implemented within European juvenile justice systems. Without debasing the value of any rule or recommendation provided in the international standards, the following aspects can be seen as those main principles of the international juvenile justice standards with a view on Europe[6] which could be investigated further within the course and scope of this Green Paper:

2.1 Existence of a special juvenile justice system[7]

The international standards call for the establishment of an independent juvenile justice system that operates separately from adult criminal justice. The standards do not demand independent legal regulations, which are nevertheless an important indication that provision is being made for creating such a special system. Professional specialisation of parties to that procedure is a further indicator that an independent system of dealing with juvenile offenders is provided for. "Social integration" and "the prevention of reoffending" should be the paramount aims of juvenile justice instead of traditional objectives of criminal justice (such as repression and retribution).

5. Council of Europe's Recommendation Rec(2006)2 (European Prison Rules), Council of Europe's Recommendation Rec(2003)20 concerning "New ways of dealing with juvenile delinquency and the role of juvenile justice" (CM/Rec(2003)20) and Council of Europe's Recommendation Rec(2008)11 concerning "European rules for juvenile offenders subject to sanctions or measures" (CM/Rec(2008)11). Resolutions of the Council of Europe can be found under http://www.coe.int/t/cm/adoptedTexts_en.asp#P43_2297. See also Council of Europe 2009, Commissioner of Human Rights 2009.
6. Concentrating on Europe allows us to leave out main principles that are already respected all over Europe like the abolition of the death penalty or corporal punishment for juveniles.
7. CRC Art. 40 (3) (a), GC No. 10 (2007), 10., 30.-39., Beijing Rules Art. 4 (1), CM/Rec(2003)20, 1., III 11-12, CM/Rec(2008)11, Rule 2, 4, 17.

The international standards contain provisions on the age groups that are covered by juvenile justice systems. They spell out the need for a minimum age of criminal responsibility (MACR) which, according to the respective provisions, should not be "too low".[8]

Limiting the use of special juvenile justice provisions to a maximum age that lies below 18 is, from the perspective of the international standards, not actually allowed. On the contrary, European standards in particular stipulate that the special legal provisions for juveniles should also be applicable to young adult offenders.[9]

2.2 Existence of procedural safeguards for juvenile offenders[10]

International standards provide that juvenile offenders should be accorded the same procedural safeguards as are accorded to adults. Among such fundamental rights are: the right to remain silent, as well as the right to be heard by the police, the prosecutor and the judge. Also, the child must be given the opportunity to express his/her views freely at all stages of the procedure. Short deadlines and time limits are of particular relevance in juvenile criminal procedure for preventing unnecessary delays and enabling swift and prompt responses to juvenile offending. Throughout the entire procedure, accused juveniles should be entitled by right to legal or other appropriate assistance. Such assistance needs to be free of charge so that juveniles can effectively avail themselves of this right.

Juveniles must have the right to lodge with a higher competent, independent and impartial authority or judicial body, an appeal against decisions by which they are found guilty, or which result in the issuance of a diversionary measure. This entitlement should not be limited to more serious offences and/or sentences to imprisonment.

2.3 Introduction and use of diversion[11]

According to international standards, diversion should play a prominent and special role in juvenile justice.[12] Whenever appropriate and desirable, the systems shall promote measures for juvenile

8. For example Beijing Rule 4.1. An indication of what is "too low" is given in GC No. 10 (2007), 32.
9. E.g. CM/Rec(2008)11, Rules 4, 17; Beijing Rule 3.3, see also Jacomy 2011, p. 13.
10. CRC Art. 12; 40 (2) (a); 40 (2) (b) (i)-(vii), GC No. 10 (2007), 12.; 40.-67, Beijing Rules Art. 7 (1), 15 (1), (2), ERJOSSM CM/Rec(2008)11, Rules 5, 13.
11. CRC, Art. 40(3)(b), GC No. 10 (2007), 22.-27, Beijing Rules, Article 11(1), 11(2) and 11(3), CM/Rec(2008)11, Rules 3, 5, 9, 12, 23.1.
12. For the theoretical background of diversion and empirical evidence for its effectiveness see Dünkel/Pruin/Grzywa 2010, pp. 1625 ff. and pp. 1638 ff. with further references.

offenders without resorting to judicial proceedings (diversion). Legal safeguards have to be fully respected, which means inter alia that diversion shall only be used when there is compelling evidence that "the child committed the alleged offence, that he/she freely and voluntarily admits responsibility and that no intimidation or pressure has been used to get that admission" (See GC No. 10, 27).

The international standards purport the need for a wide spectrum of pre-court alternative (diversionary) measures for juvenile offenders. The more different authorities (e.g. judges, prosecutors, and police) are involved in decisions on diversion, and the fewer offences and offenders are excluded from its scope of application, the more likely it becomes that diversion is used broadly across the different stages of the procedure.

According to the standards, full compliance with diversionary measures shall result in full closure of the case, and issued diversionary measures shall not be made part of an offender's criminal record (GC No. 10 (2007), 27.). Diversionary measures have to be limited by the principle of proportionality (i.e. the degrees of guilt and offence severity). This principle prevents particularly intensive and long-lasting sanctions from being issued solely on the basis of "educational needs" (see GC No. 10 (2007), 71.).

2.4 Introduction and use of alternative sanctions and measures (after a formal hearing)[13]

International standards purport that a wide spectrum of appropriate alternative sanctions be provided for juvenile offenders who are convicted by a judge or court in formal proceedings. The measures provided shall be of a determinate nature and shall be imposed for the minimum period necessary. Their imposition shall only be based on a legitimate purpose.[14]

The principle of proportionality entails that the degrees of guilt and offence severity limit the state reactions that are applicable in a given case (see above). According to the Recommendations of the Council of Europe community sanctions should also be available to the courts in cases of more serious offending.[15]

[13] CRC Art. 37 (b), GC No. 10 (2007), 28., 29., 70.-77, Beijing Rules Art. 17 (1)-(4), 18 (1)-(2), 19 (1), Riyadh Guidelines Art. 46., CM/Rec(2003)20, Art. 1, CM/Rec(2008)11, Rules 5, 9, 10, 12, 23.1, 30.1., 30.2.
[14] CM/Rec(2008)11, 3.
[15] CM/Rec(2003)20, 8.

2.5 Deprivation of liberty as last resort, no indeterminate prison sentence[16]

Deprivation of liberty, regardless of which form it takes, constitutes the most severe instrument of justice and is associated with the most negative consequences (since capital punishment has been effectively abolished in Europe). Negative effects and risks of liberty depriving sanctions are even more severe for juveniles, who are more vulnerable than adults and whose value systems, perceptions of the world and roles in society are not yet fully developed (but can already be distorted or damaged). Therefore, international instruments postulate that liberty-depriving sanctions should only be ordered as a last resort and for the shortest appropriate period of time.[17]

Liberty depriving sanctions and measures in this sense are not only those applied by a court after a court proceeding but includes police and pre-trial detention as well as any forms of custody and placement in closed institutions, be they called prisons, residential or reformatory schools or mental health institutions. Every juvenile deprived of his or her liberty has the right to prompt access to legal and other appropriate assistance as well as the right to challenge the legality of the deprivation of liberty before a court (or other competent, independent and impartial authority)[18].

The international standards claim for alternatives to all forms of closed institutions at every stage of the process (especially alternatives to pre-trial detention).

2.6 Humane and child friendly "prison" regime[19]

If deprivation of liberty cannot be avoided, the international standards contain numerous provisions concerning the treatment of and conditions for children deprived of their liberty. Juveniles shall be separated from adults. If it is in his/her best interest, after the 18th birthday it should be possible to remain in the facility for young persons. Liberty-depriving sanctions and measures shall aim to rehabilitate the juveniles and shall prepare their release.[20] Juveniles shall be provided with a physical environment and accommodations which is in line with the rehabilitative aims of their placement. Institutions shall provide meaningful activities and

16. CRC Art. 37 (b), GC No. 10 (2007), 28., 29., 70.-77., Beijing Rules Art. 17 (1)-(4), 18 (1)-(2), 19 (1), Riyadh Guidelines Art. 46., CM/Rec(2003)20, Art. 1, CM/Rec(2008)11, Rules 5, 9, 10, 12, 23.1, 30.1., 30.2., see in more detail Kilkelly 2011.
17. The Committee of the Rights of the Child strongly recommends in GC No. 10 (2007), 77 that all forms of life imprisonment be abolished for offences committed by persons under the age of 18.
18. See GC No. 10 (2007), 82.
19. Havannah Rules, Beijing Rules, Art. 26-29, GC No. 10 (2007), 78-89, CM/Rec(2008)11, Rules 49.1-119.
20. See in more detail Jacomy 2011.

juveniles in detention shall be integrated into the educational and vocational training system of their country. The use of force by staff shall be the absolute *ultima ratio*, and disciplinary procedures shall be mechanisms of last resort. All forms of inhuman and degrading treatment shall be prohibited. This also means that living and hygienic conditions have to be in a state that makes a humane placement possible. At all stages of the liberty depriving sanction or measure the juvenile shall have access to a court.

