



ALTERNATIVES TO CUSTODY FOR YOUNG OFFENDERS

NATIONAL REPORT ON JUVENILE JUSTICE TRENDS

France



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A. Juvenile Justice

A.1. Legal framework of juvenile justice.

A.1.1. Specific legal texts relating to juvenile justice

This term covers the **Ruling of 1945**, one of the rulings of 1945 in France, signed the 2nd February on young offenders.

It modifies youth courts created by the law of the 22nd July 1912 and the role of youth judges and clearly stipulates the primacy of educational measures over repressive measures.

This ruling was among the first measures taken, after the Liberation, by the provisional Government of the French Republic, under the presidency of General de Gaulle.

The 1945 ruling has been reformed on a number of occasions (34 times since its creation up until the 10th August 2007).

Initially, the 2nd February '45 ruling contained the following provisions:

- The creation of a body of specialised magistrates and youth judges, totalling one per court.
- The creation of a diminished criminal responsibility status for minors which cannot be derogated from apart from in exceptional circumstances and by reasoned decision. The notion of discernment is removed.
- The implementation of various educational measures and their monitoring. These measures may be conferred by the judge either on a service, a public establishment, or

on a structure within the charity sector: observation and education in open custody; placement with a host family, internment, semi-internment, or placement with a “trustworthy” individual; placement with a departmental child assistance service.

- The creation of posts for state employees specialising in minor re-education issues such as educators, doctors and psychologists.
- The notion of what constitutes a minor is modified: the distinction between minors aged 13 and those aged 18 disappears as well as the need for a different approach for those aged between 13 and 18. From now on, whatever the age of the minor, cases are examined and judged according to the same procedure.
- The Ruling reforms the minor criminal records register: the criminal records register is now only based on reports issued to magistrates alone, excluding any other authority or public administration. Complete removal of any record of the sentence passed is now possible, after 5 years have elapsed, so as not to damage the minor’s chances of being able to reform.
- The ruling contains significant modifications to the procedure for minors. The youth judge must - apart from under exceptional circumstances, justified by a reasoned order - carry out an in-depth investigation on the minor’s behalf, especially into the family’s material and moral situation, into the minor’s character and previous convictions, as it is more important to establish the minor’s true character, which will dictate what measures should be taken in their best interests, than the charges laid against them. To do so, wherever the case is referred to a youth judge or examining magistrate, these should in turn refer preferably to specialised social services attached to youth courts

The law which has brought the most modifications to the ruling of ‘45 is that of the 9th September 2002, which comprised 21 modifications, including 9 new articles which created:

- An obligation for the parents of a guilty minor to attend all hearings (article 10-1, reinforced by the law of the 10th August 2011).
- The possibility of judicial supervision for minors aged under 16 (article 10-2).
- The possibility of placing a minor in provisional detention if they do not keep to the supervision rules (article 11-2).
- The possibility to try and impose educational sanctions on a minor aged 10 (article 15-1).
- Closed educational centres (article 33).
- The suspension of child benefit for any parent of a minor placed in a closed educational

centre (article 34).

Act of 5th March 2007 regarding crime prevention also modified some of the provisions applicable to minors:

- Diversification and individualisation of measures available to judges, placements in far away educational institutions, extra school work, placing in boarding schools etc;
- The possibility of resorting to criminal law proceedings from the age of 13 (which would enable the prosecutor to plea bargain and so avoid criminal trials);
- The possibility of trying a young repeat offender over the age of 16 at the next hearing without having to wait for 10 days to elapse after police custody;
- The creation of a National Voluntary Service in the National Police.

In 2009, in a speech made at the French National School of Juvenile Judicial Protection, the then Minister of Justice, Michèle Alliot-Marie, spoke about the need to “improve the legality and the effectiveness of procedures” and to find appropriate responses to the reality of youth crime and said:¹

“The 1945 ruling has become impossible to read and due to its successive reforms, it will be replaced by a juvenile criminal Justice Code. The time to process cases is often too long. This leads to the wrongdoing being forgotten about, the educational purpose of the sanction is undermined and on occasion repeat offences even before cases are tried. New measures have been set in place to speed up procedures: direct judgement hearings, limits on the duration of some cases, and single judge juvenile courts for minor offences.

“A single personality file will bring together all the information gathered throughout the process and at the different stages of the legal process. Imprisonment of young offenders must remain the exception. For first-time offenders, alternatives to imprisonment must be favoured. If a judge imposes a prison sentence, the time spent in prison must be used as an opportunity to rebuild. To do this, we have to focus on education (...). With regards to repeat offender, there is no place for weakness.

Sanctions must be carefully graduated and must serve as deterrents. The special nature of juvenile Justice and should not be a guarantee of impunity for repeat.

With regards the need for improved corporation between all players concerned, she said: *“I’m thinking of parents. It is they who are naturally responsible for minors and their upbringing. They must be fully involved in educational initiatives. I am also thinking*

¹ Extracts from Speech made at the National School for Juvenile Judicial protection Monday 28 September 2009.

of the victims. Juvenile justice must better recognise their right to reparations and compensation.”

14th of April 2008. The Minister of Justice appointed Professor Andre Varinard President of the commission charged with submitting concrete proposals to revise provisions applicable to minors who have committed criminal offences. This report was published on December 3rd 2008 under the following title “Among fundamental changes and innovations: 70 proposals to adapt the juvenile criminal justice”.

The main areas of reflection are as follows:

- Ensuring the provisions applicable to minors are more legible.
- Reinforce minors’ responsibility.
- Review criminal procedure and regime applicable to minors.

The general and essential objective of this commission is to reform the criminal procedure so as to ensure an improved response to juvenile crime and to reconsider and clarify the role of the different actors in juvenile justice.

Ultimately, no text was submitted to the parliament and it would appear that the juvenile justice reform will only happen in 2015.

A.1.2. Juvenile Criminal responsibility

The principal of the supremacy of education implies that minors can only be judged when their personal and family situations have been assessed so that the criminal response is as well-adapted as possible (investigations provided for in the 1945 ruling).

Criminal responsibility: no age threshold has been set for juvenile criminal responsibility. The judge considers if the minor acted knowingly and can thus be prosecuted. On the other hand, age limits are set for judicial remedies:

- For minors under 10, only educational measures can be imposed by the juvenile judge or juvenile court;
- Educational measures and sanctions can be imposed on minors aged 10 to 13. Such measures can only be ordered by the juvenile court;
- For minors over the age of 13, educational measures, educational sanctions and penalties are possible.

