Social Practices and Legislation in the Area of Juvenile Delinquency

This monograph is based on the results of a comprehensive expert evaluation of current practices in the prevention of juvenile delinquency in Ukraine and of the current regulatory and legal base and bylaws; it also assesses their compliance with international norms and standards in the area of protection of children's rights within law enforcement and juvenile justice systems. The materials presented here-in provide answers to general questions pertaining to social practices of treating juvenile offenders. Comparing them makes it possible to study such complex and hidden spheres of social life as the compliance of current practices with international norms and standards in the protection of children's rights.

The monograph is recommended to members of the judicial system of Ukraine; to representatives of the state executive bodies of different levels; to professional lawyers of governmental and non-governmental organizations; to members of elected bodies, journalists, academicians, teachers, pedagogues, coordinators and managers of international and national programmes; to students; and to the general readership.

The study was carried out in 2008 within the framework of the project to support the development of the juvenile justice system in Ukraine. The project coordinator from the United Nations Children's Fund (UNICEF) Country Office in Ukraine was Andriy Haidamashko.

The views and standpoints expressed in this publication do not necessarily reflect the views of UNICEF.

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PREFACE

In a way the study ‘Analysis of Current Practices and Legislation in the Area of Juvenile Delinquency and their Compliance with International Norms and Standards’ was conducted as a continuation of public discussions regarding the future of the national juvenile justice system and the timeframes for its development. At the same time experts have different views on the very notion of ‘juvenile justice’. In speaking about protection of the rights of juvenile offenders, they often focus on the very nature of the system of legal protection of children, whether in terms of the current law enforcement system or of structures that will be directly included in the juvenile justice system, which essentially does not exist in Ukraine.

Back in 2005 experts developed the draft ‘Concept of Juvenile Justice in Ukraine’, which was submitted to the Verkhovna Rada for consideration and discussion. This document described the structural and functional components or institutions whose functioning would lay the foundation for a juvenile justice system. These included juvenile courts, lawyers and prosecutors; criminal police for juvenile affairs; social workers; probation officers; specialists on juvenile affairs within the penitentiary system. However, the majority of these bodies continue to function on the basis of current legal norms, which do not always take into account the peculiarities of the adolescent mentality and the need for their re-socialisation and reintegration into society.

The main goal of this study was to conduct a comprehensive expert evaluation of current Ukrainian practices and of the normative and legal base and the bylaws; to evaluate their compliance with international norms and standards in the area of protection of children’s rights within the context of law enforcement and juvenile justice systems; and to develop proposals to improve current practices and regulatory and legal documents.

The results of the study are based on interviews conducted with three groups of respondents:

- Experts – lawyers, social workers, law enforcement officers, staff of penitentiary facilities and other professionals directly involved in work with juvenile offenders;
- Parents/guardians of children in conflict with the law;
- Juveniles who committed offences and served sentences in specialised institutions.

Analysis of the views of these different social groups makes it possible not only to provide answers to general questions regarding social treatment practices that apply to juvenile offenders, but also, by comparing them, to study complex and hidden social issues. These include: the compliance of current practices with international norms and standards in the area of protection of children’s rights; the level of transparency and facility of judicial procedures; and the availability of a mechanism for complaints about the work of judges and members of other institutions involved in such procedures as arrest, investigation, inquiry, serving sentences and so on. Moreover, one of the basic principles that the UN Committee on the Rights of the Child actively promotes states that the views and experience
of children should be given due attention in the process of reforming national policies and programmes and the activities of relevant institutions.

The Centre of Social Expertise of the Institute of Sociology of NAS of Ukraine would like to express its gratitude to O.B. Yanchuk (State Department of Penal Implementation of Ukraine), O.P. Shyian (Ministry of Education and Science of Ukraine); O.O. Lazarenko and L.V. Maznichenko (Department of Criminal Police for Juvenile Affairs, MoIA); V.P. Romanenko (Criminal Execution Inspection at the State Department of Penal Implementation); L.P. Shnerenko (State Social Service for Family, Children and Youth); I.B. Lavrovskaya (Supreme Court of Ukraine); Y.V. Machuzhak (Constitutional Court of Ukraine); O.A. Bulka (State Court Administration of Ukraine); Y.A. Lutsenko (Ukrainian Scientific and Methodological Centre of Practical Psychology and Social Work of MoES, APSU); A.E. Sanchenko (Institute of Legislation of the Verkhovna Rada of Ukraine); E.B. Pavlova (All-Ukrainian Foundation “Protection of Children’s Rights”); F.V. Hrytsenko (Ministry of Family, Youth and Sports); R. Koval (Charitable Organization “Ukrainian Centre for Common Ground”); V.M. Sanin (Bila Tserkva city district court); V.A. Prolygin (assistant to O.B. Feldman, Member of Parliament); O.V. Nagornyi (Union of Advocates of Ukraine) and other experts. They provided consultation, organizational support and assistance in organizing interviews with parents/guardians and children in different correctional facilities. Their kind assistance facilitated the work of the on-site interviewers.
SECTION 1.
METHODOLOGICAL BACKGROUND OF THE STUDY

Increasing difference in incomes, economic and social inequality and drug and alcohol abuse (especially among adolescents and young people from disadvantaged social groups) has led to a dramatic increase in the number of offences committed by juveniles in Ukraine. The lack of positive social role models, the loss or absence of family ties, child homelessness and neglect and a lack of social support and care for children and adolescents further worsen the situation. According to official statistics, as of mid-2007, 1,800 adolescents were living in correctional colonies; 1,500 children were detained in centres for pre-trial detention; and 9,000 juveniles had been given non-custodial sentences. Some 69 per cent of detained children have prior records of conflicts with the law.

To date, much has been done in Ukraine to implement various international legal regulations to protect the rights of juveniles. In particular, the laws ‘On Protection of Childhood’, ‘On Social Work with Children and Youth’, ‘On Prevention of Domestic Violence’, ‘On Bodies and Services for Juvenile Affairs and Special Institutions for Minors’ and ‘On Provision of Organizational and Legal Conditions for Social Protection of Orphaned Children and Children Deprived of Parental Care’ have been passed. Plans are to develop a system of court educators in the nation’s courts (the relevant regulation is to be approved by the Supreme Court of Ukraine, the Ministry of Justice and the Ministry of Education and Science of Ukraine). In Ukraine, courts designate the judges responsible for cases involving juvenile offenders, but provision of juveniles with the services of lawyers, especially in criminal cases (both in the pre-trial period and during the trial), remains problematic.

Relevant decrees of the Plenum of the Supreme Court of Ukraine have taken force, including ‘On Application of Legislation on Responsibility for the Involvement of Juveniles in Criminal and other Asocial Activities’ and ‘On the Practice of Court Application of Legislation in Cases of Offence by Juveniles’. The positive impact of these regulations on the development of juvenile justice in Ukraine can be observed in the increased criminal responsibility for the involvement of minors in crime; in provision of the right to protection at all stages of the criminal process; in the application of different approaches towards juveniles and adults during trial; in the greater attention towards preparation of social and psychological profiles of juvenile offenders; in an increased role for restorative justice; in stronger cooperation with NGOs, etc. All this is in full compliance with generally accepted international standards and modern global trends.

The President and the Verkhovna Rada of Ukraine have declared integration with European structures as one of the key goals of Ukraine’s internal and external policies. The key requirements to this goal – strengthening democracy and providing for the execution of all legal norms by Ukrainian institutions – are important preconditions for the introduction of juvenile justice in Ukraine. Moreover, the Committee on the Rights of the Child, in its evaluation of Ukraine’s situation
(CRC/C/15/Add.191, 9 October 2002), expressed concern regarding weaknesses in the area of the administration of juvenile justice in Ukraine. It cited:

a) The lack of specialised juvenile courts and judges (despite provisions for these institutions as approved by the national legislation) and the limited number of lawyers, social workers, educators and supervisors;

b) Lengthy periods between detention and the informing of families about the fact of detention; lengthy periods between detention and court hearings (72 hours); the long duration of pre-trial detention (up to 18 months);

c) Placement of children aged 11-18 years in pre-trial detention centres or reception centres under the jurisdiction of a special ministry; poor conditions in these and other facilities for children who have been deprived of their liberty;

d) Insufficient provision of education and social services in correctional and other facilities and a lack of social and psychological/rehabilitation services.

Based on these conclusions, the Committee on the Rights of the Child has made the following recommendations to the Government of Ukraine:

a) That it ensure full implementation of juvenile justice standards, in particular Articles 37, 40 and 39 of the Convention on the Rights of the Child; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines);

b) That it use detention (confinement), including pre-trial detention, only as a measure of last resort and for the shortest possible period and for no longer than established by the law;

c) That, according to Article 39, it introduce appropriate measures to promote rehabilitation and social reintegration of children in the juvenile justice system, including adequate education and preparation for fostering reintegration.

d) That it seek assistance from, among others, the Office of the High Commissioner for Human Rights, the UN Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF.

This project thus attempted to evaluate the current status of the implementation of the abovementioned recommendations and the need for further development of the juvenile justice system in Ukraine. The evaluation was carried out through analysis and comparison of current Ukrainian practices and normative and legal acts, in order to explore their compliance with international norms and standards and their need for further harmonisation with them. Bearing in mind that the ultimate goal of juvenile justice system reform is to bring the entire system and its components in line with the Convention on the Rights of the Child (CRC) and other relevant international standards in juvenile justice, the researchers tried to compare the current strengths and weaknesses of various system components with the strong and weak aspects of the system on the date on which the decision was made to reform it.

Based on these considerations, research took place from 25 March 2008 through 18 May 2008 in order to study expert opinions on the one hand and to
analyse the views of juvenile offenders and their parents/guardians on the other hand. The goal of this process was to obtain a comprehensive evaluation of current Ukrainian practices and legislation in the area of juvenile delinquency, and to compare them with international norms and standards. As a result, proposals were developed to improve current practices and normative/legal documents.

The main specific objectives of the study were identified accordingly:

- To analyse the current situation and the legal field in the following areas:
  a) prevention of juvenile delinquency;
  b) pre-trial and trial procedures;
  c) conditions and standards in different types of facilities for detention of juveniles and in centres and correctional schools;
  d) re-socialisation and social integration of children in conflict with the law – both those imprisoned and those given alternative sentences;
- To conduct comparative analysis of current practices, relevant laws, by-laws, regulatory and legal acts, methodologies and international norms and standards in the above-mentioned areas (prevention; pre-trial and trial procedures; conditions and standards of detention; re-socialisation and social integration of adolescents in conflict with the law);
- On the basis of expert evaluation, to develop recommendations on improving normative and legal documents and appropriate practices in the juvenile justice system, as well as to enhance intersectoral cooperation in this area.

The study used an expert survey, based on an in-depth interview methodology, as well as focus group interviews with parents/guardians whose children committed offences. It also incorporated study of life stories (case studies) of juvenile offenders who are serving sentences in specialised facilities.

It should be noted that similar studies on the protection of rights of juvenile offenders have been conducted in a number of other countries (Montenegro, Romania, Serbia, Tajikistan). Moreover, the situation analysis in many of these studies has been based on evaluations made by children in conflict with the law (Indonesia, Serbia, Paraguay, countries of Central America and South Asia). Information on these studies’ methodological principles and results, however, became available only upon preparation of the final report on the situation in Ukraine. This is why all methodologies and instruments for analysing current practices and legislation in Ukraine were developed by the project’s working group on the basis of the Terms of Reference obtained from the UNICEF Country Office in

4 Second Report of Paraguay to the CRC Committee, para. 1014.
5 Some results of this study were included in Juvenile Justice in South Asia, UNICEF, Kathmandu, 2006, but the search did not provide the expected results.
SOCIAL PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY

Ukraine, independent of research and practical developments in other countries in this field.

**Sampling methodology.** Surveys were conducted in eight oblasts of Ukraine (Lviv, Kharkiv, Donetsk, Zaporizhya, Sumy, Chernihiv, Kherson and Odessa) and in the city of Kyiv. Selection of regions and locations for interviews with experts, parents/guardians and children was governed by two factors:

- First, the spread of juvenile delinquency in the region;
- Second, the location of specialised institutions for juvenile offenders – correctional colonies, schools for social rehabilitation and vocational schools for social rehabilitation.

Since one of the main objectives of the study was to analyze the conditions under which adolescents stay in facilities for juvenile offenders of different types, surveying both staff members and inmates of these institutions was necessary. Staff members were interviewed as experts, while sentenced juveniles provided their life stories for analysis.

Guided by the Terms of Reference, the researchers planned to survey respondents in different facilities (colonies, schools, vocational schools) run by different government bodies (the State Department of Penal Implementation; the Ministry of Education and Science of Ukraine) in order to obtain well-balanced correlation between different categories (and subgroups) of respondents. This would allow further comparison of their answers. In selecting specialised correctional facilities in which to conduct interviews with children and administrators/responsible persons (as experts), we also considered the gender aspect. In other words, every category of institution (e.g., correctional colonies for juveniles, schools and vocational schools for social rehabilitation) has facilities for girls. It was assumed that serving a sentence and preparing for re-socialisation and integration into society is procedurally different for girls that it is for boys, so surveys in these ‘female’ institutions were a key condition for sampling.

