**AGENDA**

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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<tbody>
<tr>
<td>8.45-09.00</td>
<td>Welcoming and registration of participants.</td>
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<tr>
<td>9.00-09.20</td>
<td>Opening of the meeting and official welcome by Fundacion Diagrama and Istituto Don Calabria and presentation of involved experts</td>
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<td></td>
<td>JUST/2013/JPEN/AG/4573: brief overview on the project. <strong>Istituto Don Calabria.</strong></td>
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<tr>
<td>09.30-11.00</td>
<td>Work stream 1 Analysis and research: overview of national contexts and practical experiences by experts.</td>
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<td>▪ <strong>Northern Ireland</strong></td>
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<td>▪ <strong>Estonia</strong></td>
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<td>11.00-11.30</td>
<td>Coffee break</td>
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<tr>
<td>11.30-13.00</td>
<td>Work stream 1 Analysis and research: overview of national contexts and practical experiences.</td>
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<td>▪ <strong>Netherlands</strong></td>
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<td>▪ <strong>IJJO</strong></td>
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<td>▪ <strong>Italy</strong></td>
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<td>13.00-14.00</td>
<td>Question Time: “<strong>Alternative measures to detention targeted to youth offenders in Europe: which perspectives?</strong>” <strong>Moderator: IJJO</strong></td>
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<td>14.00-14.30</td>
<td>Conclusions and greetings IJJO.</td>
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<tr>
<td>1</td>
<td>Berger Maartje</td>
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<td>Berron Sonsoles</td>
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<td>3</td>
<td>Brummelman Joyce</td>
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<td>4</td>
<td>Conner George</td>
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<td>Forde Louise</td>
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<td>Foussard Cedric</td>
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<td>Jack Paula</td>
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<td>Jevhuta Aleksei</td>
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<td>Jiménez Raquel</td>
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<td>Kilkelly Ursula</td>
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<td>Leppik Kätlin</td>
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<td>Lluch Palau Carolina</td>
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<td>Malone Deirdre</td>
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<td>Masin Silvio</td>
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<td>Minesso Alessandra</td>
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<td>16</td>
<td>Mirza Shaddy</td>
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<td>17</td>
<td>Padovani Alessandro</td>
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Funded by the Criminal Justice Programme of the European Union
### J.O.D.A. - Juvenile Offenders Detention Alternative in Europe

**JUST/2013/JPEN/AG/4573**

1st EXCHANGE MEETING ACTS

25th September 2014, Murcia (Spain)

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<tr>
<th>No.</th>
<th>Name</th>
<th>Position</th>
<th>Organization</th>
<th>Country</th>
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<tbody>
<tr>
<td>18</td>
<td>Pozo Martinez Amparo</td>
<td>Researcher</td>
<td>Fundacion Diagrama</td>
<td>ES</td>
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<tr>
<td>19</td>
<td>Rassa Jaano</td>
<td>Chairman</td>
<td>Kesa – Crime Prevention Foundation</td>
<td>EE</td>
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<tr>
<td>20</td>
<td>Rodgers Paula</td>
<td>Researcher</td>
<td>Include Youth</td>
<td>UK</td>
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<tr>
<td>21</td>
<td>Romero del Pozo Rafael</td>
<td>Judge - Magistrate</td>
<td>Juvenile Court</td>
<td>ES</td>
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<tr>
<td>22</td>
<td>Tamm Kaire</td>
<td>Advisor on criminal policy</td>
<td>Ministry of Justice of Estonia</td>
<td>EE</td>
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<tr>
<td>23</td>
<td>Van den Brink Yannick</td>
<td>Academic</td>
<td>Leiden University</td>
<td>NL</td>
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<tr>
<td>24</td>
<td>Yiasouma Koulla</td>
<td>Director and expert in the field</td>
<td>Include Youth</td>
<td>NI</td>
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</table>
The ‘JODA’ project is led by the Istituto Don Calabria, Italy. The other European partners of the project, apart from the IJJO, are: Kesa- Crime Prevention Foundation (Estonia), Include Youth (Northern Ireland), Defence for Children (Netherlands), Fundación Diagrama (Spain).

On the morning of the 25th, the partners were accompanied by experts in the field of alternatives to deprivation of liberty from their respective countries, who explained their legal context and the alternatives to detention that apply in each case. This experience allowed the partners to gain a better understanding of the other countries’ realities and obtain a global perspective that will facilitate their work relations in the future. Afterwards, all partners visited a shelter, managed by Fundación Diagrama, where open-regime measures are applied.
Despite the number of UN and EU Standards and Regional Recommendations, many children in Europe are still held in police custody, pretrial detention or deprived of liberty as a sanction. Nevertheless, alternatives offer a quicker, less formal, and cost-efficient response to offending behavior, thus allowing the juveniles to better understand the consequences of their acts, to take responsibility for their offences and to accept the reparation owed to victims. All project partners and intervening experts are strongly convinced that detention must be the last resort for children and that all programmes should aim for the inclusion of young offenders in society.

This 1st Exchange meeting is part of a larger exchange pathway and aims to promote the exchange among different experts in the field of alternatives to detention targeted to juveniles in conflict with the law. An additional meeting in Leiden is set for March 2015. Conclusions resulting from such exchange pathways will be gathered, analyzed and discussed further and will constitute the foundations for the design of the final toolkit. These events will have a European dimension that will be guaranteed by the contribution and participation of the IJJO, a co-beneficiary of the project.

OPENING OF THE MEETING AND OFFICIAL WELCOME BY FUNDACION DIAGRAMA AND ISTITUTO DON CALABRIA AND PRESENTATION OF INVOLVED EXPERTS

Fundacion Diagrama and Istituto Don Calabria opened the meeting welcoming partners and involved experts, highlighting the importance of such an event which facilitates the meeting and exchange between different key stakeholders. The challenge is to invert the trend i.e. to consider alternatives to detention as standard measures and detention as the exception. To this aim, a strong involvement of civil society is required, that must guarantee that the need for security is a condition sine qua non and to act directly as well as at a political level through ad hoc advocacy action in support of the rights of children in conflict with the law.
J.O.D.A. - JUVENILE OFFENDERS DETENTION ALTERNATIVE IN EUROPE
JUST/2013/JPEN/AG/4573: BRIEF OVERVIEW ON THE PROJECT.

Alessandra Minesso, Project manager
Istituto Don Calabria

Priority

The priority addressed by J.O.D.A project is Priority E – improving conditions relating to detention. Specifically, it aims to identify good practice in alternative detention measures addressed to juvenile offenders inserted in the juvenile justice system taking into account these two key elements: the need of security coming from media and social society; the youth’s right to rehabilitation and re-inclusion.

Partnership

APPLICANT Istituto don Calabria (IT)
P1 IJJO (BE);
P2 Kesa-CPE (EE);
P3 Fundacion Diagrama (ES);
P4 Include Youth (GB);
P5 Defence for Children (NL)

General Approach

The general approach of the project intends to promote the mutual learning and the close cooperation between partners at European and national level as critical success factors for the implementation of the activities. The methodology that will be used in developing different WPS will focus firstly on a desk
and benchmarking analysis of the different contexts and legal frameworks in the involved Member States in relation to detention alternatives targeted to Juvenile in conflict with the law

**Target Group**

The selected target group is composed of key stakeholders operating in the field: public referents, private operators and professionals interested in deepening the topic faced by the J.O.D.A project. Indirect beneficiaries: juveniles in conflict with the law inserted in the juvenile justice system

**Aims/Objectives**

*Overall objectives:* Exchange of knowledge, know-how and good practices on detention alternatives addressed to juveniles in conflict with the law in Europe.

*Specific objectives:* to investigate detention alternatives applied in participating Member States; identify best practices related to detention alternatives targeted to juvenile offenders; promote the exchange of best practices at national and European level; promote and enhance the close cooperation among public and private; promote the horizontal and vertical mainstreaming and dissemination of identified good practices and their transferability in multiple contexts.

**Actions**

WS0 Management and Coordination of the project (Months 1-24; 24 months);
WS1 Research and analysis (Months 1-4; 4 months);
WS2 Design and develop of the Exchange pathway addressed to main stakeholders (5-15; 11 months);
WS3 Exchange Pathway finalization and validation. Creation of the final toolkit (Months 16-24; 9 months);
WS4 Mainstreaming e dissemination (4-24; 21 months)

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Expected results

The main expected result is the promotion of know-how, knowledge and good practices on detention alternatives in Europe addressed to youth offenders. Other expected results: to enhance the cooperation among public and private stakeholders operating in the field; to enhance the use of detention alternatives in European member states; to promote the horizontal and vertical dissemination and mainstreaming of good practices to strengthen national and European networks; to impact both on policies and practices through dissemination of identified good practices; to enhance already existing measures to promote and develop coordination, cooperation and mutual understanding on faced topic among key actors; to organize and develop an ad hoc exchange pathway dedicated to stakeholders and professionals; to draft a final toolkit composed by 1. Manual of good practices; 2 online training course

Deliverables

The final toolkit will be composed by: 1. Manual of good practices in English and other ps languages for European and national mainstreaming and dissemination (n. 500 copies on usb and freely downloadable on partners' websites). 2. Online course managed by IJJO through the international school for juvenile justice platform. A first pilot edition will see the participation of n.40 person (defined selection criteria is ongoing). The course will last 9 months (from 16th to 24th month) and will be structured in n. 4 modules (n.2 session for each module).
WORK STREAM 1 ANALYSIS AND RESEARCH: OVERVIEW OF NATIONAL CONTEXTS AND PRACTICAL EXPERIENCES BY EXPERTS.

SPAIN

Carolina Lluch Palau  Prosecutor
Rafael Romero del Pozo  Judge - Magistrate

Introduction

The Law L.O 5/2000 (12th January 2001) contain the Spanish Government systems for responding to children in conflict with the law and it was born with a serious aim: to consider that children in conflict with the law need to be dealt with in largely the different way as adults due to their age, their special idiosyncrasy and their hypothetical lack of maturity or other similar factors.

