



ASSESSMENT OF JUVENILE JUSTICE REFORM ACHIEVEMENTS IN KAZAKHSTAN

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**UNICEF Regional Office for Central
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Note on the Assessment Mission

The assessment mission took place from 16 to 30 August 2008. The team consisted of Dan O'Donnell, international consultant, and Prof. Gulnara Suleimenova, national consultant. Support was provided by Tatiana Aderkhina of UNICEF Kazakhstan.

The mission began in Almaty, visited the city of Ust Kamenogorsk and ended in the capitol, Astana. The team interviewed representatives of the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Education and Science, Members of Parliament, the Human Rights Commissioner (Ombudsman) and the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office as well as representatives of the East Kazakhstan University, an NGO, the coordinator of the NGO Task Force on Child Rights, the Open Society Institute, and UNICEF.

The team visited two juvenile courts, two juvenile correctional facilities, a centre for temporary isolation, adaptation and rehabilitation of juveniles, a school for children with deviant behaviour, a youth club and a juvenile legal clinic. A focus group took place with school inspectors (police). Permission to visit a detention facility (lit: 'investigation isolator') was not received until after the mission, and so was undertaken subsequently by Tatiana Aderkhina and the UNICEF Deputy Representative, Alena Sialchonak. A scheduled visit to a special vocational school was cancelled. The last day of the mission, the assessment team participated in a Round Table on the Challenges of Working with Children in Conflict with the Law hosted by UNICEF and the Committee for the Protection of Children's Rights within the Ministry of Education and Science. The lists of persons interviewed and documents consulted are attached (see Annexes 2 and 3).

Background

Kazakhstan is the largest country in Central Asia, and one of the largest in the world. It has a population of 15.8 million, of which 30 per cent is under age 18.¹ Once an agricultural country, the population is now 57 per cent urban. Some 58 per cent of the population is Kazakh and 26 per cent is of Russian origin; there are over one hundred smaller ethnic minorities.²

Kazakhstan is rich in petroleum and minerals. The economy has performed strongly after the economic dislocation that followed independence. The Gross National Income (GNI) per capita, US\$ 5,060, is the highest in Central Asia.³

Kazakhstan became independent in December 1991. It is a unitary republic, divided into 14 provinces.⁴ A constitution adopted in 1993 was replaced by a new constitution in 1995. Most of the laws now in force, including the 1997 Criminal Code, the 1997 Code of Criminal Procedure, the 1997 Penal Execution Code and the 2001 Administrative Offence Code, have been adopted since independence.

Kazakhstan became a party to the Convention on the Rights of the Child in 1994. Its initial report on the implementation of the Convention on the Rights of the Child was presented to the Committee on the Rights of the Child in 2001 and examined by the Committee in 2003; a combined second and third report was submitted in 2006 and considered in 2007.

¹ Agency of the Republic of Kazakhstan on Statistics, October 2008.

² Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Second and third periodic reports of States parties: Kazakhstan, CRC/C/KAZ/3, 2006, para. 12.

³ United Nations Children's Fund, *The State of the World's Children 2009*, UNICEF, New York, 2009, Table 7.

⁴ There are also two autonomous cities, the present capitol, Astana, and the former one, Almaty.

Executive Summary

Kazakhstan, like other countries that were part of the Union of Soviet Socialist Republics (USSR), did not have a juvenile justice system at independence. Some institutions specifically for children in conflict with the law did exist, notably juvenile correctional facilities and juvenile police. There was no law on juvenile justice, nor specialized courts or judges. Juveniles accused of an offence were tried by ordinary criminal courts, under the Criminal Code and the Code of Criminal Procedure.

While offending by juveniles increased in the years following independence, it has been decreasing since 1994.⁵ In recent years, the number of offences has fallen from 8,237 in 2002 to 5,383 in 2007.⁶ The decline has been dramatic for administrative offences, such as drunkenness, drug use and disorderly conduct, and less pronounced for criminal offences.⁷ The number of offenders has remained relatively stable during these years, however, apparently due to the growing number of crimes committed by juveniles acting as a group.⁸ Nevertheless, the number of convicted juvenile offenders has diminished by more than half since 2000,⁹ and the number of juveniles given custodial sentences annually has fallen from 1,668 in 2000 to 751 in 2006. The total population of the four juvenile correctional facilities was 473 persons in 2007; and the number in 'pretrial' detention facilities was 459.¹⁰

UNICEF supported a situation analysis on juvenile justice in 2000. The lead role then passed to the Open Society Institute, which undertook a major project from 2001 to 2006 (the 'Juvenile Justice Project'). The project led to a comprehensive set of recommendations, many of which have been incorporated into a 'Juvenile Justice System Development Concept' approved by the President in 2008. Adoption of this 'Concept' marks the beginning of a key stage in the development of juvenile justice in Kazakhstan.

The assessment team found much that is positive: a commitment to the creation of a juvenile justice system that complies with international standards and best practices; strong cooperation with the international community; pilot specialized juvenile courts and juvenile police units; the specialized defence team in Almaty; the humanization of conditions in colonies; and the policy of early release of juvenile prisoners who show evidence of rehabilitation. The legislation is compatible with international standards in many respects.

The 'Juvenile Justice System Development Concept' establishes the basic framework for the future juvenile justice system. The time frame for the creation of this system is 2009–2011. The Open Society Institute is no longer involved in juvenile justice. The Organization for Security and Co-operation in Europe (OSCE) supports the development of probation and mediation, but does not play a direct role in juvenile justice. The government has asked UNICEF to help develop the juvenile justice system, which builds on UNICEF's previous work on de-institutionalization. The assessment team strongly recommends that UNICEF make a commitment to supporting the process of developing the juvenile

⁵ Offending by juveniles: 9,272 in 1989; 12,980 in 1992 and 9,739 in 1995. See Moestue, H., *Lost in the Justice System: Children in conflict with the law in Eastern Europe and Central Asia*, UNICEF Regional Office for CEE/CIS, Geneva, May 2008, Appendix 2.

⁶ Ministry of Internal Affairs, *Analysis of juvenile offences and activities of police on prevention of crimes, homelessness and street children*, 2008, p. 1 (total number of offences by juveniles).

⁷ *Ibid.*, p. 23 (number of juveniles brought to the police for criminal and for administrative offences).

⁸ *Ibid.* (number of crimes committed by juveniles acting as a group: 8,302 in 2001 and 8,344 in 2007).

⁹ 5,393 in 2000 to 2,406 in 2006. See UNICEF, *Situation Analysis: Mid-Term Review of the Country Programme of Cooperation between UNICEF and the Government of the Republic of Kazakhstan*, Astana, 2007, Annex 19.

¹⁰ Juvenile Justice System Development Concept, Presidential Decree No. 646, 2008, Current Issue Analysis, p. 3.

justice system in Kazakhstan, in cooperation with the government, civil society and interested international donors.

Recommendations of the assessment team included:

- efforts should be made to develop community-based secondary prevention programmes;
- a mediation programme should be developed to reduce the need for prosecution;
- national data and the experience of other countries should be studied to inform decisions about the infrastructure of the juvenile justice system;
- a comprehensive law on juvenile justice should be developed and further efforts made to make juvenile courts and procedures child friendly;
- priority should be given to the creation of specialized legal services for children;
- a training needs assessment should be undertaken for all components of the juvenile justice system;
- an interministerial, intersectoral coordinating and monitoring body should be established;
- the system for collecting data on juvenile offenders should be strengthened;
- support should be provided to research on offending and the rehabilitation of juvenile offenders;
- accountability mechanisms should be made more transparent.

The assessment team also supports the creation of a probation department, which should prepare social reports on accused juveniles, facilitate diversion and assist offenders given alternative sentences as well as released prisoners.

Three concrete recommendations concerning the law are made:

- deprivation of liberty for purposes of investigation without a court order should be limited to 24 hours;
- shorter limits for completing trial should be adopted; and
- prosecutors' authority to send children to 'centres for temporary isolation, adaptation and rehabilitation of juveniles' for 30 days without a court order should be eliminated.

PART I. The Process of Juvenile Justice Reform

1) Policy and advocacy

In 1999, two international consultants undertook exploratory missions concerning child protection in Kazakhstan on behalf of UNICEF.¹¹ This was followed by a comprehensive assessment of juvenile justice prepared by the Danish Centre for Human Rights in 2000.¹² The conclusions were the following:

- no official body was responsible for juvenile justice policy;
- the juvenile justice system was ‘one-dimensional’ with ‘emphasis mainly on custodial measures of punishment’;
- sentences were disproportionate to the offence;
- reported offending by juveniles was low, yet rising; but the real dimensions of offending were unknown due to the lack of research and poor data collection;
- guarantees of due process and fair trial were ‘insufficient’;
- ‘big gaps’ existed between law and practice;
- institutional structures and professional capacity for the rehabilitation of offenders were ‘insufficient’;
- NGO interest and involvement in child rights and juvenile justice was weak.¹³

Recommendations included:

- data collection on juvenile delinquency and juvenile justice should be strengthened;
- a separate juvenile justice system, including specialized courts and community-based prevention and rehabilitation structures, should be created;
- police, judges and lawyers should be trained; the social work profession should be established and NGOs should benefit from capacity-building.

In 2001, the government and the Soros Foundation and Open Society Institute began negotiations that led to an important project on juvenile justice. The project had two stages: the first, which began in 2001, consisted in training and planning; the second, which started in 2003 and ended in 2006, consisted in the implementation of several pilot projects in the former capitol, Almaty.¹⁴ Counterparts included the Office of the President, the Ministry of Justice, the Ministry of Internal Affairs, the Supreme Court and the General Prosecutor’s Office.¹⁵

In 2002, a Legal Policy Concept approved by the President recognized the need to adopt legislation on “... the elimination of deprivation of liberty of juvenile offenders having committed crimes of minor gravity, and restriction of application of deprivation of liberty with regard to juvenile offenders having committed crimes of moderate gravity.”¹⁶

As the Juvenile Justice Project entered the second phase, its objectives took into account some of the recommendations made by the Committee on the Rights of the Child after consideration of

¹¹ Emmanuelle Tremblay and Nigel Cantwell. See Flindt Pederson, C. and Vammen Jeperson, J., *Juvenile Justice in Kazakhstan: Assessment 2000*, Danish Centre for Human Rights, UNICEF, Copenhagen, 2002, p. 7.

¹² *Ibid.*, pp. 5–6.

¹³ *Ibid.*, pp. 12–13.

¹⁴ This project was implemented in two districts, Auezovsky and Karasaisky, one urban and the other rural.

¹⁵ *Juvenile Justice in Kazakhstan 2007*, mimeo, Information Materials, p. 1.

¹⁶ Sange Research Center, *Development of the Model of Rehabilitation Center for Minors*, Almaty, 2004, p. 26.

Kazakhstan's initial report, in 2003.¹⁷ The institutions created as part of the pilot project included a juvenile court, a specialized group of prosecutors, a specialized group of police investigators and a juvenile defence team composed of lawyers and psychologists. The Juvenile Justice Project concluded with the adoption of a very comprehensive list of recommendations, many formulated with reference to the Beijing Rules.¹⁸ They include:

- pretrial detention should be used only as a last resort;¹⁹
- conversations with a defence attorney should be confidential;
- diversion should be used whenever appropriate;²⁰
- a reconciliation procedure should be developed;²¹
- additional alternative sentences should be recognized;²²
- the role of psychologists should be recognized and social services created as part of the juvenile justice system;²³
- the reasons should be given for court orders and sentences;
- the reasons for proceedings concerning juveniles should be clearly explained and the language used during them should be understandable;
- defining educational qualifications and psychological qualities should be required for employment in juvenile justice;²⁴
- national and local Juvenile Justice Councils should be established.²⁵

A 'Juvenile Justice System Development Concept' ('Concept') was approved by Presidential Decree on 18 August 2008. The 'Concept' calls for the creation, during the period 2009–2011, of a juvenile justice system compatible with the Beijing Rules. The major components of the system will include:

- specialized juvenile courts through the national territory;
- a juvenile criminal police having both preventive and investigative functions;
- specialized juvenile legal offices throughout the country;
- a specialized service for supervising non-custodial sentences;
- an efficient system for the coordination of child protection institutions, including 'special schools' and 'centres for temporary isolation, adaptation and rehabilitation of juveniles';
- social-psychological services in the juvenile justice system;
- post-graduate programmes for the training of judges and other staff of the juvenile justice system.

¹⁷ *Juvenile Justice in Kazakhstan 2007*, p. 2.

¹⁸ *Ibid.*, Recommendations, p. 1 et seq.

¹⁹ *Ibid.*, p. 5, Recommendation 4.

²⁰ *Ibid.*, p. 5, Recommendation 5.

²¹ *Ibid.*, p. 7.

²² *Ibid.*, p. 6.

