



Programme "Prevention of and Fight against Crime"  
European Commission Directorate General Justice Freedom and Security



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# JUST

## Juvenile Justice

Development of child rights  
based methods of intervention  
to prevent juvenile crime  
and promote reintegration  
of young offenders.

Italy, Greece, Romania.

JLS/2008/ISEC/AG/097

# Manual of presentation of methods of intervention

[Manual no. I

In partnership with:



*Ministero della Giustizia*  
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**This Manual has been compiled by Francesca Arancio,  
Diego Grassedonio and Annapaola Specchio**

*TEAM JUVENILE JUSTICE - CHILD PROTECTION*

*And with the contribute of:*

Roxana Parashiv	<i>Salvati Copii Romania</i>
Christos Baliktsioglou	<i>ARSIS - Greece</i>
Katerina Manolea	<i>ARSIS - Greece</i>
Carlotta Bellini	<i>Save the Children Italy</i>
Katia Scannavini	<i>Save the Children Italy</i>
Antonella Inverno	<i>Save the Children Italy</i>
Laura Lagi	<i>Save the Children Italy</i>
Margherita Lodoli	<i>Save the Children Italy</i>
Susanna Matonti	<i>Cooperativa CivicoZero</i>
Rodolfo Mesaroli	<i>Cooperativa CivicoZero</i>
Vito Savasta	<i>Cooperativa CivicoZero</i>
Orlando Iannace	<i>Min. della Giustizia – Dip. Giustizia minorile, Italia</i>
Teresa Pelliccia	<i>Min. della Giustizia – Dip. Giustizia minorile, Italia</i>

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Matteo Aigotti	<i>Oratorio San Luigi, Torino</i>
Andrea Rampini	<i>Codici Ricerche, Milano</i>

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*For further information about the project:*

**Francesca Arancio**  
*Coordinator of project*

Save the Children Italia  
Via Volturmo 58, Roma  
Tel. (+39) 06/48070088  
[francesca.arancio@savethechildren.it](mailto:francesca.arancio@savethechildren.it)

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# Chapter I

# Introduction and methodology

JUST project is aimed at strengthening the prevention of and fight against juvenile crime, through the development of horizontal methods based on a child rights based approach. More specifically, it is intended to develop child rights based and multi-disciplinary methods of intervention to prevent juvenile crime involving young offenders coming from new EU Countries and Non-EU Countries focusing specifically on child recidivism and to promote social reintegration of young offenders. It also aims to strengthen the knowledge and professional skills of public and private actors (such as, law enforcement officials, the judiciary, institutions, NGOs) engaged in prevention and reintegration work in order to guarantee a better protection of children and their rights.

## Aim of the Manual

The present Manual (no. 1) is part of a toolkit comprising the Manual for users (Manual no. 2) and the Manual for trainers (Manual no. 3).

Aim of the Manual is to describe methods of intervention selected by the Project Partners, intended to strengthen the capacity of preventing recidivism and improving the reintegration of children in conflict with the law, with special focus on foreign children (in Italy and Greece).

## Methodology

In order to identify methods of intervention described, JUST Partners have proceeded in the following ways:

- a. **identification of the more relevant practices** used in the field of juvenile crime prevention and child and young offenders' reintegration.
- b. **development of a transnational framework**, based on international and national standards established in the field of juvenile justice, aiming at analysing the national legislation and practices identified, in order to verify that the international and European standards be respected.
- c. **analysis of the practices** and the development of a **list of possible methods of intervention**.
- d. **transnational development of child rights based methods of intervention**.  
At this point, the draft list of methods developed by JUST Partners at transnational level has been discussed with a group of children and consulted in each Partner Country as well as in national seminars involving relevant stakeholders.

It could be considered a **“method of intervention” every successful initiative of private/public sector aimed at improving the efficiency, effectiveness and the achievement of the declared and desired goals and objectives**, resulting in the prevention of recidivism and the promotion of the children’s reintegration, in particular, foreign children (in Italy and Greece) and national children (in Romania).

They have been classified according to thematic areas (with their specific aim in mind) and could be considered as either transnational or national methods. Generally, it would be helpful if the described methods, even if considered separately, be thought and implemented – where possible – in an integrated way, according to the specific needs of the children and the particular stage of the criminal proceeding or of the criminal circuit in question. Finally, it should be considered that a part of each methodology, in order to have a successful project of reintegration and prevention, recommends that each child needs an individualized programme.

### **Target audience**

The Manual is directed at all actors, from the public or private sector, working with children in conflict with the law in the Partner countries.

### **Learning objective**

To gather in-depth knowledge of methods of intervention to promote reintegration and prevent recidivism.

### **How the Manual is set out**

Manual of presentation of methods is divided into 2 Chapters: Chapter 1 (Introduction) and Chapter 2 (Presentation of methods). Chapter 2 is divided into modules and sessions (corresponding to those of the Manual for trainers and for users).

- Each module contains a thematic area describing a general context (legislation, prevention, criminal responsibility, etc.) as included in the framework developed in the JUST project, and each module describes the methods of intervention regarding this specific area. The only exception is represented by the module “0”, which doesn’t concern the description of methods, but aims to provide a framework for International and European juvenile justice matters, as well as the national legislation of each Partner country. Without module “0” it is not possible to contest the following methods described.
- Each session includes a presentation of a different method of intervention. Only Module “0” includes a presentation of the general legislative context (International, European and National law). Furthermore, each session is divided into:
  - Aim of the method.
  - Description of the key concept.
  - Good practices in Italy, Greece and Romania.
  - Resources.
  - Bibliography.

# Chapter 2

## Presentation of methods of intervention

### **Module 0: National, European and international instruments in the field of juvenile justice**

**Session 1:** International and European framework

**Session 2:** National juvenile justice in Italy, Romania and Greece

**Session 3:** Restorative justice

### **Module 1: Prevention**

**Session 1:** Street education/outreach

**Session 2:** School mediation/family mediation

**Session 3:** Intervention to prevent school drop-out

### **Module 2: Criminal responsibility**

**Session 1:** Assessment procedures of age

### **Module 3: Judicial process and the deprivation of liberty**

**Session 1:** Appointment of a guardian for unaccompanied or improperly accompanied children

**Session 2:** Linguistic-cultural mediation

**Session 3:** Social mediation

**Session 5:** Free legal counselling

**Session 6:** Initiatives of specific support for juvenile offenders with drug and alcohol addiction and mental health disorders

### **Module 4: Diversion Measure**

**Session 1:** Penal mediation (VOM)

### **Module 5: Education**

**Session 1:** Adequate educative interventions for the specific needs of children in conflict with the law (flexible models, study grants...)

**Session 2:** Peer education

### **Module 6: Reintegration and Aftercare**

**Session 1:** Procedures for regularization and ensuring the legal status

**Session 2:** Vocational training, vocational orientation and work grants

**Session 3:** Aftercare

### **Module 7: Multi Agency Approach**

**Session 1:** Networking

### **Module 8: Training**

**Session 1:** Training professionals working with children in conflict with the law

### **Module 9: Evaluation and Research**

**Session 1:** Research and study on the risk of recidivism

**Session 2:** Monitoring detention conditions of children deprived of their liberty

**Session 3:** Criteria for the effective collection of data

**Session 4:** Children's participation (research, consultation...)

## MODULE 0: INTERNATIONAL, EUROPEAN AND NATIONAL INSTRUMENTS IN THE FIELD OF JUVENILE JUSTICE

### Introduction

The present module aims to provide a synthetic but not comprehensive framework of international, European and national dispositions regarding the juvenile justice system.

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**Session 1:** International and European framework

**Session 2:** National juvenile justice in Italy, Romania and Greece

**Session 3:** Restorative justice

### SESSION I **Aim of the session**

#### International and european framework

To provide an international and European framework based on the main international and European documents as well as the most relevant case-laws elaborated in the field of juvenile justice, in accordance with the General Comment n. 10 “Child rights in juvenile justice” of the Committee on the Rights of the Child.

The international and European frameworks provide the States with more detailed guidance and recommendations to support their efforts to establish a system of juvenile justice administration, in compliance with the CRC and further relevant international documents, as well as a comprehensive juvenile justice policy.

#### Description of the key concept

There are many principles adopted at international and national levels. The key concepts concerning the juvenile justice system should be considered as:

Quantitative indicators: each country has to collect the data of the juvenile in conflict with the law in order to have a clear picture of the scenario (a good practice would be to collect the data regarding the gender and age of the children in detention or in pre-sentence detention etc..).

The prevention of juvenile delinquency:

- ▶ Prevention plans should be a key part of any child justice programme. At a different level it concerns assisting families in terms of care and protection, paying attention to the well-being of the children and giving special attention to families affected by economic, social and cultural problems, thus ensuring assistance to children, who are at social risk, and need access to a qualitative public education etc..
- ▶ The minimum age of criminal responsibility should correspond to the emotional, mental and intellectual maturity of the child and in the case of conflict or inconclusive evidence concerning the age assessment, the children shall have the right to the rule of the benefit of the doubt and be treated as children.
- ▶ The right to a fair trial which includes a specific issue regarding the criminal proceedings (as well as the presumption of innocence, legal assistance, the equality of arms, free legal assistance, the respect of dignity and privacy, etc..)-



- ▶ The legal deprivation of liberty shall be established by a specialized and competent authority and detention shall be used as a last resort; at the same time custodial measures shall be promoted.
- ▶ The juveniles have the right to understand and be fully informed on the proceeding and the rule of the institution during the treatment, at the same time the juvenile shall be guaranteed a variety of meaningful activities and interventions according to an individual and comprehensive plan aimed at preparing for release and reintegration into society (special attention shall be given to accessing education, schooling, vocational training, social skills and competence training etc...).
- ▶ No child shall be subject to torture or other cruel, inhuman or degrading treatment or punishment (this includes the prohibition of corporal punishment, reduction of diet, restriction or denial of contact with family members etc...).
- ▶ The child shall maintain a personal relationship and direct contact with both parents on a regular basis, if in their best interests.
- ▶ The placement of the child shall be easily accessible from the home or the place of social reintegration. In the case of transfers, the children's opinion and the promotion of the effective reintegration into society shall be guaranteed.
- ▶ The personnel in contact with the juveniles for all matters concerning them should be qualified, specialized, professionally instructed and trained (including educators, vocational instructors, counsellors, social workers, psychiatrists, psychologists and the police).
- ▶ The children should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release.
- ▶ The use of diversion should be promoted.
- ▶ The Governments should put in place legislative measures and practices in order to avoid any discriminative treatment of young people from migrant families in the juvenile justice system and within the policy of social integration of the juveniles.
- ▶ A multi-dimensional approach should be to promote and guarantee inter-agency cooperation and coordination in the field of juvenile justice (a network between social, educational and health services).
- ▶ A research activity should be developed on a regular basis for monitoring the impact of the measures adopted. The evaluation shall pay attention to recidivism rates and their causes.

### Resources

For guidelines on the international and European framework please consult the following selection of the main international and European documents adopted by: the UN Bodies and Specialized Agency, the European Institutions Agency and the Council of European Bodies.

It would also be advisable to consult the relevant case-laws in the field of juvenile justice adopted by the International Courts. Particular attention has been paid to the importance of a child-friendly justice. The "child-friendly justice" refers to a justice system which guarantees the respect and effective implementation of all children's rights at the highest attainable level.

**United Nations**

- ▶ The Convention on the Rights of the Child (CRC).
- ▶ The United Nations Guidelines for the Prevention of Juvenile Delinquency (PJD “the Riyadh Guidelines”).
- ▶ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”).
- ▶ The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (JDL. “Havana Rules”).
- ▶ The United Nations Standard Minimum Rules for Non-custodial Measures (RNCM. “Tokyo Rules”).
- ▶ The United Nations Guidelines for Action on Children in the Criminal Justice System (*Guidelines for Action – Recommended by Economic and Social Council, resolution 1997/30* ).
- ▶ The United Nations Basic Principles on the use of Restorative Justice Programmes in Criminal Matters (RJP).
- ▶ The United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (CVWC).

**Council of Europe**

- ▶ European Convention on Human Rights, Rome, 4 November 1950.
- ▶ European Convention on the exercise of children’s rights, Strasbourg 25 January 1996 ratified by law n. 77 of 20 March 2003.
- ▶ Resolution CM (66) 25 on the short-term treatment of young offenders under 21 years of age – Adopted by the Ministers’ Deputies on 30th April 1966.
- ▶ Resolution CM (78)62 on juvenile delinquency and social change – Adopted by the Committee of Ministers on 29 November 1978.
- ▶ Recommendation CM No. R(87) 20 of the Committee of ministers to member states on social reactions to juvenile delinquency – Adopted by the Committee of Ministers on 17 September 1987.
- ▶ Recommendation No R(88) 6 of the Committee of ministers to member states on social reactions of juvenile delinquency among young people from migrant families – Adopted by the Committee of Ministers on 18 April 1988.
- ▶ Recommendation No. R. (95)6 on the application of the European Convention on the recognition and enforcement of decisions concerning the repeated detention of children – Adopted by the Committee of Ministers on 7 February 1995.
- ▶ Recommendation No. R. (99)7 on the application of the European Convention on the recognition and enforcement of decisions concerning the repeated detention of children – Adopted by the Committee of Ministers on 23 February 1999.
- ▶ Recommendation No R(2000) 20 on the role of early psychosocial intervention in the prevention of criminality – Adopted by the Committee of Ministers on 6 October 2000.
- ▶ Recommendation No R(2003) 20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice – Adopted by the Committee of Ministers on 24 September 2003).

- ▶ Recommendation Rec(2003)5 of the Committee of Ministers to member states on measures of detention of asylum seekers – Adopted by the Committee of Ministers on 16 April 2003.
- ▶ Recommendation Rec(2004)10 of the Committee of Ministers to member states concerning the protection of human rights and dignity of persons with mental disorders – Adopted by the Committee of Ministers on 22 September 2004).
- ▶ Recommendation Rec(2005)5 of the Committee of Ministers to member states on the rights of children living in residential institutions – Adopted by the Committee of Ministers on 16 March 2005).
- ▶ Recommendation No R(2006) 2 on the European Prison Rule – Adopted by the Committee of Ministers on 11 January 2006.
- ▶ Recommendation Rec(2006)13 of the Committee of Ministers to member states on the use and conditions of remand in custody and the provision of safeguards against abuse – Adopted by the Committee of Ministers on 27 September 2006).
- ▶ Follow-up of the resolution No. 2 on child-friendly justice adopted at the 28th Conference of European Ministers of Justice (Lanzarote, October 2007).
- ▶ 2<sup>nd</sup> draft of the Council of Europe Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice – Adopted on 18 November 2009.
- ▶ Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice – Adopted 17 November 2010.
- ▶ Guidelines for a better implementation of the existing recommendation concerning mediation in penal matters, European Commission for the Efficiency of Justice CEPEJ (2007).
- ▶ Recommendation CM/Rec(2008)4 of the Committee of Ministers to member states on strengthening the integration of migrant children and those with foreign backgrounds – Adopted by the Committee of Ministers on 20 February 2008).
- ▶ Recommendation CM/Rec (2008) 11 of the Committee of Ministers to member States on the European Rules for juvenile offenders subject to sanctions or measures – Adopted on 5 November 2008.
- ▶ European Committee on Crime Problems (CDCP)- CM (2008) 128 addendum I.

### **European Union**

- ▶ Opinion of the economic and social European Committee. The prevention and treatment of juvenile delinquency and the role of juvenile justice in the European Union – GUCE 110 of the 9 May 2006.
- ▶ Council framework decision 2001/220 on the standing of victims in criminal proceedings – Council framework decision 2001/220/JHA of 15 March 2001.
- ▶ Guidelines for the Promotion and Protection of Child Rights, UE 2007.
- ▶ Economic and Social European Committee, general observations n. 12 (2009), the right of the child to be heard – 20 July 2009.

**SESSION 2 Aim of the session**

National juvenile justice in Italy, Romania and Greece

To provide a general framework on the national juvenile justice system. In particular, containing a description of the administrative and judicial offices, as well as a short description of the main principle of the juvenile justice legislation with focus on the main weaknesses of the juvenile justice system in relation to foreign children.

**ITALY****Description of the key concept**

The Italian Juvenile justice system comprises administrative offices as well as specific Juvenile Judicial Authorities. The speciality of the juvenile justice system dates back to 1934, with the establishment of juvenile courts; the administrative decentralization of the juvenile criminal justice dates back to 1955 and over the years the need for highly specialized juvenile justice has been further recognized to protect juveniles, taking into consideration the particularly vulnerable age group.

**A. The administrative offices**

The administrative offices include both central bodies such as the Department for Juvenile Justice (D.G.M.) – a branch of the Italian Ministry of Justice – and local bodies, such as the local Juvenile Justice Centres (C.G.M.) and the Juvenile Justice Services including: the Juvenile Detention Centres (I.P.M), the Juvenile Classification Homes (C.P.A.), the Offices of Youth Social Service (U.S.S.M.) and the Residential Communities.

- ▶ **The Juvenile Justice Department (D.G.M)**

Carries out many duties assigned by law to the Minister of Justice. In particular it ensures the implementation of any statement of the judicial authorities, providing the certainty of punishment, the protection of individual rights, the promotion of adolescent developmental processes and pursues the goals of social reintegration and employment of children entering the criminal circuit. It deals with the protection of the rights of children and young adults, aged 14 to 21, subject to criminal measures, through preventive interventions and educational and social reintegration. Active educational programmes, work-study and training, leisure and entertainment are organized, to ensure the effective integration of these children and young adults into the outside community. It also promotes the judicial protection of children (including children who are victims of abuse), the International Child Abduction, through cooperative agreement, and research projects with universities, local bodies and a third sector.

- ▶ **The Juvenile Judicial Centres (C.G.M.)**

Are decentralized agencies, whose administrative powers are of a territorial nature (in relation to the presence of the same or in different regions, these functions are grouped in several regions). Their major function is to develop a technical and financial plan, follow-up and supervise services of juvenile justice, such as the Offices of Youth Social Services (USSM), the Juvenile Detention Centres (IPM), the Juvenile Classification Home (CPA) and the Residential Communities.

- ▶ **The Juvenile Detention Centres (I.P.M.)**

Secure the enforcement of orders (such as pre-trial detention and conviction sentences) made against juvenile offenders by Judicial Authorities. In this context, the young offender is granted the right not to interrupt his/her educational, physical and psychological development. To encourage their personal accountability process and the attainment of maturity, young offenders are provided with schooling, job training, cultural, sport, recreational and theatrical activities.

▶ **The Juvenile Classification Home (C.P.A.)**

Those who are under provisional arrest and are granted residence for a maximum of 96 hours, until the validation hearing, without being held in prison. First the C.P.A. team makes a psycho-social report on the juvenile's situation as well as on the local available resources, with the aim of providing the competent Judicial Authority with all the relevant information, in order to identify the most appropriate non-custodial measure for each young offender.

▶ **Offices of Youth Social Services (U.S.S.M.)**

provide young offenders with assistance at every stage of criminal proceedings. They also enforce measures against sexual abuse, as well as those under the Hague Convention and disseminate information concerning the status of young offenders under criminal proceedings and work out reintegration projects in cooperation with the Juvenile Judicial Authority. The U.S.S.M. plays a supporting and monitoring role during the enforcement stage of non-custodial pre-trial measures made by the Judicial Authority, against young offenders, in cooperation with other juvenile justice services and local bodies.

▶ **Residential Communities**

Are prescribed by law to ensure the enforcement of non-custodial measures and help young offenders to reintegrate into society.

A personalized educational programme is organized, as well as the opportunities provided by local agencies, to begin the process of accountability on the part of young offenders.

**B. The juvenile judicial authorities**

The juvenile criminal justice system is directed, firstly, to protect the child involved in the criminal circuit and, in so doing, to engage him/her in any action that is most appropriate to accomplish their social reintegration. Indeed, in accordance with the principles of national and international law, and taking into consideration each child's personality, constantly evolving, it is necessary for the State to pay particular attention to the process of promoting social recovery also curbing prosecution.

The establishment of a specialized court is "among those institutions which the Republic should support for the development and operation, fulfilling the constitutional rule committed to the protection of juveniles." (Constitutional Court., July 21, 1983, n. 222) and should conform to international standards. Currently, there are 29 juvenile courts in Italy. Other judicial bodies are: the Prosecutor's Office, the judge for preliminary investigations, the juvenile section of the Court of Appeal, the Attorney General at the Court of Appeal and the Juvenile Supervisory Judge.

**C. The criminal proceeding**

The juvenile criminal procedure is governed by Presidential Decree No. 448 on September 22, 1988 (DPR), and for all not therein provided see the Code of Criminal Procedure.

The DPR includes “some basic principles resulting from the most recent observations made in Italy, also in the field of international experience, concerning the treatment of juvenile delinquency”. These include:

- ▶ the principle of minimum intervention by the criminal justice system, under which the judicial authorities tend to reduce the involvement of children in criminal proceedings as much as possible;
- ▶ the principle of imprisonment: considered as last resort: juvenile offenders should be privileged with measures that promote the process of reintegration into society;
- ▶ the provision of special proceedings (fast-track judgements) that allow the child an immediate (prompt) exit from the criminal circuit (e.g.; judicial pardon or no legal grounds for proceeding due to lack of substantial evidence as in the case of petty crimes), or suspension of the trial, with the placement of the juvenile under supervision (the successful completion of which will result in the total removal of the offence from criminal records);
- ▶ the provision of psychological and emotional support should be provided by parents or other persons close to the juvenile (on the basis of a positive opinion by the court) as well as assistance provided by the Services and juvenile welfare services at all levels of proceedings. The presence of these people (parents or contacts and social services) is expected and guaranteed unless it is contrary to the interests of the child;
- ▶ assistance and legal aid;
- ▶ compulsory and informal inquiries about the personality of the child and his family situation including the environment, are carried out by social services, however, experts intervene in order to ensure the reintegration of the child in the community;
- ▶ inadmissibility of civil actions. According to section 10 of DPR 448/88 “the exercise of civil actions of redress and compensation for damages caused by the offence shall be barred within criminal proceedings before juvenile courts”;
- ▶ prohibition of any publication and disclosure (by any means) of information or images which could help identify a child involved in proceedings.

**D. Penitentiary system**

To date, the juvenile criminal justice system in Italy lacks a specific law on the penitentiary system regarding juveniles. Most of the alternative non-custodial measures (introduced by Law No. 354/1975) are in fact, devoted to both children and adults. The legislative gap was often filled by a specific case-law which intended to promote the application of the benefits of prison for children. On one hand the Presidential Decree 448/88 has tried to create and develop institutions aimed at highlighting the educational purpose of the criminal process - so much so that it has been inserted

specifically to the need “not to interrupt the educational process in action”- on the other hand, the absence of a prison system justice regarding the execution of the sentence, to respond in meeting the needs of the child’s education. Furthermore, the need to have a penitentiary system has been urged by the UN Committee, the Council of Europe and the Italian Constitutional Court. On August 6, 2007 by decision No 28650 the Head of the Department of Juvenile Justice established a work group with the task of preparing a proposal for a juvenile penitentiary system on the “Proposal for a juvenile prison system and the implementation of measures restricting freedom for authors to offences committed by children”. This is a proposal which follows two previous bills and would apparently lessen the punitive aspect and isolation of the detention sentence thanks to a more flexible system aimed at and modelled on children and the re-educative function of the punishment, which foresees a wider range of measures applicable to the juvenile.

#### ***E. Main weaknesses of the juvenile justice system in relation to foreign children***

The most relevant weaknesses that have emerged regarding foreign children include both legislative and practical profiles.

Regarding the legislative aspects, although the reference standard has been met with great acclaim as innovative, it has been designed at a historical moment in which the phenomenon of migration linked, in particular, to children and unaccompanied children, was not thought about deeply enough in order to target interventions which are needed to protect the most vulnerable categories.