Three keys are the spirit of the law:
- the best interests of the child;
- the aim of Spanish legislation on children offenders: educational and repressive at the same time;
- the importance of the preventive measures over the punishment itself.
- the Explanatory Statement of the L.O 5/2000 of 12th January, Minor’s Criminal Liability Law, refers to those principles in several times:

“(…) 5*. They have been guiding criteria for drafting this Act Organic, how could it be otherwise, the contents in the doctrine of the Constitutional Court, uniquely in the legal bases of judgments 36/1991, February 14th and 60/1995 of 17th of March , on guarantees and respect for fundamental rights which must necessarily prevail in the proceedings before the Juvenile Courts, subject to the modulations that, for the ordinary procedure for taking into account the nature and purpose of this type of process, leading to the adoption of measures which, as already mentioned, cannot be fundamentally repressive but

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6.*. Following the principles, criteria and guidelines that have been outlined, it can be said that the wording of this Act has been consciously guided by the following general principles: Nature materially but formally sanctioning criminal-procedure and educational measures applicable to juvenile offenders, explicit recognition of all warranties arising from the enforcement of constitutional rights and the special needs of the minor's interests, differentiation of various tranches legal proceedings and sanctions in the category of juvenile offenders, flexibility in the adoption and implementation of the measures recommended by the circumstances of the case, competition from regional entities related to minor welfare reform and to implement measures imposed in the judgment and judicial review of this execution.

7*. … an intervention of an educational nature, though of course particularly intense, expressly rejecting other purposes of the criminal law for adults, the proportionality between the act and the punishment or intimidation for the recipients of the standard is to avoid actions that could have a counterproductive effect on the minor, such as the exercise of the action by the victim or by other individuals. And in the juvenile criminal law must prevail, as determinant criteria of the procedure and the measures taken, the minor's best interests.

Interest to be valued with technical and non-formalistic criteria by teams of professionals in the field of non-legal sciences, (…) and indisputable principles such as the adversarial principle, the principle of defense and the principle of presumption of innocence.

9*. …..ensuring that the imposition of the penalty shall be made after winning the presumption of innocence, but without hindering the educational and assessment criteria the interest of the minor who preside this process, while making use of the flexible principle of minimal intervention in the sense of providing relevance to the possibility not to initiate the procedure or waiver, to redress advance or
reconciliation between the offender and the victim, and the circumstances of conditional suspension of the measure imposed or replacement of it during his execution.

(...)

The position of the prosecution is relevant, in its dual capacity as a constitutional institution that is tasked to promote action of justice and uphold the law and the rights of minor, by ensuring their interests.

(...)  

11*. Under the guidance above mentioned, the Act provides a wide range of measures applicable, from said punitive-educational perspective, having paramount the interest of the minor again in the flexible judicial adoption of the most appropriate measure, given the nature of the case and the personal development of sanctioned during the execution of the measure.

(...)  

24*. Finally, it should be pointed out that the scientific principles and educational criteria must respond to each of the steps, here briefly exposed. Each step will have to be regulated more extensively in the regulation which will follow the implementation of this Act….”

The law set up two sort of measures:

.- Internment measures; these ones, on regard with Explanatory Statement of the L.O 5/2000 of 12 th January, Minor’s Criminal Liability Law:

“16*… reflect a higher risk factor, expressed in the peculiarly serious nature of the offenses committed, characterized in profile cases of violence, intimidation or danger to people. The priority objective of the measure is to have an environment that provides the educational conditions suitable for the minor to redirect those provisions or deficiencies that have characterized his antisocial behavior, when these are necessary, at least temporarily, to ensure the stay of infringer under a physically restricting their freedom. The more or less intensity of such restriction leads to various types of confinement, which will refer below.
Internment, in any case, has to provide a secure environment for all involved personnel, professionals and minor offenders, making it imperative that the conditions of stay are the correct for normal psychological development of minor. Internment in closed seeks the acquisition by the lesser of social competence and sufficient resources to allow responsible behavior in the community through the acquisition of management skills in a restrictive environment that will become less restrictive depending on his evolution.

Internment in semi-open implies the existence of an educational project where from the beginning the substantial goals are made in contact with people and institutions of the community, the minor has his residence within the center, and he is subjected to the program and internal regulations thereof.

Internment in open implies that the minor will perform all educational project activities at the standardized environmental services of the surroundings, residing in the center as usual address. Internment is expected to be therapeutic for those cases in which minor either because of their addiction to alcohol or other drugs, either dysfunctions significant in its psyche, require a structured context in which to perform a therapeutic programming, when on the one hand, the best conditions are not given in the shortest or around for outpatient treatment, and, secondly, there are risk conditions that require the application of therapeutic treatment in a closed regime.”

They are set up in Article 7* of Organic Law 5/2000: “1. The measures that can be imposed by juvenile judges, sorted by the restriction of rights they involve, are as follows:

a) Confinement in closed. Persons subject to this measure will reside in the center and in the same please they will do training, education, work and leisure activities.
b) Confinement in semi-open. Persons subject to this measure will reside in the center, but may carry out one or more of the training activities, educational, employment and leisure stated in individualized execution program. The activities outside the center will be conditioned to the evolution of the individual and meeting the objectives set out therein, the juvenile judge may suspend for a specified period, agreeing that all

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activities are carried out within the center.
c) Confinement in open. Persons subject to this measure will conduct all activities in the educational project in the standardized services that are in their environment, living in the center as habitual residence, subject to the program and internal regulations thereof.
d) Therapeutic Internment in closed, semi-open or open. In the center of this nature there will be an educational attention specialized or specific treatment aimed at people who suffer abnormalities or mental disorders, a state of dependence alcohol, toxic drugs or psychotropic substances, or alterations in perception to determine serious disturbance of the awareness of reality. This measure may be used alone or as complement of other measures provided for in this article. When the interested reject a treatment for addiction, the judge will apply other appropriate measure to their circumstances.
g) Permanence for the weekend. Persons subject to this measure remain at home or in a facility up to a maximum of thirty six hours between the afternoon or Friday night and Sunday night, with exception, if any, to time to be devoted to tasks socio assigned by the court to be carried out outside the place of residence.”

- **Alternative measures:**

Article 7*L.O 5/2000:

“e) Outpatient treatment. Persons subject to this measure must attend the designated center with the frequency required by physicians that attend and follow the guidelines set for appropriate treatment of mental abnormality or disorder, addiction alcohol, drugs or toxic substances psychotropic, or alterations in perception suffering. This measure may be applied alone or in addition to other measures under this article. When the person refuses treatment, the judge must apply other appropriate action to their circumstances.
f) Attendance at a day center. Persons subject to this measure reside at home and attend a common center, fully integrated into the community, to support their educational, training, work or leisure activities…
h) Probation. This measure is to track the activity of the person subjected to it and its attendance school, vocational school or the workplace, according
cases, seeking to help it to overcome the factors determined the offense. Also, this measure requires, in its case, to follow the guidelines to bring socio-educational public entity or professional in charge of monitoring, according to the intervention program developed for this purpose and approved by Juvenile Judge. The person subjected to this measure is also obligated to keeping with the established professional in interviews program and comply, where applicable, the rules of conduct imposed by Judge, who may be one or more of the following:

1. a) Obligation to regularly attend the center corresponding teacher, if the minor is old enough to compulsory schooling, and prove to the judge that
   regular attendance or justify if the absences, regardless of how many times required for this.
2. a) Obligation to undergo such programs educational, cultural, educational, professional, labor, sex education, driver education or similar.
3. a) Ban to go to certain places, or entertainment establishments.
4. a) Prohibited from leaving the place of residence without prior judicial authorization.
5. a) Obligation to reside in a particular place.
6. a) Obligation to appear personally before the Juvenile Court or professional designee to reporting activities and justify them.
7. a) Any other duties that the Judge, ex officio or at the request of the Public Prosecutor considers appropriate for the social rehabilitation of sentenced, provided no violate their dignity as a person. If any of these obligations imply the impossibility of minor continue living with their parents, guardians or keepers, the public prosecutor shall submit testimony of individuals to the public body protection less, and that entity shall promote measures protection appropriate to the circumstances of the former, accordance with the Organic Law 1/1996.
   i) The prohibition of approaching or contacting the victim or those of relatives or other persons identified by the Judge. This measure will prevent the minor from being close to them, wherever they are, at their home address, educational institution, or any other places or any other work that is frequented by them. The prohibiting contact with the victim, or those of their relatives or other persons

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identified by the judge or court, prevent them from having communication, by any media or medium computer or electronic, written contact, verbal or visual. If this measure implies the impossibility of the minor of continuing to live with their parents or guardians, the prosecution must submit testimony from individuals to the public body protection less, and that entity shall promote the protection measures appropriate to the circumstances of the former, in accordance with the Organic Law 1/1996.

j) Living with another person, family or educational group. The person under this measure should be subjected to coexist during the time period set by the judge, with another person, other than his/her own family or with an educational group, appropriately selected for guide in their socialization process.

k) Services on behalf of the community. A person who is under this measure, which may not be imposed without their consent, it perform unpaid activities that are directed, social interest or for the benefit of people in precarious situations.

l) Conduct socio-educational tasks. The person subject to this measure has to perform, without imprisonment or probation, activities with specific educational content designed to facilitate the development of social competence.

m) A reprimand. This measure is the rebuke of the person conducted by the juvenile judge and directed to make him understand the gravity of the acts committed and the consequences thereof have had or could have had, urging him not to repeat such events in the future.

n) Deprivation of driving mopeds and motor vehicles, or the right to obtain, or administrative licenses for hunting or to use any weapons. This measure may be imposed accessory when the crime or offense was committed using a moped or a motor vehicle, or a weapon, respectively.

ñ) Disqualification. The disqualification measure produces the final deprivation of all honors, jobs and public positions on which the minor, albeit elective as well as the inability to obtain the same or any other honors, offices or jobs public, and being elected to public office during the time of the measurement….”

Speaking about alternative measures, we must take following ideas into account:
- The juvenile court judge may not impose a measure which involves a greater restriction of rights or for a longer period than the action requested by the prosecution or by the private prosecutor. Also the length of custody measures referred Article 7.1.a), b), c), d) and g), cannot exceed in any case, the time that imprisonment would have lasted if this punishment was imposed for the same offense, when the minor, being of legal age, had been found liable, according to the Criminal Code. (Art. 8 Law 5/2000).