²³ *Ibid.*, pp. 10–14. (Their proposed role would include participation in mediation; support of the juvenile during detention prior to and during trial; preparation of the socio-psychological profile of the accused, 'work with parents' and participation in the process of socialization.)

²⁴ *Ibid.*, p. 8.

²⁵ *Ibid.*, pp. 9–10.

2) Law reform

Much of the law in force in Kazakhstan has been adopted since independence. This includes the three main laws that contain chapters or provisions on juvenile justice: the Criminal Code (chapter 6), the Code of Criminal Procedure (chapter 52) and the Penal Execution Code (chapter 17). All were adopted in 1997.

The assessment by the Danish Centre for Human Rights concluded, “the new codes in general represent an improvement of the prior codes in a less repressive direction.”²⁶ Examples cited include the recognition of alternative sentences, pre-sentence reports, allowing a pedagogue or psychologist to be present in court hearings, and greater contact between juvenile prisoners and their families and community.²⁷

The most relevant legislation adopted since these Codes is the 2002 Law on Child Rights and the 2004 Law on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness.²⁸ The latter regulates the operation of ‘centres for temporary isolation, adaptation and rehabilitation of juveniles’ administered by the Ministry of Internal Affairs. Popularly known as CVIARNs, these centres house a broad range of children aged 3–18 years, including children in need of protection, underage offenders and, in certain circumstances, accused juveniles.²⁹

No less important is the Presidential Decree adopted in 2007, which established juvenile courts in Astana and Almaty.³⁰ These two courts have jurisdiction over a broad range of cases involving children, including some family law and child protection cases. Legislation concerning juvenile courts was amended in 2008.³¹

3) Administrative reform and restructuring

Although specialized police units, called ‘juvenile inspectors’, have existed since Soviet times, in 2005 a category of officers called ‘school inspectors’ was established, by ministerial decree. Their mission is the prevention of offending in schools and, more generally, the prevention of offending by students.

School inspectors hold monthly informative meetings with students in both primary and secondary schools and visit the families of children who seem to have social problems that might evolve into offending or point to difficulties in the home. There is division of opinion concerning the value of ‘school inspectors’ (see below Part II, section 1).

In 2005, the General Prosecutor’s Office established a special team to monitor compliance with legal standards concerning children (see below Part II, section 6 on accountability).

No other administrative reforms or restructuring have taken place.³²

²⁶ Ibid., p. 21.

²⁷ Presidential Decree No. 949 of 20 September 2002.

²⁸ Law on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness, Act No. 591 of 9 July 2004.

²⁹ Committee on the Rights of the Child, CRC/C/KAZ/3, 2006, paras. 465–466; Statute of the Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, Article 3. (The term ‘underage offenders’ refers to “those having committed socially dangerous actions before attaining the age of criminal responsibility,” Article 3.1.)

³⁰ Presidential Decree of 23 August 2007 on Establishment of Specialized Interdistrict Juvenile Courts.

³¹ Law on Amendments and Additions to some Legislative Acts of the Republic of Kazakhstan on Matters of Juvenile Specialized Interdistrict Court, Act No. 664-IV LRK of 5 July 2008.

³² Reforms that have been accomplished through legislation, such as the creation of juvenile courts, are described elsewhere.

4) Available resources

Little or no information is available about the resources allocated to the various bodies that are linked to juvenile justice in the budgets of relevant ministries and other state institutions. Consequently, the adequacy of the resources available can only be assessed indirectly, based on other kinds of information, including direct observation, interviews, data on staffing and the number of users or beneficiaries of different services.

Insofar as the prevention sector is concerned, physical conditions in the 'centre for temporary isolation, adaptation and rehabilitation of juveniles' visited were quite good; the diet is balanced; clothing and personal hygiene items are provided; and medicine and health services are readily available. The facility operates below capacity and there are fewer children than staff. The facilities of the juvenile police visited were quite adequate, and senior officers declared that they have all the resources they need.

The physical conditions and equipment in the youth club visited are simple, and inferior in some respects to those available in residential facilities. Many of the staff are volunteers. However, these constraints do not appear to limit significantly the services they provide and their role in the community.

Insofar as the administration of justice is concerned, the caseload of the recently established juvenile courts is low and the courtrooms are new or newly refurbished. The Deputy Prosecutor interviewed in one region stated that his office has sufficient resources. The fees paid to attorneys who represent poor accused juveniles are low, however, which has an adverse impact on the quality of services provided. The 'Concept' calls for the establishment of specialized legal offices or services for children throughout the country, but at present only one such office exists and there is some uncertainty regarding the willingness of the central government to commit the resources necessary to establish similar offices nationwide.

Physical conditions in the juvenile correctional facilities and the 'school for children with deviant behaviour' are good. These facilities also operate at less than full capacity, have good staff-student ratios, provide sufficient food of good quality and have necessary medical supplies and educational, recreational and cultural materials (see Part II, below). One limitation mentioned by several sources is that, due to low salaries, the psychologists employed by the juvenile correctional facilities tend to be young and inexperienced.

Two issues concerning resources should be mentioned. One is that the budget of some facilities is based on the number of children confined. This can create an undesirable incentive to seek more residents, at least when placement is controlled by the Commission on Minors and Protection of their Rights and does not require a court order. The second is that, in one of the facilities visited, products produced by the children through voluntary labour are sold to supplement the budget of the facility. While the sale of materials produced by children for this purpose may be acceptable, the international standards indicate that juveniles deprived of liberty who perform income-generating work should be compensated.³³ Dedicating part of the profits from the sale of produce to those who help grow and harvest it can help develop self-respect and confidence.

In conclusion, the resources allocated to the existing juvenile justice institutions are generally sufficient, although the level of salaries and fees paid to some professionals are too low to ensure the quality of certain services required to effectively ensuring the enjoyment of rights. The creation of

³³ United Nations Rules on the Protection of Juveniles Deprived of their Liberty, Rule 44. See also Rules 18 and 42–45.

a juvenile justice system along the lines set forth in the 'Concept' will, however, require the allocation of additional funds to establish new services (e.g., psychosocial services), to replicate existing ones throughout the country (e.g., juvenile courts, children's legal services) and, in general, for planning and training needs.

5) Training and capacity-building

Since UNICEF's involvement in juvenile justice has been limited, the assessment team received scant information on the training of persons involved in juvenile justice. Participants in the Juvenile Justice Project underwent extensive training, and independent observers confirmed that officials who took part in the project understand and are committed to the rights of children. Some are no longer involved in juvenile justice, however.

The Prison and Punishment Department offers in-service training on a regular basis. A report to the Committee on the Rights of the Child notes that, from 2003 to 2005, 23 seminars and 10 refresher courses on human rights had been organized for the staff of temporary detention centres and prisons.³⁴ Independent sources indicated that training is theoretical and does not develop appropriate skills and that, despite the existence of this programme, many correctional staff have still not been trained.

In general, the assessment team was impressed by the familiarity of the senior staff of the correctional facilities visited with internationally recognized principles on child rights and the treatment of children deprived of liberty, but it did not have the opportunity to assess the awareness of other staff. It was somewhat less impressed by the level of understanding of senior staff of other facilities, such as the 'centres for temporary isolation, adaptation and rehabilitation of juveniles' and the special 'school for children with deviant behaviour'. Although conditions in such facilities are generally good and the staff seems committed, they were apparently unaware of some basic principles, such as the right to privacy and the right to remuneration for labour.

School inspectors (police officers) receive training on a regular basis, but little information was obtained on the content of such training. Even though judges and prosecutors also underwent training, the assessment team was unable to learn more about it.

Since 1994, the University of East Kazakhstan has trained some 2,000 social workers. The Prison Department is interested in working with juvenile offenders on prevention, rehabilitation and assistance in reintegration after release. The Department and other government agencies do not recognize the value of social work in this area, however. Some graduates work with released juvenile offenders on a voluntary basis, but none are employed in any aspect of juvenile justice.

6) Accountability

A Human Rights Commissioner (Ombudsman) was nominated in 2002. In 2004, the mandate and powers of the Commissioner were expanded in light of the recommendation made by the Committee on the Rights of the Child, and in 2006 a special section with responsibility for children's rights was established.³⁵

The Commissioner has made recommendations to the relevant ministries concerning the treatment of accused juveniles on issues such as the need to separate juvenile prisoners from adults in pretrial

³⁴ Committee on the Rights of the Child, CRC/C/KAZ/3, para. 185.

³⁵ Ibid., para. 31.

detention, but considers that, in general, the situation is 'not serious'. Although few complaints are received from juveniles under age 18, some parents informed on violations of their children's rights. The case of a child allegedly beaten by the police was under investigation at the time of the assessment mission.

In 2005, the General Prosecutor's Office established a special unit to coordinate and monitor compliance with legal standards concerning children. The 2006 report to the Committee on the Rights of the Child indicates that, during the previous year and a half, 185 officials of the Ministry of Internal Affairs had been prosecuted for excess or abuse of authority with regard to minors.³⁶ Some of the facilities for children visited reported that prosecutors visit regularly and have complained about practices that violate children's rights. This suggests that the unit is having a positive effect.

Although the newly established Committee for the Protection of Children's Rights within the Ministry of Education and Science has a broad mandate concerning child rights, in practice thus far its work focuses on child protection and child welfare issues.

Most of the persons interviewed during the assessment mission claimed they had little information about the problem of violence and juvenile offenders. This seems to imply that, while efforts are undertaken to investigate and hold accountable public servants who violate the rights of juvenile suspects or prisoners, these processes lack transparency.

7) Coordination

The implementation of the Juvenile Justice Project was coordinated by an Experts Committee composed of representatives of the Office of the Presidency, the Office of the General Public Prosecutor, the Supreme Court, the Constitutional Court, the Ministry of Justice and the Ministry of Internal Affairs. This Committee met at least twice a year and made recommendations on the need for law reform, institutional reform and policy implementation. A larger Working Group was responsible for the development of training programmes and manuals as well as recommendations based on practice to be submitted to the consideration of the Experts Committee.

These mechanisms functioned effectively, judging by the results of the project. The Juvenile Justice Project recommended the establishment of a Standing Council on Juvenile Justice, but no such body has been created to date. In 2008, the 'Concept' adopted calls for the creation of an 'efficient system of inter-agency coordination' of educational and guardianship bodies, including special schools and centres for temporary isolation, adaptation and rehabilitation of juveniles, but it did not call for the creation of a coordinating body or the kinds of bodies that functioned from 2001 to 2006.

The Ministry of Justice has been mandated to develop a plan for the implementation of the Juvenile Justice System Development Concept, but it is not clear at this writing whether an interministerial, intersectoral body will be established for this purpose or to coordinate the implementation of the plan once it has been approved.

³⁶ Ibid., para. 182. (The report is dated August 2006 but the data refer to cases since 2004.)

8) Data and research

In 1997, a Committee on Legal Statistics and Special Accounts was established in the General Prosecutor's Office.³⁷ Data are sourced from the police, prosecutors, courts and other government bodies. Selected data are published annually, in Russian and English. The annual report includes data on the number of crimes committed by juveniles.³⁸

In 2008, the Ministry of Internal Affairs also published a collection of data on offending by juveniles and on juvenile justice,³⁹ e.g., the number of crimes committed by juveniles, disaggregated by district; the number of specific types of crimes committed by juveniles (including murder, assault, robbery, rape, hooliganism and theft); the number of juvenile offenders; the outcome of cases investigated; the educational background of juvenile offenders; and circumstances pertaining to their offences, including recidivism.

The situation analysis for the Mid-Term Review of the Country Programme, published by UNICEF in 2007, contains useful data on the number of convicted juvenile offenders and on the sentences imposed. These data were received from official sources but not published elsewhere.⁴⁰ The Agency of the Republic of Kazakhstan on Statistics participates in the TransMONEE project, providing information on offending by juveniles and on juvenile justice.⁴¹

A considerable amount of information on offending by juveniles, juvenile offenders and juvenile justice has been published in recent years, and the capacity of the responsible agencies to manage data on offending is impressive, in some important respects. For example, the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office, ('Committee on Legal Statistics') provided the assessment team with detailed information on all cases of juveniles awaiting trial at the time of the assessment mission, including charges, age of the accused, place of offence, whether the accused was in detention and, if so, the duration of detention. Information is also available on the number of children who come into contact with the police, on sentencing and on the population of juvenile correctional facilities and special education facilities (see Annex 1). Some of these data were published for the first time during the assessment mission, indicating a trend towards greater transparency. Data on issues, such as the number of juveniles arrested, prosecuted and diverted, were used to evaluate the Juvenile Justice Project. This seems to confirm that responsible authorities appreciate its value.