3. The (binding?) character of international juvenile justice standards

The international juvenile justice standards mentioned in this Paper differ in the degree to which they are binding. The Convention of the Rights of the Child has been ratified by all European States and therefore is legally binding.[21] However, since the CRC does not have a system of petition to allow individuals to complain about breaches of the Convention, the degree of legal protection it provides is not as comprehensive or extensive as the degree accorded by the European Convention on Human Rights (ECHR), which introduced the European Court of Human Rights, but entails only the absolute main principles of (juvenile) justice like the right to a fair trial.[22]

The "Rules" or "Guidelines" adopted by the United Nations as well as the Council of Europe´s "Recommendations" are, according to international law, to be regarded as "soft law". The General Comment on Children´s Rights in Juvenile Justice plays a special role in this sense, as it was not adopted by the United Nations General Assembly, but by the United Nations Committee on the Rights of the Child. It nevertheless has the status of "soft law" as well, because it is adopted by a special United Nation`s organisation.[23] Like the ERJOSSM at the European level, General Comment No. 10 is a very comprehensive international statement on juvenile justice (embracing not only the CRC but all UN-Documents on juvenile justice mentioned above) and entails detailed principles and recommendations itself,[24] whereas the

21. See for an overview Kilkelly 2008a, p. 188 and Goldson/Hughes 2010, p. 213. The precursors of the CRC (Geneva Declaration of the Rights of the Child, 1924 and Declaration of the Rights of the Child, 1959) can be found in Belser/Hanson/Hirt (numbers 1 and 2). Abrahamson 2006 and Moore/Mitchel 2009 see the juvenile justice parts of the CRC as the "unwanted child" of the child rights movement.
22. See Kilkelly 2008, p. 189.
23. For an introduction about soft law in international law see Hobe/Kimminich 2004, pp. 205. On the term "soft law" in EU Law, see Schwarze 2011.
24. See Goldson/Hughes 2010, p. 213. GC No. 10 is the only international UN-Document which specifies which minimum age of criminal responsibility has to be seen as "too low", see above.

CRC particularly lacks clear regulations, for example with regards to detention as a last resort or to the minimum age of criminal responsibility.

What does this status of "soft law" mean for the binding character of international juvenile justice standards?

The term is in fact a contradiction in itself, since the term "law" implies the establishment of obligatory normative imperatives. "Soft-law" regulations on the other hand are not subjective rights that the individual can assert, and a breach thereof does not precipitate state liability under international law. However, to regard "soft-law" provisions merely as "ceremonious statements of will" by the international organs and bodies would be a misunderstanding. Rather, they are recognized, accepted declarations of intention from approved, internationally respected organs and bodies of the UN and the Council of Europe, agreed on by a community of meaningful and significant state representatives. Soft wordings of such provisions are often an indication that the wording was subjected to scrutiny and discussed thoroughly, until all state representatives could agree to them. To say that these recommendations and regulations lacked any binding nature would imply that the intense discussions and debates from which they resulted had been superfluous. Rather, it would be a valid assumption that these regulations are an expression of the behaviour which the respective Member States expect from each other.[25] The Member States at the very least morally oblige themselves to fulfill the expectations that they have of others.

Moreover, there are numerous examples which indicate that these principles and regulations are accorded greater significance than merely representing moral obligations: domestic courts have repeatedly asserted that they, in making decisions, orient their interpretations of domestic legislation towards international recommendations. For example, in its decision on juvenile imprisonment, the German Federal Constitutional Court put indirect pressure on the State to follow international human rights standards.[26] The court expressed:[27] *„It could be an indication that insufficient attention has been paid to the constitutional requirements of taking into account current knowledge and giving appropriate weight to the interests of the inmates if the requirements of international law or of international standards with human rights implications, such as the guidelines or recommendations adopted by the organs of the United Nations or the Council of Europe, are not taken into account or if the legislation falls below these requirements."* The Federal Court of Switzerland has noted as well that rights and

25. Schwarze 2011, p. 5.
26. See Dünkel/van Zyl-Smit 2007, p. 357.
27. Decision of the German Federal Constitutional Court of 31 May 2006, Neue Juristische Wochenschrift 2006, 2093., Translation following Dünkel/van Zyl-Smit 2007, p. 357.

duties from the Recommendations of the Council of Europe are – despite their non-binding legal character – still of considerable significance, because they are special guidelines and have to be taken into account in the concretization of the constitutional guarantees of the Federal Swiss Constitution as well as the European Convention on Human Rights.[28]

The law governing the imprisonment of juveniles of the Federal State of Baden-Württemberg furthermore states that youth imprisonment has to be evaluated and that all measures and programs in youth prisons should be evidence-based (section 87, book 4 Prison Law).

So these findings indicate the growing degree of popularity[29] and acceptance of international juvenile justice standards.

4. The level of implementation of international juvenile justice standards in Europe

In the last 10 to 15 years, a number of comparative research studies[30] and surveys have been dedicated to examining juvenile justice systems in Europe. Most of them describe the different systems[31], and try to analyze them under certain aspects.[32] The results from these studies provide us with a great deal of information on the systems that are in place. However, they only partly allow us to evaluate the level of implementation of international juvenile justice standards. The reason for these restrictions lies in the complexity of the topic: The findings of this previous research have brought differences between the European juvenile justice systems to light in terms of the theoretical approaches employed[33], the age groups that they

28. See Dünkel/van Zyl-Smit, footnote 9 (referring to Federal Court of Switzerland`s Judgement of 12 February 1992, BGE 118 Ia 64).
29. See Neubacher 2009, p. 285 f.
30. Shoemaker 1996, Dünkel/van Kalmthout/Schüler-Springorum, Albrecht/Kilchling 2002, Winterdyk 2002, Doob/Tonry 2004, Cavadino/Dignan 2006, Junger-Tas/Decker 2006, Muncie/Goldson 2006, Bailleau/Cartuyvels 2007, Patané 2007, Hartjen 2008, Hazel 2008, Junger-Tas/Dünkel 2009, Cipriani 2009, Dünkel/Gryzwa/Horsfield/Pruin 2010.
31. Goldson/Hughes 2010, p. 215.
32. Cavadino/Dignan 2006 look for political categorizations of the State´s policies, Cipriani 2009 compares age groups, Junger-Tas/Dünkel 2009 and Dünkel/Gryzwa/Horsfield/Pruin 2010 are comparative analyses of certain aspects (the scope of juvenile justice, pre-trial detention, sanctions systems etc.).
33. See for example the typologies by Winterdyk 2002, Cavadino/Dignan 2006, Hartjen 2008.

encompass[34], the applicable sanctions and measures[35] 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 adult offending.[36]

Moreover, whether or not a country has implemented the European juvenile justice standards, and if so, to what degree, can only be determined if both theory and practice are studied together. It has not yet been possible to grasp all the facets of these different European approaches to treating/dealing with juvenile offenders. One reason for this can be found in the lack of common terminology: International descriptions of juvenile justice systems are generally authored in English. The attendant problem in this regard is that, in such descriptions, the terminology used is characterised and determined by the juvenile justice system of English-speaking countries, thus limiting the adequacy of using said terminology to describe the state of affairs in other jurisdictions.[37]

Another reason lies in the differing degrees to which comparable data are available in the countries of Europe. The collection of data on juvenile justice in particular, where it is even collected at all, is often totally deficient,[38] which explains the existing gaps in internationally comparative research results on the practices of juvenile justice systems.[39] An evaluation of the implementation of the main juvenile justice standards mentioned above on the basis of the given research results allows for the following conclusions.

34. Dünkel 2003, Pruin 2007, Cipriani 2009, Weijers/Grisso 2009, Dünkel/Pruin 2009, Dünkel/Grzywa/Pruin/Šelih 2010, Pruin 2010 withfurtherreferences.
35. Dünkel/Pruin 2009, Dünkel/Pruin 2009a, Dünkel/Pruin/Grzywa 2010, with further references.
36. See for example Winterdyk 2002, Cavadino/Dignan 2006, Junger-Tas/Decker 2006, Hartjen 2008, Hazel 2008, Pruin 2010 with further references.
37. Terminology even varies greatly between the various juvenile justice jurisdictions of the UK, so that a special *Dictionary of Youth Justice* was published by Goldson in 2008.
38. See. GC No. 10 (2007), 98: "The Committee is deeply concerned about the lack of even basic and disaggregated data on, inter alia, the number and nature of offences committed by children, the use and the average duration of pre-trial detention, the number of children dealt with by resorting to measures other than judicial proceedings (diversion), the number of convicted children and the nature of the sanctions imposed on them." Even where data are collated, it usually does not occur uniformly, with recording practices swaying between offender-based and offence-based data, or referring to cut-off dates or one-year time periods (differentiation into "stock" and "flow"), which in turn also vary between calendar years and business years.
39. SPACE (see Aebi/DelGrande 2007) and the European Sourcebooks of Crime and Criminal Justice (see Kilias et al. 2003, Aebi et al. 2006) therefore provide only limited data on juvenile offenders.