- Internment measures consist of two periods: the first will be carried out in the center, according to the description made earlier the second will take place on probation guarded, in the form chosen by the judge, so this increase the figures referred to probation. (Art. 7.2 Law 5/2000)

- For the choice of the measure or measures the judge should meet, taking into account that he/she can be flexible, not only the evidence and legal assessment of the facts, but especially the age, family and social circumstances, personality and interests of the minor, as revealed in the last two reports by technical teams and public protection and juvenile reform when they had had knowledge of the minor for having executed a definitive injunction or precautionary measures previously, as provided in Article 27 of Law 5/2000. (Art. 7.3 Law 5/2000)

- Certain crimes considered being specially serious (homicides, murders, rapes or terrorism) do not admit the chance to choose the measure to be imposed, but they necessarily entail secure detention measures. Likewise, there are certain offences which may not be punished with detention (offences of imprudence for instance), and others, such as faults, which have expressly defined the only measures that may be imposed and their duration. (Article 9 of Law 5/2000)

- As a consequence of the system and the ideas exposed above, the alternative measures are the most applied. The figures (General Public Prosecutor Report 2014 referred to 2013) are as follow:

  - Detention measures: 5,843;
    - in close; 754.
    - in semi-open; 3,079.
  - open; 231.

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- therapeutic; 523.
- weekend permanence; 1.256.
- Alternative measures: 18.987;
- Probation; 10.085.
- Living with another person, family or educational group; 483.
- Services on behalf of the community: 4.697.
- Deprivation of administrative licenses; 121.
- Reprimand; 751.
- Other: 2.850.

*NON OFICIAL TRANSLATION

When we talk about alternative measures we include those educational measures which aim to integrate minors back into society providing them with those means or tools which they lack.

One of these alternative measures to internment, also called in Spain ‘open measures’, is the cohabitation in an educational group. Other open measures are outpatient treatment, day-centre attendance, supervised release, socioeducational tasks or community service amongst others.

Cohabitation in an educational group is, in reality, one of the three forms of cohabitation established in Spanish law. The other two kinds are cohabitation with an appropriate adult and family cohabitation.

In this contribution we’ll introduce the cohabitation in an educational group explaining what it is and how it works.

**Cohabitation in an educational group**

It is regulated by article 7 of the Juvenile Criminal Law and it is one of the measures which the Juvenile Judge can impose when minors are condemned for committing a criminal act.

This regulation indicates that it is one of the least restrictive measures on minors’ freedom and rights. The minor subjected to this measure should cohabit, for the time established by the Judge, with an educational group, suitably selected to guide the offender in his or her socialization process.
According to this Juvenile Law, in its explanation of the reasons for this measure, it expresses how cohabitation gives the minor a positive social environment, for the time stated by the Judge, with an educational group which aims to provide the role of a family in that it develops social, educational and affective norms.

To sum up, the aims of this measure are:
- To give the minor individualized attention, in a normal, conflict-free structured family and social environment;
- to help the minor to develop personal resources which will aid their integration in a family environment;
- to temporarily separate the minor from inadequate social surroundings;
- to guide the minor in the process of growing up and preparing for adult life;
- to offer a judicial response to a minor, who has committed a criminal act, who has some kind of adaptation problems which have led to committing this crime for which it is understood that there are no other measures considered to be efficient.

It is important to be aware that any minor who commits a criminal act in Spain is examined by a technical team made up of psychologists, educators and social workers, before any kind of measure is imposed. This team has to provide the Juvenile Judge with technical assistance, by interviewing the minors and their families and to produce a report on the minor’s psychological, educational and family situation, as well as their social environment, and in general to provide any circumstances relevant to the effects of the adoption of the measures foreseen by the Law.

Cohabitation in an educational group can be implemented for a maximum period of two years and aims to provide the minor with a family environment in which to grow and develop as a person. It should be noted that although this is a measure that does not deny the child’s freedom, if the minor does not fulfill the objectives of the measures or if his/her behaviour is inadequate, the measure can be switched to an internment sentence.

During the period of cohabitation in the educational group, children keep all their rights, including being in contact with their family, whilst on the other hand, the educational group accepts all the civil
obligations related to the care and custody of a child such as education, food, and protection. Thus, this educational group must have the full use of their civil rights and cannot be denied in the use of their rights and obligations as established by the Civil Code for tutors and guardians. In addition, they should have suitable economic, social and family conditions to be able to provide an example and guide to the child who is undergoing this socialization process.

As we can see, this is hence a measure which combines penal reform mechanisms (as it is the result of a penal sanction for a juvenile offender) and protection mechanisms without denying the children any of their rights and allowing constant contact with their family.

It is a measure which is used a lot in British and North-American systems where there are even families who become professionals fosterers.

**Educational group, control and supervision**

In Spain, although it is the Juvenile Criminal Judge who imposes the measure of cohabitation in an educational group, it is the Regional government which decides in which centre the minor will have to be placed.

As already mentioned, in addition to being in full use of their rights and abilities, children should have certain personal, social, family and educational conditions, which are sufficient according to the Regional government criteria to be able to guide the minor and fulfill the measure imposed by the Juvenile Court. Although it is not stated in the law, in practice the educational group receives compensation for the service given or a support to cover the child’s needs.

Regional government should always draft an individualized programme taking into account the child’s context and his/her needs as well as the facts which have led to the measure and the reports performed by the Court’s technical team. It has furthermore to fix the objectives that the measure aims to achieve.

Subsequently, an educational group is selected which is aware of the minor’s predisposition to fulfill the measure and will take account of the minor’s parents or tutors opinion. The individualized programme is submitted to the Juvenile Court for approval.
During the educational programme, both family groups, i.e. the educational group and the minor’s family, should be present as the main goal is the child’s return to his family in optimum conditions for social integration.

There are certain control mechanisms which are carried out by various bodies during the process of cohabitation in an educational group.

Firstly, there are the reports performed by the educational group itself. They submit incident and progress reports to the Regional government and the Juvenile Courts.

Secondly, there is the supervision carried on by the Regional government that monitor the develop of the measure and inspect the centres where it is carried out before submitting reports to the Juvenile Courts.

Thirdly, there are the checks performed by the Juvenile Courts. The Courts are in fact obliged to perform periodical inspections of the centres where these measures are carried out. They interview the minors living in these centres, writing reports if required from higher bodies or organisations such as the Ombudsman or Children’s Commissioner.

At the end of the measure a final report is written assessing and evaluating if the fixed objectives have been reached.

This report also contains an analysis of the minor’s situation, and if needed, the protection services are informed so that they can monitor the minor and his/her family after the conclusion of the measure or recommend him/her for fostering in a protection centre.

The cohabitation educational groups in the region of Murcia

Actually, in the Region of Murcia, there are two educational groups, one of which is the Pinos Home and the other the Arrui-Alea Home, both managed by the Diagrama foundation, and in which there are 19 places, occupied during most of the year.

In these centres, from the facilities to the involved staff and, of course, the programmes carried out there, we can find an excellent family-like atmosphere.

Funded by the Criminal Justice Programme of the European Union
At Murcia’s Juvenile Courts we consider this measure and these centres to be particularly suitable in cases where there are serious cohabitation conflicts between parents and minors and it is necessary to separate the family group from the environment which they live in, to then subsequently gradually return. Thus, certain resources for cohabitation are provided not only to the minors but also, and above all, to their parents in order to achieve intergenerational mediation between the parents and minors. Obtained results to date are excellent, and in most cases the children have been successfully re-included into their own family.

NORTHERN IRELAND

George Conner  (Judge, Youth Court)

The vast majority of cases concerning child offenders are dealt with by the Youth Court. The main exception arises where a child is jointly charged or is charged out of the same circumstances with an adult. The prosecuting authority may decide to prosecute the case before a higher court (the Crown Court) and in some cases the child may choose to have the case dealt with in the Crown Court; this happens very rarely. The court deals with children between the ages of 10 and 18 years; very few children below the age of 12 years appear before the court. If proceedings have already commenced against a child who becomes 18 years in the course of the hearing the court may continue to deal with the child as if he were a child.
The Youth Court has jurisdiction to deal with all criminal offences except murder and manslaughter. Sadly the court hears cases concerning very serious assaults (including sexual assaults), robbery and serious incidents of riot.

The court is comprised of three judges. I am the legally qualified and trained chairman of the court - I am one of twenty full time district judges in Northern Ireland. The other two members of the court are lay people who generally hold no legal qualifications. It is my role to advise the panel of judges on the relevant law and to speak on behalf of the panel. The two lay judges are selected from a panel of about 60 people. So long as a panel has been summoned to attend the court can sit even if the two lay people do not attend. The decision of the court is by a majority of those sitting; if only two judges are sitting and they do not agree, the decision of the chairman is final. In the main, decisions are unanimous but occasionally the lay people will outvote the chairman. The panel of judges have two main functions; to decide whether or not the child has committed an offence and (if guilty) how the case should be dealt with.

In roughly 70 per cent of cases the child admits his or her guilt thus saving a trial on the evidence. Unfortunately, not all of these admit their guilt when the case first comes before the court. In many cases (too many) the child only accepts guilt at a late stage in the process. Delay in dealing with cases continues to be a concern for all courts in Northern Ireland. While the court wants to keep delay to a minimum and to ensure that any delay is purposeful there remains a lot of work to be done in getting cases dealt with more efficiently. Occasionally the acceptance of guilt only arises after the court has heard the evidence and found the child guilty of the offence. Of the cases that are contested in the court approximately 65 per cent result in a finding of guilt.

