

ENOC SURVEY ON NHRIs AND CHILD/JUVENILE DELINQUENCY

A. Overall goal:

To assess the monitoring¹ role of the NHRIs in dealing with C/JD and propose further activities in this area.

B. Justification: Reason d'être of ENOC is to strengthen the role of the NHRIs in rights of the child, through coordinated approach and cooperation. This in particular applies to the mutual support in building capacities of NHRIs to deal with specific areas of the rights of the child, while exercising their role as suggested in Paris principles and the CRC Committee' General comment No. 2. The focus of this survey is *on the role of NHRIs in dealing with C/JD*.

C. Questionnaire: This questionnaire consist of groups of questions which cover all measures of implementation in the area of *C/JD* with special attention to the rights of children who are alleged as, accused of or sentenced as having infringed the Penal law. However, children below the age of criminal responsibility also perpetrate offences (sometimes crimes) as well as "status" offences, for which they are deprived of liberty, taken into custody and intervened against. Therefore, children of all ages are subject of this survey.

- The questions are grouped in three parts:
 - Part one, dealing with basic information on the protection of the rights of C/JD in the ENOC members' States;
 - Part two dealing with general measures needed for the implementation of the rights of C/JD and
 - Part three dealing specifically with monitoring and evaluation of prevention and intervention in the area relevant for C/JD.

The second and third groups of questions deal with the existing and prospective (possible) roles of the NHRIs.

The Questionnaire is elaborate but simple, with most questions requiring YES or NO answers. Each group of questions contains an end section with requests for:

- comments/specific information on questions within this group;
- proposals for improvement.

¹ Monitoring of children's rights can be defined as: all activities for the purpose of *assessing and measuring the compliance of national laws and practice with the provisions of the CRC and other international instruments* (such as resolutions, standards and guidelines or similar) relevant to the implementation of the CRC provisions. In its General Comment No. 5 on the Article 4 of the CRC (General Measures of Implementation), the monitoring body of the CRC – the Committee on the Rights of the Child (the Committee) recognized the importance of monitoring.

Please note that *it is not mandatory to provide* comments or specific information, but any kind of short and concise information would be useful for analysis of the role of your institution in the protection of the rights of *C/JD*. Also, please limit proposals for improvement to the role of your institution, not overall improvements of the child rights in your country (which is certainly an important framework for this particular role).

We hope that this approach will encourage members to participate in this research. We also hope that such approach, focused on the role of the NHRIs and based on the simple but clear questionnaire, will result in a meaningful set of recommendations for future engagement of the NHRIs (as well as ENOC) in the area of C/JD .

D. Timetable:

- Members' work on the questionnaire: **30 June 2012**
- Compilation of the responses and development of the report with the recommendations: **30 July 2012**
- Presentation of the report and draft recommendations: October, ENOC Annual meeting in Nicosia 2012

E. Abbreviations

CRC – CRC on the Rights of the Child
NHRI - National Human Rights Institution(s)
C/JD – Child/juvenile delinquent or child/juvenile delinquency
OP – Optional Protocol(s) to the CRC
MACR – Minimum age of criminal responsibility
UN – United Nations
UPR – Universal periodic review

F. Literature:

For a better understanding of the contents of the questionnaire, please consult (as a minimum):

- ✓ CRC on the Rights of the Child
- ✓ General Comments of the Committee on the Rights of the Child:
 - No. 2: [The role of independent human rights institutions](#)
 - No.5: [General measures of implementation for the CRC on the Rights of the Child](#)
 - No. 10: *Children's rights in Juvenile Justice*
- ✓ UNODC, UNICEF: *Manual for measurement of juvenile justice indicators*, UN, UNODC; New York, Vienna; 2007.

PART ONE – General information

1. Age of criminal responsibility

Please indicate:

a) At what age children in your country start holding criminal responsibility?

14

b) What is the upper age-limit for juvenile justice?

18

c) At what age children may be deprived of their liberty and be placed in “reformatory” or “correctional” institutions?

14

Comments/specific information on questions within this group:

The draft of the Hungarian Criminal Code decreases the minimum age of criminal responsibility from 14 to 12 years in some cases (homicide, battery causes danger to life or death, robbery) which may result the deprivation of the child’s liberty in case of finding him or her guilty. The Commissioner for Fundamental Rights was deeply concerned about it in a press release published at 14 May 2012. See below:

Although there is no common praxis of determining uniformly the lowest age of criminal responsibility at European level, the UN Convention on the Rights of the Child and General Comments of CRC Committee embody a clear direction and spirit to build a child-friendly/centered justice system aiming to help, support, and reintegrate children who have any conflict with the law. In general, criminal statistics and nature of crimes committed by persons under 18 does not support this amendment either, and in this model deprivation of liberty can be used only as final resort and for the possible shortest time.

