

**EUROPEAN COUNCIL FOR JUVENILE JUSTICE**  
NGO Section

# The social reintegration of young offenders as a key factor to prevent recidivism

**IJJO Green Paper on Child-Friendly Justice**



**EUROPEAN  
JUVENILE JUSTICE  
OBSERVATORY**



# The social reintegration of young offenders as a key factor to prevent recidivism

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Many professionals have contributed to this paper by sharing their research, inputs and experience at European and national level – these are mainly practitioners on the ground involved in interventions with children and young people in situations of social exclusion. All of them have shared generously their knowledge and expertise.

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# 1. Introduction and Aims

The International Juvenile Justice Observatory (IJJO) is conceived as an inter-disciplinary system of information, communication, debates, analyses and proposals concerning different areas of juvenile justice in the world. In November 2010, the IJJO held the second meeting of the European Council of Juvenile Justice and its NGO Section (practitioners of NGOs from the 27 Member States of the EU), took the decision to develop a Green Paper on *The social reintegration of young offenders as a key factor to prevent recidivism*<sup>1</sup>.

The European Parliament and the Member States of the European Union (EU) declared 2010 “*The European Year for combating poverty and social exclusion*”<sup>2</sup>. Among the many vulnerable groups who should benefit from this initiative in the longer-term are children, adolescents, and young people in conflict with the law<sup>3</sup>, whose social reintegration - acknowledged as particularly challenging further to custodial measures or detention - should be promoted, reinforced and, when adequate, harmonised across Europe both in the best interests of the child and as a key factor to prevent recidivism.

Young offenders given custodial measures generally carry with them the weight of multiple experiences of exclusion: social marginalization related to the low socioeconomic status of their family and their place of living, school exclusion due to disruptive behaviour, low level of academic attainment and/or gradual school drop out, dissociation from one of both parents and siblings further to repeated tensions, violence, substance abuse and/or out-of-home placement. After a custodial measure, their social and family network might be further weakened, or have totally collapsed, while their skills and motivation to reach out to new social groups and opportunities may be totally lacking. Re-building the criminal and potentially destructive peer relationships which they had prior to custody - or that they actually developed in detention - may appear as

<sup>1</sup>. See also the Green Papers developed by the Public Administration Section “*The Evaluation of the Implementation of International Standards in European Juvenile Justice Systems*” and the Academic Section “*Measures of Deprivation of Liberty for young offenders: how to enrich International Standards in Juvenile Justice and promote alternatives to detention in Europe?*”.

<sup>2</sup> Under the framework of EUY 2010, within its purposes and activities the IJJO was part of the coalition group of European social NGOs. In addition, the active IJJO developed its campaign “*Paths of integration for children in conflict with the law*”, through that the IJJO aimed to hear the voice of children at risk of social exclusion and improve the effectiveness of juvenile justice systems in relation to social and professional reintegration and underlines the importance of supporting, improving and evaluating programs and rehabilitation measures for children in conflict with the law.

<sup>3</sup>. Throughout the paper, different terms are used to refer to this group, or to parts of it : *children, adolescents, minors, juveniles or youths in conflict with the law, young offenders below or above the minimum age of criminal responsibility*, etc. All these terms have different ideological, legalistic and practical implications or connotations. They are used indiscriminately but selectively at different points to reflect various aspects, references and contexts of the discussion.

their only exit option to avoid total marginalisation, and lead them to recidivism. While fighting poverty and social exclusion in general contributes to the prevention of offending, integrating this strategy at the heart of juvenile justice would avoid the perpetuation of the social exclusion of these children and youths once they have, unfortunately, fell through earlier social inclusion, child protection and crime prevention nets.

Preventing harm - and therefore reducing recidivism - can be seen as part of human rights law. All the same, its overriding purpose is to promote human flourishing for all, through human dignity, enjoyment of all rights to the maximum extent possible, and helping individuals and groups fulfil their potentials. In particular, children's rights and juvenile justice focus on rehabilitation as the best way to help youngsters mature into well-adjusted individuals.

The present paper is aimed at examining the orientations and scopes of young offenders' reintegration efforts across Europe so as to highlight perceived challenges and positive practices to be taken into account in further policy and programme developments.

*States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.*

UN Convention on the Rights of the Child, Article 40.1

It is hoped that the recommendations presented at the end of the paper as a response to the gaps and needs highlighted throughout the discussion can positively influence the development of standards and programmes at European level, and act as a leverage for the most positive and forward-looking experiences emerging at national and local level across Europe.

### SNAPSHOT OF THE GREEN PAPER

In part I, key concepts defined and agreed upon at international and European levels are discussed in relation to the social reintegration of young offenders, both as prerequisites and as the background against which effective policies and programmes must be built.

In part II, the range of children and young people potentially concerned by the issue is detailed, from offenders too young to be prosecuted who are nevertheless deprived of their liberty for status or penal offences to young adults held together with minors in penal custody who require the same support to reintegration as their younger peers.

Part III provides an overview of legislative and practical trends in reintegration approaches in Europe drawing from the review of 35 country analysis presented in *Juvenile Justice Systems in Europe*, a publication recently produced with the support of the European Commission AGIS programme. This overview shows that reintegration is a central concern of residential institutions in charge of young offenders in Europe, but that reintegration after pre-trial detention, coordination, continuity of care, creativity and resources are still lacking. Reintegration is mainly framed in terms of traditional educational and vocational objectives, and huge disparities exist not only between countries but also from one institution to another. Outcome-oriented planning, methodologies and evaluation are often still absent.

Part IV explores forward-looking approaches highlighting newly acknowledged challenges and good practices. Early on in the development of international standards on the rights of children in conflict with the law such as United Nations Minimum Rules for the Administration of Juvenile Justice of 1985 (hereafter the “Beijing Rules”), external interventions from civil society, notably in support of reintegration, have been perceived as crucial. This is reflected by this chapter. This last part of the paper, as well as its recommendations and conclusions, are based on the experience, opinions and recommendations of NGOs active in the reintegration of child and young offenders in the 27 Member States of the European Union as service providers and/or child rights advocates. Most of them have grown from voluntary work to highly specialised professional organisations, complementary to the role of governmental bodies involved in the implementation of sanctions and reintegration measures for young offenders.

## 2. Key concepts for reducing recidivism through reintegration

### A. Detention as a measure of last resort

The principle of detention as a measure of last resort for children in conflict with the law is a quasi-universal norm of international law. First set out in article 13 of the Beijing Rules relating to detention pending trial, it was then reiterated and its scope broadened in article 37 of the United Nations Convention on the Rights of the Child<sup>4</sup>, which stipulates:

*“The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.*

The use of custodial measures has been documented worldwide and at different moments in time to be highly damaging for children and adolescents. In addition to the negative impact of confinement on child development as such, custody invariably leads to problems of violence, anxiety, lack of self-esteem and depression. In the most extreme, yet most common, cases, different types of peer and staff violence become systematic<sup>5</sup>, breaches of right are common, access to quality health, education and legal services is limited or denied and the ultimate objective of reintegration is rarely met. Even in the European Union, suicide rates among adolescents in custody illustrate the suffering and extreme risk to which custody exposes them.

Hence, the principle of detention as a measure of last resort must be respected by all means through an array of prevention, diversion and alternative measures. In addition to benefiting those receiving community-based measures, this may allow to improve remaining custodial options, not only in terms of conditions but also in terms of approaches. Intensive security and support measures should be concentrated on and tailored to only a limited number of high risk young offenders whose best interest and needs it is to be sentenced and cared for in a structured residential setting. Since it has been repeatedly demonstrated that prisons are

<sup>4</sup>. Ratified by all UN Member States, except the US and Somalia.

<sup>5</sup>. UN Secretary General’s Study on Violence Against Children – Chapter 5: Violence against children in care and justice institutions, pp. 175-220, Geneva 2006. Committee on the Rights of the Child. Protection of Children from all Forms of Violence. General Comment No 13. CRC/C/GC/13/2011. See also Committee on the Rights of the Child. The Right of the Child to Protection from all forms of Corporal Punishment and other Cruel or Degrading Forms of Punishment. General Comment No 8. CRC/C/GC/8/2007.

damaging, costly and do not prevent re-offending, it is only by limiting the number of children and youth in custody and making juvenile detention centres evolve towards rights-based environments fully dedicated to the aim of individualised care and reintegration that we may be able to witness a change in the use and impact of detention for young offenders. It is time for a new way of thinking and acting: in juvenile custodial institutions, a pedagogical approach that focuses on 'treatment' instead of on 'control' is needed.

## B. Child – Friendly Justice

Children and young people must be allowed and enabled through child-friendly practices and procedures to benefit as much as adult citizens from good governance, rule of law and human rights in the administration of justice. This entails political will and technical support to enable children and adolescents' access to information, direct participation, practical and emotional support, adequate legal representation and assistance, effective right to appeal, complaint and remedy. It also implies the development of age and gender appropriate approaches, within the overall package of child-friendly procedures.

There are currently two complementary trends in broadening and improving the relationship between children and justice, which should improve its life-long impact on young people, as well as the very notion and implementation of justice for the next generations. One trend expressed in the UN Secretary General Guidance Note on Justice for Children<sup>6</sup> aims at reinforcing all UN agencies' inclusion of children as targets of their justice-related mandates, from security to rule of law and social justice initiatives. All players – both judicial and youth care organizations - are encouraged to better cooperate to make justice, both in its broad and narrow sense, work for children. This integrative approach should be replicated by national authorities to enhance inter-sectoral cooperation in favour of justice for children. The other trend exemplified by the recently adopted Guidelines of the Council of Europe on Child-Friendly Justice<sup>7</sup> aims at making the entire justice system better aware and equipped to respect, promote and implement the rights of any child coming in contact with the justice system. The guidelines give some orientations and examples as to how this may be done before, during and after judicial proceedings involving children, whether as offenders, witnesses or victims. This second trend is more limited than the Justice for Children approach, but also more operational, in trying to ensure that children and adolescents have more positive and fair experiences of justice.

<sup>6</sup> Guidance Note of the Secretary-General: UN Approach to Justice for Children, 2008, [http://ar.unrol.org/doc.aspx?n=RoL\\_Guidance\\_Note\\_UN\\_Approach\\_Justice\\_for\\_Children\\_FINAL.pdf](http://ar.unrol.org/doc.aspx?n=RoL_Guidance_Note_UN_Approach_Justice_for_Children_FINAL.pdf).

<sup>7</sup> Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies) <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1705197&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>.

The reintegration of young offenders, notably further to a detention period, can only be complete if it is grounded in a positive “sense” of justice, nurtured by their understanding of justice, on the one hand, and by their experience of justice, on the other. Such an understanding can be facilitated by child-friendly information, legal aid, direct participation, but also by psychosocial support limiting emotional disturbances, family or community involvement for a broader ownership and memory of the process and, if adequate, victim participation enabling sympathy and understanding of consequences and justice needs of all parties. A positive experience of justice can come from due process, exemplary magistrates and staff, access to complaint and remedy.

Positive – or, unfortunately, negative – understanding and experiences of justice have often been accumulated by young offenders much before they came into conflict with the law. For instance, unexplained divorce procedures of their parents, hasty out-of-home placement without consultation, heavy fines or violent police checks witnessed in an already marginalized environment all influence the way children perceive the justice system. It is thus essential that all children coming in contact with the justice system benefit from better experiences and child-friendly approaches.

Hence, child-friendly justice can be considered as another prerequisite to the successful reintegration of young offenders, although it is only just emerging as a concept and as part of the broader notion of justice for children.

### C. Reintegration as a continuous and long-term objective

Reintegration is not just about aftercare. While reintegration fully takes place once a young offender has left the system, the entire judicial process should aim at facilitating it and at enabling its early onset while the person is still in contact with the justice system. As stated in article 24.1 of the Beijing Rules, necessary assistance must be provided to juveniles, “*at all stages of the proceedings*”.