4.1. Level of implementation into laws

Many juvenile justice systems in Europe have undergone major reforms[40] in order to (better) accommodate the requirements stemming from the international standards, a development that has not been limited to Eastern European countries. To investigate comprehensively the level of implementation of the standards into European juvenile justice laws would justify a separate major research project and can therefore not be the object of this paper. However, some examples shall allow at least some basic statements and can be seen as a starting point for further considerations.[41]

If we evaluate the **existence of a special juvenile justice system** with the help of the existing research results we do find that the ways in which such a system is implemented in legislation do vary. Many European States have introduced independent legal regulations, which can be seen as an important indication that provision is being made for creating such a special system. In some countries the treatment of young offenders is governed by entirely independent laws (e.g. Austria, Belgium, Croatia, Czech Republic, Germany, Kosovo, Portugal, Serbia or Spain) which can be seen as a sign for a clear separation from the adult criminal justice system.[42] Many States have introduced special regulations and provisions that modify (criminal) procedure and have implemented professional specialisation of parties to that procedure, like specified Youth Courts in Germany or the Scottish Children's Hearing System. Considering the extent of special regulations as well as their settings (within the framework of justice or welfare laws) the juvenile justice systems can be classified as either more "justice" or more "welfare" oriented.[43] The characteristics of the juvenile justice system reflect the scope of the respective laws: While most systems only deal with juvenile offenders in a more narrow sense, i. e. persons who have broken penal laws, others have a wider scope of application that also encompasses young people "in trouble" or "in need of care" (e.g. Belgium, Bulgaria, France or Poland). Being in "trouble" or in "need of care" are circumstances for which children and juveniles need not necessarily be to blame, but which could for example be due to inappropriate or dysfunctional family environments. Yet other juvenile justice systems tie in with forms of behaviour that are not in violation of criminal law, but which nonetheless go against the rules of regular and orderly cohabitation (for instance "anti-social behaviour" in Bulgaria or England). Beyond this,

40. See for instance the articles published by editors such as Junger-Tas/Decker 2006, Patané 2007, Junger-Tas/Dünkel 2009 or Dünkel/Grzywa/Horsfield/Pruin 2010.
41. For the implementation of measures of deprivation of liberty see in more detail Kilkelly 2011.
42. On the other hand, the Scandinavian countries are a good example for the invalidity of such a general rule: although the Scandinavian countries do not provide special juvenile justice law they have introduced special juvenile justice systems through strong bindings and overlapping competences between youth justice and welfare.
43. Cavadino/Dignan 2006, Hartjen 2008, Winterdyk 2002.

some juvenile justice systems also cover so-called status offences – forms of behaviour that can only be exhibited by children and juveniles (like truancy, vagrancy, runaways, e.g. Bulgaria, England and Wales, Estonia, Finland or Poland) and which are only defined as "offences" when "committed" by juveniles.

While the standards are clear and explicit in that juveniles who are deprived of liberty for violating criminal laws shall be separated from juveniles who are deprived of their liberty for being in "need of care", they do not go so far as to explicitly require that these two categories of juveniles be treated or dealt with by entirely different systems. However, the juvenile justice standards are in clear opposition to the penalisation of status offences (see GC No. 10 (2007), 8.). Such forms of behaviour should be dealt with via child protection measures, including effective support for parents and/or other caregivers, and measures that address the root causes of this behaviour (see GC No. 10 (2007), 9.).

All European States have introduced a **minimum age of criminal responsibility,** but the age groups which are encompassed by the regulations vary considerably: In Scotland, until March 2011 children could be prosecuted before a criminal court from the of 8 onwards (this limit has now been raised to 12).[44] In England and Wales criminal responsibility begins at the age of 10 and in Belgium at the age of 18.[45] However, further analysis demonstrates that we have to see the complexity of the system before we can decide if the minimum age of criminal responsibility can be seen as "too low" according to the international standards. Extremely low and high ages of criminal responsibility both have to be put into perspective: In Scotland, in practice juvenile offenders from 8 up to the age of 15 have regularly[46] been transferred to the Children's Hearing system, which follows a welfare approach and decides according to the needs of the offender. England and Wales provide in general detention in a young offender institution only from the age of 15 upwards.[47] And in Belgium there are many possibilities to apply coercive measures to juvenile offenders under the age of 18.[48]

Some countries limit the applicability of special juvenile justice rules to an age under 18 (for example Portugal). The standards, however, envisage that all juvenile offenders up to the age of 18 should be within the remit of the juvenile justice system and the special treatment that results from it. Limiting the use of special juvenile justice provisions to a maximum age that lies below 18 is, from the perspective of the international standards, not actually allowed.

44. See Art. 52 a Criminal Justice and Licensing (Scotland) Act 2010. Children from the age of 8 can still be referred to the Children's Hearings System for behaviour that would constitute an offence if they were adults.
45. See Dünkel/Grzywa/Pruin/Selih 2010, Table 1.
46. Exceptions are made for the most severe offences, see Burman et al. 2010.
47. Juveniles aged between 12 and 14 can only be taken into custody in case of "persistent" offending, see Dignan 2010.
48. Cf. Pruin 2010, p. 1535.

In other jurisdictions, juvenile suspects can be transferred from the youth court to adult criminal courts when they are accused of certain offences (e.g. Belgium, England and Wales, Netherlands, Northern Ireland). This occurs mostly where the committed offence is particularly grave or serious. Interestingly, these would actually be the cases in which the application of special juvenile justice provisions could in fact be at its most desirable, given the degree of stigmatisation that such high-profile cases entail.

On the other hand, many juvenile justice systems extend the scope of juvenile justice by including young adults.[49]

Looking at the laws, the Convention of the Rights of the Child might have had most impact on the **introduction of procedural safeguards for juvenile offenders**: All European juvenile justice systems have introduced procedural safeguards like the right to remain silent or the right to be heard by the police, the prosecutor and the judge. It furthermore appears that the involvement of parents or legal guardians plays a role in each country. With the exception of Bulgaria, the parents of the juveniles are informed at a very early procedural stage, and in many countries they are granted the opportunity to actively participate in any hearing in which their children are involved.[50] Without exception, the consultation of a criminal defence lawyer is possible. Yet there are significant differences between European countries in terms of when legal defence becomes mandatory.[51] Whereas in some countries mandatory legal defence is provided for the full duration of youth justice proceedings (e.g. Estonia, Latvia and Lithuania), in other countries defence counsels are appointed by the courts in certain specific cases or when it is deemed "necessary" (e.g. Austria or Germany).[52]

All European States have introduced ways to divert the juvenile offender from "normal" criminal procedure. Yet the **concepts of diversion** vary between the different European juvenile justice systems in Europe: Diversion can be completely non-interventional, conditional (the dismissal of the case is provisional until certain conditions are fulfilled like the delivery of reparation or refraining from reoffending) or can be combined with special educational diversionary measures or with a referral to the Social Services in general (or special administrative authorities/bodies like "local commissions" in Bulgaria or Estonia or the Children's Hearings System in Scotland).[53] Different authorities may be competent to decide on the dismissal of the case (e.g. the police, the prosecutor or the judge). If there are independent, extrajudicial boards, panels or committees that are competent for making decisions in cases of juveniles

49. See Dünkel/Pruin 2010.
50. Gensing 2010, p. 1602, with further references and examples for the extent of parental involvement.
51. Ibid., p. 1609 with further references and analysis.
52. Ibid, pp. 1610 ff.
53. See Dünkel/Pruin/Grzywa 2010 and Dünkel 2009.

who are not dealt with via the "normal" criminal procedure, there is the risk that international juvenile justice standards (including the procedural safeguards for which they call) relish less recognition and acceptance in the context of such 'less formal' bodies.[54]

If we look at the **introduction and use of alternative sanctions and measures** we do find that all European countries provide for a wide variety of sanctions and measures which can be applied to juvenile offenders.[55] The existing sanctions and measures follow a certain hierarchy. The least invasive sanctions are warnings or reprimands, followed by educational measures (such as educational directives e.g. in Austria, Germany, France or Lithuania) with the aim to improve the educational impact on the one hand and to reduce the impact of risk factors on the other. Not all European countries resort to fining juveniles (e.g. Belgium, Bulgaria, Italy, Poland or Serbia do not apply fines), but most countries offer victim-offender-mediation as a pre-court or court level disposal. Many countries provide community service, through which the offender can offer "a payback to the community via unpaid work".[56] Huge differences can be observed with respect to the maximum number of hours that such a sentence can entail (Belgium: 30 hours, Northern Ireland: up to 240 hours). Many countries have successfully implemented creative and constructive measures where the juveniles can learn to deal with their aggressive potential, like for instance the social training courses in Germany or so called labour and learning projects in the Netherlands.[57] To avoid detention, all European countries have introduced either probation or suspended sentences for juvenile offenders.