The Committee on Legal Statistics compiles and analyses the data collected by various ministries and agencies, but there are still gaps and discrepancies in the data published by different official sources, and there is no common agreement on the data that are most relevant to planning and monitoring juvenile justice. For instance, data concerning children who come into contact with the police are disaggregated to show the percentage suspected of crimes and administrative offences, but no reason is given for about one third of the cases (see Annex 1). Data on the prosecution of juveniles can be used to calculate the percentage detained prior to trial (23 per cent) and the average

³⁷ The functions of the Committee on Legal Statistics and Special Accounts are now defined by Law No. 510-11 of 22 December 2003. 'Special Accounts' includes data of interest to law enforcement agencies, such as fingerprints, convicted offenders, lists of missing and wanted persons etc.

³⁸ Committee on Legal Statistics, *Analytical and Statistical Information*, Astana, 2006, p. 20.

³⁹ Ministry of Internal Affairs, *Analysis of juvenile offences and activities of police on prevention of crimes, homelessness and street children*, 2008.

⁴⁰ UNICEF, *Situation Analysis: Mid-Term Review of the Country Programme of Cooperation between UNICEF and the Government of the Republic of Kazakhstan*, Astana, 2007, Annex 19.

⁴¹ See *Lost in the Justice System*, Appendix 2.

length of detention (79 days), but these calculations are neither made nor published.⁴²

Now that the process of developing a national juvenile justice system is beginning, it is important to address these issues and establish an interagency mechanism, which will provide the data needed to plan the expansion of the system and monitor its implementation and results.

Insofar as research is concerned, two studies on juvenile justice have been published since independence. The first, *Juvenile Justice in Kazakhstan: Assessment 2000*, is a situation analysis prepared for UNICEF by the Danish Centre for Human Rights in 2000. The second is *Development of the Model of Rehabilitation Center for Minors* by the Sange Research Center, published in 2004. This study is broader in scope than its title suggests. It is of special interest because, in addition to law analysis, direct observation and interviews with relevant officials and practitioners, it incorporates the results of a survey of juvenile prisoners, former juvenile prisoners and their parents.⁴³

There is no research on issues such as unreported offending, reasons for offending and re-offending, and the impact of different types of prevention and rehabilitation programmes or services.

⁴² The calculations in parenthesis were prepared by the Child Protection Unit of the UNICEF CEE/CIS Regional Office, on the basis of the list of cases provided by the Committee on Legal Statistics.

⁴³ The survey included 50 juvenile prisoners and 15 former juvenile prisoners, of which 19 females, as well as 13 parents and other adult relatives (see p. 32).

PART II. The Juvenile Justice System in Kazakhstan

1) Prevention

Responsibility for the prevention of offending by juveniles is shared by the Ministry of Education and Science, the Commissions on Juvenile Affairs and Protection of Minors ('Commissions' or 'Commissions on Minors') and the police. The roles of each are described and assessed below.

Commissions on Minors

The Commissions on Minors are interagency bodies that operate under regional and local governments. Membership includes the police, the Department of Education, the Department of Health, the local government and, at the discretion of the local or regional government, NGOs. The legal basis of the Commissions is a Statute adopted in 2001 and amended in 2005.⁴⁴ It provides that the work of the Commissions shall be guided by the Law on Child Rights, the Law on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness and the international treaties in force for Kazakhstan.

The Commissions have a very broad mandate regarding child rights, child protection and juvenile justice. Their mandate on juvenile justice includes research on 'offending by children', the collection and dissemination of information, the development of methodologies on prevention, the inspection of residential facilities for juvenile offenders (as well other residential facilities for children) and the coordination of the activities regarding the employment and lodging of persons released from juvenile facilities.⁴⁵

Police

The police maintain a register of children who have been involved in offending, including children who have been involved in criminal behaviour while under the age of criminal responsibility, have been released from correctional facilities, abuse alcohol or use drugs, are homeless or live on the streets as well as children considered at risk of offending. They are visited monthly and a report on their conduct is made. Few services are provided to registered children, although they are invited to summer camps at the expense of public authorities.⁴⁶

In 2005, a category of police officer called 'school inspector' was established. Each school inspector is assigned to one or two schools, and his main function is to prevent offending. They work in close cooperation with the school administration and with the Committees for the Protection of Children's Rights within the Ministry of Education and Science. School inspectors give talks to students on the law and related subjects, such as drug abuse; they monitor the behaviour of students and, when they detect problems in the home, they encourage parents to fulfil their parental responsibilities. They also organize periodic drug testing for cannabis. They can refer students to the Commissions on Minors for actions such as placement in alternative care or placement in special educational facilities. They also supervise periodic drug testing in schools, and help enforce laws prohibiting the sale of alcohol to persons under age 18.

Doubts have been expressed regarding the effectiveness of school inspectors. A study states, "Problem juveniles do not trust police officers and do not try to develop friendly relations with

⁴⁴ Standard Statute, Commission on Juvenile Affairs and Protection of Minors, Government Resolution No. 789 of 11 June 2001, amended 1 December 2005. Previously the Commissions were called 'Minors' Commissions'.

⁴⁵ Ibid., Articles 2.8(4), 2.8(6), 2.8(7), 2.8(9), 2.9(2) and 2.9(11).

⁴⁶ The summer camps are open to all children.

them."⁴⁷ One source considered that their function is to deter offending by "keeping children in fear," and another expressed the view that police are seen as a potential enemy and not trusted because of Kazakhstan's history. The police themselves assure that their role is to "be a friend to children" and that the number of offences has declined in districts having school inspectors.

Youth clubs

The Ministry of Education and Science ('Ministry of Education') supports a network of neighbourhood youth clubs. One such club was visited in Ust Kamengorsk. Their main function seems to consist in providing activities and a wholesome place for children and adolescents. This particular club, located in one of the poorest neighbourhoods of the city, had two locales: one mainly for sports and one offering a library, a reading room and a computer room. The staff of this particular club included an educator and coach as well as a psychologist who provides services to the regional network of 37 clubs. The environment is informal⁴⁸ and children participate in decision-taking on some questions (e.g., the décor). The clubs are in close contact with the police and make an effort to reach out to 'registered' children. Providing children an alternative to their home environment, often characterized by poverty and neglect or conflict, is a useful contribution to the prevention of delinquency. Although the staff, including volunteers, is highly motivated, they lack the capacity to provide the psychosocial services needed by high-risk children. There appears to be no source of assistance to which such cases can be referred, other than the police or the Commissions. The regional staff was unfamiliar with the background and circumstances of juveniles who had committed serious offences in recent months, which seems to indicate that the clubs are not reaching some of the children most in need of assistance.

Schools for children with deviant behaviour

Schools for children with deviant behaviour are intended primarily to help children who are runaways, children who live on the streets, truants and children involved in other antisocial behaviour, including prostitution. Some are placed in these schools while their parents are treated in facilities for substance abuse. Although the residents include small numbers of offenders, these schools are best seen as part of the effort to assist children at risk of offending.

In Kazakhstan, there are 10 such schools. They receive boys and girls aged 11–18 years for periods ranging from one month to one year. Until recently, placement was ordered by the Commission on Minors; as from 1 September 2008, only the court has this authority. There is some concern that this will cause delays in the admission of children who require the kinds of services the schools provide. Some staff also believe that the period of placement is too short to give some students the help they need.

One such school was visited in Serebryansk, East Kazakhstan. It was opened in 2002, and has a capacity of 120. At the time of the visit, the population was 93, including 25 girls, for a staff of 78. The programme includes secondary education, training in crafts, sewing (for girls), farming, light construction and building maintenance, sports, psychological counselling and cultural activities (theatre, art, music, poetry). The declared aim is to help children be in harmony with themselves, the environment and the nation.

The rural location is pleasant, and the infrastructure is clean and in good repair. Security is minimal. There are no bars on the windows and the Director said that, although they are required, he refused

⁴⁷ *Development of the Model of Rehabilitation Center for Minors*, p. 33.

⁴⁸ There is no 'membership', for example, and there are no attendance records.

to install them. The décor consists largely of artwork produced by the students, and includes photos and notices concerning their achievements in sporting activities, which are co-educational. A school newspaper is published. Uniforms are worn during school hours, but not during the rest of the day or on weekends. Parents are allowed to visit every third Sunday. The staff considers the term 'school for children with deviant behaviour' inappropriate and uses the term 'boarding school' whenever possible.

The school provides valuable services; the policies and staff attitudes are exemplary in many ways. Aspects that raise some questions include the sexual stereotyping of some activities (e.g., sewing and crafts for teenage girls), a lack of regard for privacy (comments on the background of students were made to visitors in their presence) and policies concerning agricultural labour.⁴⁹

The important gap between prevention activities supported or carried out by local governments, by the juvenile police and by residential schools is more relevant than their strengths and limitations. At present, there is a need for community-based programmes able to provide the professional and paraprofessional assistance (e.g., guidance and counselling, remedial education, life skills training), which is currently available only to children placed in special residential schools. A Law on Special Social Services, adopted after the assessment mission, may provide an appropriate framework for the development of such services.⁵⁰

2) Police, investigation of criminal activities and pretrial detention

Detention for questioning

Police are authorized to detain a person in the following circumstances: when an individual does not possess identification papers; when an individual is discovered in the process of committing an offence; when a witness identifies an individual as the perpetrator of an offence; when there is physical evidence of an individual's involvement in an offence (e.g., blood stains, possession of a stolen object); when an individual is found fleeing a crime scene or has no fixed residence; or when police possess other evidence of participation in or preparation of a serious offence.⁵¹ Police detention for these reasons may not exceed 72 hours.⁵²

When the suspect is under age 18, a parent or other responsible must be notified within 12 hours.⁵³ In some police stations, a special room has been set aside for the questioning of children and juveniles taken into custody.⁵⁴ The presence of an attorney is obligatory from the moment he/she is taken into custody or accused, and during any interrogation as a suspect or accused.⁵⁵ Children and juveniles may not be interrogated for more than two hours at a time or more than four hours a day, nor at night.⁵⁶ There reportedly is a practice of interrogating children as witnesses, even when they are actually suspects, and using their testimony to pressure them into admitting the facts.⁵⁷

⁴⁹ As many children come from a poor rural background, agricultural work may well be enjoyable for many students (as the staff maintain) and help develop useful skills, but farm produce is used to generate income for the facility. Contradictory information was provided about the number of hours worked.

⁵⁰ Law No.114-IV 3 of 29 December 2008.

⁵¹ Code of Criminal Procedure, Article 132.

⁵² This standard applies to juveniles and adults alike.

⁵³ Code of Criminal Procedure, Article 138.

⁵⁴ One such room was visited in Almaty. It was furnished comfortably, and had some plush toys as well as equipment for videorecording of interviews.

⁵⁵ Code of Criminal Procedure, Articles 71 and 486.2.

⁵⁶ *Ibid.*, Article 485.

⁵⁷ *Juvenile Justice in Kazakhstan 2007*, pp. 9–10.

Children under the age of criminal responsibility are interrogated when suspected of participation in criminal behaviour, in order to establish the facts. Once these have been ascertained to the satisfaction of the police investigators, they decide whether to refer the case to the Commission on Minors. The police maintain a registry of offences committed by underage children and the children involved.

After 72 hours, deprivation of liberty requires a formal accusation and, since September 2008, must be authorized by a court.⁵⁸ The detention of juveniles may be ordered “in exceptional cases only, when a grave crime or felony is committed,” and may not exceed six months.⁵⁹ The accused and his attorney have the right to attend the hearing on detention as well as the right to remain silent, and the presence of the parent or guardian of the accused juvenile is mandatory.⁶⁰

A lawyer informed the team that much remains to be done to ensure respect for the legal rights of detained juveniles. Prosecutors still rely heavily on confessions and, while detectives (‘investigators’) generally respect the rights of juvenile suspects, physical and psychological abuse by ordinary police officers has not yet been eliminated.

Detention centres (‘isolators’)

Although responsibility for correctional facilities was transferred to the Ministry of Justice in 2002, the Ministry of Internal Affairs retained responsibility for ‘temporary isolators’ for persons who have been charged with an offence and whose detention prior to trial has been approved by a court. There are 20 such facilities throughout the country. Juveniles detained in temporary isolators are to be kept separate from adult detainees.⁶¹ In 2007, 459 juveniles were detained prior to trial, most of them presumably in these facilities.⁶² The maximum length of detention is six months. Data provided by the General Prosecutor’s Office indicated that the average length of detention (from arrest to trial) was 79 days.⁶³

The report on conditions in an isolator in Astana, prepared by UNICEF staff subsequent to the assessment mission, indicated that the four male juveniles confined there at the time of the visit were housed in a separate cell, on a floor where there are cells for adults. (The centre has facilities for men and women, but no adolescent girls were detained there at the time of the visit.) As there is no separate area outside the cell, either indoors or outdoors, reserved for the use of juvenile detainees, they were confined in their cell for most of the day. The facility was in the process of renovation and, as a result, physical conditions were much improved. There is space in the cells to keep personal belongings. There is a library containing old books. Juvenile detainees receive visits from their families. The staff includes a psychologist, but the Director recognized that the quality of psychosocial services and of recreation facilities needed to be improved.