The Commissioner for Fundamental Rights, as Children’s Rights Ombudsman is convinced that problems of ‘deviant’ children can be solved primarily *not with criminal sanctions*, but in close and dialogue-based cooperation of child care professionals, as social workers, child care institutions, health care professionals, schools etc. to support prevention emphasizing children’s best interest and respecting their universal rights.

Proposals for improvement:

Minimum age for criminal responsibility shall be defined 14 years in general, and we must emphasize deprivation of liberty only as last resort must be used for the shortest time. Instead of deprivation of liberty shall be promoted alternative measures.

2. Children in conflict with the law and in detention

Please provide brief information on:

a) Number of children arrested during a 12-month period per 100.000 population

?

Megjegyzés [lá1]: ?

b) Number of children in detention per 100.000 child population

In 2011: 1376 in prison, 187 in reformatory institution, every 78 from 100.000 children.

c) Number of children in pre-sentence detention per 100.000 population

In 2011: 156 children, 1,56/100.000 population.

d) Time spent in detention by children before sentencing

In 2011: Up to 3 months: 42; 3-6 months: 29; 6-9 months: 27; 9 month-1 year: 29, 1-1 ,5 years: 17;

1 ,5-2 years: 10; over 2 years: 2

e)

f) Time spent in detention by children after sentencing

In 2011: 1-6 month: 2; 6 month- 1 year: 3; 1-2 years: 9, 2-3 years: 11; 3-5 years: 7; 5-10years: 3

g) Number of deaths in detention during a 12 months period, per 1,000 children detained

In 2011: 0

Comments/specific information on questions within this group:

Proposals for improvement:

3. Alternative measures and non-custodial (alternative) sanctions

Please indicate:

a) Does your legislation prescribe measures diverting children from criminal or related

proceedings?

YES _____ NO X

b) Are such measures being used in practice?

YES _____ NO X

c) What is the percent of children diverted during the 12-month period/100

0

d) Does your legislation prescribe measures alternative to custodial sanctions?

YES _____ NO X

e) Are such measures being used in practice?

YES _____ NO X

f) What is the percent of children who entered a pre-sentence diversion scheme during the 12-month period/100?

In 2011: 0,0078 % (156/2.000.000)

Comments/specific information on questions within this group: The Hungarian Criminal Code says that 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. The Criminal Code also says that the punishment shall be inflicted when the application of a measure is not expedient, and 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. Other special child protection measures could be applied against children below the age of criminal responsibility, see more at Q9

Proposals for improvement:

All kind of alternative measures/sanctions are warmly welcomed in general instead of using deprivation of liberty and finding him/her guilty especially because of long-term negative consequences.

4. Specialized juvenile justice system

Please indicate the right answer by placing an X in a box:

a) Specialized juvenile justice system does not exist in law or policy

b) System exists but is only weakly protected by law or policy

- c) System exists and is moderately protected by law or policy partly
- d) System exists and is well protected by law or policy

Comments/specific information on questions within this group: The Hungarian Criminal Code regulates the juvenile justice in **separate chapter** (Chapter VIII. of 4 Act of 1978 on Criminal Code), so does the Act 19 of 1998 on Criminal Procedure (Chapter XXI.) See the development of juvenile courts in Hungary below. There is no special, obligatory training for judges/lawyers/prosecutors needed to take part in juvenile justice at the moment; there are only a few additional courses for them.

1913 - 1951	Special juvenile court
1951 - 1962	Exclusive jurisdiction of local courts in cases of juvenile
1962 - 2011	County courts + Exclusive jurisdiction of local courts
2011 -	County courts and every local courts

Proposals for improvement:

Strongly recommended to set up special courts or at least special departments at courts, where children's rights sensible, focus-trained professionals are working. It would be also important to prescribe for one of the assessors to have child protection/education/psychology knowledge.

5. Prevention of C/JD in your country

Please indicate the right answer by placing an X in a box:

- a) No plan for the prevention of conflict with the law amongst children exists in law or policy
- b) Plan exists but is only weakly protected by law or policy
- c) Plan exists and is moderately protected by law or policy
- d) Plan exists and is extremely well protected by law or policy

Comments/specific information on questions within this group: The National Education Plan does not contain any special course/lecture on fundamental rights in general. The ombudsman proposed it in a report in 2008. Crime prevention units of the National Police organize programmes about drug-alcohol abuse and crime prevention in schools for pupils of 6-14 years. (Drug Abuse Resistance Education programme); there is also a special homepage about crime prevention (<http://bunmegelozes.info/>) where docs, applications to EU funds on **Social Renewal** Operational Programme (SROP), related news can be found.