Once guilt has been established the court has to decide how to deal with the child. Unless the offence is a trivial matter the court is required to obtain a report on the child. Since 2002 Northern Ireland has adopted a restorative approach to dealing with child offenders. There was a significant change in the law resulting in a process whereby the child could choose (in most cases) to have the case dealt with by a youth conference; in a few cases (the most serious offences) the court has a discretion as to whether a case should go to a youth conference. The child must consent to have the case dealt with by way of a
youth conference. The youth conference provides an opportunity for the victim of the offence or a representative of the victim to meet the perpetrator of the offence and confront the offender with the consequences of the offence, to ask questions of the child and to have some input as to how the case will be dealt with. The victim does not have to attend. The success of the conference depends to a large extent on the preparatory work carried out by the conference co-ordinator. It is clear that the best conferences are those at which the victim attends. Some conferences can be emotional and are very challenging for the child. The skill of the co-ordinator is in allowing the child to be challenged without the exercise becoming one of revenge by the victim or giving the offender a further opportunity to abuse the victim. In very few occasions does the process have to be abandoned as a result of the behaviour of any of the people present.

The object of the youth conference process is to arrive at an agreed plan of action for the child. This may include an opportunity for the offender to apologize in person or in writing to the victim, to make some form of reparation or compensation to the victim, to carry out some work for the benefit of the community, to have some restriction placed on the offender in terms of where he may go or when he must be at home at night, to undertake some form of training or supervision or to receive counseling or treatment for some behaviour. Abuse of alcohol or drugs lies behind much of the offending behaviour and specialist courses have been designed to help children desist from such behaviour. A plan may recommend a period of custody as part of the plan. The plan must be capable of completion within twelve months of being made.

An agreed plan is not, however, the end of the matter. The case must return to court for approval. The court may accept, amend or reject the plan. The court will hear representations from the child’s legal advisers and will sometimes hear (or receive reports) from other professionals (especially psychiatrists and psychologists) and may hear from the parents or the child before making the final decision.

The aim of the Youth court is set out in statute. The principal aim of the court and the youth justice system is to protect the public from offending and the consequences of offending by children. In seeking to achieve that aim the court must have regard to the welfare of the child - to the best interests of the
child. In carrying out the function of sentencing any child the court must ensure that the manner in which the child is dealt with is both lawful and proportionate to the offence.

By statute the court may only order a child to be detained in custody where there is no other appropriate manner for dealing with the child; custody is a matter of last resort.

In the most serious offences the victim or the victim’s family will sometimes demand a custodial sentence. It has to be acknowledged that there is a strong public taste for punishment and retribution.

While the court strives to command public support and respect for the criminal justice system the court must look closely at the offence, the offender and try to deal with each case in a manner that gives maximum protection to the public.

In Northern Ireland we have a Juvenile Justice Centre where children who have been detained are kept. This is a Centre of which we can be proud. The children are well looked after, they receive education and training for life. For some, the Centre is a better home and a safer environment than what exists for them in the community. Sadly, this is recognized by some of the children. On occasion, even for relatively minor offences some children prefer to receive a custodial order rather than work through supervision, treatment or service in the community. Thankfully, most want their liberty.

The struggle for the court is to deal with the offence in a manner that marks the seriousness of the offence but deals with the offence in a way that acknowledges the individual difficulties for the child. Many of the children have difficulties with mental health, many have attempted suicide or some lesser form of self harm. We still live in an environment where terrorist elements hold or are seeking to hold communities in their grip; a zero tolerance approach to juvenile crime is seen as a way of gaining public approval and even in communities that wish to through off the mantle of terrorism there is sometimes a connivance at paramilitary punishment of children. A great many of the children have witnessed or themselves been victims of violence. Many have known death through violence in their immediate family. Some of the children have been abandoned by their families; many are in the care of the state.
These things do not excuse their crime. The court is presented with a very complex young person. It would be very easy to detain the complex, troubled and troubling young person for as long as possible within the law. That to my mind only passes the problem on without resolution.

What we seek to achieve in the court is a plan that addresses the causes of the offending behaviour so that the risk to the public is reduced.

It is rare that the court rejects a plan in its entirety. I encourage my panel to look at the plan to see what is acceptable, to look at the parts that trouble our minds and to use the power to amend either to add actions or to bolster some proposed action. Sometimes a term is made less severe (such as the number of hours of service to the community); essentially this is to keep the penalty proportionate to the offence but also (perhaps) to acknowledge that the child admitted the offence at an early stage.

The child must consent to the plan that the court wants to make. If the child does not consent then the Youth Conference Plan cannot be made and the court will have to invoke the powers that existed prior to the advent of Youth Conferencing. It is essential that the court does not leave itself in the position of insisting on a term unless it is of the opinion that that term is key to the success of the plan. It is rare that the child does not consent to the plan proposed by the court; the alternative may be a custodial sentence.

If a Youth Conference Order is made, the court will set a time (up to 12 months) for its completion. If the child does not abide by the terms of the plan then if there has been significant non-compliance the child will be brought back to the court. Sometimes the child is given a further opportunity to complete the plan. If the child continues to be in breach of the plan then the court will re-sentence (having regard to the parts of the plan that have been complex with). A child may ask for the court to re-examine the order in the light of some significant event in the child’s life. The United Nations Committee on the Rights of the Child advocates that cases concerning children should be dealt with in a restorative manner rather than a punitive or retributive manner.

The court retains the power to use the traditional sentencing powers. These are governed by their own rules. Sometimes children prefer to be dealt with in this manner so that they will only have to deal with a probation officer for the preparation of the pre-sentence report. This report sets out the personal details and home circumstances of the child, gives an account of the offence and the child’s attitude to the offence and will normally make a recommendation to the court as to the case may be dealt with.
Again, this is a recommendation. It is for the court to determine, after hearing representations made on behalf of the child, how best to deal with the case. Again the response must be lawful and proportionate. There is an automatic right of appeal by the child from the decision of the court.

Koulla Yiasouma (Director and expert in the field, Include Youth)

Up to 1998 Northern Ireland had a mixed custodial system (training school order up to 2 years) (approximately 200 young people per year in custody). With the Children Order of 1995 and 1998 the custodial system has been separated.

Actually we have:
• 17 bed secure children’s home
• 48 bed custodial accommodation although the reality is it rarely gets above 35

During the period 1994-1998, Restorative Justice method of intervention to reduce levels of “informal system” have been promoted and developed.

1998 – GFS - Recommended a new youth justice system with the Youth Justice Agency and restorative justice through youth conferencing as a core operation

2004 – establishment of Youth Justice Agency

2010 – Hillsborough agreement devolved Justice powers to the Northern Ireland assembly ‘...of how children and young people are processed at all stages of the criminal justice system, including detention, to ensure compliance with international obligations and best practice’ (paragraph 7).

Such agreement heralded then a formal Youth Justice Review that has been reported in September 2011. The review made certain recommendations concerning early intervention services, children’s rights including the Minimum Age of Criminal Responsibility, custodial provision, looked after children, bail and delay. As we speak we are in the middle of implementing the changes with mixed results.

How many young people are we talking about?
In 2012/2013 there were 1,039 young people aged 10-17 year old involved in Youth Justice Services. (i.e. one in every 180 young people in Northern Ireland). The majority of young people are dealt with through diversionary measures. Very few young people in custody are there under sentence (only 11% were sentence transactions in 2012/13). Majority are there under PACE (43%) and Remand (46%).

In 2012/13 there were 551 transactions in the Juvenile Justice Centre, of these:

- 43% were related to PACE
- 46% were related to remand
- 11% were sentence transactions

In 2012/2013 the referrals to Youth Justice Services were:

- 51% Diversionary
- 41% Court Ordered
- 4% Community Orders
- 3% other referrals

So while we need to address the needs of young people who are detained under sentence – there is an urgent need to address the inappropriate use of custody – too many young people are detained in custody for all the wrong reasons. The over use of remand for vulnerable young people has been noted repeatedly by independent inspections and investigations by human rights bodies.

**Profile of children involved in Youth Justice services**

Users of Youth Justice Services are more likely male, 16-17 years old and comes from areas of high deprivation and those affected by conflict, been in state care, experienced neglect in family, misuse of drugs and alcohol, learning and behavioural difficulties.

Woodlands Juvenile Justice Centre Inspection 2011

- One third were in alternative care
- 82% were from a single parent family
- 34% had experienced domestic violence at home
- 38% had a statement of learning needs
• 14% had a learning disability
• 80% had issues related to school exclusion or absconding from school
• 92% had misused drugs and alcohol
• 32% had self-harmed

Almost all had experienced some form of trauma in their lives, including:
• Suicide of family member (s) or friend (s)
• History of sexual, physical or emotional abuse
• Parental substance abuse
• Parental mental health difficulties
• Victim of bullying at school or in community
• Victim of paramilitary threat

Use of alternatives

Northern Ireland has received international praise for the use of alternatives to detention.
Use of restorative practice is critical.
Strong community and voluntary sector play a key role.
Community based restorative justice now accepted and accredited and work in partnership with government, police and criminal justice agencies.
Youth conferencing has been shown to maximize chance of diverting young people from justice system.
Evaluations have been positive.
And the stats show that numbers in custody (on sentence) reduced considerably.
BUT – we lag behind in terms of numbers held on remand.
While strong advocates for restorative justice, Include Youth has raised several concerns based on our feedback from young people. Evaluations of youth conferences have focused on the process and overall satisfaction of the process rather than the outcomes for young people involved. Concerns have been raised regarding informal consent and meaningful participation by young people. Some young people appear to agree to actions and conditions which they do not fully understand.
“They (conferences) don’t change your views on what you do and you don’t do all the things they want you to do.”
“They make you agree to stuff and you don’t want to do it”
“They write a big list for you and you just sit there in the room and you just have to do it.”

Despite the challenges raised we acknowledge that there have been significant improvements in the practice of youth conferencing and more generally in the work of the Youth Justice Services since the youth justice review recommendations were published. These include:
- Increased victim involvement in youth conferences
- Addressing proportionality of youth conference plans
- Supporting young people with speech, language and communication needs
- Bail information and support service
- Intensive supervision and support programme for young people involved in persistent or serious offending for as long as is deemed necessary
- Reduced number of multiple orders.

Do alternatives work? Reoffending rates?