As a result, we interviewed 38 experts, 35 parents/guardians and 17 children in the regions. Additionally, 17 national-level experts were interviewed in Kyiv, which increased the overall number of surveyed experts to 55. Table 1.1 provides a distribution of all respondents by regions and by type of facility; Table 1.2 contains the list of institutions whose representatives were questioned as experts in the city of Kyiv.

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6 For example, they were developed in the absence of the statistical comparative summaries in the publication Lost in the Justice System – Children in conflict with the law in Eastern Europe and Central Asia. – UNICEF, 2008. – 63. p.
Table 1.1. Distribution of respondents by region and type of covered institution

<table>
<thead>
<tr>
<th>Regions and institutions</th>
<th>Expert interviews (number of persons)</th>
<th>Focus groups (parents/guardians of juvenile offenders)</th>
<th>Case-study (juveniles in conflict with the law)</th>
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<td>Oblast Criminal Execution Inspection</td>
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<td>Oblast department of justice</td>
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<td><strong>Total, Lviv oblast:</strong></td>
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</tbody>
</table>
SOCIAL PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY

Table 1.2. Institutions in the city of Kyiv and in Kyiv oblast where expert interviews were conducted

<table>
<thead>
<tr>
<th>#</th>
<th>Name of the institution/body</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Verkhovna Rada of Ukraine (assistants to Members of Parliament)</td>
</tr>
<tr>
<td>2</td>
<td>Ombudsman of Ukraine (assistant on ‘child’ issues)</td>
</tr>
<tr>
<td>3</td>
<td>Institute of Legislation of the Verkhovna Rada of Ukraine</td>
</tr>
<tr>
<td>4</td>
<td>The Ministry of Education and Science of Ukraine</td>
</tr>
<tr>
<td>5</td>
<td>The Ministry of Family, Youth and Sports of Ukraine</td>
</tr>
<tr>
<td>6</td>
<td>Department of Criminal Police for Juvenile Affairs at the Ministry of Internal Affairs of Ukraine</td>
</tr>
<tr>
<td>7</td>
<td>The State Department of Penal Implementation</td>
</tr>
<tr>
<td>8</td>
<td>Criminal Execution Inspection at the State Department of Penal Implementation</td>
</tr>
<tr>
<td>9</td>
<td>Supreme Court of Ukraine</td>
</tr>
<tr>
<td>10</td>
<td>Constitutional Court of Ukraine</td>
</tr>
<tr>
<td>11</td>
<td>The State Court Administration of Ukraine</td>
</tr>
<tr>
<td>12</td>
<td>The State Social Service for Family, Children and Youth</td>
</tr>
<tr>
<td>13</td>
<td>Ukrainian Scientific and Methodological Centre of Practical Psychology and Social Work of MoES, APSU</td>
</tr>
<tr>
<td>14</td>
<td>Union of Advocates of Ukraine</td>
</tr>
<tr>
<td>15</td>
<td>Bila Tserkva City district court</td>
</tr>
<tr>
<td>16</td>
<td>Charitable Organization “Ukrainian Centre for Common Ground”</td>
</tr>
<tr>
<td>17</td>
<td>All-Ukrainian Foundation “Protection of Children’s Rights”</td>
</tr>
</tbody>
</table>

Peculiarities of interviewing experts. The expert interviewing process used an in-depth interview methodology, with voice recording and further transcription of conversations. The guide for the expert interviews is provided in Annex 1. It is wideranging because it was developed to survey different categories of experts who work in various areas and institutions. Given the terms and limits of the study, it was not possible to develop individual guides for criminal police representatives, penal system staffers, representatives of NGOs, social workers and so on. Moreover, experts vary in terms of their profession and their experience of work with juvenile offenders. That is why development of a comprehensive interviewing guide was the only correct approach, providing for a situation in which every expert could provide answers only to questions directly related to his/her
work or to questions the expert felt competent to answer (including questions about juvenile offences, pre-trial and court procedures, detention of juveniles in specialised facilities, juvenile re-socialisation and reintegration, protection of children’s rights, etc).

The average in-depth interview lasted one hour 20 minutes, with a duration ranging from 40 minutes to two hours. The duration depended on the institution and on the respondent’s official position, experience in working with juvenile offenders and temperament.

Key challenges of the expert interview field stage. Taking into account the specific nature of the project, access to the majority of institutions and their staff was granted only upon presentation of official letters of inquiry bearing a brief description of the project and the nature of the requested information. The most successful communications were established with organizations that had already participated in other projects in the area of children’s rights protection and juvenile justice system development. These included the State Department of Penal Implementation, the Ministry of Education and Science, the Department of Criminal Police for Juvenile Affairs of the MoIA of Ukraine, the State Social Service for Family, Children and Youth and various NGOs. At the same time, some regional and local representatives of these government bodies were extremely reluctant to conduct interviews, even though we were “armed” with letters of support from their Kyiv offices.

Since the government institutions that were under study carry out their work in different social spheres, access to oblast or local-level institutions was obtained via vertical approvals or instructions. The biggest problem was communication with staff members of oblast departments of justice and oblast/city courts: almost all of them refused to talk because of large caseloads, personal incompetence in the area of protection of children’s rights and lack of experience with children in conflict with the law. As a result, changes were made to the planned sample of regional/local institutions: instead of the staff of oblast departments of justice and oblast courts, we interviewed staff members of services for children, child-care bodies and social services of different levels (oblast, rayon, city), oblast departments of criminal police for juvenile affairs, etc.

Expert interviews in the regions were further complicated by experts’ busy schedules. This is why our talks with some experts were postponed several times, thus extending the duration of the field stage of the study. Ultimately, if an expert was truly competent in the subject and interested in his/her ideas and views being included in the final conclusions and recommendations, we managed to conduct the interview. In other cases, when the staff member felt incompetent or unsure about his/her evaluations, we had to cancel the interview.

Peculiarities of focus group interviews with parents/guardians of children in conflict with the law. We organized five focus groups with parents or guardians of children who committed offences. During these focus groups we surveyed 35 persons in the cities of Lviv, Kharkiv, Donetsk, Melitopol and Kherson. The guide for focus group interviews is in Annex 2. The interviews were recorded and later transcribed and analysed.

Local moderators using contact information provided by local NGOs, criminal police for juvenile affairs and social services selected the parents/guardians
Key challenges of the focus group field stage. Focus group interviews with parents or guardians of children in conflict with the law turned out to be the most challenging element of the project. A low level of trust in government institutions (including law enforcement agencies) revealed itself strongly. Both parents (guardians) and children who committed offences refused to participate in focus group discussions, fearing additional problems and increased punishment. At the same time they agreed to answer all questions in the form of individual in-depth interviews.

Several initial focus groups (in Kherson and Lviv oblasts) came to nothing because only three persons showed up, with just one or two of them ready to communicate. Subsequent focus groups were conducted only upon preliminary arrangements with centres of social services and the criminal police for juvenile affairs, which helped to engage parents or guardians of registered children. A similar situation was observed in Melitopol, where focus groups were conducted only with the assistance of relevant institutions.

It is interesting to note that parents’ distrust towards organizers and moderators of focus groups disappeared after the first 30 minutes of discussions. Moreover, following the meetings, many parents suggested that such meetings take place more often – both for parents of children in conflict with the law and for juvenile offenders themselves.

Peculiarities of the study of the life stories (case studies) of children in conflict with the law who are serving sentences in specialised institutions. Even though according to the terms of reference plans were to study the life stories of 15 children in conflict with the law, in reality we interviewed 17 juvenile offenders who are serving sentences in specialised institutions. These include eight children (including two girls) who are living in colonies for juvenile offenders; six children in schools for social rehabilitation; and three children (two girls) who are attending vocational schools for social rehabilitation.

Study of these children’s life stories was based on the in-depth interview method. The relevant guide is in Annex 3. All questions in this guide were preliminarily agreed with the Ministry of Education and Science of Ukraine and the State Department of Penal Implementation, as well as with the administrations of relevant institutions (colonies, schools and vocational schools for social rehabilitation). Communication with children occurred on-site – in their detention facilities, upon authorisation from the management and with the children’s personal consent. All conversations were recorded, transcribed and analysed. We should emphasise that no delays or problems occurred during this stage of fieldwork. Moreover, many children voluntarily demonstrated the territory and premises where they were serving their sentences; they also openly talked about their achievements in education and their cultural activities.

The project findings cover many issues related to the condition and dynamics of the development of the juvenile delinquency prevention system and associated with the establishment of the juvenile justice system in Ukraine. Of course, it is impossible to cover all aspects of this complex process within the framework of just one project, especially given financial and time limitations. This is why the
According to researchers, systematised description and analysis of the collected materials will be useful for professionals who directly work with juvenile offenders and who (for objective reasons) cannot assess the situation from outside. Many experts complain about the absence of links between various actors in juvenile justice, and in this case the view of an independent researcher may serve as an important component.
SECTION 2.
CURRENT TRENDS IN JUVENILE DELINQUENCY AND SOCIETY’S RESPONSE

2.1. CONDITION AND DYNAMICS OF CHANGES IN JUVENILE DELINQUENCY IN UKRAINE

The current trends in juvenile delinquency in Ukraine are not unique: they are typical for the majority of countries of Southeast Europe and the former Soviet republics (see Table 2.1).

The following figures are based on the TransMONEE database 2007, but these indicators (e.g., the number of crimes/offences per 100,000 adult citizens or children) are still not widely used in Ukraine. The reason for this is the significant ‘scattering’ of statistical data among various ministries and sectors, as well as the absence of a single national database on juvenile delinquency.

If we consider what are for Ukraine more traditional quantitative indicators for children who have committed offences (as registered by units of the criminal police for juvenile affairs at MoIA), for children with initiated criminal cases (per data of the Supreme Court of Ukraine) and for children who were given custodial sentences for a certain period of time (per data of the State Department of Penal Implementation), we find that they all reflect a reduction in offences committed by juveniles in the country (see Diagrams 2.1; 2.2; 2.3, and Annex 4).

As for the qualitative characteristics of the criminal offences committed by juveniles in present-day Ukraine, thefts, robberies, brigandage and bodily injury (see Table 2.2) predominate. At the same time, based on the evidence and on court decisions, crimes related to illicit drug circulation (see Table 2.3) and acts of violence are quite widespread.

At the beginning of 2008, 30,402 juveniles were registered by the criminal police for juvenile affairs in the prophylaxis\(^7\) and prevention\(^8\) registers; of them, over 72 per cent attend educational facilities (schools, lyceums, gymnasiums, vocational schools, colleges and universities); 4 per cent work, and over 21 per cent neither work nor study. The majority of juveniles registered by the criminal police are boys; girls make up only 9 per cent of all registered children.

It is interesting to note that the majority of juveniles registered with law enforcement agencies come from full families and have both parents. Of all registered children (30,402 persons), 29 per cent (8,844 persons) have one parent; 4 per cent (1,115 persons) do not have parents; and 5 per cent (1,497 persons) live in boarding schools and children’s homes.

As for the age distribution of juveniles registered by the criminal police for juvenile affairs, it can be seen in Diagram 2.5. The majority of juvenile offences registered by law enforcement agencies are committed by older juveniles – from

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\(^7\) Juvenile is registered with the unit of the criminal police for juvenile affairs; the case is initiated.

\(^8\) Juvenile is registered without a case being initiated.
### Table 2.1. Crime rates in the countries of Southeast Europe and the former Soviet states

<table>
<thead>
<tr>
<th>Country</th>
<th>Overall crime rates *</th>
<th>Level of juvenile delinquency **</th>
<th>Ratio of crimes committed by juveniles themselves or with their participation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southeast Europe</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>2,452</td>
<td>1,828</td>
<td>1,771</td>
</tr>
<tr>
<td>Romania</td>
<td>1,309</td>
<td>1,934</td>
<td>1,704</td>
</tr>
<tr>
<td>Albania</td>
<td>1,309</td>
<td>1,576</td>
<td>604</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>1,213</td>
<td>1,016</td>
<td>1,100</td>
</tr>
<tr>
<td>Croatia</td>
<td>2,179</td>
<td>1,178</td>
<td>2,005</td>
</tr>
<tr>
<td>Macedonia</td>
<td>1,042</td>
<td>798</td>
<td>1,111</td>
</tr>
<tr>
<td>Former Soviet states</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belarus</td>
<td>1,395</td>
<td>1,355</td>
<td>1,309</td>
</tr>
<tr>
<td>Moldova</td>
<td>1,647</td>
<td>1,576</td>
<td>1,035</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>1,123</td>
<td>1,040</td>
<td>1,123</td>
</tr>
<tr>
<td>Ukraine</td>
<td>1,042</td>
<td>1,178</td>
<td>2,005</td>
</tr>
<tr>
<td>Armenia</td>
<td>1,042</td>
<td>1,178</td>
<td>2,005</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>35</td>
<td>350</td>
<td>340</td>
</tr>
<tr>
<td>Georgia</td>
<td>35</td>
<td>350</td>
<td>340</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>35</td>
<td>350</td>
<td>340</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>1,899</td>
<td>2,95</td>
<td>234</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>1,899</td>
<td>2,95</td>
<td>234</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>1,899</td>
<td>2,95</td>
<td>234</td>
</tr>
<tr>
<td>Total</td>
<td>35</td>
<td>350</td>
<td>340</td>
</tr>
</tbody>
</table>

**Notes:**
- * Number of crimes per 100,000 citizens
- ** Number of crimes committed by juveniles per 100,000 citizens under 18 years of age
- *** Ratio of crimes committed by juveniles themselves or with their participation

Diagram 2.1. Dynamics of offences committed by juveniles or committed with their participation, 2004-2007.