Proposals for improvement:

6. Rehabilitation and reintegration of C/JD in your country

Please indicate the right answer by placing an X in a box:

- e) No plan for rehabilitation and reintegration of C/JD exists in law or policy
- f) Plan exists but is only weakly protected by law or policy
- g) Plan exists and is moderately protected by law or policy
- h) Plan exists and is extremely well protected by law or policy

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Comments/specific information on questions within this group: Before release, the youth prison –in cooperation with the probation supervisor –pay higher attention to the housing-, working-, school conditions, giving information on social subsidies, etc. In Hungary, probation supervision is connected to some other sentence or measure.

The probation supervisor is employed by the Ministry of Justice, during his work he cooperates with the child care service and the local authorities. There are about 10.000 minors under supervision.

In each individual case the probation officer meets the client at an interval specified in the probation plan, usually every month, hears the changes that occurred in the client's lifestyle or living circumstances, checks the fulfilment of the behavioural rules, and if necessary, provides advice or assistance for job search, life skills, health, social or any other problems concerning social re-integration. In reasonable cases, the probation officer may provide the client with a small amount of cash subsidy.

Cases of ordering probation supervision:

	Mandator	Compulsory cases of ordering
Postponement of accusation	Prosecutor	always
Deferred sentence	Judge	recidivist, juvenile
Suspended imprisonment	Judge	recidivist, juvenile
Parole	Prison judge or judge	recidivist, juvenile
Temporary release from reformatory	Prison judge	always

The role of the probation officer is significant not only in the implementation of alternative sanctions, but also in the case of those who committed the most serious crimes. The aim of after-care is to provide the released

prisoners or offenders released from reformatory with help for the social re-integration and for the creation of the necessary social conditions in order to protect the public and to prevent crime repetition. Since 2003, after-care begins six months before the expected time of release. The assistance may continue after release on the ex-convict's demand.

The probation officer helps with, among others, solving housing problems, job search, obtaining documents and arranging other official matters. The probation officer may direct the person under after-care to religious, charity or other organizations co-operating with the Probation Service, and, in reasonable cases, may provide the client with a small amount of cash subsidy. After-care serves both social and crime prevention purposes, since one of the major reasons of recidivism is the disorder in the above-mentioned circumstances as well as the sense of helplessness, which can be changed by the probation officer in co-operation with the client.

Another, similarly new field of after-care is the preparation of the offender's family for the reception of the offender.

The after-care tasks in the reformatory and penal institution are carried out by the competent probation officer according to the headquarters of the institution, while the after-care following release and the preparation of the family are implemented by the probation officer of the competent county office. The number of persons under after-care all over the country is approximately 2,200 annually.

Social inquiry reports made by probation officers are means of proof within criminal procedures against juvenile offenders, therefore, their acquisition is mandatory. In order to be able to compile the report, the probation officer has to regard the client's accomodation obtain an opinion from school or workplace if necessary, acquire information from the Child Welfare or Child Protection Authority, in case of child protection supervision, from the institution that receives the juvenile, and hear the juvenile offender's legal representative. The social inquiry report describes the facts and circumstances characteristic of the offender's way and style of living, and contains information related to his/her family circumstances, friendships, state of health, addictions, housing circumstances, qualifications, expertise, workplace, occupation, earnings, leisure time activities, and features characteristic of the time of the offence as well as the changes having occurred since then.

Probation officers compile social inquiry reports also during reprieve proceedings, at the request of the penal institution on reception of the juvenile for imprisonment, or for the authorisation of the interruption of imprisonment. For the compilation of the social inquiry report, an 8 – 30-day-deadline is available, as determined by the requesting agency. Nearly 14,000 social inquiry reports are written by the probation officers annually.

Proposals for improvement:

7. Complaints mechanisms available to C/JD

Please indicate the right answer by placing an X in a box:

- a) System for complaints does not exist in law or policy
- b) System exists but is only weakly protected by law or policy
- c) System exists and is moderately protected by law or policy
- d) System exists and is extremely well protected by law or policy

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Comments/specific information on questions within this group: The ombudsman acts as an independent institution where anyone can turn to free of charge (and anonymously if he/she wish), if his/her fundamental rights are abused. In 2007 with the amendment of Act 34 of 1994 on the Police ('Police Act') the Parliament amended the provisions for the structure of the police and established the Independent Police Complaints Board. The Board works as an organ of civil control by giving a new platform to the citizens to complain against Police conduct.