⁵⁸ Code of Criminal Procedure, Articles 142.1 and 150.1. (In Kazakhstan, this is referred to as ‘arrest’ or ‘preventive punishment’. Since the term ‘arrest’ has a different meaning in English and the term ‘preventive punishment’ is anomalous, it will be referred to as detention in the English version of this report.)

⁵⁹ Code of Criminal Procedure, Article 491.3 and 491.4.

⁶⁰ *Ibid.*, Articles 150.6, 169.1 and 487.1.

⁶¹ Law No. 353-1 of 30 March 1999 on Procedures and Conditions of Detention of the Suspected and Accused in Commission of Offences, Article 32.2.1.

⁶² Juvenile Justice Development Concept, p. 3.

⁶³ These figures concern the first eight months of 2008.

Centres for temporary isolation, adaptation and rehabilitation of juveniles

In addition to the pretrial detention centres described above, the police operate ‘centres for temporary isolation, adaptation and rehabilitation of juveniles’.⁶⁴ There are 18 such centres, one in each region. Their mandate is defined by Article 11 of the Law on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness and the Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors.⁶⁵ Their main purpose is to temporarily house children aged 3–18 years in need of protection while they are identified and/or their situation is evaluated and a suitable placement is arranged.

In addition, children under the age of criminal responsibility who commit ‘socially dangerous acts’ may be detained there for up to 30 days at the order of a prosecutor or court.⁶⁶ Juveniles accused of a crime may also be detained there for up to six months on the order of a prosecutor or court “when conditions of life and upbringing do not allow them to continue living at their previous place of residence.”⁶⁷

One of these centres for temporary isolation, adaptation and rehabilitation of juveniles was visited in Ust Kamenogorsk. It has a capacity of 50, and a population of 22. Five of the children were held in connection with offences: one eight-year-old involved in theft and four aged 16–17 years awaiting trial for theft and assault. The older boys were housed in two small cells; the eight-year-old was kept with the rest of the population. Other children included runaways, orphans and children removed from their home for purposes of protection, including five girls and two children with developmental handicaps. Most of the children in the centre visited had been there for less than a month; the four charged with offences had been there for less than a week.

Conditions in the main part of the facility were generally good. There are classrooms, a recreation room with a library and a television, an indoor gym, a doctor’s office and a spacious and pleasant office used by the staff psychiatrist. Classes are offered during the school year. The diet is balanced. Stuffed animals, clothing for all seasons, bedding and materials for personal hygiene were abundant. The recreation room and cafeteria have air conditioning. The building has adjoining gardens and an outdoor exercise area with some gymnastics equipment. The surrounding wall is low and is not topped by barbed wire or other security material. The staff of 19 uniformed personnel includes a psychologist.

There are separate dormitories for boys and girls, and for different age groups. The dormitory area, although clean and well furnished (new beds, fresh paint in pleasant colours, curtains) was Spartan: children had no place to keep personal belongings,⁶⁸ and there were no posters, drawings or paintings on the walls of the dormitories or corridors. Children marched single-file from one activity to another in a group. Religious services are not offered. The Director said that they once received some training in child rights from a local NGO.

The presence of two cells in this building seemed anomalous. They were relatively small, with four beds each, heavy bars, a small window placed high on the wall, and no furnishings other than

⁶⁴ Formerly known as ‘Distribution Centres’.

⁶⁵ Laws No. 591 of 9 July 2004 and No. 708 of 25 December 2004, respectively.

⁶⁶ Law on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness, Article 11.1, 11.2 and 11.5; Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, Articles 3(2) and 7.

⁶⁷ Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, Article 7.

⁶⁸ Children’s personal clothing and effects are placed in storage upon admittance and returned to them when they leave the centre.

the beds. There was a television in an adjoining area occupied by a guard, but it could not be seen from inside the cells. The Director said that the detainees spend their time reading and playing chess, and have use of the gym daily. They were confined there at the order of the prosecutor, because conditions are better than in the pretrial detention centre.⁶⁹ The presence of such a small unit for older juveniles, some of whom are accused of violent crimes, in a facility intended for children of all ages, most of whom are not offenders, inevitably restricts the movement of the older accused juveniles within the facility and their participation in activities, such as recreation, appropriate to persons of their age and background.

Although the primary purpose of this facility concerns children who do not come within the mandate of this assessment, the team would like to suggest that a greater effort be made to create living conditions similar to those in a healthy family environment.

Underage offenders seem to live in appropriate conditions, provided the practice of this facility is typical of others. Confinement of younger children who have not committed acts of violence together with children placed for other purposes avoids stigmatizing them without putting other children at risk, and may offer a suitable setting for providing services to those who need rehabilitation or similar services that cannot be provided in a community setting.

The team nevertheless has two concerns about centres for temporary isolation, adaptation and rehabilitation of juveniles. First, the Statute indicates that underage offenders should be separated from children in need of protection. In the case of young, non-violent underage offenders, separation could well result in a situation contrary to their well-being and best interests.⁷⁰ The criteria and procedures for placing underage offenders in this facility are also a concern. Although children below the age of criminal responsibility are not entitled to all the procedural guarantees to which juveniles accused of an offence are entitled (i.e., the guarantees contained in Article 40.3 of the Convention on the Rights of the Child), it should not be possible for them to be separated from their families by the order of a prosecutor, rather than a court, without a finding that confinement is necessary and in the best interests of the child (see Articles 3.1, 9.1 and 37(b) of the Convention).

Insofar as the situation of accused juveniles is concerned, it is anomalous that the Law on the Prevention of Juvenile Delinquency, Child Neglect and Homelessness and the Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors allow the detention of suspects in these centres for up to 30 days on the order of a prosecutor.⁷¹

Since pretrial detention facilities house both adults and juveniles, the authorities are at present faced with the choice between detaining accused juveniles whose detention is necessary in a facility designed for adults, or in one designed for children who are not offenders.

The assessment carried out by the Danish Centre for Human Rights in 2000 noted that police mistreated juvenile suspects in order to obtain confessions.⁷² A study conducted in 2005 confirmed the continued existence of beatings, intimidation and deprivation of food during the arrest, detention

⁶⁹ The team was unable to visit the pretrial detention facility and, consequently, was unable to confirm that detention in the cells of this facility is preferable.

⁷⁰ Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, Article 3(5).

⁷¹ Law on the Prevention of Juvenile Delinquency, Article 11 and Statute of the Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, Articles 4(1) and 7.

⁷² *Juvenile Justice in Kazakhstan: Assessment 2000*, p. 22.

and interrogation of juveniles.⁷³ One source interviewed during the assessment mission declared that beatings and psychological intimidation continue to occur, although juvenile inspectors do not participate. Contributing factors include poor recordkeeping (in particular about the apprehension of suspects), frequent rotation of police officers, heavy reliance on confessions by prosecutors, and the reluctance of victims and their parents to complain.

3) Diversion

Article 67 of the Criminal Code authorizes the closure of cases without prosecution, when the victim and the offender have reconciled and the victim has been compensated. This applies to minor offences and those of 'average gravity.'⁷⁴ This provision was rarely applied in the past, because the culture of law enforcement required prosecution of every offender.

No programmes for facilitating victim-offender mediation exist on the national level. Reconciliation of victims and offenders was actively promoted during the pilot project in Almaty, and continues to be practised there. In 2007, 21 cases were closed due to reconciliation, which is handled by the police themselves, on request of the victim.

The number of juveniles prosecuted and the number of juveniles sentenced have both declined dramatically in recent years.⁷⁵ In the area covered by the Juvenile Justice Project, the decrease reported was three times higher than on the national level. Changes in the policies applied by police and prosecutors and greater sensitivity to child rights may also explain the reduction nationally, although more detailed analysis of the data would be required to confirm this.

4) Adjudication and sentencing

The minimum age for adjudication

The minimum age for prosecution for serious offences is 14 years; the minimum age for prosecution for other criminal offences is 16 years.⁷⁶ Twenty-one crimes are classified as serious for this purpose, ranging from terrorism, murder, rape, kidnapping and felony assault to theft and vandalism.⁷⁷

Specialized courts and procedures

Two juvenile courts were established in 2007 (see below). In principle, the prosecutors who appear in such courts should belong to specialized units, but at the time of the assessment mission specialized prosecutors had not yet been appointed and trained. In one of these courts, a specialized legal service programme defends accused juveniles who have not hired a private lawyer. In the rest of the country, juveniles accused of an offence are tried in ordinary criminal courts.

⁷³ Study by the Sandzh Research Centre Foundation with the National Human Rights Centre, the Ministry of Justice and the Ministry of Internal Affairs, cited by the Committee on the Rights of the Child, CRC/C/KAZ/3, para. 181.

⁷⁴ Minor crimes are those punishable by sentences of less than two years (Article 10.2 of the Criminal Code). Crimes of average gravity – also translated into English as 'ordinary crimes' – are intentional crimes punishable by sentences of two to five years, and non-intentional crimes (crimes of negligence) are punishable by sentences of more than five years (Article 10.3 of the Criminal Code). Most offences committed by juveniles fall into this category (e.g., 70 per cent in 2006). This provision is applicable to crimes involved with serious injury or death only if the accused is a first offender.

⁷⁵ The number of juveniles sentenced fell from 5,393 in 2000 to 2,406 in 2006, despite an increase in the crime rate amongst the juvenile population during these years (from 61.8 offences per 10,000 population aged 14–17 in 2000 to 70.3 offences in 2006). See *Situation Analysis: Mid-Term Review of the Country Programme of Cooperation*, Annexes 17 and 19. The number of juveniles prosecuted decreased from 4,001 in 2003 to 2,833 in 2007.

⁷⁶ Criminal Code, Article 15.

⁷⁷ *Ibid.*, Article 15.2, referring to the crimes defined in Articles 96, 103, 104.2, 120, 121, 125, 175, 178, 179, 181, 185.2–185.4, 187.2–187.3, 233, 234, 242, 255, 257.2–257.3, 258, 260, 275.2 and 299, cited in *Situation Analysis: Mid-Term Review of the Country Programme*, Annex 2.

Juvenile offenders have the right to be represented by defence counsel, including the right to free legal assistance if necessary. The rights of the defence are defined in detail by the Code of Criminal Procedure, and are compatible with international standards.⁷⁸

The time limit for completing trials of juvenile offenders is one year, even if the accused is detained. Information on the length of trials in practice is not available, but the Committee on the Rights of the Child considers that “final decision on the charges” should be made “not later than six months after they have been presented.”⁷⁹ This strongly suggests that the existing law does not adequately fulfil the right of accused juveniles to be tried “without delay,” as required by Article 40.2(b) (iii) of the Convention on the Rights of the Child.

Sentencing of juvenile offenders

The maximum sentence, which may be imposed on a juvenile, is 10 years, or 12 years for murder with aggravating circumstances.⁸⁰ Sentences to correctional facilities shall not be imposed on first offenders under age 18 convicted of minor offences, nor on first offenders under age 16 who commit ‘offences of average gravity’.⁸¹

In addition, the court may decide to impose an alternative sentence if the judge concludes that the offender could be rehabilitated without deprivation of liberty.⁸² This discretion is broader: it applies to juveniles convicted of a minor offence who are not first offenders and to first offenders aged 16–18 years convicted of an offence of average gravity. The educational measures, which may be imposed as an alternative to confinement in a juvenile correctional facility, include warnings, release in the custody of parents or a government home or school, reparation of the damage, restrictions or requirements regarding the offender’s conduct and placement in a special school or medical facility for juveniles.⁸³ Placement in a special school is not imposed for minor offences or non-intentional offences of medium gravity.⁸⁴ The term of placement is from six months to two years. Offenders may be released if the court finds, on recommendation from the staff of the facility, that placement is no longer necessary.

The number of juvenile offenders who have been sentenced to educational measures has increased from 132 in 2000 to 528 in 2006.⁸⁵ Offenders who receive such sentences are considered not to have a criminal record.

The court may also decide to suspend the implementation of sentences to a correctional facility conditionally, for a period of one to three years, if it concludes that rehabilitation is possible without

⁷⁸ Code of Criminal Procedure, Article 74.

⁷⁹ Committee on the Rights of the Child, Children’s rights in juvenile justice, General Comment No. 10, CRC/C/GC/10, 2007, para. 83.

⁸⁰ Criminal Code, Article 79.7.

⁸¹ Ibid.

⁸² Ibid., Article 81.

⁸³ Ibid., Article 82 (lit.: “forced measures of educational effect”). Restrictions or requirements regarding conduct include curfews, prohibition of driving or frequenting certain places, attending school or finding employment.