Source: Department of Criminal Police for Juvenile Affairs, MoIA of Ukraine, 2008, unpublished

Diagram 2.2. Dynamics of the number of sentenced persons who committed crimes as juveniles

Source: Supreme Court of Ukraine, 2008, unpublished

Diagram 2.3. Dynamics of the number of sentenced juveniles detained in specialised correctional colonies (2000-2007)

Source: Data of the State Department of Penal Implementation, 2008, unpublished
## Table 2.2

Data on general crimes committed in 2007 by juveniles or with their involvement, criminal cases with completed investigations (regional distribution)

<table>
<thead>
<tr>
<th>Crime</th>
<th>AR Crimea</th>
<th>AR Vinnytsya</th>
<th>AR Volyn</th>
<th>AR Dnipropetrovsk</th>
<th>AR Donetsk</th>
<th>AR Luhansk</th>
<th>AR Chernihiv</th>
<th>AR Chernivtsi</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intentional homicide</td>
<td>6</td>
<td>7</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Intentional grave bodily injury</td>
<td>21</td>
<td>18</td>
<td>15</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Intentional bodily injury of medium gravity</td>
<td>149</td>
<td>86</td>
<td>55</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Intentional bodily injury of light intensity</td>
<td>32</td>
<td>16</td>
<td>17</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Rape (and attempted rape)</td>
<td>119</td>
<td>66</td>
<td>40</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Robbery</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Brigandage</td>
<td>32</td>
<td>15</td>
<td>14</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Fraud</td>
<td>15</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Extortion</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Theft of private property</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Theft of state property</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: data of Department of Criminal Police for Juvenile Affairs of MoIA, 2008, unpublished
### Table 2.3. Types of penal sanctions against juveniles (persons by sentence given)

<table>
<thead>
<tr>
<th>Category</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deprived of liberty for a certain term - total</td>
<td>3,626</td>
<td>2,697</td>
<td>2,387</td>
</tr>
<tr>
<td>Including</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- one full year</td>
<td>163</td>
<td>118</td>
<td>104</td>
</tr>
<tr>
<td>- from 1 to 2 years</td>
<td>344</td>
<td>225</td>
<td>196</td>
</tr>
<tr>
<td>- from 2 to 5 years</td>
<td>2,511</td>
<td>1,810</td>
<td>1,578</td>
</tr>
<tr>
<td>- from 5 to 10 years</td>
<td>570</td>
<td>493</td>
<td>405</td>
</tr>
<tr>
<td>- from 10 to 15 years</td>
<td>38</td>
<td>51</td>
<td>104</td>
</tr>
<tr>
<td>Detention</td>
<td>62</td>
<td>65</td>
<td>41</td>
</tr>
<tr>
<td>Correctional works</td>
<td>25</td>
<td>21</td>
<td>13</td>
</tr>
<tr>
<td>Public works</td>
<td>265</td>
<td>211</td>
<td>170</td>
</tr>
<tr>
<td>Penalty</td>
<td>296</td>
<td>447</td>
<td>369</td>
</tr>
<tr>
<td>Release on probation (Article 75 of CCP)</td>
<td>12,691</td>
<td>10,194</td>
<td>7,797</td>
</tr>
<tr>
<td>Release as a result of amnesty and on other grounds</td>
<td>588</td>
<td>300</td>
<td>388</td>
</tr>
<tr>
<td>Acquitted persons</td>
<td>14</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>Application of compulsory measures of an educational nature</td>
<td>3,881</td>
<td>2,741</td>
<td>2,248</td>
</tr>
<tr>
<td>Including</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 11-14 years of age</td>
<td>2,619</td>
<td>1,508</td>
<td>1,137</td>
</tr>
<tr>
<td>- 14-18 years of age</td>
<td>1,262</td>
<td>1,233</td>
<td>1,111</td>
</tr>
</tbody>
</table>

Types of compulsory measures of an educational nature

<table>
<thead>
<tr>
<th>Measure</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warning</td>
<td>412</td>
<td>273</td>
<td>214</td>
</tr>
<tr>
<td>Restriction on behaviour</td>
<td>65</td>
<td>59</td>
<td>42</td>
</tr>
<tr>
<td>Supervision by parents (clause 3, part 2, Article 105 of CCP) - total</td>
<td>2,987</td>
<td>2,165</td>
<td>1,773</td>
</tr>
</tbody>
</table>

Including for offences:

<table>
<thead>
<tr>
<th>Offences</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crimes against life and health of persons</td>
<td>182</td>
<td>171</td>
<td>154</td>
</tr>
<tr>
<td>Including</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intentional homicide</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Intentional grave bodily injury</td>
<td>10</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Crimes against sexual freedom and integrity</td>
<td>24</td>
<td>20</td>
<td>23</td>
</tr>
<tr>
<td>Crimes against property</td>
<td>2,264</td>
<td>1,477</td>
<td>1,101</td>
</tr>
<tr>
<td>Crimes against public safety</td>
<td>58</td>
<td>72</td>
<td>44</td>
</tr>
<tr>
<td>Crimes against road safety and exploitation of vehicles</td>
<td>104</td>
<td>91</td>
<td>104</td>
</tr>
<tr>
<td>Crimes against public order and morale</td>
<td>173</td>
<td>161</td>
<td>167</td>
</tr>
<tr>
<td>Crimes in the area of illicit drug circulation</td>
<td>128</td>
<td>101</td>
<td>118</td>
</tr>
<tr>
<td>Compulsory compensation of property damages</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Transfer of a juvenile offender to specialised educational/correctional institution for juveniles</td>
<td>416</td>
<td>243</td>
<td>218</td>
</tr>
</tbody>
</table>

Including:

<table>
<thead>
<tr>
<th>Type</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools</td>
<td>358</td>
<td>197</td>
<td>172</td>
</tr>
<tr>
<td>Vocational schools</td>
<td>58</td>
<td>46</td>
<td>46</td>
</tr>
</tbody>
</table>

Source: data of the Supreme Court of Ukraine, 2008, unpublished
14 to 18 years of age. Their rate in the overall number of juveniles registered by the criminal police for juvenile affairs exceeds 79 per cent. If we consider the prophylaxis register for juveniles, the share of juveniles aged 14-18 is even higher – 88 per cent (see Table 2.4).

Diagram 2.5. Age distribution of juveniles registered by the criminal police for juvenile affairs at the beginning of 2008

Source: data of the Department of Criminal Police for Juvenile Affairs of MoIA, 2008, unpublished

As of the end of 2007, there were about 8 million people under 18 years of age in Ukraine. This and other statistical figures need to be verified with the State Statistics Committee of Ukraine. In 2007 pre-trial inquiry bodies completed investigations of 11,061 cases involving juveniles, which was 12.7 per cent less than in 2006. In 2007 courts convicted 11,170 persons who committed offences as juveniles, which was 19.9 per cent less than in 2006. High juvenile offence levels reflect the inadequate organization of prevention work among young people.

In 2007 2,387 juveniles were sentenced to deprivation of liberty for various periods for criminal offences; 7,797 were released on probation; 2,248 were sentenced to compulsory measures of an educational nature. The most widespread type of compulsory measure of an educational nature that was applied to juvenile offenders is transfer to parental supervision. In 2007, 1,773 juveniles who committed different kinds of criminal offences were transferred to the supervision of their parents. At the same time, a situation analysis regarding juvenile offences shows that parents do not always understand their social responsibility for the education and behaviour of their children. In 2007, 28,676 parents or persons substituting for them were brought to administrative responsibility for non-fulfilment of their parental duties, for a 36.9 per cent rise over the statistics for 2006.

Official data and interviews show that the age peculiarities of children considerably affect the motivation of their deeds. Such peculiarities include: insufficient life experience; disposition towards copying and imitating acts; the influence of the environment (especially the influence of adults); the desire to demonstrate one’s own independence and to escape the control and care of parents or educators; specific interpretations of such notions as courage, honesty and friendship; wrong assessments of specific life situations; and lack of development or full absence of critical attitudes towards one’s own or other people’s deeds. Investigators and judges responsible for administration of juvenile cases need to take into account these age peculiarities of adolescents. The following factors
Table 2.4. Data on juveniles in prophylaxis registers of the criminal police for juvenile affairs of MoIA of Ukraine at the end of 2007

<table>
<thead>
<tr>
<th>Category</th>
<th>Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of persons on the prophylaxis registers (with initiated cases)</td>
<td>10,787</td>
</tr>
<tr>
<td>Including:</td>
<td></td>
</tr>
<tr>
<td>Released from penitentiary facilities</td>
<td>259</td>
</tr>
<tr>
<td>Sentenced to public works</td>
<td>30</td>
</tr>
<tr>
<td>Sentenced to correctional works</td>
<td>36</td>
</tr>
<tr>
<td>Sentenced to detention</td>
<td>65</td>
</tr>
<tr>
<td>Sentenced to penalty</td>
<td>74</td>
</tr>
<tr>
<td>Released on probation</td>
<td>4,911</td>
</tr>
<tr>
<td>Released on condition of compulsory measures of an educational nature</td>
<td>1,085</td>
</tr>
<tr>
<td>Including persons who committed socially dangerous acts prior to the age of criminal responsibility</td>
<td>403</td>
</tr>
<tr>
<td>Released on health conditions (illness)</td>
<td>3</td>
</tr>
<tr>
<td>Released on the basis of the Law of Ukraine “On Amnesty”</td>
<td>708</td>
</tr>
<tr>
<td>Released on the basis of an Act of Pardon</td>
<td>1</td>
</tr>
<tr>
<td>Released on parole</td>
<td>139</td>
</tr>
<tr>
<td>Released from criminal responsibility and sentence because of expiration of period of limitation</td>
<td>10</td>
</tr>
<tr>
<td>Accused of a crime and not detained during pre-trial inquiry</td>
<td>3,156</td>
</tr>
<tr>
<td>Released from specialised educational/correctional institutions</td>
<td>134</td>
</tr>
<tr>
<td>Persons who systematically leave their families or specialised institutions</td>
<td>915</td>
</tr>
<tr>
<td>Persons disposed to narcotic drugs, psychotropic substances or their analogues</td>
<td>1,496</td>
</tr>
<tr>
<td>Including persons with drug addiction</td>
<td>255</td>
</tr>
<tr>
<td>Persons disposed towards the use of intoxicating substances</td>
<td>738</td>
</tr>
<tr>
<td>Including persons with addiction to inhalants</td>
<td>230</td>
</tr>
<tr>
<td>Persons disposed to alcohol</td>
<td>1,301</td>
</tr>
<tr>
<td>Students</td>
<td>7,875</td>
</tr>
<tr>
<td>Including:</td>
<td></td>
</tr>
<tr>
<td>Students of schools of general education (schools, lyceums, gymnasiuems)</td>
<td>5,458</td>
</tr>
<tr>
<td>Students of vocational and technical schools (working professions)</td>
<td>2,227</td>
</tr>
<tr>
<td>University students, cadets, etc.</td>
<td>190</td>
</tr>
<tr>
<td>Employed</td>
<td>574</td>
</tr>
<tr>
<td>Neither study nor work</td>
<td>2,580</td>
</tr>
<tr>
<td>Girls</td>
<td>1,104</td>
</tr>
<tr>
<td>Persons with one parent</td>
<td>3,805</td>
</tr>
<tr>
<td>Persons without parents</td>
<td>495</td>
</tr>
<tr>
<td>Persons who live in boarding schools and children's homes</td>
<td>540</td>
</tr>
<tr>
<td>Under 11 years of age</td>
<td>114</td>
</tr>
<tr>
<td>11-14 years of age</td>
<td>1,079</td>
</tr>
<tr>
<td>14-16 years of age</td>
<td>3,909</td>
</tr>
<tr>
<td>16-18 years of age</td>
<td>5,685</td>
</tr>
</tbody>
</table>

Source: data of the Department of Criminal Police for Juvenile Affairs of MoIA, 2008, unpublished
also contribute to juvenile crime: lack of parental control; the absence of prevention measures in work with ‘problem’ adolescents; idleness and non-involvement; alcohol and drug use; problems within families; parental unemployment and lack of money for supporting children.

The majority of experts believe that Ukrainian society’s response to the spread of juvenile delinquency and towards modern trends in juvenile justice system development is very weak. This is primarily explained by a lack of information on these issues. In the last two years government bodies have strengthened their focus on juvenile crime and the need to address it, but in society itself we see discussion rather than practical action. Quite often NGOs initiate the implementation of certain juvenile justice system elements. ‘It is possible to say that society is positively disposed towards development, but people still lack information about this issue. So it’s hard for them to determine their attitude. Moreover, the legislative branch is poorly informed about juvenile justice issues and needs, and that’s the main barrier. Logically, it won’t do us any harm. If everyone knew, everyone would support it’. This is a fragment from one expert’s statement about the peculiarities of modern Ukrainian society’s response to the problem of juvenile delinquency.