Detention: imprisonment must always be an exception. Prison sentences are executed in juvenile quarters (QM) or in specialised juvenile prisons (EPM) - Remand: minors between the ages of 13 and 16 can be placed in remand in criminal cases when the obligations of pre-trial supervision have been breached in criminal cases. Remand is possible for minors over the age of 16 for summary jurisdiction (when the penalty imposed is over 3 years) and in cases where the obligations of pre-trial supervision have been breached. In each case, the duration is limited. The juvenile courts can only impose a prison sentence, including a suspended prison sentence once specific reasons have been set out for this choice of penalty.

Defence of Infancy: minors are liable to serve only half the sentence imposed for adults unless the circumstances in which the crime was committed or the minor's personality justify this rule being disregarded or if the crime committed was a wilful attempt on a person's life or their physical or mental integrity coupled with the crime being a repeat offence.

A.1.3 Criminal proceedings for minors and different intervening parties

A.1.3.1. Different intervening parties

In France, there are now just over **150 Juvenile Courts** within the ordinary courts of first instance across the whole country.

Depending on the situation - civil if the minor is in danger or criminal for crimes and offences - these specialists' judges hand down decisions in different formations:

- Single judge
- Juvenile courts presided by the Juvenile Judge alongside two advisors (lay magistrates)
- Juvenile Court of Assizes composed of 3 professional Judges (including 2 Juvenile Judges) and of a people's jury (9 citizens chosen at random).

Minors who have committed reprehensible acts are tried in principle by specialised judges or jurisdictions: juvenile prosecutor, juvenile judge, juvenile court. However, in matters of juvenile justice, the age taken into account for the application of any measure is the minor's age on the date the offence was committed and not their age when they are arrested or tried.

The assistant prosecutors responsible for juvenile cases are called the "**Juvenile Prosecution**".² Arrests of minors by the Police or Gendarmerie, for instance, are the remit of these judges who must decide whether or not the case must be pursued i.e.

² <http://www.cdad-var.justice.fr/articles/page/id/54>

whether or not the minor should be prosecuted. If the Prosecutor decides to pursue the case, it is referred to the juvenile judge or the juvenile examining magistrate to be investigated (all criminal cases must be referred to the examining magistrate). Once the investigation has been completed, if the minor is put before the courts, it is up to the Public Prosecutor to impose sanctions since it is his/her role is to represent society and defend its interests. He/she can order pre-sentencing reparation measures.

The juvenile judge is a judge of the Juvenile Court responsible solely for minors, be it young offenders or minors in danger. In the case of young offenders, the juvenile judge both investigates (orders an inquiry to establish the truth) and judges (when he presides the juvenile court or when he conducts hearings in his office) the cases put before him. These office hearings, which in principle are used for minor offences, the judge alone, in the presence of a court clerk, tries the minor in his office (office hearings). His remit also includes cases involving minors that have been given a suspended prison sentence with probation: in these cases he verifies that the conditions of the suspended sentence are adhered to; he can decide to extend the probation period or partially or completely revoke the suspended sentence. Since 1st January 2005, the Juvenile Judge has also been made responsible for the prerogatives which thus far had been the remit of judge responsible for the execution of sentences and thereby monitors all detainees sentenced by specialised juvenile courts. To monitor the conditions in detention facilities, the juvenile judge calls upon the judicial protection services (public and private).

The Juvenile Examining Magistrate is responsible for investigating the case (i.e. gather information to establish the facts) when a minor is being tried. Criminal cases involving minors must be referred to him by the prosecutors' office. Cases where a minor is one of a number of people being prosecuted can also be referred to him as can cases that appear to be particularly complex.³

Juvenile Courts deal with the most important and serious cases (5th grade misdemeanours and offences). They also try crimes committed by minors under the age of 16 while cases involving minors of 16 and over are tried by the Juvenile Assize court. The Juvenile court is presided by the Juvenile Judge who is assisted by two advisors who are not professional judges but rather citizens who have been chosen because of their interest and involvement in children's welfare. The hearing is held in a room that does not grant access to the public (a private hearing or "in camera") apart from the minor only his lawyer, the youth worker responsible for monitoring the judicial measure, a representative from the Public Prosecutor's office (who is acting on behalf of society), the court clerk, the victim (even if the victim has not applied to join proceedings as a civil party) and the victim's lawyer, when applicable, are allowed in. Once the session has been completed, the court Judge and his 2 advisors deliberate to reach agreement on the decision to be handed down.

³ <http://www.cdad-var.justice.fr/articles/page/id/54>

Criminal cases involving minors require the intervention of other specialised and non-specialised parties, including the following:

The educational services⁴:

The educational services report to the juvenile judicial protection (for criminal cases). They can also report to child welfare assistance (A.S.E.) or to the authorised associations sector (those who have been officially authorised by the Ministry of Justice). They are in particular, responsible for, by request of judges e.g. a juvenile judge conducting enquiries (investigations) to find out more about the minor, his character, his background or to carry out decisions made by judges: reparation measures, putting into a foster family or foster home, pre-trial supervision...

The Special Juvenile Board:⁵

This is a specialised Board of the Court of Appeal that is mainly intended to judge appeals of sentences that have been handed down by juvenile judges, juvenile courts or police courts in cases involving minors.

The Judge of Liberties and detention:

This judge is responsible for deciding whether or not to place a minor in remand, or to extend the period of remand. This decision is taken following a debate where both sides are heard; the public prosecutor's office has its say, as do the minor and the minor's lawyer. This judge can also decide to grant probation.

The Juvenile Examining Magistrate:

This judge is responsible for investigating the case (i.e. gathering elements of information to establish the facts) when a minor is being tried. Criminal cases involving minors must be referred by the prosecutor's office. Cases can also be referred to the Juvenile examining magistrate when one of a group of people being tried is a minor or when a case appears to be particularly complex.

The Public Prosecutor or the Juvenile Assistant Prosecutor:

He/she works on the one hand to protect children, and on the other hand is to punish crimes committed by minors. He is required to attend hearings at the Juvenile Court to defend society's interests and to ensure the decision handed down in criminal cases is executed. He/she is also the representative of the public prosecutor's office within local authorities (départments, municipalities and local security contracts...).

The Judicial Juvenile Protection Services (PJJ):

Officially approved, public and private sector judicial juvenile protection services intervene in investigations prior to the handing down of substantive decisions by the judge in addition to enforcing decisions concerning minors, essentially young offenders.