Hungary has not signed/ratified yet the 3. Optional Protocol to the UN Convention on the Rights of the Child on a communication procedure. The ombudsman urged the responsible Minister for Justice and Public Administration being responsible for the issue

Especially the children in care can turn to "children's rights representatives" whose task is to help to formulate a complain, and give other support particularly on children's rights to children based on the Act on child protection.

Proposals for improvement:

8. Regular independent inspection of treatment of C/JD

Please indicate the right answer by placing an X in a box:

- a) System for regular independent inspections does not exist in law or policy
- b) System exists but is only weakly protected by law or policy
- c) System exists and is moderately protected by law or policy
- d) System exists and is extremely well protected by law or policy

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Comments/specific information on questions within this group: The ombudsman is not only entitled but also it is his/her primary obligation to defend children's rights since the new Ombudsman Act entered into force on 1st January 2012. The current ombudsman put on his agenda within the framework of his Annual project in 2012 on child-friendly justice, to monitor the existing legal background, institutions. But the ombudsman has no competence to investigate judicial procedures or judgements.

But he has investigated on the spot juvenile prisons/youth detention centres (what he initiated this year again). During this special year dedicated to child-friendly justice, the ombudsman initiated ex officio, comprehensive investigations on alternative/restorative justice, on victim support mechanism, on youth crime prevention; on legal situation of unaccompanied/migrant minors; on missing children.

Proposals for improvement:

The ombudsmen shall receive the right to deal with special attention to childfriendly justice at all level

9. Treatment of children offenders below the age of criminal responsibility

a) Is there a law protecting rights of children below the MACR who are delinquent?
 YES X NO

b) Which State/Government institution/department deals with such children?

Ministry of Human Resources (responsible for social, family, youth affairs)

Comments/specific information on questions within this group: ___ According to Act 31 of 1997 on child protection and guardianship administration, the child protection special care system *must provide a home for temporarily placed children* subject to *temporary or long-term education, follow-up care of young adults, and fully comprehensive services for children using the special care* due to other reasons. Art. 67. (1) says if the child's physical, mental, emotional and moral development with the consent of a parent can not be assured and this situation threatens the child's development, the municipal clerk or the child welfare agency depending on the degree of vulnerability, shall take one of the measures listed above.

The child protection measures regulated in the Act in details shall be applied also in cases, when the child is under the age of criminal responsibility, but has conflict with the law.

The measures getting stricter from ordering family care assistance, to temporary or long-term replacement in special homes.

Indeed – without finding him/her guilty – against a person under 14ys there can be applied some criminal sanctions, too, like forfeiture, confiscation of assets.

Proposals for improvement:

DE-I is also recommended here, and for these children reintegration/mediation shall be a useful and effective tool instead of punishing them.

10. Training and dissemination of information necessary for the rights of C/JD

a) Is there a legal obligation for training in child rights/ rights of C/JD of the judiciary, police and staff in penitentiary and state care institutions and other places of residential care?

YES (partly) NO

b) If yes, is such training sufficient to build the capacity to deal with C/JD?

YES NO

c) Is there a procedure (or legal requirement) for the provision of information to the Parliament on a regular basis on the situation of C/JD?

YES NO

d) Are media informed on the situation of C/JD?

YES NO

Is there a political awareness of the situation of C/JD?

YES X NO (partly)

Comments/specific information on questions within this group:

Particularly because of the lack of any obligatory training on children's rights for any kind of professionals initiated the ombudsman an ex officio investigation this year to explore this field and make recommendations, the Ministry of Justice and Public Administration announced that they would support to draw up a curricula on it for judicial professionals. Obligatory training exists only for police staff members working on the field of child/juvenile protection.

Megjegyzés [l82]: Akkor írd be Iszi a commentbe, hogy általában adunk ki, és újabban az unicef aktív

The Ministry of Justice and Public Administration dedicated this year to child-friendly justice, accordingly, there can be seen some development in policy making level:

- an inter-ministerial Expert Group on Child-friendly Justice was set up in January 2012, where members are the representatives of the related Ministries (as Min. of Interior, Min. of Human Resources, Min. of Justice), of NGO's (as International Children Safety Service) experienced judges from criminal and family courts; ombudsman.
- This expert group prepared a package of amendments of Acts (especially procedural regulations) to be more child-friendly. These amendments were adopted by the Parliament in May 2012.
- The Ministry of Justice and Public Administration adopted Decree 32 of 2011 on police child-friendly interviewing rooms, in which it is regulated that until 2014 every County Police Station shall set up a child-friendly interviewing room (until 01.06.2012, there are 4 in Hungary).
- A homepage was launched at November 2011 on children's rights (<http://gyerekjog.kormany.hu/index>)

Proposals for improvement:

Professional at judiciary, police and child protection organs shall receive proper trainings on fundamental rights, children's rights, child-friendly justice as it is adequately laid down in the CoE Guidelines on Child-friendly Justice

PART TWO – NHRI and the general measures to implement rights of C/JD**1. Legal and institutional capacities of the NHRI to deal with the issue of C/JD**

- a) Does legislation applicable to your institution include provisions setting up specific functions, powers and duties relating to children and linked to the CRC and the OPs (including also relevant provisions on C/JD)?