To this end, re-integration must be a common concern and collective aim of all professionals involved in juvenile justice from day one of a young offender’s contact with the system. Reintegration needs and potentialities must therefore be assessed and taken into account before, during and long after disposition of the case and release from detention or custodial care.

Unfortunately, tasks of professionals working in juvenile justice are currently fragmented and evaluated against different, if not competing, objectives. The roles of the police, the judiciary

and the correctional or penitentiary systems can be particularly divergent. Specialised juvenile police officers tend to play an important part in prevention or even a protective role avoiding contacts between youths and the justice system as much as possible, but mainstream police forces tend to be more repressive to counterbalance what is sometimes perceived as leniency towards young offenders and can have a counterproductive role in the reintegration of young offenders mainly perceived as potential recidivists. As for correctional and penitentiary systems, they can sometimes be found to act as laboratories of progressive rehabilitative approaches, at the initiative and discretion of their management. They can also limit their role in reintegration to just tolerating the presence of an external social worker, acting alone, too little and too late in many cases. These discrepancies and the resulting lack of coherence in the messages and interventions that the young offender perceives in the course of his “criminal career” go against the continuum of care and the long-term perspective that successful reintegration requires.

Several solutions exist and have been implemented to address this issue and will be discussed later in the paper, but the founding principle is that reintegration is a *process*, rather than the end result or the limited mandate of one or two professionals in isolation. This is a process to which all players in the juvenile justice field, as well as the offender’s family and community, have something to contribute. It requires consistency, continuity and long-lasting commitment.

#### D. Support to reintegration as an outcome-oriented process

Rather than listing examples of reintegration support services, article 40 of the UN Convention on the Rights of the Child set instead reintegration as one ultimate (“*desirable*”) goal of juvenile justice without specifying means to reach this goal. In that sense, this landmark international standard leaves the door open to a variety of strategies and approaches, while establishing that support policies and services towards the reintegration of young offenders should be promoted, monitored and evaluated in terms of outcomes, rather than just in terms of outputs.

It is of utmost importance that distinct reintegration services, specialized staff in residential care and in aftercare units, as well as additional costs for housing, education, training and job placement for former offenders be planned, costed and budgeted on the same mode as security, food, clothing and building repair costs of any custodial setting. Analytical accounting can be introduced in traditional management and administration practices in order to identify and better plan such costs – if not to highlight their current under-funding.

The motto “*money follows the client*” has inspired some positive management reforms in the process of de-institutionalization of children deprived of parental care in Eastern Europe and post Soviet countries in the past decade, but also in Western Europe notably in the field of psychiatry<sup>8</sup> and care for persons with disabilities. Similarly, transferring responsibilities and resources from residential to community-based aftercare services on an individual basis can avoid creating gaps in the continuity of control, resources and support needed by a former young offender.

Comparing cost projections of systems with and without solid reintegration services have in some cases enabled to speed up policy change and make long-term savings. The survey of the Unga Kris project in Sweden is a good example. The survey among beneficiaries of the project produced socioeconomic indicators of the project’s value through a cost-utility equation. It demonstrated that society saved about 390 000 Euros per youth per year, for a total of about 600 beneficiaries since the start of the project in 2006. The “social profit” would be even higher if compared to a situation where nothing would have been done for the youths concerned. This allowed justifying the continuation of funding for this pilot initiative, for which Unga KRIS is arguably giving back 85 times the amounts invested in it<sup>9</sup>.

## E. Restorative justice as a broader paradigm conducive of reintegration

Restorative justice focuses on repairing harm by actively involving victims and communities, as well as offenders in the resolution of a case. It is especially relevant to young offenders in that it clarifies relationships, responsibilities and accountabilities that children and adolescents often fail to acknowledge or understand. Although it is only gradually being introduced in juvenile justice across Europe – and more as a complementary approach, than as an entire system – it represents a radical change of paradigm<sup>10</sup> away from combined traditional welfare and justice approaches to juvenile offending.

Restorative justice allows both victims and offenders to make sense of their experience, as a starting point to rebuild their lives after crime. It also changes perceptions and consequences of offending for them, as well as for the rest of society and can thus make reintegration of the offender both possible and *desirable* even in the eyes of the victim and of the community.

<sup>8</sup>. On mental health see the recent contribution of the IJJO, ‘Opinion on Mental Health and Young Offenders’, 2011 available at [www.ijjo.org](http://www.ijjo.org). See also Grisso, ‘Adolescent Offenders with Mental Disorders’ 18(2) The Future of Children Special Issues on Juvenile Justice (Fall 2008), 143-164.

<sup>9</sup>. K. Jess, Ph.D Social work, Mälardalens Högskola, Academy for health, care and welfare. April 2010 See: <http://www.ungakris.com/english.htm>.

<sup>10</sup>. See, H.Zehr, Changing lenses, Herald Press 1990.



Restorative justice processes and tools, such as mediation or family conferencing, have a lot to offer in terms of defining relevant objectives and criteria of reintegration. For instance, a young offender's positive self-assessment and the victim's recovery should become central elements of what would be considered a successful reintegration, while also contributing to social healing, empowerment and a reduction in recidivism. By closely involving the community, restorative justice also enables a stronger and more positive monitoring of recidivism.

Finally, by being applied within existing institutions and programmes as a way of resolving conflict, restorative principles can contribute to in-depth shifts in relationships and behaviours that are essential elements of young people's durable reintegration and positive personal development.

## 3. Scope of the reintegration agenda

### A. Focus on reintegration from custody

As one of the central goals and desirable outcomes of any juvenile justice process, reintegration is an issue for all young offenders, including those who benefit from diversion or alternative non-custodial measures. However, it is understood that such measures will in principle sustain or improve these children's current integration in the community, while by definition custodial measures tend to fence them off at least from their regular life, and at most from the entire society.

Hence, this paper considers that reintegration is a particularly acute concern for those who have been detained or placed in a custodial setting, as a result of their offending behaviour. These children and youths combine the double challenge of overcoming the impact of institutional care and the stigma and consequences of their offence(s) and offending behaviour. They face huge internal and external risks and obstacles to a smooth reintegration in society.

### B. Reintegration from non-penal custody

Reintegration is a challenge not only for those held in detention or custody as a penal measure, but also for those under closed or semi-closed correctional, educational, protective or administrative placement for other reasons, or under a different status.

For example, child offenders under the minimum age of criminal responsibility<sup>11</sup>, underage minors “with deviant behaviour” (e.g. Bulgaria<sup>12</sup>), unaccompanied, separated or asylum seekers minors (e.g. UK<sup>13</sup>) and child victims of trafficking are all prone to some form of custody from which reintegration may also be necessary.

While the legal status and individual situation of these children is fundamentally different from those having gone through the juvenile justice system as criminal offenders, some of the keys to their successful reintegration can be similar. The recommendations made in the present paper should therefore be considered for application to these groups too. At the same time, existing recommendations and standards more conducive of children’s rights for each of these specific groups should prevail and remain the main reference.

### C. Reintegration from pre-trial detention

Another essential element of reflection on reintegration is the issue of pre-trial<sup>14</sup> detention. By definition, the duration of detention pending or during trial is unplanned. In practice and despite reiterated specifications issued by the UN Committee on the Rights of the Child<sup>15</sup>, it is often excessive due to delays in the judicial process. Rights and opportunities in pre-trial detention are limited due to the very nature and purpose of this type of custody. The purpose of avoiding collusion, flight and risk to others is often inflated to the point where

<sup>11</sup>. See UNICEF CEE/CIS Regional Guidance on *Responses to children who have infringed the law but who are under the minimum age to be prosecuted as juveniles* <http://www.ceecis.org/juvenilejustice/new/dox/Tools/Critical%20mass%20JJ%20guidance%20-%20responses%20under%20MACR.pdf>.

<sup>12</sup>. In Bulgaria, the minimal age of criminal responsibility is 14 years. Yet, a system outside of criminal justice treats so-called counter-societal behaviour below that age. As a result, Bulgaria institutionalises children considered “deviant” as young as 8 years. See: Bulgaria: Children’s rights references in the Universal Periodic Review, 16/11/2010, Para 35 of UN compilation, <http://www.crin.org/resources/infoDetail.asp?ID=23506>.

<sup>13</sup>. A High Court judge in the United Kingdom has acknowledged for the first time that placing children in immigration detention “is capable of causing significant and in some cases long-lasting harm to children,” including acute illnesses and Post-Traumatic Stress Disorder. In a case brought by Public Interest Lawyers (PIL) on behalf of two single mothers and their children who were taken into custody following raids on their homes last year, the judge declared the families’ detention to be woefully unlawful. Far from a rare occurrence, 1,085 children were detained in the UK in 2009, and PIL sees this case as highlighting the Government’s patent disregard for the welfare of children. For some, the judgment has also called into question the UK’s promise to end immigration detention for children by March, CRINmail, 25.01.2011 <http://www.crin.org/resources/infoDetail.asp?ID=23799>.

<sup>14</sup>. See also Open Society Foundations & United Nations Development Program “The Socioeconomic Impact of Pretrial Detention: A Global Campaign for Pretrial Justice Report”.

<sup>15</sup>. “*States parties should take adequate legislative and other measures to reduce the use of pre-trial detention. Use of pre-trial detention as a punishment violates the presumption of innocence. The law should clearly state the conditions that are required to determine whether to place or keep a child in pre-trial detention, in particular to ensure his/her appearance at the court proceedings, and whether he/she is an immediate danger to himself/herself or others. The duration of pre-trial detention should be limited by law and be subject to regular review*”, General Comment of the UN Committee on the Rights of the Child, Children’s rights in Juvenile Justice, CRC/C/GC/10, 25 April 2007, para. 80.

it is used, in fact, as punishment before judgement. Police custody is a case in point in some countries and, worldwide, it is in police custody and pre-trial detention - rather than in correctional facilities - that most violations of international standards are witnessed, from non-separation from adults to inhuman and degrading treatment or punishment.

In light of these extremely worrying trends, it must be noted that, by taking place at the very initial stage of the judicial process, police custody and pre-trial detention: 1) happen when the child or adolescent is most vulnerable and receptive to any external information but also to risks, aggression, threats, etc.; 2) has been experienced by many of those found later on in the system; 3) by definition also includes children and youths who are innocent, who will be released upon judgement and/or who will be given non-custodial sentences.

This stage in the detention process could thus be seen as an opportunity for the systematic induction of all those at risk into successful reintegration approaches. Instead, it is often a moment when the few remaining inner resources of a child are crushed and lost through abuse or denial of justice.

To avoid this, a number of EU members have established positive rules, such as reduced and strictly controlled time limits for police custody and pre-trial detention for different age groups, as well as increased access to education and other activities in detention. Such measures are yet to be strengthened and monitored, notably in candidate countries to the EU, in which they should be part of screening procedures for accession. Beyond this, and in addition to ensuring that police custody and pre-trial detention are used only as a measure of last resort, it is essential that they start being considered as part of the juvenile justice process and its reintegration aim. This implies staff training, regulations, information and facilities that would enable specialised personnel to serve this purpose in-house. This role cannot be left only to external social workers who, in the case of quick release, may not have time to prepare the child for life after this extreme experience, including stigma and other consequences that it may yield. A review of practice in European countries shows that currently this role is indeed left to social services attached to the court or to probation services. This appears to imply that they do not cover police custody, meaning that children directly released by the police do not receive any support. The review also indicates that *“the legislation of nearly all countries provides that the parents or legal guardians be informed and involved in decision-making and in the search for educational solutions for their children (e.g. Belgium, Bulgaria, Poland and Romania). In practice, however, the involvement of the parents in the execution of pre-trial detention or the preparation for release seems to be the exception”*<sup>16</sup>.

<sup>16</sup> F. Dünkel, B.Dorenburg, J.Gryzwa, Pre-trial detention, in Juvenile., ibid. p.1738.