4 http://www.droitsdesjeunes.gouv.fr/mig3/site/u_page.php3?IdCat=2030&styl=jessi

5 Ibidem

Voluntary Sector Associations (SAH):⁶

Institutions run by associations (subject to the 1901 Act) can be officially authorised to enforce civil and criminal judicial decisions. Voluntary sector associations cover more than 1,200 institutions and services. Official authorisation provides guarantees to judges of the quality of the care and the probity of staff working within these institutions. The “Justice” official authorisation (to enforce civil and criminal decisions) is granted by the representative of the State and in the *département* following consultation with the President of the General Council and on the instructions of the PJJ’s decentralised offices. Official authorisation entails setting a pricing system; either a day rate or a set price for each service. The state finances decisions on judicial investigations and criminal measures; the General Council finances civil judicial decisions

The lawyers

They are always present for criminal cases i.e. when a minor is alleged to have committed an offence. Some councils specialise in defending minors.

The Department of Juvenile Judicial Protection (DPJJ)⁷

The DPJJ “*is responsible for within the jurisdiction of the Ministry of Justice and liberties for all issues regarding juvenile justice and cooperation between the institutions that intervene to this end*”⁸ (Decree 9th July 2008 regarding the organisation of the Ministry of Justice).

The scope of the DPJJ includes drawing up standards in and organisational frameworks to the implementation quality control of these implementations. The DPJJ is also in charge of human resource policy and management, training policy, operational and the budgetary steering (supported missions described in decree 2008 - 689). Since the Act of 5th March 2007, the President of the General Council is the Head of Juvenile protection/ Child Welfare (care for children in danger).

In more concrete terms, **the Department of Juvenile Judicial Protection (DPJJ)** is the Department of Juvenile Justice (decree of 9th July 2008). To this end it:

- *Contributes to the drafting of texts* concerning young offenders or young people in danger (bills, decrees and various organisation texts).
- *Provides ongoing help to judges*, for young offenders and young people in danger, especially for so-called “investigation” measures which allow the situations of minors to be assessed.

6 <http://www.justice.gouv.fr/justice-des-mineurs-10042/la-dir-de-la-protection-judiciaire-de-la-jeunesse-10269/les-etablisements-et-services-de-la-dpjj-18682.html>

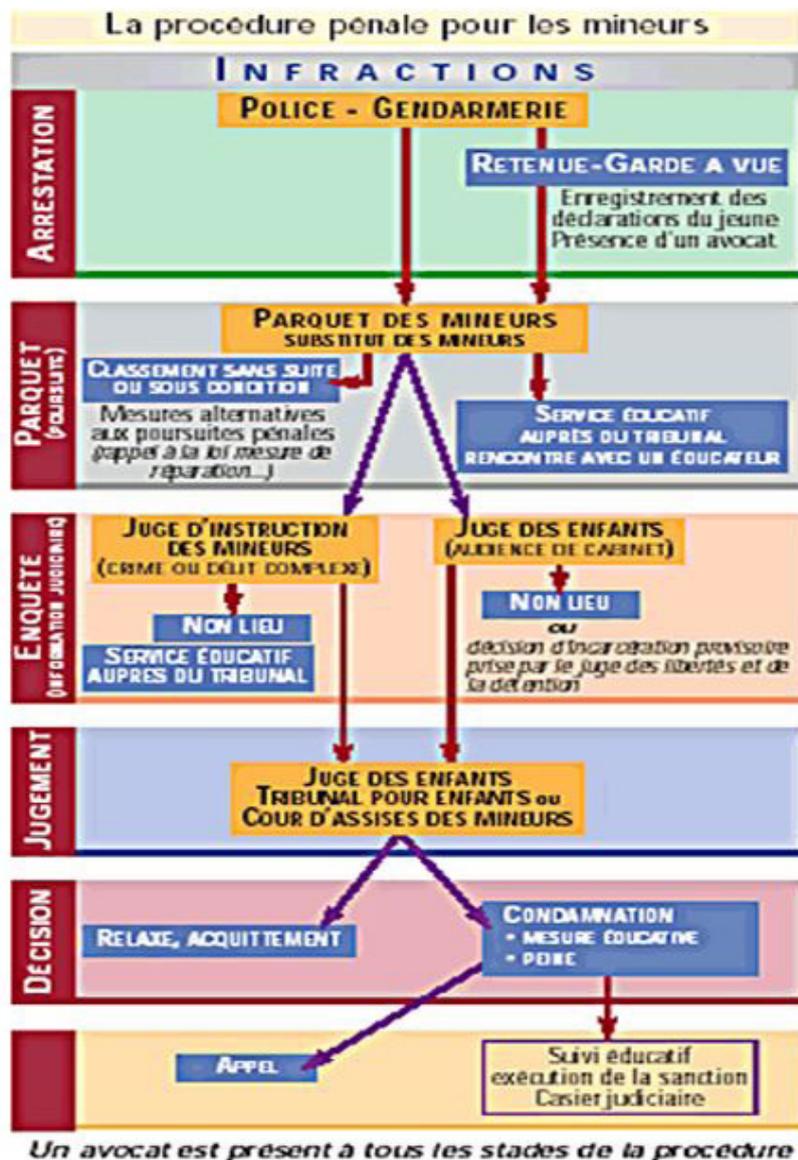
7 <http://www.justice.gouv.fr/justice-des-mineurs-10042/la-dir-de-la-protection-judiciaire-de-la-jeunesse-10269/>

8 <http://www.justice.gouv.fr/justice-des-mineurs-10042/la-dir-de-la-protection-judiciaire-de-la-jeunesse-10269>

- *Enforces decisions of the juvenile courts* within the 1,500 foster homes and open regime homes (300 foster-homes in the public sector and 1,200 in the voluntary sector).
- *Ensures the educational monitoring of juvenile detainees* in the juvenile quarters of prisons, or in juvenile prisons (EPM).
- *Supervises and assesses all public and voluntary sector authorised institutions* caring for minors by judicial orders.
- In conjunction with the relevant departments, *devise standards and organisational frameworks* for juvenile justice.
- *Guarantees*, either directly or through the voluntary sector, *assistance to the judicial authority*.
- Directly *ensures the welfare of minors* in the care of the Justice system within State institutions and services.
- *Guarantees*, through monitoring, audits and assessments, *the quality of the assistance* provided to the judicial authority in reaching decisions and the care provided throughout the entire network of institutions and services.
- In conjunction with the General Secretariat, *defines and implements Human Resource policy* for the benefits of staff in decentralised officers and draws up statutory rules applicable to its own corps of juvenile judicial protection. It offers career planning and development. It ensures individualised career plans. It conducts training policy which is drawn up by the French National School for juvenile judicial protection.