Certain efforts in juvenile justice are being made, but they still lack system and regularity, which accounts for the vagueness that characterises the expert evaluations. The country also lacks mechanisms for its realisation. The declaration of the ‘Year of the Child’ in Ukraine, a number of drafts of regulatory and legal acts on the development of juvenile justice and mediation and a Concept on the Establishment of the Probation Service in Ukraine approved by the President – these are signs of support for specific juvenile justice elements at the national level. Right now, however, we can talk only about trends and initiatives, which still need to be formalised if there is to be a potent juvenile justice system.

2.2. LEGISLATIVE REGULATION OF NORMS THAT LEGITIMISE JUVENILE JUSTICE ADMINISTRATION AND OBSERVANCE OF THE RIGHTS OF JUVENILES

Current Ukrainian legislation does not establish a unified normative and legal framework that would fully regulate juvenile justice and observance of the rights of children. However, certain norms do exist that regulate the peculiarities of administration of justice for persons under 18 years of age and state policy on social protection of children with deviant behaviour. They also regulate certain issues directly or indirectly related to juvenile justice. Before analysing these regulations, let us describe the peculiarities of the general legal context of the administration of justice and human rights protection in Ukraine, as well as Ukraine’s political and legal divisions. We require a better understanding of the horizontal and vertical relations between different bodies and institutions in juvenile justice.

Ukraine’s legal system is based on continental law traditions. The Constitution of Ukraine has the highest legal force in the country. It was adopted on 28 June 1996, guaranteeing basic human rights and establishing the principle of division of power into three branches – legislative, executive and judicial – as well as guaranteeing the independence of the judiciary. International treaties ratified by the Ukrainian
Parliament (the Verkhovna Rada of Ukraine, or VRU) prevail over national laws, while the latter have higher legal force than Presidential bylaws, the Cabinet of Ministers of Ukraine (CMU) and other government bodies.

Judicial precedent is not officially recognised as a source of law, but some acts are of a quasi-precedent nature. In recent years a number of new important documents were passed, including the Criminal Code, Civil Code, Economic Code, Code of Civil Procedure, Code of Administrative Judicial Procedure and Criminal Execution Code. Numerous changes were also introduced in the current Code of Criminal Procedure, which has been in force since 1990, even though it is believed to be deficient in terms of full compliance with democratic standards of justice.

At the same time legislation in the area of criminal procedure underwent deep changes in recent years to approximate it to the requirements of the Convention on Human Rights and Fundamental Freedoms. In particular, the changes concern provision of rights of participants in court procedure; ensuring greater adversity during trials and the rights of victims; removal of accusation evasions from court work; greater judicial control over violation (limitation) of the constitutional rights and freedoms of a person during pre-trial prosecution in criminal cases; court appeals against the decisions of organs of inquiry, investigators and prosecutors.

However, the current system of criminal justice still falls short of adequately serving societal relations in Ukraine. As the Concept of the Reformation of Criminal Justice in Ukraine states, ‘the system of criminal justice is too cumbersome, internally discordant, not always evidence-based and too complicated.’ Lawyers generally characterise Ukraine’s legal base as a system that lacks stability. As a result, legal acts undergo changes without addressing present contradictions and inconsistencies between the laws in force.

As a result, numerous changes in the structure of criminal justice bodies lack system. They are generally aimed at satisfying sectoral interests (primarily those of the law enforcement agencies). Traditionally, these agencies in Ukraine include internal affairs units, the Security Service of Ukraine (SBU), the State Border Guard Service of Ukraine, the tax police and other structures authorised to conduct inquiry and investigation and to apply administrative sanctions. Each of these agencies has units or departments at the oblast, rayon and local levels. Ukraine is a unitary state with administrative division into 24 oblasts, the Autonomous

Republic of Crimea and the cities of Kyiv and Sevastopol; each region is further divided into rayons and cities.

The Constitution of Ukraine establishes a republican form of governance with elements of both presidential and parliamentarian models. The President of Ukraine is at the top of the vertical of powers: he is the Head of State and the Guarantor of state sovereignty, the observance of the Constitution and human rights. A single-chamber parliament – the Verkhovna Rada – is the only body of legislative power, and consists of 450 people's deputies. The Cabinet of Ministers of Ukraine is the highest body in the system of executive power. It reports to the President, and is under the control of and accountable to the Parliament. It consists of the Prime Minister, appointed by the President upon the approval of the VRU, and ministers appointed by the President. In December 2004 certain changes were introduced to the Constitution of Ukraine\(^{15}\) that strengthened the role of the VRU. The Parliament received the power to appoint and dismiss the Prime Minister and the majority of other ministers. This also weakened the authority of the President.

Despite of having a quite traditional (for the modern world) government vertical structure, the system of law enforcement agencies, as we mentioned above, was established and continues to function as a ‘mechanism of prosecution and repression that has not been transformed into an institution for the protection and restoration of violated rights’.\(^{16}\) According to the new Concept of the Reformation of Criminal Justice in Ukraine, relevant reforms will be based on centuries-old national traditions of law building and of the judiciary; on time-tested and practically justified provisions of domestic law; on progressive legal institution systems of European Union member states; and on norms of international law.

Ukraine became a member of the Council of Europe back in 1995; on 11 September 1997 Ukraine ratified the European Convention on Human Rights and Fundamental Freedoms, recognising the jurisdiction of the European Court of Human Rights in Strasbourg. The Constitution recognises the right of every person to appeal for protection of his/her rights to international legal protection mechanisms. However, no information is available about appeals of Ukrainian citizens to the European Court of Human Rights regarding protection of children’s rights. This does not mean that no violations of this kind have taken place in the country, but merely that we currently have no data on this issue.

There currently exist a number of legislative and regulatory documents that legitimise the administration of juvenile justice and observance of the rights of juveniles. First of all, there is Section XV, ‘Peculiarities of Criminal Responsibility and Punishment of Juveniles’, of the Criminal Code of Ukraine; Section VIII, ‘Administration of Cases for Crimes Committed by Juveniles’ of the Code of Criminal Procedure of Ukraine; and other regulations that help to ensure additional guarantees for the protection of juveniles as participants in the criminal process. State policy regarding the social protection of children with deviant behaviour is based on the provisions of the laws of Ukraine ‘On Institutions and Services for Juvenile

\(^{15}\) ‘Vidomosti Verkhovnoi Rady Ukrainy’, 2005. - # 2. – p. 44.


The President of Ukraine periodically issues various decrees to address particular ‘children’s’ issues. One of the most recent documents of this kind is the Decree of the President of Ukraine No. 411/2008 ‘On Measures to Ensure Protection of the Rights and Legal Interests of Children’, issued on 5 May 2008. This document ordered the Ministry of Justice of Ukraine to develop a draft National Programme for Juvenile Justice Development during the second half of 2008.

Another document of this kind is the Decree of the President of Ukraine No. 311/2008 of 8 April 2008 ‘On the Decision of the Security and Defence Council of Ukraine of 15 February 2008 “On the Course of the Reformation of the Criminal Justice System and Law Enforcement Agencies”’. This document discusses juvenile justice, probation and restorative justice. In particular, it envisages the establishment of a Probation Service under the jurisdiction of the Ministry of Justice of Ukraine.

Other decrees of the President of Ukraine concerning protection of children’s rights include Decree No. 1068 of 11 July 2005 ‘On Immediate Measures for the Protection of the Rights of Children’ (introducing annual Presidential meetings about the condition of children in Ukraine) and Decree No. 276 of 28 March 2008 ‘On Additional Measures for Provision of the Rights and Freedoms of Humans and Citizen, on Public Order and the Intensification of the Fight Against Crime’.

In 2006 the Cabinet of Ministers of Ukraine approved the Concept of the Development of the National Programme ‘National Action Plan on the Implementation of the UN Convention on the Rights of the Child’ until 2016. Later the CMU submitted the draft National Programme to the Verkhovna Rada for consideration and approval. In addition, in 2006 the Comprehensive Programme on Prevention of Offences for 2007-2009 was adopted. Its goal is ‘to prevent conditions that would contribute to delinquency; to improve methods of their prevention; to ensure protection of the constitutional rights and freedoms of individuals on the basis of clearly defined priorities; to create conditions for effective legal and education work among the public and for gradual intensification of the efforts of law enforcement agencies, central and local executive bodies, the Council of Ministers of Autonomous Republic of Crimea and the public in this area’. In particular, the Programme’s measures include some for the prevention of delinquency among adolescents.

Section 2, ‘A Fair, Unbiased and Affordable Judiciary’ of Resolution of the CMU No. 14 of 16 January 2008 ‘On Approval of the Programme of Actions of the Cabinet of Ministers of Ukraine “Ukrainian Breakthrough: for People, not for Politicians”’ recognised the need to create a juvenile justice system in Ukraine, calling it a necessary precondition for the reform of the national justice system.\(^{18}\)


2.3. CHANGES AT THE LEVEL OF LEGISLATIVE DISCOURSE AND IN THE SENTENCING AND REHABILITATION OF JUVENILE OFFENDERS

In 2005 the participants in an all-Ukrainian scientific and practical conference adopted the ‘Concept of creation and development of the juvenile justice system in Ukraine’, but no efforts were made to promote it at the national level for quite a long time. The draft Concept can be found on the SCU website even today, but meetings of the intersectoral working group on juvenile justice that was established at the SCU are no longer being held. The ideas of developing an effective juvenile justice system and of more proactive application of reconciliation/mediation procedures was not adequately reflected in the Concept of Reformation of the Criminal Justice of Ukraine until mid-2008. In response to Presidential Decree No 311/2008 regarding the Concept of Reformation of the Criminal Justice System (of 8 April 2008), the Ministry of Justice set up a working group on the development of a draft National Programme on Juvenile Justice (by Order of the Ministry of Justice No. 919/7 issued on 25 June 2008). This working group has started its activity.

In speaking about changes at the level of legislative discourse and in the current practices for sentencing juvenile offenders, we should note that the majority of these relate to changes in criminal justice and the work of law enforcement agencies. For example, there are major discussions about introducing restorative justice and probation procedures. These, however, generate additional questions that need to be answered.

In 2007 the Ministry of Justice of Ukraine prepared the draft laws ‘On Mediation (Reconciliation)’ and ‘On Introduction of Changes to Some Legislative Documents of Ukraine in the Procedure of Mediation (Reconciliation)’. They were later submitted for public discussion and intersectoral conditioning (on 8 February 2008). These documents have been finalised and submitted to the CMU. It is expected that these laws will introduce mediation (reconciliation) in criminal, civil and economic law and ensure legislative regulation of the work of non-governmental organizations that implement mediation programmes.

For quite a while there were discussions about probation for juvenile offenders, particularly in the context of alternative sentences. At the same time, the Concept of Reformation of Criminal Justice in Ukraine, approved by Presidential Decree No. 311/2008 as of 8 April 2008 (‘On the Decision of the Security and Defence Council of Ukraine of 15 February 2008 “On the Course of the Reformation of the Criminal Justice System and Law Enforcement Agencies”’), presented probation as a type of punishment, but not as an alternative to punishment. According to those who perceive probation as an alternative to punishment, the functions and goals of the future juvenile justice system in this case remain unclear, because there can be seen a substantial shift of focus in terms of the application of probation to juveniles.

At the same time, the abovementioned Decision of the Security and Defence Council of Ukraine instructs the CMU to do the following:

- *Within three months* following the President’s approval of the Concept of Reformation of Criminal Justice in Ukraine, to develop and approve an
action plan for its implementation with the active participation of the central executive bodies, the General Prosecutor’s Office of Ukraine (GPOU), the SBU, the State Border Guard Service, the National Commission on Strengthening Democracy and the Rule of Law and the Apparatus of the Security and Defence Council of Ukraine;

- Ensure adequate financing of measures related to the implementation of the Concept of Reformation of Criminal Justice in Ukraine.

Problem issues:
1) It is necessary to pass the law on mediation, which would clearly define various particulars and procedures as well as the relevant functions of various organizations. Given the current lack of such a law, many mediation-related measures remain purely experimental.
2) It is necessary to pass the law on probation that the Verkhovna Rada is currently considering.
3) It is necessary to introduce certain changes to the legislation that governs the work of various agencies regarding juveniles.
4) It is also necessary to introduce certain changes to the Code of Criminal Procedure, since it lacks a number of norms covering the latest developments in juvenile justice and mediation.

2.4. TRANSFORMATION OF THE DOMESTIC JUSTICE SYSTEM IN THE CONTEXT OF PROTECTION OF CHILDREN’S RIGHTS

In recent years the issue of introducing certain juvenile justice elements to Ukrainian judicial procedure has gained weight, at least in the form of proactive discussions with the participation of the criminal police for juvenile affairs, penitentiary system representatives, judges, social workers and NGO activists. Even though the representatives of different institutions have different attitudes towards the nature of the potential Ukrainian justice system for juveniles, no one questions the need for such a system. The other question is what it should look like. Various experts are trying to answer this question. On the positive side there is the stable, if slow, transformation of the Ukrainian justice system from punitive justice towards a form of justice characterised by restitution and re-integration.

