



Resolution 2010 (2014)¹

Final version

Child-friendly juvenile justice: from rhetoric to reality

Parliamentary Assembly

1. Children's rights have developed considerably in the last three decades. During this process, it has become clear that children have unique needs which should be taken into account, in particular when they come into contact with the justice system. This issue has been specifically addressed in a number of international and regional children's rights instruments, including the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, adopted in 2010.

2. Children come into contact with the justice system in many ways, including when they are in conflict with the law. Finding the best way to deal with juvenile delinquency is a challenging task for all governments, as they need to find the right balance between the protection of society and the best interest of the child, who is a developing, learning human being and is still open to positive socialising influences. However, pressure on politicians to "get tough on crime" has led to increasingly harsh responses to children in conflict with the law.

3. Moreover, despite the panoply of international and regional standards providing a well-established framework for modelling juvenile justice, there is a considerable and continuing dissonance between the rhetoric of human rights discourse and the reality of juvenile justice interventions, in particular juvenile detention, for many children. The United Nations and the Council of Europe's monitoring bodies have identified a rather unsatisfactory situation with respect to the enforcement of human rights standards in the area of juvenile justice and detention. In this context, the over-representation of vulnerable children in detention has been considered alarming.

4. With a view to improving children's rights and juvenile justice practices across Europe, it is crucial to focus on the implementation of the relevant standards. Preventing juvenile delinquency, preventing young people from entering the penal system through a high minimum age of criminal responsibility and diversion, favouring the implementation of alternative non-custodial measures, as well as reducing the number of children in detention, are key factors to a successful system of juvenile justice. They are also less costly and more likely to ensure public safety and help young people to reach their potential.

5. In view of the above, the Parliamentary Assembly urges the Council of Europe member States to bring their law and practice into conformity with the human rights standards modelling juvenile justice.

6. In particular, the Assembly calls on the member States to:

6.1. establish a specialised juvenile justice system by means of dedicated laws, procedures and institutions for children in conflict with the law, *inter alia* the institution of a Children's ombudsperson, following the positive practice of some member States;

6.2. set the minimum age of criminal responsibility at at least 14 years of age, while establishing a range of suitable alternatives to formal prosecution for younger offenders;

6.3. prohibit exceptions to the minimum age of criminal responsibility, even for serious offences;

1. *Assembly debate* on 27 June 2014 (27th Sitting) (see [Doc. 13511](#), report of the Committee on Social Affairs, Health and Sustainable Development, rapporteur: Mr Stefan Schennach; and [Doc. 13547](#), opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Kristien Van Vaerenbergh). *Text adopted by the Assembly* on 27 June 2014 (27th Sitting).



6.4. ensure that detention of juveniles is used as a measure of last resort and for the shortest possible period of time, in particular by:

6.4.1. determining an age limit below which it is not permitted to deprive a child of his or her liberty, preferably higher than the minimum age of criminal responsibility;

6.4.2. developing a broad range of alternative non-custodial measures and sanctions to pre-trial detention and post-trial incarceration, including educational measures, community sanctions and treatment programmes;

6.4.3. abolishing life imprisonment of any kind for children;

6.4.4. establishing a reasonable maximum period to which a child may be sentenced;

6.4.5. providing regular reviews of custodial measures and/or sanctions a child may be subjected to;

6.5. ensure that deprivation of liberty, used only as a measure of last resort, aims at rehabilitating and reintegrating children into society, in particular by providing appropriate training and treatment programmes;

6.6. develop a broad range of diversion programmes, respecting human rights standards and based, *inter alia*, on principles of restorative justice, with a view to dealing with juvenile offenders without resorting to judicial proceedings;

6.7. decriminalise status offences, which are acts classified as offences only when committed by children;

6.8. ensure that all actors involved in the administration of juvenile justice receive appropriate training, with a view to guaranteeing an effective implementation of children's rights in this context;

6.9. prevent the detention of young offenders by, *inter alia*, introducing a system of rapid intervention with the aim of allowing a multi-professional team, including the police, social workers, psychiatric nurses and youth workers, to facilitate the investigation of crimes committed by young offenders and to offer them and their families support and rehabilitation.

7. The Assembly calls on all member States to support the call for a global study on children deprived of liberty, initiated by Defence for Children International, supported by several other civil society organisations and launched on 13 March 2014.

8. Finally, the Assembly refers to its [Resolution 1796 \(2011\)](#) "Young offenders: social measures, education and rehabilitation", in which it promoted welfare-based responses with a view to preventing juvenile delinquency. Such responses lead to greater social inclusion, greater participation and greater commitment to education and socially acceptable behaviour.