A.1.3.2. Criminal Justice Procedure

When offences are committed by minors, the police, by order of the public prosecutor, arrest the young offenders and carry out investigations. Minors are subject to additional procedural rules (lawyers, custody). The prosecutor's office is informed in real time of the evolution of the police enquiry.



Source: <http://www.cdad-var.justice.fr/articles/page/id/54>

Restricted access: only family members, the minor's legal representative or guardian, the education services, the victim and the lawyers are allowed to attend the hearing.

At the Prosecution stage, we shall see that the eventuality of a case being closed is one of the possible alternative measures to criminal prosecution. This is a point which we shall go into in more detail in chapter A.2.2.

A.2. The system of measures, redress and sanctions in juvenile justice

A.2.1. Criminal responses to youth crime

A.2.1.2. Investigative measures

Investigative measures are measures to obtain information; the object being to help the magistrate come to a decision both in civil and criminal cases.

Public sector services for juvenile judicial protection are charged with implementing three types of investigative measure:

- Collecting socio-educational information.
- Welfare report.
- Educational investigation and guidance measure.

The magistrate alone can decide on the appropriateness of any one these measures. They help maintain the principle of giving priority to educational measures, covered by the ruling of the 2nd February 1945, since from this perspective “the important thing to understand is that, even more than the material facts that the minor is accused of, it is their true personality which must dictate what measures are in their best interest.”

A.2.1.2. Educational measures

Covered by the ruling of the 2nd February 1945 and by that of the 23rd December 1958, educational measures are the only judicial measures specifically designed for minors. They respond to the need for a specific approach to young offenders or for vulnerable young people, which places education at the heart of judicial decision-making.

Their implementation focuses, in both civil and criminal matters, on an overall approach to the minor’s situation, looking at their history, life to date and background. To achieve this, interventions from professionals look at the individual from every angle, from personal to family to social. This is why the implementation of any educational measure mobilises the different professional skills of the service within an interdisciplinary approach.

The services implementing educational measures in open custody or establishments overseeing custodial remand measures are classed as social and medico-social establishments covered by the law of the 2nd January 2002. On this basis, the provisions which it introduces into the social action and families code, especially those concerning the rights of users, apply.

The educational action in open custody measure is an educational assistance measure passed by a judicial authority where a family can no longer protect and educate their child, whose health, morality or safety is at risk, or whose educational conditions are seriously compromised. Wherever possible the magistrate should keep the minor in their current living arrangements, where the measure can be carried out.

Probation is a criminal educational measure passed either provisionally during the trial, or by the sentencing jurisdiction on the minor who has committed the offence. Its objectives are twofold: provide surveillance and educational action, and the approach is different depending on the procedural stage during which it is passed. If passed provisionally, the probation measure permits, based on the act for which the minor has been tried, educational action to be taken, whereby the extent to which the minor's character has changed will be taken into account by the magistrate during the trial.

If passed definitively, the probation measure permits, based on the act of which the minor has been convicted, an examination of the act which led to the measure, and educational action to be provided for the minor within their social and family environment.

Protective custody is a legal framework which places the overall situation of the minor who has committed the crime at the heart of the judicial ruling. The criminal act, viewed as an indication of a broader underlying problem, thus becomes the basis of the minor's taking into protective custody. This legal framework allows for the adoption of criminal educational measures in the shape of remand or open protective custody which allow for the minor to continue to be monitored into adulthood.

Redress is an educational measure passed on a minor who has committed a criminal offence. Within the framework of this measure they are encouraged to embark on a restorative path, by undertaking activities or actions which benefit their victim or the community.

Where passed on a minor, court-mandated **educational remand** is, in civil and in criminal matters, a protection, assistance, surveillance and educational measure which temporarily removes a minor from his/her usual living environment, where this cannot guarantee their safety or the necessary conditions for their education, or where criminal procedure dictates.

A.2.1.3. Probation measures and sentencing

Probation or supervisory measures and sentences applicable to minors are taken from adult criminal law. Within these measures, intervention objectives are determined by obligations and/or bans imposed by the magistrate's ruling. Failure to comply will be subject to judicial sanctions and may lead to imprisonment.

Interventions from the educational service involve assistance and support for the minor

in order to help them meet their judicial obligations.

This assistance and support requires educational vigilance on the side of professionals focusing on the minor's overall situation. This vigilance may lead a professional, depending on their understanding of the minor's situation, to ask the magistrate to pass another, more appropriate measure: an educational action or investigative measure.

Judicial supervision is a criminal pre-sentencing measure passed during the trial. Judicial supervision was introduced by the law of the 17th July 1970 "with a view to further upholding the individual rights of citizens". This measure is applicable to minors (articles 19 of the law of the 17th July 1970 and 10-2 of the ruling of the 2nd February 1945) who are covered by specific provisions (articles 10-2 and 11 of the ruling of the 2nd February 1945). The circular of the 7th November 2002 relating to the submission of provisions reforming criminal law for minors and certain provisions resulting from the law 2002-1138 of the 9th September 2002 framework act for justice, as well as that of the 28th March 2003 on the "implementation of the closed educational centres programme: legal framework, educational support and criminal policy" have considerably modified the implementing framework of judicial supervision of minors.

Judicial supervision may be ordered for a person on trial facing a short-term prison sentence or a long-term prison sentence. Somewhere between conditional release and remand in custody, judicial supervision is restrictive and limits certain freedoms. Whilst adhering to the principle of ensuring the freedom of the person on trial, who is innocent until proven guilty, judicial supervision forces them to adhere to one or several obligations issued by the judge, among the limited number listed by the Law.

It helps maintain the principle according to which remand in custody should be reserved for exceptional cases.

Judicial supervision is used as a safety measure (in particular to guarantee that the person on trial is fairly represented) or because of procedural requirements.

It is important to note the significant difference between over and under 16s when it comes to the implementation of judicial supervision. Judicial conditions are more favourable towards under 16s and judicial supervision must be accompanied by their placement in a Closed Educational Centre.

The situation of the minor subject to judicial supervision is, as with any other measure, subject to regular multi-disciplinary evaluations according to the monitoring procedures for situations defined by the service project. Situational reports are submitted to the magistrate at least every 6 months, and in all circumstances, 15 days before the measure runs out or before the case is closed. Where judicial supervision requires the minor to agree to a "protection, assistance, surveillance and educational" measure, or to be placed in an educational facility, especially in a closed educational centre, it is down to the service professional or the chosen centre to submit a report to the youth judge or

examining magistrate in case of the minor's failure to comply with their obligations.