## D. Reintegration of young adults

A clear case has been made in international and European standards, as well as in recent research in favour of making young adults up to the age of 21, 23 or even 25, benefit from juvenile justice approaches and services.

Article 3.3. of the Beijing Rules states that *“efforts shall also be made to extend the principles embodied in the Rules to young adult offenders”*. This general principle has been reiterated notably in European standards<sup>17</sup>. Dünkel and Pruin present the array of criminological and psychosocial justifications for such a trend in criminal law and practice. They note that it is *“most exceptional that special rules for young adult offenders are not provided at all, i.e. neither in the juvenile law nor in the general criminal law. As far as we can see there are only seven such countries [NDLR out of the 35 European countries examined]: Belgium, Bulgaria, Estonia, Latvia, Spain, Turkey and the Ukraine. However, even these countries provide that young adults are accommodated in juvenile prisons or special institutions or units for young adults (separated fro adults over 21)”*<sup>18</sup>.

Similarly, numerous countries allow convicted minor offenders serving a custodial sentence to remain in juvenile correctional facilities beyond their eighteenth birthday until the age of 21 and, thus, to continue receiving reintegration support services or measures available in these facilities, if any.

While other aspects of juvenile justice could be argued to be specific or only “acceptable” for offenders under the age of 18, it is clear that young adult offenders and society can only benefit from reinforced reintegration services, especially conceived for and promoted in juvenile proceedings and detention settings. Therefore, it is highly recommended that all European countries adopt a blanket approach to young adults in terms of enabling them to benefit from the same level of support to reintegration as minors.

<sup>17</sup> Rule 11 Committee of Ministers of the Council of Europe Rec(2003)20 on “New Ways of Dealing with Juvenile Delinquency and the Role of Juvenile Justice” and Rule 17 of Rec(2008)11 on the European Rules for Juvenile Offenders Subject to Sanctions and Measures (ERJOSSM).

<sup>18</sup> F. Dünkel, I. Pruin, *Young Adult Offenders in the Criminal Justice Systems of European Countries*, Vol.4, 2010, p.1576.

## 4. Overview of policies and programmes in favour of young offenders' reintegration in Europe

### A. Legislative framework

Statutory obligations in terms of reintegration objectives and means for prisons and residential institutions hosting young offenders in Europe generally put the emphasis on education and training, but are far less detailed - or prescriptive at all - in terms of other factors of rehabilitation and reintegration.

Most recently adopted, amended and/or specialised legal acts provide more details and nuances to the notion of reintegration and obligations to provide support and services in the various aspects of the convicted offenders' lives. This is true at the regional level<sup>19</sup> as well as at country level<sup>20</sup>. In that respect, consideration could be given to encouraging reforms among EU members on the basis of most developed existing domestic legislations and regulations.

Yet, beyond legislative reform, implementation should be prioritised. In Ireland, *"the 2001 Act was generally welcomed as a balanced and innovative response to the serious deficiencies of the outmoded juvenile justice system which was still based on legislation enacted in 1908. (...) All that was needed was the allocation of the resources and the provision of the infrastructure necessary to give effect to the philosophy behind the Act. Unfortunately the resources and infrastructure were not provided. The inevitable result was that major parts of the Act were not into effect immediately"*<sup>21</sup>.

In light of this example, rather than mainly encouraging and monitoring legislative reforms, as part of its fundamental rights policy, the EU may need to become more directly involved in sanctioning or supporting (e.g. through financial aid) countries in situation of non-compliance with established international and European standards, or for that matter with their own domestic legislation. Reports, alerts or judgments of European monitoring mechanisms (High Commissioner for Human Rights, European Court of Human Rights, UN Committee on the Rights of the Child, and others) can largely serve as a basis for such exercise, and civil society should be more broadly consulted and given weight in evaluating legislative reforms and their subsequent implementation.

<sup>19</sup>. See, for instance, Rec(2006)2 on the European Prison Rules vs. ERJOSM 50.1, 77, 10.1-103.

<sup>20</sup>. See, for instance, Ireland Children's Act vs. the Greek Correctional Code.

<sup>21</sup>. D. Walsh, Ireland in Juvenile justice systems in Europe, *ibid.* p. 761.

## B. Coordination, capacity, and after care services

Several countries appear to leave the task of supporting reintegration to residential institutions and detention facilities, without methodological guidance or centrally supported coordination to enhance and regulate the role of the various community agents which play a role in the transition and aftercare phase. Hence, one may wonder whether reintegration is supported enough by central state agencies in charge of juvenile justice, and whether strong disparities from one institution, region or country to another shouldn't be restricted by minimal general measures of implementation of the rights of juvenile offenders. Reintegration is a common responsibility of institutions and society. Institutions cannot fix it alone: for successful reintegration, they need chain partners in society. Re-offending is for a non-negligible amount the result of bad transition management from custody to society. Therefore, a coordinated approach between all social partners is an important prerequisite.

Across Europe, the role of probation services appear to vary, but to play an increasing role in the coordination and implementation of a variety of alternatives<sup>22</sup> to custody, but also of reintegration support and services for those sentenced to custodial measures. Researching and defining this role of probation professionals in the reintegration of young offenders across the EU in order to further promote and strengthen could be an entry point.

Staffing is a basic indicator often used to measure capacities for effective intervention in custody. For instance, in Germany<sup>23</sup>, the staff-prisoner ratio in youth prison is reported to be 1:1,5 for all staff, complemented by 1 psychologist for 33 up to 147 prisoners and 1 social worker based and working in the institution for 18 up to 50 prisoners. In France<sup>24</sup>, there is a ratio of 1:5 educational staff in juvenile prison units; and 1:1,6 in recently created juvenile centres with an educational presence during the whole day. In England and Wales<sup>25</sup>, in young offenders' institutions (YOIs) which are the most numerous type of institutions for juvenile offenders, the ratio is 1:10 (3 to 6 officers per wing of 30 to 60 youth). In addition, there is a ratio of about 1:2,6 staff with low qualifications in secure training centres (STCs) for vulnerable youths on remand or sentenced to custody in a secure environment, and 1:1 qualified child care staff in secure children's homes (SCHs) combining penal and therapeutic functions. In Sweden, *"to guarantee intense and individualised treatment for the young offenders, the offender-staff ratio is quite high. A university degree is the required minimum level of education for work that*

<sup>22</sup> See Kilkelly 2011, "Measures of Deprivation of Liberty for young offenders: how to enrich International Standards in juvenile Justice and promote alternatives to detention in Europe?".

<sup>23</sup> F.Dünkel, *Germany*, in *Juvenile Justice Systems in Europe*, *ibid.*, p.605.

<sup>24</sup> J. Castaignède, N. Pigoux, *France* in *Juvenile justice systems in Europe*, *ibid.* p.542.

<sup>25</sup> J Dignan, *England and Wales* in *Juvenile justice systems in Europe*, *ibid.* p.388.

*concerns treatment and care in the homes. The Social Services invest in the development of their personnel's skills, and use independent researchers to develop and evaluate the methods of treatment. These relatively high standards lead to high expenses: in the year 2008, the daily net cost was nearly 745 Euros (approximately three times that of prisons where there are 3 staffs per juvenile in care<sup>26</sup>).*

These, as well as more detailed indicators of coordination and capacity for effective support to young offenders' reintegration, should be developed and used to collect more systematic and comparable data from custodial and closed educational facilities across Europe. As a result, minimum European standards of staffing ratio and level of qualifications for key professionals with rehabilitative functions could be considered both domestically and across European countries. Most serious and heavily penalised juvenile offenders should in this context benefit from staff with the highest level of experience and/or qualifications, the best status and the lower inmate/staff ratio, rather than being downgraded to the least rehabilitative detention settings as their criminal career evolves.

### C. Programmes and measures

In most if not all countries in Europe, schooling and vocational training are the primary concerns and regulated components of reintegration strategies of custodial institutions for young offenders. In addition to basic academic knowledge and technical skills, education and training programmes may include cultural activities, computer skills and vocational counselling. In Greece, a valuable measure encourages juvenile to pursue training: "*Art. 46 GrCC regulates the conditions and method of crediting working and training days towards the time to be served (including detention in a young offenders' institution)*"<sup>27</sup>. As this practice has apparently generated interest in several pieces of research, this may be a good practice to be promoted and harmonised across European countries. In Italy, "*the concept of "formative credit" was introduced. This instrument allows the minor to benefit from the education training inside the institution, even if the duration of the penal measure does not allow the minor to receive a degree or to finish a course*"<sup>28</sup>. In Latvia, "*the fact that a juvenile has received his vocational or school qualification in the school/training centre of a prison is not indicated or visible in the certificate*"<sup>29</sup>.

<sup>26</sup> R. Haverkamp, *Sweden*, in *Juvenile Justice Systems in Europe*, *ibid.*, p.1355.

<sup>27</sup> A.Pitsela, *Greece* in *Juvenile Justice Systems in Europe*, *ibid.*, p. 661.

<sup>28</sup> A.Padovani, S.Brutto, S. Ciappi, *Italy* in *Juvenile Justice Systems in Europe*, *ibid.*, p. 794.

<sup>29</sup> A.Judins, *Latvia* in *Juvenile Justice Systems in Europe*, *ibid.*, p.865.

While it is a welcome fact that education and training are given serious consideration and incentives, it must be noted that these policies may fail to address: 1) the reasons for which young people usually dropped out before coming in the contact with the law; 2) the deterring fact that even non-offenders with a successful education struggle with unemployment; 3) vocational training options remain very gendered and low skilled, which may tend to maintain pre-existing situations of discrimination or exclusion. As the most covered, regulated and resourced type of reintegration “services”, the purpose and contents of education and training in custody should be assessed in partnership with primary beneficiaries (inmates and former young offenders) and targets (not only potential employers, but also continuous and higher education professionals, recruitment agencies, etc.) under the premises that education and training may not solely be about employability. Education and training during a period of detention should also be aimed at sustainable employment (not just to find a job, but to keep the work for a longer period of time). This can be attained by – for example – continued support by a mentor at the workplace. But the focus should always be on self-management, autonomy and self-responsibility of the youngster. Focus on empowering and activating and developing protective factors on several life domains.

There is a growing trend towards delaying and externalising training scheme during and after the detention period evaluated, in several cases, as positive: *“In countries such as Netherlands, Denmark, Norway and Sweden, where prison sentences tend to be relatively short, the provision of training for detainees has largely been taken out of the detention facilities, and instead local communities are more heavily involved in the task of reintegrating offenders. Since juvenile imprisonment also rarely lasts longer than two years in other Western European countries (see, for example, Germany), the continuous care and transfers to aftercare services - and in this context a multi-disciplinary approach - are becoming more and more important. This development is in line with the ERJOSSM, which explicitly calls for the possibility to continue training and treatment outside the institution after release (see Basic Principle N° 15 and Rule N°78.5 and 100.1 ff.)”*<sup>30</sup>. However, the positive argument of training having to go beyond the duration and the walls of custodial settings should at no cost limit the responsibility of institutions in ensuring that education and training are part of the minimum package of entitlements of juveniles in their care. The alarming case of England and Wales exemplifies the situation of many countries and institutions in that respect: *“Even in those institutions where conditions are more favourable, there are a number of barriers that inhibit the delivery of high quality education and training. One problem has the very high turn over, many of whom may be serving terms as short as two to four months. A second problem is that many young offenders are highly disturbed and*

<sup>30</sup>. F. Dünkel, and B. Stando-Kaweska Juvenile Imprisonment, in Juvenile Justice Systems in Europe, ibid., p.1804.