⁸⁴ *Development of the Model of Rehabilitation Center for Minors*, p. 24, citing Resolution 2449-XII of 18 October 1993 on Conditions of Placement of Children and Juveniles having Committed Socially Dangerous Acts into Special Educational Facilities and Cabinet Resolution 415 of 21 April 1994 on Confirmation of Resolution on Special Educational Facility for Children and Juveniles who Need Special Education Conditions.

⁸⁵ Ibid. The number peaked in 2002, with 962 sentences of this kind.

serving the sentence.⁸⁶ Most sentences are of this kind, although in 2006 the percentage fell below 50 per cent, probably due to the decrease in the percentage of cases prosecuted.⁸⁷

From 1996 to 2000 the share of suspended prison sentences in the total number of prison sentences imposed on minors rose from 11.1 per cent to 65.6 per cent.⁸⁸

Juvenile offenders may be sentenced to community service or fined, if they have their own income or property.⁸⁹ These sentences are rarely imposed, however.⁹⁰

Offenders under the age of criminal responsibility

Children below age 14 who commit serious offences and those aged 14 or 15 years who commit less serious offences can be placed in centres for temporary isolation, adaptation and rehabilitation of juveniles operated by the Ministry of Internal Affairs.⁹¹ Placement may be ordered by the Commission on Minors, the administrative body composed of representatives of the police, the Department of Education, the Department of Health, local government and civil society (see above).

The Commissions on Minors also act as quasi-judicial bodies or as link between law enforcement agencies and courts, considering “materials in respect of minors having committed crimes,” “materials on the facts of socially dangerous acts with the features of crimes committed by minors under the age of criminal responsibility,” “cases of administrative juvenile offences” and “participating in the preparation of materials to be delivered to courts on the cases of sending children to special educational institutions or educational institutions with particular treatment.”⁹² ‘Educational institutions with particular treatment’, more often referred to as ‘special schools’, are facilities for persons aged 11–16 years who have committed criminal acts but lack criminal responsibility.⁹³ (Only the courts have jurisdiction to commit children to a special school for a period of one month to one year.)⁹⁴ In addition, Commissions have a mandate to act as an ‘advocate of the minor’s rights’ when courts consider release on parole of juveniles serving sentences and when the substitution of a custodial sentence by some other sentence is to be considered.⁹⁵

⁸⁶ Criminal Code, Article 63.1 and 63.3. (This provision applies to juveniles and adults alike.)

⁸⁷ Sixty six per cent of all sentences imposed on juveniles in 2000; 58 per cent in 2001; 59 per cent in 2002; 60 per cent in 2003; 56 per cent in 2004; 54 per cent in 2005 and 47 per cent in 2006.

⁸⁸ Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Initial report of States parties: Kazakhstan, CRC/C/41/Add.13, 2001, para. 318.

⁸⁹ Criminal Code, Article 79.2.

⁹⁰ In 2004, community service sentences were imposed on 62 juvenile offenders and 6 were fined; in 2005, community service sentences were imposed on 55 juvenile offenders and 3 were fined; and in 2006, community service sentences were imposed on 33 juvenile offenders and 1 was fined. See: Written replies by the Government of Kazakhstan concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the second and third combined periodic report of Kazakhstan, CRC/C/KAZ/Q/3/Add.1, 2007, p. 12.

⁹¹ The primary purpose of these centres is to provide shelter to street and homeless children and others in need of protection; placement for that purpose is made by guardianship authorities. See Law No. 321-1 of 17 December 1998 on Marriage and Family, Article 100.

⁹² Standard Statute, Commission on Juvenile Affairs and Protection of Minors, Articles 2.8(10), 2.9(8), 2.9(9), and 2.8(8), respectively.

⁹³ Law on the Prevention of Juvenile Delinquency, Article 14.1 These facilities are also used for some offenders with criminal responsibility sentenced to ‘educational measures’ (see above).

⁹⁴ Law on the Prevention of Juvenile Delinquency, Article 13.2 and 13.3.

⁹⁵ Standard Statute, Commission on Juvenile Affairs and Protection of Minors, Article 2.9(16).

5) The rehabilitation of convicted juveniles

*Almaty juvenile correctional facility*⁹⁶

There are four institutions for young offenders.⁹⁷ In 2002, responsibility for these facilities (and the prison system in general) was transferred from the Ministry of Internal Affairs to the Ministry of Justice.

An institution for juvenile offenders was visited in Almaty. Built in 1941, with a capacity of 350, its population was 83 at the time it was visited by the assessment team. Offenders who reach age 18 while serving their sentence may request permission to stay in the facility up to age 20. Permission must be granted by a judge. Eleven of the population were over 18 years at the time of the visit. Two were 15 years old, and there were no 14-year-olds. The two 15-year-olds were both serving sentences for murder.

The Director stated that most prisoners are released after serving one third of their sentence.⁹⁸ The staff of the facility can recommend early release to the prosecutor, who forwards the request to the court. Their recommendations are almost always followed. In practice, many juveniles serve less than one year of their sentence.

The physical infrastructure showed its age, but was clean and in good repair. The décor was Spartan in some respects, but pleasant. The living area was roomy, well lit and well ventilated, and decorated with posters and many attractive paintings and murals done by residents. The cafeteria was also clean and spacious. There is a large day room with a television and some books. A room is set aside and equipped for Islamic and Orthodox religious services. The grounds contain many flower gardens, and a small zoo. The population appears to have considerable freedom of movement within the facility during the day.

The population is assigned to dormitories that house 10 persons each. Activities include standard education, vocational training and sports.⁹⁹ The juveniles are required to spend two hours a week contributing to the maintenance of the institution. Some also work within the facility (e.g., washing dishes) for compensation.

Teachers are employees of the Prison Department, but vocational teachers are employees of the Ministry of Education. There are four types of vocational training: use of computers, carpentry, cabinet-making and plumbing. The assessment team was informed that the number of staff is confidential, but was based on the capacity of the facility (i.e., 350 persons) not the population.

The staff indicated that some 80 per cent of the juveniles are in contact with their families and receive visits. Entitlement to visits depends on the juvenile's classification, which in turn depends on his behaviour. The norm is three 3-day visits per year and three shorter visits. Those with a record of good conduct have the right to more frequent visits. The facility provides accommodation for family members who come from afar and need a place to stay. The regulations do not recognize a right to leave the facility for visits, but the Director pointed out that he sometimes allows some of

⁹⁶ Youth colony LA – 155/6.

⁹⁷ One each in northern, southern, eastern and western Kazakhstan.

⁹⁸ Criminal Code, Article 84. (Prisoners convicted of minor or medium offences may be released after serving one third of their sentences, and those convicted of serious crimes may be released after serving one half of their sentences.)

⁹⁹ A survey of juvenile prisoners and former juvenile prisoners indicated that their attitude towards school was much more positive in correctional facilities than their attitude towards the schools they attended prior to conviction. See *Development of the Model of Rehabilitation Center for Minors*, p. 12.

the juveniles to leave in the company of a staff member to visit their families in Almaty, or to attend sports events or cinema.

Upon admission to the facility, juveniles are kept in quarantine for two weeks, in order to evaluate their health and psychological condition. Psychologists were added to the staff in 2003. There are now three full-time psychologists, who develop individualized rehabilitation plans and provide group and individual counselling. According to one study, most psychologists employed in correctional facilities for juveniles are “young girls who have just graduated from universities and have no practical experience.”¹⁰⁰ Sources interviewed expressed concern about the lack of experience of these professionals. The response has been to arrange for their work to be overseen by the psychology departments of the University faculties. The study also expresses concern regarding the position of psychologists as integral members of the staff, which may prejudice, if not the confidentiality of the professional relationship, at least the offender’s trust in the therapist.¹⁰¹

The Director indicated that, over the last five years, only seven former residents had re-offended. However, the impact or effectiveness of rehabilitation in correctional colonies has not been objectively and systematically assessed. The study of a small sample of parents concluded that roughly half of them believed that confinement in a juvenile correctional facility had made their children more aggressive, one quarter (mostly single mothers) were “thankful to the penal colonies’ personnel for the re-education and improvement of their children,” whereas one quarter expressed no view.¹⁰² Prisoners and former prisoners themselves had a higher opinion of the value of custodial sentences: 65 per cent declared that the colony “helps to rehabilitate,” while 28 per cent replied, “It can’t help me to rehabilitate.”¹⁰³

Other correctional facilities

A second correctional facility for juvenile offenders was visited in Ust Kamenogorsk. With a capacity of 300, the population of this facility was 139 and the staff 105. Conditions and policies were roughly similar to those described above. One notable feature of this facility is a section used by family members who visit juvenile prisoners, which is located in the administration building and resembles a small apartment. There is a small garden where the prisoner and his family may spend time. The Director informed the team that no prisoner had been punished to solitary confinement during 2008, but one had been in 2007.

There is no correctional facility specifically for female juvenile offenders, nor would it be feasible to establish one, given their small numbers.¹⁰⁴ Those given custodial sentences are confined in a special section of a women’s colony. Logistical considerations prevented a visit to this facility. One study shows that girls confined there suffered from certain disadvantages as compared to male juvenile offenders. In particular, the secondary school programme was weaker, and the remote location of the facility deterred voluntary associations, religious groups and other community organizations from visiting the facility to provide services to inmates.¹⁰⁵

¹⁰⁰ *Development of the Model of Rehabilitation Center for Minors*, p. 20.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*, p. 10.

¹⁰³ *Ibid.*

¹⁰⁴ Current data on the number of female juvenile offenders are not available, but at the time of the report cited their number was 10 to 12.

¹⁰⁵ *Development of the Model of Rehabilitation Center for Minors*, pp. 12–13.

The special schools

The Ministry of Education operates special schools for children under the age of criminal responsibility who commit crimes and for some older juveniles sentenced to educational measures.¹⁰⁶ Placement of underage offenders may only be made by a court, for a minimum of six months or a maximum of two years. The staff of the school requests the court to approve release when they consider that the child is ready to return to his/her family.¹⁰⁷ It was not possible to visit any special schools during the assessment mission, but the deputy head of one such school was interviewed. She indicated that the school in East Kazakhstan, with a capacity of 50, has a population of 17. The staff of 14 includes 7 teachers and 1 psychologist.

The deputy head showed a deep commitment to helping the students and to respecting their rights.

Non-residential programmes

Although many convicted juvenile offenders are given alternative sentences, especially 'conditional sentences', there are no programmes for the rehabilitation of offenders who are given such sentences.

Post-release support

The assessment team was unable to identify any programmes in support of juvenile offenders released from correctional facilities.

¹⁰⁶ Ambassador Madina Jarbussynova, head of the Kazakhstani delegation, Statement to the Committee on the Rights of the Child, May 2007.

¹⁰⁷ Decree No. 42 of 27 January 2005 approving the Statute of Special Educational Establishments, which allows the placement of boys and girls.

PART III. UNICEF's Support to Juvenile Justice Reform

Strategy

UNICEF established a Country Office in Kazakhstan in 1992. The present Country Programme covers the period 2005–2009.

In 2000, UNICEF sponsored a situation analysis on juvenile justice, but turned its attention to other issues when the Open Society Institute began to develop the Juvenile Justice Project in 2001. UNICEF took again interest in juvenile justice when the project of the Open Society Institute ended, in 2006, with a comprehensive set of recommendations based on the pilot project and a strong government commitment to create a juvenile justice system. UNICEF saw work on juvenile justice as linked to its ongoing work on 'de-institutionalization', mainly to support the development of the social work profession and to promote family support centres aimed at providing community-based assistance to families in crisis. Moreover, after its 2007 meeting with the Committee on the Rights of the Child, the government approached UNICEF to seek assistance in responding to the Committee's recommendations on juvenile justice.¹⁰⁸

These three decisions – to sponsor the situation analysis, to focus on other issues while the 2001–2006 Juvenile Justice Project was developing satisfactorily, and to return to the juvenile justice area when the project ended with a clear need for follow-up by the international community – were all strategically correct. UNICEF should now define a strategy for the crucial new phase, which has just begun with the adoption of the Juvenile Justice System Development Concept, in August 2008. UNICEF has a good working relationship with the Ministry of Justice, who is responsible for the juvenile justice development implementation plan 2009–2011, as well as with other key counterparts, notably the Ministry of Internal Affairs and the Committee for the Protection of Children's Rights within the Ministry of Education. UNICEF's contribution to the development of a juvenile justice system will be linked to recent and ongoing work on issues such as de-institutionalization and violence against children. Hopefully, the recommendations made by this assessment team and the experience of other countries, documented as part of this regional assessment, will help the development of juvenile justice in Kazakhstan.

Since UNICEF has not been actively involved in supporting work on juvenile justice thus far, the assessment will not address planning, management and evaluation issues.