Certain changes can be observed in the national legislation, where certain progressive regulations have seen introduction. In 1995 there passed the Law of Ukraine ‘On Bodies and Services for Juvenile Affairs and Special Institutions for Minors’, which envisaged the institution of court educators in the nation’s courts. From 2001-2007 the Verkhovna Rada passed a number of important laws, including ‘On Protection of Childhood’, ‘On Social Work with Children and Youth’ and ‘On Prevention of Domestic Violence’.

At the same time legal professionals point to a number of gaps in current legislation, especially in regulations regarding the work of the government.
bodies in the area of the protection of children’s rights\textsuperscript{20}. For example, the Law of Ukraine ‘On Protection of Childhood’, which is necessary for the implementation of the UN Convention on the Rights of the Child, basically repeats the text of Convention, offering \textit{no efficient mechanisms for protecting children’s rights}. The Law of Ukraine ‘On Prevention of Domestic Violence’ focuses on administrative methods of prevention and on punishment by the police. According to some lawyers, it represents a departure \textit{from the Constitution of Ukraine and current international practices}.

According to Article 55 of the Constitution of Ukraine, ‘Human and citizens’ rights and freedoms are protected by the court’. This establishes the priority of court protection of human and citizen rights and freedoms. At the same time, the law of Ukraine ‘On Protection of Childhood’ establishes an absolutely different priority in the area of protection of children’s rights. According to Article 10 of this Law, ‘a child is eligible to appeal to a child-care agency, to a service for children and to other authorised authorities in order to receive protection of his/her rights, freedoms and legal interests’, while Article 3 establishes state guarantees for equal access to the free legal assistance necessary to ensure children’s rights.

We do not deny the importance of the measures this Law establishes, but they are not sufficient to ensure the full-fledged protection of children’s rights. Moreover, they collide with the constitutional principle of the protection of the rights of children, according to which the judicial system is the central element of protection.

The new Criminal Code of Ukraine is considered to be fully in line with international standards. Section XV is dedicated to the peculiarities of criminal responsibility and punishment of juveniles. The list of sentences includes public and corrective works, release from custody with application of compulsory educational measures and release on parole. However, currently Ukraine lacks specialised juvenile courts, while the number of judges who deal with cases of juveniles, as well as the number of lawyers, social workers and other officials working in juvenile justice, is quite limited. Many professionals who work with children (including those who commit offences) are not ready to innovate.

Designation of specialised judges for juvenile cases and the support of the juvenile justice system by the Supreme Court of Ukraine are another special area in which the justice system requires transformation in the context of protection of children’s rights. Many local courts of general jurisdiction have designated certain judges who specifically consider juvenile cases. Courts that participate in pilot projects have also introduced (on an experimental basis) court educators. This provides additional opportunities for studying the circumstances of delinquency and, whenever possible, for Criminal Execution Service inspectors to do mediation or educational work before trial.

The Supreme Court of Ukraine has passed several important Plenums decrees aimed at improving juvenile justice. Such decrees as ‘On Application of Legislation on Responsibility for Involvement of Juveniles in Criminal and Other Asocial Activities’ and ‘On the Practice of Court Application of Legislation in Cases...’

of Offending by Juveniles’ contribute to the introduction of international juvenile justice standards in Ukraine. At stake is the following:

- increased criminal responsibility for the involvement of minors in crime;
- application of different approaches towards juveniles and adults during trial;
- focus on the preparation of a social and psychological profile of a juvenile offender;
- an increased role for restorative justice;
- stronger cooperation with NGOs.

One of the most important steps towards a juvenile justice system in Ukraine was the drafting of the Concept of Juvenile Justice in Ukraine, developed by the working group of the project Establishment and Development of the Juvenile Justice System in Ukraine project. Participants included representatives of the government sector (the Supreme Court, the Ministry of Justice, the General Prosecutor’s Office) and non-governmental organizations (the All-Ukrainian Foundation ‘Protection of Children’s Rights’, the Ukrainian Centre for Common Ground). In June 2008 the Ministry of Justice established a new working group to draft the National Programme of Juvenile Justice Development.

Experts note that certain transformations to the current system of justice for juveniles could already have been widely implemented, but remain limited to experimental ‘testing’ within pilot projects. Such transformations include the preparation of pre-trial reports, the performance of pre-trial inquiries (including psychological profiling and analysis of the social life of juvenile offenders) and the introduction of a probation system. It remains unclear what body or structure will be responsible for the latter: a specialised new service or the current Criminal Execution Inspection. In any case, the probation officer or inspector should have official status as a participant in the trial process, should participate in court proceedings and should prepare relevant documents for the court’s consideration.

**Problem issues:**

1. Experts admit that there is no conflict between current Ukrainian legislation and international regulations and standards in protection of children’s rights, but they say the Ukrainian laws are inadequate in terms of efficiency. In particular, the material level of juvenile criminal responsibility amounts to UAH 700.00. Experts believe that the majority of offences juveniles commit remain unregistered (until they commit offences that result in criminal responsibility), and children themselves remain on their own. So there is an urgent need to establish a juvenile justice system that will allow for prompt and effective responses to all offences that juveniles commit.

“To date, certain steps have been made. We’re trying to develop laws on alternative sentencing, with UNICEF support, by the way. Our society generally supports the following concept: if you commit a crime, you have to be punished. We don’t consider the other side of the problem, such as the need to understand the circumstances of the crime, especially if a child is involved. Unfortunately… this is also a part of juvenile justice: children who commit offence are tried separately, while the cases of their parents are not considered at all. Sometimes a child has to pay for the conditions in which he or she has been brought up by committing a crime. In other words, a child commits crime
in order to pay for necessary things. Unfortunately, parents do not bear responsibility for that. Other countries’ legislation offers alternative methods of sentencing. It’s too bad that they don’t work here. There exists the alternative method of sentencing people to public works, but it is not utilised. There are many other examples of that sort.’

From an in-depth expert interview

2.5. PROGRAMMES OF RESTORATIVE JUSTICE IN CRIMINAL CASES

Restorative justice is a relatively new concept and approach that the United Nations and the Council of Europe have applied in the last decade. The Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters define restorative justice as a process in which the victim, the offender and/or any other individuals or community members affected by a crime ‘actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party’. The most widespread examples of the restorative process include mediation and family conferencing, which can result in remission, restitution, reparation and community service.

Restorative justice can be used as an alternative to punishment or as a part of the penalty for an offence. It is often used after adjudication but prior to the completion of the trial process in order to take into account its impact (which can lead, for example, to the decision to dismiss a charge or to impose a softer punishment).

Sometimes restorative justice operates outside the official justice system: in some countries it is applied to juvenile offenders who are too young to be tried in the criminal justice system; in other countries it is used as a part of the re-socialisation process in correctional facilities.

Restorative justice was developed primarily to grant a victim a wider role in the consideration of his or her case. It is viewed as a more effective measure than other non-custodial sentences and is used to make offenders feel a greater responsibility for their deeds. Some evidence suggests that it is one of the most effective measures for preventing repeat offences.

Restorative justice has been applied in the majority of advanced nations for more than 25 years. Ukraine itself just launched development of a national restorative justice model. The process began in 2003 with the implementation of pilot reconciliation programmes by the Ukrainian Centre for Common Ground. This organization first started work in Kyiv and in Crimea; later, other NGOs joined the movement for restorative justice in other regions of Ukraine. As of February 2008, 11 organizations were working in this field in Ukraine (see Table 2.5).

In their initial stages, restorative justice programmes in Ukraine aimed at developing trust in the official justice system, establishing partner relations and developing mechanisms of cooperation. One of the first government institutions to support the development of restorative justice was the Supreme Court of Ukraine. After consideration of the positive experience and lessons of the re-
storative justice programmes, the Plenum of the Supreme Court of Ukraine is-
sued two decrees: ‘On the Practice of Court Application of Legislation in Cases
of Offending by Juveniles’ (No. 5, issued on 16 April 2004), and ‘On the Practice
of Court Consideration of Cases with Application of Compulsory Measures of an
Educational Nature’ (No. 2, issued on 15 May 2006). These decrees recommend
that judges support the use of mediation (reconciliation) for juveniles.

In 2004 the Intersectoral Working Group on the Development of the Concept
of Legal Regulation of the Use of Restorative Justice (Mediation) Programmes
in Criminal Justice of Ukraine was established at the Ministry of Justice. A Draft
Concept was fi nalised, but the need for the development of a much broader and
more comprehensive document to cover all possibilities for mediation became
obvious.

In February 2005 the International Conference ‘Development of a Ukrainian
Model of Restorative Justice’ took place in Kyiv. It was organized by the Ukrainian
Centre for Common Ground with the support of the Supreme Court, the Academy
of Judges of Ukraine and the Ministry of Justice. Discussions of the peculiarities
of introducing restorative justice in Ukraine resulted in proposals for introducing
a procedure for mediation between victim and offender to the Code of Criminal
Procedure. The Conference Resolution described the steps necessary to incorpo-
rate restorative justice programmes in Ukraine’s criminal justice system.

Similar conferences take place every year, bringing together representatives
of the government sector and non-governmental organizations to discuss theo-
retical and practical aspects of restorative justice. For example, at the conference
‘Introduction of Restorative Justice in Ukraine: Conclusions and Perspectives’ (Kyiv,
20-21 April 2006), participants discussed the draft Concept of Legal Regulation of
the Use of Restorative Justice (Mediation) Programmes in the Criminal Justice of
Ukraine; the Code of Ethics for Mediators of the Ukrainian Centre for Common

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Table 2.5. Organizations that implement restorative justice programmes in
Ukraine (as of February 2008)

<table>
<thead>
<tr>
<th>Region, city</th>
<th>Organizations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kyiv</td>
<td>Ukrainian Centre for Common Ground</td>
</tr>
<tr>
<td>AR Crimea, Simferopol</td>
<td>Ukrainian Centre for Common Ground</td>
</tr>
<tr>
<td>AR Crimea, Krasnogvardiyske</td>
<td>Agency for Regional Development ‘Harmony’</td>
</tr>
<tr>
<td>Kyiv oblast, Bila Tserkva</td>
<td>‘Protection of Children’s Rights’</td>
</tr>
<tr>
<td>Lviv oblast, Drohobych</td>
<td>‘Youth Club of Drohobych Region’</td>
</tr>
<tr>
<td>Vinnytsia oblast, Zhmerynka</td>
<td>‘Initiative’</td>
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<td>Ivano-Frankivsk</td>
<td>‘Confidence in the Future’</td>
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<td>Luhansk</td>
<td>Luhansk Oblast Mediation Group</td>
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<td>Lviv</td>
<td>‘Space without Conflict’</td>
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<td>Odessa</td>
<td>Odessa Oblast Mediation Group</td>
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<td>Sumy</td>
<td>‘Sumy Initiative’</td>
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<td>Kharkiv</td>
<td>‘Youth for Democracy’</td>
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The issue of scaling up application of restorative justice is reflected in the Concept of the Reformation of Criminal Justice in Ukraine, approved by Presidential Order. It establishes the following:

- It is necessary to significantly scale up the use of restorative and reconciliation justice procedures;
- It is necessary to develop special juvenile justice procedures that will allow for better consideration of juvenile rights and interests.

Law enforcement agencies, in particular the Department of Criminal Police for Juvenile Affairs and its units, have gradually become involved in restorative justice programmes, however, but only at the pilot project level. The Ministry of Internal Affairs (MoIA) is the main implementer of the Comprehensive Programme on Prevention of Offences for 2007-2009, as approved by CMU Resolution No. 1767 of 20 December 2006. The MoIA is responsible for control over appropriate implementation of Programme objectives, including:

- Improvement of the regulatory and legal basis in law enforcement and prevention of crime;
- Optimisation of the structure of bodies, institutions and organizations that undertake crime prevention measures;
- Improvement of the level of professional training and expertise of officials and staff members who undertake crime prevention measures;
- Development of new forms and methods of crime prevention and their practical implementation;
- Prevention of crimes related to human trafficking; detection and bringing persons involved to criminal responsibility;
- Improvement of work in the social adaptation of persons released from custody;
- Ensuring development of the network of social institutions, including those for homeless citizens and homeless children;
- Ensuring protection of the legal interests of juveniles, including their protection from abuse, exploitation and violence;
- Implementation of information and advocacy programmes and cultural and educational programmes in order to prevent crimes.

To implement these objectives, personnel of the Department of Criminal Police for Juvenile Affairs of the MoIA and experts from the Training and Scientific Institute for Cadres of Public Safety and Psychological Services of the Kyiv National University of Internal Affairs developed a three-level model of juvenile delinquency prevention and strategies for law enforcement agencies to prevent juvenile crime in Ukraine. Experience with introducing this model in the pilot regions was presented during the open conference ‘The Restorative Approach to Prevention of Adolescent Offending as a Guarantee of Safe Community Development,’ held in Kyiv on 3-4 April 2008.


of Offences for 2007-2009 the measures of internal affairs units that are meant to support and expand innovative models of cooperation with communities, in order to use local resources to improve preventive work in the children’s environment and with families.’