YES NO

- b) Is your NHRI accorded such powers as are necessary to enable you to discharge your mandate effectively, including the power to hear any person and obtain any information and document for assessing the situation falling within your competence (including C/JD)?

YES NO

- c) Is your institution constitutionally or legislatively explicitly mandated to deal with prevention, promotion and protection in the area of rights of the child, including C/JD?

YES NO

- d) Are some members of your staff specifically trained in rights of the child and JJ?

YES NO

- e) If yes, is, in your opinion, such training sufficient to empower your staff to deal with C/JD?

YES NO

- f) Is the number of staff in your institution, capable of dealing with rights of the child sufficient to fully respond to the issue of C/JD?

YES NO

- (i) Please indicate whether your staff is skilled in dealing with C/JD issues, specifically on:

- i. Prevention

YES NO

- ii. Arrests and treatment by the police or other administrative bodies

YES NO

- iii. Prosecution and trial

YES _____ NO

iv. Detention in correctional centres / prisons

YES NO _____

v. Placement in reformatory institutions (detention with day release)

YES NO _____

vi. Implementation of other reformatory measures (such as supervision, probation, community service, participation in social programmes, placement in foster care)

YES NO _____

Comments/specific information on questions within this group: There is no separate staff dealing with children's rights in the Office of the Ombudsman, but as members of the children's right project, 5-6 lawyers work on the issue more intensively, but without any special training, mostly from personal commitment, interest, self-education. The ombudsman himself and the colleagues are regularly attending at conferences, workshops related to different aspects of children's rights. Some of them also teach at the law faculties.

Proposals for improvement:

2. Accessibility and participation

a) Is your NHRI geographically and physically accessible to all children, including *C/JD*?

YES NO _____

b) Does your NHRI legislation include the right of the institution to have access, in conditions of privacy, to children in all forms of institutions that include children?

YES NO _____

- c) Is a children's council, or similar body, created as advisory body for your institution, in order to facilitate the participation of children in matters of concern to them, in particular vulnerable children such as *C/JD*?

YES _____ NO _____

- d) Is an annual debate held in your Parliament, so as to provide parliamentarians with an opportunity to discuss the work of the NHRI in respect of children's rights and the State's compliance with the CRC?

YES _____ NO _____

Comments/specific information on questions within this group:

Proposals for improvement:

3. Law reform in the area of *C/JD*

- a) Is your institution involved in law reform in the area of the rights of the child and *C/JD*?

YES _____ NO _____

- b) Has your institution contributed/advocated for a specific/improved *C/JD* provisions within a law reform?

YES _____ NO _____

- c) Is your institution informed of relevant international human rights law, including with international jurisprudence in the area of the rights of the child and *C/JD*?

YES _____ NO _____

- d) Does your institution encourage ratification of or accession to any *C/JD* relevant international human rights instruments?

YES _____ NO _____

- e) Does your institution promote harmonization of national legislation, regulations and practices with the CRC on the Rights of the Child, its Optional Protocols and other international human rights instruments relevant to children's rights and specifically rights of *C/JD* and promote their effective implementation, including through the provision of advice to public and private bodies in construing and applying the CRC?

YES _____ NO _____

Comments/specific information on questions within this group: See more on our website about recommendation; reports

(<http://www.ajbh.hu/allam/eng/index.htm>)

Proposals for improvement:

4. The NHRI and the basic principles of the CRC related to *C/JD*

- a) In accordance with article 3 of the CRC requiring that the best interests of children should be a primary consideration of all actors, in all actions concerning them, does your office have capacity to monitor whether the impact of laws and policies on *C/JD* is carefully considered from development to implementation and beyond?

YES NO

- b) In light of article 12 of the CRC, can your office control whether the views of *C/JD* are expressed and heard on matters concerning their human rights and in defining issues relating to their rights in every stage of the process of juvenile justice or other applicable procedure?

YES NO

- c) Can your institution (and does it) control whether the State has taken all necessary measures to ensure that all children, including those in conflict with the law are treated equally?

YES NO

- d) Does your institution take into account as a matter of principle, the *C/JD*'s right to life, survival and development?