The intervention of the courts has made it possible to compensate for the lack of tools or measures that would guarantee the right of the child involved in illegal activities.

To date, the relevant aspects regarding the practical considerations are:

- ▶ The regularization of foreign children and young adults remains a focal point for their social reintegration. In fact, any educational and/or training programmes will cease to be valid and effective unless they are accompanied by administrative proceedings concerning their presence in the territory.  
In fact, in the absence of regularization of the children and / or young adults, these will not actually respond positively to the procedure of reintegration - both in terms of effectiveness and in terms of psychological support – and the risk of a return to the penal circuit will be inevitable.
- ▶ Regarding age assessment, great care must be taken to avoid improper use of left wrist x-rays to ascertain the child’s eligible age for criminal responsibility, established at 14. These x-rays must in any case be accompanied by the child’s awareness of whether or not he/she has committed an offence. It follows that age assessment and evaluation of the maturity of the child, as required, inter alia, are international instruments and from this point of view emotional intelligence plays a strategic role. In fact, it is directly linked, not only to the concept of registering age eligibility but also to the ability and foresight of enjoying less specific measures imposed.

- The transfer of the foreign child from one IPM to another, is frequently adopted, thereby breaking the link with the territory and creating greater difficulties for social reintegration.
- Alternative instruments (such as prescriptions, placement under home confinement, or alternative non- custodial penalties) are applied less to foreign children than to Italians, but this results in a greater use of the pre-trial detention in relation to foreign children. It, also, depends on the fact that the Italian DPR has been developed essentially for Italian children. Usually, alternative measures as well as pre-trial measures, depend on supposed criteria (i.e the presence of family, a certain address, etc..) which foreign children do not have.
- The low presence of cultural mediators within the facilities of the juvenile justice system.

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- Code of Criminal Law;
- Code of Criminal Proceeding.
- R.D. n. 1404, 20 July 1934; law n. 888, 25 July 1956; law n. 354, 25 July 1975.
- D.P.R. n. 448, 22 September 1988.

## GREECE

### Description of the key concept

Although the law concerning children is not systematized in an all- inclusive code, the 8th chapter of the general part of the Greek Penal Code (hereinafter called grPC) contains substantive law provisions, the Greek Code of Penal Procedure (hereinafter called grPPC) contains the procedural provisions and the Greek Correctional Code (hereinafter grCC) contains the correctional provisions.

According to the grPC, art. 121, children are persons between the ages of 8 and 18 whereas Relative Criminal Responsibility exists in ages 15 to 18, which is when Normal Criminal Responsibility begins. All ages apply to the time when the offence was committed.

Persons between 8 and 15 years of age fall into the category of “children” and are not criminally responsible. To them the Juvenile Courts –being the only judicial authority that has this power- may only impose educational or therapeutic measures (Art. 126 grPC). When the minimal age limit of 8 has not yet been reached, the meas-



ure applied is that of parental custody. This is derived from the Civil Code, because, persons below the age of 8 are not subject to the grPC.

Persons of 15 to 18 years of age fall into the category of “juveniles” and on them, educational or therapeutic measures are imposed, preferably but not exclusively (Art. 127 grPC). Only when educational measures are not sufficient to prevent the juvenile from committing further criminal acts is detention in a young offenders’ institution imposed. The detention depends on the juvenile’s criminal responsibility.

The basic rights of the accused juvenile are the same as those of the accused adult (eg. the right to be heard, the right to be present at the hearing, the right to ask questions and so on.)

Persons of 18 to 21 years of age fall into the category of “young adults” (Art 133 grPC) and they are in all cases fully criminally responsible. Thus they are treated according to adult criminal law with only the discretion of the (adult) Court to mitigate the punishment (Art. 83 grPC).

The decision to send the child to an educational institution is taken by the Juvenile Court Judge, who takes into account the child’s character, social conditions of his/her environment and the report from a Juvenile Court probation officer. The written consent of the person who exercises parental custody is necessary. Children may be sent to educational institutions, if they live in the social environment of persons who commit criminal acts, whether habitually or as a career (Art. 17 Sec.5 Law no 2298/1995). This is an expression of the youth welfare law which goes hand in hand with the juvenile criminal law and intervenes when the social conditions are proven harsh.

Lastly, removal from the family home is an exceptional measure, reserved for cases where the welfare of the child is at risk. It is imposed only when other measures have failed or are inadequate to prevent danger to the welfare of the child. Only persons in the RCR age may be detained in a young offenders’ institution.

### Sanctions

The system of sanctions exists independently in the juvenile criminal law and it is subdivided into educational measures, therapeutic measures and detention in a young offenders’ institution. When there is no special regulation for juveniles, the general provisions apply to children also, unless they are incompatible with the meaning and purpose of the juvenile criminal law provisions. The sanctions are not directly related to certain behaviour but are imposed in a general sense when a legally statutory offence is committed and are identical for both children and juveniles.

### Educational measures

The educational measures are not genuine penal sanctions, since they may be ordered independently of guilt. The educational measures as listed in Art. 122 grPC include:

- a. reprimand;
- b. placing the child under the responsible care of parents or guardians;
- c. placing the child under the responsible care of a foster family;
- d. placing the child under the care of Youth Protection Associations, Youth Centres or Juvenile Court Aid;

- e. mediation between the young offender and the victim, for the offender to apologize, so that the consequences of the act can be settled out of court;
- f. compensation to the victim, or by some other means, the removal or alleviation of the consequences of the act (reparation);
- g. community work;
- h. the participation in social and psychological programmes organized by public, municipal, local authorities or private institutions;
- i. attending vocational schools or other training or vocational training facilities;
- k. participation in special road safety training programmes;
- l. placing the child under the intensive care and supervision of Youth Protection Associations or Juvenile Court Aid;
- m. placing the child in an appropriate public, municipal, local authority or private educational institution.

The listing is not restrictive and considering the lifestyle and education of the child more than one or even additional educational measures may be imposed. The measure imposed is also subject to replacement with another or others and is revoked when the need ceases to exist, as well as when the person reaches the age of 18 (*ipso jure*). Exceptionally, the court may order continuation of the measures but not beyond the age of 21.

The expulsion of a child, who is a foreign citizen, is forbidden when the Juvenile Court has imposed an educational measure on him.

### Therapeutic measures

Similar to educational measures, therapeutic ones are also replaceable by others but cease at the age of 18, with the exceptional continuation up to 21, but are applied in different cases. For the therapeutic measures listed in the article 123 gr PC to take place, a child must have a particular condition requiring special treatment. Particular examples are cases of mental or functional illness or disorder and alcohol/drug addiction. In these and other similar cases, the Juvenile Court will order the child to:

- a. be placed under the responsible care of the parents or guardians or a foster family;
- b. be placed under the care of Youth Protection Associations or Juvenile Court Aid;
- c. participate in a therapeutic advisory programme;
- d. be placed in a therapeutic or other appropriate institution. (Article 123 grPC).

Educational and therapeutic measures can interchange, within a year, if the Court considers that the measures applied should be replaced.

### Detention

Detention in a young offenders' institution is sentenced by the Juveniles' Court as a punishment when the Court is persuaded that it is important for deterring the juvenile from committing further criminal acts, therefore, deprivation of liberty is necessary. In order to arrive at this conclusion, the Court examines the conditions under which the offence has taken place and the juvenile's personality. This punishment is not considered rehabilitative. Furthermore, no rehabilitative punishments exist under Greek law. In any case, the principle of "educational measure before punishment" and that of "detention as *ultima ratio*" always apply.

Detention cannot be indefinite and ranges between six months and ten years and for offences punishable with imprisonment of more than ten years, the range for a juvenile is between five and twenty years.

However in practice, when half the period of detention has expired, the juvenile will be conditionally released, unless the court concludes that there is a high risk of the juvenile re-offending, in which case detention continues. In order for the conditional release to take place, a report from the institution's social services, together with an application by the institution's directorate is needed. In the case of rejection, a new application may be submitted after two months and even earlier if new facts arise. Even when just one third of the sentence has been served, there is the possibility of conditional release if important reasons arise e.g, when the offence has been drug-related and a letter from a recognized therapeutic rehabilitation programme confirms that the juvenile has been accepted. This can be a good reason for his/her early release as long as he/she does not interrupt it without justification. Contrary to the case of educational measures, the expulsion of a foreign released child to his/her country of origin is possible unless his/her family legally resides in Greece.

### **Diversion**

Article 45A grPPC provides the possibility for the public prosecutor to abstain from prosecution if, after having heard the child, he deems that this would not be necessary to deter him/her from re-offending. He can then apply one or more diversionary educational measures or a payment of up to 1.000 euros, to a non-profit making institution. Together with the decision not to prosecute, diversionary educational measures such as victim-offender mediation, reparation, community work etc (Art. 122 grPC) may also be imposed.

### **Procedures**

First instance Juvenile Courts are the Courts presided over by a single professional Juvenile Court Judge and the Juvenile Courts of Appeal that consist of three judges, one of whom is the Juvenile Judge, who presides when possible. A Juvenile Court consisting of three Appeal Judges functions at each Higher Provincial Court as the Juvenile Court of Appeal (Art. 7 grPPC). The victim can bring civil action and file civil law claims even when the Juvenile Court has ordered educational measures.

The rules on defence are the same as those for adult procedure, that is, the obligation of appointing a defence counsel exists in the pre-trial stage when the accused person expressly asks for one. At the trial stage though, this obligation exists only for accused felons, even without the expressed wish of the accused person. Since a juvenile defendant, as a legal fiction, cannot be charged with felony but with misdemeanour, a counsel is not obligatory and will actually not be assigned unless the juvenile has chosen one.

### **Special features of proceedings against children**

An investigation of the child's health, moral/mental situation, former life, family circumstances and general background is carried out. This information is obtained by the local Youth Protection Associations (Art.239 grPPC) and a report is drawn up

which is confidential, available only to the Judge and the persons' entrusted with the child's welfare and forms no part of the papers of the case (Art. 5 Law No 378/1976). The Juvenile Court Aid employee is always present when the Juvenile Court is in session but, like the probation officer, is also entitled to refuse to give evidence (Art. 5 Law No 378/1976, Art. 16 Presidential Decree No 49/1979 supplementing Art. 212 grPPC and Art. 371 grPC).

There is also a separation of cases involving juveniles and adults, again for felonies and when the juvenile is under 15 at the time of the offence for misdemeanours. However even in this last case, the Court may still separate the case, at its own discretion.

No appeal is permissible against the order of educational and therapeutic measures or for the decision of detention. Even when detention is decided upon the child is never sentenced to pay the costs of the proceedings. Educational measures (and not therapeutic ones) are entered on the criminal record.

The person responsible for overseeing the enforcement of punishment and in general the decisions of the Juvenile Courts, including the educational and therapeutic measures, is the relevant prosecutor (Art. 549 grPPC).

### **Correctional Youth System**

In general, in relation to young prisoners, the general provisions of the Correctional Code apply, unless a special regulation exists. Young prisoners may be persons between the ages of 15 to 21 and the detention may be prolonged up to the age of 25, if necessary in order to complete the existing education and training programmes and providing that their presence causes no problems for the functioning of the institution (Art. 12 grCC). Young prisoners are separated from adults in special institutions or sections of adult prisons (Art. 12 with Art. 19 grCC) but there are no separate institutions available for young female prisoners. Neither open nor half-open custody detention centres exist. In Volos, an independent institution for enclosed custody for young male foreigners exists.

Basic education is obligatory for young prisoners and they may take leave to allow them to continue further training (Art. 35 grCC) but there is no obligation to work. However, working could reduce the detention time.

Regular leave exists after the completion of one third of the detention period but the duration of leave must not exceed a total of 45 days per year and a favourable prognosis of "no risk" for further offences must exist. Apart from the normal instances, leave can be taken for schooling, vocational training, continued training and special leave.

As for recreation time in detention, provisions are laid out in chapter 5 grCC. All prisoners have the right to training, sports, cultural activities and creative activities within the institution. Prisoners are provided with the opportunity to acquire or complete their studies at all levels as well as their vocational training. Wherever possible, a school is created in the detention facilities for this purpose and all certificates provided upon completion of each level, are of equal value and correspond to ones from outside the penal system and do not mention the conditions under which they have been obtained. Elementary education is obligatory for children and if possible,

in the case of transport or disciplinary measures, the education process shall not be suspended. If disciplinary detention is imposed during the training process of the prisoner, the detention may be served during holidays. (Art. 35 grCC).

The Prison Council organizes and implements entertainment programmes (theatre, choir, painting, cinema etc.) and all those who are interested and participate are given a favourable assessment when it comes to the granting of the relaxation of custody or privileges. (Art. 38 grCC)

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## **ROMANIA**

### **Description of the key concept**

During the past several years the national/internal legislation has been streamlined with international provisions, by the adoption of various laws and regulations, such as Law no. 18 of 1990 ratifying the UN Convention on the Rights of the Child, the Romanian Constitution (amended in 2003), Law no. 272/2004 on the protection and promotion of child rights, Government Ordinance no. 92 of 2000 on the organization and functioning of the supervision of criminals and reintegration services, Law no. 275 of 2006 on measures taken by judicial bodies in the course of the criminal trial. Complementary to the legal provisions mentioned above, there are two very important laws, that regulate the penal procedures both generally and specifically. These are the Criminal Code and the Criminal Procedure Code which still do not meet the requirements of the judicial system in the EU. Both codes were modified and adopted by the Romanian Parliament (the Penal Code in 2009 and the Penal Procedure Code in June 2010), and their enforcement is foreseen for the last quarter of 2011. Also, there are other specific legal provisions, such as the Decree 545 of 1972 on serving the educative measure of children's internment in a rehabilitation centre, which unfortunately is outdated and at the moment is implemented with great difficulty.

### **Judicial Organization**

The Law no. 304/2004 regarding judicial organization, republished, states that within

the courts of appeal there are departments, or in some instances, there are specialized panels for cases with children and their families. The same law establishes the possibility of specialized tribunals for cases with children and families. There is in fact, only one tribunal for children and their families established in Brasov County.

At the same time, the Prosecutor's Office, as well as the courts of appeal and tribunals, have within their facility a special department for the children and family cases. Also, the Penal Procedural Code establishes rules regarding the competence of all judicial bodies in the cases of the juvenile offenders. Thus, the cases in which the defendant is a child are not judged according to the rules of material and territorial competence, but by the judges specially designated according to the law.

Regarding the juvenile justice courts, the Law no. 304/2004 on judicial organization could be considered a retrograde step, since it has replaced the obligation of establishing specialized courts for children and families with the possibility to establish them, leaving this decision to whoever is presiding over the court. Furthermore, the specialized judges are trained for cases involving children; however the files are randomly distributed to them, through computers, therefore making it very difficult for specific juvenile cases to be referred to specialized judges.

### **Juvenile Justice Services**

In May 2005 a specialized service for juvenile offenders in partnership with France was established within the National Administration of Penitentiaries. Over the years and at the end of the programme the service was transformed into an educational and social assistance service for vulnerable persons (December 2005), after which it was reorganized into two different services, one for education and the other for psychosocial assistance, for both adults and children (2008), losing its specificity and functions for which it was initially set up. Furthermore as a next step, the service was transformed into one for the reinsertion of people deprived of their liberty. Currently there is no one person from the National Administration of Penitentiaries who has exclusive responsibilities related to children deprived of their liberty.

The situation is similar within the Public Ministry where the Service for children and families was set up in 2005 and dissolved in 2007. At the level of the Ministry of Justice, as a result of the same Phare Project, the Unit for children and families was set up within the Probation Directorate, with special attributions, related to children, for executing punishments without deprivation of liberty. During the penal trial the probation counsellors are obliged to assess the state of the child who committed the offence, they also have to be present and support the children when they are questioned by the police, by the Prosecutor or in court. Concerning those children from centres/penitentiaries for juvenile offenders, the probation counsellors have no further attributions, except for the obligation to participate in the commission for the decision of the penalty. There is a very obvious need to extend the contribution of the probation counsellors both during the preparation for release and in post-criminal assistance, which has not yet been regulated by Romanian legislation.

### **Measures and Sanctions**

There is a variety of measures and sanctions applied to juvenile delinquents. Article 40 of the UN Convention on the Rights of the Child, stipulates the necessity to adopt alternative measures and solutions connected with institutional care, such as care, orientation, supervision, probation periods, family placement, alternative solutions like probation, community work, open settlements and the entrusting of children to community bodies.

Although international documents insistently recommend the wide use of community sanctions for children having committed crimes and who are criminally liable, the current legislation does not regulate such measures that do not include deprivation of liberty. The sanctions provided by the Criminal Code, art. 101, are mixed, including educational measures (reprimand, supervised liberty, internment in a rehabilitation centre and hospitalization in a medical-educational centre), which have priority in sanctioning children, as well as punishments (fine or imprisonment), which are half the limits imposed on adults, and which should be applied only if the court appreciates that an educational measure is not sufficient to set the delinquent child back on the right track. Until 1993, judges preferred to put the juvenile offenders in a rehabilitation centre. However, since 1994, courts have moved towards supervised liberty, followed by reprimand and internment in a rehabilitation centre. The measure of hospitalization in a medical-educational centre is applied less (from 37 in 1993 down to 4 in 2005). However, a question arises as to where these sanctioned children went following the application of this measure, since Romania has no such medical-educational centre. At the same time, on a simple visit to a rehabilitation centre, even non-specialists should realize that the children there have mental and behavioural disorders and should therefore be placed in a medical institution. The internment into a rehabilitation centre is decided upon by the court for an indefinite period, i.e. until the coming of age, with the possibility that the child can leave the centre after at least one year at the suggestion of the teachers' council, if there are solid grounds to believe that the child will be rehabilitated. However, it is also possible to extend the duration of the internment to the age of 20, if this is in the child's interest.

### **Rehabilitation Centres and Penitentiary Institutions**

Decree 545 of 1972 still represents the main regulation in relation to the activity of the rehabilitation centres, although there have been many draft proposals developed either by different institutions, NGOs or by the National Administration of Penitentiaries but unfortunately none of the drafts has been enforced. The need to change the Criminal Code has already been invoked prior to adopting such a law. The rights and obligations of children having committed criminal deeds and having been sentenced to imprisonment are subject to the regulations of Law no. 275/2006 regarding the execution of the sentence and the measures disposed by the judicial during the penal trial - chapter 4 and are identical to those of adult convicts. Were there a special penitentiary system for juvenile delinquents or for those children who are under penal investigation, we could conclude that all the facilities for retention and preventive arrest have made provisions for special rooms for the reclusion of children separate from those for adults.

At national level there are **three juvenile penitentiaries**, and these are Tichilesti, Targu Mures and Craiova and **three rehabilitation centres** – Gieti, Buzias and Târgu Ocna, all of them are under the National Administration of Penitentiaries. In the other penitentiaries, special sections are destined for children.

Among the rights common to adults and juveniles are the right to; mail, rest, information, petition, access to all documents which concern them directly, phone calls, daily walks and medical assistance etc. There are, however, some differences between the regulations for children and adults regarding the right to receive packages and visits, the daily food ration: children can receive 4 packages and visits per month, whereas the adults have differentiated rights according to their status (in preventive arrest – 4 packages and visits per month, and if sentenced to jail – 3 packages and visits per month).

Regarding the **3 rehabilitation centres**, these institutions have a semi-open regime and within their premises there are schools, including art and handicraft schools, and they also give the children from the community centre the possibility to further their education in high schools. The major disadvantage of these centres is the fact that they are quite a distance from the domicile of these children, thus creating a negative effect on the child's relationship with the family, who tend to visit them rarely, and this also affects their reinsertion within their local community. In practice, the children would prefer to serve their sentence within a penitentiary for adults, to be closer to their families and friends.

On the other hand, **Juvenile penitentiaries** are closed institutions, which also have units in the open and semi-open regime. Also, 28 penitentiaries for adults have rooms accommodating delinquent children for short periods of time, before they are presented before the courts of law, which are quite a distance from rehabilitation centres or penitentiaries for juvenile offenders.

A comparison between the conditions within the rehabilitation centres and the penitentiaries for juvenile offenders show, without question, that those in the rehabilitation centres are much better. The same comparison between the penitentiaries for juvenile offenders and adult penitentiaries (where there are rooms specially destined for children) reveals that the conditions in the penitentiaries for juvenile offenders are much better.

An analysis conducted by the specialists from the Rehabilitation Centre from Buzia revealed the following negative consequences of the transfer of children deprived of their liberty to adult penitentiaries:

- the teaching-learning process slows down, sometimes even stops; educative programmes lose efficiency and the coherence of themes cannot be respected;
- therapeutic programmes (individual and group) cannot meet the goals established;
- negative influence of penitentiary environment on the children's evolution (by contact with the convicts), became apparent from the increased number of incident reports following the children' return from the penitentiary;
- abuses that may come up due to lack of ongoing supervision of the children, as well as loss of personal development files during transfer, which included information necessary for shaping the path of each individual child.



In an analysis<sup>1</sup> carried out by Save the Children in 2008, some problems were identified by the specialists as disturbing factors for the education and social assistance process, such as out-of-date legislation regulating the activity of the centres, insufficient number of specialists in education and social work, lack of specialized training in the activity field of the staff, insufficiency of financial resources necessary for the development of programmes and activities (didactical materials, equipment, school items, office automation etc.) and the maintenance of proper hygienic conditions (clothing, shoes, underclothes, cosmetics, detergents etc.), as well as inexistence of a post-criminal assistance system. As regards the last situation mentioned, all achievements obtained by the staff from the centres/penitentiaries concerning children deprived of their liberty, are of little value, as no institution is granted, by law, attributions of support and help for the persons who were detained and then returned to the community.

In relation to the punishments applied to children who have committed criminal offences, until 2003 the most frequent punishment decided by the court was imprisonment, followed by release on parole and a fine. Since 2004, release on parole has been more frequently used and the probation services have gained an active role in this matter.

### Special preventive detention conditions

In order to adjust our national legislation to the level of international standards on juvenile justice, the Criminal Procedural Code has introduced special provisions for children<sup>2</sup>. Thus, retained and arrested children shall benefit, in addition to the rights provided by law for persons who have come of age, from their own rights and special preventive detention conditions, according to the specificities of their age.

There are several additional conditions established for preventive measures in the case of juvenile offenders, as follows.

In the case of children between 14 and 16 years of age, who are criminally liable, preventive arrest and withholding may be decided upon only if they have committed a crime which is punishable by law with life detention or imprisonment for more than 10 years. Retention cannot exceed 10 hours, but the measure can be extended by the prosecutor for a period not exceeding a further 10 hours.

Preventive arrest can be decided upon in the course of criminal prosecution or trial in a first instance, only for a period not exceeding 15 days, and only in exceptional circumstances. The total duration of preventive arrest, during the course of criminal prosecution, cannot exceed 60 days for children who have turned 16.

For children who are criminally liable and are between 16 and 18 years of age, the duration of preventive arrest in the course of the criminal proceedings and trial in the first instance shall not exceed 20 days, but may be extended only for 20 days, on justified grounds. Preventive arrest cannot exceed 90 days; in exceptional cases, when they have perpetrated crimes subject to imprisonment for more than 10 years or life detention, preventive arrest can be extended for up to one year.

Apart from these provisions, that limit the duration of the measures consisting in the deprivation of liberty, while limiting the category of offences for which such measures can be enforced, the Criminal Procedural Code also provides for the obligation

<sup>1</sup> ALTERNATIVE REPORT  
To the third and fourth  
Periodic report submitted  
by Romania to the UN  
Committee on the Rights  
of the Child 2003-2007,  
Save the Children  
Romania, Bucharest 2008

<sup>2</sup> As provided by law n.  
281/2003.

of legal assistance and for the defence attorney pro bono to communicate and defend the child. The Code also sets out the obligation to inform the parents or another person nominated by the child immediately, as well as the probation services attached to the court in charge of judging the case in the first instance, in the case of retention/arrest and within 24 hours from the arrest.