A prison sentence accompanied with a suspended sentence with probation was introduced into the criminal code by law n°70-643 of the 17th July 1970 with a view to further upholding the individual rights of citizens. It is applicable to minors under the same system as adults, and before the law of the 9th September 2002, it was not mentioned under the ruling of the 2nd February 1945. The framework act for justice n° 2002-1138 of the 9th September 2002 incorporates article 20-9 into the ruling of the 2nd February 1945, which allows the sentencing authority to remand minors given a suspended prison sentence with probation in custody or grant them parole.

A suspended sentence with probation is passed by the court on a person who is sentenced to prison, where they decide to suspend the sentence by handing the defendant over to the parole system. This regime subjects the offender to supervisory measures and specific obligations (including placing them in a facility, especially in a closed educational centre, but also required medical treatment, or a ban on contact with accomplices). It allows them, moreover, to benefit, during their probation, from support measures aimed at optimising their social reintegration.

If the offender does not keep to supervisory measures or to the specific obligations imposed on them, the youth judge may order probation to be extended by up to 3 years, or partially or totally revoke the sentence suspension. The minor will then be imprisoned to serve the entirety or part of their prison sentence. Partial revocation can only be passed once.

At the end of probation, if the offender has satisfied the supervision measure requirements and specific obligations imposed on them, their sentence is declared void.

Community service was introduced into the criminal code under law n°83-466 of the 10th June 1983 repealing the revision of certain provisions of law n°81-82 of the 2nd February 1981 and adding to certain provisions of the criminal code and of the criminal procedure code. Community service is intended for adults but applicable to minors aged 16 to 18, according to a specific regime. It is covered by the ruling of the 2nd February 1945 under article 20-5, created by law n°92-1336 of the 16th December 1992.

Community service is a sentence which involves unpaid work carried out for a legal person under public law or an association empowered to this end by the courts. It is applicable to minors aged 16 to 18 years, who have committed crimes punishable by a prison sentence. It must, in this case, be formative in nature or help foster their social reintegration.

The length is set by the jurisdiction, and can be between 40 and 210 hours. The completion deadline set by the sentencing authority may not exceed a year.

When a sentence to community service, or to a prison sentence with probation

accompanied by a requirement to complete community service, is passed by a youth court, the sentencing judge's powers are conferred on a youth judge.

If the sentencing authority which passes the community service sentence has stipulated that they will face prison or a fine in case of failure to comply, the youth judge may, in this case, order the partial or complete enforcement of this prison sentence or fine. However, even if the sentencing authority has not stipulated that they will face a prison sentence or a fine, the failure to complete community service remains a criminal offence punishable by a maximum of two years in prison. It is up to the youth judge to hand the incident report over to the youth prosecution department, so that the State prosecutor can consider criminal prosecution.

Citizenship courses are a new kind of criminal sanction which have been in force since the 1st October 2004, created by the law adapting justice to changes in crime of the 9th of March 2004. They were included in the criminal code by article 135-5-1 and made applicable to minors aged 13 to 18 by their inclusion in the ruling of the 2nd February 1945 under article 20-4-1.

Citizenship courses constitute a sentence which may be passed:

- As an alternative measure to criminal prosecution.
- As an alternative sentence to imprisonment or probation requirements by the youth court or youth court of Assizes.

Citizenship courses differ from civic training courses passed as an educational sanction in the following ways:

- They must be approved by the State prosecutor.
- They may only be implemented by juvenile judicial protection services as they constitute a sentence.
- Failure to comply with the course may lead to the minor's imprisonment.

Citizenship courses contain several objectives:

- Remind the offender of national values such as tolerance and respect for human dignity upon which society is built.
- Make them aware of their criminal and civil responsibility as well as their duties as a member of society.
- Foster their social reintegration.

The duration of the course:

- It is set by the sentencing authority, bearing in mind the minor's school commitments and their family situation.
- It may not exceed a month.

The daily training hours should be adapted to the age and personality of the minor and may not under any circumstances be longer than 6 hours.

The citizenship course:

- Is devised and implemented under the supervision of the youth legal protection services.
- Is organised in group sessions, continual or one-off, made up of one of several training modules adapted to the minor's personality, their age and to the nature of the crime committed.
- Is run under the supervision and in the constant presence of a trained educator from the service who oversees its implementation.

The content of training modules may be drawn up with the help of local authorities, public establishments, legal persons under private law, or natural persons participating in community service work, especially in legal access work.

Passed as an alternative sentence to imprisonment, failure to comply with the course may lead to the youth judge enforcing the original prison sentence or fine passed by the sentencing authority.

Passed as a probation requirement, failure to comply with the course may lead to the suspension of the sentence with probation being revoked.

A.2.2. Alternative measures to criminal prosecution

The implementation of alternative measures to prosecution is today largely conferred by prosecutors on their deputies. Prosecutor deputies' hearings often take place in "maisons de justice et du droit" (legal advice centres).

The notification of the law is a judicial warning implemented after a decision has been adopted in this respect by a prosecuting magistrate. This measure mainly affects first-time offenders involved in a crime which is not very serious, generally involving no victim, and which would not appear to require judicial monitoring.

Guidance from a health structure, either social or professional is sought for first-time offenders for whom the committing of a crime is part of a broader problem stemming from their background. The use of narcotics may for example lead to this kind of guidance being offered in the health sector. **Criminal redress measures** only apply to offences committed by a minor. These are measures aimed at assistance and redress with an educational scope. The minor concerned is seen with their parents by a magistrate or by a prosecutor's deputy who will oversee the monitoring of the measure which will, if necessary, be implemented by an educator and which will take the shape of an apology letter, an action of redress in line with the damage done (rehabilitation) or for the good of the community (within a charity or a public service).

Criminal mediation seeks to bring together the two opposing parties in an everyday dispute (problems with a neighbour, petty theft, vandalism, issuance of a non-sufficient funds cheque) or a family dispute (failure to pay maintenance support, failure to produce the child). The mediator helps the parties to find and reach an agreement. Criminal mediation may therefore take various shapes: atone for any damage done, compensate victims or enforce a ruling.

A **settlement** applies to all offences and crimes punished with a prison sentence less than or equal to five years. The State prosecutor may order the defendant to meet certain obligations, in particular a requirement to pay a settlement to the Exchequer, relinquishment to the State of the item which allowed the offence to be committed, the seizure of the defendant's vehicle and/or driving licence for a maximum of six months, the seizure of their hunting permit for a maximum of six months, unpaid community service, for a maximum of sixty hours over a period no longer than six months, or a citizenship course. If the victim is identified, the State prosecutor may ask the defendant to pay damages for the offence within six months. If the defendant accepts the terms of the settlement, the presiding judge (crimes) or the examining magistrate (offences) will be asked to validate the settlement. If the defendant does not accept the terms of the settlement, the State prosecutor shall consider what action to take.