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

5. The role of your NHRI in State coordination in the area of C/JD - cooperation with Government

a) Is there an effective, highly empowered inter-ministerial coordination body for the rights of the child (including C/JD) in your country?

YES (only for C/JD) NO

b) If yes, is your institution involved in its work?

YES NO

c) Has your institution ever participated in a coordinated action of such body with regards to prevention of C/JD and implementation of C/JD standards?

YES NO

Comments/specific information on questions within this group: See Q 10

Proposals for improvement:

6. Research and data collection in C/JD

a) Does your State systematically collect disaggregated data relevant to the information on the practice of the administration of juvenile justice, and necessary for the development, implementation and evaluation of policies and programmes aiming at the prevention and effective responses to juvenile delinquency in full accordance with the principles and provisions of CRC?

YES NO

b) Does your institution participate in such data collection?

YES NO

c) Has your institution ever conducted evaluations of the State's administration of juvenile justice, in particular of the effectiveness of the measures taken, including those concerning discrimination, reintegration and recidivism?

YES NO

Comments/specific information on questions within this group: The problem is that there is no common understanding on definitions, there is no single database for the various data, there are different organs at ministerial level who have any competence with children (Min. of Interior, Min. of Human Resources, Min. of Justice) and they have different statistics

Proposals for improvement:

Unified database concerning to children, with common understanding

7. Budgeting for the area of C/JD

- a) Can and does your institution track information/events that indicate whether the State ensures that national economic policy makers take children's rights into account in setting and evaluating national economic and development plans?

YES NO

- b) Can your institution track such information/events with regards to C/JD children?

YES NO

- c) Can your institution influence budget allocations for all activities necessary to address the issue of C/JD?

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

8. Monitoring and reporting on the situation of C/JD

Does your institution undertake investigations into any situation of violation of C/JD rights, on complaint or on their own initiative, within the scope of its mandate, such as:

- a) Conduct inquiries on matters relating to C/JD rights?

YES NO

- b) Prepare and publicize opinions, recommendations and reports, either at the request of national authorities or on their own initiative, on any matter relating to the promotion and protection of children's rights and rights of C/JD?

YES NO

- c) Keep under review the adequacy and effectiveness of law and practice relating to the protection of rights of C/JD?

YES NO

- d) Review and report on the Government's implementation and monitoring of the state of children's rights, seeking to ensure that statistics are appropriately disaggregated and other information collected on a regular basis in order to determine what must be done to realize rights of C/JD?

YES NO

Comments/specific information on questions within this group: All ombudsman reports are published at the homepage of the ombudsman and in his annual reports. See the annual children's rights project on child-friendly justice above.

Proposals for improvement:

9. Training and education

- a) Does your institution promote public understanding and awareness of the importance of rights of C/JD and for this purpose undertake or sponsor research and educational activities in the field?

YES NO

- b) Does your institution control/assist the State to, in accordance with article 42 of the CRC which obligates State parties to sensitize the Government, public agencies and the general public to the provisions of the CRC relevant for C/JD and monitor ways in which the State is meeting its obligations in this regard?

YES NO

- c) Does your NHRI assist in the formulation of programmes for the teaching of, research into and integration of rights of *C/JD* in the curricula of schools and universities and in professional circles?

YES NO

- d) Does your NHRI undertake/participate in human rights education which specifically focuses on *C/JD* (in addition to promoting general public understanding about the importance of human rights of *C/JD*)?

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

10. Participation in international cooperation

- a) Does your institution participate in the international cooperation with regards to *C/JD*?

YES NO

- b) Does your institution have a joint project in the area of *C/JD* with other member of ENOC?

YES NO

- c) Does your institution independently participate/cooperate in international events devoted to the issue of *C/JD*?

YES X NO

- d) Has your institution submitted an independent report, containing also information on the *C/JD*, to the Committee on the Rights of the Child or any other human rights treaty body?

YES NO

- e) Has your institution participated in the UN Human Rights Council UPR process, submitting an Independent report, containing also information on the *C/JD*?

YES NO

- f) Has your institution cooperated/met with a UN mandate holder, a UNSG representative or a European human rights systems' representatives (such as CoE HR Commissioner), and raised the issue of the *C/JD*?

YES NO

- g) Does your institution participate in dissemination of recommendations (including concluding

observations) issued by the treaty bodies and other human rights mechanisms?

YES NO

h) Does your institution cooperate/is supported by UNICEF in your *C/ID* activities?