According to the law, during retention or preventive arrest, children must be separated from adults, in special places and locations. Observance of the rights and of the special regime provided by the law for children in retention or preventive arrest shall be guaranteed by a special judge designated by the chairman of the court, by visits made to the preventive detention places by a prosecutor, as well as by other bodies authorized by law.

### **Procedure**

According to art. 483 par. (3) of the Law no. 356/2006 amending and supplementing the Criminal Procedure Code, the person who perpetrated the crime whilst a child, is judged according to the special procedures provided for children. Both the judgement in the first instance and the means of recourse takes place according to the special procedures, provided that the defendant was under-age when the crime was committed.

Apart from the parties, the probation service and the child's parents, tutors, trustees, caretakers or other persons deemed necessary by the court are all summoned to appear before the court. Such persons have the right and duty to provide clarifications, file requests and present proposals with regard to the measures to be taken<sup>2</sup>

### **The new draft of the Criminal Code**

The new draft of the Criminal Code, subject to public debate, contains a new approach on children, which represents one of the core elements of the proposed reforms. The main regulations are presented below.

Firstly the draft proposes the lowering of the age limit at which criminal liability is triggered, from the age of 14 years down to 13, based on two arguments considered relevant by the law-maker, but arguable in the view of the specialists working with these children:

- the continuous increase in the past years of the number of criminal deeds committed by children below the age of 14; many of whom commit very serious offences or are attracted into organized crime groups, and yet for this reason are not criminally liable;
- statistic data on discernment capacities among children between 14 and 16 years of age indicate that 90% of the cases turned out to have this discernment, which means that as a rule, this capacity is present prior to the age of 14.

Secondly, educational measures should be preferred over punishments enforced against children who are criminally liable. The draft also establishes as a rule the application of measures that do not deprive children of their liberty, deprivation of liberty being the exception and being reserved to serious crimes or children who have committed multiple crimes.

The educational measures without deprivation of liberty are: civic training, supervision, grounding at the end of the week and daily assistance. Several of these measures do not require the direct involvement of the probation service during the child's activities, the role of the service is to monitor that the child respects the usual schedule (attendance of classes, sports activities, recreational activities etc.). There are several obligations that could be imposed by the court and can be decided concomitantly with one of the educational measures that do not require deprivation of liberty (Art. 122). Their content must still be adapted depending on the person and conduct of the child and the specificity of the offence.

The project also proposes two educational measures with deprivation of liberty – internment in an educational centre for a period between one and three years, and internment into a detention centre, for a period between 2 and 5 years or, exceptionally, between 5 and 15 years.

Nowadays, it is possible to affirm a given preference to those measures with deprivation of liberty in specialized institutions instead of detention in penitentiaries, thus, creating the basis for obtaining the best results in both educational and social reintegration activities.

Thus, if a child demonstrates he/she has made significant progress towards his/her social reintegration, after having completed at least half of the sentence, a decision can be made to replace this measure with daily assistance. If the child does not act according to the rules and does not show an improvement in his/her behaviour, he/she will remain in the specialized centre until the end of the measure.

Finally, when the child turns 18 and his/her conduct has a negative influence upon the reintegration process of other children from the centre, the court may decide that the educational measure could be transferred into a penitential measure. Thus, the initial sanction is not turned into a punishment; it maintains the legal status – that of an educational measure – the only difference being the institution.

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**SESSION 3 Aim of the session****Restorative justice**

To provide a short framework on the Restorative Justice Instruments relating to crime prevention, in order to introduce the further session on penal mediation. In particular, it contains a description of the main key concepts, the main documents and initiatives developed by the three main international institutions: The Council of Europe, The United Nations and The European Union.

**Description of the key concepts**

It is difficult to find a universally accepted definition of “restorative justice”. There are several possible definitions: restorative justice, reparation justice, new justice, relational justice etc. depending on whether you want to focus on: the innovative nature of the model or the repair or the relational aspect of the conflict. According to Lode Walgrave, restorative justice is a different model of justice, from the ‘retribution’ and the ‘rehabilitation’ model, aimed mainly at repairing the damage and suffering caused by the criminal event. Unlike the *punitive-retributive justice*, which is typical of traditional systems of criminal law, focusing on the gravity of the act and on the offender, rather than the victim, and contrary to the *rehabilitative justice*, focusing once again on the offender, but paying more attention to their needs and the need for prevention, *restorative justice* is focused on the harm caused by the crime and the person who has suffered. In practice, it leaves the punitive logic in favour of penal conceptions being less afflictive and probably more effective.

Restorative justice involves “the victim, the offender and the community, in search of a solution that promotes repair, reconciliation and reassurance.” Other Authors (Burnside and Baker) emphasize communication aspects of the crime and consider crime as ‘relational conflict’. In summary, the common denominator in many of the definitions proposed is the attention to the victim.

Another characteristic of restorative justice is that it differs from the traditional criminal law, in such ways as restitution, compensation and work for the community. In conclusion, restorative justice is a new paradigm and represents the possible evolution of justice. It is not simply a third method, but a real alternative model of justice, aiming at long-term prevention and social peace, through the dissemination of a new reconciliation culture.

**Resources****Council of Europe**

- *Recommendation No. R (96) 8 on crime policy in Europe* in a time of change incorporates some ideas on restorative justice, and thereby, the document also pays particular attention to the necessity of preventing crime by addressing its causes.
- *Recommendation No. R (99) 19 on mediation in penal matters* promotes the development of mediation in penal matters.

- Recommendation Rec(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice contains specific crime preventive aims (prevention of offending and re-offending, addressing the needs and interest of victims, importance of community-based prevention strategies and the need for scientific evidence).
- Recommendation Rec(2003)21 of the Committee of Ministers to member states concerning partnership in crime prevention.
- Recommendation No. R (87) 21 on assistance to victims and the prevention of victimization, in which the governments of member states recommended to encourage experiments in mediation between the offender and his victim and evaluate the results with particular reference to how far the interests of the victim are served.
- Recommendation Rec(2006)8 on assistance to crime victims, which further elaborates on mediation.

### **United Nations**

- *Handbook on Justice for Victims (1999)* – on the use and application of the Declaration of Basic Principles on Justice of Crime and Abuse of Power – embodies some links between restorative justice and the prevention of future victimization, the possible high rehabilitation value for offenders and the positive impact on deterrence within the community.
- *Resolution on Development and Implementation of Mediation and Restorative Justice Measures in Criminal Justice (1999)* mediation and restorative justice are seen as interesting responses to child offences, which can lead to victim satisfaction and prevention of further illicit behaviour.
- *Vienna Declaration on Crime and Justice (2000)* encouraged the development of restorative justice policies, procedures, programmes, and action plans that are respectful of the rights, needs and interests of victims, offenders, communities and all other parties.
- *Resolution on Basic Principles on the use of Restorative Justice Programmes in Criminal Matters (2002)*, contains definitions on restorative justice, as well as guidelines and suggestions on the use and operation of restorative justice programmes.
- *Declaration of the Eleventh United Nations Congress on the Prevention of Crime and Treatment of Offenders (2005)*, that include alternatives to prosecution, thereby avoiding possible adverse effects of imprisonment, helping to decrease the case-load of criminal courts and promoting the incorporation of restorative justice approaches into criminal justice systems.
- *Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of International Human Rights Law and serious violations of International Humanitarian Law (2005)*.
- *UN Handbook on Restorative Justice Programmes (2006)*, in which attention is given to crime prevention issues.

**European Union**

- *Vienna Action Plan*, which includes an implicit link to restorative justice.
- *Council Decision of 28 May 2001 on setting up a European Crime Prevention Network*, including the main tasks, aims and principles of the European Crime Prevention Network.
- *Green paper on the approximation, mutual recognition and enforcement of criminal sanctions (2004)*, containing also interesting ideas on non-custodial penalties and measures.
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## MODULE 1: PREVENTION

### Introduction

According to international standards the prevention of juvenile delinquency is an essential part of crime prevention in society and prevention plans should be a key part of any national juvenile justice programme. According to UN General Comment n. 10 “a comprehensive policy for juvenile justice must deal with, between its core elements, the prevention of juvenile delinquency”.

Particular emphasis should be given to prevention policies that facilitate the successful socialization and integration of all children, including foreigners. Therefore prevention programmes should focus on the support for vulnerable families, involving the schools in the teaching of basic law, and extending special care and attention to children at risk. Moreover, the research conducted within the JUST project showed that prevention is fundamental to reduce the risk of recidivism.

Of course, there are a great variety of prevention instruments. Regarding the initiative focused in the context of the JUST project, also due to the support of the children and stakeholders, during consultation, the most interesting methods of intervention on prevention are identified as: street education and outreach; school and family mediation and intervention to prevent school drop-out.

#### *Index*

**Session 1:** Street education/outreach

**Session 2:** School mediation/family mediation

**Session 3:** Intervention to prevent school drop-out

### Aim of the method

These methods aim to promote informative, educational and recreational activities on the street, in order to reach the children directly in the territory where they spend most of their time. Street education and outreach are both a great opportunity to reach children on the road, create a first contact with them and to work on prevention fields, by continuing a relationship with juveniles on release from juvenile justice institutions of the penal circuit.

### Description of the key concept

A street can be a road, an itinerary or a path. It is a geographical place that also has a symbolic and social dimension. The street frequently is the place where deviance, poverty and marginalization conditions are evident. But the street can be conceived as a social place, a privileged space for aggregation, communication and interpersonal relationship, making it a potentially educational place, a new space for a pedagogic action. The street can be a place to reach vulnerable children, to establish a connection with street educators and to discuss the problems of juveniles. Educators, meet-

### SESSION 1

#### Street education/ outreach

ing children in their territory, offer the possibility of coming into contact with someone who can help children to escape from the criminal circuit or, at least, give them the chance to be heard. On the street, rather than in other places, it is possible to identify problems and conflicts and needs. The street is also the place where it is possible to identify resources, to promote child participation, social animation activities, etc. The street is consequently a privileged place of work for educators and an educative place for the children involved in street education, a place where an educative path can be started.

**Street education** is an educative action implemented in an informal context where it is possible to start a pedagogical intervention in order to strengthen a positive relational process and an active participation of the juveniles. An essential prerogative is to implement street education interventions in areas of juvenile aggregation where “at risk” situations are present.

The main objective of street education is to offer the children a concrete alternative, another path to implement together with the street education team aiming towards their integration in the local community through socio-educative activities, sport, instruction and peer education.

Operators meet and interact with juveniles in their informal meeting places, try to focus on the marginalization of the adolescents, on their isolation and loneliness. They try to offer positive aggregation tools such as sports, recreational activities and educative activities (literacy courses, a basic instruction in legalities and inter-cultural experience).

Sometimes mobile facilities (i.e. campers) can be used as offices in order to have a presence on the field and guarantee the possibility of consultation; more structured interventions activate a desk office on the street for a continuative exchange and the possibility to intervene in everyday problems.

The first activity of the street educator should be to promote and develop a real relationship with children, ensuring them of his presence, either permanently or for a precise period of time. Firstly, the street educator should work in order to engage the child and get to know him and secondly he should aim to spend more time with the child and try to develop his knowledge and skills.

**Outreach** is a methodology used in the participation planning process, defined as ‘a way of going out to consult people, rather than waiting for them to come to you’.<sup>3</sup>

The outreach activities mainly consist of meeting vulnerable persons and juveniles at risk in the urban area where they usually spend most of their time, in order to discuss with them, listen to their suggestions and provide them with informative material about the social services offered. Usually conversations are informal and can help to reach an in-depth comprehension of the problems. Sometimes the presence of an interpreter or a cultural mediator is requested. The street contact is not the final objective, on the contrary it represents the first step in creating the opportunity of further contact.

*Both street education and outreach* are useful because, when implemented in the context of the children’s lives, are very available and accessible initiatives.

<sup>3</sup> Nick Wates, “Community Planning Handbook”



**Good practices in :****ITALY****The “CivicoZero” project – Coop. CivicoZero (Rome)**

The project is implemented by the cooperative CivicoZero and provides support, guidance and protection for both foreign children and those coming from new EU countries. It also concerns children in situations of marginality and social deviance, and subjected to the risk of exploitation and abuse. It ensures the improvement of life and respect for their rights. A day care centre called “CivicoZero” has been activated providing consultation activities, workshops, outreach, participation of children and adolescents, training and networking, which are organized within the Centre in order to strengthen the protection of children. The “CivicoZero” centre provides the young migrants with some basic services (showers, meals and washing machines). In addition, the Centre attends to children who require medical assistance or need to be driven or dropped off at specific clinics. Peer education and peer research are some interesting activities of the centre and it also provides children with legal advice. A consultant provides support for the resolution of more frequent legal issues. The *outreach* activities are carried out by weekly night visits to some of the most “at risk” suburbs to meet vulnerable children with a team composed of an educator, an animator, a mediator, a psychologist, a legal consultant and a peer. Three times a week two operators of the team (alternately- educator/psychologist, peer educator and animator) intervene on the street and in certain areas of Rome such as; Termini, Tiburtina and the Ostiense Train Station, where many Afghan children live. Also in Salaria street, Palmiro Togliatti street, Magliana street, Valle Giulia for intervention in the field of the prevention of sexual exploitation of children and in some suburban areas South of Rome, where unauthorized nomadic camps are frequently found. During the outreach activities the team analyze the needs of the children, inform the juveniles on their rights and propose a concrete opportunity for the children. Moreover informative material is provided to children explaining the main activities of “Civico Zero” and inviting the children to visit the day care centre, and providing them with the mobile contact of the outreach team operators for a possible appointment. The outreach activities involved 315 children, with 538 contacts during the period 2008-2009. 149 children were between 6 and 18 years old, and 71 were young adults between 18 and 20 years of age. The most common countries of origin of the juveniles are; Afghanistan, Romania and Egypt, with a strong presence of Roma children born in Italy.

**“Spazio anch’io” project – Oratorio S.Luigi (Turin)**

It is a street educational project which was initiated, extended as far as the “Valentino” park, near the “S. Salvario” suburb. Every afternoon sociological cultural workshops and sportive activities are organized. The adolescents are under supervision of educators, peers and volunteers who are present at the tent. Every day there is an Italian language class and juveniles can prepare their homework for school and spend some

time playing ping-pong or football. In summer, days at the swimming pool are organized as well as musical workshops, football and volleyball tournaments, cine forums etc... “Spazio anch’io” is an ‘inter-cultural laboratory with special attention given to the dynamic aspects and positive possibilities of intervention for social transformation in a composed cultural reality’<sup>4</sup>. A place where people can meet on a daily basis and exchange ideas in order to enrich their experience and knowledge concerning different cultures and backgrounds. It is a place where people can demonstrate their active commitment to build a different local community from the negative description of the media. When people get to know each other and discuss their problems they come into contact with a variety of views and opinions and their fears and anxieties begin to disappear. The best way to reduce tension and hostility between social groups is to promote contact with their members’ therefore the meeting place in the “Valentino” park is a concrete and tangible experience of integration and inter-culture.

## GREECE

### “The mobile school” project – ARSIS and PRAKSIS

In Greece, ARSIS and PRAKSIS, have cooperated in implementing the Mobile School project. ARSIS and PRAKSIS used mobile schools to expand their outdoor activities and to intervene in a population not easily accessible due to extreme marginalization like some Roma communities in Thessaloniki. In particular, the mobile school project runs at the Roma community of Agia Sofia and at the Roma community in the region of Dendropotamos, Thessaloniki.

The aim of the project is to introduce, through an alternative method, educational concepts and provide children with basic knowledge and motivate them to be linked with more stable educational procedures. Street work is the main way of establishing contact with children at risk and this should then be linked to the Youth Support Centres which operate in all cities where ARSIS develops social support activities for young people.

Regarding PRAKSIS and the “Next Door Children” Programme: in a purposely created space, children who are forced by their families or third parties to work or panhandle, are offered daily accommodation. Specially trained volunteers offer psychosocial, medical, educational and recreational services while focusing on the reintegration of children and their families. Moreover, one of the objectives of the programme is to involve the State in order to prevent and eradicate the phenomenon of street children.

ARSIS, on the other hand, also develops activities for the psychosocial support of children who are deprived of basic rights such as protection, education, a safe living environment, food and free time.

*The general aims of all services and activities and specially of the programme of the Mobile School are:*

- a. to establish contact with this group of children and build a trustful relationship
- b. based on this and with the acknowledgment of their needs and wishes, through services and activities to support them in order to develop all their creative and social skills

<sup>4</sup> A. Marazzi, *Lo sguardo antropologico*, Roma, Carrocci editore, 1999, p. 180.”

- c. to support children to elaborate or acquire skills that will help them to live a law-abiding life
- d. School integration and reassurance of a safe living environment, in order to achieve a better life for them as children and a better future as adults
- e. sensitization of the general population. The criteria for judging what is a “better life” for a child is always their needs, wishes and what is best for them.

*Target groups* are children whose main environment is the street or in general open areas, as they are not living in a safe environment in the framework of a normal family. These children are usually victims of economical exploitation, neglect and maltreatment. They belong to marginalized social groups such as:

- Roma people from Greece or from other Balkan countries, who come to Greece. These children are victims of economical exploitation (child labour, begging, stealing) or other forms of exploitation (sexual exploitation, trafficking).
- Children belonging to groups of immigrants and refugees.
- Children coming from very poor families.

## ROMANIA

### “Mobile school – a school for everybody”- Save the Children

#### Organization (Iași)

During December 2007 - September 2008, Save the Children Organization from Iași has been developing in partnership with the Penitentiary from Iași, the project called “Mobile school – a school for everybody”, financed by the European Union under the PHARE 2005 Programme – Consolidation of Romanian Democracy, Component 2 - Democracy, human rights, legal rights, independency of justice and the fight against corruption.

The specific *objective* aims to improve the psychosocial services provided to children and adolescents deprived of their liberty, by developing activities with the help of the Mobile School.

The target groups are mainly children in vulnerable situations. Initially, the School addressed children at risk of economic exploitation and, following the programme development, children deprived of their liberty were also included.

Specific issues of the project are:

- ▶ The Mobile School is an educational instrument created for children in difficulty, adapted both technically and pedagogically to the characteristics of these children.
- ▶ The Mobile School is built on a 4-wheel mobile system, enabling the street workers to move it to various areas and consists of a series of 5 inter-connected blackboards which join together to form a board, half a metre by six metres . Magnetic boards are attached to these blackboards and instructive information is given on various themes: the rights of the child, literature, mathematics, vocabulary, health education, creative therapy, drug consumption prevention, prostitution and HIV/AIDS prevention.
- ▶ The programme includes information activities on the previously mentioned topics, as well as games and socializing activities consisting of children and

youngsters from the penitentiary performing (plays, poems, songs, dance, etc.) in schools and high-schools from the community and is coordinated by two professional actors, working within the project.

- In addition, information and training activities are developed by the specialists (the staff from the penitentiaries, teachers, psychologists and social workers) connected with this target group.

A positive aspect is that the initiators of the “Mobile School” noticed and were receptive to the needs of children deprived of their liberty, and from the beginning they developed the project to focus on this target group. Child detention is correctly understood as a vulnerable situation where, first of all, guidance and correction is necessary and less punishment should be considered. Children are presented with topics, which, once they have assimilated, turn into protection tools against dangers (HIV/AIDS and, drug consumption).

- The approach of the Mobile School is a more complex one, because children are seen according to the set of rights guaranteed by the Convention – information activities are completed with educational ones, taking into consideration, the right of children to play, enjoy free time and develop skills, but also bearing in mind the development and maintenance of relationships with other members of the community.
- The Mobile School proposes new approaches and educational techniques which are attractive to children and have the necessary elements to maintain their attention and interest.
- The duplication of the project is possible. For the more expensive resources, such as the connected blackboards, however, alternatives may be identified involving lower, but equally efficient investments, for example, large-sized flipcharts made of paper. It is necessary to bear in mind the child and his/her needs, as well as alternating games with information and the development of social skills.

### Resources

- [www.gruppoabele.org/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/195](http://www.gruppoabele.org/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/195) with an interesting article on street education implemented in Turin by “Gruppo Abele”.
- [www.cooperativamirafiori.com/educativa\\_di\\_strada.htm](http://www.cooperativamirafiori.com/educativa_di_strada.htm) contains another interesting page on street education intervention.
- [www.enviplans.net/modena\\_05/tecniche\\_ascolto\\_IT.pdf](http://www.enviplans.net/modena_05/tecniche_ascolto_IT.pdf) is a document with a clear definition of outreach activities and some literature on the subject.
- [www.sanluigitorino.wordpress.com/strada/zone-di-intervento-e-progetti](http://www.sanluigitorino.wordpress.com/strada/zone-di-intervento-e-progetti)
- [www.images.savethechildren.it/IT/f/img\\_pubblicazioni/img58\\_b.pdf](http://www.images.savethechildren.it/IT/f/img_pubblicazioni/img58_b.pdf)
- [www.arsis.gr](http://www.arsis.gr).

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- [www.edupolis.org/bibliografia%20lavoro%20di%20strada.pdf](http://www.edupolis.org/bibliografia%20lavoro%20di%20strada.pdf)
- [www.tesionline.it/\\_\\_\\_PDF/8347/8347b.pdf](http://www.tesionline.it/___PDF/8347/8347b.pdf)

**Aim of the method**

Mediation is a procedure that aims to solve conflicts (in the broadest sense, including a comparison between the parties which may result in a conflict) with the intervention of a professional, neutral and impartial third party to facilitate the negotiation between them in order to find a pacific solution to the problem.

Mediation is an important method which could be implemented in many different contexts of everyday life: family, scholastic, sanitary, judicial and social. Each area of intervention requires specific competences, with a precise definition. In this session we will focus on school and family mediation. Family and school have a focal role and impact on the psychological and physical development of the child, on his/her maturity and responsibility. Of course in the same context, several initiatives could be implemented (psychological assistance to families at risk, economical support, social services in the territory, etc...). Nevertheless, at the end of the present session, it has been considered useful to focus on one of the possible instruments available: school and family mediation practices, for their innovative character. Regarding foreign children, it is clear that the mentioned methods could be implemented above all in favour of those present in the territory with their families (both accompanied children, children of second or third generation).

**Description of the key concept**

The concept of mediation has been underestimated for a considerable length of time but recently everybody has agreed on the essential function of the mediator in today's complex society, representing a precious element for the creation of a safe social context.

Ethnologically "to mediate" means "to *stay in the middle*", in fact the mediator works in between two subjects (physical or institutional) and should understand their characters and find an appropriate solution to the possible relational difficulties.

Mediation, using specific techniques of communication, helps people to understand each other and resolve their conflicts, thereby transforming problematic situations into opportunities of understanding different societies and individual thought.

Mediation needs the efforts of every subject involved, as it is a bilateral path that aims to reach some shared rules, a necessary condition for constructive, collective living. The mediator should be an impartial third party with no prejudice who helps other parties (single or collective) to understand the complexity of society and to search for the roots of diversity in the individual identity.

**1. School mediation**

Essentially concerns the lack of communication between teachers and students and their families, the difficulty in the management of the relationship between those actors, as well as the inadequacy of the institutions to understand juveniles' problems and for the juveniles to understand both the language of the institution and that spoken by the adults. The role of the school mediator is principally to open a communicative channel becoming an interpreter for both parties in order to establish a new dialogue and to show latent conflicts inside the scholastic community.

**SESSION 2**School mediation/  
family mediation

The different competences of the school mediator can be listed below showing the different areas of intervention.

*In the case of migrant children:*

- make the first move of welcoming and integrating them;
- reconstruct the biography and scholastic/linguistic history of the child;
- explain the rules of the service and of the school;
- reduce the anxiety and stress of the uprooting ;
- provide visualization and positively emphasize the culture of the country of origin;
- constitute a positive reference model of identification for migrant children;
- provide legitimacy and importance to the language of origin inside the school;
- facilitate (jointly with the teacher) the first approach to learning Italian.