Findings from Youth Reoffending in Northern Ireland from 2010/2011 Cohort, Department of Justice NI, June 2014
- Of the 33 young people released from custody, 26 committed a proven re-offence, 18 within 3 months.
- The one year proven reoffending rate for young people who received a community disposal at court requiring supervision (such as probation order or youth conference order) was 59%.
- The one year proven reoffending rate for young people who received a community disposal at court not requiring supervision (such as a fine or a suspended sentence) was 46%.
- The one year proven reoffending rate for young people who received a diversionary disposal (such as a caution or informed warning) was 20%.
### Quotes from young people:

**On custody:**
- “If a kid has problems, putting them in custody only creates more problems.”
- “You’re locked away – they don’t care about you anymore.”

**On custody as a last resort:**
- “Custody is a first resort.”
- “It’s used in Northern Ireland as a first resort.”

**On alternatives:**
- “There should be more community sentences and resources, especially for over 18s. For under 18s there should be youth conferencing, more alternatives.”
- “More community based sanctions, community service. Instead of custody for repeat offenders, there should be drug and rehabilitation centres.”
- “Put more support services into community programmes.”
- “Social services should do more, have something in place for juveniles.”
- “It’s not good enough, social workers should be on the ball – they need to find them accommodation.”

### Practitioner Quotes:

- “We (JJC) are meant to be the end of the line, we’re meant to be the hard end cases, but we are not. There are loads of wee ones in here who shouldn’t be in here.”
- “Social services just use the JJC like that. They just put them here because nothing else works.”
- “Sometimes it suits the professional to keep them in custody.”
- “You have to do something positive, you can’t just lock them up.”
- “The needs of young people in conflict with the law and the reduction of reoffending are best served by community based, restorative solutions rather than those provided by traditional, custodial settings.”

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Paula Jack (Chief Executive, Juvenile Justice Agency for Northern Ireland)

The Youth Conference in Northern Ireland – how does it work in practice?

Youth conference is a meeting or series of meetings held to consider how a child should be dealt with for an offence. If a conference goes well it should result in a plan of action for dealing with the offence and the youth person in accordance with the principles already described.

A youth conference comprises of, as a minimum, the youth conference co-ordinator as facilitator, the young person, an appropriate adult, and a police officer. It is hoped that in most cases the ‘appropriate adult’ will be a parent or guardian of the child, however, it may be necessary for someone else, such as a social worker, legal representative or other willing responsible person to fulfill this role. Others are also encouraged to be present at the conference. These may include the victim, or someone representing the victim, e.g. if the victim is not regarded as an individual, such as a business, company or public body. The victim and young person may also be supported at the conference by an individual.

The conference should also involve others who could make a useful contribution to the process, for example, professional people such as social workers or probation staff; or significant people in the young person’s life, such as family friends or teachers.

Legal representatives of the young person may attend a conference, and there is provision in the legislation for legal aid. However, it must be stressed that the purpose of a conference is not to consider questions of guilt or innocence, but to consider an appropriate plan of action in a way that fully engages the young person. This will have implications for the role of any legal representative attending a conference. The conference is a restorative medium not adversarial, as is the case in the retributive youth justice system.

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Conferences are organized and overseen by youth conference co-ordinators. Most conferences run smoothly, but in the event of problems, the co-ordinator has the power to exclude people from the conference.

Conferences are intended to achieve a specific outcome, they are not run to a set pattern or follow a predetermined script. The aim is to provide a forum of discussion with the perpetrator of the crime, the victim of the crime, and all affected by the crime. The conference discussion allows for expressions of the harm caused and for the young person to make amends for the harm and to be held accountable to the Youth Conference Service, the Court or the Public Prosecution Service. The family and the entitled others are encouraged, with the young person, to create solutions to prevent re-offending, which will become part of the action plan.

Ultimately, however, any plan arising from a conference will require at a minimum the agreement of the offender, expressed either in court where the conference has been ordered by the court, or at the conference itself where the conference is diversionary. (While not having a veto over the plan as whole, no person attending the conference will be required to take or be the subject of an action that he/she disagrees with, for example, a victim is not required to accept reparation even if the rest of the conference thinks it is a good idea.)

The key people in this system are the youth conference co-ordinators. They are responsible for setting up and convening conferences. Although they are not expected to dominate a youth conference, they do have an important role to ensure that it does not go off the rails and that the participants in the conference all have a chance to play their part.

Coordinators need to work effectively with police and the prosecution service. They also need to have a good knowledge of their local areas and a good understanding of the various programs and support mechanisms available in the locality to be used as part of any conference plan. Although plans will often be able to make use of existing services for young people, the Youth Conference Service has a budget to purchase or set up services that would not otherwise be available.

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The progress of plans in supervised by the Youth Justice Agency. It is their responsibility to work with the children to try and ensure they successfully complete the requirements of the plan.

**Outcomes**

A successful conference will result in a conference plan. A plan could consist of one or more of the following:

- An apology to the victim;
- Reparation to the victim or to the community;
- Restitution paid to the victim;
- Supervision by an adult;
- Work or service for the community;
- Participation on activities, e.g. activities designed to deal with offending behaviour, or to offer training or education, or to deal with problems such as drugs or alcohol;
- Restrictions on conduct or whereabouts, e.g. curfews;
- Treatment for mental problems or drug/alcohol dependency.

Clearly each plan should be tailored to the individual circumstances of the offence and the young person, and it should be consistent with the overall aims of the scheme which include reparation, rehabilitation and the repairing of relationships.

Where the conference is diversionary, the plan would be referred to the prosecutor who must decide whether to accept it. Where the plan is accepted and is then complied with, the matter is at an end. Although, the fact that a young person has been the subject of a youth conference plan may be cited in criminal proceedings.

If the plan is not complied with, the prosecutor may take the matter to court. There will be an element of discretion for non-compliance because there is no intention that minor or unavoidable breaches should be taken to court. In this regard it should be noted that there will be provision to allow small breaches.
modifications of a plan to be made with agreement (particularly that of the young person), for example, where actions could not be carried out because of ill-health. The plan may also contain sanctions within itself, for example, the breach of a curfew might, as part of the plan, result in an extension of the curfew. If the plan returned to the prosecutor is not acceptable, court proceedings will be instituted. Court proceedings can also be required in circumstances where the conference had gone well but where there was a consensus that the case required a sanction only available in court, for example, a community service order or even custody. Where this is the case, the conference may include in its report its recommendation on how the court should act.

Where the conference has been ordered by the court, the conference may recommend that the young person be subject to a youth conference plan, that the court exercise its usual powers or that the conference plan be linked to a period in custody. For its part, the court is not obliged to accept the recommendations of a conference which it has ordered (nor indeed, those of a diversionary conference that has recommended prosecution followed by specific court-ordered sanctions). It will have the power, in effect, to vary the conference plan with agreement or indeed, to reject the plan if it considers there is good reason.

If the court order arising from a youth conference is breached, the court may either deal with the breach or decide to re-sentence for the original offence.
ESTONIA

Kaire Tamm (Ministry of Justice, Criminal Policy Department, Advisor)

The Juvenile Justice System in Estonia

Juvenile crime

The age of criminal responsibility is 14 years.
Each year, the police identify approximately 1,500 children who have committed a criminal offence.
The number of criminal offences committed by children has decreased by more than a third compared to 2008. However, this change has largely been caused by demographic factors.
Most common type of offences committed by children: offences against property, mostly shoplifting (48%) and offences against persons (36%).

Tab. 1 – N. of criminal offences committed by children (years 2007-2013)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
<th>Per 10000 children</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>2114</td>
<td>280</td>
</tr>
<tr>
<td>2008</td>
<td>2289</td>
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<td>304</td>
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<td>2012</td>
<td>1486</td>
<td>301</td>
</tr>
<tr>
<td>2013</td>
<td>1372</td>
<td>289</td>
</tr>
</tbody>
</table>

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Juveniles in Justice and Social System

Juvenile Justice Committees

There is a committee in each county (for a total of n.15 Committees) and other n.52 Committees in local governments.

Each committee has seven members, including persons who have work experience in education, social affairs and health care, a police officer, a probation officer and a secretary of the juvenile committee.

In total n. 1633 juveniles were referred to committees in 2013 the 55% were younger than 14.

The Committee may apply n.9 different type of sanctions:

1) warning;
2) sanctions concerning organisation of study;
3) referral to a psychologist, addiction specialist, social worker or other specialist for consultation;
4) conciliation;
5) an obligation to live with a parent, foster-parent, guardian or in a family with a caregiver or in a children’s home;
6) community service;
7) surety;

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8) participation in youth or social programs or medical treatment programs;
9) sending to reformatory

The Committees will be reformed in 2016 and integrated into the child welfare system.
The coordination of the same will pass from the Ministry of Education to the Ministry of Social Affairs.

**Closed juvenile facilities**

Closed juvenile facilities are at all effects reformatory for children aged 10-18 (Judge decision is requested for referral).
In specific we have:

- Kaagvere - Reformatory for girls;
- Tapa - Reformatory for boys;
- Viru Prison - it is as well the headquarter of Youth Department and hosts boys;
- Harku Women’s Prison – facility hosting girls.

These facilities are managed by Ministry of Education and Research.
The last juvenile prison in Estonia was closed in 2008.
Juveniles in closed facilities

Results of Criminal Proceedings related to juvenile (2013)

The 78% of criminal proceedings will be terminated and the remaining 22% will be sent to court.
The 28% of terminated proceedings will be referred to juvenile committees (§ 201)
The 24% of proceedings will be terminated because of special circumstances precluding criminal proceedings.
The 16% of proceedings will be terminated as the guilt is negligible and public interest is lacking (§ 202). In this case ad hoc obligations can be imposed:

- compensation of damages;
- payment into the public revenues to be used for specific purposes;
- community service;
- addiction treatment;
- participation in social programmes.
The 1% of proceedings will be terminated on the basis of conciliation.

**In conclusion**

- Evidence-Based Approach in prevention is fundamental;
- Parenting programme must be promoted and enhanced;
- Multi-dimensional family therapy (MDFT) must be promoted and enhanced;
- Detention must represent the last resort;
- The use of alternative measures (special foster care, programmes and so on) must be promoted and enhanced;
- The maximum time in remand custody should be shortened;
- Youth offenders should have direct access to early parole;
- An appropriate support strategy must be developed for children in exit from prisons and reformatory;
- Restorative justice practices should be promoted and enhanced.