¹⁰⁸ OSCE was also approached, but suggested that the government turn to UNICEF for assistance. OSCE is supporting the development of probation and mediation.

PART IV. Conclusions and Recommendations

The assessment team did not have access to sufficient information to form an opinion on certain issues. No data on the numbers of children under the age of criminal responsibility who commit criminal acts and on the measures imposed on them were received. Most such children are placed in a 'special school', but no special schools were visited. Similarly, no data on convicted offenders disaggregated by sex were made available, nor was information obtained on the treatment of female juvenile offenders deprived of liberty. For these reasons, the team is unable to draw conclusions or make recommendations other than limited or tentative ones on conditions of detention during investigation and trial, the situation of children under the age of criminal responsibility and female juvenile offenders.

POSITIVE DEVELOPMENTS

1. The assessment team found much that is positive: a commitment to the creation of a juvenile justice system that complies with international standards and best practices; strong cooperation with the international community; pilot specialized juvenile courts and juvenile police units; the specialized defence team in Almaty; humanization of conditions in colonies; and the policy of early release of juvenile prisoners who show evidence of rehabilitation.
2. The legislation in force is compatible with international standards in many respects, including the age of criminal responsibility, which complies with the recommendations of the Committee on the Rights of the Child; recognition of the right to legal assistance as from first interrogation; the requirement that pretrial detention of accused juveniles be authorized by a court and not exceed six months; as well as the provisions of the Criminal Code concerning the sentencing of juvenile offenders.
3. The 'Juvenile Justice System Development Concept', signed by the President during the assessment mission, establishes the basic framework for the future juvenile justice system: a nationwide network of specialized courts or judges, specialized prosecutors, specialized police and investigators and specialized legal defence teams; better coordination of social, educational and preventive/protective services at the local level; integration of social and psychological services for adolescents into the juvenile justice system; and further development of university and post-graduate education for juvenile justice specialists. The time frame for the creation of this system is 2009–2011. The expected results include improved respect for the rights of juvenile suspects and accused juveniles, reduction of the number of juvenile offenders in correctional facilities and bringing conditions in correctional facilities into full compliance with international standards.
4. The Open Society Institute, which played a key role in promoting juvenile justice from 2001 to 2006, discontinued its work upon the successful completion of the pilot project. OSCE is supporting probation and mediation, which will contribute indirectly to the development of the juvenile justice system, but will not play a direct role in juvenile justice as such. At the request of the government, UNICEF has decided to help develop the juvenile justice system. It will build on the Open Society Institute's pilot project as well as on UNICEF's previous work on other 'child protection' issues.
5. The number of offences committed by juveniles is relatively low, due to social and economic policies as well as culture and traditions.

6. The creation, in the country's two largest cities, of teams of specialized police investigators dealing with crimes committed by children, as well as crimes against children, is a positive development.
7. The 2003–2006 implementation phase of the Juvenile Justice Project demonstrated the value of specialized juvenile courts, supported by specialized prosecutors and specialized legal and psychosocial defence teams. In 2007, courts specialized in cases of offending by juveniles and some other cases involving children were established on a permanent basis in the capital and the former capital.
8. The integration of psychologists and/or social workers into the correctional system, police and legal defence teams has begun, and the 'Concept' foresees that they will become an integral part of the new juvenile justice system.
9. The assessment team was favourably impressed by the conditions in colonies for juvenile offenders. Positive aspects include:
 - professional counselling and links between professional staff and university departments;
 - humane attitudes of senior staff;
 - the range of activities, including secondary and vocational education, sports, music, theatre and art, religious services, information technology, libraries and reading rooms;
 - generous use of early release;
 - low level of disciplinary problems due to a preventive approach;
 - quality of medical care and food;
 - support to family visits.
10. The team was generally favourably impressed by the conditions in the 'centres for temporary isolation, adaptation and rehabilitation of juveniles' and the 'school for children with deviant behaviour', and believes that the placement in such facilities of children who have been involved in non-violent offences, or even those who may have been involved in a violent offence but who do not represent a danger to other children, is a good practice – assuming, of course, that they need to be removed from their home or require services that cannot be offered in their communities. Providing services in such facilities reduces the risk of stigmatizing such children, and living conditions offer a considerable degree of freedom of movement and opportunities for recreation and entertainment. The presence of both boys and girls of different ages is also positive, as it resembles life in the family and community.
11. The system maintained by the General Prosecutor's Office to collect data on offences committed by juveniles and processing of cases involving juveniles is impressive.

CHALLENGES

1. Efforts to prevent offending focus mainly on primary prevention. Efforts to help children at higher risk of offending consist essentially in efforts by the juvenile police to register and supervise them, and in placing in residential facilities children involved in behaviour such as truancy. Police play an important role in interdisciplinary approach to prevention, but do not have the range of skills needed to do it alone. Residential facilities also have their place, but the absence of community-based programmes makes it difficult to know what percentage of children institutionalized for this reason could be helped without separating them from their families and communities.

2. The law in force recognizes diversion for certain crimes, when there is conciliation and compensation of the victim, but there are no programmes to facilitate victim-offender mediation.
3. Although recognition of the right to free legal assistance is very positive, the fees paid to lawyers who provide free services are low and the quality of the services is often inadequate.
4. Many convicted juvenile offenders receive a conditional sentence or other alternative sentence, but there is no specialized agency to supervise offenders given alternative sentences, nor any local programme to provide offenders with rehabilitation in the community.
5. Some provisions of the law in force are not compatible with international standards, particularly law provisions that are applicable to children and adults alike. For example, whereas according to law children can be deprived of liberty for the purpose of investigation for up to 72 hours, the Committee on the Rights of the Child requires that children deprived of liberty be presented to a court within 24 hours to determine whether there are sufficient reasons to continue the deprivation of liberty. Existing legislation does not either comply with the recommendations of the Committee on the Rights of the Child on the right to be tried without delay.
6. According to the Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, children under the age of criminal responsibility who have committed socially dangerous acts can be deprived of liberty for 30 days on the order of a prosecutor *or* court (Articles 4.1, 5 and 7). This seems to contradict provisions of other national laws, as well as the basic principles recognized by international law on children's rights.
7. Although the detention of accused juveniles before trial reportedly is exceptional, the total number of juveniles in detention is almost equal to the number of juveniles serving sentences in correctional facilities.¹⁰⁹
8. The section of the centre for temporary isolation, adaptation and rehabilitation of juveniles dedicated to accused juveniles resembles a small jail located inside an orphanage. The facility as a whole and the programme of activities are designed for children aged 3–18 years who (with some exceptions) have not committed any offence.¹¹⁰ Accused juveniles aged 14–18 years spend most of their time in a very small area containing two cells. With limited access to recreation and services and little freedom of movement, their situation is worse than the condition enjoyed by convicted juveniles serving sentences in a juvenile colony. While such conditions might be acceptable for short periods of time if no better alternatives exist,¹¹¹ accused juveniles may be confined there for up to six months.
9. Juveniles in pretrial detention facilities ('isolators') are kept in separate cells, on floors where adults are also detained. They spend most of their time in their cells and have little or no opportunity to participate in recreational, cultural and educational activities.
10. While considerable training on child rights and juvenile justice has taken place, such training has not yet been permanently incorporated into the curricula of universities and professional

¹⁰⁹ In 2007, the number of juveniles serving sentences was 473 and the number in detention facilities was 459. See Juvenile Justice System Development Concept, section 3.

¹¹⁰ Children under the minimum age of criminal responsibility who commit criminal acts may be confined in the centre for temporary isolation, adaptation and rehabilitation of juveniles, but enjoy the same living conditions as children who are not offenders.

¹¹¹ The assessment team was told that they are detained in the centres for temporary isolation, adaptation and rehabilitation of juveniles because conditions in the 'isolator' are worse.

training academies and institutes. Moreover, many of the professionals met by the assessment team, although committed to the rights of children, had received little or no formal professional training in the subject. This may well be due to the impact of turnover and personnel policies.

11. Various bodies share responsibility for monitoring the operations of institutions for juveniles deprived of liberty, and some appear to be more active than others. In general, however, there appears to be a lack of transparency about the work of the authorities responsible for investigating violations of the rights of juvenile suspects and offenders.
12. Although the 'Concept' envisages the integration of social workers and psychologists into the juvenile justice system, there are many unresolved questions about how such services will be organized. Several officials interviewed mentioned the planned creation of a probation service, which would be a great step forward, but the 'Concept' does not refer to a probation service. Some of the functions usually ascribed to probation services are assigned to 'social workers of the juvenile courts', a job classification that does not yet exist.¹¹² Others, such as preparing recommendations as to possible alternative sentences and supervising released prisoners, are entrusted to social workers, but do not indicate to which agency they would be attached. Certain social work functions are mentioned as being the responsibility of specialized police inspectors and the Prison Department. What body would have primary responsibility for supervising accused juveniles who benefit from diversion or alternative sentences is unclear, however.
13. Despite the existence of well qualified national experts, there is a shortage of recent research on issues concerning juvenile justice. This is unfortunate, since the social and economic changes, which have occurred since independence, raise questions as to the relevance today of the older theories and approaches to such critical questions as the causes of offending and the most effective methods of prevention.

RECOMMENDATIONS

Secondary prevention

1. Consideration should be given to establishing, on a pilot basis, a community-based programme for children at higher risk of offending aiming to provide counselling, remedial education, life skills and similar services to such children and their families. Such a programme might be linked to existing efforts to establish family support centres.

Victim-offender mediation and diversion

2. Since the 'Concept' calls for the creation of mediators, it would be useful to review the experience of other countries in the region, and elsewhere, in order to identify one or two approaches best suited to Kazakhstan that could form the basis of a few pilot projects.
3. Mediation is a particularly valuable form of diversion because it not only avoids the negative consequences of prosecution for the offender, but also aims to restore the rights of the victim. It is not the only form of diversion, however. Other forms of diversion should be incorporated into the future juvenile justice system, including voluntary participation in structured community-based programmes designed to prevent offending and re-offending, or voluntary acceptance of certain obligations or requirements, such as attending school or avoiding certain places or persons. At present measures of this kind can be imposed by a court as an alternative sentence, but cannot be accepted on a voluntary basis as an alternative to prosecution.

¹¹² Section 4.7; see also section 3.

The police

4. Special investigators, special police inspectors and special rooms for interrogation of juvenile offenders and child victims should be introduced in all regions.
5. Consulting police psychologists about the best way to carry out law enforcement responsibilities with children and juveniles is also positive and should be continued and reinforced.
6. The police contribution to prevention should be part of a broader interdisciplinary approach. There is good cooperation with youth clubs, special schools, Commissions on Minors and NGOs, but their capacities are limited.

Detention prior to trial

7. A plan should be developed to ensure that juveniles who must be deprived of liberty before trial are confined in units where they have no contact with adults, are not forced to spend most of the day in their cells and have adequate access to educational, recreational and cultural activities.

Prosecution

8. For juvenile justice to function properly, prosecutors handling cases should be fully trained and selected on the basis of their understanding and commitment to the rights of children. Experience shows that the knowledge and skills needed to handle cases involving children are more fully developed when prosecutors concentrate exclusively on such cases. In some districts, however, the number of cases may be too low to establish a special unit for children's cases. Consequently, where the number of cases involving children, either as victims or as accused, is substantial, a specialized unit should be established; in other districts, prosecutors should be specially selected and trained, even though they are not assigned to handle such cases exclusively. Instructions, a code of conduct and protocols for the handling of cases involving children should be established, and compliance with them should be monitored.

Legal services

9. The 2003–2006 implementation of the Juvenile Justice Project demonstrated convincingly that specialized legal services can contribute to the efficient administration of justice in cases involving juvenile offenders. In addition to guaranteeing respect for the rights of individual juveniles, they also play a valuable role in helping ensure that laws are respected and applied correctly. The 'Concept' recognizes the lessons learned from the pilot project, including the value of incorporating psychosocial services into specialized legal services for children, and calls for similar centres to be set up throughout the nation.¹¹³ The assessment team strongly supports the establishment of specialized legal services for children and juveniles. It recommends that this be given high priority and sufficient funds be allocated from the public budget.

Courts

10. The 'Concept' recognizes that "the specialized juvenile court must be the most important part of the juvenile justice system," and calls for study of the best way "to spread the positive experience of specialized (juvenile) courts [throughout] the whole territory of the Republic."¹¹⁴ The assessment team strongly agrees with this objective.

¹¹³ Sections 3 and 4.4.

¹¹⁴ Section 4.1.

Since the national territory is large and the number of cases involving juveniles accused of crimes serious enough to be prosecuted is relatively small, it seems logical to give specialized courts jurisdiction over child protection cases, civil or family cases involving children as well as cases involving juvenile offenders. The experience of these two courts should be analysed in due course, in order to incorporate any relevant lessons into the planned creation of specialized courts throughout the country. It is important to establish specialized courts progressively in all cities and regions where the caseload would be sufficient, and to develop policies designed to ensure that cases in all areas are handled without undue delay by judges and prosecutors having knowledge and understanding of the applicable law, procedures and practices.

