



Doc. 13511 – Compendium of written amendments

(Revised version)

Child-friendly juvenile justice: from rhetoric to reality

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A. Draft Resolution

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, inter alia 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, who need to find the right balance between the protection of society and the best interest of the child, as a developing, learning human being who is still open to positive socialising influences. However, pressure on politicians to "get tough on crime" has driven 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. Both 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.
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 getting into 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;

Amendment 8

**Tabled by the Committee on Social Affairs,
Health and Sustainable Development**

In the draft resolution, at the end of paragraph 3, add the following sentence: "In this context, the over-representation of vulnerable children in detention has been considered alarming."

Amendment 1

**Tabled by Ms Andreja ČRNAK MEGLIČ, Ms
Iva DIMIĆ, Ms Polonca KOMAR, Ms
Aleksandra OSTERMAN, Mr Jakob
PRESEČNIK**

In the draft resolution, at the end of paragraph 6.1, add the following words: "in particular, the

institution of a Child Advocate, following the positive practice of some member States;"

Sub-amendment 1 to amendment 1
Tabled by the Committee on Social Affairs,
Health and Sustainable Development

In amendment 1, replace the words "in particular, the institution of a Child Advocate" with the following words: "inter alia, the institution of a Children's ombudsperson".

- 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;
- 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:

Amendment 2
Tabled by the Committee on Legal Affairs
and Human Rights

In the draft resolution, paragraph 6.4, after the words "the shortest possible period of time," insert the following words: "while still in keeping with the seriousness of the crime and its consequences for the victim and with the degree of culpability of the young offender,".

- 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;

Amendment 3
Tabled by the Committee on Legal Affairs
and Human Rights

In the draft resolution, replace paragraph 6.4.1 with the following paragraph:

"ensuring that the implementation of any custodial sentence is adapted to the young offender's age: in particular, juveniles in detention must be kept separate from older offenders at all times, and even within special detention facilities for juveniles, younger inmates must be effectively protected from all forms of abuse by older inmates;".

- 6.4.2. developing a broad range of alternative non-custodial measures and sanctions to pre-trial detention and post-trial incarceration;

Amendment 9
Tabled by the Committee on Social Affairs,
Health and Sustainable Development

In the draft resolution, at the end of paragraph 6.4.2, add the following words: ", including educational measures, community sanctions and treatment programmes"

6.4.3. abolishing life imprisonment of any kind for children;

Amendment 4

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, replace paragraph 6.4.3 with the following paragraph:

"abolishing life imprisonment for any crimes committed by persons under the age of 18 at the time of the crime;"

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. develop a broad range of diversion programmes, respecting human rights standards, with a view to dealing with juvenile offenders without resorting to judicial proceedings;

Amendment 10

Tabled by the Committee on Social Affairs, Health and Sustainable Development

In the draft resolution, before paragraph 6.5, insert the following paragraph:

"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;"

Amendment 11

Tabled by the Committee on Social Affairs, Health and Sustainable Development

In the draft resolution, paragraph 6.5, after the words "respecting human rights standards", insert the following words: "and based, inter alia, on principles of restorative justice,"

Amendment 5

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 6.5, at the end of the sentence, insert the following words: "in appropriate cases".

6.6. decriminalise status offences;

Amendment 6

(If adopted, amendment 12 falls)

Tabled by the Committee on Legal Affairs and Human Rights

In the draft resolution, replace paragraph 6.6 with the following paragraph:

"refrain from penalising children for their participation in offences designed to protect them, such as running away from home;"

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

Amendment 12

(Falls if amendment 6 is adopted)

**Tabled by the Committee on Social Affairs,
Health and Sustainable Development**

In the draft resolution, at the end of paragraph 6.6, add the following words: "which are acts classified as offences only when committed by children;"

Amendment 13

**Tabled by the Committee on Social Affairs,
Health and Sustainable Development**

In the draft resolution, paragraph 6.7, replace the word "professionals" with the word "actors".

Amendment 7

**Tabled by Ms Sirkka-Liisa ANTTILA, Ms
Pirkko MATTILA, Mr Antti KAIKKONEN, Sir
Alan MEALE, Mr Jordi XUCLÀ**

In the draft resolution, after paragraph 6.7, insert the following paragraph:

"prevent the detention of young offenders by 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."

Sub-amendment 1 to amendment 7

**Tabled by the Committee on Social Affairs,
Health and Sustainable Development**

In amendment 7, after the words "prevent the detention of young offenders by", insert the words "inter alia".

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.

Amendment 14

**Tabled by the Committee on Social Affairs,
Health and Sustainable Development**

In the draft resolution, after paragraph 7, insert the following paragraph:

"Finally, the Assembly refers to its Resolution 1796 (2011) entitled "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."