

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (87) 20

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON SOCIAL REACTIONS TO JUVENILE DELINQUENCY

*(Adopted by the Committee of Ministers on 17 September 1987
at the 410th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that young people are developing beings and in consequence all measures taken in their respect should have an educational character;

Considering that social reactions to juvenile delinquency should take account of the personality and specific needs of minors and that the latter need specialised interventions and, where appropriate, specialised treatment based in particular on the principles embodied in the United Nations Declaration of the Rights of the Child;

Convinced that the penal system for minors should continue to be characterised by its objective of education and social integration and that it should as far as possible abolish imprisonment for minors;

Considering that measures in respect of minors should preferably be implemented in their natural environment and should involve the community, in particular at local level;

Convinced that minors must be afforded the same procedural guarantees as adults;

Taking account of earlier work by the Council of Europe in the field of juvenile delinquency and in particular of Resolution (78) 62 on juvenile delinquency and social change and the conclusions of the 14th Criminological Research Conference on "Prevention of juvenile delinquency: the role of institutions of socialisation in a changing society";

Having regard to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),

Recommends the governments of member states to review, if necessary, their legislation and practice with a view:

I. *Prevention*

1. to undertaking or continuing particular efforts for the prevention of juvenile maladjustment and delinquency, in particular:

a. by implementing a comprehensive policy promoting the social integration of young people;

b. by providing special assistance and the introduction of specialised programmes, on an experimental basis, in schools or in young peoples' or sports' organisations for the better integration of young people who are experiencing serious difficulties in this field;

c. by taking technical and situational measures to reduce the opportunities offered to young people to commit offences;

II. *Diversion — mediation*

2. to encouraging the development of diversion and mediation procedures at public prosecutor level (discontinuation of proceedings) or at police level, in countries where the police has prosecuting functions, in order to prevent minors from entering into the criminal justice system and suffering the ensuing consequences; to associating Child Protection Boards or services to the application of these procedures;
3. to taking the necessary measures to ensure that in such procedures:
 - the consent of the minor to the measures on which the diversion is conditional and, if necessary, the co-operation of his family are secured;
 - appropriate attention is paid to the rights and interests of the minor as well as to those of the victim;

III. *Proceedings against minors*

4. to ensuring that minors are tried more rapidly, avoiding undue delay, so as to ensure effective educational action;
5. to avoiding committing minors to adult courts, where juvenile courts exist;
6. to avoiding, as far as possible, minors being kept in police custody and, in any case, encouraging the prosecuting authorities to supervise the conditions of such custody;
7. to excluding the remand in custody of minors, apart from exceptional cases of very serious offences committed by older minors; in these cases, restricting the length of remand in custody and keeping minors apart from adults; arranging for decisions of this type to be, in principle, ordered after consultation with a welfare department on alternative proposals;
8. to reinforcing the legal position of minors throughout the proceedings, including the police investigation, by recognising, *inter alia*:
 - the presumption of innocence;
 - the right to the assistance of a counsel who may, if necessary, be officially appointed and paid by the state;
 - the right to the presence of parents or of another legal representative who should be informed from the beginning of the proceedings;
 - the right of minors to call, interrogate and confront witnesses;
 - the possibility for minors to ask for a second expert opinion or any other equivalent investigative measure;
 - the right of minors to speak and, if necessary, to give an opinion on the measures envisaged for them;
 - the right to appeal;
 - the right to apply for a review of the measures ordered;
 - the right of juveniles to respect for their private lives;
9. to encouraging arrangements for all the persons concerned at various stages of the proceedings (police, counsel, prosecutors, judges, social workers) to receive specialised training on the law relating to minors and juvenile delinquency;
10. to ensuring that the entries of decisions relating to minors in the police records are treated as confidential and only communicated to the judicial authorities or equivalent authorities and that these entries are not used after the persons concerned come of age, except on compelling grounds provided for in national law;

IV. *Interventions*

11. to ensuring that interventions in respect of juvenile delinquents are sought preferably in the minors' natural environment, respect their right to education and their personality and foster their personal development;

12. to providing that intervention is of a determined length and that only the judicial authorities or equivalent administrative authorities may fix it, and that the same authorities may terminate the intervention earlier than originally provided;

13. when residential care is essential:

— to diversifying the forms of residential care in order to provide the one most suited to the minor's age, difficulties and background (host families, homes);

— to establishing small-scale educational institutions integrated into their social, economic and cultural environment;

— to providing that the minor's personal freedom shall be restricted as little as possible and that the way in which this is done is decided under judicial control;

— in all forms of custodial education, to fostering, where possible, the minor's relations with his family:

- avoiding custody in places which are too distant or inaccessible;
- maintaining contact between the place of custody and the family;

14. with the aim of gradually abandoning recourse to detention and increasing the number of alternative measures, to giving preference to those which allow greater opportunities for social integration through education, vocational training as well as through the use of leisure or other activities;

15. among such measures, to paying particular attention to those which:

— involve probationary supervision and assistance;

— are intended to cope with the persistence of delinquent behaviour in the minor by improving his capacities for social adjustment by means of intensive educational action (including "intensive intermediary treatment");

— entail reparation for the damage caused by the criminal activity of the minor;

— entail community work suited to the minor's age and educational needs;

16. in cases where, under national legislation, a custodial sentence cannot be avoided:

— to establishing a scale of sentences suited to the condition of minors, and to introducing more favourable conditions for the serving of sentences than those which the law lays down for adults, in particular as regards the obtaining of semi-liberty and early release, as well as granting and revocation of suspended sentence;

— to requiring the courts to give reasons for their prison sentences;

— to separating minors from adults or, where in exceptional cases integration is preferred for treatment reasons, to protecting minors from harmful influence from adults;

— to providing both education and vocational training for young prisoners, preferably in conjunction with the community, or any other measure which may assist reinsertion in society;

— to providing educational support after release and possible assistance for the social rehabilitation of the minors;

17. to reviewing, if necessary, their legislation on young adult delinquents, so that the relevant courts also have the opportunity of passing sentences which are educational in nature and foster social integration, regard being had for the personalities of the offenders;

V. *Research*

18. to promoting and encouraging comparative research in the field of juvenile delinquency so as to provide a basis for policy in this area, laying emphasis on the study of:

— prevention measures;

— the relationship between the police and young people;

— the influence of new crime policies on the functioning of legal systems concerned with minors;

— specialised training for everyone working in this field;

- comparative features of juvenile delinquency and young adult delinquency, as well as re-education and social integration measures suitable for these age-groups;
- alternatives to deprivation of liberty;
- community involvement in the care of young delinquents;
- the relationship between demographic factors and the labour market on the one hand and juvenile delinquency on the other;
- the role of the mass media in the field of delinquency and reactions to delinquency;
- institutions such as a youth ombudsman or complaints board for the protection of young people's rights;
- measures and procedures of reconciliation between young offenders and their victims.