*three quarters have special educational needs. A third problem is associated with high staff turn over, which is compounded by the fact that responsibility for providing education for young people in custody is fragmented, some of it being provided in-house while much of it is contracted out, which makes it much more difficult to provide a well-planned coordinated service”<sup>31</sup>.*

Work schemes exist for young offenders in juvenile prisons and institutions in various European countries. Yet, it must be noted that they are mostly organised on an ad hoc basis (e.g. Latvia) and often regulated under the same legal framework as adults (e.g. Greece). Gradual working schemes as a training option (apprenticeship type) or as a way of earning income (employment) generally receive very positive feed-back from youth prisons’ inmates and employers, especially when organised outside the institution where they reportedly foster personal relationships, increase motivation, and allow time to pass more quickly.

The availability of anti-aggression and cognitive behavioural programmes appears to be on the rise across Europe. *“Cognitive behavioural programmes, such as “Reasoning and Rehabilitation” (see Ross/Fabiano/Ewles 1988), the so-called “Think first” (see Roo/Fabiano 1985) or “Enhanced Thinking Skills” (ETS) programmes and other cognitive behavioural programmes, which were often developed in North America (particularly in Canada), seem to be promising. There is also far-east mediation and martial arts like Budo, Karate-Do, Taekwondo, which are practised in some juvenile prisons and which can be seen as “promising” although a thorough evaluation is still lacking (see Wolters 1993; 1997). Other favourable programmes can be school education and vocational training if implemented in a “social therapeutic” setting (see Germany; Dünkel/Drenkhahn 2001; Drenkhahn 2007). In Germany another promising programme is the so-called “Just Community” programme in the juvenile prison of Adelsheim, a programme that enhances democratic and participatory rules of communication (see Dünkel/Walter 2005)”<sup>32</sup>.* Unfortunately, many programmes presented or evaluated as positive appear to remain at pilot stage and/or to be abandoned when temporary funding comes to an end. The inclusion and provision of quality treatment programmes does not appear to be systematic nor guaranteed for young offenders, although they are increasingly documented to have a positive effect on recidivism, as well as to the general well-being of the juveniles. It is not because participation in such programmes may need to be voluntary, that it should be optional for institutions and for juvenile justice systems to guarantee their provision.

As for the definition of substance addiction measures or programmes, it is often quite vague and heterogeneous, from compulsory therapeutic interventions and restrictions in pre-trial

<sup>31</sup> J.Dignan, *England and Wales in Juvenile justice systems in Europe*, ibid. p.390.

<sup>32</sup> Ibid. p. 1808.

detention and/or upon admission in correctional institutions and prisons (e.g. Italy) to voluntary involvement in drug free programmes or units (e.g. Ireland). In that respect, the priority to be given to health care over penal sanctions for substance addicted juveniles offenders, both for the sake of efficient rehabilitation and in compliance with international standards, should be urgently addressed at the European level<sup>33</sup>.

Contacts with the outside world are facilitated mainly through training and work schemes outside the institution as mentioned above, as well as through basic visit regulations. Although the rehabilitative value of sustained personal relationships and extended social networks is readily acknowledged, this area of work is not much developed beyond the passive observation of the positive impact of such contacts and special measures. In several countries, however, the location of correctional institutions or detention centres is a problem. In France, for example *“one problematic issue still remains: the geographical distance between the juvenile and his/her family, which in some cases could threaten to increase the difficulties faced in maintaining family contacts”*<sup>34</sup>. In Bulgaria, *“most institutions were apparently deliberately established at such remote locations in order to prevent inmates from escaping. However, this had a number of rather negative effects on the possibilities of hiring qualified personnel and ensuring adequate equipment, as well as supervision by the regional inspectorates”*<sup>35</sup>. These are correctional facilities outside the criminal justice system, where child offenders are placed under “educational” measures. As for Bulgaria’s only two detention facilities respectively for juvenile boys and girls, they make any contact with relatives extremely difficult.

While welcoming the emphasis given to education and training as well as the growing provision of treatment programmes in juvenile detention and correctional institutions in Europe, it is high time that these programmes be upgraded to fit the interests, abilities and employment prospects of the concerned youth, that the offer of a variety of quality psychosocial and behavioural treatments be an obligation of such institutions and that contacts with family members and/or important others be fully and systematically supported and facilitated, not only through visits, but also through direct involvement in treatments, gradual release and aftercare.

<sup>33</sup> See: *From coercion to cohesion, treating drug dependence through health care, not punishment*, Discussion Paper, UNODC, 2009. [http://www.unodc.org/documents/hiv-aids/publications/Coercion\\_Ebook.pdf](http://www.unodc.org/documents/hiv-aids/publications/Coercion_Ebook.pdf).

<sup>34</sup> J. Castaignède, N. Pigoux, France in *Juvenile justice systems in Europe*, *ibid.* p.543.

<sup>35</sup> K. Kanev, D. Furtunova, P. Roussinova, Y. Bekirska, Bulgaria in *Juvenile justice systems in Europe*, *ibid.* p.543.

## D. Preparatory and temporary release

In closed youth prisons or departments in Germany, “only 10% of young prisoners were involved in preparatory release measures like day leaves or prison furloughs of several days that may help adapt to social life outside the prison. About 9% of the young prisoners were accommodated in the two open prisons or one of the (regularly small) open units within 17 closed prisons. In these open facilities between two thirds and three quarters of the juveniles were granted day leaves, more than 40% participated in work release, leaving the prison everyday for work and coming back only for the night”<sup>36</sup>. In Greece, “Where a prisoner is being transferred or when a disciplinary punishment is imposed, training is, as far as possible, not deferred. If disciplinary detention is imposed while the prisoner in question is undergoing training, detention may be served during holiday, including public holidays”<sup>37</sup>. In Hungary, there have been attempts to introducing progressive measures into the former socialist correctional system. The “main point is that if a juvenile adheres to the institutional requirements, he/she can be transferred to the half-open section of the institution in which temporary leaves are also possible”<sup>38</sup>. These three examples illustrate the fact that some positive practices of gradual or temporary release exist in Europe, but that they serve the purpose of “deserving” juveniles rather than being a right attached to a structured and systematic rehabilitation policy. While it is understandable that young offenders who committed less serious offences, who behave better in detention and who are already on the track of socio-professional integration are more easily released, it is also important that others – who will be released sooner or later – also benefit from gradual or temporary release measures that will allow them to be better prepared, and possibly less harmful, when they exit the detention system.

The prescribed minimum duration of sentences to juvenile imprisonment in Serbia is six months “a limit which indicates that the legislator has considered the shortest period of detention necessary for achieving a certain effect during the enforcement of the sentence”<sup>39</sup>. This may hold true if, indeed, a variety of treatment programmes are offered, along with education and vocational schemes, as well as gradual and temporary release measures contributing to the desired “effect” of rehabilitation. More specifically, in Switzerland, custodial sanctions for juveniles are planned and implemented in several structured stages from intake and closed custody, to life in group in an open department, then in an external living group preparing for release and finally autonomous external accommodation and integration through employment.

<sup>36</sup> F. Dünket, *Germany* in Juvenile justice systems in Europe, *ibid.* p. 607.

<sup>37</sup> A- Pitsela, *Greece* in Juvenile justice systems in Europe, *ibid.* p 661.

<sup>38</sup> E. Varadi-Csema, *Hungary* in Juvenile Justice Systems in Europe, *ibid.*, p 708.

<sup>39</sup> M. Škulić, *Serbia* in Juvenile Justice Systems in Europe, *ibid.*, p1232.

Interestingly, *“the programmes and concepts of the institutions dictate the minimum periods that each phase lasts for. These time spans can be extended should the individual development of the juvenile require it. Remissions to previous stages are also possible, which would for instance be the case if a young person in an external living group has difficulties coming to grips with independence requirements and as a consequence fails to appear for work or returns to his/her habits of substance abuse”*<sup>40</sup>.

Short custodial sentences appear to have become an obstacle to meaningful and gradual rehabilitation and reintegration purposes. While detention must be *“used only as a measure of last resort and for the shortest appropriate period of time”* (CRC art. 37, see part I on General principles and prerequisites), a well-planned stay in a system of gradual custody, involving the full respect of children’s rights, the promotion of their personality and dignity, and the provision of a comprehensive set of measures and programmes, is clearly more beneficial in most cases than short sentences in a non-rehabilitative, or even destructive, setting.

## E. Monitoring, evaluation and research

In Europe, there appears to be a lack of meta-analyses, notably because cross country comparative analysis is impossible in the absence of common standards and data. This is sometimes even true at country level, where no comparable national data exist (e.g. Belgium) to enable comparative monitoring and evaluation. Monitoring and evaluation at country level follow very diverse criteria and objectives. Interesting studies have often focused on the evaluation – and intended validation - of individual pilot methodologies, in comparison with the existing systems. In addition, specific rehabilitative components of the services provided by closed institutions or by the juvenile justice system as a whole are rarely monitored separately. For instance *“sadly, there is no routine reporting about the running and results of schooling and vocational training measures for juveniles in Austrian prisons. The practice of medical treatment or treatment with psychotherapy with juvenile prisoners is equally poorly documented”*<sup>41</sup>.

One valued element of evaluation is the impact of imprisonment on the criminality of the youth concerned. Recidivism rates after release (or rather, reconviction, which is more easily measured than actual recidivism) is said in various studies to range from 50% to 80%. Evaluation and research on variations depending on the rehabilitative services and measures offered were first developed across the Atlantic Ocean, although some valuable longitudinal and other studies have also nurtured European practice and policies.

<sup>40</sup>. D. Hebeisen, *Switzerland* in *Juvenile justice systems in Europe*, *ibid.*, pp. 1408-1409.

<sup>41</sup>. K. Bruckmüller, A. Pilgram, G. Stummvoll, *Austria* in *Juvenile justice systems in Europe*, *ibid.* P.92.

After the “nothing works” theories of the 70ies, a series of meta-analysis were carried out in the United States between 1985 and 2000 to investigate the effects of existing interventions on recidivism. Altogether hundreds of programmes and delinquency surveys were reviewed. While their results and interpretations varied, they appeared to demonstrate that “treatment programmes” do have an effect on a good proportion of juvenile offenders, and are therefore better than no treatment, and that the ones that are “*structured and behavioural, and incorporate the juvenile’s functioning in his or her immediate environment (e.g. systemic or family treatment) seem particularly promising*”<sup>42</sup>. More interestingly, Lipsey<sup>43</sup> showed that the fact that treatment would take place in an institutional or in an open setting, made a smaller difference than, for instance, the treatment provider or modality. The finding that structured programmes are more efficient in terms of recidivism was confirmed regardless of whether the programme would be run in a residential or a community-based setting. Finally, he showed that “shock incarceration” and “scared straight” programmes had a negative effect on recidivism.

In Europe, a growing number of countries are producing recidivism data on a national scale, which are used in evaluation and monitoring of rehabilitation factors and measures. However, and beyond methodological concerns<sup>44</sup>, the use of such data should be carefully weighed and put in perspective. The landmark longitudinal Tübingen Criminal Behaviour Development Study<sup>45</sup> has clearly shown how the impact of treatment in terms of recidivism should not be measured in the short term (the standard 2 years observation period being considered short), but rather as contributing to a “fading out” process – which can take years but be more or less effective still, depending on the support provided to young offenders.

When studying co-variables of getting out from a criminal career, the Tübingen study identified the following most relevant factors of desistance: 1) getting away from problematic peers, 2) managing alcohol problems 3) starting a meaningful job and 4) entering into a (new) meaningful and emotionally stable partnership, marriage or eventually family of its own. Programmes that enable and empower young people to move in these directions are the most effective.

This type of evaluations and research, as well as the accountability of the State to ensure that most effective rather than most politically popular programmes are offered should continue to be developed in Europe.

<sup>42</sup> K. Heilbrun, R. Lee, C.C. Cottle, Risk factors and intervention outcomes, Meta-analyses of juvenile offending, in *Juvenile Delinquency*, *ibid.*, 2005, p 131.