It seems that all countries have introduced regulations to make sure that **youth imprisonment is the "ultima ratio" in the hierarchy of sanctions for juvenile offenders.**[58] Yet no European country has managed to totally avoid imprisonment or detention for juveniles. Many different forms of deprivation of liberty can be found in Europe, like youth prisons, detention centres, closed educational care or schools "for juveniles with special needs": Whereas in most countries the primary ground for imposing a youth prison sentence is the gravity of an offence, deprivation of liberty in other "centres" or "schools" can be based on grounds like the offender's "need" for educational treatment as well.[59] To ensure that all forms of deprivation of liberty are in fact the last resort of juvenile justice, legislation has to ensure that the principle of proportionality with regards to the gravity of the offence is respected in all cases of deprivation of liberty.[60]

54. Kanev at al. 2010 criticize the Bulgarian Juvenile Committees for not adequately respecting international standards.
55. See for an overview: Dünkel/Pruin/Grzywa 2010 (especially Table 1) and Dünkel/Pruin 2009a.
56. Goldson 2008, p. 78 (Community Punishment Order).
57. See Dünkel/Pruin/Grzywa 2010, p. 1648 with further references.
58. See Dünkel/Stando-Kawecka 2010, p. 1770.
59. Ibid, p. 1770.
60. As the existing juvenile justice literature concentrates on youth imprisonment it can only be suspected (and not proven) that regulations which send juvenile offenders to closed institutions based on their "educational needs" oftentimes lack sufficient safeguards for the date of their release.

Life imprisonment is theoretically applicable to juveniles in England/Wales, the Netherlands or Scotland.[61] Other countries (Portugal and Switzerland) do not allow for longer sentences than three or four years even for the most serious cases and most countries fix the maximum youth prison sentence at 10 years.[62]

If we look at the implementation of standards which claim for a **humane and child friendly "prison" regime** we do first have to emphasize that they have to be applied in all variations of deprivation of liberty for juvenile offenders (see above, including all forms of closed welfare institutions, pre-trial-detention etc). As to the legal base for the execution of youth prison sentences, juvenile justice research demonstrates that only in a few cases do special laws exist that govern the execution of sanctions of deprivation of liberty in reformatory schools or similar specialised institutions.[63]

Some countries do not provide any legal minimum standards for the accommodation and the minimum space per detainee.[64] The existing minimum standards vary considerably (between 2,5sqm in Estonia and 10,5 sqm in France)[65]. Youth prisons usually offer a variety of different educational programmes, and oftentimes offenders are obliged to participate in schooling or vocational training.[66] Concerning the preparation for release, many countries systematically involve probation or aftercare services.[67]

Disciplinary measures are available in all countries. According to the findings of Dünkel and Stando-Kawecka, solitary confinement for disciplinary or security reasons is possible for longer periods than the European standards would allow for.[68] There is not enough information available to evaluate whether all countries safeguard the rights of the young offender through giving access to legal aid or to regular inspections by the governments and independent bodies.

4.2 Level of implementation in practice

Our knowledge about the degree to which international juvenile justice standards have been implemented in practice is extremely limited compared to our knowledge of the level of implementation into legislation. The reason lies in the differing degrees to which comparable data are available in the countries of Europe. The collection of data on juvenile justice in particular,

61. Dünkel/ Stando-Kawecka 2010, p. 1772.
62. Ibid.
63. The information concerning this point is based on the article by Dünkel/Sta do-Kawecka 2010 as well as on a questionnaire which was sent out in 2006 by the Council of Europe to its Member States, see Dünkel/Pruin 2009b.
64. Ibid, p. 1782.
65. Ibid., p. 1783 and Dünkel/Pruin 2009b.
66. Ibid, p. 1791.
67. Ibid, p. 1793.
68. Ibid.

where it is even collected at all, is often totally deficient,[69] which explains the existing gaps in internationally comparative research results on the practices of juvenile justice systems.[70] Therefore it is only possible to formulate some careful results about the implementation of the international standards into practice for some countries.

Concerning the **use of diversion**, complete and comprehensive data are not available in most countries. According to official data, high diversion rates can be concluded for Germany.[71] Individual research indicates relatively high diversion rates for Austria, Belgium, Croatia, Ireland[72], Italy, Netherlands, Northern Ireland, Romania, Slovenia and Spain. Many countries, especially those in Eastern and Central Europe, report that the use of diversion is limited not by the laws but by the lack of infrastructure for the delivery of diversion schemes etc.

Alternative/community court dispositions are frequently applied in the Czech Republic, Romania, Scotland, Slovenia, Spain and Switzerland.[73] In countries with high diversion rates regularly only "serious" cases end up in court. Nevertheless, the principal court disposal in the Netherlands is community service. And in Slovenia, in 98% of all court decisions educational measures are applied. Based on a lack of infrastructure for other more educational alternatives, in many Central and Eastern European countries the suspended prison sentence is still the predominant community sanction.[74]

Measuring the **extent of the use of custodial dispositions** is even more difficult as sometimes placements in welfare institutions are not registered as liberty-depriving responses to youth offending. However, we can observe the major importance of custodial sentencing in Bulgaria, Lithuania, Romania, Russia and Spain.[75] Denmark, Sweden and Finland have reduced their numbers of juvenile prisoners to very low numbers.

The limited comparative research results on the length of prison sentences in European juvenile justice systems provide no indication of whether or not the **principle of minimum intervention** is respected.

69. See footnote 39 above.
70. See footnote 40.
71. Dünkel/Pruin/Gryzwa 2010, p. 1665.
72. Estimated by Walsh 2010, because the rate of police diversion is not clear from the statistical data provided by the respective ministries.
73. See Dünkel/Pruin/Gryzwa 2010, p. 1678.
74. See Dünkel/Pruin/Gryzwa 2010, p. 1678.
75. Ibid, p. 1679.

5. Instruments and tools for the evaluation of the implementation of international juvenile justice standards

The EU Agenda for the Rights of the Child (published in February 2011) identifies as a general principle the need to adopt measures to build the basis for evidence-based policy making including improving the lack of reliable, comparable and official data.[76] The **Committee on the Rights of the Child** expresses a general concern about the extent to which the international standards are being implemented in most EU states.[77] So far, no internationally agreed indicators for the level of implementation of juvenile justice standards do exist. However, different instruments and tools for the evaluation of the implementation of international juvenile justice standards can be found both at the international and the national level.

Apart from international (comparative) juvenile justice research, there are mainly two international instruments for such an evaluation.

The Committee on the Rights of the Child (CRC) is a body of independent experts and monitors the implementation of the Convention on the Rights of the Child by its State parties, which have to submit regular reports to the Committee on how the rights are being implemented. The first report has to be submitted two years after acceding to the Convention, follow-ups have to be submitted every five years. The Committee addresses its concerns and recommendations to the State party in the form of "concluding observations".[78] On a European level – including European juvenile justice standards – such a reporting system is not available nor claimed for by the State parties. Reports of the European Committee for the prevention of torture and inhumane or degrading treatment or punishment (CPT) partly entail information about the implementation of international standards with respect to juveniles deprived of their liberty.[79]

Contrary to this "external" evaluation which might not always be appreciated by all states, the **Unicef's set of fifteen juvenile justice core indicators** (*United Nations Office on Drugs and Crimes* 2007) allows for an internal evaluation. The UNICEF- indicators are categorised into

[76] European Commission, Communictation from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Agenda for the Rights of the Child, COM(2011), p. 5. For more information see Kilkelly 2011, 2.1.
[77] See references at Kilkelly 2011, section 4.
[78] http://www2.ohchr.org/english/bodies/crc/.
[79] Especially the 9th General Report on the CPT's activities covering the period from 1 January to 31 December 1998 with its special section *"Juveniles Deprived of Their Liberty"*. See for more information Kilkelly 2011, Section 2.2.

(a) quantitative indicators, and (b) policy indicators. Seen from a global perspective this is an amazing effort which deserves great respect. It has however not been communicated so far whether European countries do use these indicators to evaluate their juvenile justice systems or whether the indicators are regarded as a working tool for not so "well" developed juvenile justice systems. In this respect it might furthermore be necessary to mention that the indicators allow an examination of whether a juvenile justice system is in line with the Convention of the Rights of the Child and other UN-instruments, but does not encompass the juvenile justice standards at the European level (for instance the Recommendations of the Council of Europe) which are more extensive, detailed and numerous than the global provisions.

The degree of variance between European juvenile justice systems is also reflected in the domestic instruments and tools with which States (can) examine the implementation of international juvenile justice standards. To find out which evaluation tools and methods are available within European juvenile justices systems in this regard, the IJJO sent a questionnaire to the administrative juvenile justice sections in European ministries in March 2011.

According to the answers to that questionnaire, the **Czech Republic**[80] assesses juvenile justice policies and programs with the help of the Probation and Mediation Service. The Service is an institution which is based on the cooperation of social workers and lawyers and is therefore seen as a new multi-disciplinary profession in the criminal justice system. The Probation and Mediation Service regularly analyses basic statistical data concerning some indicators of juvenile justice (e.g. the proportion of juvenile cases in pre-trial detention) and aims to offer effective and socially beneficial solutions to crime related conflicts. At the same time it organizes and provides for an efficient and dignified execution of alternative sentences and measures with emphasis on victims' interests, community protection and crime prevention. Furthermore, the Institute for Criminology and Social Prevention has carried out several studies focused on finding effective ways of supervising juvenile offenders. The Institute for Criminology and Social Prevention (ICSP) is currently (2008-2011) investigating the opinions and positions of the experts regarding the effectiveness of the most recent juvenile justice act (Law Nr. 218/2003 Coll).