YES NO

Comments/specific information on questions within this group: _the Office of the Commissioner for Fundamental Rights regularly consults with Prof.Dr Maria Herczog, member of the CRC Committee; moreover the ombudsman became the CoE national focal point in 2010, so we started dialogue with the children's rights division of the CoE, especially on child-friendly justice to promote their work and campaign to ratify different legal instruments (due to this our office attended in a Conference organized by the CoE in June 2012, as CoE experts on child-friendly justice) The ombudsman have cooperated with the UNICEF Hungarian Committee

Proposals for improvement:

11. Cooperation with other independent institutions (if any)

a) If there are other independent institutions in your country (such as commissioner for equality, human rights ombudsman or similar, does your institution cooperate with them, in particular with regards to the issue of *C/ID*?

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

12. Cooperation with civil society

a) Does your institution cooperate with NGOs in C/JD projects and programs?

YES X NO

b) Does your institution advocate for and facilitate meaningful participation by children's rights NGOs, including organizations comprised of children themselves, in the development and implementation of C/JD programs and projects?

YES X NO

Comments/specific information on questions within this group: since 2008 the ombudsman organizes at least two workshops a year on his annual children's rights project topics to which he invites every relevant actor from the civil society too. In April 2012, "Justice with human face" conference was organized with 80 participants in the Event Hall of the Ombudsman about the first results of his investigations related to child-friendly justice.

Proposals for improvement:

13. Cooperation with other stakeholders (media, religious groups and organizations, foundations, private sector)

a) Does your institution promote public understanding and awareness of the importance of rights of the child, including rights of C/JD and, for this purpose, work closely with the media?

YES X NO

b) If yes, are segments of this cooperation devoted to the rights of C/JD?

YES X NO

c) Does your institution cooperate with other stakeholders in implementation of programs relevant for C/JD, such as with religious groups and organizations, foundations, private sector?

YES X NO

Comments/specific information on questions within this group: we have launched our special children's rights website in 2008, and started to be active at the Facebook in 2011. During this year due to the cooperation with the Ministry of Justice, the experts of the Office regularly have participated in televisions/radio on the topics related to child-friendly justice. And because of the proactive attitude of the ombudsman, he strongly promotes to be present in the media, we publish press releases after reports/recommendations/petitions to the Constitutional Courts, etc

ENOC

European Network of Ombudspersons for Children

Proposals for improvement:

PART THREE – NHRI monitoring role in prevention and intervention**1. Monitoring prevention of delinquency**

- a) Does your institution monitor State's responses to deviant behavior at school (such as reparatory and reconciliation measures, peer mediation, collaboration for conflict resolution, etc)?

YES NO

- b) Does your institution monitor implemented programmes targeting children at risk of offending (such as school drop outs, children whose parents have been repeatedly convicted, children living in extremely disaffected areas, children already involved in groups with anti-social, violent and/or offensive behavior, etc)?

YES NO

- c) Does your institution monitor projects for children who have already been convicted (children at risk of re-offending)?

YES NO

- d) Does your institution monitor projects for children offenders under age of criminal responsibility?

YES NO

Comments/specific information on questions within this group: During the "traditional" ombudsman work, the commissioner has the mandate and the obligation to investigate ex officio or after complaints these fields.

Proposals for improvement:

2. Your role in (strategic) litigation and respective legal procedures

- a) Does your institution take legal proceedings to vindicate children's rights in the State or provide legal assistance to children?

YES NO

- b) Does your institution engage in mediation or conciliation processes before taking cases to court, where appropriate?

YES NO

- c) Is your institution legally empowered and technically capable of providing expertise in children's rights to the courts, in suitable cases as amicus curiae or intervener?

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

3. Monitoring police conduct

- a) Does your institution monitor:

- i. Specialization of police officers dealing with young offenders?

YES NO

- ii. Treatment of arrested young offenders by the police?

YES NO

- iii. Police detention of juveniles (provisions and conditions)?

YES NO

- b) Does your institution submit reports on such monitoring and makes recommendations for improvement

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

4. Monitoring deprivation of liberty (including pre-trial and post trial detention)

- a) Does your institution monitor rights of *C/JD*:

- i. Placed in reformatory centres (detention with day release)?

YES NO

- ii. Placed in correctional centres or prisons?

YES NO

- iii. Placed in therapeutic centres (Such as for drug addicted and mentally disordered juveniles)?

YES NO

- iv. Conditions of imprisonment:

- a. Safety

YES NO

b. HealthYES NO **c. the number and suitability of their staff?**YES NO **v. Educational and vocational programmes in prison?**YES NO **b) Does your institution submit reports on such monitoring and makes recommendations for improvement?**YES NO

Comments/specific information on questions within this group: the ombudsman's colleagues visited and investigated all the prisons where juvenile can be placed in the first semester of 2012 (Tököl, Szirmabesenyő, Pécs, Kecskemét); and published reports. It is planned to visit reformatory institutions during autumn 2012. In July 2012, there will be also an investigation on the spot at the Justice Psychiatry Centre. During these investigations all the above mentioned fields are under scope, with additional interviews making with people under arrest, members of the staff and the management of the institutions.