<sup>43</sup> Lipsey, *Juvenile Delinquency treatment : A meta-analytic inquiry into the variability effect*, *ibid.* 1992.

<sup>44</sup> See for instance, C. Freindship, A.R. Beech and K. Browne, Recidivism as an outcome measure in research. A methodological note, *British journal of criminology*, Vol 42/2, pp. 442-444, 2002.

<sup>45</sup> See for instance, H.J.Kerner et al., *Crime prevention prospects and problems: the case of effective institutional versus community-based treatment programmes for prevention of recidivism among youthful offenders*. Resource materials series N°68.

## 5. Key components of successful reintegration approaches

Without pretending to offer a comprehensive review of good practices, evaluated and tested across Europe, the last part of this paper intends to point out emerging approaches that are reported to be especially valuable by civil society organisations active in the rehabilitation of young offenders. More than specific projects or measures, the focus is on approaches, programme components or factors of rehabilitation that should be further promoted and developed.

One summary of the key characteristics of such programmes could be that they should be *holistic, dynamic* and *participatory*. Indeed, common practice is often too focused on one aspect (e.g. vocational training) at the expense of other factors of rehabilitation that are as important (e.g. social networks). There is also generally a lack of periodic reviews and adjustments, because tailored and changing programmes are more demanding on staff and mobilise a multiplicity of partners and rehabilitation agents. As a result, many young offenders tend to go from one short custodial measure to another after programme failure and re-conviction, which in the end is more of a burden on the juvenile justice system, on society, and on the child, than a dynamic yet coherent and long-term individualised programme would have been. Finally, consultation and co-implementation or even co-management of rehabilitation programmes with young offenders, or former young offenders, tend to have a multiplier and longer-term empowerment effect than traditional ones.

The following key objectives or principles appear to guide most promising programmes:

### A. Guaranteeing integrated and interdisciplinary work

The necessity for individual case-management has long been advocated in the field of social work and clearly applies to juvenile justice. One issue is, though, that the role of case-manager tends to be somehow transferred from one agent of the system to another, at various stages of judicial procedures. In addition, despite technological and methodological tools at their disposal, juvenile justice professionals still complain from the lack of background information they have, for example when receiving a young offender into custody and/or care. The principle of having a central referent able to convene (and inform) the different professions and partners in the reintegration process of the young offender needs to be established or restored in many countries. The key is that a shift – or at least a better linkage and increased focus – may need

to be made from a case-management of the judicial decision-making and implementation process, to a case-management of the reintegration process.

Instead of responsibility for the implementation of a judiciary measure being mainly placed on one (often custodial) institution, responsibility for managing interdisciplinary interventions and stages in the reintegration process can be placed on a case-manager collaborating with various institutions and services. This may help to bridge the gaps often observed between psychosocial and educational work, between mental health needs and detention regime, between training and motivation or follow-up placement, etc.

For such a system to operate efficiently, the continuous exchange of ideas based on dialogue and communication between stakeholders is fundamental. It must be founded on a common language in order to offer terminological clarity, above all in the field of intervention. In this context, in Europe, NGOs have an increasingly important role, being able to operate with a degree of flexibility which allows them to facilitate and manage contacts across the territory in a dynamic way and to capture emerging needs and opportunities to timely set up interventions without the restraints of rigid institutional setups.

The involvement of NGOs operating appears therefore essential in the development and monitoring of activities targeted to the social reintegration of adolescents in conflict with the law. NGOs can position themselves as complementary rather than in substitution to the public sector offering immediate, effective and efficient responses based on cooperation among various services with common and shared goals. This allows them to offer interventions which take into account the continuously changing needs of children and young people, well as the specific conditions of each territory.

To take one example, the Work-Wise methodology developed in the Netherlands, with participation from all the 14 Judicial Custodial Institutions of the country since 2007, stands for an “integrated approach, individual attention and chain-oriented cooperation”:

*“A Work-Wise routing uses a fixed step-by-step plan to lead youngsters from (Judicial) Custodial Institutions to labour, training or a day programme with the support of a sound social network and a good place to live. The Work-Wise model consists of fixed, consecutive phases that are marked by achieved transitional targets. Within the phases, the Individual Routing Counsellors and behavioural experts use tools and interventions as they see fit to ensure that the youngsters’ individual routing targets can be achieved. (...) Guidance along the routing means that the Individual Routing Counsellor at certain times directs, monitors, coordinates and executes the routing in consultation with the youngsters. Organising and*

*coordinating the efforts be the external chain partners and internal cooperation partners are also essential elements of the Individual Routing Counsellor's task (...) There is little point in discussing youngsters' career options for the future if they are currently dealing with issues about their own sense of security/safety or about their relationships with their parents and friends. In the Work-Wise model, controlling skills in the area of independent living, social networks and leisure is an important condition to achieve results at school or work"<sup>46</sup>.*

The Work-Wise routing consists of 4 basic phases: intake and planning (using validated diagnostic instruments to come to a routing plan), inside implementation, inside/outside transition implementation and outside implementation. In such a system, gradual release or leaves outside the institution are not passively implemented as a routine measure or as a right that the inmate simply enjoys, but are also used for him/her to test and apply newly acquired skills and reach planned objectives. There is a dynamic to each phase, rather than a mere application of regulations based on good or bad behaviour.

Another Dutch best practice is the use of 'network and routing consultations'. Within a week after entry in a juvenile custodial institution, the youngster will be discussed in the *network consultation*: a consultation in the custodial institution where the youngster stays, the Child Protection Board and youth probation services. The aim is to gather information, evaluate the time to be spent in the institution and divide tasks regarding the personal plan and aftercare.

Two weeks after the network consultation, the routing consultation takes place: a consultation in the municipality where the youngster lives among all the earlier mentioned parties plus a representative of the local government. The aim is to make arrangements for the counselling of the youngster and his/her parent(s). In this way, a coordinated approach between all social partners can be achieved.

Collective ownership of such methodologies and corresponding case-management appear to avoid the contradictions and discontinuity in decision, action and information that many youngster face in juvenile justice. At the same time, they allow an important degree of participation and responsibility of the youngsters in the determination of objectives and outcomes. Institutions are not merely implementers of short-term judicial measures, but have become central agents in long-term successful outcomes.

<sup>46</sup> Work-Wise – The Routing, presentation in English, see: <http://www.work-wise.nl>.

**A word on reintegration from practitioners : Istituto don Calabria, Comunità San Benedetto, Italy**

*The social reintegration of the adolescent in conflict with the law should be considered as a strategic and central element for the implementation of educational projects able to activate the future conditions of legality. The analysis and assessment of discrimination factors related to juvenile offenders have highlighted the need to develop joint actions by the different stakeholders who have the task to contribute to the process of growth and social reintegration.*

*In terms of intervention models, the objectives to be achieved concern mainly the definition of sustainable paths suiting to minors' needs and able to activate the resources of social actors operating in different territories in order to develop circuits of real integration and inclusion targeted to juvenile offenders. Within this context, the issue of employability acts therefore as an engine for the development of personal and social responsibility in relation to judicial and treatment policies. A further end goal relates to the identification of different development factors in the approaches and in the networking and cooperation processes in order to promote a real rehabilitation and inclusion of the adolescent in conflict with the law through the planning and implementation of specific/tailored paths. From such a perspective, the ability to assess and address the key issues relating to policy choices and modalities of implementation and development, basing on the comprehension of context's potentialities, limits and perceived needs by intermediate and final beneficiaries becomes fundamental.*

*According to our experience, approaches and programs aiming at the full social reintegration of young offenders should:*

- *Assess the profile of the minor and his/her condition in order to individualise and define the programme that better suits his/her needs and supports his/her own life-project through an adequate educational path, with the involvement of competent institutions for a real and successful social reintegration. This involves a strong qualitative knowledge of the offender, including his/her needs, expectations and desires, personal skills and abilities always, as well as personal background (individual, family and social contexts);*
- *Strengthen individual skills in order to allow young offenders to recover an active role through social and professional autonomy, personal attitudes, predispositions and abilities;*

- *Promote and support the establishment of methodological and procedural protocols and agreements able to produce new forms of support to social reintegration in a “network perspective”;*
- *Strengthen the skills of public and private operators towards structural and functional integration;*
- *Support organizations and systems in the definition of a joint vision and planning of efficient social re-inclusion strategies targeted to young offenders.*

## B. Preventing institutional dependency and ensuring continuity of care

Like all persons living for a certain period in a collective setting, young offenders in custody run the risk of developing (or confirming) a tendency to passivity and dependency towards the responsible adults and towards the institution. While this is an issue in itself, which should be addressed and prevented at all cost, it is also connected to the corresponding responsibility of the institution and the system not to “let down” the youngster when he/she comes out. Hence prevention of institutional dependency must go hand in hand with continuity of care. The more institutional dependency will be avoided, the more continuity of care can be a light, natural and successful process.

As highlighted by Altschuler, unfortunately, what is traditionally expected of youngsters while in custody (obedience, passivity, sense of hierarchy) is often at the exact opposite of the skills and competencies needed to survive without care and support when coming out (initiative, risk-taking, networking). In parallel to that, *“it is frequently the case that residential and aftercare services are driven by competing priorities and concerns and are not linked together in practice by an overarching strategy reflecting a common orientation and approach. (...) Typically, residential and aftercare services operate largely on their own, without much consideration of what has occurred before hand or will happen afterwards”*<sup>47</sup>.

Hence, on the one hand, key elements of custody must be carefully weighed and planned so as not to nurture inmates’ dependency. These include: the duration of custody, the conditions of custody, the regularity and type of contacts with the outside world, the possibility to develop life skills, and individual participation and responsibility in activities and daily life in custody.

<sup>47</sup>. D. M. Altschuler, *Rehabilitating and reintegrating young offenders: are residential and community aftercare colliding worlds, and what can be done about it ?*, Justice Policy Journal, vol. 5- 1 Spring 2008.

On the other hand, continuity of care includes five essential elements<sup>48</sup> which should prevent change from custody to after-custody from being too radical and lead to social problems and, potentially, recidivism: continuity of control, continuity in the range of services available or provided, continuity in programme and service content, continuity of social environment and continuity of attachment.

An additional basic element should also be the provision of facilities and material support for youngsters to be able to mix rapidly with the local community without being necessarily identified as former offenders and not to be pushed to commit offences for mere material reasons. In that respect, the experience of Denmark in terms of post-detention residence would be worth expanding: *“Pensions, which are often used for serving sentences when the offender is very young, are also used for persons (including juveniles) coming from prison. One pension that deserves individual mention is the pension in Skejby, which houses persons from prison and persons without criminal record at the same time. The pension simply rents out rooms to students and other juveniles who need a cheap place to live (...). Evaluation has indicated that, compared to others, fewer persons who were released through Skejby re-offended”*<sup>49</sup>.

For more comprehensive guidance, the juvenile justice field could also learn from child care policy-makers, practitioners and beneficiaries who have been struggling with the issue of residential care leaving for decades<sup>50</sup>, without being limited by the same political and moral obstacles which tend to affect debates around young offenders’ reintegration.

#### Encouraging the development of personal independence - Example of a therapeutic-social reinsertion programme in Poland

*The programme is conducted in the Therapeutic Juvenile Detention Centre for addicts in Bialystok, the only institution of this type in Poland. The rehabilitation programme is divided into three stages which reflect natural development stages, which these adolescents never experienced before: i) dependence on adults, ii) first independent choices, and iii) entering adult life.*

*The initiation, the first stage, consists of learning new rules of coexistence, planning future steps of reintegration and taking an independent decision: whether to participate in the programme or not. Only few of them refuse. At the*

<sup>48</sup> Frederick, 1999, quoted in D.M. Altschuler, *ibid*.

<sup>49</sup> A. Storgaard, Denmark in *Juvenile Justice Systems in Europe*, *ibid*, pp.352-552.

