Opinion of the International Juvenile Justice Observatory

“Freedom, Security and Justice: What will be the future? – Consultation on priorities of the European Union for the next five years (2010-2014)”

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Register ID number: 8692261773-12
The International Juvenile Justice Observatory (IJJO) welcome the European Commission’s initiative to launch a consultation process on the future priorities of the EU in the area of freedom, security and justice that will result in the adoption of a new year programme- the Stockholm Programme.

The International Juvenile Justice Observatory (IJJO) main objectives:

The International Juvenile Justice Observatory (IJJO) is an International Public Utility Foundation, based in Brussels. The mission of the IJJO is to bring an international and integral vision of juvenile justice in order to create a future for minors and young people all over the world who are in situations of exclusion leading to infringements of the law. It contributes to efficient strategies which promote the international development of appropriate policies, legislations and methods of intervention within the context of harmonization of juvenile justice systems all over the world.

The International Observatory has a benchmarking function; it establishes good practice criteria and disseminates information about efficient strategies related to policies and interventions. It also helps to generate research and offers technical assistance to those working in the field. Finally, the IJJO disseminates information through its online resources including, news, events and publications databases and engages in awareness-raising to the general public to build support for the protection of the rights of young offenders.

The IJJO takes a broad view of the issues related to juvenile justice. The IJJO interest embraces young people who come into conflict with the law and minors in social difficulties or experiencing behavioural challenges. The overarching goal is to encourage the positive development of young people so that may acquire the skills they need to become free citizens outside the circuits of exclusion and reclusion.

The IJJO also organizes a biannual International Conference to fulfil its mandate to promote international and interdisciplinary exchange. The last International Conference took place in October 2008 in Valencia, Spain, on the topic “Juvenile Justice Systems in Europe: Current Situation, Applicable Models Tendency and Good Practices”, presenting the results of the AGIS Programme on comparative law study of 34 juvenile justice systems in Europe. As a result of this Conference, an important number of international experts in the field of juvenile justice have signed the Joint Declaration “Harmonising juvenile justice systems at the European Level” (see Annex I)
Tackling juvenile delinquency and justice issues

Juvenile delinquency is currently an aspect of crime causing growing concern in European societies and has been under continuous scrutiny on an international scale since the last two decades. The importance that European society attaches to juvenile delinquency means that effective responses must be found, which will have to be built principally on a three-fold foundation: prevention, punitive-educational measures, and the social integration or reintegration of minors and young offenders.

The OIJJ believes that shaping a common strategy to give an adequate answer to juvenile delinquency should be amongst the European Union's objectives to which most attention is given: not only because it affects a particularly vulnerable sector of the population (minors and young people, frequently belonging to groups at risk of social exclusion), but also because taking preventive action for today's young offenders means not only seeking their social rehabilitation, but also preventing the adult crime of tomorrow. Although there are already a number of projects and European policies which may have an indirect impact on preventing juvenile delinquency as well as a range of youth-related agreements and resolutions which also promote the normal process of integrating this sector of the population into society, there is a lack of instruments and measures geared specifically to juvenile delinquency.

The lack of political commitment at European level to tackle the matter of youth delinquency and preventing measures has already been highlighted by the Opinion of the European Economic and Social Committee on “The prevention of juvenile delinquency. Ways of dealing with juvenile delinquency and the role of the juvenile justice system in the European Union” adopted in 2006. To the same conclusion arrived the European Parliament in 2007, in its Report on juvenile delinquency, the role of women, the family and society (2007/2011 (INI). The IJJO had been consulted and participated in the drafting process of the background document used for elaborating both, the above mentioned EESC Opinion and the EP Report.

In this Opinion, the International Justice Juvenile Observatory echoes and support many of the recommendations made by this two European Institutions and add some new matters to be considered as priorities by the European Union for the next 5 years.

The utility of a European Frame of reference on juvenile justice

It is no simple task to analyse the state of affairs in EU countries, as each country has its own definition of juvenile delinquency, based on different factors. Furthermore, there are significant differences between juvenile justice systems, in that some countries have drawn up laws on sanctions for young offenders
that include a specific penal system, and others apply the same sanctions to minors as adults while providing for certain limited and reduced measures. In addition to this, there are differences between the ages of juvenile criminal responsibility.

Some international organisations and the Council of Europe has already specifically addressed the issue of Juvenile Justice on various occasions (particularly the recently adopted Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures). The IJJO encourages the Europeans Institutions to follow this example.

**Strengthen European Institutions engagement to improve juvenile justice policies**

In the light of all the above, the IJJO believes that the following steps should be taken to frame a Community policy on juvenile delinquency and the juvenile justice system:

Firstly, it is essential to have **up-to-date, comparable statistical data** on the state of juvenile delinquency in the EU-27, to provide a reliable picture of the problem, its real dimensions and how to tackle it.