Proposals for improvement:

5. Monitoring juvenile delinquents in the court procedures**a) Does your institution monitor:****i. Time when the trial takes place – possible positive or negative consequences of delays on the rights of young persons?**YES NO

ii. Role of probation officers before, during and after trial?

YES _____ NO _____

iii. Existing provisions for free legal aid to juveniles and free interpretation?

YES _____ NO _____

iv. Children's rights before the court (such as: Freedom of expression of the opinion of the child. Safeguarding the best interest of the child in existing legislative provisions)?

YES _____ NO _____

v. Specialization of judges and prosecutors?

YES _____ NO _____

vi. Possible obstacles (such as: unfair treatment of foreigners, illegal immigrants, minorities, etc)?

YES _____ NO _____

vii. Use of custodial measures?

YES _____ NO _____

c) Does your institution submit reports on such monitoring and makes recommendations for improvement? YES

Comments/specific information on questions within this group:

Proposals for improvement:

6. Monitoring diversion and non custodial sanctions

a) Does your institution monitor:

- i. Diversion from criminal justice system, as provided by the law (issues such as: who decides: police or prosecutor / judicial authorities? Who is responsible for implementation of diversion?)?

YES _____ NO X

- ii. Recorded level of implementation and of success of diversion measures?

YES _____ NO X

- iii. The use of non custodial and measures which are alternative to sentences/punishment (warnings, orders, treatments, corrective labor, etc)

YES _____ NO X

- iv. Child rights' protection during implementation of diversion measures?

YES _____ NO X

- v. Level of implementation and success of such measures, with particular reference to the existing in every country provisions in the law and the problems faced in practice, such as:

a. Supervision and probation orders

YES _____ NO X

b. Participation in social or educational programmes

YES _____ NO X

c. Placement in care institutions or shelters

YES _____ NO _____

d. Community service,

YES _____ NO _____

e. Reconciliation measures

YES _____ NO _____

f. Specialized foster care

YES _____ NO _____

vi. Does your institution submit reports on such monitoring and makes recommendations for improvement?

YES _____ NO _____

Comments/specific information on questions within this group: _____ The ombudsman has no competence to supervise or reconsider the judgements on measures/penalties; or any kind of judicial procedures by the court. The probation supervision service is investigated by the ombudsman this year, because they are part of the Ministry of Justice. _

Proposals for improvement:

7. Rehabilitation and reintegration after completion of measures

a) Does your institution monitor:

i. Existing shelters for children persons coming out of detention centres?

YES _____ NO _____

ii. Existing public support programmes?

YES _____ NO

Comments/specific information on questions within this group:

Proposals for improvement:

8. Complaints procedure

a) Is your institution legally empowered to receive complaints, including on the issues of C/JD?

YES NO _____

b) Can children, including C/JD personally submit complaints?

YES NO _____

c) Can your institution influence the establishment/improvement of complaint mechanism?

YES NO _____

d) Are your decisions in the complaints procedure of a binding character?

YES _____ NO

Comments/specific information on questions within this group: There is no statistics on the number of children turn to the ombudsman, but in 2011 citizens submitted 5191 complaints

(nearly half of them are still forwarded by mail, petitions can also be submitted via e-mail or personally in the office). 453 of them related to criminal, law-enforcement matters, 325 child protection, guardianship questions.

The ombudsman rejected after inquiry in 48,5% of the petitions, made no recommendation in 31, 2%, make a recommendation in 20,4%. Although there is no binding force of the recommendation, more than half of them were immediately accepted by the addressees. In 37% we started professional dialogue about our initiatives in order to settle a problem. There was 59 recommendation for the adoption/amendment of an Act, 13 for the adoption/amendment of a Government decree, 14 for the adoption/amendment of a Ministerial decree. 26 call for proper legal interpretation in the future.

In 8% of the cases concerning about rights of children and parents.

Proposals for improvement:

9. Monitoring children offenders below the MACR

a) Does your institution monitor:

i. Legal provisions/reforms to enable broader protection of children in conflict with the law (so as to include children below the MACR)?

YES NO

ii. Measures taken by the respective State/Government departments to protect rights of child delinquents?

YES NO

iii. Placement of such children in any type of state care institution or programme?

YES NO

b) Does your institution submit reports on such monitoring and makes recommendations for improvement?

YES NO

Comments/specific information on questions within this group:

Proposals for improvement:

ENOC

European Network of Ombudspersons for Children

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