Citizenship courses, according to article 131-5-1 of the criminal code, should remind the defendant of "national values such as tolerance and respect for human dignity upon which society is built" and "make them aware of their criminal and civil responsibility as well as their duties as a member of society". Citizenship courses were introduced into French law by the law of the 9th March 2004, adapting justice to changes in crime. It may be given as an alternative to prosecution (a guidance or settlement measure) and as a primary or additional sentence. The terms of its implementation are covered by the decree of the 27th September 2004 and outlined in the circular of the 11th April 2005, relating to the passing, carrying out, and enforcement of sentences.

Furthermore, **parental responsibility courses** constitute an original alternative to prosecution where the idea is to prevent a young person offending by working with their parents. This alternative to prosecution applies to the parents of minors at risk of offending, for whom criminal proceedings have begun following behaviour which is

deemed criminal. This measure may be imposed for example on parents who refuse to come and collect their child from the police station after they have been involved in a crime, who encourage them to skip school or wander, who do not respond to summons from the youth court, etc.

Prosecutor deputies are volunteer citizens, with very different backgrounds, who are recruited to help prosecuting magistrates in their sentencing role. Their mission is therefore to implement, at the request of and under the supervision of the prosecution, alternative measures to prosecution, ruled upon by the prosecution for less serious offences.

After a probationary period of a year, prosecutor deputies are mandated to serve a 5 year term by the State prosecutor or the attorney general after an opinion from the general assembly of presiding and prosecuting magistrates.

They intervene for adults and/or minors, either at the crown court, magistrate's court, or "maisons de justice et du droit" (legal advice centres). They are paid a flat fee for each case.

They are often retired persons (no older than the maximum age of 75) who worked as magistrates, gendarmes, for the police, as teachers, in juvenile judicial protection, but may also be social workers, nurses, final-year students, expert engineers, farm workers etc.

Most deputies are directly trained by the prosecution services. In this regard, the latter ensure that those deputies who do not have a legal background follow specific training which is provided and overseen completely by the National School of Magistrates.

A.2.3. Judicial measures and liberty deprivation sentences

Liberty deprivation does not just involve prison sentences. Some placement measures (in a closed educational centre, in a psychiatric institution, in custody...) also constitute deprivation of liberty. Furthermore, a large number of persons held in custody (pre- or post-sentencing) receive liberty deprivation sentences, such as the requirement to wear an electronic bracelet. Therefore, in France we tend to speak more and more about "liberty deprivation spaces".

A.2.4. Young offender establishments

An **educational placement** following a court ruling consists of:

- Daily and continual educational support in a group or one-to-one setting;

- Tailor-made educational support.

There are various different educational establishments:

- **Educational homes** (educational placement centres). They take in young offenders or minors at risk and over-18s in the medium or long term.
- **Immediate placement centres**. These take in young offenders and, where necessary, minors at risk without prior warning or admission procedure, for a time period of 3 months, which may under exceptional circumstances be renewed once. Where the placement is used as part of a correctional or criminal procedure, it may be accompanied with judicial supervision. The specific objective of the placement is to get an idea of the minor's situation, within strict supervision, with a view to offering guidance suggestions to the magistrate.
- **Reinforced educational centres**. These take in small groups of minors (a maximum of 8) who are generally offenders. The specific objective of the placement is to temporarily cut the minor off both from their home environment and from their normal habits by putting some distance between them.

The programme relies on:

- Reinforced educational support, which consists of providing constant assistance to the minors in their daily activities and of different approaches and activities which encourage them to start afresh.
- The creation of overseas trips focused on humanitarian actions, risk activities which reinforce the idea of cutting them off from the norm.
- The organisation of sessions which can last for no more than 6 months. The limited time and goals of a placement in a reinforced educational centre requires cooperation with other educational services.
- **Closed educational centres**. These only take in young offenders aged 13 to 18, or repeat offenders placed there as part of judicial supervision, a suspended sentence with parole or as part of conditional release. They are characterised by the fact that they are closed legally-speaking: should the minor refuse to adhere to the conditions of placement and the requirements laid out in the magistrates ruling, they risk imprisonment. Unlike reinforced educational centres, they are not based on the idea of cutting off from the norm.

The specific objectives of the placement are:

- Keep the minor in a set place.

- Make it possible for them to do educational work for a time to foster.
- Personal, psychological, family or social changes.

The service director submits a report to the magistrate on any failure to meet obligations set out in the court ruling, as well as any serious incidents. The placement's duration is fixed by the ruling, and the maximum duration for the placement is 6 months, which may be renewed once.

Closed educational centres are the only establishments considered by the French inspector general of custodial facilities as a custodial facility, although their closed nature is mostly administrative and judicial. (Minors are never shut in using restraint or force)

Minors may also be held within a specific part of a remand centre or a Prison for Young Offenders.

Prisons for young offenders in France are detention centres reserved for minors aged 13 to 18.

Created by the 9th September 2002 framework act for justice (Perben I law), the first of these establishments opened in 2007-2008 in Lyon, Valenciennes, Meaux, Toulouse, Mantes-la-Jolie, Nantes and Marseilles.

Created to add to the capacity for young offenders, these minor-only prisons were a first for France.

They offer an alternative for magistrates, along with surveillance and placement in a closed educational centre, to deal with youth offenders; they will therefore probably start replacing the specific sections of remand centres where up until now minors used to be imprisoned.

Placed under the care of the prison service, these establishments are intended to more appropriately shape the imprisonment and education of young offenders. They are therefore run with the participation of juvenile judicial protection educators, and are intended to cater for a maximum of 60 minors per centre, aged 13 to 18. They have disciplinary bodies.

These establishments, 7 in total, were built according to two models, by two different companies and architects. The project, with a total investment budget of around 90 million euros, mixes active security (through monitoring and surveillance) with passive security, with 6 metre fences, whose role is "both to serve as an essential security measure as well as to symbolise detention both for inmates and for the public outside" (according to the sign affixed by the Justice ministry).

A.2.5. Statistics on alternative measures.

No statistical assessment of the use of alternative measures is readily available in France.