The procedural time limits related to juvenile criminal proceedings sometimes represents a weakness in the develop of intervention targeted to youth offenders.
Juveniles and young adults imprisonment and probation service in Estonia

Viru Prison distinctive features

Viru prison is the largest and most modern in Estonia. It is the only prison in Estonia, where all juveniles and young adults, aging 14-21 are kept (n.3 unit). Juveniles and young adults probation service in Estonia is also managed by the same unit, to offer holistic approach for all youths.

In the premises there are:

- closed prison (twin rooms);
- open prison unit;
- police custody house;
- 500 surveillance cameras.

To gain the best security possible, all buildings are connected with the gallery, leading from one house to another.
State of affair about juvenile and young adults unit

At 18\textsuperscript{th} September 2014 the number of detainees was n. 125, in specific:

- n.74 convicted young adults ages 18-21 (male)
- n. 14 convicted juveniles 14-17 (male)
- n. 37 remands (1 female, 2 juveniles)

Probation functions

In Estonia there are n.28 probation officers, whose work is aimed at communicating and control of probationers. Furthermore, they do very intensively work with probationers’family and they visit the inmates, who previously were under supervision of probation service and support them during the execution of the sentence in prison.

Personnel in juvenile and young adults unit

The staff working in the juvenile and young adult unit is composed of:

- n. 2 psychologists;
- n. 1 psychiatrist;
- n. 4 social workers (programs, conversations);
- n. 1 social pedagogue (school questionnaires, motivation rewards);
- n.5 contact officers (risk assessment, individual plan, municipal liasion, administrative procedures, communicating with other parties and so on).

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Occupation of inmates

The main activities in which youths are involved during the detention period are the following:

- Basic and secondary education (basic of 9 grades is compulsory);
- Vocational training;
- Wood and metal workshops;
- Cooking workshop;
- Work;
- Furbishing, cleaning, different housework in the premises;
- Leisure time activities;
- Gym, football and basketball fields;
- Library;
- Music-, art- and acting classes;
- Religious practices;
- Programmes (in groups and individual);
- Aggression Replacement Training;
- Anger Management (Viha juhtimine);
- Addiction Program (Eluviisitreening);
- Equip youth program (Equip);
- Social skills training (Sotsiaalsete oskuste treening);
- For the right moment Social Programme (Õige hetk).

Here following we introduce some table and graphs illustrating the motivation system the rehabilitative program for youths and young adults offenders drug addicted.

Funded by the Criminal Justice Programme of the European Union
Tab 2 - Motivation system

<table>
<thead>
<tr>
<th>Period (1-2 weeks)</th>
<th>Award</th>
<th>Award</th>
<th>Award</th>
<th>Award</th>
<th>Award</th>
<th>Award</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Gym</td>
<td>Sweet, dinner</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Gym</td>
<td>Sweet, dinner</td>
<td>Library</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Gym</td>
<td>Sweet, dinner</td>
<td>Library</td>
<td>Game room</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Gym</td>
<td>Sweet, dinner</td>
<td>Library</td>
<td>Game room</td>
<td>Long-term visit</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Gym</td>
<td>Sweet, dinner</td>
<td>Library</td>
<td>Game room</td>
<td>Cooking course</td>
<td>TV (only juveniles)</td>
</tr>
<tr>
<td>6</td>
<td>Gym</td>
<td>Sweet, dinner</td>
<td>Library</td>
<td>Game room</td>
<td>Cooking course</td>
<td>Home visiting</td>
</tr>
</tbody>
</table>

Graph 1 - Addiction rehabilitation

The movement to the next phase (inmates make decision together with the contact officer and social worker) depends on the inmate’s motivation assessment. At each rehabilitation phase, inmates with

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addiction problems draft ad hoc worksheets and workbooks and analyse them with social worker, phase by phase.

**Addiction Rehabilitation Department**

The Department takes in charge young adult inmates aged 18-21, with diagnosed addiction problems (alcohol and drugs). It hence plays an active role during the whole rehabilitation pathways targeted at inmates who are motivated to deal with addiction problems. The department has 20 places available that at 18th September 2014 were completed. Cells are open all the day, smoking is prohibited and users can have access to the gym.

The implemented activities are the following:

- meeting with social worker/contact officer (once a week);
- introduction of different addiction rehabilitation programmes (guests/social workers; once a week);
- analysis of different films related to addiction problems (with social worker);
- visits from Anonymous Addicts (once a month);
- participation in social programs (individual plan);
- participation in addicts group (once a week).

**Early release from prison – first degree intentional offence**

There are three possible options:

- On parole with electronic monitoring /curfew/ (at least half a sentence must be served. In this case the inmates’ agreement is requested);
- On parole, under supervision of probation officer (at least two-thirds of a sentence);
- Full sentence served. (Probation officer is not any more involved).
Early release from prison – second degree intentional or first degree reckless offence

There are three options also in this case:

- On parole with electronic monitoring (at least after one-third of sentence, but no less than six months. In this case the inmates’ agreement is requested);
- On parole under supervision (after at least half of a sentence, but not less than six months);
- Full sentence served.

Release on parole

Very few young adults are released on parole, one reason may be the high risk percentages and the previous violation of probation requirements. For releasing juveniles on parole, the probation officer and the contact officer are asked for opinions and risk assessment (see tabs 3, 4 and 5).

Tab. 3 - Release on parole – non-violent offenders

<table>
<thead>
<tr>
<th>NVO/Danger</th>
<th>Low danger</th>
<th>Dangerous</th>
<th>Highly dangerous</th>
<th>Extremely dangerous</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-20%</td>
<td>Low risk</td>
<td>Low risk</td>
<td>Average risk</td>
<td>High risk</td>
</tr>
<tr>
<td>21-60%</td>
<td>Low risk</td>
<td>Average risk</td>
<td>High risk</td>
<td>Very high risk</td>
</tr>
<tr>
<td>61-85%</td>
<td>Average risk</td>
<td>High risk</td>
<td>Very high risk</td>
<td>Very high risk</td>
</tr>
<tr>
<td>86-100%</td>
<td>High risk</td>
<td>High risk</td>
<td>Very high risk</td>
<td>Very high risk</td>
</tr>
</tbody>
</table>

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Alternatives to imprisonment for juveniles

The available alternatives to imprisonment (not alternative measures) for juveniles in Estonia are the following:

- Placement in semi-open institutions and secure units for children (sending through Juvenile Justice Committees, mostly when there are not severe or repeated crimes);
- Probation (intensive family counselling and/or community service);
- Placement in medical institutions (in case of diagnosed psychiatric disorders);
- Placement in rehabilitation centres.
What actually works?

- Intensive individual approach (at least four encounters/times per week);
- Meeting with the family and the offender (roundtable with psychologist, social worker, probation officer, family, offender and contact officer - family counselling).

Aleksei Jevhuta (Probation officer, Prison and Probation service)

Viru Prison Harju county probation office for juvenile offenders

Starting from 1st June 2008 all probation supervision departments were moved into the prison structure. Juvenile offenders probation supervision department was moved to Viru Prison in data 1st March 2012.

Probation officer in juvenile supervision system

There are specialized youth probation officers who deal with all young people 14-21 years of age who have their sentence as community service, supervision of conduct, conditional probation sentence, early release from prison and parole. In Estonia, the probation service is subjugated to the prison service. All probation officers are nonuniformed and, there is a special unit that manages all young offender cases. Actually, there are ca 6000 people managed by the probation service, ca 10% of them young people. During supervision the control probationer must follow simple rules:

1) to live at exact place and address, which was determined by court;
2) to appear at local probation office for regular registrations;
3) to be subject to control at the place of living and present and show probation officer all information about duties implementation and subsistence for living;
4) to get a permission from probation officer for departure from the place of living for more than 15 days;

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5) to get a permission from probation officer for substitution of place of residence, workplace or education place.

The tasks developed from such services are the following:

- Performs local supervision;
- Estimates offenders’ risks;
- Makes offers for possible punishment appointments;
- Establish an opinion and estimation if a prisoner is ready for release from prison ahead of schedule;
- Cooperates with social departments and makes sure, if the social environment is suitable for prisoner after the release;
- Co-operates with courts and police offices;
- Works with different databases;
- Guarantees control (which is needed for successful supervision and society safety protection);
- Supports and motivates the offender to live law-abidingly helping to prevent risks.

**Type of punishments targeted at youth offenders**

- Minor commissions in local self-governments;
- Community work appointed by prosecutor;
- Community work appointed by court;
- Probation supervision;
- Prison punishment;
- Forced medical rehabilitation;
- Electronic supervision
Tab -6 Data on punishment at 18.09.2014

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probationer</td>
<td>311</td>
</tr>
<tr>
<td>Under probation supervision</td>
<td>132</td>
</tr>
<tr>
<td>Community works (prosecutor)</td>
<td>75</td>
</tr>
<tr>
<td>Community works (court)</td>
<td>51</td>
</tr>
<tr>
<td>Shock imprisonment</td>
<td>31</td>
</tr>
<tr>
<td>Sanction designated by court</td>
<td>19</td>
</tr>
</tbody>
</table>
The Netherlands has become a leading country in Europe as far as the use of pre-trial detention to juveniles is concerned. A vast majority of juveniles enters a youth custodial institution on a pre-trial detention order and the numbers have increased significantly since the 1980s. In 2011 up to 1,599 minors entered a youth custodial institution on a pre-trial detention order and on 1 January 2012 up to 74% of the under-aged population in youth custodial institutions consisted of pre-trial detainees. Most juvenile pre-trial detainees have already served their custodial sentence before they are convicted. Moreover, the total number of pre-trial detention orders happens to be much higher than the above mentioned number, taking into account the other modalities of pre-trial detention, such as house arrest, night detention and conditional suspension of pre-trial detention. All in all, pre-trial detention is used far more frequently compared to other Western European countries.

When a court considers a juvenile’s pre-trial detention four categories of interests are at stake: 1) general criminal justice interests; 2) personal liberty interests; 3) fair trial interests and 4) interests of early justice intervention.

