MACEDONIA

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):
   The provisions from the chapter VI and other provisions from the Criminal Code which are not contrary to these provisions are applicable to juvenile offenders at the age of 14 to 18.
   The special provisions that are applicable to juvenile offenders are applied, under the conditions foreseen in the provisions from the chapter VI, also to adult persons when they are tried for crimes they had committed as juveniles, and as an exception, also to persons who had committed a crime as younger adults.

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?
   Without a permission of the court the course of the criminal procedure for the minor must not be announced nor the decision brought in that procedure.
   It may be announced only the part of the procedure, i.e. only the part of the decision for which there is an approval, but in that case cannot be noted the name of the minor or other data on which grounds it could be concluded which minor is in question.

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?
These programs are available in the discretion of the judge at trial.

If yes, on what basis?
For criminal acts for which can be pronounced alternative measures common useful matter, conditional termination of proceeding of criminal procedure and house arrest, upon proposal of public prosecutor if there are fulfilled the conditions of the Criminal Code for appliance of these sanctions, court can pronounce without holding a main trial.
Proposal for pronouncing alternative measures can submit also the injured as authorised suitor and private suitor.

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? ________________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________

If yes, at what ages (for example, between ages16 and 18)?
A juvenile who at the time of perpetration of the crime has reached sixteen years, but has not reached eighteen years (older juvenile), may be sentenced to educational measures, under the conditions foreseen by the Criminal Code, and as an exception, he may be sentenced to juvenile imprisonment.
Alternative measures: common useful matter, conditional termination of proceeding of criminal procedure, and security measures can be pronounce to juveniles, under the conditions foreseen by the Criminal code.
(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:
______________________________________________________________
______________________________________________________________
______________________________________________________________
______________________________________________________________

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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?
The provisions of the Chapter XXVIII of the Criminal procedure Code are applied in the procedure against persons who have committed crimes as minors, and at the time of the initiation of the procedure, i.e. at the trial they have not been 21 years of age.
An adult person who has reached the age of twenty-one cannot be tried for a crime that he committed as a younger juvenile.
If the adult person has not reached the age of twenty-one at the time of the trial, he may be tried only for crimes for which a punishment more severe than five years is prescribed. The court may sentence such a person only to an appropriate institutional educational measure.
For a crime perpetrated as an older juvenile, an adult person may be sentenced to an appropriate institutional educational measure, and under the conditions from article 87 of the Criminal Code, to a punishment of juvenile imprisonment. In the assessment whether to pronounce one of these measures, and which one of them, the court shall take into consideration all the circumstances of the case, and especially the severeness of the perpetrated crime, the time elapsed since it was committed, the conduct of the offender, as well as the aim which is to be achieved with these sanctions.
As an exception to provision in item 3, the court may sentence an adult person that reached the age of twenty-one during the trial, to imprisonment or to a conditional sentence, instead of juvenile imprisonment. The punishment of imprisonment pronounced in this case, in regard to the rehabilitation, erasure of the sentence and the legal consequences from the sentence, has the same legal action as the punishment of juvenile imprisonment.

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 the educational measures and of the juvenile imprisonment is to provide for the education, correction and proper development of the juvenile offenders, by giving protection and help to them, by performing supervision over them, by their professional training and by developing their personal responsibility.
The aim of juvenile imprisonment is to perform an intensified influence upon juvenile offenders so that they would not commit crimes in the future, as well as upon other juveniles not to commit crimes.
For the adult offenders the aims of punishment are: realization of justice, preventing the offender from committing crimes and his correction and educational influence upon others, as not to perform crimes.

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:

One of the following security measures, under the conditions foreseen by law, may be pronounced against juveniles, together with an educational measure or juvenile imprisonment: compulsory psychiatric treatment and custody in a health institution, compulsory treatment of alcoholics and drug addicts.

A mentally incompetent juvenile offender, under the conditions foreseen by law, may be sentenced to a security measure of compulsory psychiatric treatment and custody in a health institution and compulsory treatment of alcoholics and drug addicts, without pronouncing an educational measure or punishment of juvenile imprisonment. Together with these measures, the measure of confiscation of an object and a prohibition on driving a motor vehicle may be pronounced.

*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.*