Certain achievements in advancing restorative justice can also be observed at the level of the General Prosecutor’s Office of Ukraine. In 2002 experts from the National Academy of Prosecutors of Ukraine provided conclusions on the compliance of restorative justice programmes with current Ukrainian legislation; they also developed recommendations for their implementation. Since 2003 GPOU has had its representatives in the working groups of the SCU and the MJ. Since 2006 the GPOU has introduced an experimental educational course (on mediation in criminal cases) in curricula for students and for those taking refresher courses. The possibility including restorative justice approaches in the work of prosecution agencies is also under consideration.

In December 2007 the international scientific and practical conference ‘Establishment of Restorative Justice in Ukraine and in the World: the Role of Prosecutor’s Offices’ was held in Kyiv. Concluding recommendations included the following:

- to develop and adopt existing draft laws on the application of mediation in criminal justice;
- to develop GPOU guidelines for all prosecutor’s offices in Ukraine regarding practical application of the provisions of current legislation on reconciliation and involvement of mediators;
- to ensure broad public awareness of restorative justice programmes and restorative approaches towards settlement of conflicts (including implementation of school-based mediation), etc.;
- to develop study courses on the mechanisms of restorative justice implementation in criminal procedures; to introduce this special course in the curricula of law faculties and universities;
- to establish cooperation between non-governmental organizations and public prosecutor’s offices to ensure application of mediation during the pre-trial procedure of criminal cases.

2.6. DEVELOPMENT OF THE JUVENILE JUSTICE SYSTEM IN THE COUNTRY

Juvenile justice is generally viewed as a system of governmental and non-governmental institutions aimed at protecting children’s rights and ensuring the legal and social impact on the child and his/her environment. These governmental bodies (law enforcement agencies, courts, advocates, services for children, social services for family, children and youth, penitentiary system structures), non-governmental organizations and volunteer movements aim to protect the rights of children. The court is the central element of juvenile justice. On the one hand

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it is a part of the government mechanism to protect the individual from the arbitrary actions of the state. On the other hand, it is a ‘bridge’ for the transition from the authoritarian state towards civil society.

Juvenile justice in Ukraine as a system has only started to develop. Ukraine does not have an integral system, but some of its elements do exist. There are discussions on what effective models – English-American, Continental or Scandinavian – it should be based on. Expert views in this regard are also different, but they have one thing in common: the development of the Ukrainian juvenile justice system should follow its own plans and needs, using the best international practices.

It is generally accepted that all the juvenile justice models mentioned above are based on legislation pertaining to the court system and to judicial procedures. For example, in the United States it is based on the Federal Juvenile Justice and Delinquency Prevention Act of 1974. In Great Britain it is based on a series of laws on children and youth (issued since 1908). In Poland it is based on the Law on Procedure of Consideration of Cases of Juveniles (1982). In Canada it is based on the Youth Criminal Justice Act (1982). Despite the absence of specific legislation, the Dutch juvenile justice system is quite transparent and well-organized. The key elements of this system are: juvenile judges, juvenile prosecutors and juvenile advocates; the Child Protection Council at the Ministry of Justice of the Netherlands (this body deals with preparation of social and psychological profiles of offenders; provision of relevant information to juvenile judges; and control over observance of children’s rights in the criminal process); and probation centres (as a rule run by NGOs, including ‘Holt’). Adequately trained police officers for juvenile affairs are responsible for the restorative justice function.

Recently the issue of juvenile justice and legal protection of juvenile offenders has been discussed at different levels of government and among NGOs. Quite often this was initiated by various international projects that were implemented at the national and regional levels in Ukraine. In the past the distinction of the ‘juvenile’ sphere in the national justice system has generally been ignored, but in recent years the state has taken certain steps in this area.

Regulations of the Universal Declaration of Human Rights of 1948 establish that “…childhood is entitled to special care and assistance. All children… shall enjoy the same social protection” established by new international treaties. Ukraine became a party to many international treaties that guarantee the rights of the child, including:

- The UN Convention on the Rights of the Child of 1989 (it took force in Ukraine on 27 September 1991);
- Convention for the Protection of Human Rights and Fundamental Freedoms (ratified on 17 July 1997);
- Declaration of the Rights of the Child, 1959;
- World Declaration on the Survival, Protection and Development of Children of 1990;
Children’s rights are also regulated by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) and the Hague Convention on the Civil Aspects of International Child Abduction (1980), as well as by bilateral and multilateral agreements on legal assistance in civil and criminal matters concluded between Ukraine and other countries.

International treaties contain relevant requirements that reflect the necessity to take proactive steps towards the introduction of juvenile justice in our country. For example, Article 19 of the Convention on the Rights of the Child established that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

The Beijing Rules (29 November 1985) foresee that Member States shall seek, in conformity with their respective general interests, to further the well-being of the juvenile and her or his family.

In other words, these documents declare that one of the main state obligations is to ensure the rights and freedoms of children, since children form a specific and independent part of society; the goal is ensure children’s development, formation and transition to the adult domain of society, and special attention is thus required.

One of the most important problems that needs to be addressed in present-day Ukraine is the issue of neglect of children and growing crime rates among juveniles. These problems are caused by the lack of reliable legal protection of children from abuse and criminal endeavours. Measures to protect children from exploitation and the use of children in criminal businesses (prostitution, pornography, selling drugs, beggary, etc.) are imperfect. The housing and property rights of children are widely violated. According to some experts, society’s response to juvenile delinquency generally usually overlooks the need for a comprehensive approach.

It is thus the duty of government authorities to concentrate their efforts on the development of an efficient mechanism to reduce crime rates among juveniles, and to increase prevention of beggary and juvenile delinquency. It is also necessary to develop programmes to prevent delinquent behaviour among children before they commit criminal offences.

One of the ways to address these issues is to establish a juvenile justice system capable of ensuring the fairness of any legal decision regarding juveniles that is related to re-education and protection of their rights and legal interests, in the context of civil, administrative and criminal cases.

Current Ukrainian legislation does not establish unified legal acts to regulate this issue. However, there exist norms that regulate specific features of the administration of justice for persons under the age of 18 years. First of all, there is Section XV, ‘Peculiarities of Criminal Responsibility and Punishment of Juveniles’, of the Criminal Code of Ukraine; Section VIII, ‘Administration of Cases on Crimes Committed by Juveniles’, of the Code of Criminal Procedure of Ukraine; and other regulations that help to ensure additional guarantees for the protection of juveniles as participants in the criminal process. State policy regarding the social
protection of children with deviant behaviour is based on the provisions of the laws of Ukraine ‘On Institutions and Services for Juvenile Affairs and Specialised Facilities for Juveniles,’ ‘On Social Work with Children and Youth,’ ‘On the Protection of Childhood’ (of 26 April 2001) and ‘On Prevention of Domestic Violence,’ as well as on a number of bylaws and other legal documents.

In 2003-2007 Ukraine became the party to several international treaties related to the protection of children’s rights. Currently the Ministry of Justice of Ukraine ensures implementation of 45 bilateral and 25 multilateral international treaties on legal assistance in civil and criminal matters.

Since a number of Council of Europe conventions and the Hague Conference on Private International Law in the area of protecting and realising the rights of children rely on state parties and their obligations to develop their legislation according to relevant norms and principles, the Ministry of Justice of Ukraine has developed a draft law that envisages changes in the Family Code, the Code of Civil Procedure and the Law of Ukraine ‘On Protection of Childhood’.

These European documents include the European Convention on the Exercise of Children’s Rights; the Convention on Jurisdiction and applicable law with respect to parental responsibility and measures to protect children; the Convention on Contact concerning children; the European Convention on recognition and enforcement of decisions concerning custody of children and on restoration of the custody of children.

The need to establish and to implement the juvenile justice system in Ukraine is also highlighted by the Programme of Actions of the Cabinet of Ministers of Ukraine ‘Ukrainian Breakthrough: for People, not for Politicians’.

The President of Ukraine has signed a number of Decrees that anticipate measures aimed at improving the condition of children, protecting their rights and legal interests and realising the rights of children to health, education, social protection and harmonious development. For example, the Concept of Reformation of Criminal Justice in Ukraine recognizes the need to develop special juvenile justice procedures in the course of criminal procedure legislation reform (criminal cases with juvenile convicts should be considered by court in a collective manner, with the participation of public assessors or jurors).

Measures to ensure the protection of the rights and legal interests of children envisage the development of the draft National Programme of the Juvenile Justice Development by the Ministry of Justice of Ukraine during the second half of 2008. At the moment of this study, the Ministry of Justice was working on the establishment of the relevant working group. Judges and representatives of state executive bodies and non-governmental organizations were invited to participate.

Currently Ukraine has no specialised courts that would specifically deal with cases involving children. However, current legislation provides certain norms that regulate the administration of justice. In particular, the Laws of Ukraine ‘On the Court System of Ukraine’ and ‘On Institutions and Services for Juvenile Affairs and Specialised Facilities for Juveniles’ envisage the possibility of specialization for judges who consider cases in specific categories in order to ensure implementation of the provisions of the Constitution of Ukraine, laws and international treaties in the area of protection of children’s rights in criminal procedures. Upon the
recommendation of the Supreme Court of Ukraine, since the end of July 2005 local and appellate courts have established a procedure for the specialisation of judges who consider criminal cases or offences committed by juveniles.

In line with by a Decree of the President on immediate measures to protect children's rights and with the recommendation of the Head of the Supreme Court, criminal chambers of appellate courts of general jurisdiction have established *specialised boards to consider cases of juveniles*. Courts have also received a recommendation to perform continuous analysis and to generalise consideration of juvenile cases, as well as to take measures to ensure children's rights in criminal justice procedures.

Judges who are designated by court presidents to consider cases involving juveniles receive training in courts of appeal and courts of review, and improve their qualifications and competence at the Academy of Judges of Ukraine. To provide courts with explanations about cases involving children, and to ensure equal application of the law, the Plenum of the Supreme Court passed two decrees: “On Application of Legislation on Responsibility for Involvement of Juveniles in Criminal and other Asocial Activities” (No. 2 of 27 February 2007) and “On the Practice of the Court Application of Legislation in Cases of Offending by Juveniles” (No. 5 of 16 April 2004).

In addition, the Supreme Court of Ukraine generalised the court practice of application of specific regulations of the Family Code of Ukraine, including cases pertaining to adoption and deprivation of parental rights. The Plenum of SCU passed the relevant decree “On Court Application of Specific Norms of the Family Code of Ukraine in Consideration of Cases on Parenthood, Motherhood and Recovery of Alimonies” (No. 3 of 15 May 2006).

Despite the current legal framework, the development of juvenile justice at the government level is rather slow; it is impossible to resolve the issue using radical measures. Currently Ukraine does not have an autonomous juvenile justice system with its own principles, goals, organizational procedures and legal regulations.

As in the past, criminal cases with the involvement of juveniles are still considered in the context of the general principles and norms of criminal justice. The only specific features of this process relate to a certain mitigation of criminal responsibility, without changing the system as a whole. Insufficient use of educational sanctions can be explained by the lack of the rehabilitation and educational institutions that would specifically deal with juvenile offenders. Ukraine possesses a very limited set of responses to deviant behaviour among young people (homelessness, vagrancy, independent abandonment of educational facilities). Because of the lack of appropriate implementation mechanisms, Ukraine generally does not use public work programmes to direct the offender's work towards the benefit of society as a whole.

One phenomenon that hinders the development of relevant mechanisms is a lack of sustainable and general definitions of juvenile justice in the Ukrainian legal literature and base. As a result, professionals working in different areas (even though all of them might be lawyers) think about the need for further development of juvenile justice in terms of the introduction of juvenile courts, or consider it as an integral element of the juvenile delinquency prevention system, or be-
lieve that this system should cover the activities of all the institutions and structures that deal with children.

The development of juvenile justice elements at the local level is heavily affected by uncertainty regarding funding of programmes to prevent juvenile delinquency. Within the framework of pilot projects, certain activities are carried out with the financial support of international organizations, but even these projects face a number of challenges preconditioned by the ambiguity of the current regulations. There are, for example, the mechanisms for funding the public educators who supervise juvenile offenders and prepare necessary data about these offenders for law enforcement agencies and courts. As a rule, the issue of remuneration for these educators is considered individually, or within pilot projects, or by centres of social services and schools. Unfortunately, not a single regulatory document clearly establishes the work (or prophylactic programmes) responsible for the remuneration of public educators or of children’s legal representatives/advocates after detention. According to current legislation, the legal representative or advocate should accompany the juvenile immediately after the offence or arrest, but the issue of financing their work remains unsettled. The current system of payment to advocates for their participation in cases involving juvenile offenders does not guarantee the effective legal protection of children. This reaffirms the need to adopt an official definition for a special category of lawyers who should be remunerated by local communities and who should provide first legal aid to children at any moment, day or night.

Another uncertainty is associated with school mediation as an area of prevention. According to many experts, this is one of the most effective methods of prophylaxis, offering peaceful settlement of conflicts between students at the school level (petty theft, fights, conflicts between individual children). It helps in avoiding bringing these conflicts to the attention of law enforcement agencies. With the assistance of trained specialists, students help each other to resolve conflict situations and to remove tension from the class or school environment. This allows a child to settle a conflict by peaceful means and to avoid contacts with the police and courts. Currently this school mediation approach is being piloted in several Kyiv oblast schools, but the country does not have a law on school-based mediation. In addition, it is necessary to provide a legal definition for specialists and institutions authorised to conduct school mediation, as well as to secure local-level support of school mediation.