<sup>50</sup> See for instance: Preparation for independent living, briefing paper 1 (September 2009) and 2 (May 2010), SOS children’s villages, [www.sos-childrensvillages.org](http://www.sos-childrensvillages.org).

*second stage, the minor decides what he wants to work on. Sometimes these are matters of school and/or employment, and sometimes emotional issues. Some boys may try studying or working outside the centre. The main objective is to teach them to make independent choices, to show them that there is a dimension of reality in which they can decide for themselves. The third stage is individual work, through therapy and social reintegration, face to face with an educator chosen independently by the boy. The minor is being prepared for independent life in freedom. He can stay at the centre up to the age of 21, but sometimes educators agree to a longer stay, of even six months longer, if the therapy is still in course.*

*Boys work in groups and do everything together with their educators - homework, laundry, cooking. Both children and adults are obliged to follow the same rules. No one is privileged.*

*The team of educators is supervised which is unique in the institutional system of our country, but, according to the art of therapy it should be a standard.*

*The effectiveness of such methods is reflected in the statistics. During ten years of the realization of the programme 504 passes (going out of the centre) were given and only two boys were brought back by the police to the centre, none were even late! Another indicator of success is that 60 boys (out of 100) returned to life in society earlier and successfully. Article 90 of the Juvenile Law permits to place a minor outside the centre as a kind of parole. The minor lives in freedom, but the centre examines how he handles himself, whether or not he breaks the*

*law, or follows the rules. If he follows the law, he can be released after a year, and otherwise goes back in detention. The main objective of the programme is to let people out to be able to love and work.*

## C. Addressing the youth's offending behaviour and promoting factors of resilience

Much literature and research exist on the types of interventions evaluated as most effective to reduce recidivism such as interpersonal skills training and participation in a teaching family group home. In addition, Lipsey and Wilson<sup>51</sup> have “observed that institutionalised serious

<sup>51</sup> M. Lipsey and D. Wilson, Effective intervention for serious juvenile offenders a synthesis of research, Ibid., 1998.

*juvenile offenders apparently responded better to treatments that are more skills oriented and systemic, while non-institutionalised serious juvenile offenders responded more favourably to individual counselling. Interpersonal skills training, often involving a variety of components including modelling, role-playing, social problem solving, and social reinforcement, appeared to be successful for both groups of offenders, reducing recidivism rates by 42% for non-institutionalised offenders and 38% for institutionalised offenders”<sup>52</sup>. A number of specific “evidence based” methodologies are promoted such as the Aggression Replacement Training (ART), Reasoning and Rehabilitation (RR), Thinking for a Change (TC), etc.*

In Bulgaria, part of the young offenders who are directed towards social services for children and youth at risk, are placed in Resilience-based programmes to develop social skills, as well as school support and preparation for self-directed living. SAPI, supported by the OAK Foundation, has been training social workers and psychologist from these social service centers for three years in applying the Resilience approach at work<sup>53</sup>. This approach is foundational for programs on positive parenting, which include parents of children with problematic behavior<sup>54</sup>.

### The “Give and Take” prevention Scheme - An example from Northern Ireland

*The Scheme works predominately, but not exclusively, with care experienced young people (aged 16–21) from across NI who have been assessed as being unable to participate in mainstream training and employment opportunities. The aims are:*

- *to improve young people’s long-term employability by giving them appropriate support and access to work experience and training*
- *to improve the self-esteem and confidence of marginalised young people so that they can learn to live independently in the community*

*This is achieved in the following ways:*

1. *Induction and Assessment – where a work plan is agreed between the Scheme, the young person and the young person’s social worker, based on the needs, capabilities and aspirations of each young person and includes a formal introduction to the Careers Service.*
2. *Supported work experiences – Young people are offered opportunities to sample the world of work. ‘Work Prep’ offers young people the opportunity to ‘plan’, ‘do’ and*

<sup>52</sup> K. Heilbrun, R. Lee, C.C. Cottle, Risk factors and intervention outcomes, Meta-analyses of juvenile offending, in *Juvenile Delinquency*, ibid., 2005, p 130.

<sup>53</sup> *Resilience – how to apply it*, Sofia, 2010.

<sup>54</sup> Petrova, Nelly, *Can we make children more resilient? Manual for Parents*, Sofia, 2010.

*'review' a group task. 'Work Ready' sees young people on tester days in an employment situation of their choice while 'Work Able' offers young people the opportunity for extended placements with employers. Skills are learnt in such a way that they build self-esteem. Types of placement include; work with children, the elderly and people with disabilities, manual work, office work including computer training, plus catering and shop work.*

3. Essential skills - For the majority of young people on the scheme literacy and numeracy training or basic ICT training is required. All young people are assessed to identify level of need and are then offered training.

4. Training - Young people on the scheme can gain qualifications in Preparation for Placement and Employment Skills. Where appropriate they are assisted and supported to access job specific technical skills.

5. Social/cultural awareness - Young people are provided with the opportunity for positive social contact in a non-threatening environment. As well as formal work in areas such as gender awareness and cross community issues, we attempt to provide a flexible programme structure that can respond to the needs of young people as they arise (e.g. crisis situation, shared group work, leisure activity).

6. Mentoring - The mentoring relationship will focus on the personal development of the young person (i.e. interpersonal, independence, and coping skills). The relationship with the mentor will assist the young person in setting and achieving personal goals that will help them towards sustained employment.

7. Employer Liaison - We will develop relationships with employers in both the public and private sectors to increase awareness and to help them create a supportive working environment for our young people while on placement. This may include the provision of employment mentors with them.

8. Move-on - through the Careers Service young people are supported to access mainstream opportunities including Training for Success, full and part-time further education and employment. Between April 2009 and March 2010 73 young people left the scheme. 30 (41%) moved on to education/training/employment, 7 (10%) were referred to careers, 7 (10%) were applying to jobs/courses, 6 (8%) left because of family commitments and 22 (30%) left for other reasons: lack of interest/ refused to engage (15), ill health (3), and prison(4).

*The scheme acts as a positive experience for such young people who characteristically have been treated as “no hopers” by one institution after another. Their experience of success can be transferred from one situation to another as they start to believe in their own capabilities. The approach is driven by individual needs, supporting a young person to take small steps that will eventually lead to progress rather than confronting him/her with an unrealistic challenge. Flexibility is built into service delivery and provision is not linked to academic year or rigid attendance rules. The interactions are held in venues that young people feel comfortable in. We and celebrate achievement and ensure that all participants leave the scheme with something tangible.*

Beyond these different methods and branding, civil society organisations report that what matters is that the youth’s offending behaviour is acknowledged, narrated, and discussed so that his/her life experience is not denied as an unlawful past, but revisited in terms of remaining emotions, related behaviours and actions. Experiences of violence, both as victim and as perpetrator, are especially important to unravel. To preserve or restore their sense of dignity and identity, it is key that youngsters are not simply trained or cognitively “re-programmed” to behave lawfully, but heard and accompanied to understand themselves and find meaning both in their past and their future life.

The positive element emerging here is therefore that offending behaviour is now becoming addressed and not simply repressed, but the success of current behavioural approaches should not limit or overshadow other experiments and methodologies doing so too. Their scope should also be better adapted to changing circumstances.

Experience from Sweden, for instance, is that the measures offered to young people for reintegration are too often limited to drug or alcohol treatment. Juvenile justice professionals witness that this is not sufficient and that criminality as such should be better taken into account. While drug or alcohol abuse is a cause or consequence of criminality, if an established “criminal way of life/thinking” (peer relations, sense of legality, violence, role models, easy access to money, etc.) is not taken care of, the youth will be relapsing soon or later. Within this attention to criminality, more refined age and gender specific approaches must be taken.

Moreover, the fact that youngsters are recruited as members of criminal gangs is a growing trend worldwide and in Europe which is only starting to be addressed. This issue is very severe and cannot be handled with the current available means as most European States do not have *exit programs*. The issue is of utmost importance as many youngsters face violent death, while

the costs of gang criminality are extremely high for the entire society. There again, current programs focusing on drug or alcohol treatment are absolutely insufficient.

On the protective factors' side, the development of positive support networks and stable emotional ties has been long recognised as being key to reinsertion. Yet again, one type of such positive relationships is worth mentioning and supporting. Youth led projects and networks of former young offenders acting as agents of their own and their peers' reintegration are developing. For instance, the project Unga KRIS<sup>55</sup> in Sweden supports youth between 13 and 25 years in "danger zone". The basic concept that guarantees the success of the organisation is that the young members themselves take part into running the organisation and planning of the activities under supervision form adults. Today, it has 17 local branches in Sweden, collaborating with local authorities to provide aftercare, job placement, leisure free of drug, and various prevention activities. The specificity is that with its intrinsic knowledge of the reality of youth crime, but also youth values and areas of interests, the organisation closely relates its actions on offending with its understanding of substance abuse prevention needs.

Becoming part of such a movement can allow a child or a young person to actually go beyond what would have been the case should he/she not has offended. Such projects are transforming a negative experience (offending) into a new identity and role (support to others), beyond mere recovery or social reintegration into the previous environment. This is a typical example of resilience-building from a psychosocial standpoint which can be programmatically supported for entire groups of youths, rather than being left to chance and individual trajectories of former offenders.

#### Why "develop the social skills of minors" (the DSA program)? – Practice from Romania

*The program "Developing the social skills of minors" (DSA) is part of the MATRA project – Social reinsertion of the juvenile delinquents: introducing community sanctions in Romania. It was implemented in three pilot areas – Arad, Iasi and Brasov – in Oct. 2006-April 2007 with minors who executed sentences of liberty under the supervision of probation services, as well as minors in detention. The 10 working sessions were based on: verbal and non-verbal communication; listening and talking; rules, obligations and relations with the authorities; saying "NO"; emotional behaviour; being upset, getting involved into a fight; self-assessment; decisions and negotiations; spending time off, friends and sexuality; introducing yourself and evaluating yourself. The programme was adapted to the beneficiaries, keeping their imagination alert and*

<sup>55</sup>. See: <http://www.ungakris.com/pdf/ungakris%20eng%202010.pdf>.

*improving their empathic abilities and communication skills. It has shown the distance existing between the reality that we want for children and the daily reality they live in. It received good feedback from beneficiaries, who demonstrated positive behaviours and values, maintained contact with normality, gained social skills and received necessary information on emotional and sexual life.*

*And also...*

*The mobile school – a school for everybody: In Dec. 2007 – Sept. 2008, Save the Children developed in partnership with the Penitentiary from Iași which aimed to improve psychosocial services provided to children and youth deprived of liberty.*

*Riding on bicycles - The rehabilitation centre from Găești and the Pitești Faculty of Physical Education and Sports: the "Educosport" project, aims to study the impact of physical education and sports on the rehabilitation of children deprived of liberty.*

*Community participation: The celebration of several feasts has become a tradition at the Rehabilitation Centre from Buziaș, as events anxiously expected by the institutionalized children who prepare artistic programs, cultural performances and gifts for children coming from disadvantaged environments. Penitentiaries from Craiova and Tichilești have also developed such community-based activities.*

*Remunerated activities: The rehabilitation Centre of Găești has concluded an agreement with a refrigerators factory. The advantages for the minors include the exit from the centre - the road to the factory being considered a daily "adventure".*

*Individual assistance and counselling to detainees' families: Prison Fellowship Romania (PFR) offers psychosocial services. In Buziaș, children can be called weekly by their parents and accommodation is offered to parents who want to stay over night. In Găești, 50% of the money earned by the children following a remunerated activity, which by law belongs to the centre, is used partly to buy phone cards. The oecumenical Association "New Life" pays for the travel tickets of needy parents to visit their children and participate in the preparation for release program.*

*Post-sentence assistance for social reintegration: The Centre for Minors from Tîrgu Ocna has developed "Guidelines on release" covering: obtaining ID papers, driving licence, studying, employment, contacting support institutions and doctors. PFR provides psychosocial, vocational and legal assistance, including the development of life skills and accommodation in social apartments.*

*Day-care centre: Children from Cluj-Napoca not held criminally responsible but registered with the Delinquency and Abuse Service within DGASPC, (i.e. below 14 years, or found not to have discernment) and their parents can receive support.*

*For more details, see: Save the Children Romania, Collection of Best Practice on Child Special Protection Measures, Bucharest, October 2008*

## D. Opening up realistic and fair socio-professional perspectives

As mentioned before, in order to avoid failure or waste of resources, it is of utmost importance that education and training activities are planned with each young offender, in connection with addressing his/her other often more pressing issues. There has to be - and are - some changes in the way education and vocational training is offered in prison. The offer of such measures in prison cannot be very effective if it is not combined with further coaching and addressing the other problems of the juveniles during and after release. There is also a need to improve the measures themselves to find adequate ways of transferring knowledge and learning to this group, notably through: e-learning, informal learning (music, theatre etc.), motivation training, learning by doing and other non-traditional strategies.