Apart from this, according to the response to the questionnaire there is a lack of uniformity regarding the criteria against which the current practice of the juvenile justice system is evaluated. Analyses are carried out by different departments and concern partial information (Ministry of Justice, Ministry of Labor and Social Policy, Ministry of Education and Ministry

80. The reported information is based on the answer to the questionnaire which was sent by the Czech Ministry of Justice, Department for International Cooperation.

of Health). Continuous assessment of the practice is also conducted through training events such as seminars involving judges, prosecutors, police officers, Probation and Mediation Service staff, etc. The findings resulting from juvenile justice evaluations are used in the course of drafting methodological, conceptual and strategic materials, in the training of probation officers and other specialists involved in the juvenile justice system. According to the response to the questionnaire, the most recent Czech act on juvenile criminal law (Act No. 218/2003 Coll., on Liability of Juveniles for Illegal Acts and on Juvenile Justice and Amending Certain Acts) is said to be in compliance with all international juvenile justice standards (including the most recent Recommendations of the Council of Europe).

The Office of the Government and the Government Commissioner for Human Rights is in charge of responding to the Committee of the Rights of the Child.

Training for the experts from the judicial sector is provided by the Judicial Academy which is a departmental training institution under the Ministry of Justice. The Judicial Academy holds a wide range of courses for experts from the whole judicial sector. Juvenile justice is a part of the educational system and it is mostly focused on alternative punishment. International standards of juvenile justice are applied in particular training programmes of the Judicial Academy. The issue is henceforth included in the educational systems and plans of the Judicial Academy.

The differing competences of several ministerial departments are named as the main difficulty in achieving an effective implementation of international juvenile justice standards. These differing competences complicate national planning and strategic materials, which would set national priorities in this area. In practice this is causing partial problems in the cooperation among the experts of different institutions and bodies and in maintaining the necessary continuity of work with children and adolescents younger than 15 years.

Finland[81] refers to university research and studies by the National Research Institute of Legal Policy as an effective and successful model for the assessment of juvenile justice policies. Legislation and practices are adapted should these studies identify disadvantages or problematic issues. According to the response to the questionnaire, it is always examined carefully that the international juvenile justice standards are adhered to when amending legislation and it is made sure that the practices are uniform with the legal bases. The Ministry of Justice as well as the Ministry of Social Affairs and Health are, if necessary in cooperation, in charge of the evaluation of the implementation of international juvenile justice standards and the responses

81. The information stems from the Finnish answers to the questionnaire which was completed by the Ministry of Justice. Directorate General, Criminal Policy.

to the Committee of the Rights of the Child. All studies as well as the documents produced by the responsible ministries are published and/or open to the public. Seminars and courses for juvenile justice professionals are regularly organized. However, international agreements and recommendations are evaluated in the ministries but do not play a central position in the education of practitioners.

In **France**[82] the organic law of August the 1st 2001[83] led to the renewal of public management introducing new concepts. These changes notably led to the development of auditing within the State administrations. In the framework of such modernization, the implementation of auditing is an important step in terms of efficacy as well as efficiency. These new orientations aimed at improving the quality of provided services by monitoring the implementation of judicial measures including those in the field of juvenile justice.

There are mainly two instruments to monitor the optimum performance of the juvenile justice system:

At the local level, a "territorial" audit is placed under the authority of the interregional director. It aims to assess the conditions for the implementation of judicial decisions against juveniles. Besides, in accordance with legislatives dispositions (article L312-8 CASF from the law of January the 2nd 2002[84] renewing social and medico-social action dispositions), all social institutions who are in charge of the judicial protection of juveniles have to take part in an internal evaluation in order to improve their operating missions. To support this procedure, the Division in charge of the Judicial Protection of the Youth (DPJJ) elaborated an internal evaluation guide to the public administration. This guide fixes recommendations of good professional practices[85] and it adapts them to the specificities of the sector of juvenile justice.

At the interregional level, the national central auditing service (SACN) leads internal audits within interregional directions to assess the good implementation of national orientations into operational objectives throughout the entire French territory.

82. The information stems from the French answers to the questionnaire which was completed by the Division in charge of the Judicial Protection of the Youth (DPJJ), a department under the supervision of the French Ministry of Justice.
83. Organic Law of August the 1st 2001 and affiliated with the finance bills – available at: http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000394028&dateTexte=.
84. Law of January the 2nd 2002 renewing social and medico-social action dispositions – available at: http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000215460.
85. Developed by the National Agency in charge of the evaluation and quality of institutions and services in the social and medico-social sector (ANESM).

The following objectives and indicators (enclosed in the annual performance project of 2011) are relevant for the auditing:

Objective 1	**To optimize the care of juvenile offenders.**
Indicator 1.1	Care delay (imputable to the Public Administration or the authorized associative sector).
Indicator 1.2	Level of educational care for juveniles in custody (in special juvenile quarters within regular detention facilities – QM/ Quartiers pour Mineurs) or within penitentiary establishment for minors – EPM/ Établissements pénitentiaires pour mineurs).
Indicator 1.3	Inscription rates of minors enrolled in an inclusion or training programme.
Indicator 1.4	Part of the juveniles under 17 that reoffended within the year that followed their detention.
Indicator 1.5	Part of the juveniles held in detention and for which a mediation procedure towards the victim or the society was launched.
Objective 2	**To advance the quality of judicial decisions.**
Indicator 2.1	Delays in the investigation procedure (imputable to the Public Administration or the authorized associative sector).
Objective 3	**To optimize the use of human, financial and material resources.**
Indicator 3.1	Occupation rates of the institutions.
Indicator 3.2	Activity rate of pedagogues working outside of detention facilities.
Indicator 3.3	Entire costs of the judicial measures per day or per act.

The DPJJ is responsible for the auditing and evaluation processes in the field of juvenile justice. Since September 2008, the DPJJ progressively implemented a system of auditing, organized at an interregional level, which covers 1,600 juvenile justice or juvenile care institutions and

investigation services. The aim is to audit the institutions and services, at least once every five years. Furthermore, the creation of the national central auditing service (SACN), in April 2010, completes the auditing plan of action of the juvenile justice and care system. The SACN is in charge of auditing the interregional directions as well as the national school of youth judicial protection; it will also coordinate the territorial auditing of juvenile justice institutions and services.

The new established system of evaluation and auditing leads to a dialogue between all stakeholders of juvenile justice and juvenile care. As a first influence of these processes the statutory law of February the 4th 2008 modifies the judicial organization aiming at facilitating institutional relations and information circulation. The justice system, by being more systematically involved in the institutional debates, has indeed to ensure the continuity of an effective judicial answer that is legible and understandable by everyone.

According to the answers on the questionnaire, international juvenile justice standards are observed whenever it comes to law reforms in the field of juvenile justice. Within the direction of youth protection, the legislation office that includes an international centre makes sure that France integrates international and European commitments in the field of justice and youth protection into each new legal disposition and educative practices.

The Human Rights division of the Foreign Affairs Ministry is in charge of the evaluation of the implementation of international standards within the juvenile system. They furthermore organize the exchange between different ministries responsible to answer to the Committee of the Right of the Child. Besides, the Children Defender (independent administrative authority) also makes sure that international norms related to children's' rights are implemented. Its mission is indeed to fight for and promote the rights of the child as defined by the law or by an international commitment such as the Convention on the Rights of the Child (CED). Following the adoption of the laws of March the 29th 2011, its missions will for now on be wielded by the Rights Defender.

Trainings for juvenile justice professionals are offered by the ENPJJ (National School for the youth judicial police). These trainings last two years. In the frame of this training, a two-month internship with a European dimension is required. Concerning in-service training, practical training on European norms are offered by regional training infrastructures linked to the ENPJJ as well as by the Network of schools for civil servants (RESP).

In **Germany**[86], according to the juvenile justice act the primary goal is not to punish, but rather to prevent "reoffending by juvenile and young adult offenders" (§2 (1) Juvenile Justice Act, JJA). The effectiveness of the juvenile justice system is therefore measured according to this benchmark.

The official statistics are important for the process of evaluation. They are usually published annually, and include police crime statistics (suspects, differentiated inter alia based on groups of offences and age), conviction statistics, prison statistics, statistics on public prosecutorial and court proceedings, as well as statistics on youth assistance. In the past several years, national statistics on recidivism rates for criminal sanctions have been repeatedly collected; in addition, a major "Periodic Security Report" is compiled at certain intervals which includes a comprehensive analysis and assessment of relevant statistics, thereby taking other empirical and criminological insights into account. Also, concrete empirical studies are employed for specific issues and for the evaluation of specific programmes, measures, etc.; these studies are commissioned and carried out by scholars and/or suitable institutions. The effectiveness, advantages and deficits of the various instruments depends on the respective issues involved. The laws and relevant statistics are public and are generally accessible. As a rule, important empirical and other academic studies are published as well.

The responsibility for evaluating and monitoring depends on the issue involved and the respective competence for the tasks, programmes, measures, etc. that is affected. Various departments in Germany deal with criminal juveniles within the framework of a distribution of responsibilities – specifically the juvenile justice system, public and "free" youth assistance programmes, internal administration/police – and they fulfill their tasks at various organisational levels: federal (primarily legislation), Länder (primarily organisation and implementation of the juvenile justice system, implementation of laws) and local (implementation of youth assistance programmes).