B. Restorative approach in juvenile justice

B.1 Restorative justice measures and sentences

The French criminal system includes a restorative justice side. Redress and community service measures ensure these objectives are met. In terms of mediation/redress, the idea is to bring together the victim and the offender. In terms of community service, the idea is to encourage the offender to complete community service work in order to atone for the offence committed.

B.1.1. Redress / mediation measures

In France, mediation is only used during the pre-sentencing stage. Article 41-1 of the criminal procedure code offers the prosecutor the possibility of deciding to go down the route of mediation, prior to taking further action, and with the agreement of or at the request of the victim.

In practice, offences which appear major or minor, depending on the context, may be deemed apt for mediation, especially theft, family conflicts (ranging from violence to failure to pay maintenance support), assault, verbal abuse, vandalism, etc.

In France, the use of mediation is controversial in terms of violence against women. Women's rights groups are very vocal about their reservations, stating that the forces at work are tilted too far in the favour of one party. The use of mediation is seen by the authorities as a particularly exceptional measure for domestic violence. However, it is broadly encouraged where minors are involved, in the shape of restorative mediation.

Furthermore, minors may benefit from restorative mediation measures. Following a suggestion by the prosecution, the court or a ruling, these measures offer the minor a way to help them make amends, either directly to the victim (in this case, the latter's consent must be sought) or for the good of the community.

B.1.2. Community Service

In France, community service which was created by the law of the 10th June 1983 may be passed by a youth court, a police court, for 5th degree violations or by the correctional court, either as the primary sentence or as part of a "suspended sentence with a requirement to complete community service". The sentencing judge may also decide to commute a 6 month prison sentence to a suspended sentence with community service. This work must be completed in the year that follows the ruling, and its duration may be

between 40 and 210 hours (compared to 720 hours in Switzerland where it is deemed that one day's detention is worth 4 hours of community service for someone who has a full timetable).

There is broad consensus on community service both among politicians and the general public. An opinion poll completed in 2006 illustrated the highly positive way this measure is regarded: 61.4% of those polled were “completely in favour” and 33% were “largely in favour”. However, this sentence is rarely passed: 16,226 sentences in 2011, i.e. 1.6% of all sentences passed and 2.8% of all primary sentences passed. Indeed, after several years of progress up until the turn of the 21st century, the number of community service sentences passed has tended to stagnate due to practical difficulties encountered in terms of execution. A justice ministry circular dated the 19th May 2011 tried to sell this sentence as an alternative to imprisonment to get society behind this measure. The implementation of this measure requires support from bodies (city halls, public establishments or associations) who can offer people community service work. City halls admit that they often have trouble, even if they are very convinced of the merits of community service, passing on their enthusiasm to their teams.

It is also difficult to find community service posts adapted to women, people with health problems, or even accessible to those without a driving licence, etc.

Therefore, prison reintegration and probation services often hit stumbling blocks in terms of matching the number of available community service positions with the number of offenders who would benefit from it. The time it takes to share files also makes implementation difficult, since the offender's situation may have changed in the meantime.

Some jurisdictions have extended to adults provisions which state that, for minors, community service “should be formative or foster social reintegration”. Thus, for example in Cambrai, community service can help them obtain a first aid certificate, and there are community service placements that foster return to work.

The national human rights advisory committee also recommends creating a probationary community service sentence which will allow community service to be passed along with other requirements as part of a probation period which may be extended to 5 years.

Participation on a voluntary basis of offenders in civic services for the community, in teams of young people aged 16 to 25, as part of sentence adjustment may also be feasible in this regard. The first conventions between the national civic service agency and prison reintegration and probation services are currently being drawn up (in the department of Gironde) and the process should be extended.

B.1.3. Experiments carried out at the Poissy centre on meetings between prisoners / victims

This is a parole space where victims and inmates who are not known to one another and are not linked by the same crime can meet. Set up in Canada and in Belgium, and trialled in France, this kind of meeting is a novel way of helping victims recover and offenders take responsibility for their actions. These programmes are useful where a meeting between an offender and their victim is not possible, either because one of the two does not want to do it or cannot.

In this kind of restorative justice, the objective is not to find a solution, but rather to help each participant to become aware of the consequences and repercussions of criminal acts.

In France, an experiment took place at the Poissy centre, bringing together 3 prisoners and 3 victims. The crime they all had in common was murder. Six meetings took place.

As regards those meetings, the prisoners said:

- That they were impressed by the respect shown by the victims, surprised that they were seen as human beings;
- To have been able to appreciate the victims' suffering, and felt empathy;
- That the meetings helped restore their self-esteem and free them of fears.

For their part, the victims said that:

- They got a feeling of mutual recognition as regards their suffering;
- They were able to listen because they felt listened to;
- They felt appeased and concerned for the future of the prisoners.

C. Other alternatives: Foster families / medical treatment

C.1. Placement of a young offender with a host family

Placing in a diverse home meets many of the requirements for hosting a minor in the care of juvenile judicial protection authorities. They may be taken into a family home (family with two parents, single-parent family, with or without children) into a social residence (young workers' home), into a rural residence (farmer or farm worker's home) or even into individual housing (pre-autonomous studio).

C.1.1. Placement with a family or in a rural residence (host family)

Placement with a host family is a method used for certain adolescents, who may have been passed between various institutions and can no longer stand living in a community, who are deprived of affection and who have trouble being alone.

This kind of hosting requires intensive monitoring by the unit and a citizen-focused participatory coeducational approach between juvenile judicial protection services and the host family.

Young people hosted may be girls or boys aged between 13 and 18 only.

The specific role of these families is to offer a welcoming, warm and stable family environment in which the minor can benefit from their positive influence, in order to learn new habits, for example:

- Getting the young person back into a structured and restorative way of life (routine)
- Work and encouragement in terms of job prospects
- The role of the young person in the family
- A healthy lifestyle, including a balanced diet and normal sleep patterns

This progressive appropriation of new habits ultimately allows the minor to distance themselves from their past, their time in prison and their family problems, which reflect their vulnerabilities.

Furthermore, placement with a host family helps them rebuild bridges with their own families mirroring those built with their host families. Placement with a family and the selection of these families requires deep reflection on placement, separation and relations

with parents and guardians.

From that perspective, hosting with a family cannot be seen as an end in of itself, in the sense that, however long it lasts, each of the stakeholders will have very fixed ideas about what constitutes a positive step towards offering the young person involved stability. In other words, it allows for a minor's situation to be assessed, or provides short- or medium-term educational support.

In this respect, periods spent away from the host family are timetabled for the young person (with another family, a stay with their own extended family, youth camps etc.) in order to give the host family some time for themselves and a rest period, or following the hosting of a particularly difficult young person.