*In the case of migrant families:*

- inform and facilitate access to the use of educative services;
- translate informative material, advice, documents, etc...;
- intervene in conflicts (inter-cultural incidents and/or misunderstandings);
- orientate newly arrived parents.

*In the case of teachers, educative operators and educative institutions:*

- contribute to solving linguistic difficulties during the first stage of integration;
- provide information on the life history of the child, on the scholastic models of the country of origin;
- provide information on the culture of the child's country of origin;
- translate information and communication;
- sustain the teacher in teaching the second language.

*In the case of Italian students:*

- present other cultures;
- provide positive images of the country of origin of the migrant child and of his/her culture;
- propose cultural animations.

## **2: Family mediation**

In family conflicts the intervention of the mediator must be focused on the management of the emotionality to attenuate the conflicts paying special attention to the psychological aspects. The family mediator is a professional figure with specific knowledge and competences who works with parents and children who are considered to be in a critical period. Family mediation through communication techniques, helps the comprehension of the members of the family in order to transform a moment of crisis into a chance to understand and develop. Family mediation is important in any case concerning controversial family relationships but in particular during adolescence. The result of mediation is the reciprocal comprehension and the solution of family tension with some particular advantages:

- It is not antagonistic: decisions are made together.
- It is in the best interest of the child that the mediator should always consider this fundamental principle.
- It helps to clear controversial areas, the mediator helps to delimitate the areas of discussion in a productive way.

**Resources**

- <http://neshama.over-blog.it/pages/la-mediazione-familiare-una-strada-vantaggiosa-2639261.html> is a website with description of familiar mediation, focus not only on children in conflict with the law
- <http://www.schoolmediation.com> website with a definition of familiar mediation.
- [www.bdp.it/scuole\\_pon/pubblicazioni/Imp\\_Misura\\_3.1.pdf](http://www.bdp.it/scuole_pon/pubblicazioni/Imp_Misura_3.1.pdf) is one of the most interesting files about school drop-out.
- [www.projectdropout.org](http://www.projectdropout.org) document in English on the same subject
- [www.comune.torino.it/successoformativo/italia/lotta\\_dispersione\\_scolastica.pdf](http://www.comune.torino.it/successoformativo/italia/lotta_dispersione_scolastica.pdf) is a document released by the municipality of Turin on the methods of intervention on school drop-out, with a very clear and complete text.
- Ardone R., Lucardi M., *La mediazione familiare. Sviluppi, prospettive, applicazioni*, Kappa, 2005.
- Savarese G., *Il bambino e la separazione dei genitori. Tutelare il minore attraverso la mediazione familiare*, Longobardi, 1999.

**Aim of the method**

The method of intervention should aim to ameliorate the instruction from first infancy, encourage the learning of key competences, implement interesting and informative instructions during the professional training, develop scholastic orientation and practical activation of preventive devices to encourage the juvenile towards a successful formative path, in order to reduce school drop-out. In conclusion, the prevention of school dispersion and the motivation of both students and teachers are equally important, in order to sustain a socio-educative animation using different methods of informal learning.

**Description of the key concept**

School drop-out is a phenomenon which includes various behavioural problems within the scholastic system: irregular attendance, repetition of the scholastic year, frequent sickness, constant change of class, illiteracy, etc... School drop-out is one of the reasons of deviant conduct but the problem can be solved with individualized intervention for every different situation, in order to help the juvenile in the compulsory school to: increase his/her self-esteem, develop abilities, ameliorate scholastic performance and prevent school drop-out. The school is a privileged place where the cultural transformations that influence juvenile behaviour appear immediately. Between the school and juvenile culture there is a gap that must be understood in order to overcome the school drop-out phenomenon. The intervention can be useful only if there are different actors who promote the activities of prevention, a network (the school cannot be solely responsible for this burden, but it is the focal institution) and the responsibility of the juvenile. Juvenile responsibility is probably the first step towards creating a school that can promote formative intervention and avoid causing a wall of uneasiness. Therefore formative activities are essential using techniques and methodologies oriented towards an individualized path. At European level, the im-

**SESSION III**

Intervention to prevent school drop-out

portance of the integration of the family is stressed as a scholastic partner and of actions directed at the creation of a juvenile social network. Sociological approach underlined that the most influential elements on formative failure are the socio-cultural<sup>5</sup>: the drop-out risk is higher for children whose parents have a lower level of education and not only in families with economical problems. School drop-out is considered as the ensemble of every phenomenon that determines the interruption or slowdown of the study career of a juvenile: a phenomenon that becomes evident when the student does not attain the final study qualification. Literature identifies 5 different categories of drop-out:

- a. *Pushout*: undesirable juvenile in the school who the institution would prefer to remove.
- b. *Disaffiliated*: a child who does not feel a strong connection towards the school or the institutional staff.
- c. *Education Mortalities*: a juvenile, who, for different reasons such as health or family problems, does not complete the academic year.
- d. *Capable Drop-Out*: a capable student who possesses great qualities and the accademic ability, but has no interest in school or socializing with others.
- e. *Stop-Out*: a student who abandons school for a limited period of time and then returns, either in the same year or the following accademic year.

According to the document of the European Commission “A new impulse for the European juveniles” (2001) there are some key elements to promote a dynamic and participative teaching. It is considered essential to:

- strengthen the qualitative level and the efficacy of the scholastic system;
- promote a path for scholastic reintegration;
- promote didactical methodology, individually oriented, with educative interaction;
- affirm the advantages of formal and informal learning.

### Good practices in:

#### ITALY

#### “In-Contro: Insieme contro la dispersione scolastica” project Save the Children (Rome)

This project, after an initial research and analysis implemented in the Rome territory, is working on the construction of a strategy of intervention able to reduce school drop-out. The idea is to promote a methodological reflection with a specific approach for a modular intervention, using different tools, for every context. Concerning school drop-out, the main actors are: students, schools and families. Schools should be the place for socio-cultural integration but this responsibility is not exclusive. The entire territory should be responsible and for this reason the “In-contro” Project elaborates a new intervention based on the concept of “welfare community”. Welfare community means a place where the relationship between institutions and civil society can be modified beginning with a concept of social solidarity.

<sup>5</sup> In Italy Gattullo (1976; 1984; 1989) Gambetta (1987) and recently Cobalti and Schizzerotto (1994), Gasperoni (2002) and Pisati (2002); at international level Blau e Duncan (1967) and R. Erickson e J.H. Goldthorpe (1992).



### The “Cinema” project – Ozfilm s.r.l. (Bari)

Project implemented between 2001 and 2006 in the city of Bari, aimed at reducing the number of school drop-outs. The programme was focused on children from 8 to 13 years of age, in the historical centre of Bari, an area with a high density of criminality and socio-economical problems. The territory has been pin-pointed for child protection intervention, legal education and the sustainment of family life. All the videos produced are available on the web at: [www.ozfilm.it](http://www.ozfilm.it).

The project had 4 phases:

1. Collection of child’s stories involving the participation of experts that subsequently became a unique and complete screenplay.
2. Casting and research for the location with the children, to increase their responsibility in the workgroup. Each child was introduced to a workgroup according to their inclinations.
3. Shooting: in this phase all the children took part according to the work agenda and with the support of volunteers and teachers
4. Editing: the technique of “open editing” was used to develop concrete participation of all the children involved in the project.

Children involved in the project were students from primary and secondary schools as well as several adults (childrens’ parents).

Results: the project had a positive feedback in terms of reduction of the school drop-out. A child from a socio-cultural high risk area revealed that, after participation in the programme, his artistic talent was discovered, which lead him to move to another city and become a cartoonist. The participation of the children was active and they proved to be both interested and responsible in their activities. The workgroup allowed them to share their experiences in an interactive way and included the participation of parents.

## GREECE

### “Youth - Combat of School Drop-out” project – ARSIS (Finoika)

ARSIS implemented an European project titled “*Youth- Combat of School Drop-out*” in the region of Finoika in Thessaloniki, through the operation of a youth centre. The project provided conditions for effective intervention to prevent school drop-out. The project’s main aim was the development of innovative methodological tools, of non- typical education, concerning issues of prevention of school drop-out and education on inter-culture and human rights. A group of 10 boys and girls, 12 to 16 years of age, participated in the project. The project aimed at the cognitive as well as the emotional development of the participants. They studied *Greek Literature and Mathematics*, up to the first or second class of secondary school and attended support classes twice a week. The methodology design of the thematic area “combat of school drop-out” included actions concerning: young people, parents, teachers.

As regards the actions concerning young people there were two levels:

1. school support classes (individual or small groups)
2. empowerment workshops.

School support classes aimed at the young people’s cognitive development on Greek

literature and Mathematics, by developing studying skills and self-adjusting learning (scientific documentation about cognitive development on “Greek” and “Mathematics”, studying skills and self-adjusting learning). Empowerment workshops aimed at the development of positive attitudes and meanings regarding school and classes. In other words, this workshop aimed at the appreciation of participants’ negative attitudes towards school, classes, teachers, themselves etc. and their modification through experiential exercises (scientific documentation). In order to achieve this goal, 14-16 experiential meetings of the group were held.

Concerning young peoples’ parents were organised parent’s group. This group consisted of parents of the 10 participants, who took part in the reinforcement lessons and workshops. The action aimed to promote alternative communicative models and their contributions to combat school drop-out. To accomplish this goal, 8 experiential group meetings took place weekly.

Regarding young peoples’ teachers, were organised teachers’ group. The group aimed at collecting teacher information concerning the school drop-out phenomenon and the ways in which they could contribute to its prevention. This included its constituents, the reinforcing factors as well as prevention means, both inside and outside the school community. To accomplish this aim, 4-5 informative and educational meetings with a scientific counsellor took place.

Results of the project: The supportive network operated between young people, their parents and teachers, to provide constant support for pupils in order to prevent and resolve problems and therefore enable them to continue their studies and not be drop-outs from school.

## ROMANIA

### **Orientation and resource centres for inclusive education**

#### **Complex education services for the prevention**

#### **and the correction of school drop-out project - Save the Children**

The project started in 2010 and is being implemented by Save the Children Romania in partnership with the Romanian Ministry of Education, Research, Youth and Sport and it is funded by the European Social Fund.

The general aim of the project is to provide complex educational services to children coming from vulnerable environments, in order to prevent school drop-out and promote educational reintegration. In the framework of this project 32 education centres were opened throughout the national territory and 7680 children will benefit from the complex services for the duration of the project (three years).

The services provided in the education centres are: school integration/reintegration in the framework of “Second Chance” programmes, after-school services for the prevention of school drop-out, legal, psychological and social counselling.

The beneficiaries of the project are vulnerable children from 6 to 16 years of age (Roma children left at home by parents who are working abroad, children from very poor communities, children who dropped out of school or are at risk of abandoning education). At the same time, the project has a strong prevention/award component – dissemination of information on educational benefits, on the negative effects of

discrimination against children, on the direct connection between children living without direct parental supervision (when parents are working abroad) and the unsatisfactory evolution of children's education. Posters, information video and radio spots are being produced.

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## MODULE 2: CRIMINAL RESPONSIBILITY

### Introduction

The principles of the identification of criminal responsibility and age assessment procedures represent a fundamental point both to guarantee an individualized project of reintegration and to protect the child from contact with the penal system.

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**Session I:** Assessment procedures of age

### SESSION I

#### Assessment procedures of age

#### Aim of the method

The present method aims to provide appropriate procedures in order to assess the children' age in the context of criminal responsibility. In fact, in accordance with international documents, the age of criminal responsibility for juveniles shall not be fixed at an age level which is too low, bearing in mind the facts of emotional, mental and intellectual maturity.

#### Description of the key concept

In this document, the age assessment refers to the procedures through which authorities seek to establish the chronological age of an individual. In these contexts, age assessment is used to establish whether or not (and for how long) an individual is under the age of 18 and therefore eligible for the juvenile justice system (different protection is applicable under the United Nations Convention on the Rights of the Child (UN CRC) and other relevant International, European, Regional and National legal systems). A recent report issued by the European Union Agency for Fundamental Rights stated "age assessment procedures apply a variety of methods, for example, checking documentation, interviews or medical examinations (such as magnetic resonance tomography, bone and dental assessment, and radiological testing)". The report emphasizes "the lack of a standardized approach between or even within EU countries"<sup>6</sup>.

The modern approach would be to consider whether a child can live up to the moral and psychological components of criminal responsibility; that is, whether a child, by virtue of his/her individual discernment and understanding, can be held responsible for essentially antisocial behaviour.

For this purpose the age assessment procedures have to comply with a multi-disciplinary approach which takes into consideration the well-being of the child.

The minimum age of criminal responsibility according to the international standard is between 14 and 16 years of age (Beijing rules, art. 4). A close relationship between the minimum age of criminal responsibility and emotional, mental and intellectual maturity should be guaranteed.

The criteria of the capacity to understand and discern should be taken into consideration and should be implemented with the "concept" of maturity as

<sup>6</sup> European Union Agency for Fundamental Rights (FRA), Separated, asylum-seeking children in European Union Member States. Summary Report, 2010

processed by psychological science.

At the same time physical development is as important as psychological maturity which depends on several criteria including: the native and family environment, access to education, different experiences and the social context in which he/she lives. For these reasons the development of intelligence is not the only relevant factor for the young person to fully comprehend his/her behaviour. Basically he/she shall consider the reasons of his/her action connected with his/her own free will, his/her moral and ethic character and the probable consequences of the action. In order to do this, the typology of the crime must be examined respecting his/her personality.

So, the age assessment should always be conducted in light of the best interest of the child.

Currently, the age assessment procedures shall be the result of a combination of methods balancing physical, development, psychological, environmental and cultural factors. Specifically, the following general principles should be respected:

- ▶ the age assessment shall be carried out in the best interest of the child with respect to his/her dignity;
- ▶ if there is no proof of age, the child shall not be criminally responsible and in case of conflict or inconclusive evidence the principle of the benefit of the doubt shall be applied;
- ▶ the exam should be carried out by independent professionals with appropriate expertise;
- ▶ the physical, psychological and cultural factors should be taken into consideration;
- ▶ the presence of the cultural mediator shall be ensured;
- ▶ the children shall be informed as to why the assessment of age is initiated and consent shall be gained;
- ▶ the medical report should indicate the margin of error and be delivered to the children from the children's point of view it is considered very important to be informed – using a child-friendly approach and language - on the assessment and procedures; to be informed on the risks and consequences of the procedures; to receive the report on age's assessment.

### Good practices in:

#### ITALY

Basically, there are different practices developed in Italy regarding age assessment. However, from the practices collected, many different approaches were used in the age assessment procedures.

In Rome, Mr Carlo Bracci, an expert doctor and member of the Association “Medici contro la Tortura”, is involved in the age assessment procedure identifying the best method of assessment, taking into consideration the respect and well-being of the children and using a multi-disciplinary approach through a family and clinical anam-

nesis, with the participation of the cultural mediator. In many cases Mr Bracci has examined the children on behalf of Save the Children.

### **Resources and Bibliography**

- In order to identify the age assessment procedure, the main comparative study published in this field has been analyzed (regarding both juridical and medical aspects). A series of provisions are contained in different legal and administrative acts of penal law, immigration law, asylum law and a law on the use of x-rays. Where it is not currently possible to set out full age assessment procedures, each national context should develop such procedures which are in line in line with the International child rights standard and in the best interest of the child.

For more information on the assessment procedures, please see:

- Bracci C.- Norcia G. - *La determinazione dell'età del minore non accompagnato*, in "La tutela medico legale dei diritti dei rifugiati", by Carlo Bracci, Medici contro la Tortura Association, Roma, 2009; on line on website [www.medicicontrolatortura.it](http://www.medicicontrolatortura.it)
- Save the Children Italia, *I minori stranieri in Italia, l'esperienza e le raccomandazioni di Save the Children*, 2 annual report, 2010, p. 43-46.

## MODULE 3 JUDICIAL PROCESS AND DEPRIVATION OF LIBERTY

### Introduction

In the context of criminal proceeding and during the deprivation of liberty, according to international and European standards the, juvenile justice system should provide children in conflict with the law with every appropriate initiative in order to ensure fair treatment and trial. First of all, according to international provisions, the States should establish laws, procedures and institutions, including specific guarantees and rights in favour of children involved in the criminal circuit, such as: the presumption of innocence; the right to be heard and informed on the charges, the process and possible measures; the right to be assisted by parents or another person (such as the guardian) providing that the best interest of the child is assured; special provisions for adolescents with physical, mental and social problems, special attention being given to children who are most at risk (children with disabilities, displaced children, children living and/or working on the street, refugee and asylum-seeking children, children belonging to ethnic, religious, linguistic or other child ities, etc.); arrest, detention or imprisonment of a child, should only be implemented, as a last resort and for the shortest appropriate period of time. Although many of these provisions have been adopted - in various ways - by several States, often they are not enough to ensure an effective and fair protection of the child during the criminal trial or deprivation of liberty, in particular regarding specific categories, such as foreign children. For these reasons, this module aims at describing some of the most effective methods of intervention that could be used to promote fair treatment and trial of the child, especially considering the need of social reintegration after leaving the criminal circuit. Of course, the list of methods should be considered as non-comprehensive.

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- Session 1:** Appointment of a guardian for unaccompanied or improperly accompanied children
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**SESSION I****Appointment of a guardian for unaccompanied or improperly accompanied children****Aim of the method**

Regarding the penal circuit, guardianship means exercising the authority of supervizing children unaccompanied or improperly accompanied to guarantee both their interests in the penal system and their future development. The guardian provides long term care and is responsible for participating in the penal proceeding, both for the mental and physical well-being of the child, as well as for the development of the child's personality. Guardianship counselling aims to help children leaving the penal circuit and supports and promotes his/her reintegration, in order to make them independent by the time they come of age.

**Description of the key concept**

The involvement of parents should be guaranteed and provided at all stages of judicial proceedings if it is in the best interest of the child. In the case where children are unaccompanied or improperly accompanied the presence of the guardianship shall be guaranteed. Specifically parents or guardians shall be involved in the proceeding on several occasions, as well as:

- being informed immediately of the child's arrest (for whatever reason);
- being listened to during the hearings as well as during investigations;
- being questioned during the preliminary hearing and the trial in court in order to collect information about their personalities and families or social context and resources;
- being consulted about prescriptions that the Judge can apply to encourage educational activities.

The States should ensure and guarantee the appointment of the guardianship and provide different alternatives to achieve the objective, the guardian should be trained and competent in the specific field concerning migrant juveniles. For example, the creation of a register of volunteers trained in the field of migrant children would help to overcome the lack of human resources of the juvenile justice administration and the appointment of a guardian, who is not connected with the administration, would avoid the risk of the conflict of interests and consequently avoid less protection for the child.

**Good practices in:****ITALY****The Public Guardian for Children in the Veneto Region**

This is an independent authority that promotes the protection of child rights as established in the Veneto Region by Regional Law No42 on August 9, 1988, (Establishment of the Office of Public Protection for Children). The mission works to give friendly protection (non-judicial and non-conflictual) of the rights of children and adolescents, which focuses on promoting the best interests of the children, fielding the following actions:

- listening to reports of marginalization, risk or prejudice relating to children reported to the office, taking action by means of orientation services, mediation and advice;



- ▶ awareness, training and support for voluntary legal guardians of children; supervision of the support given to children living outside their family of origin;
- ▶ reporting to the competent administrative or judicial authorities on situations of risk and harm to children;
- ▶ collaboration with the government to facilitate the sharing of objectives, taking into consideration the responsibilities of individuals, professionals and institutions working for children and adolescents, the setting up of protection networks for children;
- ▶ promoting and making available information on the rights of children and adolescents.

This authority is independent in the sense that the Public Guardian of the child carries out activities for the promotion and protection of child rights in full freedom and independence from other public institutions, and is not subject to any form of hierarchical control.

#### Resources and Bibliography:

- [www.engi.eu](http://www.engi.eu) European Network of Guardianship Institutions.
- Lluís Francesc Peris Cancio, *Con i nuovi vicini – il Servizio Sociale e le famiglie immigrate*, Roma 2010.

#### Aim of the method

The linguistic-cultural mediation, in the field of juvenile justice, aims to promote intercultural dialogue and communication between children involved in criminal proceedings and all juvenile justice system personnel and operators in charge of their care. In this context, linguistic-cultural mediation represents an essential tool to ensure that foreign children receive the same treatment as national juveniles, in accordance with the general principle of equality. At the same time, it ensures effective child participation in the criminal proceedings, helping them exercise their right to be heard and informed.

#### Description of key concept

The linguistic-cultural mediation is a key method of intervention useful both to children and operators involved in the juvenile justice system.

The mediator is an active figure participating in several stages of criminal proceedings and treatment facilitating communication between the parties, enabling the decoding of cultural differences and ensuring mutual respect. He/she should not be considered simply as an interpreter, but as one who also interprets and facilitates the levels of communication and understanding between different cultures and subjects.

First of all, the linguistic-cultural mediator provides juvenile justice professionals with information on the history of the migrant children, their social and cultural background, their migration project and the reasons for leaving their national country (the reasons are usually varied: at the request of their relatives, to escape from war or extreme poverty, context, to search for better living conditions, etc. ..). Without

## SESSION 2

### Linguistic-cultural mediation

this knowledge and information, it is not possible for operators either to establish the children's personal, social and family situation, or to develop a rehabilitation plan appropriate to the juvenile's needs and characteristics.

Furthermore, the linguistic-cultural mediator is crucial for many other reasons: to support the school teachers and professional trainers in the preparation of proposals for education and training more appropriate to the needs of a foreign child; to promote opportunities for training or cross-cultural exchange between the mediators themselves and the other juvenile justice system professionals (in order to improve their knowledge of a specific culture or legislation, providing facts about the religious or dietary needs of the migrant children); to support operators in communication with consular authorities; to cooperate with operators in the translation of prison regulations or criminal dispositions, to find foreign books or other interesting material (videos, etc. ...) for migrant children, etc...

The mediator also plays a key role regarding children involved in criminal circuits. He/she should support the juvenile justice practitioners in their relationship with the children and should be involved in all stages of the custody and detention of the child, commencing the moment the child is received into the system. At this stage the mediator should explain to the child the role and tasks of juvenile justice services as well as the reasons for detention. He/she should assist the child during the first interview and during the medical examination; inform him/her regarding criminal trials and legislation; give an accurate translation of the child's story and facilitate contacts between the child and his/her family.

The mediator facilitates communication between the child and the whole team of operators, enabling them to develop the most appropriate educational plan. Finally, the mediator should make the child aware of and help him/her understand the services and opportunities offered by local authorities and institutions as well as those offered by NGOs available to orientate children toward rehabilitation and reintegration.

Although (at least in Italy) the professional profile of the linguistic-cultural mediator is not regulated by law, it is generally considered that the requisites should include the following minima criteria:

- have specific training in linguistic-cultural mediation;
- belong to a culture other than national;
- have a good knowledge of the migration phenomenon and of migrant children's cultural background;
- have a good knowledge of national culture and legislation, with special focus on criminal and immigration rules;
- be (as is required of every mediator) impartial, reliable and bound to confidentiality;
- translate clearly and accurately children's and operators' verbal communications, explaining also the most culturally significant behaviour;
- be compatible with the role of mediator.

**Good practices in:****ITALY****“IN&OUT” and “NOMIS” projects (Turin)**

The *IN&OUT* Project is developed within the C.P.A. of Turin. Child targets are unaccompanied children addressed by a Judicial Authority's order of release with no precautionary measures. It provides an educational team consisting of one educator from the Office of Foreign children of the City of Turin, a number of cultural mediators and the educators of the C.P.A. The initial contact is made within the C.P.A., where the cultural mediators (of Romanian and Moroccan origin) have lunch with the children and spend time with them in the early afternoon every day from Monday to Saturday. They are also allowed to do personalized interviews in order to gather elements needed to set in motion the process of post-discharge from the C.P.A. When possible, juveniles leaving the C.P.A. are accompanied to a Day Centre managed by a Cooperative (Sanabil), to participate in recreational and educational activities. Project goals are: to be in contact with children when they first enter a criminal circuit, to establish a trustworthy relationship with them and to continue the technical assistance and support offered by the C.P.A.