Additionally, there is a strong need for research in this field to find out which measures and especially which forms of organisation of learning (educational strategies) fit this group best. In the last decades, many projects and measures improving the way education and training have been offered in youth prisons and during the transition from prison to liberty. There have been some developments in the diagnosis and assessment of risks and special needs in this field, as well as a growing awareness of the multiple problems juvenile prisoners face in their lives. This has led, for example, to measures of occupational therapy (improving concentration skills and control behaviour) being combined with some forms of basic educational learning in special settings or environments. European Programmes, such as EQUAL, the Life Long Learning Programme, and others, supported by European Social Funds (ESF) have helped this development. This has meant real change taking place in prisons. Further developments are taking place, and some more are needed. For instance, in Germany new laws on juvenile detention make some concessions in education and training offers in prison, and better transition from prison to liberty.

In the context of the ESF-funded projects some preliminary evaluation are taking place in which the particular situation of young offenders could be better researched, with less focus on re-offending rates and more focus on other aspects of social and personal integration.

The ExOCOP<sup>56</sup> promotes this approach by disseminating results and good practices, and by formulating recommendations in this field<sup>57</sup>.

Juvenile offending takes place in communities, and is also influenced by the state of each of these communities. So, some work on community crime prevention as part of urban development and upgrading of the quality of life in suburbs is also needed, with a focus on 'learning networks' organising the offers on education and training in the community.

Previous achievements should be valued to avoid a sense of denial or repetition and material or administrative obstacles to reintegration need to be carefully avoided, as they are often the trigger to backward steps and, eventually, recidivism. In that respect, civil society service providers have noted that clearing the administrative situation of the youth is of utmost importance although it is often neglected, as well as anticipating future housing, means of transport, as well as leisure and hobbies development.

In order for the former young offender to fully benefit from all these elements, time is of the essence. Often, despite adequate provisions, the youth won't immediately behave as expected, which in many systems will result in a reduction of support services or provisions, contributing to the spiral of recidivism. It is therefore essential that these elements be maintained, and combined with support for the youth to develop or re-build a new "social capital" which ultimately will become his/her strongest asset, far more important than primary housing and employment needs.

Finally, one element that typically jeopardises the carefully re-built world and balance of former young offenders is their criminal record. While it is understandable that certain crimes require to be recorded so as to ensure public safety, those should be very specific and are generally committed by a limited group of high risk offenders (e.g. sex crimes). However, as the campaign of NACRO (UK) put it "*Thousands are denied jobs every year due to outdated criminal records*"<sup>58</sup>. This campaign does not only aim at changing British law and practice in relation to criminal records, it is also a positive movement providing tips to job seekers and employers, good practices, resettlement helpline, etc. As a result, in its Green Paper published in December 2010, the British government reportedly pledged to reform the Rehabilitation of Offenders Act and to review criminal record check systems. There is no definite timetable for this review, but some of the considerations are to reduce the amount of time that it takes for an offence to be spent and, for the amount of roles that are liable for checks to be reduced.

<sup>56</sup> European Ex-Offender Community of Practice, see: <http://www.exocop.eu/>.

<sup>57</sup> Such recommendations will be publicised at the final meeting of the European Policy Forum to be held with stakeholders of relevant Member States, ministries and intermediate bodies, such as prison administrations, and European professional organisation on 2-3 February 2012 in Berlin.

<sup>58</sup> See NACRO's national campaign: <http://www.changetherecord.org>.

## Essential recommendations from the field – A testimonial from Greece

### Living conditions within detention facilities

*As prison teachers, our experience through the daily encounter with our students has shown us that, although they come to school in the morning and leave in the early afternoon, we are not able to discuss ideas and moral values, or address cognitive issues and ethical dilemmas to the extent we would like to, if the previous night this youth was mistreated (in the best case scenario) or even brutally savaged in the cell he/she shares with 2,3,4, or even many more, inmates.*

*Reintegration cannot be achieved when during the first half of the day, the prisoner becomes a student, relaxes, behaves in a respectful-towards their teachers and/or classmates-way, and during the second half of the day he/she has to go back to being tough, cruel and even violent in order to adhere to the rules of the prison and, thus, ultimately survive the prison.*

*Governments must create better living conditions, which will include one cell for every minor/young offender-this cell should be their sanctuary (with even just the basics: a bed, a desk, a bookcase and a small bathroom). This way we ensure that when the door closes behind them, no one will be able to harass them-we protect them from even the slightest harassment, not to mention the more violent ones. There are countries in the E.U. where prison cells house 10, 20 and even more inmates-this should end. The same situation of course, does not apply to all countries in the E.U. In some countries, the goal "one cell for every inmate" has been achieved-this practice should become a reality in all countries of the European Union, and across Europe, too.*

### Criminal records of minors and young offenders

*We, as teachers in schools that operate within prison institutions, struggle to inspire and urge our students to fight through education for a better future. And despite having been lucky enough to see some of our students attend and graduate from University, it is hard to convince them to attend school, because they know it will be difficult -if not utterly impossible- for them to find a job despite their qualifications. For example, a student who has graduated from an Economic University knows that he is more likely to be offered a post as a cleaner rather than as an accountant.*

*Let's not hide under false pretences; underage and young offenders serve their time, but society practically imposes a second, heavier sentence on them: lifelong deprivation*

*of employment. In order for their reintegration to become a reality, the right to employment should be guaranteed - something which is impossible because of their criminal record.*

*Governments should assist minors and young offenders by 'erasing' their criminal record, when the latter is requested for by a potential employer - even if the employer is the state itself. There should of course be exceptions to this; for example, when a sex-crime convict applies for a position in the education field. Many countries have taken steps to improve the legislation concerning criminal records, but once again this should be realized in other European countries as well.*

## 6. Conclusion

As we have seen, the absence of re-offending is only a relative and a very long-term indicator of reintegration. As such, the rate of recidivism is a challenging evaluation criterion of reintegration policies and programmes. However, evaluated practice from a number of countries and field experience from civil society players have allowed to determine a number of elements and approaches which appear to contribute to higher levels of reintegration and, ultimately, non-recidivism than punitive custodial options lacking individual support and aftercare.

At the other end of the prevention spectrum, European societies need to continue strategically investing in the social integration of all vulnerable groups at macro level, so that juvenile justice systems are not left in isolation to address root causes of offending such as dire socio-economic situations, cultural and educational gaps, psychosocial and mental health issues that are beyond its realms.

While all children and young people may benefit from existing anti-poverty and active inclusion<sup>59</sup> strategies, the specific reasons why some of them become offenders may not be fully addressed. Sen and Nussbaum's concept of "capabilities"<sup>60</sup> have emphasized the importance of functional capabilities, such as values and access, as opposed to the focus on utilities in development agendas. They have redefined poverty as capability-deprivation

<sup>59</sup> Commission Recommendation of 3 October 2008 on the active inclusion of people excluded from the labour market (notified under document number C(2008) 5737).

<sup>60</sup> See: Nussbaum, Martha C. (2000) *Women and Human Development: The Capabilities Approach* (Cambridge University Press, Cambridge); Nussbaum, Martha C. and Amartya Sen, eds. (1993). "The Quality of Life" Oxford: Clarendon Press; Sen, Amartya K. (1979) 'Utilitarianism and Welfarism', *The Journal of Philosophy*, LXXVI (1979), 463-489. Sen, Amartya K. (1985). *Commodities and Capabilities*. Oxford: Oxford University Press.

and, thus, as a lack of opportunities. This approach, taking into account both personal and social circumstances may be better tailored to target the combination of psychosocial and socioeconomic causes of exclusion and, potentially, of offending displayed by some young people.

Recent criminological research on risk factors of juvenile offending and anti-social behaviour<sup>61</sup> may also shape future crime prevention policies. However, risk factors are so high and cumulative as the expression of the difficulties faced by socially excluded groups that their identification may further stigmatise these groups. More promising research focuses instead on the protective factors that enable children facing similar difficulties not to offend<sup>62</sup>. More can also be learnt from research on recidivism among groups with very high risk status highlighting most effective interventions<sup>63</sup>. Still, crime prevention strategies developed in an environment where social exclusion continues to thrive are not sustainable.

Finally, a rights-based approach to children and adolescents – connected to but much more holistic than non-discrimination or equity agendas – would ensure that young offenders are entitled to an array of benefits and services that favours their reintegration, rather than being gradually excluded from these as their judicial status negatively evolves.

We must ensure that, while being alleged as, accused of or recognised as having infringed the penal law, all children and adolescents remain considered first and foremost as subjects of rights and agents of their own lives.

<sup>61</sup> See, for instance: R. Loeber, N. W. Slot, P. van der Laan and M. Hoeve, *Tomorrow's criminals - the development of child delinquency and effective interventions*, Ashgate, UK, 2008.

<sup>62</sup> "Another topic of much debate is the manner by which protective factors achieve their risk-reducing influence (e.g. Clayton, Leukefeld, Donohew, Barrow& Harrington, 1995; Hoge, Andrews&Leschied, 1996). The results of separate lines of research suggest that protective factors may reduce the likelihood of a negative outcome in two ways. First, protective factors may reduce the negative effects of risk factors by interacting with and moderating the risk factors (Clayton et al., 1995). Second, protective factors may exert an independent influence on the negative outcome, regardless of whether risk factors are present (Hoge et al., 1996)." .D. DeMatteo and G.Marczyk, Risk factors, protective factors and the prevention of anti-social behaviour among juveniles, in *Juvenile Delinquency*, Oxford University Press, 1995, p.21.

<sup>63</sup> M. Lipsey, *Juvenile delinquency treatment A meta-analytic inquiry into the variability effects* (1992), *Can interventions rehabilitate serious delinquents?* (1999), and M.Lipsey and D. Wilson *Effective intervention for serious juvenile offenders: A synthesis of research* (1998).