C.1.2. Status of host families

These host families are considered an “occasional participant” in the unit. In other words, they are not paid by the establishment. For each minor hosted, an agreement is drawn up between the educational unit and the host family.

This agreement allows host family members to claim a flat-rate compensatory sum of 36€ per day, not subject to income tax, or 1080€ for 30 consecutive days, without counting travel expenses and support for minors which are also reimbursed.

The absence of any work contract linked to hosting a young person helps place a young person with a family according to profiles, specific problems or individual experiences.

C.1.3. Host family selection criteria

The procedure used to recruit future host families is defined according to the establishment's service project, under the stewardship of the service director. We would therefore invite families to refer to the educational unit in order to obtain the full terms.

Generally, the criteria to become a host family include motivation and commitment from the family, dialogue and negotiation skills, an ability to lay down clear ground rules and limits, as well as a degree of openness.

From a material point of view, the family must be able to offer an additional bedroom so that the fostered young person can have their own personal space.

C.1.4. Hosting minors

Requirements are communicated by telephone to the chosen host family. The educator outlines the youth project to them, the duration foreseen, as well as the expectations of

the placement.

Youth information is shared about their parents and their background, their issues and the unit's educational objectives, all subject to confidentiality linked to the partnership.

Their responsibility for the minor at the same time requires the strict, continued and unwavering commitment and mobilisation of establishment professionals.

In this regard, a specific monitoring provision for host families and terms of cooperation applies:

- Immediate reaction in case of problems.
- Support and a safety net for host families which differs from educational monitoring for the minor.
- Exchange or intervention spaces are organised daily between host families and unit educators.
- 24/7 availability.
- Host families are subscribed to a network, to foster information-sharing, training and exchanges with other professional or even other host families.

At any time the host family may, in the light of the continued public service mission, refer to the service educator or psychologist to exchange on a specific point, gain clarification on a problem experienced with a young person, obtain an opinion, authorisation or in serious circumstances ask someone to collect the young person.

C.1.5. Obligations for host family

This cooperative work entails certain obligations for the host family:

- All important initiatives concerning the young person (schooling, health, etc.) must be subject to cooperation with the educational team, which will liaise where necessary with the legal representatives of the young person in question.
- The host family should inform the educator of all important elements concerning the inclusion, health and psychological and physical safety of the young person.
- The educator for their part should keep the host family apprised of any developments to the project concerning the young person.

C .2. Access to healthcare and medical treatment obligations

A person may be prescribed medical treatment as required by law at various stages of the criminal process. This may be one of two separate measures:

C.2.1 Medical treatment obligation

This is covered by article 132-45 of the criminal code, and is implemented without any particular procedure. A medical treatment obligation may also consist of a “treatment order” as provided for in articles L. 3413-1 to L. 3413-4 of the public health code for prisoners using narcotics or regularly and excessively consuming alcohol. The implementation of the treatment order requires the intervention of a competent doctor as an intermediary who informs the judicial authority of their opinion based on the medical appropriateness of the measure.

A general measure applicable before or after declaration of guilt, a medical treatment obligation is not specifically linked to sexual offences, and requires no liaising between judicial and health authorities or any requirement for prior medical expertise.

a) Before declaration of guilt, a medical health obligation constitutes a measure of judicial supervision.

Legal definition: “Submitting to examination, treatment or medical care measures, even involving hospitalisation, especially with a view to detoxification”. (art. 138 - 10° CPP)

b) After declaration of guilt, a medical care obligation constitutes a specific obligation covered by article 132-45 of the criminal code for:

- Adjournment with probation.
- Suspended prison sentence with probation.
- Suspended prison sentence with probation with an obligation to complete community service.
- Sentence adjustment measures.

Legal definition: “Submitting to examination, treatment or medical care measures, even involving hospitalisation.” These measures may consist of a treatment order as provided for in articles L. 3413-1 to L. 3413-45 of the public health code where it has been established that the prisoner uses narcotics or displays regular and excessive alcohol consumption. (art.132-45 3°CP).

C.2.2. Medical treatment order

This was created by the law of the 17th June 1998, relating to socio-judicial monitoring, is applicable where socio-judicial monitoring is prescribed and where medical experts conclude that treatment is possible, as part of probation, parole, judicial surveillance or safety surveillance. It requires intervention from the coordinating doctor in line with the provisions of article L.3711-1 of the public health code.

A measure initially attached to the sentence of socio-judicial monitoring, a medical treatment order involves the liaising of judicial and health authorities, especially via a coordinating doctor who acts as an intermediary between the doctor providing treatment and the sentencing judge. A medical treatment order may also be passed under certain legal conditions which shall be outlined subsequently, as part of a suspended sentence with probation, parole, judicial surveillance, safety surveillance and safety detention.

A medical treatment order may be passed by the sentencing authority as part of socio-judicial monitoring or a suspended sentence with probation. It is passed by sentencing authorities as part of parole and judicial surveillance.

It is passed by safety detention authorities as part of safety surveillance or safety detention.

The common denominator of all these measures is the need to have been found guilty of an offence for which socio-judicial monitoring is prescribed, after medical experts have established that the offender would benefit from treatment.

COMPARATIVE TABLE BETWEEN MEDICAL TREATMENT OBLIGATION/ORDER

Nature of the measure	Legal framework	Terms
Medical treatment obligation	<ul style="list-style-type: none"> - Judicial supervision - Adjournment with probation - Suspended sentence with probation - Suspended sentence with probation with an obligation to complete community service. - Sentence adjustment measures 	<ul style="list-style-type: none"> - Prior expertise is not necessary to order or overturn it - It may be added or overturned by order of the sentencing judge at any moment during the measure's implementation. - The provision relies on the production of proof of monitoring by the interested party; cooperation between the judicial authority and health professionals remains at the discretion of actors on the ground.
Medical treatment order	<p>The law of the 10th August 2007 introduced the principle of medical treatment orders, unless a contrary ruling is made by the court, wherever a person is sentenced for an offence where socio-judicial monitoring is prescribed and medical experts conclude that treatment is feasible. These provisions apply within the framework of the following measures:</p> <ul style="list-style-type: none"> - socio-judicial monitoring; - judicial surveillance; - parole; - suspended sentence with probation; - safety surveillance - safety detention 	<ul style="list-style-type: none"> - Prior medical expertise is necessary to order or prescribe this and overturn it, if needs be after a contradictory debate. - It may be added at any moment to the sentence by the sentencing judge. - The coordinating doctor serves as an intermediary between the doctor providing treatment and the sentencing judge.

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