The *NOMIS* Project focuses not only on children coming into contact with justice for the first time but also on those who already have a criminal record. The project is inspired by studies on resilience and lays great emphasis on the importance of putting protective measures in place to avoid the risk of deviance. The main aim is to provide foreign children entering the criminal circuit with opportunities other than pre-trial measures (such as custody or placement in a Community). It aims to overcome the gap between Italian and foreign children. Objectives: firstly, to approach, engage and get to know children who have committed offences; secondly, to give children alternatives to imprisonment; finally, to provide an extended network, working with the family, the community of origin or the urban area where the child is located.

To this end, the project team also includes cultural mediators. They are present from the moment the juvenile enters the C.P.A., at mealtimes and at weekends. In the C.P.A., the mediators explain to the child his/her legal position and try to open a communication channel to learn as much as possible about their situation. They take part in talks with operators and contribute to the collection of information held by the Office for Foreign Children. In 2009, moreover, with the rise in accompanied foreign children, mediators were also employed to implement support interventions targetted at family members.

**GREECE****The Supervisory (Commissary) Juvenile Services of The Juvenile Courts**

They are regional services of the Ministry of Justice, Transparency and Human Rights which operate in the seat of each court of first instance wherever there is a juvenile court, and are supervised by the juvenile judge. They constitute the primary institutional service for juveniles who have committed criminal acts, or who are in danger of becoming perpetrators or victims of criminal acts. They are staffed by supervisors

of juveniles, who work with juveniles upon whom the reformatory measures of supervision have been imposed (article 122 of the Penal Code) significantly aiding the juvenile judge in their decisions regarding the respective cases. The supervisors cooperate with other authorities to promote juveniles' reintegration through education, psychosocial support and community service (such as probation service). In the field of social mediation the Supervisory (Commissary) Juvenile Services has the responsibility of explaining to the children the meaning of the judicial process and rehabilitation measures, the possible consequences of the processes and the measures that may be applied to them. The sitters search for relatives who might play the role of a cultural mediator and interpreter. Where this is not possible, the service aims at cooperating with entities, immigrants' organizations and other organizations to find not just a simple interpreter but a cultural mediator, who has knowledge of and is able to convey special cultural and language elements that make communication and the child's understanding more complete. For the application of special rehabilitation measures such as the participation in treatment programmes for rehabilitation, the service cooperates with the KETHEA ANADYSI centre of prevention and treatment of juveniles with addiction problems. In other cases where the child has need of medical support, the Service of Probation Officers cooperates with non-governmental organizations such as PRAKSIS and Doctors of the World.

#### Resources

- Circolare del Dipartimento Giustizia Minorile del 2002 – n. prot. 9112 del 23 marzo 2002 – contenente le linee di indirizzo per l'espletamento di tale professionalità.
- Art. 35, del D.P.R. n. 230 del 20 giugno 2000, "Regolamento recante norme sull'ordinamento penitenziario e sulle misure privative e limitative delle libertà", in base a cui occorre "...favorire l'intervento di operatori di mediazione culturale, anche attraverso convenzioni con altri enti locali o con organizzazione di volontariato".
- CCNI del personale del Dipartimento Giustizia Minorile del 29 luglio 2010 che introduce all'Art. 18 il mediatore culturale fra le figure professionali del Dipartimento Giustizia minorile, disciplinandone specifiche, contenuti e requisiti per l'accesso. Resta da chiarire solo in che modo, e quando, le norme introdotte troveranno applicazione. Testo disponibile in:  
[www.giustizia.it/giustizia/it/mg\\_1\\_23.wp?selectedNode=4\\_12](http://www.giustizia.it/giustizia/it/mg_1_23.wp?selectedNode=4_12)

#### Bibliography

- R. Rossolini, *Minori immigrati in istituto penale: proposte educative ispirate al principio dell'ibridazione culturale*, in "Minori Giustizia", p. 130.

### SESSION 3 Aim of the method

#### Social mediation

Generally, social mediation is a form of social action, implemented at local and community level, which aims to facilitate communication and interaction and to transform and redefine social relationships. Like other mediation forms (family, scholastic, cultural, etc...), it aims to facilitate dialogue and resolve conflicts, latent or apparent,

which may arise between different subjects, by means of intervention by a third, neutral and impartial party.

In the field of juvenile criminal justice, social mediation can play an important role intervening in those contexts that are outside the mandate of the more traditional linguistic-cultural operator (even if the two actors are working together). Generally, social mediation aims to stimulate active participation in the management of conflict and critical areas among a wider category of people (singles, social groups, local and regional stakeholders, people living in the children's immediate environment). Like the cultural mediator, the social mediator should ensure effective child participation in criminal proceedings, helping them to exercise their right to be heard and informed and also supporting family assistance and participation during criminal proceedings.

In the field of juvenile justice, social mediation should also be implemented outside the typical Juvenile Justice Facilities, working more in terms of territory and community, and extending to the most marginal contexts not usually easily accessible to institutional operators.

In addition, social mediation should embrace a much wider range of social subjects and target foreign children more specifically, for example those who, in spite of possessing a good knowledge of the indigenous culture and language, have no legal status in the host Country, as in the case of Roma and second generation foreign children.

### **Description of key concept**

Social mediation practised and practicable within the juvenile justice system, is also a potentially useful tool both for juveniles (particularly in the case of foreign children who are more at risk) and all those involved in child criminality at various levels, such as relatives, legal representatives or guardians, juvenile justice and social operators and the social community.

Social mediation, in this specific field, can be implemented to facilitate communication or resolve conflicts arising within Juvenile Justice Services or in external criminal areas, between all those involved in juvenile justice (social workers, educators, psychologists, the courts, the police etc ...) and children and/or their family members or legal guardians, as well as between the children themselves.

In particular, the social mediator may intervene for the following purposes:

- ▶ to overcome the cultural differences and information regarding the children's social, cultural and family contexts, especially of those children living in more marginal environments which are not easily accessible to traditional operators. In this sense, the social mediator can play a facilitating role similar to that of the linguistic-cultural mediator, although he/she does not intervene between people who have a linguistic problem;
- ▶ to facilitate the initial contact with the child, the identification of his/her place of residence (for example, as in the case of Roma children living in temporary make-shift settlements who are subject to frequent transfers);
- ▶ to ensure that suspected or accused children fully understand the meaning of the judicial process and the re-education and rehabilitation opportunities offered

to them, explaining the reasons of the process and the possible measures could be applied to them;

- ▶ to assist children and their families in understanding technical and legal terminology, content and meaning of communication and documents from judicial authorities;
- ▶ to communicate with the children's families, and encourage their active participation in criminal proceedings, also when migrant families have no legal status in the territory and they fear being identified;
- ▶ to provide information and promote access to local services and opportunities, accompanying children particularly once they have left the criminal circuit and when their social context is characterized by marginality and insecurity which might result in deviant behaviour or exploitation;
- ▶ to promote family relationships (particularly in the case of second-generation children) arising from the contrast between the lifestyles and culture of their own families and those found in the host society.

#### **Good practices in:**

#### **ITALY**

#### **The “CivicoZero” project - focus on social mediation**

#### **Coop. CivicoZero (Rome)**

One of several initiatives carried out in the Civicozero project is social mediation. This initiative focuses particularly on Roma children involved in criminal circuits, living in the capital with no fixed abode, who are very difficult if not impossible for the juvenile justice operators to contact. Social mediation actions are implemented in CPA, in USSM, in IPM and at the Juvenile Court. In C.P.A., the role of the social mediator is crucial. They guarantee a link between internal juvenile justice services and the outside, providing information and suggesting strategies. They ensure an initial contact with the target children, and make sure they receive all the necessary information and/or explanations. Often, their field of action extends beyond the centre, tracking down the families and providing them with information on criminal proceedings, promoting contact with educators, meeting the children who have been released, becoming acquainted with their family background and environment and their general living conditions. The dialogue with families and communities, experienced over time, has had the effect of strengthening their confidence in the social interventions. Inside U.S.S.M., the social mediator aims at promoting a dialogue between the Social Services operators and the child, promoting the child's participation in talks organized by social workers, explaining their meaning, function and purpose, in order to break down the barrier of prejudice that often prevents a child's full participation in any project proposal. Social workers often have difficulty tracing Roma children, especially those living in temporary make-shift camps, even though they may have their telephone numbers or know where they live. Due to the frequent transfers of these camps carried out in the capital lately, contact with these children has often been lost. In I.P.M., the most important opportunity is to re-encounter children initially contacted in C.P.A., and

consequently to provide operators with more information about them, ensuring a certain continuity to the treatment. In most cases a good relationship already exists between the mediator and the child. IPM operators often ask mediators to make contact with the families, requesting them to visit as frequently as possible. In many cases, the reluctance of the families to visit depends on their fear of being identified as illegal immigrants. A further contribution of social mediation is the support offered to operators in the search for external resources, and opportunities for reintegration of the children once they are released. Finally, at the Juvenile Court, in most cases the social mediator accompanies the children to the Court hearings and / or encourages them and their families to attend the hearings.

### Resources

- P.S. Nicosia, *La mediazione sociale come prevenzione al degenerare dei conflitti e risposta alla domanda di sicurezza*, in [www.ristretti.it/areestudio/territorio/alba/mp\\_medsociale.pdf](http://www.ristretti.it/areestudio/territorio/alba/mp_medsociale.pdf)

### Bibliography

- IOM - International Organization for Migration, *What is social mediation? Basic Information on mediation*, 2004, in [http://iom.fi/files/Publications/2006/lets\\_talk\\_brochure\\_english.pdf](http://iom.fi/files/Publications/2006/lets_talk_brochure_english.pdf)

### Aim of the session

From the children's consultation within the "JUST" project it became clearly apparent that juveniles frequently have no idea about the procedural steps of the criminal process. Even if, as in the majority of cases, these are explained in detail by educators, social operators, judicial authorities or lawyers, traumatic, emotional, social and/or cultural factors – depending also on the children entering the penal circuit- prevent a real understanding of the criminal circuit and its phases. The aim of the session is to promote effective access to and participation in criminal proceedings, also through the promotion of a free legal counselling service.

### Description of the key concept

The proposed free legal service does not aim to examine the child's case (which remains the exclusive prerogative of the defence lawyer) but to give him/her a general child-friendly presentation of the criminal proceeding and to clarify some aspects that the child may not have understood from the conversation with the lawyer or juvenile justice operators. The understanding of the judicial proceeding against him/her would definitely help the juvenile in a very difficult moment and also warn them of the possible consequences of the offence committed. The aim of the free legal counselling is to provide a concrete solution to juveniles' difficulty in understanding the juridical universe, a complex system subject to frequent changes and to provide some child-friendly tools to explain child rights and juvenile legislation. Furthermore, with regard to migrant children, the free legal consultant would provide

## SESSION 4

### Free legal counselling

another important service, namely that of supporting children in the procedure for regularization and ensuring legal status. In this way, the legal consultant could not only provide children (and their families) with overall comprehensive support, including information both on juvenile criminal law and immigration law, but could also provide juvenile justice operators with useful suggestions and information concerning immigration law. Free legal counselling should be provided by a trained, competent person, able to communicate in a child-friendly manner and with an in-depth specialized knowledge on the juvenile justice system and immigration law.

The legal consultant should be available both to Italian and foreign children.

The free legal counselling should consider the international standard on juvenile justice, the general principles of the national juvenile justice system and the procedural steps of the proceeding, but it could also include information on the international, European and national migration laws and the consultant should have good practical experience on all aspects of regularization on national territory.

The counselling should be available to children deprived of their liberty in juvenile detention centres, and also to all other children present in the criminal circuit..At a secondary level the free legal service could be used to support juvenile justice system operators, social workers and educators working with children in conflict with the law as well as migrant children's families (regarding immigration matters) .

### **Good practices in:**

#### **ITALY**

##### **Nefida, Sportello consulenza legale – Comunità Nuova (Milan)**

Nefida is a desk offering free legal advice regarding immigration law and criminal proceedings against juveniles. It is intended for migrants, in particular for children and their families, operators of the juvenile justice system, operators from private communities, social services, schools, cooperatives,.. and to anyone interested in the immigration law and child rights.

The service includes cultural mediators to facilitate contact between the children and the consultant. In 2009 the service provided free legal advice to 880 people.

[www.comunitanuova.it/index.php?option=com\\_content&view=article&id=93&Itemid=90](http://www.comunitanuova.it/index.php?option=com_content&view=article&id=93&Itemid=90)

##### **Legal counselling service (NOMIS project) – ASGI (Turin)**

ASGI, the main Italian association for studies on migration law, has recently opened a desk with a free legal consultant on immigration law and the regularization process for foreign juveniles in conflict with the law. The applicant fills in the required form and the consultant provides a written reply with the recent legislative provision on migration in Italy. This service is provided exclusively for children and the operators of the “Nomis” project and does not provide any information regarding the procedural steps of criminal proceedings.



**GREECE****The Supervisory (Commissary) Juvenile Services of The Juvenile Courts**

Although no specific office for providing free legal advice to children exists, the Commissary has opted to provide this service.

**Legal team - ARSIS**

Within the general framework of aid supplied to the people and families that report to ARSIS every day, the legal aid section could not be absent. The legal team consists of a coordinator and a number of voluntary freelance lawyers. The coordinator, who is also a professional lawyer, is in the ARSIS offices every weekday to help people in need of legal advice. After a short overview of the case reported, he either gives a free consultation or if the matter proves more complicated, he refers the beneficiary to the weekly meeting with the lawyers that constitute the legal team where the action to be taken is decided. The kind of help offered depends on the details of each case:

- ▶ scanning of the needs of families that contact ARSIS for different types of assistance (food, shelter, job-seeking etc);
- ▶ information on criminal law and procedures in Greece;
- ▶ information on procedures and criteria for regularization including preparation for the interview with the asylum authorities;
- ▶ drafting of procedural papers for the children according to their individual needs;
- ▶ acting as amicus curiae for the benefit of juveniles that have been cooperating with ARSIS and are now facing trial.

The team's chances of intervening are however greatly reduced from the start both by the costly procedures of interacting with the courts and public services generally and by the fact that the people contacting ARSIS are generally in a situation of extreme poverty.

**Resources and Bibliography**

- There are few publications on this topic, some services of free legal counselling are similar but not exactly the same as the method of intervention proposed. For example there is a good deal of free legal counselling ([www.naga.it/index.php/gruppo-carcere.html](http://www.naga.it/index.php/gruppo-carcere.html)) available for people deprived of their liberty in general, but not a large amount intended specifically for children in conflict with the law.
- Moreover, much of the free legal advice available to juveniles frequently focuses only on migration law, and not on the procedural steps of the criminal proceeding. Finally, Save the Children Italy periodically publishes a newsletter with updated information on migration law that is of interest regarding the regularization of foreign children on the territory. For more information, please see: [http://legale.savethechildren.it/spip.php?page=courrier&id\\_courrier](http://legale.savethechildren.it/spip.php?page=courrier&id_courrier)

**SESSION 5 Aim of the method**

Specific support initiatives for juvenile offenders with drug and alcohol addictions and mental health disorders

There is growing evidence arising from scientific research and juvenile justice professionals, according to which many young offenders involved in the juvenile justice system have symptoms of mental or psychological disorders and serious drug or alcohol problems. It is fundamental at this stage to ascertain whether the juvenile justice system is under obligation to treat juveniles with mental health and addiction problems and if so, what treatment is available and under what circumstances. The different countries should be involved in the process of developing policies and standards to establish the obligations of the juvenile justice system for addressing juveniles' mental health needs when they are in the care of the system.

**Description of the key concept**

Generally, it has become clear from research carried out on the phenomenon of children in conflict with the law with drug and alcoholic addictions and mental health disorders, that screening and assessment methods are required. Among the possible instruments aimed at an initial valuation (screening) are the self-administered questionnaire, such as the MAYSI-2 or the SAVR-type interview and other instruments able to give a detailed valuation (assessment). These instruments, implemented at international level, have been used in empirical research and also tested in some penal facilities in Italy.

The MAYSI-2 (Massachusetts Youth Screening Instrument) is a questionnaire with 52 items (drug, anger, irritability, depression, anxiety, somatic complaints, suicidal ideation, disturbed thinking, traumatic experiences). It does not represent a diagnostic instrument but it provides sufficient information to give the operators an idea of any potential disorders (mental and behavioural). At the same time this first screening is important to make a prompt decision regarding the initial treatment for the juvenile entering the penal circuit. The SAVRY (Structured Assessment of Violence Risk in Youth) is composed of 24 items concerning 3 dimensions: historical, social and individual. Each risk factor can be coded on three levels (high, medium, low) and includes six protective factors encoded on two levels (present and absent).

Identifying juveniles' mental health needs when they enter juvenile justice programmes is the basic requirement to protect children and to guarantee their well-being. To this end, the juvenile justice system should work closely with the communities' broader mental health agencies and should also develop a significant number of psychological, pharmacological and family or social interventions to handle juveniles' mental health and drug addiction needs.

The study of psychopathological disorders in juveniles entering the criminal circuit may be useful to guide the actions of the departments of juvenile justice, and as a way of providing support to adolescents in need.

It has become apparent both from research on the matter and from international standards as well as from data collected that, in order to identify and understand the phenomena of children in conflict with the law affected by mental disorders and drug abuse, as well as to identify the methods of intervention in the best interests of the child, it is necessary to adopt a multi-dimensional approach to include all the social, psychological and legal aspects. Furthermore, it is necessary to underline the

importance of a networking intervention carried out by trained specialized professionals. Finally, it is important to create – inside the penal circuit - specialized facilities for the treatment of target children.

### Good practices in:

#### ITALY

##### “Casetta Rossa” project - “Fiore del deserto” Association (Rome)

The association of social promotion “Il fiore del deserto” opened “Casetta Rossa” in June 2009, a community for adolescents created to strengthen the services for psychiatric emergencies occurring in that age group. The project started with an inter-institutional cooperation between ASL Rm/A , 5th department of the Municipality of Rome, I.S.M.A. and CGM in the creation of residential and semi-residential day centre facilities for psychiatric support. “Casetta Rossa” is a protected environment in Via della Camilluccia, Rome, which temporarily welcomes adolescents between 14 and 21 years of age in situations of evident psycho-social disorder. The placement in the community is focused on children in conflict with the law, for the application of alternative measures to detention. The difference, compared to the traditional socio-educational communities for children, is the facility’s specialization in the treatment of children with mental disorders. The continuity of the treatment is also guaranteed between 18 and 21 years of age through collaboration between the Social services for adults and the USSM for juveniles. The facility has 6 places for children sent from the juvenile justice system, the juvenile Court or from the territorial social services, with 2 places reserved for priority cases in post-trauma emergency situations. [www.ilfioredeldeserto.it/crossafrente.PDF](http://www.ilfioredeldeserto.it/crossafrente.PDF)

#### Resources

In the field of protection of children with drug and alcohol addictions and /or mental health disorders, see:

#### United Nations

- ▶ International Covenant on Economic Social and Cultural Rights 1966 (entered in force January 3, 1976) section 12.1.
- ▶ Standard Minimum Rules for the Administration of Juvenile Justice Beijing Rules (GA Resolution 40/33 of 29 November 1985) section 13, 13.5.
- ▶ Convention on the rights of the Child, adopted and opened for signature ratification and accession by General Assembly resolution 44/25 of 20 November 1989, Section 39.
- ▶ Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules). Adopted by General Assembly resolution 45/113 of 14 December 1990, section II, 11-14, part.V, 85.
- ▶ Principles for the protection of persons with Mental Illness and the improvement of mental health care. Adopted by General Assembly, resolution 46/119 of 17 December 1991, principle 1 and 2.

**Council of Europe**

- Recommendation Rec(200)20 of the Committee of Ministers to member states on the role of early psychosocial intervention in the prevention of criminality.
- Recommendation Rec(2003)20 of the Committee of Ministers to member states concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.
- Recommendation Rec(2004)10 of the Committee of Ministers to member states concerning the protection of human rights and the dignity of persons with mental disorder, chapter V specific situations, Section 29.
- Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules, part I – 11.2/2, part II – 18.8 (c), 26.5, 28.3, 35.1-4, 81.3.
- Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures, part. I- A. 5,8, part. II-C, 28, part. III-E, E1-50.1-2, 51, 52.1-2, E3, 54, 57, 60, E.4 62.2 g, 62.6°, E.9, 69.1, 70.2, 73 d.f, 74.2, F., F.3, 117-119.
- European Parliament - Resolution on improving the mental health of the population. Towards a strategy on mental health for the European Union (2006/2058(INI)), I., O., 20, 22, 28, 48, 49, 52.
- European Parliament – Resolution of 19 February 2009 on Mental Health (2008/2209(INI), Q., 3, 21, 25, 27-30, 44.

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- A. Maggiolini, A. Ciceri, C. Pisa e S. Belli, *Disturbi psicopatologici negli adolescenti sottoposti a procedimenti penali*, in "Infanzia e Adolescenza", vol. 8, n. 3, 2009, pag. 139-150.

## MODULE 4: DIVERSION MEASURES

### Introduction

Many international documents set out the importance of promoting alternative measures as well as diversion options (or discontinuation of proceedings) aimed “at preventing juveniles from entering the criminal justice system” (par II.2, R(87)20) or at trying juveniles “as rapidly” as possible (par. III.4 R(87)20). Furthermore, these international principles comply with other general standards such as “the principle of minimum harm”.

There are many alternative instruments that should be implemented by the juvenile justice system. Sect. 40.4 of the Convention of New York establishes a variety of measures, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care. In order that detention effectively remains the last resort available, each State should provide a wide range of alternative, individualized, flexible measures, able to take into account the individual personalities of the offenders. Even if these instruments are preferable, their application in each Partner country depends on the respective national legislation (see. Module “0”, session 2).

With regard to the diversion measures, the present session will focus particularly on penal mediation, following the considerable amount of international and European recommendations it has received, due both to its relevance and innovativeness and its positive impact on relapse.

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**Session I:** Penal mediation (VOM)

### Aim of method

The purpose of victim-offender mediation (hereinafter VOM) is to propose a model of conflict resolution other than the traditional judicial process, through the implementation of measures aiming more at creating social relationships than searching for the legal truth. Unlike traditional criminal trials, VOM is characterized by the confidential nature of the debate and the neutrality of the locations where it takes place. Meeting the victim is considered educationally useful and sometimes crucial to start a true re-socialisation process. The contact with the victim (both material and symbolic) and the joint search for a peaceful resolution of conflict are important elements for the offender’s education and empowerment.

Making the child offender protagonist, together with the victim, of the future relationship between them gives them an added dimension in a sense of empowerment and results in a dynamic understanding of their personalities. In the context of the juvenile justice system, VOM offers another opportunity of protecting children from the traditional trauma and stress caused by normal criminal proceedings.

### SESSION I

Penal mediation  
(VOM)

**Description of key concept**

Several mediation practices and strategies could be implemented. In Italy, for example, due to the lack of specific legislation on the matter, many different practices have been tested on the territory.

Unlike the specific methodologies currently in use, VOM generally requires at least three parties: the offender, the victim and the mediator (according to the method specifically adopted, there can be more than one mediator).

The penal mediator is neither a judge nor a psychologist. He should not seek the legal truth, neither interpret and analyze parties from a psychological point of view. He is an impartial and tertiary professional, who should try to facilitate communication, looking for a conflict resolution that takes into account the needs of both parties.

Usually, the mediation process is divided into the following phases: referral to the Mediation Office or Service, first contact, preliminary talks, meeting between the parties, conclusion.