Legislation

11. The creation of a juvenile justice system along the lines indicated in the 'Concept' will require many changes in the law. It also appears likely that the legal framework for the system now being developed will be set forth in a law specifically on juvenile justice. The elaboration of a comprehensive law on juvenile justice will provide an important opportunity to bring legislation into greater harmony with international standards and principles, and to decide how these standards should be applied in the light of Kazakhstan's social and economic conditions as well as legal and cultural traditions.
12. The law should be brought into compliance with the recommendation of the Committee on the Rights of the Child that children deprived of liberty should be presented to a court within 24 hours to determine whether there are sufficient reasons to continue the deprivation of liberty.
13. Standards that take into account the special needs and conditions of juveniles should be incorporated into the new law, replacing limits applicable to both juveniles and adults. These standards should comply with the recommendation of the Committee on the Rights of the Child to the effect that time limits for the various stages of criminal proceedings against juveniles "should be much shorter than those set for adults" and should require a final decision within six months of the filing of an accusation.¹¹⁵
14. In addition to amending provisions of the existing law that are not in harmony with international standards, the new law should regulate matters not addressed by the existing legislation, or rarely applied, on questions such as the role of social workers and psychologists, mediation, the measures to be taken to ensure that children and juveniles understand legal proceedings concerning them and feel able to express their views, and many others.
15. If requested, UNICEF should assist the national authorities in obtaining access to information about the legislation and experiences of other countries, and in sharing their experiences with the authorities of other countries engaged in the process of creating juvenile justice systems.

Detention during investigation and trial

16. The assessment team was unable to visit any pretrial detention facilities, except for the section of one centre for temporary isolation, adaptation and rehabilitation of juveniles dedicated to the detention of accused juveniles. The limited information available to the assessment team suggests that pretrial detention is one of the aspects of juvenile justice most in need of improvement, but the scarcity of information precludes making more specific recommendations.

¹¹⁵ Children's rights in juvenile justice, General Comment No. 10, CRC/C/GC/10, paras. 52 and 83.

Correctional facilities

17. The staff of the juvenile colonies visited expressed the wish for more training and exchange of experiences. A training needs assessment would be the right response.
18. The assessment team was informed that the practice of allowing juveniles who reach the age of 18 to remain in juvenile facilities for up to two years is being reconsidered. Our view is that allowing such offenders to remain in colonies for juvenile offenders is not necessarily a violation of international standards, as long as they do not represent a threat to younger residents and policies are based on the best interests of all concerned. The Committee on the Rights of the Child, referring to Article 37(c) of the Convention on the Rights of the Child, has stated. "This rule does not mean that a child placed in a facility for children has to be moved to a facility for adults immediately after he/she turns 18. Continuation of his/her stay in the facility for children should be possible if that is in his/her best interest and not contrary to the best interests of the younger children in the facility."¹¹⁶
19. A broader range of periodicals, especially new ones designed for adolescents, would be appreciated.

Female juvenile offenders

20. The team received too little information about the rehabilitation of female juvenile offenders to take a position on the need for a special school specifically for adolescent girls who commit offences. The establishment of such a school has an obvious risk, that of centralizing girls in a facility where the families of many would have difficulty in visiting them. This would be an obstacle to the enjoyment of this basic right, and possibly an obstacle to future reintegration into the community as well.

The need for such a facility would need to be clearly demonstrated, taking into account the number of girls over the age of criminal responsibility who commit offences, their age, home and family situation, the nature and circumstances of their offences and the type of rehabilitation required, as well as the availability and suitability of other alternatives, including probation, mediation and placement in other facilities, such as centres for temporary isolation, adaptation and rehabilitation of juveniles, schools for children with deviant behaviour and even colonies for adult women.

Community-based rehabilitation programmes

21. The establishment of a specialized service having primary responsibility for supervising accused juveniles who benefit from diversion or alternative sentences, staffed by social workers or persons with similar training, should be supported. The possibility should be studied that the same service prepares social reports for the consideration of prosecutors and courts, supervises juveniles released from correctional facilities before completing their entire sentence, and assigns those released from correctional facilities. A probation service would be an appropriate way to provide these services.

Accountability

22. Efforts to ensure greater openness in the investigation of abuses affecting juvenile suspects and offenders should continue.

¹¹⁶ Ibid., para. 86.

Training

23. The process of developing a juvenile justice system throughout the country will make it necessary to train more professionals, administrative staff and paraprofessionals and to retrain and update training materials and curricula. The 'Concept' calls for the development and reinforcement of child rights and juvenile justice education at the post-graduate level for juvenile justice professionals. The assessment team believes that training will be a key dimension of the process of creating a juvenile justice system.

Professional requirements will need to be established or reviewed, and enforced. Training should not be limited to knowledge and information. It should also include skills and values. A thorough training needs assessment covering all the relevant sectors should be undertaken, the impact of training evaluated, and the results used to strengthen training and human resources management policies.

Interinstitutional coordination and cooperation

24. The 2003–006 Juvenile Justice Project recommended the creation of a national council on juvenile justice, similar to the one that coordinated the project, with competence to coordinate and monitor. The assessment team agrees that it is important to establish a permanent interinstitutional body responsible for coordinating the work of the various bodies having a role in the future juvenile justice system. Although such a body may not have decision-making powers, it could coordinate the activities of different actors, help monitor the functioning of the system and make recommendations to the competent legislative, executive and judicial authorities.

The participants in the Juvenile Justice Project also recommended the establishment of juvenile justice councils at the local level, a recommendation that the assessment team also firmly supports.

Data and research

25. The capacity of the existing data collection system should be fully exploited, in three areas. First, the data collection system will help decide how many specialized courts are needed and where, calculate what impact the establishment of a probation service may have on the need for special schools, and many other similar questions. Second, the data management system should help monitor the impact of new institutions, such as mediation or probation. Third, the data collection system could help monitor the respect for children's rights, for example, by producing data on the number of juveniles detained while awaiting trial and how long they wait for trial. The creation of a juvenile justice system should be seen as an opportunity to review the data collection and the management system in order to identify those data, which are relevant to the many decisions that will have to be taken in designing the system, as well as to determine how the data collection and the management system could help monitor the operation and measure the impact of the new system.
26. Although the views of practitioners are valuable, policy decisions should take into account objective research by qualified specialists. The creation of a juvenile justice system should include the establishment of a fund for research on issues like the causes of certain kinds of offences and the longer-term impact of different forms of treatment of offenders. Although the creation of a juvenile justice system cannot be postponed while such research is carried out, a research programme undertaken in parallel to the development of the juvenile justice system will help resolve issues that emerge as the system becomes operational and matures.

Annex 1: Data collection and analysis

National data collection system and international and regional indicators

The Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office publishes annually *Analytical and Statistical Information*. The report's data include the number of crimes committed by juveniles.¹¹⁷ The Ministry of Internal Affairs also published data on offending by juveniles and on juvenile justice in 2008.¹¹⁸ The Agency of the Republic of Kazakhstan on Statistics participates in the TransMONEE project, providing information on offending by juveniles and on juvenile justice.¹¹⁹

There appears to be some contradictions between the data published by these sources. For example, according to the information provided to the Committee on the Rights of the Child 4,316 juveniles were prosecuted in 2006.¹²⁰ Data published by the Ministry of Internal Affairs indicate that, of 5,797 crimes by juveniles registered in 2006, the criminal investigation was completed in 3,921 cases, 1,020 cases were closed and 2,793 cases were sent to court. The assessment team has been unable to find an explanation for the apparent discrepancy between the number of cases for which investigation was completed, the number of cases prosecuted and the number of cases sent to court. The indicators and corresponding observations of the assessment team are as follows:

(1) Crimes committed by juvenile offenders

This indicator is defined by the TransMONEE matrix as "the number of crimes committed by persons aged 14–17," disaggregated by the kind of crime, i.e., violent, property, or other.¹²¹

The number of crimes committed by persons aged 14–17, or with the participation of children aged 14–17, is published in *Analytical and Statistical Information*, without disaggregation. The information published in 2008 by the Ministry of Justice contains data on crimes committed by or with the participation of juveniles within this age group, together with nine separate tables containing data on certain crimes committed by juveniles, including murder, intentional serious injuries, rape, robbery, theft and hooliganism. They account for 90 per cent of the crimes committed by juveniles. The data are disaggregated by district.

A comparison of the data published by TransMONEE as "crimes committed by or with the participation of juveniles" with the data published by the Ministry of Internal Affairs indicates that TransMONEE data are not the number of crimes committed by juveniles, but the number of juveniles who have committed a crime. In most years, the number of crimes committed by juveniles is smaller than the number of juvenile offenders. In 2007, for example, 8,344 juveniles committed 5,383 crimes.

This is particularly significant. While the number of offences committed by juveniles is declining in recent years, the number of offenders is relatively stable. The purported reason for this is the increasing number of offences committed by groups of juveniles.

¹¹⁷ Committee on Legal Statistics and Special Accounts, *Analytical and Statistical Information No.1*, General Prosecutor's Office, Astana, 2006, p. 20.

¹¹⁸ Ministry of Internal Affairs, *Analysis of juvenile offences and activities of police on prevention of crimes, homelessness and street children*, Astana, 2008.

¹¹⁹ See *Lost in the Justice System*, Appendix 2.

¹²⁰ Committee on the Rights of the Child, Written replies by the Government of Kazakhstan concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the second and third combined periodic report of Kazakhstan, CRC/C/KAZ/Q/3/Add.1, 2007, p. 12.

¹²¹ The UNODC-UNICEF Manual does not include this indicator. See United Nations, *Manual for the Measurement of Juvenile Justice Indicators*, Office on Drugs and Crime (UNODC) and UNICEF, New York, 2007.

(2) Children in conflict with the law/children arrested

The term 'arrest' is defined by the UNODC-UNICEF Manual as "placed in custody by the police ... or other security forces because of actual, perceived or alleged conflict with the law." 'Conflict with the law' is, in turn, defined as having "committed or [being] accused of having committed an offence," although the definition adds that, "Depending on the local context," the term may also mean "children dealt with by the juvenile justice or adult criminal justice system for reason of being considered to be in danger by virtue of their behaviour or the environment in which they live." TransMONEE defines this more clearly as "the number of children/juveniles taken into police custody (following arrest on suspicion of having committed an offence)..."

The data published by the Ministry of Internal Affairs in 2008 include a table on 'juveniles brought to the police', which is disaggregated by the reasons for this, namely, the [suspected] commission of a crime or an administrative offence. In 2007, more than half of juveniles were 'brought to the police' for an administrative offence, and fewer than 10 per cent for a crime; nearly one third (31,000 children) were brought to the police for some other, unspecified reason.

This information is also disaggregated by district.

(3) Children in detention

The UNODC-UNICEF Manual describes this indicator as "children detained in pretrial, pre-sentence and post-sentencing [sic] in any type of facility (including police custody)." This indicator is defined by the TransMONEE matrix as "the total number of children/juveniles in conflict with the law in closed correctional/punitive institutions or open/semi-open institutions at the end of the year."

In Kazakhstan, this figure, as defined above, would be difficult to calculate accurately for three reasons. First, some juvenile offenders serving sentences remain in juvenile correctional facilities after their 18th birthday. Only part of the population in juvenile facilities is actually under age 18.¹²² Second, although 'schools for children with deviant behaviour' are in principle intended for those who are not offenders, the staff of the school visited said that a small number of children were offenders. It is not clear whether those who are not offenders, but are placed in the school because of truancy or other behavioural problems, should be considered as 'children in conflict with the law', given the flexible definition used by the regional and international indicators. The third problem is that, as far as the assessment team was able to ascertain, the police do not compile the number of children detained for short periods.

These problems would need to be resolved in order to collect data that meet the definitions of the indicators cited above. In some respects, for the juvenile justice reform it might be preferable to use criteria which reflect the structure of the justice system, rather than designing tools that adhere closely to the regional or international definitions. For example, it might be more useful to monitor the total population of facilities for juvenile offenders than the number of prisoners in such facilities who are under age 18.

At the present time, data on the number of juveniles in correctional facilities are not published in Kazakhstan, nor have they been included in the data provided to the Committee on the Rights of the Child or reported in the framework of the TransMONEE project. Data on the number of juveniles in correctional facilities in 2007 were cited in the 2008 'Concept', however.

¹²² Since it was not possible to visit a pretrial detention facility, it is unknown whether the same applies.

The inclusion of these data in the 'Concept' presumably means that they are now recognized as information of legitimate interest to the public. It would be useful to obtain these data on a regular basis, as they are an indicator on how juvenile justice is functioning. The data should include and identify at least three distinct groups: those serving sentences in juvenile correctional facilities, those confined in pretrial detention facilities and those confined in the special schools by reason of the commission of an offence. If possible, the number of juveniles detained in police stations temporarily for questioning should also be included.