German experts have been substantially involved in the drafting of important international standards for the juvenile justice system at the United Nations and Council of Europe levels. A wide expanse of experiences made with the special juvenile criminal law that has been in place in Germany for many years were able to bear fruits. Another consequence of this is that German juvenile criminal law exhibits a very high degree of compliance with international standards. The Federal Ministry of Justice is supportive of the further implementation of laws into practice, by announcing new international standards and advocating their compliance, particularly among

86. The information stems from the German answers to the questionnaire by the Ministry of Justice. Head of Division of Criminology, Prevention and Justice Statistics.

the judicial administrations of the Länder; other activities include, e.g. publication of a free multi-volume set of recommendations and guidelines of the United Nations and the Council of Europe on juvenile justice and the treatment of young criminal offenders. Juvenile crime policy also makes use of international standards to support positions and arguments.

At the federal level, the implementation of the international standards on juvenile court jurisdiction is monitored by the Federal Ministry of Justice and – to the extent affected – the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) and the Federal Ministry of the Interior (BMI); at the Länder level, monitoring is undertaken by the respective Länder ministries. Overall responsibility for questions pertaining to the Committee for the Rights of the Child within the Federal Government is held by the BMFSFJ. With regard to specific reports, that Ministry involves other ministries to the extent that these also have competence in the respective issues addressed. The rules of procedure of both the Federal Government and the Länder Governments generally provide for cooperation and substantive coordination when more than one ministry has competence in a matter.

Hungary[87] has not implemented specific instruments for monitoring the optimum performance of the juvenile justice system. No departments or units are specifically responsible for the evaluation of the implementation of international juvenile justice standards, and no programs are provided to guarantee such implementation. Responses to the Committee of the Rights of the Child are submitted by the "Ministry of National Resources", but there is no section in charge of the evaluation of the juvenile justice system. The Hungarian Judicial Academy is responsible for providing high quality and effective education to the members of the Hungarian judiciary. In January 2011, the Hungarian Judicial Academy introduced new curricula for juvenile justice training to the annual mandatory training of legal clerks and judges. It is not known to what extent international standards and rules on juvenile justice are a part of this training. The main difficulties in achieving an effective implementation of international standards are seen in the lack of work-forces and a lack of a clear (seen as a clearly distinct) juvenile justice system.

Malta does not perform a formal universal evaluation across the juvenile justice system.

The Netherlands[88] do not assess juvenile justice policies and programmes under a specific model or according to certain criteria. All juvenile justice policies and programmes aim towards the nationwide implementation of a person-oriented approach and at reducing recidivism

87. The information stems from the German response to the questionnaire by the Ministry of Justice, Department for Criminal Law Legislation.
88. The information stems from the Dutch answers to the questionnaire by the General Directorate. Prevention, Juvenile Justice and Sanctions of the Ministry of Justice.

rates. The Netherlands apply various means to inform their juvenile justice system: ex ante evaluation (plan evaluation), process evaluation, and effect evaluation. These generally refer to individual interventions, activities/actions, and/or policies as part of the juvenile justice system.

Besides these, in 2006 an arrangement was implemented with respect to periodically screening policies that are aimed at realizing general goals by evaluation research. This screening includes a description and analysis of the problem which gave rise to the policy, the role of government, studied policy goals, instruments used, budgets utilized, and effects analysis. Ten standard questions are employed to evaluate different domains regarding the policy under scrutiny (provided the policy in question has actually been implemented). Based on this framework, a report was published on sanctions for juveniles in 2010.

One instrument to measure juvenile justice is The Research and Documentation Centre (WODC) Recidivism Monitor:[89] a long-term research project in which standardised measurements of recidivism are conducted amongst diverse groups of offenders. The project provides the Ministry of Security and Justice in the Netherlands with an overview with respect to the outcomes of penal interventions and the course of criminal careers in young and adult offenders.

The WODC Youth Delinquency Survey, a cross-sectional monitor type study, is conducted every few years in a representative group of Dutch youth between the ages of ten and seventeen. Juveniles are interviewed on whether they have been involved in one or more of 33 offences (self-reported crime).

The WODC Juvenile Crime Monitor periodically reports on trends in juvenile crime. The monitor information is based on various sources. In every publication specific topics or groups may be focused on. For example young adult groups may be included (18 through 24 years of age), or extra emphasis may be placed on differences between groups of different origin etc. In the opinion of the Ministry of Justice these available instruments and/or tools are functioning satisfactorily.

The evaluation and the monitoring of the (various elements of the) juvenile justice system are the responsibility of the individual policy departments at the Ministry of Security and Justice, and of the individual organizations responsible for implementing policies. In general, the Research and Documentation Centre (WODC), which is part of the Ministry of Security and Justice, is the institution which bears the main responsibility for conducting evaluations and for using the appropriate instruments and/or tools (and monitoring this) when doing research.

89. WODC English website: http://english.wodc.nl/.

These organizations are in frequent contact with each other on (the implementation of) policy and the evaluation thereof. The Ministry of Justice assesses their work as being effective.

The Netherlands see that their evaluation results influence the improvement or reform of juvenile justice policy: The results of evaluation of (various elements of) the juvenile justice system are always published and publicly available. The evaluation results are actively discussed with the organizations responsible for the fields of the juvenile justice system that have been evaluated. Commonly, the results are taken into account when developing new policy plans (and/or activities). This way, the findings contribute to fine-tuning policy and the system.

There are no policies and/or programmes available which aim to guarantee the implementation of juvenile justice standards. According to the answers to the questionnaire, international juvenile justice standards do influence the national juvenile justice policy "in certain situations and when and wherever necessary or expendient".

Monitoring whether international standards have been implemented and are adhered to lies in the hands of various inspectorates, e.g. the Inspectorate for Youth Care.

The Dutch system provides data on many aspects of the juvenile justice system (crime numbers, perpetrators, police, public prosecution, courts of law, sanctions, legal process data etc.) These are generally available to researchers (advance permission to access data may be required).

International standards and rules are a standard topic in the curricula and trainings for all different categories of juvenile justice professionals.

According to the responses to the questionnaire, the main obstacle for achieving effective and full implementation of international standards on juvenile justice in the Netherlands is the time-factor: If international standards are not directly compatible with the existing system or legislation, it takes more time to absorb them into the existing juvenile justice system.

In **Poland**[90] there are no unified instruments and/or tools available to evaluate and/or to monitor the optimum performance of the juvenile justice system. The polish juvenile justice system can be defined as a "rehabilitative system", including juveniles showing pre-delinquent behavior (signs of demoralization) as well as juvenile perpetrators of punishable acts, who are both treated under the Juvenile Act as victims of bad life circumstances created by adults. In the

90. The information stems from the Polish answers to the questionnaire by the Ministry of Justice. Departament Współpracy Miedzynarodowej. Head of Division for Family and Juvenile Sentences.

Polish system the court (the family judge) decides to change the course of action in relation to a juvenile offender if the previous educational measures have not been successful. By changing the measure applied to the juvenile offender the court shall assess the effects of previous educational measures. This solution to monitor and evaluate the optimum performance of juvenile justice system is not seen as sufficient because it is not related to the responsibilities of the units engaged in executing of the educational measures.

The Minister of Justice may evaluate the efficiency of the juvenile justice system by drawing on data concerning juvenile offenders reoffend upon leaving the youth corrective centre. Due to a lack of data, this solution does not allow any verification as to whether any further offence is connected to previous offending.

From the Polish point of view the legal rules and proceedings sufficiently guarantee that the international juvenile justice standards are implemented. All services operate according to these rules, but it is the court (the family judge) that makes the most important decisions for the juvenile. Without further specification the Polish response to the questionnaire refers to "entities" which are responsible for monitoring the implementation of the international juvenile justice standards. The recommendations of these entities have an impact on all services executing judgments in juvenile cases.

In the Polish system there is an institution of Ombudsman, but also an institution of Ombudsman for Children has been created since 2000. The application of and respect of children's rights is also monitored by the Supreme Chamber of Control and the Plenipotentiary for equal treatment of men and women. These entities, in cooperation with relevant ministries, are in charge of responding to the Committee of The Rights of the Child. These sections collaborate together.

The training programmes for juvenile justice professionals contain information on international standards and rules.

The following are viewed as the main difficulties in effectively implementing international standards in juvenile justice: budgetary constraints, lack of personnel and inadequate coordination of work of various services. Improving the cooperation and coordination between different services executing judgments in juvenile cases is seen as the best solution to these problems.

In **Portugal**[91] the juvenile justice system is managed by the Directorate-General for Social Reintegration (DGRS) which is an organization of the Portuguese Ministry of Justice. The organisation's objectives are to define and execute state policies on crime prevention, to provide assessment to the court, delivering social reintegration services for young offenders (those who commit crimes when aged between 12 and 16 years, measures can last until they are 21 years old) and adults through the supervision of court sentences, probation, parole, and alternatives to prison.