Starting mediation proceedings requires at least three conditions: the informed and voluntary consent of the child offender; the informed and voluntary consent of the victim; the admission of responsibility by the child offender.

Generally, in *Italy*, VOM practices start when Judicial Authorities (Juvenile Court or Prosecutor) refer the child to juvenile justice social services, in order to evaluate the possibility of successful mediation. In other cases, mediation can be promoted directly by the Mediation Office or Service that will subsequently inform the competent judicial authority (*referral*).

Social Services or the Mediation Office will then contact both the offender and the victim, at first individually, to ascertain if there is a chance for dialogue (*first contact and preliminary talks*). In the affirmative, face to face meetings between the two parties are organized, always in the presence of one or more penal mediators (*meeting between the parties*). If the mediation takes place, a final report on the outcome of mediation is drafted and subsequently sent to the judicial authorities (*conclusion*). During mediation, the criminal proceeding is suspended. The outcome of the mediation may be: positive, negative or uncertain. A positive outcome means that a resolution or reduction of conflict took place which could also be as a result of a possible agreement on damages. In the case of successful mediation, the criminal proceeding is immediately suspended.

Where foreign children are involved in VOM, it is appropriate to provide special strategies making mediation possible also for migrant children. Firstly, the involvement of a cultural mediator as well as members of the child's family or community should be immediately included to encourage wide participation for the juvenile. Secondly, once mediation has been concluded, it is appropriate to organize a meeting with the foreign child's family or community in order to share the outcome of the mediation with them.

In this context, VOM carried out with the involvement of foreign children may have additional effects, for example, giving the parties the opportunity of getting to know their respective cultural backgrounds, needs and customs and, consequently, of overcoming prejudices related to their different status, especially when the host society

is characterized by a general climate of fear and alarmism.

In **Greece**, diversion provisions for prosecution with regard to juveniles are included in the Greek Code of Criminal Procedure. The prosecutor may refrain from pressing charges, if the idea that prosecution is not necessary to prevent the young offender from committing further offences exists; and therefore diversion measures are considered suitable. Victim-offender mediation is one of the measures mentioned. As the emphasis is placed more on the outcome rather than on the process, it may be an implicit link to crime prevention. Preventing the marginalization of the child and the continuation of his/her offending behaviour is a formulated goal of victim-offender mediation.

Further, Greece recognizes the potential of penal mediation in cases of intimate violence (under certain conditions). One of the provisions of the Law 3500/2006 'Countering Intimate Violence and Other Provisions', expects the promise of the offender to adapt his behaviour in a positive way. The law foresees a penalty "if the offender does not follow through with his promise thereby legally enforcing the prevention of re-offending"<sup>7</sup>.

In **Romania**, mediation as a legal institution was introduced in 2006 (Law no. 192/2006), but has limited application in the field of penal criminal justice (only for those crimes where the withdrawal of the victim's complaint or the reconciliation of the parties removes the criminal responsibility). In such cases, the parties are not obliged by law to resort to mediation, but Law No. 370/2009 states they must be informed regarding the possibility and the advantages of mediation and they are advised to resort to it. In the case of children, mediation must provide the same guarantees as those provided for by law for criminal trials. Although considered to be an activity in the public interest (art. 6 of the Law No. 192/2006), no specific exemption from payment for mediation has been established and, as a general observation, the overall legal framework is rigid and the possibilities of resorting to mediation for the prevention and mitigation of conflicts in the community are limited.

## Good practices in:

### ITALY

#### The Mediation Office of Palermo

The Italian system does not provide any form of victim-offender mediation in the juvenile justice system. Nevertheless, practices show that mediations have been progressively implemented in the territories. In fact, welfare and juvenile justice operators found a margin for mediation in legal loop-holes. Mediation practices are implemented within the provisions included in sections 9 (pre-trial phase), 12, 27, and 28 (trial phase) of the Presidential Decree no. 448/1988, in particular, those concerning acquittal for irrelevance of fact and probation order. In both cases, successful mediation offers the chance of an early definition of the process.

An excellent VOM practice implemented on the territory, especially in favour of foreign children, has been tested by the Mediation Office of Palermo. According to data

<sup>7</sup> Ministry of Justice - Juvenile Justice Department, Juvenile Justice in Italy, by Bureau IV of the Head of Department – Study, Research & International Activities – European Research Center in Nisida – Observatory and data bank on the phenomenon of Juvenile delinquency in Europe, in [www.giustiziachild.it/rsi/publicazioni/Restorative\\_Justice\\_and%20Crime\\_Prevention\\_Final%20report\\_2010.pdf](http://www.giustiziachild.it/rsi/publicazioni/Restorative_Justice_and%20Crime_Prevention_Final%20report_2010.pdf)

provided by the Office, there is no difference between cases involving Italian and foreign children. Rather, the difference lies in the particular conditions and methods adopted when the offender is a migrant child. First of all, the Mediation Office of Palermo provides a wider involvement of the family of origin, if it is present, or of a person belonging to the community of origin. Secondly, it is necessary to consider the operation in a longer time-frame due to the fact that in this type of mediation it is absolutely fundamental to involve cultural mediators from the outset. Their presence is essential during all phases of the intervention, from translating letters, telephone calls, preliminary talks to the mediation meeting. Finally, the number of preliminary talks are much greater than in the case of Italian children's involvement, and the presence of parents or representatives from the community of origin is more often promoted. More time is spent acquiring knowledge of and exchanging the different cultural standpoints of the respective parties as well as getting a realistic idea of the possibility for mediation. Furthermore, it became apparent from an initial survey on all interventions of mediation set up from 2006 to 2008, that not one of the offenders involved in mediation has turned out to be recidivist.

### Resources

#### Italian Legislation

- Section 555(3) (formerly Section 564), *Criminal Procedure Code*;
- Section 47(7) (*Placement under Probation with Welfare Services*), Act no. 354 dated 26 July 1975;
- Section 29(4), Section 35(5), *Legislative decree no. 274 dated 28 August 2000*;
- Sections 9 (pre-trial phase), 12, 27, and 28 (trial phase) of Section 28, *Presidential Decree no. 448 dated 22 September 1988*;
- *Circular Letter "General and Coordination Guidelines for Juvenile Criminal Mediation"*, dated 9 April 1996 by the Juvenile Justice Department, dated 30 April 2008 by the Juvenile Justice Department - Guidelines supplementing and amending the Circular Letter by the Service II - Studies, Legislation and Documentation dated 9 April 1996 (No. 40494). The 2008 Guidelines clarified and defined the following: systematization of practices; mediation services; mediation process; documentation; coordination. The Guidelines urged Mediation Services to equip themselves with assessment and follow-up grids; clarify the research and monitoring role played by the Juvenile Justice Department; and set forth the following objectives: turning mediation from an exceptional, experimental approach into standard practice; fostering the development of a code of practice and training standards for mediators; considering the existing practices to monitor their impact also in terms of reduced recidivism; setting up a technical coordination group.

#### Bibliography

- G. Giostra- V. Patanè, *European Juvenile Justice Systems*, Giuffrè 2007, p. 243.
- G. Mannozi, *La Giustizia senza spada*, Giuffrè, 2003, p. 44.
- Ministry of Justice - Juvenile Justice Department, *Juvenile Justice in Italy*, by



Bureau IV of the Head of Department – Study, Research & International Activities – European Research Centre in Nisida – Observatory and data bank on the phenomenon of Juvenile delinquency in Europe,  
[www.giustiziaminorile.it/rsi/pubblicazioni/Restorative\\_Justice\\_and%20Crime\\_Prevention\\_Final%20report\\_2010.pdf](http://www.giustiziaminorile.it/rsi/pubblicazioni/Restorative_Justice_and%20Crime_Prevention_Final%20report_2010.pdf)

## MODULE 5: EDUCATION

### Introduction

According to the international standard, education is vital for the rehabilitation of children in conflict with the law and to promote prevention. Consequently education is essential at every step of the procedure to facilitate reintegration into society.

#### *Index*

**Session 1:** Adequate educative interventions for the specific needs of children in conflict with the law

**Session 2:** Peer education

### SESSION I Aim of the method

Adequate educative interventions for the specific needs of children in conflict with the law

According to the Beijing Rules, efforts shall be made to provide juveniles, at all stages of the proceedings, with the necessary educative support such as school attendance, education or vocational training, employment or any other assistance, helpful and practical, in order to facilitate the rehabilitative process. The method aims to provide adequate educative interventions for the specific needs of children in conflict with the law, which will vary according to the target of the students, in particular in the case of foreigners, in order to ensure the juveniles' positive reintegration into society.

#### Description of the key concept

The educative method of intervention is complex and includes many different activities. First of all, according to the international standard, access to public education should be assured to all children, in accordance with their level. This means that foreign children should participate in Italian literacy courses and subsequently in a proper scholastic education, both in detention centres and all penal facilities generally. Access to education can have various forms:

- schooling,
- work and occupational therapy,
- citizenship training,
- social skills and competence training,
- individual and group therapy,
- physical education and sport.

These activities and interventions shall foster their physical and mental health, self-respect and sense of responsibility and develop attitudes and skills that will prevent them from re-offending.

Some of the key concepts in the educative field of children in conflict with the law are:

- a. diplomas awarded should not refer to the place where the children studied: children detained in juvenile institutions, who have successfully attended scholastic courses, should receive diplomas which bear no indication whatsoever that the juvenile has been institutionalized;

- b. detention facilities should have an adequate and appropriate library: generally, juvenile detention facilities in which children are placed for longer periods should include libraries and books and periodical magazines in foreign languages for foreign children;
- c. the scholastic and educational programmes of the country should be respected: educational programmes of the duration of one or more years should also be established in the detention facilities and these should vary according to the targets of the juvenile inmates. It is also necessary to create and organize special literacy/linguistic courses for foreign migrant children;
- d. recreation time for daily free exercise should be guaranteed and included: arts and crafts, skills development and skill development aimed at independence, programmes of physical education, the practice of religion. Various recreational activities are generally implemented, above all in detention facilities, in the Communities or in the external area. Suitable recreational activities (other than TV) should be organized in the temporary detention centres for those children spending shorter periods of time there.

### Good practices in:

#### ITALY

##### **“I and the Image” project, Coop. CivicoZero (Rome)**

An autobiographical photographic and video laboratory took place in Rome, in the Juvenile Classification Home (C.P.A.). From February to December 2010, approximately one hundred children of different nationalities took part in the production of around 40 short films.

The laboratory is open twice a week for three hours and the methodological approach is based on the deconstruction of the language, enabling the juveniles to express themselves freely without restriction or prejudice in a new-found space of mental freedom, and look for new expressive horizons using their imagination and fantasy.

The works produced became a stream of consciousness and have been used to extend pre-existing limits using new creative challenges. The computer became a historical memory of the C.P.A., or simply a wall where it is possible to leave a mark, a thought, a memory, a sensation. The videos produced changed as time went on: initially they were very realistic, then becoming more symbolic, the words almost disappearing as if the flux of images created over time became the didactical memory of the group. The majority of the children involved are Italians from the suburbs, and the others are Roma and Romanian, with a very low female presence. The children participated actively, sometimes starting with a structured thought, sometimes at random but always drawing on their own experiences, developing an open dialogue through autobiographical videos, respecting everybody's opinions, thoughts and limits. The children were very interested in the project, some showing considerable talent, others just helping with the editing.

Some of them produced short videoclips, speaking in rhymes about their neighbourhood, others talked about their detention experiences; some wrote video letters to their families and love letters to their girlfriends; others took photos or wrote Dadaist poems sparked from an inspired thought; somebody composed a text starting from a random association of pictures, others produced a short film singing in Italian, Romanian and Filipino; some danced breakdance, others made a short film of the daily goings-on and news of the neighbourhood.

A spot was also produced in which a child said “*children should never be detained in a civil country, there should be another way.*” and this video workshop created a space of mental freedom within the entire C.P.A. institution.

## SESSION II

### Aim of the method

#### Peer education

Peer education is considered by literature to be one of the most important methods of intervention in the educational context. Peer education is an educative strategy that aims to activate a natural exchange process of emotions, experiences and knowledge from a few members of the group to other members with peer status; this intervention activates a global communication process, with an intense and profound experience, a strong attitude to research, authenticity and synergy between the involved subjects.<sup>8</sup>

#### Description of the key concept

Peer Education is an educative method where some responsible members of a group are trained and reinserted into their affiliation group to realize precise activities with the peer group. In peer education juveniles are active players in the training process, with a greater involvement than that seen in traditional training. In this context, experiences and values are no longer transferred from the adults but from the juveniles themselves, exchanging points of view, reconstructing problems and thinking of alternative solutions, but with the collaboration of an expert adult. The main role of the peer educator is to help the group members define their concerns and seek solutions through the mutual sharing of information and experiences. He/she is the best person to disseminate new information and knowledge to the group members and can become a role model for others by “practising what he/she preaches”. Since the peer educator is from the same group, he/she can empathize and understand the emotions, thoughts, feelings and language of the participants, and consequently relate more positively. The basic requisite for becoming a peer educator is to be a peer. For example, a sex worker peer educator will be more comfortable working with sex workers, a migrant worker peer educator will be more at ease with migrants and so on. If you are a peer, you speak the same language and you are familiar with the cultural norms and values of the group/community. It is important for them to have had some training in group facilitation or peer education. In order to answer questions clearly and correctly, the peer educator also needs to have an overall knowledge of the subject. It is not necessary to be an expert. It is generally better to refer people to organizations or leaflets where more information can be found. A peer educator should be aware of where more information and support can be

<sup>8</sup> Croce, Gnemmi, Peer education, Franco Angeli, Milano 2003

accessed. As a person grows into the role of a peer educator, they should increase their knowledge of the subject.

The key concepts of peer education are:

- ▶ *peer education is participation*: the peer on his/her own does not transform anything but stimulates participation;
- ▶ *peer educator is not a professor*: he/she is not an expert of precise scientific knowledge. His/her role is that of a mediator able to manage a relationship;
- ▶ *peer education is not to delegate and to manipulate*: peer education is a model that sees in the adult a positive force, essential for the success of the intervention on the juvenile;
- ▶ *peer education changes the roles*: juveniles with peer education are responsible for their own education;
- ▶ *peer education is supported by a network*: the schools, the private social sector, NGOs and local authorities all have a central role in the realization of the project;
- ▶ *peer education is research*: it is a preventive participation model where it is possible to share experiences with peers in a pedagogical way;
- ▶ *peer educator in the group creates culture*: peers are ordinary children with a higher awareness of the communicative process within the peer group, therefore they participate in the creation of the culture of the group.

**Good practices in:**

## ITALY

### Peer education in the context of the NOMIS project – Oratorio San Luigi (Turin)

The *NOMIS Project* focuses on children who come into contact with justice for the first time without, of course, excluding those who already have a criminal record. The project is inspired by studies on resilience and focus particularly on the force of measures put in place to protect from the risk of deviance. In this project, peer educators are involved in the activities with the target group. Being his/her first significant relationship, that developed by the peer with the foreign child gives the latter the opportunity of a different perspective to that solely of his/her penal experience. The intervention of the peer and the social educator who assists him/her provides foreign children with an alternative support to the traditional one offered by institutions and which facilitates the development of relationships within the target group.

## GREECE

### Peer Mediation School Programmes

There are two peer mediation programmes implemented in Athens high schools. Research on bullying and school violence is done before and after the implementation of mediation programmes. Pupils are trained as mediators and mediation offices are created in the schools. Evaluation of these programmes show not only the reduction

in the number of bullying and violence cases but also a positive impact on the mediators themselves, their families and the general atmosphere in the school. The involvement of local community agents and pupils' parents in mediation concepts and practices is following the peer mediation school programmes (Artinopoulou 2001).

### Resources and Bibliography

- Save the Children, Italy *Tu partecipi, io partecipo* an analysis of the methodology of the work and of the good practices in child and adolescent participation. For more information please visit:  
[http://images.savethechildren.it/IT/f/img\\_pubblicazioni/img127\\_.pdf](http://images.savethechildren.it/IT/f/img_pubblicazioni/img127_.pdf)
- Croce - Gnemmi, *Peer education*, Franco Angeli, Milano 2003
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- Pellai – Rinaldin -Tamburini, *Educazione tra pari, manuale teorico pratico di Empowered peer education*, Edizioni Centro Studio Erikson, 2002
- Margulies - Ito, *Peer Education Programme: Peer education in health for student empowerment*, in: "Hawaii Medical Journal", vo. 49, n. 2, febbraio 1990.
- Council of Europe Recommendations n. R(87) 20, n.(88) 6 and (08)11. Is it also possible to read some interesting decisions of the European Court of Human Rights on this subject such as : ECHR D.G. v. Ireland, appl. 39474/98, of 16.05.2002; ECHR Bouamar v. Belgium, appl. 9106/80, of 29.02.1988; ECHR Koniarska v. UK appl. 33670/96 of 12.10.2000.
- [www.unodc.org/pdf/youthnet/action/message/escap\\_peers\\_01.pdf](http://www.unodc.org/pdf/youthnet/action/message/escap_peers_01.pdf) contains a complete and very interesting document in English released from UNODC on peer education in a health context.

## MODULE 6: REINTEGRATION AND AFTERCARE

### Introduction

According to the international standard *all children should benefit from arrangements designed to assist them in returning to society, family life, education or employment after release. Procedures, including early release, and special courses should be devised to this end. Competent authorities should provide or ensure services to assist juveniles in re-establishing themselves in society and to lessen prejudice against them. These services should ensure, as far as possible, that the juvenile is provided with suitable residence, employment, clothing and sufficient means to maintain him or herself upon release in order to facilitate successful reintegration. The representatives of agencies providing such services should be consulted and should have access to juveniles while detained, with a view to assisting them on their return to the community.*

Also, in consultation with the children, effective reintegration and appropriate aftercare were considered crucial in reducing recidivism. From the foreign child's point of view, the first step to real reintegration is the regularization of their legal status in the territory and the second, training and work orientation.

#### Index

- Session 1: Procedures for regularization and ensuring legal status
- Session 2: Vocational training, vocational orientation and work grants
- Session 3: Aftercare

### Aim of the method

Regarding foreign children in conflict with the law, procedures for regularization and ensuring legal status are considered essential for successful reintegration. The prospect of deportation when the child becomes of age (18) or completes his/her penal sentence risks nullifying any chances of success of the educational project developed and implemented by juvenile justice social services. Juveniles who know there is no possibility of regularizing their legal status in the host country will not be interested in participating in the proposed reintegration and educational projects. There are many possible procedures for regularization and ensuring legal status, depending on the national provisions of each country. In Italy, one instrument in particular is focused upon, namely: "residence based on social protection".

### Description of the key concept

In *Italy*, one instrument in particular, namely "residence based on social protection" is focused upon. According to the Italian law, Section 18, paragraph 6, Law Decree no. 286, dated 25 July 1998, "Residence based on Social Protection" can be issued upon release from a penal institution, at the request of the Public Prosecutor or Juvenile Court Supervising Judge, in favour of foreign citizens who have served prison sentences for crimes committed as juveniles and who can provide concrete evidence

### SESSION I

Procedures for regularization and ensuring legal status

of their participation in a rehabilitation and social integration programme.

In practice, according to the interpretation of some Authors, legislation assumes that if a juvenile has committed a crime, the reason is probably that he/she found themselves in a difficult situation, were being threatened, deceived or coerced in some way by another person.

Although the “residence permit based on social protection” represents an important instrument of support for migrants who have served (or are serving) a penal sentence, especially if they are young migrants, to date this provision has not received wide application.

To issue this residence permit, the following conditions are necessary. The foreigner who wishes to take advantage of the rule must:

1. be released from the penal institute;
2. have completed a prison sentence;
3. give concrete evidence of participating in a programme of assistance and social integration.

In several cases, the provision specifically concerning a person who has served prison sentences has been interpreted by the Juvenile Courts as being applicable also to offenders who have completed (or are completing) alternative sentences or in the case of children placed under supervision. This extensive interpretation seems very reasonable and should be widely implemented to avoid different interpretations creating unreasonable differences in the treatment of condemned and detained children applying for a residence permit and children placed under supervision or serving alternative sentences.

In order to implement application of the residence permit based on social protection, juvenile justice operators should be supported with a greater number of legal assistance initiatives aimed at promoting this particular procedure. It has often become apparent from data collected in the territories and from consultations with the children and stakeholders that only a few operators and children in conflict with the law are aware of the legal opportunities available and those that do, are totally uninformed as to the practicalities of obtaining residence permits. A solution to this would be to create networking between Juvenile Justice operators, NGOs providing legal assistance and training, Judicial Authorities and Immigration Offices.

Apart from the administrative procedures described above, there are also several legal proceedings for the regularization of foreign children, which of course can be activated depending on the specific conditions of each case. Among these is the procedure for applying for international protection.

It is also possible to apply for a residence permit for unaccompanied children. Under certain conditions, (which will regrettably become more restrictive once the c.d. Security Law comes into force) it is possible to convert this permit once the child comes of age.

In **Greece** according to article 60 of Law No 3386/2005 “Entrance, residence and social inclusion of third country citizens in the Greek territory” (Governmental Gazette 212/23.8.2005), when a foreign child is found in Greece as a protected member with the residence permit of either one or both parents, he/she has the right and is obliged to obtain an independent residence permit. The independent residence



permit can not exceed one year and is renewable on an annual basis up to completion of the person's 21st year of age. Further renewal is permitted according to the general provision of the law. If the permit is not renewed within the yearly deadline, the third country citizen is obliged to abandon Greek territory. Should this independent residence permit be renewed for study purposes, the third country citizen may have it renewed on completion of his/her studies, according to the provisions and conditions of the above-mentioned law. The above-mentioned law makes no special provision for educational or therapeutical measures being imposed on the child, which will in any case, have an effect on his/her possible regularization.

### Good practices in:

#### ITALY

##### Procedures for regularisation - Coop. Dedalus (Naples)

Some very useful initiatives to promote regularization are implemented on the territory in particular in Naples, by Coop. Dedalus, and in Rome, promoted by the Juvenile Justice Services (USSM). In Naples, Coop. Dedalus sees to the aftercare of children in conflict with law, finding accommodation (apartment groups) and work as well as assisting children in the procedures for regularization. In particular, Coop. Dedalus helps juveniles obtain the "residence permit based on social protection". To this end, it is very important for Coop. Dedalus' social operators to make contact and create good relationships with the children during the same period of detention so they can develop the most appropriate reintegration programme together. The assistance of a legal consultant and a good working relationship with both the judicial authorities and the immigration office are also crucial.

##### Resources and Bibliography

- Section 18, paragraph 6, Law Decree no. 286, dated 25 July 1998 "Unified Code on Immigration".
- Sentence of the Juvenile Court of Trieste: in sent. Tribunale per i minorenni di Trieste, Ufficio del GIP, del 20 settembre 2005, n. 197.
- Opinion of the Juvenile Court of Rome: in parere del Tribunale per i minorenni di Roma, Ufficio del Magistrato di Sorveglianza dell'11 marzo 2004.
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- S. Fachile, *Il permesso di soggiorno per motivi umanitari ex Art. 18 co. 6 T.U. Immigrazione. Un importante strumento di tutela per le persone straniere che scontano una pena*, p. 4, disponibile sul sito: [www.ristretti.it/areestudio/stranieri/iniziative/permesso.htm](http://www.ristretti.it/areestudio/stranieri/iniziative/permesso.htm)

**SESSION 2 Aim of the method****Vocational training, vocational orientation and work grants**

Vocational training, vocational orientation and work grants should be an integral part of any project of preparation for the release of a juvenile. They should be considered key instruments for promoting the re-education and reintegration of children involved in the criminal circuit, also because, as in the case of foreigners, they are generally close to becoming of age.