According to experts, another factor that hinders the development of the juvenile justice system in Ukraine is the absence of specialised regional centres for specific categories of juvenile offenders who were removed by the law enforcement officers from their usual environments (e.g. from disadvantaged or problem families). Currently, law enforcement agencies run a system of reception centres for juveniles; however, the functions of these RC are somewhat different. We need specialised centres for temporary placement of juveniles who have come close to infringing the law. The staff of these centres would carry out special prevention activities and provide juveniles with the necessary services. Their main goal would be to demonstrate a positive environment, thus stimulating a child’s desire to improve and to become a law-abiding citizen.
In speaking about the juvenile justice system that would suit Ukraine the best, we should consider several aspects. First, the majority of experts believe that Ukraine has to establish specialised juvenile courts that give milder sentences. Second, we need to institutionalise the work of court educators with a clear definition of their rights and responsibilities. Third, local self-governments should appoint persons responsible for issues related to juvenile delinquency. Fourth, there is a need to develop a programme of cooperation between various governmental and non-governmental institutions on prevention of offences and re-socialisation of juveniles. Fifth, there is a need to implement a well-balanced distribution of functions between the abovementioned institutions. Sixth, we need to establish clear coordination between different bodies. Seventh, we need to introduce a probation service (or at least some of its elements) for juveniles. Eighth, we need to improve legal protection for juveniles during investigation and inquiry. We thus need to develop a system of round-the-clock legal assistance to juveniles by professional advocates. Moreover, such services should be of high quality and free of charge. And ninth, we need to review and ensure better organization of social work with juveniles, involving more non-governmental and governmental organizations that are capable of organizing various events with the participation of juveniles.

Problem issues:
1. It is necessary to establish a juvenile justice system that will allow a prompt and effective response to all offences by juveniles, regardless of material losses, because today the majority of these offences remain unnoticed by society. The reason for this is that a juvenile is brought to criminal responsibility only if the material harm caused to other person equals or exceeds UAH 700.00.
2. As a result of certain reforms, services for children currently deal only with child orphans and children deprived of parental care. Offenders who were previously registered and supervised by these services are now beyond their control. These children are transferred under supervision of the criminal police for juvenile affairs, which actually performs functions that are in nature very distant from education.
3. Society usually reacts to juvenile delinquency issues only through the prism of the mass media. These responses typically overlook many important issues.

“What juvenile justice system is the most suitable for Ukraine? One that focuses on a child and takes into account all the specifics of adolescence. It should not be limited to juvenile judges. It should be a system of preventive measures; a system contributing to the development of the legal awareness of children. It should include a system of juvenile courts and juvenile judges; it should be a system providing for alternative sentencing and follow-up. The system should follow the child from the time prior to investigation (after the offence was committed), through the inquiry and throughout the whole trial process, as well as after the child's release from custody and the removal of his or her sentence.”

From an in-depth expert interview
2.7. ISSUES PERTAINING TO THE INTRODUCTION OF PROBATION

On 14 December 1990 the UN General Assembly passed its Resolution 45/110 – United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules). On 19 October 1992, using these Rules as a basis, the Council of Europe’s Committee of Ministers recommended that Member States review their systems of sanctions and use community-based non-custodial sanctions against offenders more widely (Recommendation of the Council of Europe No. R(92)16). The UN recommendations deal with non-custodial sanctions, while the Council of Europe recommendations deal with community measures. Neither document is legally binding. However, they place a number of moral and political obligations on government authorities regarding the priority nature of human rights in the use of sentences in countries that want to comply with ‘open civil society’ standards.

The Tokyo Rules contain the list of recommendations on pre-trial, trial and post-sentencing sanctions (Articles 5-9). The Council of Europe recommendations do not offer a similar list, but in November 2000 the Council of Europe passed its Special Recommendations No. 22 at a meeting of deputy ministers. These Recommendations deal with mediation (reconciliation) in criminal cases and social issues related to overcrowded prisons.

In the majority of European countries, in America and in some countries of the Asian and African regions, there have been established specialised bodies responsible for the majority of alternative measures – probation services. As a rule, these are state-run, extra-police and extra-penitentiary (and in some countries civil) departments that take their name from one of the most widespread types of alternative sentence – probation. Probation first appeared in the United States in the first half of the nineteenth century on the basis of two institutions: the conditional sentence and the suspended sentence.

Lively discussions on who should be responsible for the implementation of non-custodial sanctions can be observed at the international level: should it be courts, prison administrations, social services or absolutely independent government bodies? What should its internal structure look like? There exists no common approach to the question of whether a probation service should have certain police functions or be a purely social service. What component should dominate? Expert interviews demonstrated that in Ukraine these issues also generate discussion.

Every state gives its own answers to these questions on the basis of its traditions and capacities. For example, in England and Wales they have territorial and independent probation services that work in close cooperation with the penitentiary department. According to the law, they report to local independent committees composed of magistrates and citizens respected by the community. In Scotland alternative sentences are executed by local units of social care, accountable to local representative bodies. In Sweden penal administration and the probation service are parts of a single body – the Prisons and Probation Administration. The Japanese probation service is a structural unit of the Ministry of Justice.

the Indian state of Bihar probation officers are staff members of the penitentiary department, but they supervise persons who have been sentenced to punishment without isolation from society. In Hungary probation officers who supervise adult offenders with alternative sentences staff members of courts. In some other countries courts have social workers who help the courts to exercise alternative sanctions. There are examples in which control over execution of alternative sentences is carried out by community councils composed of representatives of local self-governments, the legal profession, churches, educational facilities and charitable organizations. In some states in the US the probation service is an independent body that fulfills alternative sanctions and has a double subordination – to courts and to the local self-government.

So despite of vast variety of different country-specific organizational structures responsible for alternative sentences, each of them has a specialised unit. As a rule, it is called a ‘probation service’.

In the early stages of the development of probation services, the functions of their officers were limited to supervision over persons who were serving their sentences in society. In the course of the development of alternative sentencing systems and the expansion of their application, the functions and responsibilities of the officers also evolved. As a result, two basic functions developed. Despite different definitions and peculiarities in every legal system, they generally come down to correction and prevention of repeated delinquency. Conditionally, the functions can be divided into pre-trial and post-sentencing; they can be also subdivided into functions at the stage of criminal investigation in parallel with the necessary investigative activities by the police (or prosecutor’s) investigator. The other function is activated after the sentence enters into force, and the convict is transferred to the supervision of the probation service.

The Ukrainian Criminal Execution Inspection under the State Department of Penal Implementation is viewed as an analogue of the probation service. This unit of the State Criminal Execution Service of Ukraine executes non-custodial sentences according to the law. However, there exist a number of important differences between the Criminal Execution Inspection and a classic probation service. They come down to the functions of the inspectors, to organization, to the methods and patterns of work and to staffing. The Inspection also lacks volunteer aides and a widespread network of non-governmental organizations.

Instilling European-type probation service functions in the current Criminal Execution Inspection is extremely important. The goal of this service is not only to oversee the execution of non-custodial penalties, but also to promote and support social rehabilitation of convicts who have been given sentences of this kind, as well as of persons released on parole and on amnesty. One of this service’s important functions is to provide courts with information about a convict’s personality and chance of social ‘preservation’ and about the possibility of alternative sentencing.

However, there exists one highly controversial question: what department or structure should this probation service be subordinate to? For experts, the need for such a service is beyond all doubt (it will lead to fewer prisoners and thus lower costs, and help in the avoidance of many unwanted social, moral, psychological, medical and demographic consequences for a significant number of sentenced
citizens). However, the conceptual approach and method functioning of the probation service remain open questions.

Staff members of the Criminal Execution Service of Ukraine believe that the probation service should be established on the basis of their institution. Other experts do not share this opinion, or find it difficult to decide. At the same time, the main questions regarding establishment of the probation service concern the limited circle of organizations that are capable of providing services in alternative sentencing; the legislative uncertainty surrounding these services; and the lack of a system of licensing for service provision. As was mentioned above, today only the Criminal Execution Service deals with alternative types of punishment for juvenile offenders.

Discussions about probation for juvenile offenders in Ukraine have gone on since 2002. However, thus far not a single act has been passed to establish such a system at the legislative level. The most progress was achieved by the National Commission on Strengthening Democracy and the Rule of Law under the President of Ukraine, which was actively involved in the development of the Concept of Reformation of Criminal Justice in Ukraine. By now this Concept has been approved by the Decree of the President No. 311/2008 as of 8 April 2008 ‘On the Decision of the Security and Defence Council of Ukraine of 15 February 2008 “On the Course of Reformation of the Criminal Justice System and Law Enforcement Agencies”’.

Many experts describe this system of probation as insufficient and ineffective in the context of work with juvenile offenders, because probation is presented as a kind of punishment, rather than as an alternative to punishment. At the same time, the idea is quite widespread that ‘it is better to have this kind of probation system than not to have it at all’.

‘The main thing is not to let a child escape to the streets. As soon as a child goes back to the streets, it is virtually impossible to bring him or her back. It is extremely difficult! As for children that stay here – from one to three years – they are practically ideal! Of course, boys are boys: they can quarrel, they can settle disagreements and they can fight. But! These children work, study and lead normal, full-fledged lives. Yes, they don’t leave the perimeter. As soon as they cross it, everything starts over. We are afraid to let them go; I wish they could at least graduate from school here, we could help them with entering some kind of technical college. Some children have had great academic achievements, and they need college education, but the only thing they can get to is vocational school. That’s why we call for changes in legislation; we talk about the urgent needs in juvenile justice. Otherwise we will fail. And the children will keep on roaming around. And drug use and HIV will continue to spread’.

‘First, juvenile justice itself is in great demand. Second, we need an institution that would coordinate and unite all the structures involved in this process. It needs to unite schools, services for criminal affairs, services for juveniles and hospitals. Everybody participates in this process... If we had this opportunity, we would run to the Verkhovna Rada (well, while it’s working). We would come out and yell: people, we need juvenile justice!’

‘I think that Ukrainian society has negative attitudes towards the spread of juvenile delinquency. Sometimes we get suspicious and aggressive towards young people because of that. As for juvenile justice, I think Ukrainian society has no idea about what it is, with the exception of specialists working in this area’.
CONCLUSIONS TO SECTION 2.

In Ukraine there has been a certain reduction in the number of criminal offences committed by adolescents; however, the level of delinquent behaviour among juveniles remains high. According to experts, society is generally indifferent to this problem, even after government structures intensified their efforts in this area. Yet experts note a number of positive changes in Ukraine, such as the presence and the spread of generally accepted international standards and modern global trends in juvenile justice. This is reflected in the national legislation aimed at ensuring practical implementation of progressive regulations from international legal acts in the protection of juveniles’ rights; in the decrees of Plenums of the SCU on justice for juveniles; in joint administrative and regulatory documents; in measures to develop a probation system; in pilot projects using different juvenile justice models; in restorative justice practices; in specialisation of judges; in the system of specialised institutions for juvenile offenders; in cooperation between government bodies, NGOs and international organizations regarding work with juvenile offenders; in the development and dissemination of materials on juvenile delinquency and juvenile justice; and in the development of a juvenile justice indicator system, among other things.

In addition to a number of positive transformations, experts are focusing on certain issues that need to be addressed urgently. According to experts, the main problem here is the general absence of juvenile justice as an autonomous system with its own principles, goals, organizational procedures and legal regulations:

– There exist certain tendencies and individual initiatives that are not formalised within a uniform and clear juvenile justice system;
– Efforts to develop the domestic juvenile justice model are not systemic; there exist no mechanisms for its implementation;
– We see more discussion than practical activity in this area; society lacks information about modern trends in juvenile justice at the international level;
– Mass media on juvenile delinquency generally fails to cover all the important issues.

As for the legislative and regulatory priorities pertaining to protecting the rights of children in conflict with the law, experts mention norms that regulate: state policy on the social protection of children with deviant behaviour; the peculiarities of the administration of justice for persons under 18 years of age; provision of social services to juvenile offenders; and specific issues that are directly or indirectly related to juvenile justice. Experts generally conclude that current
Ukrainian legislation does not contradict international norms and standards in the protection of the rights of juveniles.

This does not mean that current legislation is flawless. Its main weakness is the absence of unified legal and regulatory acts that would fully regulate justice for juveniles and observance of their rights. In addition, the current Ukrainian legal base does not establish a comprehensive approach towards child neglect. Ukraine lacks norms for applying mediation in criminal justice and specific methodological recommendations for certain structures. Experts view the current norms as insufficiently effective, since many offences by juveniles remain unregistered (if they do not entail criminal responsibility). Consideration of criminal cases with the involvement of juveniles occurs in the context of general norms and principles of criminal justice. The only difference relates to a certain mitigation of criminal responsibility. The regulatory system does not establish mechanisms for the cooperation of various social players in juvenile delinquency. The institution of court educators generally does not function.

According to experts, certain positive changes are also occurring in terms of the diversification of opportunities and alternatives to custodial sentences that juvenile offenders receive:

- Release on probation is a quite widespread punishment for juvenile offenders;
- Establishment of a probation system for juveniles is being discussed at the highest levels of government; a relevant draft law was submitted to the Verkhovna Rada for consideration;
- The country is developing restorative justice;
- The staffers at organizations that deal with juvenile offenders support the relevant work; pilot projects are developing with particular rapidity.

