

**A non-violence juvenile justice system:
effective diversion and non-custodial
measures for children in conflict with the
law**

Roundtable 4

Juvenile justice: first resort measures
first

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Structure of the presentation:

- 1. Recommendations of the Council of Europe**
- 2. Lithuanian legislation**

1. Recommendations of the Council of Europe

- **Recommendation Rec (2003) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice**
- **Recommendation Rec (2008) 11 on the European Rules for juvenile offenders subject to sanctions or measures**

1. Recommendations of the Council of Europe

- Recommendation R (87) 20 on social reactions to juvenile delinquency**
- Recommendation R (88) 6 on social reactions to juvenile delinquency among young people from migrant families**

1. Recommendations of the Council of Europe

Recommendation Rec (2003) 20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice

„Expansion of the range of suitable alternatives to formal prosecution should continue. They should form part of a regular procedure, must respect the principle of proportionality, reflect the best interests of the juvenile and, in principle, apply only in cases where responsibility is freely accepted.“

1. Recommendations of the Council of Europe

„To address serious, violent and persistent juvenile offending, member states should develop a broader spectrum of innovative and more effective (but still proportional) community sanctions and measures. They should directly address offending behavior as well as the needs of the offender. They should also involve the offender’s parents or other legal guardian (unless this is considered counter-productive) and, where possible and appropriate, deliver mediation, restoration and reparation to the victim.“

1. Recommendations of the Council of Europe

„Where possible, alternatives to remand in custody should be used for juvenile suspects, such as placements with relatives, foster families or other forms of supported accommodation. Custodial remand should never be used as a punishment or form of intimidation or as a substitute for child protection or mental health measures.“

1. Recommendations of the Council of Europe

Recommendation Rec (2008) 11 on the European Rules for juvenile offenders subject to sanctions or measures

Taking into consideration:

- European Prison Rules (Rec (2006) 2)
- European Rules on community sanctions and measures (R (92) 16)

1. Recommendations of the Council of Europe

- The United Nations Convention
on the Rights of the Child
- The United Nations Guidelines for the Prevention
of Juvenile Delinquency (The Riyadh Guidelines)
- The United Nations Standard Minimum Rules for
the Administration of Juvenile Justice
(The Beijing Rules)
- The United Nations Rules for the Protection of
Juveniles Deprived of their Liberty
(The Havana Rules)

1. Recommendations of the Council of Europe

Some of the Basic Principles:

- „Deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts must be undertaken to avoid pre-trial detention“
- „Mediation or other restorative measures shall be encouraged at all stages of dealing with juveniles“

1. Recommendations of the Council of Europe

- „Any justice system dealing with juveniles shall follow a multi-disciplinary and multi-agency approach and be integrated with wider social initiatives for juveniles in order to ensure a holistic approach to and continuity of the care of such juveniles (principles of community involvement and continuous care)“

1. Recommendations of the Council of Europe

- “Community sanctions or measures” mean any sanction or measure other than a detention measure which maintains juveniles in the community and involves some restrictions of their liberty through the imposition of conditions and/or obligations, and which is implemented by bodies designated by law for that purpose. The term designates any sanction imposed by a judicial or administrative authority and any measure taken before or instead of a decision on a sanction, as well as ways of enforcing a sentence of imprisonment outside a prison establishment

1. Recommendations of the Council of Europe

- „A wide range of community sanctions and measures, adjusted to the different stages of development of juveniles, shall be provided at all stages of the process“
- „Priority shall be given to sanctions and measures that may have an educational impact as well as constituting a restorative response to the offences committed by juveniles“

1. Recommendations of the Council of Europe

- Legal framework of community sanctions and measures
 - Conditions of their implementation
 - Consequences of non-compliance

2. Lithuanian legislation

- **Penal Code**
- **Code of Criminal Procedure**
- **Law on Minimal and Medium Supervision of a Child**
 - **Law on Probation**

2. Lithuanian legislation

Penal Code

- Age of criminal responsibility – 14/16
- Shorter duration / lower maximum of criminal punishments (public work, fine, restriction of liberty, arrest, deprivation of liberty)
- Deprivation of liberty as an exceptional case
 - Conditional sentence with probation
 - Unconditional pardon in milder cases

2. Lithuanian legislation

Penal Code

Educational measures:

- Warning
- Indemnification of damage to property or its elimination
 - Unpaid educational labour
- Care and supervision of parents or other persons, taking care of children

2. Lithuanian legislation

- Restriction of behaviour:

obligations to stay at home at the established time; to study/work; to master certain knowledge/prohibitions; to complete treatment from alcoholism/drug-addiction; to take part in social development/rehabilitation programmes; *prohibitions* to gamble; to get involved in certain activities; to drive a motor vehicle; to attend certain places or communicate with certain people; to change the place of residence

2. Lithuanian legislation

- Placement to a special educational institution
—
a custodial educational measure

2. Lithuanian legislation

Code of Criminal Procedure

- Pre-trial measure

Care and supervision of parents or other persons, taking care of children;

Can be applied instead of pre-trial detention

- Special procedure for juvenile witnesses/victims (not for suspects/defendants) in pre-trial/trial

2. Lithuanian legislation

Law on Minimal and Medium Supervision of a Child

- Supervision measures mostly for the children under the age of criminal and administrative responsibility
- *Measure of medium supervision* – placement to a special educational institution, a custodial measure

2. Lithuanian legislation

Measures of minimal supervision – obligations to:

- Visit a specialist
- Visit an open children/youth day centre / other social agency
 - Continue studying at another school
 - Study at secondary/vocational school

2. Lithuanian legislation

- Participate at social/rehabilitation/integration/prevention/educational/other programmes
- Stay at home at the established time
- Not attend certain places or communicate with certain people
 - Work of an educational nature

2. Lithuanian legislation

- Applied by the municipal administration following the proposal of the child welfare commission (and the consent of the court)
- Child welfare commission consists of the specialists from municipal administration, police, prosecutor's office, social/educational/health/other institutions

2. Lithuanian legislation

Law on Probation of 2012

- Can be applied to juveniles
- Involvement and participation of legal representatives
- Supervision by children ombudsperson and child protection agencies
- Possibility to apply special/adapted programmes
 - Shorter terms of supervision

The situation at the Balkans:

- **Croatia** – first to adopt the law on juvenile justice?
- **Serbia** – adopted the law on juvenile justice as well?
 - **Montenegro** – did not adopt the law on juvenile justice?
 - Other countries?

The situation at the Balkans

- Diversion orders
- Educational measures
 - Probation
- Special criminal procedure
- Detailed rules on enforcement of diversion orders and educational measures
 - Engagement of lay judges

Questions?

Discussion?

Thank you!

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