### A rights-based integration model - Fundación Diagrama, Spain

*The integration model that is carried out at Fundación Diagrama's centres introduces a logical progression towards the preparation of young people for their integration to the community as responsible and independent citizens, always respecting universal children's rights. Key components are the following:*

*- This preparation begins from the child's first day in custody. This model is carried out through an Educational Project in all areas of daily life at the centre. This translates into a holistic approach; schooling, training, integration, health, family, and leisure time, amongst others.*

*- The staff and child work together on his/her Individualised Integration Programme. The members of staff are professionals whose main objective is to prepare all children and young people for their future release so that they can achieve social integration.*

*- The methodology is child-focused and it involves the young person as well as their family and the community, and addresses the different aspects that have led the child to committing an offence.*

*- It is essential to ensure that the work carried out at the centre is continued once the child is back in the family environment. Staff also provides support and tools for families to cope with their child's situation.*

*- After intensive work at the centre, at some point during his/her sentence (depending on risk assessment, stage on the rewards system, legal and individual characteristics, etc.) the child is allowed to carry out some of his/her activities in the community (be that education, schooling, education, leisure, family activities), where young people can prove their progress and preparation to be independent citizens.*

*- In addition, there is excellent coordination between community resources and the centres so that every young person has access to the same resources as any other young person in the community.*

*- It is important to ensure continuity in the after-care, when children and young people go on release. This is key for their proper integration. It allows staffs who have already built a relationship to continue the support facilitated at the centre, through a three-year follow-up program.*

*This project has supported 4,310 young people since it started and has achieved very significant results. For instance, 272 young people attended a total of 48 training courses inside Diagrama's Centres and 804 young people undertook 555 external training courses; 208 young people had work experience in different companies. Furthermore, with regards to insertion in the job market, 748 young people found a job, for a total of 908 contracts. All this was made possible through Diagrama's staff encouragement for coordination and collaboration with 1,078 different organisations and bodies, as well as 5,277 companies of which 638 signed a partnership agreement. Without all of those involved in the community, these figures would not have been achieved. Over 80% of the children and young people who participated in this programme were successfully integrated in the community.*

*The aforementioned intervention opens the doors to success and reduces the likelihood of re-offending. It is an innovative practice that could be transferred to other countries.*

## 7. Recommendations

### At European level

1. **Bring youth criminality on the EU agenda as a phenomenon to be addressed positively through EU programmes and funding accessible to NGOs**, rather than as a domestic or cross-border issue handled solely by member States.
2. **Establish a European platform on the social reintegration of young offenders** to revisit the existing outputs-based systems, regulations and practices, with a view to developing outcomes-oriented and holistic European standards on legal frameworks, capacity and coordination, programmes and measures, as well as evaluation, monitoring and research, fostering the reintegration of young offenders in all European member States.
3. **Develop European directives on the individualisation of education and employment options and outcomes for young offenders during and after custody**, with an obligation for responsible institutions to anticipate and ensure gradual transition to education or job placement outside, in cooperation with local partners.
4. **Support national strategies and projects which nurture integrated approaches and positive social networks of young offenders in custody**, including inter alia through the involvement of family members in restorative justice processes, family conferencing, home visits and preparation for release with families and important others of youth in custody, activities in custody targeting external audiences, proactive activities and involvement of local education, leisure, culture, media and business partners.
5. **Define modalities for young offenders to fully participate by having their view taken into account at all stages of the judicial procedure and of the implementation of the penal sanction**, through model participatory rulings of custodial settings (access and support to individual information, self-expression and representation, democratic and collective representation mechanisms, availability of choice, etc.) and support to youth-led aftercare and prevention initiatives.

**6. Encourage domestic legislative and policy changes to guarantee sustainable living options for young offenders coming out of custody**, in particular ensure the provision of integrated life skills programmes during custody, gradual release options and half-way accommodation, the enforceable right to housing after release, the mandatory provision by the justice system of aftercare counselling and administrative assistance, a system of criminal record and mandatory checks limited only to relevant issues for employment purposes and access to financial assistance.

**7. Establish a mechanism for exchange of good practices and the development of common and results-oriented indicators** to monitor national approaches and practices in the treatment of and support to young offenders, in line with European standards.

**8. Monitor the existence and quality of national policies and practice on the reintegration of young offenders**, based on existing information sources and the observations of international and regional human rights mechanisms, and use findings as one of the fundamental rights and justice criteria to be reviewed in progress reports of acceding and neighbouring countries, as well as within internal EU Justice, Freedom and Security initiatives.

**9. Foster cooperation between European institutions such as DG Justice, DG Employment, EACEA, DG Home Affairs, and stakeholders from civil society, associations and other bodies** (researchers, academic experts, etc.) to promote a multi-agency and holistic approach to the reintegration of young offenders, taking into account their specific issues as well as the cross-cutting theme of poverty and social exclusion, in order to promote and implement the best practices and policies available at EU level.

## At national and local levels

**10. Develop child-friendly justice**, notably by creating favourable legal frameworks and environment for child hearings ; Assisting children before and during judicial proceedings (including in exercising the right not to speak); Performing a control on the activity of ex-officio attorneys and developing awareness among them; Selecting and training specialized magistrates ; Raising children's awareness on their rights.

**11. Maintain children deprived of liberty close to their place of residence** and establish, inside the community, centres for the reception of children replacing police arrest or detention, when a preventive arrest measure is taken.

**12. Individualize activities and programs** for children deprived of liberty by taking into account children's opinions, ensuring their participation in the decision-making process related to their situation and adjusting the school curricula to their characteristics.

**13. Involve different stakeholders (public and private agencies), juvenile offenders, their families and the victim in the planning, develop and implementation of tailored approaches**, based on a "case management" approach, the involvement of all the above mentioned partners, ensuring the direct participation of the youth as key agent of the tailored educational project and the full respect of the victim.

**14. Promote educational and training paths to enhance minors' skills and competences for a full social and working reintegration** giving him/her the opportunity to experiment within a "safe" context and to build important relationship with peer group and adults. For that purpose, reshape current practices to embed education and training in judicial measures, giving due consideration to the youngsters' individual competences, needs and aspirations, adapting his or her skills to the surrounding labour markets and the views of prospective employers.

**15. Support specialised employability schemes** to provide training and pre-employment opportunities for custody experienced young people by informing potential employers on the untapped pool of workers these young individuals represent, by involving unions to prevent discriminations and help these youngsters find a job, and by encouraging national, regional and local authorities to provide prospective employers with financial incentives and tax benefits, as well as the public and social recognition of their work on corporate social responsibility.

**16. Determine the appropriateness and modalities of disclosure of criminal records to employers**, particularly in relation to juvenile cautions and convictions, other than Schedule 1 offences.

**17. Introduce and/or enforce the obligation to provide post-sentence assistance**, both for children coming from rehabilitation centres and for those who served a prison sentence and have been released on parole;

18. **Ensure that a coordinated aftercare system through** efficient, coordinated, integrated post-trial assistance systems, which include: probation services; county and local social assistance services, local communities (Local Council, Police, Educational Institutions, County Employment Agency etc); non-governmental organisations; private or state-owned companies, religious organisations.
19. **Monitor and test the objectives, effectiveness and educational value of reintegration projects on an on-going basis** so as to allow for modality changes based on the minors' needs and responses to offered opportunities and, secondly, on the basis of the resources available on the territory of reference.
20. **Develop overarching national strategies for young people who are no longer in education, employment or training**, including young offenders.
21. **Integrate substance abuse prevention programmes in late elementary school (age 0-11) and early secondary school curriculum**, with special attention too new drugs (like Mefedron) as well as alcohol consumption.

## 8. Key International and European references

### International Standards

- The Convention on the Rights of the Child (1989) (CRC), Article 40.
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules).
- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules).
- The United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines).
- United Nations General Assembly Resolution on Human rights in the Administration of Justice (11 Nov 2010) A/C.3/65/L.35/Rev.1
- General Comment No 10(2007) of the Committee on the Rights of the Child on Children’s rights in juvenile justice.
- General Comment No 12(2009) of the Committee on the Rights of the Child on the Right of the child to be heard.
- General Comment No. 13 (2011) of the Committee on the Rights of the Child on the Right on the Right of the child to freedom from all forms of violence.

### European references

- Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice – CJ SCH (2010) 12.
- 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.
- Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules.
- Recommendation No. R (89) 12 of the Committee of Ministers to Members States on Education in Prison.

- Communication from the commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “An EU Agenda for the Rights of the Child Communication on the EU strategy on the rights of the child 2011-2014”.
- Opinion of the European Economic and Social Committee on The prevention of juvenile delinquency. Ways of dealing with juvenile delinquency and the role of the juvenile justice system in the European Union. (2006/C 110/13).
- Opinion of the European Economic and Social Committee on Urban areas and youth violence. (SOC/316 - CESE 1206/2009).
- Recommendations for the Re-Integration of (Ex-)Offenders (EXOCOP for a European Recommendation).
- European Research on Youth. Supporting young people to participate fully in society. European Commission: Directorate-General for Research - Socio-economic Sciences and Humanities, Brussels 2009.
- Council conclusions of 11 May 2010 on the social dimension of Education and training (2010/C 135/02).
- Council conclusions of 19th and 20th 2011 May on early childhood education and care: providing all our children with the best start for the world of tomorrow.
- Green paper of the European Commission “Strengthening mutual trust in the European judicial area –A Green Paper on the application of EU criminal justice legislation in the field of detention”. Brussels, 14.6.2011 COM(2011) 327.

## Directives, communications and statements from EU Institutions

### Child poverty and social exclusion

- 2012 European Commission Recommendation and Communication on Child Poverty. In order to support stronger EU level policy coordination in the area of child poverty, the Commission adopts a Recommendation outlining a policy framework to prevent and combat child poverty, based on common principles and monitoring tools. Such legal, though non binding approach will strengthen the political basis for cooperation at national and European level. In line with TFEU article 292, the Recommendation will be adopted by the European Commission. It will be accompanied by a Commission Communication which will present the analytical foundations, the objectives and main messages of the initiative, but also propose <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=514>

## The reintegration of young offenders

- Answer of the Commission to a question asked by Michel Ebdner – Answer given by Mr Dimas, member of the European Commission, responsible for environment, on behalf of the Commission. Answer given on October 1st 2004. Stresses importance of reintegrating young offenders.

Question: <http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2004-1732&format=XML&language=EN>

Answer: <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2004-1732&language=EN>

- Juvenile Delinquency – Prevent and Rehabilitate says the Women’s Rights Committee. Published on March 20th 2007. <http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20070319IPRO4285&format=XML&language=EN>
- Tackling Juvenile Delinquency by Katerina Batzeli, Greek MP, Socialist. <http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20070606BRI07533&secondRef=ITEM-026-EN&format=XML&language=EN>
- Meeting at the CESE on Volunteering – they include ex-offenders in their objectives. <http://www.eesc.europa.eu/?i=portal.en.events-and-activities-volunteer-infrastructure>

## Employment

- Part of the Europe 2020 Strategy process – Communication from the European Commission entitled “An Agenda for new skills and jobs: A European contribution towards full employment”
- Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Modernising social protection for greater social justice and economic cohesion: taking forward the active inclusion of people furthest from the labour market – 17/10/2007 [http://ec.europa.eu/employment\\_social/social\\_inclusion/docs/2007/comm\\_620\\_en.pdf](http://ec.europa.eu/employment_social/social_inclusion/docs/2007/comm_620_en.pdf)
- Communication European Commission – 3/06/2009 - The Commission proposes a series of actions, including A commitment to provide at least 5 million apprenticeships across the EU for young people facing unemployment; and the setting of targets to provide young unemployed with early opportunities for training or work - Immediate help for the unemployed to avoid the risk of long-term unemployment and the loss of relevant skills, including proposals that an early opportunity for training or work should

be provided to each unemployed person: within 1 month for young people under 20 years old, within 2 months for those under 25 years old, and within 3 months for over 25 year olds. The ESF should support the achievement of these “new start” targets - Help to get the most disadvantaged back into jobs, for example, through lower non-wage labour costs, recruitment incentives and the promotion of low-skilled job opportunities in household and care services.

## Initiatives by other bodies

**White paper on Youth Policy** – initiative of the European Youth Forum.

The White Paper has two main aspects;

- Enhanced cooperation between the Member States;
- Taking more account of specifically youth-related factors in the EU’s sectoral policies.
- The priority issues under the new method include:
  - New ways of enabling young people to participate in public life;
  - A coordinated approach involving the Member States and the Commission;
  - An Internet portal will be launched in 2002 to give more young people access to reliable information on European integration;
  - Encouraging voluntary service;
  - The Member States will appoint national coordinators;
  - Giving more weight to the “youth” factor in sectoral policies.

## About IJJO and its EU branch, the EJJO

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

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

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

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European Commission - Directorate-General Home Affairs”*