Pre-trial detention has been designed as a coercive measure to protect general criminal justice interests, such as the process of truth-finding and evidence-gathering and the safeguarding of the individual’s appearance in court. At the same time, pre-trial detention results in the limitation of one’s fundamental right to personal liberty, which calls for the utmost restraint, particularly when juveniles are concerned. Moreover, pre-trial detention must be considered in light of the right to a fair trial, including the presumption of innocence, which can be on strained terms with the general criminal justice interests. Finally, pre-trial detention in the particular context of the juvenile justice system can be used as an early justice intervention to delinquent behaviour of juveniles. This approach is meant to serve the pedagogical objectives of the juvenile justice system and therefore requires early tailor-made
interventions. At the same time, it can be on strained terms with the interests of personal liberty and fair trial, which should prevent an over-reliance on detention without adequate legal safeguards

**Alternatives to pre-trial detention in the Dutch juvenile justice system**

Alternative execution of pre-trial detention:

- alternative regime (e.g. night detention)
- alternative location (e.g. house arrest)
- conditional suspension of pre-trial detention: The Netherlands offer a broad variety of specific sanctions and interventions designed for youth justice. On the other hand, the law of penal procedure is very similar for adults and minors. However, article 493 of the Code of Criminal Procedure contains two important rules specifically for minors. When deciding upon detention on remand the investigating judge has to consider the possibility to suspend the detention (paragraph 1). This means that in most cases minors can go home on conditional suspension. According to article 493 paragraph 3 police custody and detention on remand may be spent at ‘every place the judge seems fit’, not necessarily a (police) cell. In practice, the opportunity to refer to another location than a (police) cell is rarely used.

**Conclusions**

Concluding we can say there is a wide range of alternatives to pre-trial detention such as night detention, house arrest or still “Suspension, unless…” that can be defined and indicated as good practices despite the lack of time limits on some intrusive alternatives (e.g. curfew) and the lack of clarity on legitimate objectives of alternatives to pre-trial detention.

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1 Art. 493 (1) CCP: “Suspension, unless…” Conditions: e.g. curfew, restraining order, learning- and training program

Supervision by youth probation officer

Funded by the Criminal Justice Programme of the European Union
Shaddy Mirza (expert in the field, counselor, trainer and coach)

Tools4U

Tools4U is a cognitive and social skills training program. Such a tool is imposed by the juvenile Court as punishment targeted to young people (IQ > 85) aged 12 to 18 who have committed one or more offenses. The aim is to reduce the recurrence of offense. There is also a plus variant in which the Tools4U training program is extended with additional sessions to enhance the skills of parents.

The training program is developed according to the What Works- principles and on the basis of cognitive and behavioral therapy techniques finding their support in the research literature. In specific, it focuses on compensating cognitive and social skill deficits in youngsters and the strengthening of their protective abilities.

Such a tool is hence suitable for young people whose skills deficits are linked to the committed offense and who present a moderate risk of recidivism. They should also be willing to participate and have access to individual training pathways. The plus version of Tools4U is targeted indeed to youngsters aged 15 years or youngsters and/or parents having experienced problems with monitoring and deficits in problem solving skills.

Tools4U training program is developed in three phases:

1. **Love, information gathering and awareness (2 meetings)**

This first phase foreseen the collection of information on youngster’s background. Basing on obtained information, the coach will then develop an in-depth analysis to then establish the aims of the training plan with the direct participation of the child.

2. **Skills training (6 or 10 meetings)**

In the second phase the cognitive behavioural therapy approach is used to enhance child’s skills. Homework assignments are a standard part of the meetings, in fact, the youth is encouraged to test the newly acquired competences and abilities in everyday life.

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3. Closing meeting

The final phase of the training pathway consists of the evaluation of the program (both for the youth and the trainer). At conclusion of the same the youth receive a certificate and a voucher.

Obtained results

There is indirect evidence for the effectiveness of Tools4U, in fact, research (Bartels, 1986) found that among young people who had followed a precursor Tools4U training only 24% reoffended, while 69% of the comparison group reoffended.
Family tree - example First and second generation
“BEWARE OF OWN PERSPECTIVE, THIS CAN MAKE THE DIFFERENCE IN REALLY CONNECTING WITH THE YOUTH!”

THE INTERNATIONAL JUVENILE JUSTICE OBSERVATORY – IJJO

IJJO had the opportunity to invite 3 experts as the other Co-beneficiaries and decided to invite Ms. Kilkelly, Professor of Law at the School of Law, University College Cork in Ireland where she teaches and researches in the areas of children's rights, human rights and youth justice. She is a former Chairperson of the Irish Penal Reform Trust a charitable organisation that works to promote the rights of persons in detention and a founder-member of the Irish Youth Justice Alliance. Ursula completed her PhD on Children and the European Convention on Human Rights at Queen's University Belfast and has since published widely in these areas in international, Irish and British journals. She has undertaken research funded by the Northern Ireland Human Rights Commission, the Northern Ireland Commissioner for Children and Young People, the Irish Ombudsman for Children and the Irish Research Council for the Humanities and the Social Sciences. In 2007, she was a visiting scholar at Temple University in Philadelphia.

Funded by the Criminal Justice Programme of the European Union
Ursula Kilkelly  Professor of Law University College, Cork,
Deirdre Malone Executive Director Irish Penal Reform Trust (IPRT)
Louise Forde PhD Candidate in the School of Law, University College,
Cork

The Irish youth justice system is undergoing reform for the first time in almost 100 years. What will not really change is that our system is largely punitive – we prosecute all children over 12 years who are not diverted via the police diversion scheme. Children are tried in the Children’s Court (in camera) for minor offences and the ordinary adult court (it may also be in camera) for more serious offences. A new development is that more constructive measures may now be imposed at different stages of the process (pre and post-conviction) in order to help the child avoid re-offending. These include a family conference and a range of community sanctions designed to ensure that detention is imposed only as a measure of last resort.

The principal legislation is the **Children Act 2001**, as amended by the Criminal Justice Act 2006. With the consent of the Director of Public Prosecutions, children aged 10 years can be prosecuted for murder, manslaughter and certain forms of sexual assault, while children over 12 years can be prosecuted for minor offences, such act introduced the family conference into Irish criminal law.

**The family conference**

One of the principal functions of the conference is to provide a forum within which the child and his/her parents can draw up an action plan with the assistance of others (e.g. the child’s teacher, social worker or youth worker) to try to prevent the child from re-offending. The plan may provide for any course of action that would be in the best interests of the child or would make the child more aware of the consequences of his/her criminal behaviour, including requiring the child to make reparation to the victim, participate in sporting or educational activity, stay at home at certain times and away from
certain places or people. The action plan thus takes the form of a contract between the child and those present at the conference and, the consent of the parties is required in most circumstances. The seriousness of the plan is reinforced by the requirement that the child must sign the action plan, which is to be written in plain language that he/she can understand. Depending on who convenes the family conference, implementation of the action plan will be monitored either by the Court or the Police.

The family conference can be organized by the police (as part of the Garda Diversion Programme), the Health Service Executive (in respect of children at risk) or the Probation Service, in respect of children before the Children’s Court. All conferences aim to bring together the child, his/her parents and anyone else (eg social worker, police officer, teacher, youth worker) in the child’s life who might play a constructive role in the meeting. The victim may also be present. In respect of the Police conference and the Probation conference the meeting aims to develop an action plan to prevent the child from re-offending. The Probation-led family conference is ordered by the Court which may dismiss the charges against the child if the action plan is successful in preventing the child from re-offending. If not, the Court can resume proceedings and move to convict and sentence the child. These are all relatively new measures and as yet little research has examined how they operate in practice or their success.

Alternatives to detention in the Irish system

The Children Act 2001 provides for a range of community-based sanctions designed to ensure that children remain in their homes and in their communities such as a probation order, a day centre order, an order requiring supervision by a suitable person or mentor or still an order restricting movement. They include sanctions combining supervision by a Probation Officer with training and education programmes, intensive supervision or residential supervision. The court may hence impose a variety of

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community sanctions and attach conditions such as attending school, limited contact with specified individuals, attending certain places and staying away from alcohol or drugs.

The community sanctions include as well the basic Probation Order, where the child agrees to be supervised by a Probation Officer and three variations on this order. The first of these is the Probation (Training or Activities Programme) Order where a child can be referred to a specific programme with the agreement of the programme manager. The second is the Probation (intensive supervision) Order where the child is closely supervised, must attend an educational or training course or undergo treatment, and reside at a specific address for a period up to 60 days. The third is a Probation (residential supervision) Order which provides for residence in a place other than the child’s home, such as in a hostel approved by the Probation and Welfare Service.

These sanctions do not appear to be available in every area as yet.

Very few services are hence available for reintegration following placement in detention, although the Probation Service is active in this area. Children in Detention Schools (for those under 17 years) may have the services of an out-reach worker who will offer them a limited among of support on release, but those leaving the young offender institution (St Patrick’s) are unlikely to receive any substantial level of practical assistance.

Conclusions

Although the 2001 Act contains many positive initiatives, its adoption was not matched with adequate planning or resources to ensure it was brought into force quickly and funded appropriately. The Irish Youth Justice Service, based in the Department of Children and Youth Affairs has adopted national policy on youth justice and has responsibility to ensure that the Act is fully implemented and resourced. There is some evidence that community based sanctions are having an impact on the number of children in detention, this number has been falling steadily over the last decade. NGOs like the Irish Penal
Reform Trust have highlighted that children are treated with respect in the youth justice system and that those they encounter in the youth justice system are professionally trained and appropriately specialized. They also highlight that children should have access to effective complaints and monitoring mechanisms in all areas of the system and that they have a right to information and advocacy services throughout.
ITALY

Silvio Masin, Project Manager, Istituto Don Calabria

The Italian juvenile penal system is based upon the concept of chargeability. In order to be able to take legal proceedings against a minor there must have been an assessment of the minor’s capability of being found guilty of a crime and thus subject to a punishment. According to our system, minors under fourteen are never chargeable (Art 97 penal code). Art.98 of the penal code states indeed that those who – at the time they committed an offence – were over 14 years of age and not yet 18 are chargeable if they had mental capacity. "Whereas for adults the mental capacity is assumed, for minors between 14 and 18 it must be proved time after time, with reference to the committed crime”.