From the quality point of view, the International Juvenile Justice Observatory is convinced that there should be a series of **minimum standards or guidelines between the Member States** covering all aspects from the way the police and courts deal with young people in conflict with the criminal law, right through to reeducation and resocialisation. The first step in preparing these minimum standards would be to gain the maximum detailed knowledge, as possible of the different situations and experiences in each of the Member States.

The IJJO encourages the Commission to publish a **green paper on improving juvenile justice policies**, in order to target reflection and debate more accurately, and to reach as many institutions, organisations and individuals as possible.

Without prejudice to the above, and given that the various issues which touch upon juvenile delinquency and the juvenile justice system are dealt with individually by various **European Union policies** (freedom, justice and security; youth; education and training; employment and social affairs), there is a need for **operational coordination** between all the services and agencies involved so that juvenile delinquency can be addressed on an interdisciplinary and multi-institutional basis best suited to it.

In view of the specific features of juvenile delinquency, together with its inherently dynamic and changing character, it is essential that all those working with the young people involved — judges, prosecutors, lawyers, police officers,
Officials, mediators, social workers, probation workers, etc. — receive the most specialist, and constantly up-dated, training possible. The Community institutions have a key role to play in this respect, through exchange programmes for professionals between Member States, networking, new distance training methods such as e-learning, etc. Moreover, the recently set up International School of Juvenile Justice is aimed at creating a network of excellence that will boost the status of this area of knowledge and encourage the development of specialist research in the European universities, which must be brought into the entire process.

Similarly, given that the issue has an obvious social and civic dimension, European Institutions should support relevant civil society organisations and professionals in the process ('third sector' bodies, associations, families, NGOs, etc.), since they can contribute to shaping and subsequently implementing whatever programmes and strategies are introduced within the EU.

Lastly, the IJJO is aware that if all these policies are to be carried forward, they must be matched by budget resources. The European Commission should therefore introduce budget lines to clearly assist juvenile justice projects, including protecting minors and preventing juvenile delinquency, and to deal with young offenders, through either existing projects or initiatives (such as those aimed at eliminating social exclusion and supporting young people's integration into society and employment) or programmes specifically designed for the purpose.

Priority actions for 2010-2014 in the area of Freedom, Security and Justice:

1. Giving a boost to existing instruments

The IJJO draws the Commission and the Member States’ attention to further develop existing European resources and programmes encompassing measures to cope with and prevent juvenile delinquency and facilitate satisfactory social reintegration of perpetrators and victims, examples being:
- the special 2007-2013 programme for 'Preventing and Combating Crime', basically seeking to prevent crime and protect victims,
- the specific 'Criminal Justice' programme for 2007-2013, promoting cooperation in the field of criminal justice based on mutual recognition and trust and improved contacts and exchange of information between the national authorities involved,
- the DAPHNE III programme to combat violence against juveniles and children,
- the 2007-2013 Youth in Action Programme, one of the main priorities of which is support for young people with fewer opportunities or from less privileged backgrounds,
- European Social Fund and Equal Programme initiatives to promote social integration and combat discrimination and facilitate access to the employment market for those with fewer opportunities,
- the EU-funded Urbact initiative programme seeking an exchange of best practices between European cities regarding a more sustainable living environment and encompassing measures to improve urban safety for juveniles and facilitate social integration of juveniles with fewer opportunities, with a view to increasing their social involvement and participation,
- cross-border initiatives such as the 'Let bind safe net for children and youth at risk' project focusing on measures to assist children and juveniles who are at risk or socially marginalised, which could benefit from the participation of partners from as many Member States as possible,
- the European helpline for missing children, including victims of juvenile delinquency;

2. Drawing up new programmes in juvenile justice matters

IJJO calls on the Commission in this context to draw up a programme of co-funded measures, to include:
- consideration of best prevention practices and, in particular, forms of cooperation between private and public bodies,
- measuring and analysing the possible long-term effectiveness of recently developed systems for the treatment of juvenile offenders, such as restorative justice,
- exchanging best practices at international, national and local level, including the very positive experiences made with the European anti-violence programme Daphne,
- ensuring that these services and practices focus on the protection of the rights of children and adolescents and adequate support for parents; developing a European model for the protection of young people, the main focus of which is the educational support for young people and the promotion of values of respect and equality and the rights and obligations of everyone,
- drawing up educational and vocational training programmes for juveniles in order to facilitate their social integration and achieve genuine equal opportunities through lifelong learning for everyone; efficient education for everyone from the outset and the implementation of the Barcelona objectives, which are a precondition for the effective prevention of violence; support for existing initiatives undertaken by youth organisation in that regard,
- organising a coordinated programme of continuous training for national ombudsmen, police forces and members of the judiciary, competent national bodies and supervisory authorities,
- networking the responsible services of the local and regional authorities, youth organisations and the educational community;