**Description of the key concept**

Vocational training, vocational orientation and work grants should be implemented both in and out of the penal area and should be focused on activities that will translate to a concrete job offer in the market and should be implemented to guarantee a match between the juvenile's professional aspiration and the job market's needs. They should be organized to facilitate the entrance of juveniles in conflict with the law into the job market, ensuring remunerated labour for the children and giving the owners of commercial enterprises the possibility of becoming personally acquainted with the juvenile and establishing a relationship of trust.

It is important to ensure an individualized and in-depth analysis of each juvenile case, in order to identify the best intervention for the child and ascertain how his/her abilities could be put to the best use on release. Work is considered a basic element for child reintegration and training is essential to find employment. As conditions for recruitment, enterprises and businesses generally ask for professional and educational credibility of the potential child employee. In many cases employment is achieved through direct knowledge of the person and the businesses are encouraged to recruit from the detention centre if favourable economic conditions and social security are provided. Courses should typically include several hours' training activities, while a portion of time (30-40%) is dedicated to employment simulation to be implemented inside or outside the detention facilities.

If carried out internally, the simulations make it possible for the companies to bring their staff and equipment to the IPM. On completion of the course, the children should receive a certificate with a statement of credits recognized throughout the country. Implementation of the method should be ensured by establishing rules aimed at promoting working activities of detained persons, with tax breaks and fiscal allowances for businesses that recruit underprivileged subjects, such as detained persons.

In the second case, according to the international standard, it is desirable to implement vocational training outside reclusion facilities. Literature emphasises the necessity of implementing wider access to remunerated labour within the local community.

Work grants are considered a very useful method of intervention also because they are usually well accepted by employers. They should promote the integration of children in conflict with the law into the job market, ensuring remunerated work and offering employers the possibility of becoming directly acquainted with the children and of creating a personal relationship with them. These instruments are generally considered very useful for promoting social reintegration and vocational training of the children and for preventing the risk of recidivism. These work grants are funded

by various Institutions (Municipality, Regions, various Agencies) and provide the cost for the work and tutoring. To ensure effective reintegration of the juveniles, it is most important they be accompanied on the training courses by a tutor.

Work grants are considered to be one of the most useful, albeit fragmentary, intervention tools, due in many cases to the lack of economic resources and public funds. Currently, funds available for investment in this area are insufficient and the initiatives implemented, although positive, are very few and far between. Another difficulty in accessing work grants is the lack of legal documentation.

### Good practices in:

#### ITALY

##### **The “MITICO” project – Threatmental Measures, Reintegration and Vocational Orientation (Turin, Florence, Airola-BN-, Cagliari, Lecce, Catanzaro)**

The pilot project was sponsored by the Italian Department of Juvenile Justice and funded by the “Cassa delle Ammende”, with the involvement of the “Consorzio Nazionale Luoghi per crescere-Gruppo cooperativo CGM”.

The project assists young people entering the criminal circuits. The Department attaches great importance to this project, being both specific and innovative, as it will open opportunities for those Juvenile Services interested to promote vocational training courses and production activities within the criminal juvenile facilities (Turin, Florence, Airola-BN-, Cagliari, Lecce, Catanzaro). Most importantly, however, it will give the children real employment opportunities (training, testing, and signing up to fixed-term minimum 1-year contracts). The expected outcome is the activation of a virtuous circle that will involve the stakeholders, institutional or otherwise, of each area (local authorities, social cooperation, Italy, business associations). The project started in April 2008 and ended in April 2011.

#### GREECE

##### **EPA TH – Association for the protection of children (Thessaloniki)**

is an institutional stakeholder of the Ministry of Justice. It is a public law entity that addresses child offenders that are in danger of developing delinquent behaviour, as well as their families. There are 53 EPAs.

The services provided by EPA TH are concentrated on psychosocial support and the organization of workshops for creative and productive free-time activities as well as the preparation for and entry to the job market for children over sixteen years of age.

In addition, EPA TH is developing a project for the preparation and entry of child offenders to the job market, when they are sent to EPA TH by the Juvenile Delinquency Services. The project is based on two fundamental issues.

Firstly, the preparation of the young for work. To this end, EPA TH cooperates with the Commerce Centre which will offer counselling support to the children by ex-

plaining working relations to them and the rights and obligations of both the employer and the employee.

Secondly, the networking and systematic cooperation of EPA TH and the association with associative stakeholders of employers and companies to enable the juveniles firstly, to access and secondly to maintain, the working relation. For this reason, EPA TH and the association have the intention of supporting the youngster (over 16 years old) and the employer in the first steps of their working relationship.

### SESSION 3 Aim of the method

#### Aftercare

Without a quality aftercare system, young people leaving juvenile institutions are more likely to face failure, recidivism and more incarceration. Unfortunately, quality aftercare is in short supply worldwide at the present time. Therefore the aim of the method is to provide an adequate aftercare service to guarantee a positive return to society. It represents a challenge for the penal system and an indicator of the success of the methodology used for crime prevention and the reduction of recidivism.

#### Description of the key concept

The aftercare concept is more than just a new programme. It is a new way of addressing offender reintegration, and it generally requires changes in a state's existing juvenile justice system. Generally, current juvenile justice systems compartmentalize the steps of the juvenile justice process and create competing agendas that overlook what should be a shared goal: the prevention of juvenile reoffending. For instance, correctional institutions could prepare offenders for release, but their authority is generally limited to what happens within the institution, and they are typically less concerned about what happens in the community. On the other hand, probation supervision agencies supervise the offender while in the community, but they have little input into what occurs in other reclusion institutions. For a comprehensive aftercare system, the juvenile justice system should transcend the traditional organizational mechanism. The Court, the reclusion institutions, law enforcement, education, social services and the police should work together.

Aftercare, in particular, can be defined as reintegrative services that prepare out-of-home placed juveniles for re-entry into the community, by establishing the necessary collaborative arrangements with the community in order to ensure the prescribed services and supervision (Altschuler and Armstrong, 2001).

The term "aftercare," however, is something of a misnomer—the process does not begin only after an offender is released. Instead, a comprehensive aftercare process typically begins after sentencing and continues through incarceration and an offender's release into the community. Effective aftercare requires a seamless set of systems across formal and informal social control networks. It also requires a continuum of community services to prevent the recurrence of antisocial behaviour, and it can involve public-private partnerships to expand the overall capacity of youth services.

Two key components of the aftercare concept distinguish it from the traditional ju-

venile justice model. Firstly, offenders must receive both services and supervision. Secondly, they must receive intensive intervention while they are incarcerated, during their transition to the community, and when they are under community supervision. This second component refines the concept of reintegrative services to include services that occur before release as well as after release.

The aftercare programme may:

- ▶ prepare juveniles for increased responsibility and freedom in the community;
- ▶ encourage positive social youth interaction in the community;
- ▶ work to bring together the juveniles, their families and community support systems;
- ▶ identify and develop new and existing resources and supports for the juveniles;
- ▶ put juveniles in touch with employment vocational training and/or an academic course of study;
- ▶ identify target high risk offenders;
- ▶ address changeable criminogenic factors including cognition, attitudes to education, peer associations, drug use, authority, work behaviour and interpersonal relationships;
- ▶ link institutional and community-based services for a seamless transition;
- ▶ involve systems collaboration to build a comprehensive supportive network;
- ▶ after-care and rehabilitation services should be provided both by public and NGOs in partnership, with funding from government and others resources. Main interventions should be:
  - a. guidance in finding housing and a meaningful occupation (whether studying or working);
  - b. individual counselling, family counselling;
  - c. educational courses and social skills courses;
  - d. therapeutic programmes to treat drug and alcohol addiction.

### Good practices in:

#### ITALY

**In Italy there are many relevant aftercare experiences.**

For example the **Day Centre of CivicoZero in Rome** (Coop. CivicoZero) is where a variety of activities are carried out: social mediation, cultural-linguistic mediation, educational laboratories, workshops, outreach, participation activities, training and networking, basic services (showers, meals, washing machines), medical assistance, peer education and peer research and legal counselling. The Day Centre also receives children in conflict with the law, in collaboration with juvenile justice services, who are placed under supervision or are sentenced with alternative non-custodial penalties.

Another positive experience is the **Casa delle Opportunità in Turin** (implemented by a large number of actors from the private and public sector). A temporary Residential Home (max one year), it hosts three juveniles, only two of whom are no longer involved in the penal circuit. The House represents an intermediate solution,

with an undemanding educational approach and complete auto-regulation and autonomy of the inmates.

### GREECE

#### **“Traffic education project for young offenders”- EPA TH - Association for the Protection of Children (Thessaloniki)**

EPA TH implements a project of traffic education for young offenders that have committed a traffic offence and have been directed by the Supervisory (Commissary) Juvenile Services to participate in the project, with the aim of obtaining a driving licence. The project is running in parallel with the Thessaloniki traffic police who participate voluntarily. The children participate in the project with great interest. The association and EPA TH are cooperating with the Juvenile Supervisory Services by offering support to the children who have been directed to participate in the traffic training and obtain a driving licence by judicial decision.

### ROMANIA

#### **The Residential Centre for homeless people**

In the residential centre the adolescents and adults who have been deprived of their liberty and come from vulnerable families, or do not have the possibility of integrating in their own family, benefit from the following services in order to facilitate social and professional reintegration after release:

- social and legal assistance: case assessment, counselling, training regarding the necessary skills and resources to live an independent life, support for employment, assistance in the relationships with colleagues and the community, litigation mediation related to private property or the custody of children
- psychological assistance: initial and periodical psychological evaluation, gaining skills of self-control, psychosocial and vocational counselling – individual and group counselling.
- vocational assistance: vocational training, and requalification in professions available on the job market and employment mediation.
- assistance is provided to clarify the identity of the beneficiary.

In parallel with these assistance services, there are also activities aimed at developing skills for an independent life. All these activities are designed taking into consideration the age, level of development, opinion and prospects of the beneficiaries.

#### **Day care centre for social integration of juvenile offenders**

The day care centre is for those children from Cluj-Napoca who have committed a penal offence but are not held criminally liable; are under 14 years old and are registered in the Delinquency and Abuse Service within DGASPC Cluj. Other possible beneficiaries of such services are the parents of these children.

The programme aims to increase social reinsertion opportunities for delinquent children who are not held criminally liable.

Activities available at the centre:

- individual and group social and psychological assistance;

- ▶ mediation of relationships with other institutions/organizations to increase children and parents' access to different types of services, such as medical care, education, justice, social services;
- ▶ reinsertion of children who have abandoned school in the formal educational system;
- ▶ leisure and cultural activities;
- ▶ last but not least material assistance which consists in providing the beneficiaries with school supplies, payment of extra-curricular courses and children's transport from their home to the Day Centre, providing a daily snack, etc.

### **Social apartments**

In order to provide children with independent life skills and facilitate their acquiring a high degree of autonomy, young people with steady jobs are moved from centres to social apartments. Here they receive assistance for a maximum period of 18 months; their rent is paid for 6 months and they are obliged to contribute to the cost of the utilities and be autonomous. During the following year, they contribute half or three quarters of the entire rent, and after a period of time they gradually become self-sufficient in every respect. In addition to the key activities mentioned above, the programme also provides psychological assistance and individual and group counselling, an extra contribution to further shaping and developing the personality of the young beneficiaries.

### **The child's preparation for release and post-penal assistance. Guidelines on release, Rehabilitation Centre for children**

#### **(Tîrgu Ocna)**

The Rehabilitation Centre for children from Tîrgu Ocna has developed a programme to prepare children for release with the involvement of a multi-disciplinary team consisting of: psychologists, educators, teachers, and a labour inspector in AJOFM Bacau. As a result of this activity a guide was drafted concerning children who are to leave the institution, which offers useful information on the necessary steps to: obtain ID papers, carry on with school studies, employment, obtain a driving licence, etc.

The programme addresses children released from C.R. Tg. Ocna as a result of an educative measure, as well as adolescents who receive approval from the Teachers' Council, to be released before the age of 18. These children and adolescents will be included in this programme for two months before reaching the age of 18 or after receiving approval for release. The overall purpose of the release preparation programme is to support the child for his/her social reintegration. Thus, the specific objectives consist in: ensuring the rehabilitation of the child, preventing further criminal behaviour, and protecting the community.

The activities carried out within this project are: meetings of approximately one hour for a period of two months with the beneficiary children; presentations and interactive methods, such as collective discussions, role-play or brainstorming, useful information for post-release are offered, social skills and self-control are consolidated, personal and professional skills and qualities are identified, pursuing the pre-

vention of labelling and stigmatization. Special attention is also given to drawing up a CV, a letter of intention, as well as advice on attending and behaving at a job interview. The activities are evaluated once they have been completed; the learning process is assessed by evaluation sheets, questionnaires or verbally.

The release preparation programme developed in Tîrgu Ocna stands out by the fact that it tries to bring together all those social characteristics influencing the individual in his/her psychosocial evolution and tries to give consistency to the recuperative work started in the rehabilitation centre which needs to be finalized within the community. The guide created in the context of the programme gives important information to the child about to be released, in a succinct manner and accessible language.

### Resources

- [www.ncjrs.gov/pdffiles1/ojjdp/201800.pdf](http://www.ncjrs.gov/pdffiles1/ojjdp/201800.pdf) is the link to a very interesting document on aftercare released in English.
- [www2.trainingvillage.gr/etv/vetsystems/report/IT\\_Aug2000\\_EN.pdf](http://www2.trainingvillage.gr/etv/vetsystems/report/IT_Aug2000_EN.pdf) contains a document in English on the vocational training system in Italy.

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## MODULE 7: MULTI-AGENCY APPROACH

### Introduction

According to the international standard, children's justice programmes involve a wide range of people from various institutions, government departments and society, including: the police, the judiciary, prison officials, civil society groups and the community, including parents, school and the peers of children in conflict with the law and the social welfare personnel.

The planning of the Juvenile Justice programmes therefore requires a multi-disciplinary approach.

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**Session I:** Networking

### Aim of the method

International guidelines emphasize the importance of cooperation at every level (inter-ministerial and inter-departmental, institutional and non-institutional) to enhance the administration of juvenile justice as well as to improve the quality of institutional treatment of children in conflict with the law. This method of intervention therefore aims to create a network between different branches of the juvenile justice system to intervene with a coordinated multi-disciplinary approach and inter-disciplinary action.

### Description of the key-concept

Many experts in the juvenile justice field have advocated better integration of juvenile justice systems into the network of public institutions and agencies that deal with children, adolescents and their families. For example, literature argues the need for improved coordination particularly with those agencies providing education, child protection services and mental health treatment. Multi-agency coordination is necessary because juvenile delinquency is often related to other problems which the juvenile justice system is unable to effectively address – for example - mental illness, drug abuse, child maltreatment and difficulties in school. The failure of governments to address these problems due to poor multi-agency coordination is one reason many young people enter and re-enter the justice system<sup>9</sup>.

Generally, practices collected within the JUST project have brought to light the excessive fragmentation of all operators and actors involved in the assistance and treatment of juveniles. Frequently the lack of coordination and communication in the juvenile justice services themselves does not allow for an exchange of updated information.

For treatment of children in conflict with the law to be effective, a stricter cooperation between Juvenile Justice Services and the Judicial Authorities needs to be implemented. To create an efficient network, all those involved should leave aside any form of jealousy concerning information and contacts with private social groups and

### SESSION I Networking

<sup>9</sup> Steinberg, L. 2008. Juvenile justice: *Introducing the issue. The Future of Children*, 18:2, Fall

share their knowledge of the phenomenon with the other actors in the network. Since the reality of the children in conflict with the law is constantly changing, it is beneficial to institute periodical meetings with all the actors to pool and exchange the latest information.

In particular for migrant children, it is essential to create a strong network to coordinate the interventions of all the actors working in the varying environments. This would give the operators the complete picture regarding the movement of migrant children in the territory and precise information from other operators that previously related to the same child. To prevent the possible evolution of the phenomenon, greater exchange of information and cooperation between operators, institutional and non-institutional, working in the field of juvenile justice and those working in the field of primary prevention (School, Local Authorities services, etc...), should be implemented.

### **Good practices in:**

#### **ITALY**

##### **The “RETE OLD” Project**

*<http://www.reteold.it/Fasel/B/03.asp>*

This network, that goes under the same name as the project, was established by the Italian Juvenile Justice Department and aims to create, strengthen and organize every public and private actor involved in the social reintegration of foreign children in the charge of the Juvenile Justice Department in the territory of Veneto, Friuli Venezia Giulia, the autonomous provinces Trento e Bolzano and in Lazio. The Network RE-TEOLD makes it possible for the organizations involved to collaborate in the project and interact in a net capable of distributing informative material to promote awareness and know-how on the use and management of the opportunities offered by the Juvenile Justice System to foreign children in conflict with the law and their families. The network consists of the public and private stakeholders in the relevant territorial context: the Administrative Office, the Prosecutor’s Office, the Juvenile Tribunal and the local authorities responsible for training, work, welfare etc.

#### **GREECE**

##### **Network – Supervisory Juvenile Services**

A collaboration network has been established between the Supervisory (Commissary) Juvenile Services, civil organizations, the police, public prosecutors, schools, public and non public institutions for the prevention of drug and alcohol addiction and rehabilitation, NGOs working in the field of social support for children. The network can sustain multi-faceted and systematic social support for young offenders or children that are in danger of developing deviant behaviour. The main advantage gained from the establishment of the network has been proven to be the operation of a system of effective action.

**Resources**

- [www.giustiziaminorile.it/pubbl/metodologie\\_rete.pdf](http://www.giustiziaminorile.it/pubbl/metodologie_rete.pdf) this document is an interesting article released from the Italian Juvenile Justice Department about the best methodologies for creating a network.
- [www.ggiustiziaminorile.it/public/news/2009/pea2008.pdf](http://www.ggiustiziaminorile.it/public/news/2009/pea2008.pdf) is a link to another publication of the Italian Juvenile Justice Department with an analysis on the network system in social cooperation.

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## MODULE 8: TRAINING

### Introduction

Juvenile justice personnel and all personnel in contact with children in conflict with the law should be qualified and include a sufficient number of specialists, such as educators, vocational instructors, counsellors, social workers, psychiatrists and psychologists, etc... The police should also be specifically instructed and trained and should adopt a non-discriminatory attitude during their contacts with children.

The Committee for Child Rights has highlighted the importance of the specialization level of the operators of the juvenile justice system in consideration of, inter alia, the vulnerability of the children in conflict with the law due to specific needs arising from the personalities of the children and adolescents and others risk factors, such as the situation of migrant children, unaccompanied children or second generation migrant children.

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**Session I:** Training professionals working with children in conflict with the law

### SESSION I

Training professionals working with children in conflict with the law

#### Aim of the method

The method aims to guarantee a high professional level of personnel in contact with children in conflict with the law.

#### Description of the key concept

The phenomenon of children in conflict with the law concerns mostly those children from particularly difficult backgrounds. There are many reasons for criminal behaviour which can depend on a variety of factors (poverty, critical family conditions, absence of a reference group – parents, friends, adults, etc... - social marginalization, drug addiction etc..). It can constitute an isolated event in a child's life or it could become repetitive. The aim of the penal system is to create both positive and concrete conditions to permit the reintegration and re-education of the offenders. For this purpose, personnel involved with children in conflict with the law should be trained in the specific fields of juvenile justice, human rights and the following:

- ▶ the use of a non-discriminatory attitude;
- ▶ the use of a child-friendly attitude including the capacity to listen to and comprehend the juveniles' needs and points of view);
- ▶ knowledge and understanding of the migration law including those aspects concerning the regularization of legal status on the territory, the culture, historical and political aspects and diversity and integration.

Special training should be provided for police officers focusing on the cultural values and standards and behaviour of the various ethnic groups, taking into account their diversity.

The international standard of the procedures concerning juveniles in conflict with

the law should be respected and guaranteed at every step. It should also be noted that the Lisbon Treaty, which recognizes and endorses human rights as set out in the Nice Charter and the European Convention of Human Rights, requires all lawyers and legal consultants involved, to be of a very high professional standard, have a strong sense of social responsibility and respect the deontological code.

Lawyers have a crucial role in these matters, insofar as the defence of human rights takes place first and foremost in a judicial setting and is therefore specifically their responsibility.

## MODULE 9: EVALUATION AND RESEARCH

### Introduction

According to the international standard, sanctions and measures designed for children and adolescents should be developed on the basis of regular research, as well as on the basis of impact monitoring evaluation. Such evaluation shall pay special attention to recidivism rates and their causes.

The research activity aims to promote the following subjects:

- a. comparative data to evaluate the efficacy of the measures used with children and the risk of recidivism;
- a. monitoring the detention conditions of children deprived of their liberty;
- a. the criteria for an effective collection of data;
- a. the perception of the juvenile justice system from the point of view of young migrants and young people belonging to ethnic or cultural minorities.

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**Session 1:** Research and study on the risk of recidivism

**Session 2:** Monitoring detention conditions of children deprived of their liberty

**Session 3:** Criteria for an effective collection of data

**Session 4:** Children's participation (research, consultation...)

### SESSION I

#### Research and study on the risk of recidivism

#### Aim of the method

The difficulty in obtaining reliable and comparable data on the rates of recidivism lies above all in the diversity of the samples used (age and gravity of the offence) the times considered in the follow-up and the criteria for a clear definition of recidivism (new arrest, new conviction, etc...). The reduction of the rate of recidivism has been considered by most research as an important indicator of the effectiveness of interventions on children. The link between age and recidivism is documented in relation to age at the first conviction and the interval between the first and subsequent crimes. Consequently, efforts should be made to guarantee a more effective re-educational system relating to children and young adults, as this is the biggest obstacle in preventing recidivism. Research and study on the risk of recidivism should aim to understand the phenomenon of the children in conflict with the law and in particular the failure of any of the measures and instruments adopted by the juvenile justice system. Every re-entry of a child to the penal circuit is symptomatic of failure of the reintegration process. Implementing studies and activities aimed at analyzing the risk of recidivism is therefore key to ameliorating the juvenile justice services, particularly as research on this issue is very scarce at both national and international levels.

#### Description of the key concept

Although not easy to initiate a study on recidivism, due to the difficulty in collecting data on re-offending, it can generally be considered from at least two aspects,

namely: legal and operational.

From the legal perspective, a precondition for recidivism consists in a prior conviction, that is, someone who commits an offence, having already been convicted previously (in Italy, for example, as stated in Sect. 99 of Criminal Code).

The statistical analysis of recidivism in this perspective has been developed by relying on the data made available by Central Authorities (in Italy, for example, by the Central Judicial Registry; which includes, according to the Criminal Code, definitive sentences, judicial pardons and certain sentences of “no legal grounds for proceeding”).

On the other hand, the statistical analysis of recidivism from an operational perspective has been developed by relying on other data (in Italy, for example, that made available by Juvenile Justice services, regarding entries to juvenile detention homes and/or classification homes, even though such data provides only part of the picture). Unlike the analysis of recidivism from a legal point of view, previous sentences and decisions taken during criminal proceedings against juveniles have not been taken into consideration; rather, the focus is on “admission/enter” events as in the case of offences occurring repeatedly.

Recidivism studies require a longitudinal approach to evaluate the evolution of the phenomenon over a period of time. This type of statistical analysis may be very difficult in the absence of information systems able to monitor information on individual subjects (rather than on a single entry or release).

It should also be pointed out that using administrative registers for statistical purposes may be difficult from the point of view of providing adequate information, since such registers are set up mainly for internal management purposes.

A complete analysis should also contain disparate data by gender, nationality and type of offence.

Research should identify two kinds of recidivism:

*Short term:* linked to a fact or event (mourning, loss, shock) and to a well-defined period of time. This is known as temporary recidivism, arising from psychological and emotional factors, that may be connected to the juvenile but disappear in adulthood. It resembles a moment of crisis, that appears as transgressive behaviour due to an evolving difficulty. It is the most recurring kind of juvenile recidivism for juveniles who often repeat a series of crimes during a year but without ever reaching deviancy.