The DGRS conducts a constant follow-up study that analyses the reintegration of young offenders who have completed a custodial measure. With this study these youth's recidivism and degree of integration (whether they are unemployed, working, studying, etc.) can be monitored. A recidivism project is also being designed that will allow for the recidivism rates amongst all of the population that the DGRS serves to be monitored more accurately. These instruments are part of the DGRS' activity, and are applied after a youth has completed the imposed measure. Examining recidivism is only one of the possible ways to monitor the effectiveness of interventions.

Internally, the structure of the DGRS includes units that are responsible for monitoring operational activity. This task covers both the examination of the technical quality of the work of the young offender's probation teams and educational centers as well as its accordance to our procedures and the international standards. The examination has 3 levels (1 - probation team/educational center's coordinator, 2 - technical support unit and 3 - the juvenile justice central services), to support the probation officers with their work.

Externally, the Portuguese law created an independent Supervision Committee (which includes members of the Portuguese government, the Portuguese parliament as well as other public institutions and NGOs) that is in charge of monitoring the activity of educational centers. The custodial measures require stronger supervision because by nature they greatly limit the young offender's rights and it is important to ensure that all principles are respected. Thus, not only are the educational centers under the juvenile justice central services' supervision, but they are also externally monitored.

The Portuguese Juvenile Justice Act is currently under reformulation, being that a proposal is already waiting to be discussed in the Portuguese Parliament. This proposal is based on two documents. The first is a study, undertaken by the Permanent Portuguese Justice Observatory, that thoroughly analyses the current framework of the Portuguese Juvenile Justice System,

91. The information stems from the Portuguese responses to the questionnaire by the Ministry of Justice. Direcção Geral da Administração da Justiça.

as well as how it is implemented, and includes suggestions for its improvement. The second is the work developed by the Working Group appointed by the Minister of Justice to deliver a proposal for a new Juvenile Justice Act. The proposal pending Parliamentarian discussion contains suggestions from both of these studies. For example, it proposes to abolish weekend custody (a measure that is applied when the young offender fails to comply with a community measure) because, according to the results of both of these studies, it has been proven to be ineffective.

Regarding the Juvenile Justice System's implementation, the programmes for the creation of a juvenile mediation system, the personal and social skills training programme and the new model for the educational supervision measure resulted directly from the suggestions made by the probation officers that deal with young offenders who detect flaws or insufficiencies as they carry out their work. These professionals, along with others from DGRS central units, are permanently alert to the need to identify and suppress obstacles to the proper implementation of the law in order to better meet the young offender's needs.

There is no specific section in charge of the evaluation of the implementation of international standards. Since the Juvenile Justice Act is seen as already embracing international standards sufficiently, the evaluation of their implementation is included in the supervisory activity of the units responsible for such tasks.

Several types of data on the Portuguese Justice System are available on a regular basis. A general database ("Justice Statistics") was created in 2009 and is publically available to all citizens via the website of the Ministry of Justice (http://www.siej.dgpj.mj.pt). Regarding Juvenile Justice, we can find data of the Family and Minors Courts and Social intervention measures (DGRS' statistics). Every four months the DGRS also publishes a Journal that includes scientific articles on subjects related to probation and juvenile justice, as well as studies carried out within or by the DGRS.

Researchers can also be granted special authorization (in order to preserve the rights of young offenders) to access to more specific data. The above mentioned study by the Permanent Portuguese Justice Observatory resorted to using this option. The study also involved direct collaboration of several professionals from the Juvenile Justice System (judges, prosecutors, probation officers, etc.) so that the Observatory could have a complete perspective of the system.

Training for juvenile justice professionals includes human rights training. The lack of personnel and the influence of the media on criminal policy are seen as the main obstacles to the implementation of international standards in Portugal. The probation services are presently being

asked to respond to a growing number of court assessments/ supervision measures requests, and its staff has not grown to the same extent as this workload. In order for them to deliver an optimal service, the workload of each probation officer should be reduced, which is particularly critical in the case of probation officers who deal with young offenders, since these professionals should be able to become as involved as possible in each case he/she is assigned.

The influence of the media on criminal policy also has an impact on the implementation of international standards for juvenile justice in Portugal. Their pressure influences policy makers (mostly negatively) by steering discourse and rhetoric in a direction that only reflects a security perspective.

According to the response to the questionnaire, it is seen as important to improve coordination between the juvenile justice system and the child protection system, because the one need not necessarily cut the other out, and there are many cases of youths who would benefit from a simultaneous or successive intervention by both of these systems.

According to the **Spanish**[92] response to the questionnaire, in the National Strategic Plan on Childhood and Adolescence, the improvement of information systems and the evaluation of the impact of social policies on childhood are prioritised. The goal of monitoring childhood intervention through audiovisual means and a series of recommendations relating to policies aimed at guaranteeing children's rights are also stated. Attention is also given to activities which promote training, recycling, discovery and exchange of knowledge and experiences amongst different professionals who work in the field of intervention with young offenders.

One of the instruments and tools that are used to evaluate social problems on a state level is the Basic Statistics Report on measures adopted for young offenders. This is an annual report which collects court judgment figures supplied by the Autonomous Communities. The report collects information in categories relating to age (14-15 years of age; 16-17 years of age and 18-21 years of age) and gender, and includes custodial and non-custodial sentences.

The analysis carried out by the Ministry for Health, Social and Equality Policies is fundamental, given that the regulations on criminal responsibility are a state matter. This can be done provided that all of the available information in the various regional administrations is collected, and it is indispensible that this information is collected and presented in the most homogenous manner possible. A global study that also permits an analysis of territorial diversity can only be conducted in this way.

92. The information stems from the Spanish answers to the questionnaire by the Ministry of Health and Social Policy. General Directorate of Social policies, family and childhood.

As a result of these figures certain investigations have been carried out with the aim of monitoring the trends of measures, their rise or fall in number and the evolution of court judgments over the years.

The organs responsible for this evaluation were established by the Ministry for Health, Social and Equality Policies, which collects information on minors in open and closed prisons in the Autonomous Communities. Other official central organisations that release information and statistics are the General Council of Judicial Power, the Public Prosecutors Office for Minors through the Ministry for Justice, and the Ministry for the Interior, through figures collected by the Police and Civil Guard.

On a regional level the various departments working with young offenders publish the figures from the different Autonomous Communities. Some of the Autonomous Communities, such as Catalonia, collect their figures through the police force. According to the answers on the questionnaire, in general the relationship between these departments is functional and effective and currently there are good statistics relating to minors held in detention and up until their release.

In Spain childhood policies are promoted through cooperation and coordination between Public Administrations and other organisations and agents working on a national level, and through international cooperation. One of the central areas of social policies is to promote attention for and intervention with minors in situations of risk, in vulnerable situations, situations of social exclusion and social conflict, and to establish shared criteria and better practices subject to evaluation.

Promoting the establishment of a quality management system for services which specialise in criminal responsibility for minors is a main goal of childhood policies.

Spanish politics follows a system of community intervention through the Autonomous Communities. The Autonomous Communities are responsible for intervening with young offenders. Through central administrative bodies, technical cooperation and subsidies in the form of credit and income tax, programs of direct intervention are monitored.

Evaluation and studies into the situation of childhood social conflict in Spain are of a multidisciplinary nature and cover a broad spectrum of intervention areas.

In **Sweden**[93], there is no specific model and there are no criteria for assessing juvenile justice policies and programmes. Instead, how an assessment can be conducted appropriately is determined for each programme and policy separately. To evaluate and/or to monitor the effectiveness of the juvenile justice system[94], Sweden compiles extensive official crime statistics that are used to investigate the justice system, including the juvenile justice system. The authorities in the justice system also produce information (internal statistics etc) that is relevant for the monitoring of performance. For more extensive evaluations, more advanced methods and more extensive modes of data collection are used but the approaches (instruments, tools etc) vary with the needs.

There is no specific organ available which focuses on evaluating and monitoring the juvenile justice system. However, there are several agencies involved in the evaluation of the justice system in general, including questions concerning juveniles. The Swedish National Council for Crime Prevention functions as the Swedish Government´s body of expertise within the judicial system and evaluates instruments, tools and reforms on behalf of the Government. Another relevant agency is The Swedish National Audit Office ("Riksrevisionen") that is responsible for auditing the activities of the entire Swedish state and, in this way, promoting the optimum use of resources and efficient administration. The Swedish Agency for Public Management ("Statskontoret") also conducts evaluations and follow-ups from an efficiency perspective on the Government´s behalf. In addition to these agencies the authorities in the justice system also have their own functions for evaluation. Thus, many different actors are involved, and they cooperate with each other when necessary.

To guarantee the implementation of juvenile justice standards, both the Courts and the Prosecution Authority undergo continuous evaluation and examination to ensure that their performance is without complaint. If found necessary, changes in the legislation are brought about or other measures to improve or reform the system are taken.

The Ministry of Justice has a responsibility to verify that international standards are implemented in the justice system. Different divisions in the Ministry are responsible for different authorities in the justice system. The Ministry of Health and Social Affairs is responsible for questions concerning children´s rights. The ministries collaborate around overlapping questions.

Sweden produces extensive statistics regarding crime and justice that are used in part to monitor the justice system. The statistic includes for example information about recorded

93. The information stems from the Swedish answers to the questionnaire by the Ministry of Justice. Head of the Directorate for legislation on the justice system at the Ministry of Justice.
94. Sweden does not have a specific juvenile justice system but special regulations within the general criminal law.

crimes, suspected persons, cleared-up offences, persons found guilty and sentencing data. In addition to the official statistics the authorities in the criminal justice system also produce internal statistics and information that are used to investigate the systems.