3. Support the work of the European Juvenile Justice Observatory

IJJO urges the Commission to give recognition to the work undertaken by the European Juvenile Justice Observatory. The Observatory works as a network of national experts for the drafting of an integrated framework programme to tackle juvenile delinquency and justice. It facilitates not only the study of juvenile delinquency, but would also help to disseminate the results and provide advice and support for the appropriate authorities and institutions in their decision-making and adoption of practical policies and strategies. Recognizing the utility of the activities carried out by the European Juvenile Justice Observatory, the Commission should provide financial support to further develop important activities such as:

- a joint survey and dissemination of the results of national policies,
- the organisation of conferences and platforms (forums) with the participation of national experts,
- promotion of communication and information between the competent authorities and Community bodies via the Internet and the creation of a web page specialising in these matters,
- the establishment of an international centre of excellence

Therefore, we strongly encourage the European Union Institutions and Member States to lead the process towards the creation of a European society able to transmit sustainable values to children at risk of exclusion and reclusion and to provide them with tools for their future development.
Annex I

IJJO III International Conference
“Juvenile Justice Systems in Europe: current situation, trends in applicable models and good practices"
21-22 October, Valencia, Spain

Joint Declaration

Harmonising juvenile justice systems at the European level

Being aware of the differentiating aspects and the common bases shared by the juvenile justice systems within Europe, and of the ongoing process towards the harmonisation of the implementation of the international rules in all Member States in justice matters for minors in conflict with the law;

Having in mind that most of the national statistics show that juvenile delinquency came to a standstill over the last years and has even decreased, since some justice systems have been obtaining successfully some of their objectives, as proofed for instance, by the report of the General State Prosecutor’s Office in Spain, where delinquency has decreased of almost 2% in 2007 comparing to figures of 2006;

Considering the crucial role that academic research and analysis play in obtaining appropriate responses to matters regarding, for instance, legal reform process, ways of treatment, educational/interment centres, alternative and restorative measures as well as recidivism and social integration, as put forward by experts of the AGIS Research Programme;

Taking into account recent international trends, such as Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European Rules for juvenile offenders subject to sanctions or measures (Council of Europe) aiming at promoting the establishment of an approximation framework between countries in justice matters for minors in conflict with the law;

Therefore, we recommend:

a) That internationally recommended principles and postulates are considered as minimum standards to be respected by national legislations, and used as indicators of violation of the constitutional parameters on the minor’s rights and guarantees;
b) That sanctions or measures follow the aim of social reintegration and support the minor according to their educational need and are based on the minors’ best interests and according to their age, dealing with their physical and mental welfare, development, skills and adapted to the personal circumstances (principle of individualisation);

c) That answers to offences committed by minors should be varied and constantly subjected to assessment in order to improve them, reinforcing their educational impact as well as ensuring minor’s participation in the procedure and sanctions execution, as far as possible;

d) That versatile preventive approaches should be promoted and given priority, opening deviation ways at all intervention levels with minor offenders that allow resolving the conflicts caused as far as possible, avoiding judicial intervention;

e) That authorities should provide the institutions for minors with enough resources, means and staff to extend the best practices in order to guarantee that the interventions have a really significant influence in the minor’s lives;

f) That appropriate selection, special training and working conditions are ensured for those who work with minors and youth development in order to guarantee multidisciplinary teams offering quality care and positive behaviour models;

g) That minimum age of criminal responsibility should not be too low, as recommended by international instruments and should always be determined by law;

h) That is necessary to intensify the efforts of ensuring the protection of minors deprived of their liberty, and in particular their physical and mental integrity and their welfare;

i) That European Institutions and Member States takes the European Year 2010 to Combat Poverty and Social Exclusion as an opportunity to demonstrate their willing to make the protection of the rights of the children in conflict with the law a priority issue and to include juvenile justice related matters as part of European-wide actions foreseen to combat social exclusion;

j) That European Institutions create a budget line on protect youngsters from social exclusion to support efficient activities of civil society organisations working with them and criminological research and studies
to avoid magnifying exceptional events or facts in youth delinquency that could unnecessarily harden law response;

k) That action on setting **common criteria and shared basis** should continue towards the establishment of a **shared re-education and reintegration projects** for minor offenders, as highlighted by some community bodies.

This Joint Declaration has been signed by an important number of International Organizations, Research Centres, ONGs, Universities, National and Local Authorities.