QUESTIONNAIRE

The Young Offender in the Criminal Justice System

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):

From 14 to 18 years of age.

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?

If yes, on what basis?
According to Art. 93 of the Penal Code of the Republic of Lithuania, a juvenile, who has committed a negligent crime, light or medium intentional crime for the first time, shall be exempted from criminal liability by the court, if he:

1) has apologized the victim and, by using his money or by his work in whole or in part, reimbursed or removed the caused material damages or;
2) has been acknowledged criminally insane or;
3) has been acknowledged being guilty or there is any other basis enabling to suppose that the juvenile offender will observe the laws and won’t commit new crimes in the future.

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?

The exemption from criminal liability of the juvenile offender shall take place only if the provisions of Part 1 of Art. 93 of the Penal Code are observed, which means that in case of repeated offences or if a grave crime is committed, the juvenile offender is liable according to the general rules of criminal liability that are applied to adults.

If yes, at what ages (for example, between ages16 and 18)?

From 14 to 18 years of age.

(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:

As it was stated above, the dismissal of the juvenile offender from criminal liability and application of means of educative nature shall take place only in cases when the crime is committed by a juvenile offender for the first time and when a negligent or light or medium intentional crime has been committed. Otherwise, for example, when the crime is committed repeatedly by the juvenile offender or it is a grave or very grave intentional crime, the general rules of criminal liability shall be applied. On the other hand, the age of the offender is important when imposing the penalty. The Penal Code establishes the maximums of several sorts of penalties that can be imposed on the juvenile offender and these maximums are lower than those that shall be imposed on the adult offender found guilty for the same offence. E. g., the duration of public works imposed on the juvenile offender shall not exceed 240 hours, a fine shall be imposed only on the juvenile offender who is working or has his own property. Moreover, the fine shall not exceed 50 minimal levels of life (6500 litas). The arrest of the juvenile offender shall last from 5 to 45 days. The imprisonment imposed on the juvenile offender shall not exceed 10 years. When the penalty of incarceration is imposed on the juvenile offender, the minimum of this
penalty shall not exceed half of the minimal penalty provided for this crime.

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

**If yes,** what are they?

According to Part 2 of Art. 81 of the Penal Code, exemption from criminal liability and the means of educative nature shall be also applied to a person who was 18 years old at the time of committing a crime but younger than 21 years of age if the court, regarding the nature of the committed crime, motivation and other circumstances of the case or – in case it is necessary – the explanation or conclusion of the expert, holds that according to his social maturity the offender is equal to a juvenile and application of the mentioned above criminal liability peculiarities correspond to their purposes.

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 main principles regarding peculiarities of juveniles’ criminal liability as well as the imposition of a sentence on a young offender are listed in Art. 80 of the Penal Code. These are: to guarantee the coincidence of legal liability with juvenile offender’s age and social maturity, to limit the imprisonment penalty and extend means of educative nature application possibilities. According to Part 1 of Art. 91 of the Penal Code, when imposing a sentence on a young offender, the court must follow the mentioned above as well as the general principles of imposing criminal sentences (when imposing a sentence on the offender the court takes into account the hazardousness degree of the crime committed, form and type of the guilt, reasons and aims of the crime, stage of the crime, offender’s personality, circumstances lightening and aggravating the criminal liability). Besides, when imposing the sentence on a young offender, the court must consider such circumstances as the young offender’s life and education conditions, state of health and social maturity, previously applied means of impact and their efficiency, young offender’s behavior after commitment of the crime. The penalty of terminated incarceration shall be imposed on the juvenile offender when there is a basis to consider that other types of penalty are not sufficient to change the criminal inclinations of the juvenile or when he has committed a grave or very grave crime. As it was mentioned above, when the penalty of incarceration is imposed on the juvenile offender, the minimum of this penalty shall not exceed half of the minimal penalty provided for this crime.

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 juvenile offender is acknowledged criminally insane, he shall be exempted from criminal liability likewise the adult offender.*

*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.*