QUESTIONNAIRE

The Young Offender in the Criminal Justice System of Hungary

During the September 2006 Congress in Siófok, the Third Study Commission studied the problems of persons suffering from mental disorders who face criminal prosecutions. In furtherance of our study of different approaches and solutions to the unique problems faced by particular identifiable groups in criminal justice systems, we turn this time to the situation of young offenders (juvenile delinquents). We hope to integrate certain themes that evolved from our earlier discussion, in particular, the difficulties associated with balancing the necessity of imposing societal norms of accountability and the objective of identifying and responding to the particular needs of accused persons whose faculties or levels of responsibility are diminished. In gathering the responses to this questionnaire, and then summarizing the main lines of discussion at our next session in Trondheim, Norway, we hope to (i) develop a deeper knowledge of the problems concerning young offenders within criminal justice systems; and (ii) study solutions that might usefully and effectively meet their particular needs.

1. **Young Offender Legislation:** Do special legislative provisions exist in your justice system for offenders who are not adults? □ yes □ no

   If yes, please indicate to which age group they apply (for example, ages 12-17):

   ages 14-18: In Hungary juvenile is the person who has completed his fourteenth year when committing the crime, but has not yet completed his eighteenth year. The person who has not yet completed his fourteenth year when perpetrating an act, shall not be punishable.

2. **Publication Bans:** In your justice system applicable to young offenders, do legislative provisions exist that prohibit the publication of information that may disclose the identity of adolescents charged with offences? □ yes □ no

   If yes, does the legislation provide for exceptions? □ yes □ no If yes, what are they?

3. **Recourse to Alternative Measures:** In your justice system, do alternative measures programs
exist for young offenders for the purpose of avoiding penal consequences? □ yes □ no

If yes, at what stage in the proceeding are these programs available? (i) in the discretion of the investigating officer at the initial investigation stage; (ii) in the discretion of the prosecutor after a charge is laid; (iii) in the discretion of the investigative judge during the pre-trial investigation; (iii) in the discretion of the judge at trial?

(i),(ii): The Hungarian prosecutor may, in a decision, omit to indict a criminal offence having no significance for the purpose of liability, due to the commission of another criminal offence of greater gravity and being the subject of the indictment.

In the case of criminal offence punishable by a maximum of three years' imprisonment, taking into consideration the gravity of the criminal offence and the extraordinary mitigating circumstances, the prosecutor may decide to postpone the filing of an indictment for a period of one to two years, if this is likely to have a positive impact on the future conduct of the suspect. In the decision concerning the postponement of the indictment, the prosecutor shall order the supervision of the juvenile suspect by a probation officer, and may also set rules of conduct or other obligations to be adhered to by the suspect. The prosecutor may oblige the young suspect a) to fully or partially compensate the victim for the damage caused by the criminal offence, b) ensure the compensation of the victim of another way, c) make a financial contribution to a specific purpose or perform community service (make amends for the general public), d) undergo a psychiatric treatment or treatment for alcohol addiction.

(iii): The juvenile in Hungary shall be reprimanded, who is not punishable due to the negligible degree of the dangerousness for society of his act or its becoming negligible. Reprimand may also be given to a person, who is not punishable due to the cessation of the dangerousness for society of his act, or whose punishability has ceased to exist for another reason defined in the Act. By a reprimand, the authority (the public prosecutor, the court) expresses its disapproval, and invites the perpetrator to restrain himself in the future from the perpetration of a crime.

The court in Hungary may suspend a sentence on probation if it is for an infraction or felony punishable by imprisonment of up to three years if there is substantial reason to believe that it will serve the purpose of rehabilitation. The juvenile put on probation may be put under the supervision of a probation officer. If the person put on probation is a recidivist, he shall be put under the supervision of a probation officer. In case of putting on probation and suspension of the execution of imprisonment, the recidivist shall be under the supervision of a probation officer. A person under supervision by a probation officer shall keep the rules of conduct prescribed in the legal rule and the decision of the court, maintain regular contact with the probation officer and give him the information necessary for control. The rules of conduct shall prescribe obligations and prohibitions in the interest that the juvenile under supervision work in accordance with his abilities, and pursue a law-abiding way of life. These are especially the obligations relating to work, utilization of earnings, periodical reporting, and possibly arising necessary medical treatment, and the prohibition of the arbitrary
changing of dwelling and workplace, the visiting of definite places and contact with certain persons.

4. **Transfer of Young Offender to the Adult Criminal Justice System:** (a) Is such a transfer provided for in your justice system, for example, for certain serious offences or in situations of repeat offences? □ yes □ no

If yes, in what circumstances? ________________________________________________________________

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If yes, at what ages (for example, between ages 16 and 18)?

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(b) If yes, are the maximum sentences the same as for those provided for an adult found guilty of the same offence? □ yes □ no

If no to question (a), please explain:

*The juvenile court in Hungary shall also adjudicate the case of a defendant of legal age, if it is related to the case of a juvenile offender, but the sentence couldn’t be the same. The reason of it is that the shortest term of imprisonment to be imposed against juvenile offenders shall be one month for all types of criminal acts.*

5. **Type of Sentence Imposed on Offenders between 18 and 21 Years of Age:** Does your justice system provide special sentencing/treatment options for these offenders? □ yes □ no.

*but in the course of pre-trial detention, or after being sentenced juvenile offenders shall be separated from offenders of legal age.*

If yes, what are they? ________________________________________________________________

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6. **Purpose of Sentencing:** What are the principles that govern the imposition of sentence on a young offender in your justice system? How do these principles vary from the principles that govern the imposition of sentence on an adult? Does general deterrence play a role in the
imposition of sentence on a young offender? In what circumstances does a court consider imposing a sentence of incarceration on a young offender?

The aim of a punishment or measure applied against a juvenile is primarily that the juvenile develop in the right direction and become a useful member of society. A punishment shall be inflicted when the application of a measure is not expedient. A measure or punishment involving the withdrawal of freedom may only be applied, if the aim of the measure or punishment may not otherwise be achieved.

7. Mental illness: Are there special provisions in your justice system to address the particular problems of the young offender suffering from a mental disorder?  □ yes  □ no  

If yes, please describe them:

If the offender is at large, there is no special provision. There is special provision for those offenders who are arrested or sentenced to imprisonment.

Thank you! Your responses will be gathered for the purposes of discussion at the meeting of the Third Study Commission in Trondheim scheduled for the fall of 2007.