D.P.R. 448 of 1988 entitled “Approval of the dispositions on criminal lawsuits where minors are charged” states that the dispositions it includes must be used in all the proceedings where minors are charged and that, for what it is not mentioned, the dispositions from the Code of criminal procedure must be used (art.1).

The aim of the code of criminal procedure is to guarantee a procedural system which is aware of the delicate nature of a juvenile criminal lawsuit, for the importance it holds in the minor’s life. Hence, this must be made suitable to the needs of a personality at a developmental stage: this gives way to the layout of a lawsuit that, though retaining the guarantees of an ordinary criminal lawsuit, reduces as much as possible the damaging effects necessarily determined upon the involved subject by the contact with the criminal circuit.

For the first time in our law, the D.P.R. explicitly refers to the minors’ interest, educational needs and protection. Moreover, the new code of criminal procedure tends to implement some principles (principle of suitability; principle of minor offensiveness; principle of de-stigmatization; principle
of residuality of detention and principle of self-selectiveness of the criminal lawsuit\(^1\)) which follow the work carried out by the system of juvenile Justice, which the code itself interprets and defines.

The D.P.R. 448/88 changes hence the consideration of defendants under 18 years, the Juvenile offender from “subject to safeguard” becomes “person capable of an active dialogue and author of personal actions”. Such multi-dimensional and interactive conception involves the child, the family and the whole social environment.

The main fields of intervention of the Juvenile Criminal Code (D.P.R. 448/88) forecast hence the following:

- To build connections between offenders’ guardianship-rights-needs and society with needs of order and safety;
- to create responsibility in minors (and respect);
- to explain adequately the significance of the process and decisions (art. 1);
- to acquire elements on the conditions, personal-family resources and environment (art. 9);
- to assist and support parents and the competent juvenile justice Services (art. 12);

\(^1\) **Principle of suitability**: the Juvenile criminal lawsuit must be suitable – both in its general conception and in its concrete implementation – to the minors’ personality and to their educational needs, as it must aim at the minors’ reintegration in society.

**Principle of minor offensiveness**: this principle generally points out the need to keep in mind that the minors’ contact with the penal system might create risks for the harmonious development of their personality, thus compromising even their social image with the risk of provoking their exclusion. This implies the need for judges and operators to try, when making decisions, not to interrupt the educational processes in progress and therefore to avoid as much as possible the minors’ entrance within the penal circuit.

**Principle of de-stigmatization**: with the same aim of preventing the minors from having their image compromised, which may follow the contact with a criminal lawsuit, the regulations tend to guarantee the protection of privacy and anonymity towards external society. This can be ensured through various systems, among which in particular:
- The prohibition for mass media to diffuse images and information concerning minors’ identity;
- the performance of the trial without an audience, as an exception to the general principle of the publicity of criminal trials (so-called trial behind closed doors);
- The possibility to cancel criminal records from the criminal records office when the minors turn eighteen years old.

**Principle of residuality of detention**: according to this principle the regulations provide for adequate instruments so that imprisonment is the last and residual measure to be chosen (extrema ratio).

**Principle of self-selectiveness of the criminal lawsuit**: this principle aims at guaranteeing the pre-eminence of the minors’ educational experiences on the prosecution itself of the criminal lawsuit, which is thus somehow “self-limited”. On the grounds of the information gathered with reference to personality, family and life environment of the minor, along with that concerning the offence, the lawsuit may be concluded by the statement of “irrelevance of the fact”. In the same view, the lawsuit may be suspended in order to start an operative pathway which replaces the trial proceedings through the so-called testing, meant as a programme whose aim is to increase the knowledge concerning the minors’ personality, and to test their capacity to change and to rehabilitate.
• to promote the use of preventive measures like the Prescription (articles 20, 21 and 22);
• to promote the use of probation which represents the highest level of responsibility as the child has to decide whether to accept the tailored pathway proposed by Social Service Officers for Minors (USSM) and contribute directly to the formulation of the rules on which it is based and of course respect them (art.28).

Some data…

Good practices

Istituto Don Calabria works for many years in the field of juvenile justice (prevention, rehabilitation and re-inclusion) and works daily with youths offenders submitted to alternatives and entrusted by the Court

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to our residential and diurnal services. In this framework, I’m going to present two of the tools that we use in our daily work and that can be considered as good practices.

1. Probation and Tailored/Individualized Educative Project (PEI)

Probation (Art. 28 D.P.R. n. 448/88) can be obtained either at the Preliminary Hearing but also during the course of the trial. The probationary period may be as long as three years for a serious crime and can be applied to an offender who has received a prison sentence of less than three years and to those who have still three years to be served in prison. This measure is carried out by the judge whenever an attempt of awareness and sensitization of the minor is possible through a Tailored/Individualized Educative Project (PEI) draw up by the Juvenile Social Service Offices (USSM). This Office, subordinated to the Department for Juvenile Justice, follows the child during the whole pathway, carrying out activities of observation, treatment and support in cooperation with the Local Services. At the end of the period, specified in the tailored educative project, a Hearing for evaluation will be held. The Judge will base his/her choice, firstly, on a final report drawn up by the USSM regarding:
- the development of the personality of the minor and the changes carried out;
- the minor’s real efforts;
- restorative actions towards victim and/or society.

In the case of positive assessment, the process ends with the crime being dismissed; when the outcome is negative, indeed, the process continues in its ordinary form, from where it was interrupted.

Within this measure, it is fundamental to consider the PEI drawn up by Social Workers of USSM in cooperation with NGOs, Health Authority, Municipalities and Third Sector. The PEI is the main tool in a complex and constantly evolving reality moving towards two binary: the need to individualize the interventions and the awareness of the complexity of the social issues. These require: active thought, ability to understand the reality, projection into the future.

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4 1989 - Legislative Decree n.272 (July 1989), artt. 10 and 11 regarding:
- Organization of Communities (art.10) and
- Organization of pre-trial institute (art.11)
PEI has to be serious, real and above all individualized, so that the minors will be able to carry out the commitments, taking into their account abilities, skills and interests besides their physical resources. Briefly the project must provide:
- The modalities of involvement of the children, their families and their life contexts;
- specific commitments (prescriptions) concerning study and work, sport, social activities and so on;
- the modalities of participation of specific operators;
- possible restoration and conciliation measures with victim and society.

Elements of PEI:
- Flexibility and opportunity of personal change with the support of qualified staff;
- creation of a formal education in specific areas of intervention (family, school, work, leisure time, voluntary service);
- easier intervention with the family;
- close cooperation with the local community following the principles of Restorative Justice;
- involvement of the victim (in the VOM process)

2. Victim Offender Mediation (VOM)

Victim Offender Mediation (VOM) can be defined as an alternative method of conflict management providing a comparison/relationship between the victim and the offender with the support of a mediator, acting as a third neutral party facilitating the communication. It is a relational process aiming to promote the acceptance of individual responsibility by the stakeholders and the voluntary resolution of the conflict. VOM can allow the children to develop more conscious choices concerning their behaviour, with positive effects on social relations. Last but not the least, this may allow the victim to take an active role in the event by giving voice to afflictions and needs.

5 Positive or negative prescriptions of different kinds can be placed by the judge i.e. formal prescriptions for social control requirements, restorative measures, others concerning health care such as treatments or therapies.
VOM can be hence defined as a method of conflict regulation that does not replace the jurisdictional regulation but can be an operative, useful source. The intervention, in fact, is in line with the principles of juvenile criminal Law giving priority to the minor’s responsibility and maturation processes.

VOM can be activated in different moments of the penal procedure:

1. Preliminary investigation - art.9;
2. Preliminary hearing
   2.a “Extinction of sentence for irrelevance of the offence” - art. 27
   2.b “Probation” - art. 28

The steps are essentially four:

1. **Taking in charge of the “case”**, signaled by the Judicial Authorities, by a mediator who contacts the victim and the child (by letter and telephone) aiming to verify the feasibility of a possible first meeting/interview.

2. **Preliminary interviews**, one with the victim and one with the offender, to hear their description of the event and to present the mediation program. The aim is to listen to the parties allowing for the expression of feelings and experiences related to the offence, to clarify the role of mediator and to arrange the mediation meeting between the stakeholders.

3. **Meeting between the two parties** where, initially, the different versions of the facts are introduced. This intervention aims to make participants aware of the suffering produced by the conflict and to help them to review it in a dimension of control and management thanks to a communicative relationship. Hence, the mediator hence plays an active role by facilitating the scanning time of the respective narratives, specifying the points of view of each party, summarizing them and proposing interpretations. The meeting may end with an agreement between the parties allowing the offender to repair the damage or simply apologize.

4. **Conclusion** and sending of the outcome to the Judicial Authorities, indicating whether the intervention concluded positively, uncertainly or negatively without detailing the event but only the results to the Judicial Authority.
QUESTION TIME: “ALTERNATIVE MEASURES TO DETENTION TARGETED TO YOUTH OFFENDERS IN EUROPE: WHICH PERSPECTIVES?” MODERATOR: IJJO

Cedric Foussard moderated the question time where partners and experts had the opportunity to exchange and debate on the different experiences heard during the event. What has to be highlighted is how it is fundamental to enhance progresses for a child-friendly development of justice and the promotion of a juvenile justice approach considering detention as last resort and focusing on children rights and on the right of security coming from society. Deprivation of liberty still remains an obstacle for a child’s development and creates considerable risks for mental and physical wellbeing, hence, priority must be given to those programmes that devise a process of re-inclusion into society.

The presence of different practitioners and representatives of involved national juvenile systems to this event highlighted once more the importance of a close cooperation and engagement among different Juvenile Justice Systems and between these and the relevant European institutions to foster harmonization in the field of juvenile justice and promote a child friendly model of juvenile justice targeted on youngsters, their needs and their rights.

CONCLUSIONS AND GREETINGS

The meeting closed by thanking all participants and agreeing a date for the next Exchange Meeting that will be held in Leiden (The Netherlands) in data 24-26 March 2015.