(4) Children in pretrial or pre-sentence detention

The TransMONEE matrix defines this indicator as "the number of children who are placed in pretrial detention during the year." The UNODC-UNICEF Manual describes this indicator as including children deprived of liberty while awaiting trial and convicted juveniles awaiting sentencing, but not those who are sentenced and awaiting the outcome of an appeal.

These data are not published in Kazakhstan and they have not been included in reports to the Committee on the Rights of the Child. Data on the number of juveniles in pretrial detention facilities in 2007 were cited in the 'Concept', as mentioned above, although it is not clear whether they refer to the population on a given day or to the number admitted to such facilities during the year. Such data should be collected and evaluated systematically, because it is essential to monitor compliance with the fundamental principle that deprivation of liberty should be the last resort.

(5) Duration of pretrial detention

Data on this important indicator are not compiled at present. This gap should be remedied as a matter of priority in order to facilitate monitoring of the relevant national and international standards.

(6) Child deaths in detention

Information on this indicator is not compiled systematically. The assessment team was informed that two deaths had occurred in juvenile correctional facilities during the previous 12 months, one from suicide and one from meningitis. No data on pretrial detention facilities were made available.

(7) Separation from adults

This indicator is defined by the UNODC-UNICEF Manual as "the percentage of children in detention not wholly separated from" adult prisoners.¹²³

In Kazakhstan, only female juvenile offenders are confined in correctional facilities for adults. There are no pretrial detention facilities exclusively for adults, but since the assessment team did not have access to any such facility, it is unable to comment on the degree of contact between juvenile and adult detainees.

Juvenile suspects confined in police stations temporarily before a court has considered whether pretrial detention is warranted, also may have some contact with adults. Little data on the detention of juveniles by police is available at present.

Insofar as the four correctional facilities for (male) juveniles are concerned, as in most other countries in the region, offenders serving sentences for crimes committed while under age 18 may be allowed to remain in juvenile facilities for some time after reaching their 18th birthday. In one of the juvenile 'colonies' visited by the assessment team, 11 of the 83 prisoners were over age 18.

¹²³ The TransMONEE project does not include this indicator.

The collection of data on this indicator would require, in addition to the development of tools for monitoring the number of juveniles detained in police stations and pretrial detention facilities, decisions on what kind of contact between juveniles and adults should be considered relevant. This would require a review of physical conditions and policies in pre-detention facilities, and a decision on whether, for statistical purposes, allowing young adults to remain in juvenile facilities should be equated with or distinguished from the detention of juveniles in adult facilities.

(8) Contact with parents and family

This indicator is defined by the UNODC-UNICEF Manual as “the percentage of children in detention who have been visited by, or visited, parents or guardian or an adult family member during the last three months.”

Data on this indicator are neither published nor collected systematically by any of the institutions in which juvenile offenders are or may be confined.

(9) Convictions

This indicator is defined by the TransMONEE matrix as “the number of juveniles convicted during the year,” disaggregated by sex, age and type of crime, i.e., violent, property, or other.¹²⁴

Information on the number of juveniles convicted of crimes is not published on a regular basis. It was included in the information provided to the Committee on the Rights of the Child in 2007, and published by UNICEF the same year. The data were disaggregated by sex and age group (i.e., 14–15 or 16–17 at the time of commission of the offence).

(10) Custodial sentences

This indicator is defined by the UNODC-UNICEF Manual as “the percentage of sentenced children who receive a custodial sentence,” i.e., a sentence of confinement to an open, semi-open or closed facility. The TransMONEE matrix limits this to children aged 14–18 years.

Data on the sentences imposed on juvenile offenders are not published on a regular basis. The data on convictions provided to the Committee on the Rights of the Child in 2007 and published by UNICEF the same year (see above) were disaggregated by the kinds of sentences imposed. Data on custodial sentences were further disaggregated according to the length of the sentence: 1–2 years; 2–5 years; 5–10 years; and 10–12 years.¹²⁵

Prisoners can be released after serving part of their sentence, but data on juvenile prisoners benefiting from these possibilities are not compiled systematically.

(11) Alternative sentences

The TransMONEE matrix requests information on the kinds of sentences imposed on convicted juveniles. The 12 categories used are: committal to a penal institution; committal to an educational/correctional institution; pre-sentence diversion; formal warning/conditional discharge; apology; fine/financial compensation; community service or corrective labour; supervision order; probation order; postponement of sentencing; release from sentencing; and other.

¹²⁴ The UNODC-UNICEF Manual does not include this indicator.

¹²⁵ Committee on the Rights of the Child, CRC/C/KAZ/Q/Add.1, p. 12.

Regional or global indicators inevitably do not correspond exactly to the kinds of sentences recognized by the national legislation. The data on sentencing provided to the Committee on the Rights of the Child in 2007 (see above) are disaggregated by six kinds of sentences, including imprisonment, suspended sentences, restriction of liberty, community service, fines and punitive deductions from earnings. More than half of all sentences imposed each year from 2000 to 2005 are suspended sentences, the equivalent of probation. The next largest category is sentences of imprisonment. Sentences to fines, community service and punitive deductions from earnings are rare.

(12) Pre-sentence diversion

The UNODC-UNICEF Manual defines this indicator as “the percentage of children diverted or sentenced who enter a pre-sentence diversion scheme,” adding that it is intended to measure “the number of children diverted before reaching a formal hearing.” This is somewhat confusing,¹²⁶ and the Manual recognizes that what constitutes diversion “will need to be identified in the local context.”

In Kazakhstan, there is a significant gap between the number of juveniles who commit crimes and the number prosecuted. According to the information provided to the Committee on the Rights of the Child, 8,799 juveniles “were reported to have committed offences” in 2006, but less than half were prosecuted.

The Criminal Code, as noted in Part II, allows certain cases to be closed on grounds that there has been reconciliation and compensation of the victim. Data published by the Ministry of Internal Affairs in 2008 provide some information on the number of cases closed, i.e., 1,020 in 2006. However, the closure of 21 cases on the ground of reconciliation and compensation during the pilot project in Almaty was considered to be an important advance. This indicates that most of the cases classified as ‘closed’ in the data cited above were closed on other grounds.

As a new system of juvenile justice is being developed, it will become important to document the flow of cases between the entry point into the system and the resolution of the case, including the number of cases prosecuted and the outcome of cases opened but not prosecuted, mainly those diverted to community-based programmes, those closed for lack of evidence, those for which the investigation is underway, and so on.

(13) Aftercare

This indicator is defined as “the percentage of children released from detention receiving aftercare.” There is a problem with the way this indicator is defined, because aftercare programmes are generally considered important for offenders released from custodial facilities after serving a sentence, not those released from pretrial detention.

There is no established system for providing assistance to juvenile offenders released after serving sentences. Nor are there any data indicating how many persons given custodial sentences for crimes committed as juveniles are still under age 18 when they are released and return to the community.

¹²⁶ Hearings often occur before trial begins, which means that diversion before any hearing takes place would be only part of ‘pre-sentence diversion’. And it is unclear why the percentage of offenders diverted should be calculated with reference to the number of offenders diverted or sentenced, rather than the number accused or prosecuted. In addition, diversion can consist in a mere warning, without entry into a programme.

Other relevant data and information

Repeat offending

The data on offenders published by the Ministry of Internal Affairs are disaggregated by the educational status. Data on the circumstances in which the offence was committed (i.e., under the influence of drugs, under the influence of alcohol and by a group) and on the prior record of the offender are also included in the information published by the Ministry of Internal Affairs. The definition of 'repeat offender' is not specified, however.

Children prosecuted or charged with an offence during the year

Data on the number of investigations of offences committed by juveniles 'completed or solved' annually is published by the General Prosecutor's Office, but the number of cases in which charges are filed is not.

Disaggregation by ethnicity

Data on offending and offenders are not disaggregated by ethnicity.

Annex 2: List of persons interviewed

Government

R. Sher, Vice-Chair, Committee for the Protection of Children's Rights
(Ministry of Education and Science)

Senator N. Joldasbayeva, Chair, Economic and Regional Politics Committee

A. Duisekeyev, Deputy Chair, Committee on Criminal and Penitentiary System (Ministry of Justice)

A. Shakirov, Human Rights Commissioner (Ombudsman)

Z. Pirniyazov, Chief Judge, Juvenile Court of Almaty (and staff)

G. Abdigalieva, Chief Judge, Juvenile Court of Astana (and staff)

Col. Sagiev, Deputy Director Juvenile Correctional Facility (and staff), Almaty

A. Aitbaev Director, Juvenile Correctional Facility (and staff), Ust Kamenogorsk

K. Chukmaitov, Head, Special Boarding School for Children with
Deviant Behaviour (and staff), Serebryansk, Eastern Kazakhstan

N. Radionova, Deputy Director, Special School, Eastern Kazakhstan

B. Dukenbaev, Director, Centre for Temporary Isolation,
Adaptation and Rehabilitation of Minors (and staff), Ust Kamenogorsk

T. Valiev, Deputy Chief Prosecutor (and prosecutors), Ust Kamenogorsk

M. Malayeva, police inspector, Ust Kamenogorsk

N. Tokarev, Deputy Director, Department of Education, Ust Kamenogorsk

G. Prishpa, Officer-in-Charge, Legal Statistics and Special Registration Committee,
General Prosecutor's Office, Astana (and staff)

A. Egibaeva, Dean, East Kazakhstan University (and Departments' Heads)

Civil society

R. Akylbekova, Coordinator, NGO Working Group on the Protection of Children's Rights, Almaty

S. Vitkovskaya, Juvenile Legal Counselling Clinic, Almaty

Z. Baisakova, Union of Crisis Centres, Almaty

UNICEF

H. Singer, UNICEF Representative

A. Sialchonak, UNICEF Deputy Representative

T. Aderikhina, Education and Child Protection Programme Coordinator

G. Suleimenova, juvenile justice consultant

Other

S. Mektepbayeva, Legal Reform Programme Director, Soros Foundation

Focus groups

School inspectors, Astana

Staff, youth club, Ust Kamenogorsk

Annex 3: List of documents consulted

Legislation

Republic of Kazakhstan, Law on Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on Matters of Juvenile Specialized Interdistrict Court, Act No. 664-IV of 5 July 2008

Republic of Kazakhstan, Standard Statute, Commission on Juvenile Affairs and Protection of Minors, Resolution No. 789 of 11 June 2001, as amended on 1 December 2005

Republic of Kazakhstan, Order of the Ministry of Internal Affairs on Adoption of the Statute of Centres for Temporary Isolation, Adaptation and Rehabilitation of Minors, Law No. 708 of 25 December 2004

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Republic of Kazakhstan, Law on the Rights of the Child, Act No. 345 of 8 August 2002

Republic of Kazakhstan, Code on Administrative Offences, Law No. 155-11 of 30 January 2001 (extracts)

Republic of Kazakhstan, Law on the Procedures and Conditions of Detention of the Suspected and Accused in Commission of Offences, Law No. 353-1 of 30 March 1999

Republic of Kazakhstan, Criminal Code, Law No. 207-1 of 13 December 1997 (extracts)

Republic of Kazakhstan, Code of Criminal Procedure, Law No. 206 of 13 December 1997 (extracts)

Republic of Kazakhstan, Penal Execution Code, Law No. 208 of 13 December 1997

Other official documents

Ambassador Madina Jarbussynova, head of the Kazakhstani delegation, Statement to the Committee on the Rights of the Child, May 2007

Ministry of Internal Affairs, Analysis of juvenile offences and activities of police on prevention of crimes, homelessness and street children, Astana, 2008

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Moestue, H., *Lost in the Justice System: Children in conflict with the law in Eastern Europe and Central Asia*, UNICEF Regional Office for CEE/CIS, Geneva, May 2008

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Juvenile Legal Counselling Clinic, *Juvenile Justice in Kazakhstan 2007*, Almaty, 2007

Kazakhstan NGOs' Working Group on Protection of Children Rights, *Alternative Report and Comments to the 2nd and 3rd Report of the Kazakhstan Government*, December 2006, available at

www.crin.org/resources/infoDetail.asp?ID=12726&flag=legal, accessed 20 May 2009

Other documents

Sange Research Center, *Development of the Model of Rehabilitation Center for Minors*, Almaty, 2004

Flindt Pederson, C. and Vammen Jeperson, J., *Juvenile Justice in Kazakhstan: Assessment 2000*, Danish Centre for Human Rights, UNICEF, Copenhagen, 2002

UNICEF Regional Office for CEE/CIS

Child Protection Unit
Palais des Nations
1211 Geneva 10, Switzerland

www.unicef.org/ceecis