A lot of the mentioned information is openly accessible to researchers as well.

Sweden attaches great importance to training law enforcement officials, the judiciary and prison staff in human rights issues, and has devised training programmes tailored to the needs of the various services. All prison and probation officers in Sweden undergo training on human rights conventions, including the Convention of the Rights of the Child. For probation officers, a social work degree or other higher education degree in legal or behavioural subjects is required for employment in the service.

Sweden identifies the main difficulty in achieving an effective implementation of international standards in juvenile justice in general as being the fact that juvenile justice standards lack legally binding character, the lack of legal sanctions for the enforcement thereof, and the often rather abstract scope and wording of the regulations.

6. What do we have to do? Conclusions and Recommendations

International juvenile justice standards contain (in most areas) sufficient guidelines and principles for the implementation of an effective and human rights based juvenile justice system. Especially the Recommendations of the Council of Europe deviate from the vagueness of the other relevant international standards in that they make clear and detailed statements. Although the Convention of the Rights of the Child is the only legally "binding" document, we find a number of reasons which should convince European States to follow the rational and evidence-based approach to juvenile justice they imply. The "problem" of juvenile justice standards therefore does not lie at the legislative end, but rather in their practical implementation and/or in the lack of instruments and tools that allow us to evaluate the degree of their implementation in practice.

Looking at the implementation from a legal point of view, we can find (respecting the various differences between European juvenile justice systems) that in many countries the standards have been implemented at least to a certain degree. In this context we should not only concentrate on the number of implemented standards, but also on the quality of their

implementation. Oftentimes, 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 or Germany. It often occurs that 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. According to the responses of the representatives of the administrative sections from European juvenile justice systems, reliable evaluation results are taken into consideration when it comes to law reforms. These findings dissent to the conclusions of some countries' researchers who felt that international juvenile justice standards are not deemed relevant when it comes to legislative reforms.

Obviously the lack of implementation into practice is based to a certain degree on the lack of infrastructure and/or funds. There are examples in Europe (like the Scandinavian countries or Germany) that might be seen as good practice in this context. Particularly the strong connection between youth justice and youth welfare and the integration of non-governmental organisations might be the key for the implementation of alternative community sanctions and measures, both at a pre-court and at a court level. It is obvious that the laws which aim to implement alternative sanctions have to clarify who is responsible for the budget/financing of these sanctions or measures. Especially in the Central and Eastern European states the justice system is often better developed and funded than the welfare system. Therefore there are good reasons for vesting responsibility for funding court-ordered alternative sanctions in the justice system.

The ways how juvenile justice systems are evaluated or monitored vary greatly within Europe. 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 (only) lie in the hands of university researchers. However, 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. This is partly due to the different competences in the field of juvenile justice. In general, more than one ministry or section is responsible for the delivery of the juvenile justice system (in general: Ministry of Justice and Ministry of Social Affairs). Each body is interested in particular levels of implementation and therefore there is no-one who feels fully responsible for the evaluation of the juvenile justices system as a whole. What is rather concerning in this context is the fact that many European countries do not have data that cover all juvenile offenders deprived of

their liberty. Whereas in juvenile justice systems following a more justice oriented approach, regularly there are data on young prisoners, the number of juvenile offenders in mental health institutions is often difficult to ascertain.

During the meeting of the Public Administration´s section of the European Council of Juvenile Justice, two representatives (from England/Wales and Germany) adverted to the fact that there are actually no more capacities for data collection. Partly, 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. We should therefore search for ways to work with existing data more effectively rather than postulate more and more. A minimum amount of relevant indicators measuring juvenile justice, disaggregated according to age, offence type, 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.

In general, the existing data are oftentimes collected only for administrative purposes (e.g. to evaluate performance and workloads etc.), but are not intended to be evaluated for research reasons. We do therefore need a closer connection between academic researchers and juvenile justice practitioners during the whole evaluation process of relevant data. We furthermore need the will of politicians to rely on evaluation results about the effectiveness of programmes and projects. In this context we should not forget that the international standards themselves call for continuous evaluation and research (e.g. Beijing Rules, Art. 30 or CM/Rec(2008)11, rules 135-138). There are two positive developments in this field: In Greece, recently (July 2010) a "Central Scientific Council for Prevention of Juvenile Victimisation and Juvenile Delinquency" was founded. 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 prisoners' rights if laws or decisions by the juvenile justice authorities are in opposition to international juvenile justice standards.[95] 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.

We may therefore conclude that the implementation of international juvenile justice standards is evaluated quite differently in the European member states. In some countries the evaluation is placed in the hands of university researchers, in others it is the task of independent state run research centres, other countries have introduced specific statistics for juvenile justice matters and France has introduced a auditing system for the public services, including juvenile justice,

95. See above, footnote 27.

which should be investigated further in relation to its results and the transferability to other countries, so does the Dutch "screening" of juvenile justice. The present analysis of evaluation strategies (see 5. above) could serve as a starting point for finding good practice in the field of juvenile justice monitoring. Furthermore there are supranational evaluations through UN-organisations or the CPT, or through international research networks like the juvenile justice working group at the University of Greifswald or the IJJO. The overall problem is the lack of unified indicators which allow the measurement of juvenile justice implementation according to juvenile justice standards. To be able to check if the implementation processes proceed satisfactorily within Europe we would need indicators which are applicable to the different juvenile justice systems and approaches without denying their particularities. This complex challenge can only be mastered with the help of international and interdisciplinary cooperation, and the EU could provide the optimal framework for this project. The well developed UNICEF indicators could serve as a foundation on which more concrete indicators (due to the stronger uniformity of juvenile justice systems in Europe) could be built. However, according to the analysis of this paper more measures should be taken to ensure that the effective and independent evaluation of all interventions becomes the norm in juvenile justice, and independent systems should be put in place to provide for comprehensive and regular inspection of all juvenile justice systems. More action needs to be taken to address the serious shortcomings in the available data on juvenile justice across the EU.

One last comment may be emphasized: For a better implementation of juvenile justice standards we cannot only rely on the governments or supranational organisations. We also have to consider the impact of the society as a whole. If the general public were informed and convinced of the standards, it would make the implementation process easier. The same is true for 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 and through translations of the international standards into the country's languages.

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About IJJO and its EU branch, the EJJO

Children and young people all over the world are in need of protection and special care when they come into conflict with the law. This is the original inspiration for the International Juvenile Justice Observatory (IJJO), an international Foundation based in Brussels, which offers an inter-disciplinary system of information, communication, analysis and proposals concerning the different developments of juvenile justice in the world.

Based on the differentiating aspects and the common points that define all juvenile justice systems in Europe, the IJJO has set up its European Branch the European Juvenile Justice Observatory (EJJO), as a positive element in the process of combining strategies and good practices in Europe.

The objective of the European Juvenile Justice Observatory aims to create the **European Council for Juvenile Justice** as the European think-tank on Juvenile Justice is composed of European Experts in the field, who works for the development of initiatives and standards of good practices for the education and the inclusion of young Europeans in conflict with the law and develop the corresponding strategies and recommendations as this Green Paper pretends.

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BELGIUM. Ministre de la Justice. Conseiller juridique. Direction générale de la législation.

BULGARIA. General Directorate of the Execution of Sentences. Head of Department "International cooperation and legal assistance in criminal matters."

CYPRUS. Justice Directorate of Justice. Ministry of Justice and Public Order.

CZECH REPUBLIC. Minister of Justice. Department for International Cooperation.

DENMARK. Minister of Justice. Head of Criminal Law Division.

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IRELAND. Ministry of Justice Operations Directorate. Director of the Irish Youth Justice Service – IYJS.

ITALY. Ministry of Justice. Direzione Generale della Giustizia Civile. Dipartimento Giustizia Minorile.

LATVIA. Ministry of Justicen Director of Administrative and Criminal Justice Department.

LITHUANIA. Ministry of Justice. Director Criminal law.

LUXEMBOURG. Ministry of Justice Parquet général près la Cour supérieure de justice.

MALTA. Ministry for Justice and Home Affairs. Policy Development Directorate.

NETHERLANDS. Director General. Prevention, Juvenile Justice and Sanctions of the Ministry of Justice.

POLAND. Ministry of Justice. Departament Współpracy Międzynarodowej. Head of Division for Family and Juvenile Sentences.

PORTUGAL. Ministry of Justice. Direcção Geral da Administração da Justiça.

ROMANIA. Ministry of Justice. Unitatea cooperare judiciară internațională în materie civilă şi comercială. Unit of international judicial cooperation in civil and comercial matters.

SLOVAKIA. Ministry of Justice. Division for Private International Law and International Judicial Co-operation.

SLOVENIA. Head of the Directorate for legislation on the justice system at the Ministry of Justice.

SPAIN. Ministry of Health and Social Policy. General Directorate of Social policies, family and childhood.

SWEDEN. Ministry of Justice. Head of the Directorate for legislation on the justice system at the Ministry of Justice.

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