*Long term:* more structured recidivism, linked to social and environmental factors (i.e. family lifestyles that induce juvenile delinquency) life in poor suburbs or with social problems, involvement in organized crime circuits).

Studies on reducing the risk of recidivism should be focused on the following:

- ▶ increasing human resources and enhancing practitioners' skills in the juvenile justice services;
- ▶ increasing the human and financial resources available to communities and improving the skills of their practitioners;
- ▶ enhancing geographical/local networks, as effectiveness of such networks is sometimes dependent on the “propitious” collaboration of individual practitioners;

- building up social rehabilitation projects to address the post-release period;
- enhancing the role of cultural mediators, including those in juvenile detention homes;
- fostering integration of foreign juveniles (e.g. via their regularization, schooling, protocols to be developed with their countries of origin);
- providing adequate educational responses to young drug addicts and/or juveniles in psychiatric care;
- strengthening Juvenile Criminal Mediation Centres;
- raising the awareness of educational bodies to ensure they report offences committed in schools;
- making available tangible, reliable employment opportunities to juveniles.

### Good practices in:

#### ITALY and ROMANIA

##### The “STOP-CAR - Stop the deviant careers of young offenders” project

In the Agis Programme, STOPCAR aims to promote research on underage recidivism, the statistics and monitoring data of which are as yet unavailable. Most importantly, it aims to identify the best operative strategies to reduce the number of adolescents repeating their crimes, in the 4 Partner countries, i.e. Italy (Juvenile Justice Department, OESSE Cooperative), Germany, Portugal, Romania. The main objectives and aims of the project are intended:

- to analyze and compare data, where available, and to investigate the recidivism phenomenon in each country;
- to compare different educational and treatment methods for young offenders under custody or benefitting from other non-custodial measures;
- to study educational methods in-depth aimed at preventing the perpetration of crimes by juveniles aged from 14 to 18;
- to examine the criminal career steps of young recidivists;
- to involve the stakeholders through focus-groups, aimed at collecting real-life stories and experiences both by adolescents and practitioners;
- to collect available data on children who come into conflict with the law, with particular focus on young re-offenders in each country;
- to describe and comment on each country’s definition of “re-offending” and “recidivism” from the following perspectives: analysis of the statutory or formal definition of re-offending; functional analysis of re-offending (i.e.: number of repeated imprisonments, etc.)
- to create an exchange of significant practices and share some modelling proposals to reduce juvenile recidivism.

The whole project took 24 months; it concluded with the International Conference held at the *Nisida European Research Centre* (of the Italian Ministry of Justice) to exchange data, share the synthesis of the research carried out in the different countries



provided by international experts and practices and to develop appropriate patterns in the relevant areas.

## ITALY

### Assessment on the risk of recidivism in juvenile justice

#### Coop. Il Minotauro (Milan)

Research carried out so far in the field of juvenile recidivism has been led by Dr. Alfio Maggiolini from “Il Minotauro” cooperative in Lombardy. This research provides a structured evaluation of the risk of recidivism in children that can be a useful tool for the development of a specific programme of intervention for children who have joined criminal circuits. The evaluation card for the assessment of the risk of juvenile recidivism developed in this research has been used to predict recidivism. Basically, an assessment based on the criminal path (in particular the number of previous offences) is quite effective, and decisions taken by the relevant judiciary body are found to be entirely adequate in relation to the risk of relapse. The follow-up evaluation two years later must pay special attention to the risk of recidivism in Roma and Italian children coming from difficult family situations, which is an important factor determining the risk of recidivism. Another element that appears to require careful analysis is the high rate of relapse of children placed in communities. The research has some limitations because of the reduced samples involved in the follow-up and because of the limited scope of the evaluation card, but this guarantees a rapid but detailed compilation, which is an important prerequisite for its use in the regular work of the Juvenile Justice Services, and not just for research purposes.

The tool may be partly reformulated and it can be used at national level by juvenile justice service operators.

#### Resources

- Australian Institute of Criminology, (2002), *What works in reducing young people's involvement in crime*, on:  
[www.aic.gov.au/publications/reports/2002-12-whatworks.html](http://www.aic.gov.au/publications/reports/2002-12-whatworks.html).
- Carcach, C., (1999) *Recidivism and the juvenile offender*, on:  
[www.aic.gov.au/publications/rpp/17/index.html](http://www.aic.gov.au/publications/rpp/17/index.html)
- [www.giustiziaminorile.it/rsi/pubblicazioni/StopCar-English\\_email.pdf](http://www.giustiziaminorile.it/rsi/pubblicazioni/StopCar-English_email.pdf)

#### Bibliography

- Marczyk, G. R, Heilbrun, K., Lander, T., DeMatteo, D., (2003), *Predicting Juvenile Recidivism with the PCL:YV, MAYSI, and YLS/CMI*, “International Journal of Forensic Mental Health”, Vol. 2, No. 1, pp 7-18, on:  
[www.iafmhs.org/iafmhs.asp?pg=jrnl2003engspr](http://www.iafmhs.org/iafmhs.asp?pg=jrnl2003engspr)

**SESSION 2** **Aim of the method****Monitoring detention conditions of children deprived of their liberty**

According to the international standard, child detention should be considered as a last resort. Consequently, monitoring the conditions of children deprived of their liberty is of major importance. To this end, an independent office should be set up whose responsibility it would be to both monitor and guarantee adequate detention conditions for juveniles.

**Description of the key concept**

There are several practical instruments aimed at monitoring the conditions of children deprived of their liberty.

The Convention on Child Rights introduced by the National Ombudsman for Children, an independent office established to promote children's rights, to collaborate with the European Network of Ombudsmen for Children (ENOC) and with all the international organizations focused on children's rights and to give an opinion on legislative acts related to children's issues.

Moreover, according to the UN rules for the protection of juveniles deprived of their liberty:

- ▶ Qualified external authorized inspectors be empowered to conduct inspections on a regular basis and to carry out unannounced inspections on their own initiative, with full guarantees of independence to exercise this function.
- ▶ Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.
- ▶ Qualified medical officers attached to the inspecting authority or the public health service should participate in the inspections, evaluating compliance with the rules concerning the physical environment, hygiene, accommodation, food, exercise and medical services, as well as any other aspect or conditions of institutional life that affect the physical and mental health of juveniles. Every juvenile should have the right to talk in confidence to any inspecting officer.
- ▶ After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.
- ▶ Every juvenile should have the opportunity of making requests or complaints to the director of the detention facility and to his or her authorized representative.
- ▶ Every juvenile should have the right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority or other proper authorities through approved channels, and to be informed of the response without delay.
- ▶ Efforts should be made to establish an independent office (ombudsman) to

receive and investigate complaints made by juveniles deprived of their liberty and to assist in the achievement of equitable settlements.

### Good practices in:

#### ITALY

##### **Ombudsman for the rights of the people deprived of their liberty**

In Italy, this institution has been introduced to guarantee regular independent inspections to all detained people, both adults and children. Regrettably, no national ombudsman for the rights of people deprived of their liberty has been established to date.

There are regional, provincial and local Ombudsmen, all with different operative functions. In particular they receive complaints concerning the violation of the penitentiary rules and the violation of the rights of people deprived of their liberty. The Ombudsman also maintains relations with the competent authorities to request explanations and implement advocacy in order to guarantee a comprehensive and effective implementation of the rights of people deprived of their liberty. On 1<sup>st</sup> August 2008 the Italian Government submitted a legislative draft (DDL A.C. n. 2008) regarding the establishment of the National Italian Child's Ombudsman to Parliament.

In February 2009 Parliament began its examination of the legislative draft for the creation of the National Child's Ombudsman but to date the legislative procedure has not been completed. Consequently, in its second supplementary report, the Committee on Child Rights referred to the position regarding the legislative draft for the institution of the Ombudsman as critical. It is not currently compliant with international standards, in particular as far as independency, economical autonomy and competences are concerned.

15 Italian regions have adopted the law establishing a Regional Child's Ombudsman but to date it is operative in only 6 regions. At the moment there is no comprehensive system of regional legislation regarding the Ombudsman's structure or jurisdiction.

#### **ROMANIA and ITALY**

##### **End violence against children in custody Project**

This is a transnational project implemented by the European Commission's Daphne Programme. The applicant organization is The Children's Rights Alliance for England (CRAE), one of the largest children's rights coalitions in the world, whose members include organizations and individuals seeking the full implementation of the United Nations Convention on the Rights of the Child in England. Their vision is of a society where the human rights of all children are recognized and realized. CRAE protects the human rights of children by lobbying government and others who hold power, by bringing or supporting test cases and by using national, European and international human rights mechanisms. The other partners are Observatoire International de Justice Juvenile (IJJO) – Belgium, Study, research and international activities bureau (Italian Juvenile Justice Department - Ministry of Justice) (JJJ) – Italy, The Commissioner

for Children's Rights, Republic of Cyprus (CCR) – Cyprus, Ludwig Boltzmann Association - Institute of Human Rights (BIM) – Austria and Save the Children Romania (Salvati Copiii) (STC) – Romania.

The overall goal of this project is to make progress towards ending violence against children and young people in custody through legal and policy analysis, supporting children and young people with experience of custody to find out children and young people's experience of violence in custody and opinions on how it could be ended, influencing decision-makers and the child custodial workforce, and supporting children and young people to campaign for change.

The main objective is to work with children to influence decision-makers and the child custodial workforce to end violence against children in custody. This general objective can be broken down to five more specific objectives that would together achieve the overall goal of the project as follows:

1. to analyze the extent to which domestic and European law, policy and practice on protecting children in custody from violence comply with international law;
2. to investigate children's experiences and views;
3. to raise awareness among the child custodial workforce and decision-makers of the extent of legal compliance and children's experiences and views;
4. to empower children with experience of custody to campaign for change;
5. to influence the child custodial workforce and decision-makers to make changes.

In order to achieve the above-mentioned objectives, the project website will be developed and kept regularly updated to raise awareness and its content will be consolidated at the end of the project as a record of activities, achievements and learning. National partners will conduct desk-based studies of domestic law, policy and practice in (1) the use of force and (2) violence against children in custody and mechanisms for access to justice; IJJO will conduct a study at European level. These studies will be consolidated into an Interim Report and posted on the website. The national Partners will each support 10 children with experience of custody to form the Young Investigation Team (YIT), to co-plan and co-deliver focus group research with children having experience of custody about their experiences of violence and views on how to end it. CRAE will consolidate the Interim Report, focus group findings and the European-level analysis from IJJO to form an Investigation Report, producing a children's version which will be adapted by other national Partners for in-country use. These reports will be launched on the website and made available to decision-makers, the child custodial workforce and children. IJJO will host an All-Country Campaign Meeting for staff and YIT representatives from all national Partners, for the latter to receive campaign training and plan in-country campaigns for change based on the Investigation Report findings. The national Partners will support children with experience of custody (now Young Campaign Teams (YCT)) to campaign for change at domestic level. YCTs will be supported to produce final in-country campaign reports setting out their activities, achievements, learning and recommendations for future action.

The beneficiaries of this project are the children with experience of custody. Directly - At least 250 participated in focus groups (50 per national Partner). At least 50 participated as YIT or YCT members (10 per national Partner). At least 1000 learnt about

children's experiences of violence in custody and views on how it could be ended by receiving information on the project. Indirectly - In the year ending February 2010 there were 9080 new child entrants into custody in England alone. Any reduction in violence against children in custody could benefit many children in Europe.

Expected results of the project are: decision-makers and the child custodial workforce to be:

- ▶ more aware of how well domestic and European law, policy and practice comply with international law and children's experience of violence in custody and views on how it could be ended
- ▶ influenced to make necessary changes.

Output and results of this project are on the website - record of experience and learning, Investigation Report, Campaign Report and children's versions available for download and made available to decision makers and children with experience of custody. Children empowered to create change.

### Resources

- [www2.ohchr.org/english/law/res45\\_113.htm](http://www2.ohchr.org/english/law/res45_113.htm) official link to the UN rules on the juveniles deprived of their liberty.
- [www.gruppocrc.net/IMG/pdf/IMISUREGENGARANTENAZIONALEINFANZIA.pdf](http://www.gruppocrc.net/IMG/pdf/IMISUREGENGARANTENAZIONALEINFANZIA.pdf)

### Aim of the method

Data collection is essential to analyze and monitor any phenomenon. Statistical data can be analyzed to understand the evolution of the phenomenon of juveniles involved in criminal circuits. It is therefore essential to elaborate precise reliable and effective criteria for collection of the data to ensure it is as realistic as possible.

### Description of the key concept

It is important to focus the data collection on a defined observation period, in order to identify the phenomenon temporarily.

It is sometimes useful to use data collected from another organization, in which case it is essential to quote the source.

Special attention must be paid to the possible overlapping of some statistical data, that could give slightly distorted results, i.e. if the numerical collection of data is not based on a nominative criteria. For this reason, a child or adolescent repeatedly reported to the Judicial Authority during the same year, is not statistically counted as one, but as the number of reports he received.

At international level, there are some interesting quantitative indicators. Collection of this data would be interesting to analyze the phenomenon at transnational level.

### *Children in conflict with the law*

The definition of '*children in conflict with the law*' varies depending upon the domestic law (within the JUST programme the following definition has been adopted: "*anyone under 18 and young adults up to 21 years of age coming into contact with the justice*

### SESSION 3

Criteria for an effective collection of data

system as a result of having committed or being suspected or accused of committing an offence”).

This indicator is useful to calculate the level of child involvement in crime. The results could be used by the juvenile justice services to develop a prevention plan .

For tracking trends and planning services, this indicator is of greatest use if the information is divided according to the categories of offence, age and ethnicity of the offender.

#### *Children in detention*

This indicator provides information about the general number of children in detention. It measures the number of all those children deprived of their liberty. This includes children in pre-trial, pre-sentence and post-sentence detention in any type of detention facility.

The definition of ‘*deprivation of liberty*’ used by the UNICEF Juvenile Justice Manual is: “A child is deprived of liberty where he or she is placed in any form of detention or imprisonment in a public or private setting, from which the child is not permitted, by order of any competent authority, to leave at will.”

Children in detention are especially vulnerable to its negative influences, including loss of liberty and separation from their usual social environment and are at higher risk of being subjected to abuse.

International standards clearly state that detention of children shall only be used as a last resort measure. Calculating the number of children in detention helps monitor progress in the reduction of deprivation of liberty, for allocation resources and administrative purposes.

#### *Children in pre-sentence detention*

This indicator only considers the number of children deprived of their liberty before being sentenced by a competent authority. Those children who have received a custodial measure following the validation hearing, are deprived of their liberty and are awaiting trial and those who have been convicted but are detained whilst awaiting sentencing are considered “children in pre-trial or pre-sentence detention”. The indicator also includes children deprived of their liberty awaiting the outcome of an appeal against a sentence.

International standards specify that detention pending trial shall be used only as a last resort measure; this indicator is therefore essential to ensure that pre-trial detention is used appropriately.

**Good practices in:****ITALY****Statistical Office - Department of Juvenile Justice**

In Italy a very important source of data collection is the Statistical Office at the Italian Juvenile Justice Department. Nevertheless, the criteria used for data collection should be handled with the utmost care because they are perfectible.

For example in the JUST report, the Italian quantitative indicator of the number of children in conflict with the law was the number of children reported by the Judicial Authority to the USSM. This data included all children who came into contact with the justice system during the year for having committed or being suspected or accused of committing an offence and reported by the Judicial Authority to the USSM. In reality, the data regarding children in conflict with the law is greater than the one reported below, because it also includes the children in conflict with the law below the 'minimum age of criminal responsibility' plus all the children between 14 and 17 years old that came into contact with the Judicial Authority without being reported to the USSM.

Unfortunately, the last statistical data on the total number of children in conflict with the law reported to the Judicial Authority provided by ISTAT, and transmitted to the DGM, is only up to the year 2007.

Just to give an example of the real number of children in conflict with the law, in 2007 the total number of children reported to the Judicial Authority was 38.193 (of whom 6.495 were below the MACR); in the same year the total number of children reported by the Judicial Authority to USSM was 18.461.

Another slightly distorted result of the data collected concerning the Italian Juvenile Justice System is related to the number of children entering Detention Centres (IPM). The criteria for the collection of the data used by the Juvenile Justice Department is related to the number of entries, not to the number of children. This means that if a juvenile is a recidivist and enters an IPM twice during the period of observation, for the statistical data this child is counted twice. Data pertaining to transfers should also be handled with care, inasmuch as a child being transferred from one institute to another will be counted, for statistical purposes, as having been detained twice, rather than once in two separate institutes. It is therefore very important to pay great attention to this distortion of the phenomenon and be aware of the possible gap.

**ROMANIA****Bucharest Prefect Office - Work group on juvenile delinquency prevention**

The work group was created in March 2011, as a step towards the development of a strategy for fighting against crime in Bucharest. Believing that, in the framework of such a strategy, the prevention of juvenile delinquency deserves special attention, the Prefect Office of Bucharest and the Bucharest Police Prevention Department invited relevant institutions and organizations to delegate their respective specialists in the field of juvenile delinquency.

The members of the work group are representatives of the Bucharest Prefect Office, the Bucharest Police Prevention Department, the Bucharest School Inspectorate, Jandarmeria, Bucharest Local Police, Social Assistance and Child Protection Directions from the sectors of Bucharest, Save the Children Romania.

The work group meetings are usually held every two weeks. The first meeting was dedicated to presenting the objective of the work group, discussing and agreeing upon the working procedures and next steps. The first step towards the development of the strategy consisted in gathering and putting in order relevant statistic data on juvenile delinquency and vulnerabilities thought to be the starting-point for juvenile deviance and delinquency (school drop-out, violent episodes in the school area, lack of parental supervision etc).

Starting with the collected data and based on the specialists' expertise, it was agreed that the prevention aspects would be divided into three categories and analyzed separately: prevention in schools, outreach (prevention initiatives outside the school environment) and tertiary prevention (prevention of relapse into crime).

The work group members also agreed to share information on the juvenile delinquency prevention initiatives that had been previously implemented, are being currently implemented or are being programmed. The purpose of this exchange of practices is twofold – to learn from the good practices already implemented and avoid overlapping resources and efforts.

Once developed, the strategy will be approved by means of a special order of the Prefect of Bucharest and will be implemented by all relevant actors according to the sharing of roles and responsibilities agreed upon.

There is also the possibility that should the initiative prove effective, it will be replicated in other counties.

#### **SESSION 4** Aim of the method

Children' participation (research, consultation...)

Since the adoption of the Convention on the Rights of the Child (CRC) 'child participation' has been the subject of increasing attention, in research, publications, conferences and concrete projects. National and local governments, UN Agencies, international and national NGOs, community groups and schools have started to explore what we mean by consultation, participation, partnership and empowerment. This method aims to involve the children in matters affecting them with different forms of participation. It is essential, for the benefit of the institutions and to improve the juvenile justice system generally, to listen to and take into consideration, the needs of the children when making child policy decisions.

#### **Description of the key concept**

Child participation rights are an important part of the UN Convention on child rights, as set out in art. 12: "The States" shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."



Article 12 is a substantive right, stating that children are entitled to be actors in their own lives and to participate in the decisions that affect them. But, as with adults, democratic participation is not an end in itself. It is the means through which to achieve justice, influence outcomes and expose abuses of power. In other words, it is also a procedural right enabling children to challenge abuses or neglect of their rights and take action to promote and protect those rights. It enables children to contribute to their best interests being respected.

Child participation is essential because children have a body of experience and knowledge that is unique to their situation. They have views and ideas as a result of that experience. Juveniles need opportunities to learn what their rights and duties are, how their freedom is limited by the rights and freedoms of others and how their actions can affect the rights of others. They need opportunities to participate in democratic decision-making processes within school and within local communities, and learn to abide by subsequent decisions.

According to literature there are many reasons why children want to be involved in issues that affect them:

- ▶ It offers them new skills.
- ▶ It builds their self-esteem.
- ▶ It challenges the sense of impotence often associated with childhood.
- ▶ It empowers them to tackle abuses and neglect of their rights.
- ▶ They have a great deal they want to say.
- ▶ They think that adults often get it wrong.
- ▶ They feel their contribution could lead to better decisions.
- ▶ They feel it is right to listen to them when it is their life at stake.
- ▶ They want to contribute to making the world a better place.
- ▶ It can be fun.
- ▶ It offers a chance to meet with children from different environments, of different ages and experience.

There are a number of fundamental principles that should underpin any activity seeking to promote children's democratic participation.

1. Children must understand what the project or the process is about, what it is for and their role within it.
2. Power relations and decision-making structures must be transparent.
3. Children should be involved from the earliest possible stage of any initiative.
4. All children should be treated with equal respect regardless of their age, situation, ethnicity, abilities or other factors.
5. Ground rules should be established with all the children from the beginning.
6. Participation should be voluntary and children should be allowed to leave at any stage.
7. Children are entitled to respect for their views and experience.

**Good practices in:****ITALY****“JUST a GAME”, JUST project – Save the Children Italy (Rome)**

The consultation activity, realized within the JUST project, aimed to collect children's points of view on the efficacy of the methods of intervention identified. In particular, the methods of intervention are aimed at avoiding the risk of recidivism and promoting and supporting the reintegration of children. Only those methods of intervention considered more accessible to children have been selected to be analyzed during consultation. The consultation – 25 hours - took place in Rome and included individual and collective activities. Study grants were awarded permitting juveniles to take part in the consultation workshop.

An innovative approach was used to consult the children, namely a game created and baptized JUST a GAME by the children themselves. The main aim was to collect the opinion of each child and subsequently to compare and discuss them.

The game was organized on the basis of 60 places distributed in a logical temporal sequence representing the fundamental steps of the penal circuit. The different steps were: prevention, arrest, investigations, penitentiary system, alternative measures, release and reintegration into society. The rules of the game were provided, the winner being the player able to reintegrate into society. Thus, winning is not only leaving the penal circuit but reintegrating into society. Each box has 2 cards: blue card for hazards and red card for recidivism. The players must collect the score awarded to each card (from a minimum of 0 to a maximum of 5 – depending on the card, which could be for or against the child leaving the penal circuit).

**Resources**

- [www.unicef-irc.org/publications/pdf/insight6.pdf](http://www.unicef-irc.org/publications/pdf/insight6.pdf)
- Gerison Lansdown, *Promoting children's participation in democratic decision-making*, UNICEF “Innocenti Research Centre”.
- <http://childrensparticipation.blogspot.com> – blog interessante con una discreta collezione di documenti sulla partecipazione dei minori.
- [http://images.savethechildren.it/IT/f/img\\_pubblicazioni/imgl27\\_b.pdf](http://images.savethechildren.it/IT/f/img_pubblicazioni/imgl27_b.pdf)

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- Roger Hart, *Children's Participation*, UNICEF/Earthscan, New York, 1997.
- Roger Hart, *Children's Participation: from Tokenism to Citizenship*, UNICEF International Children Development Centre, Florence, 1992.
- A. Petren – J. Himes, *Children's Rights: Turning Principles into Practice*, Save the Children and UNICEF, Stockholm, 2000.
- Henk van Beers, *Children's Participation: Experiences in capacity building and training*, Save the Children Sweden, ISBN 91-89366-96-4, Stockholm, 2002.

**JUST project, coordinated by Save the Children Italy and implemented in partnership with Save the Children Romania, Arsis and the Ministries of Justice in Italy, Greece and Romania, is aimed at strengthening the prevention of and fight against juvenile crime, through the development of horizontal methods based on a child rights based approach. More specifically, it is intended to develop child rights based and multi-disciplinary methods of intervention to prevent juvenile crime.**

**The present Manual (Manual no. 1) is part of a toolkit that also includes the presentation Manual for users (Manual no. 2) and the Manual for trainers (Manual no. 3).**

**It aims to describe methods of intervention selected by the Project Partners, intended to strengthen the capacity of preventing recidivism and improving the reintegration of children in conflict with the law, with special focus on foreign children (in Italy and Greece).**

