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

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

Under 14 - 21 - see details.

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

If yes, does the legislation provide for exceptions?

Yes

If yes, what are they?

A judge may allow publication in the public interest in "rare and exceptional" cases.

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
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; (iv) in the discretion of the judge at trial?

Stage (i). A warning or a reprimand may be given that avoids any other penal consequences.

If yes, on what basis?

The defendant must admit the matter and the prosecutor decides it is not of sufficient seriousness to merit further proceedings.

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

If yes, in what circumstances:

Persistant offending or offending with adult(s). Also for serious offences where defendant is defined as a dangerous offender.

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

Up to 21

(b) If yes, are the maximum sentences the same as for those provided for an adult found guilty of the same offence?

No

If no to question (a), please explain:

There is a general prohibition on imprisonment under 21. A special range of sentencing options for those under 21 exists. See details.

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

If yes, what are they?

See details

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 principal aim is to prevent offending by children or young persons. Regard must be had in all cases to the welfare of the defendant. The need to remove him/her from undesirable surroundings and to secure proper provisions for education and training. Custody must only be imposed if matter is so serious that neither financial or a community sentence can be justified. Deterrence may play a role in sentencing if judge considers such is justified on evidence laid before him. If incarceration age is relevant and whether matter is so serious as to justify in excess of 2 years.

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

If yes, please describe them:

Provisions similar to adult offenders. Need for psychiatric report(s) to assess type of mental disorder and any treatment required. Provisions for interim hospital orders for further assessment, full hospital orders and, in severe cases, restriction orders to protect the public.