Problem issues, or underdevelopment, can be observed in the following areas:

- In the regulatory and legal acts that are being developed, probation is seen as a type of punishment rather than as an alternative to punishment;
- The range and quality of available alternatives to custodial sentences for juvenile offenders is too limited to satisfy all demand; additional review of the scope of activities in this area is thus needed;
- Currently only a few organizations are eligible to provide such services; a relevant licensing system is absent;
- There are no systemic public information activities being run through the mass media regarding restorative justice programmes and restorative approaches to conflict resolution. There exist no specialised training courses on implementation of restorative justice in criminal procedure. A course in this is not offered to students of law faculties and universities.
SECTION 3. PREVENTION OF JUVENILE DELINQUENCY

3.1. PROGRAMMES FOR PREVENTION OF DELINQUENT BEHAVIOURS AMONG JUVENILES

A whole range of organizations run by various government ministries (e.g. the Ministry of Education and Science, the Ministry of Internal Affairs, the Ministry of Family, Youth and Sports, the State Department of Penal Implementation, etc.) work in the area of prophylaxis against delinquent juvenile behaviours. Each of these departments and their structural units/organizations participates in juvenile delinquency prevention programmes according to their functional responsibilities.

Information on the offence committed by a juvenile is first recorded by the rayon (district) unit of the criminal police for juvenile affairs of the MoIA. According to Article 5 of the Law of Ukraine ‘On Institutions and Services for Juvenile Affairs and Specialised Facilities for Juveniles’, the criminal police is obliged ‘to inform relevant services for children about juveniles apprehended or charged with crimes’. Since the criminal police also has to ‘identify causes and conditions that lead to offences by juveniles, and to take measures for their removal within the sphere of its competence,’ this agency, along with other structures (including the services for children) that can serve as legal representatives of juveniles, is eligible to consider using harm removal and mediation programmes.

While appreciating the prevention-related experience of Ukrainian institutions that deal with juvenile offenders, experts emphasise the need to introduce the best international practices in juvenile delinquency prevention. Such an approach envisages prevention work with juveniles prior to delinquency: so-called primary prevention, which is also implemented in Ukraine. In the course of our study, however, we heard many complaints about its low level of effectiveness. Second, prophylaxis measures are applied to juveniles who have already committed offences: active implementation of primary prevention does not mean automatic refusal of provision of secondary prevention.

Prevention work with this category of juveniles as conducted in other countries evinces a number of peculiarities. Sweden, for example, has specialised institutions similar to Ukrainian correctional colonies for juveniles. In contrast to Ukraine, however, they are controlled by special services (similar to social services or fire departments), but never by services that execute penalties for adults. As a result, organizations that implement primary and secondary prevention of offences by juveniles work with children at schools, lyceums and colleges.

Unlike Ukraine, Sweden and in certain other countries use a different approach towards the responsibility of a juvenile offender. The idea is that a juvenile offender bears personal responsibility for what he or she has done and has to compensate the victim for all losses. For example, if an adolescent steals somebody’s
car and crashes it, he creates a virtual “minus” in his or her biography that is registered by the relevant authorities and for which he or she must compensate. Even though the state immediately compensates the victim for all losses, the juvenile offender has to recompense the costs to the state (e.g. when he or she starts working or applies for a driver’s license). “And they tell him: you will never get this license until you compensate for the ‘minus’ that you owe to the state. And he has to pay it back” (from in-depth expert interviews). There is no tradition in European countries of parents paying for all the harm to victims that their children cause. The nature of family relations and high levels of personal responsibility there explain this. As a result, reducing juvenile delinquency rates in many European countries is related to increased levels of personal responsibility on the part of juveniles.

In Ukraine we lack such a practice. The fall in juvenile delinquency here in recent years has nothing to do with behavioural changes among juveniles. It is due to technical aspects of Ukrainian legislation that establish a damage threshold for initiating a criminal case. Currently this threshold is UAH 700. In other words, any person who steals something valued below UAH 700 is released from criminal responsibility. As a result, many juvenile offences remain unpunished.

There is another important aspect of prevention work among juvenile offenders that is widespread in Europe and absent from Ukraine. It relates to the peculiarities of serving conditional sentences. If a juvenile offender abroad is given a conditional sentence (say, three years) and during the first year earns a good reputation and attends the relevant control and registration organizations, then supervision is suspended after one year. The offender’s conviction is not cancelled, however, and in case of a repeated offence the term of the sentence can be extended. Still, control over a juvenile offender with a positive registration record is eliminated. If the juvenile offender amasses a bad reputation during the conditional sentence, his or her case may be submitted to court for review. The court may order another registration and control process (in the case of a conditional sentence). Ukraine lacks such practices. Experts say that there is therefore no way to motivate juveniles to make positive changes to their behaviour. “It doesn’t matter whether you’re a good person or a bad one. They just give you three years of conditional sentence with compulsory registration – and you have to go every month… well, every week to register. No incentives at all! It’s in human nature, however, to receive some stimulus to become a better man” (from in-depth expert interviews).

3.2. ACTIVITIES OF RELEVANT STRUCTURES AND SERVICES

3.2.1. Schools and vocational schools for social rehabilitation (MoES)

The establishment of the network of schools for social rehabilitation (and other specialised rehabilitation facilities within these schools) in Ukraine was meant to address the problem of educating and socially rehabilitating children with deviant behaviour at the same time. The majority of experts agree that rehabilitation of these children has to occur in educational facilities. Juvenile offenders’ sojourns in educational facilities allow for implementing comprehensive social rehabilitation during the learning process while preserving relevant (student) status and using key age-related development patterns children.
The official status of these facilities was established by the Law of Ukraine “On Bodies and Services for Juvenile Affairs and Special Institutions for Minors” No. 20/95-VR of 24 January 1995. The relevant regulations about the network of these institutions were approved by Resolution of the Cabinet of Ministers No. 859 as of 13 October 1993 (with changes that were introduced by Resolution No. 646 of 11 August 1995). Prior to the adoption of the CMU Resolution No. 646, these facilities were officially called ‘specialised educational institutions for children and adolescents requiring special educational conditions’. Relevant changes were implemented according to the Regulation of the Verkhovna Rada No. 21 of 24 January 1995 ‘On the Order of Implementation of the Law of Ukraine “On Institutions and Services for Juvenile Affairs and Specialised Facilities for Juveniles”’.27

Schools for social rehabilitation (formally known as ‘schools of general education for social rehabilitation’) and vocational schools for social rehabilitation are state-run educational facilities to which children are referred by court decision. Juveniles stay in these institutions for the term of sentence established by the court, which cannot exceed three years. Both schools and vocational schools for social rehabilitation aim ‘to establish relevant conditions for the life, education and development of students; to increase their educational and cultural level and professional training; to promote the development of students’ individual abilities and determinations; to ensure legal education and social protection under conditions of an ongoing pedagogical regime’.28

In some exceptional cases juveniles can stay in schools for social rehabilitation (SSR) until they are 15 – for example, if it is necessary for them to complete the academic year. Students are released from SSR after the completion of the term established by the court and upon the decision of the headmaster. Pre-term release from SSR happens upon the decision of the court at the location of the institution, and upon the solicitation of the school board. This release requires the further placement of the released inmates in schools of general education or vocational educational facilities, or their employment, according to current legislation. The expediency of a child’s stay in a SSR is reviewed in 12 months (and after that in six months). A final decision is made by the court at the location of the school at the decision of the school board, or according to a petition from the headmaster. SSR students who have turned 15 and whose programme of correction has been a failure can be transferred to vocational schools for social rehabilitation (VSSR) by court decision. This transfer can occur within the term established by the court that initially imposed the compulsory educational measure, but it can last for no more than three years.

Juveniles are held in vocational schools for social rehabilitation (VSSR) for the term established by the court but for no more than three years in the case of crimes they committed when they were under 18 or of offences they committed before the age of criminal responsibility. If students are transferred to a VSSR from

an SSR, the total time they spend at both facilities cannot exceed three years. Upon authorization of the court at the VSSR's location, students can stay in these schools until they are 19 years if it is necessary for them to complete an academic year or a professional training course. Students are released from a VSSR after the completion of term established by the court and at the decision of the headmaster. Students can be released from a VSSR pre-term by local court decision upon the solicitation of the school board.

According to data from the Ministry of Education and Science, there exist 11 schools for social rehabilitation and three vocational schools for social rehabilitation in the country. Given the planned overall capacity of 2,420 inmates, in March 2008 there were 269 children staying in schools for social rehabilitation and 235 children staying in vocational schools for social rehabilitation (see Table 3.1.). The schools operate well below their capacity (sometimes 20 inmates are served by 50 staff members), so their use seems economically inefficient. It was estimated that the average annual cost of the maintenance of one school for social rehabilitation is over UAH 850,000.

Table 3.1. Number of students in schools for social rehabilitation in Ukraine (March 2008)

<table>
<thead>
<tr>
<th>Name of the school</th>
<th>Capacity</th>
<th>Number of students</th>
<th>Incl. orphans</th>
<th>Number of children (in grades)</th>
<th>Total, grades</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Balakhivska</td>
<td>140</td>
<td>37</td>
<td>6</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Horlivska</td>
<td>180</td>
<td>12</td>
<td>5</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Horodotska</td>
<td>160</td>
<td>23</td>
<td>4</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Yenakievskaya</td>
<td>180</td>
<td>24</td>
<td>6</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Kyivska</td>
<td>180</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Komyshuvatska</td>
<td>160</td>
<td>17</td>
<td>4</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Korsunskaya</td>
<td>200</td>
<td>14</td>
<td>6</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Mykolajivska</td>
<td>160</td>
<td>80</td>
<td>38</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>Sverdlovskaya</td>
<td>180</td>
<td>22</td>
<td>2</td>
<td>-</td>
<td>3</td>
</tr>
<tr>
<td>Fontanka</td>
<td>140</td>
<td>20</td>
<td></td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Kharkivska</td>
<td>160</td>
<td>20</td>
<td>4</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>1,840</td>
<td>269</td>
<td>75</td>
<td>3</td>
<td>24</td>
</tr>
</tbody>
</table>


Table 3.2. Number of students in vocational schools for social rehabilitation in Ukraine (March 2008)*

<table>
<thead>
<tr>
<th>Name of the school</th>
<th>Capacity</th>
<th>Number of students</th>
<th>Incl. orphans</th>
<th>Number of children (in grades)</th>
<th>Total, grades</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Okhtyrske</td>
<td>180</td>
<td>44</td>
<td>21</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Makivivske</td>
<td>200</td>
<td>94</td>
<td>26</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Yakushynetskaya</td>
<td>200</td>
<td>97</td>
<td>25</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>580</td>
<td>235</td>
<td>72</td>
<td>3</td>
<td>5</td>
</tr>
</tbody>
</table>

*Note: in some classes the number of children can change during the month for various reasons. These changes are shown as follows: 15/9 or 8/9/8.


29 According to in-depth expert interviews conducted within this project
In addition, the maximum number of students per class is extremely low. Quite common are cases in which there is just one student per class. Formally, schools for social rehabilitation have 45 classes, but in reality this number is much lower, because the class is not considered ‘fully functional’ if it has just one to three students. Combined teaching methods (simultaneous classes with one teacher for students from different classes) is also ineffective. Even though general education for students follows official curricula approved by the Ministry of Education and Science, the practice is quite widespread of so-called alignment classes, where teaching follows individual programmes and where at the end of the academic year a special psychological/medical/pedagogical commission determines the level of the students’ academic achievements.

In addition, schools for social rehabilitation are receiving more and more students who previously did not attend school. They often lag behind the normal educational level for their age by three of four years. In other words, adolescents aged 11-14 who find themselves in schools for social rehabilitation often need to master skills and knowledge taught in elementary schools.

According to experts, in recent years the funding of schools and vocational schools for social rehabilitation has somewhat improved. Their material and technical basis has also been enhanced, which has led to creation of relevant conditions for extracurricular work and hobby groups, as well as leisure time and better living conditions for inmates. In the Yenakievska school for social rehabilitation, for example, there is a new automatic boiler. Capital repairs have just been completed at the Komyshuvatska school. All other schools for social rehabilitation completed minor repairs of classrooms, bedrooms and offices by the beginning of the new academic year. The Kyivska school for social rehabilitation is still undergoing capital repairs. At the same time, experts note that insufficient attention has been given to upgrading workshops and studios for professional training and vocational schools for social rehabilitation. This significantly undermines the professional competitiveness of graduates of these schools.

Expert evaluations of the future work of the system of schools and vocational schools for social rehabilitation often contain proposals about how to reform and restructure the current institutions according to society’s needs. One idea is to transform schools for social rehabilitation into general educational facilities for children and adolescents with different forms of deviant behaviour. These schools would then admit students not upon the court decision, but upon the requests of parents or other guardians. Admission would be based on the conclusions of psychological/medical/pedagogical commissions and on the recommendations of the services for children and educational authorities. The rest of the facilities should deal with children that were placed in them on the basis of court decisions (rulings) and referrals from the Ministry of Education and Science.

At the same time, placement of juvenile offenders in specialised residential facilities for social rehabilitation is considered legal if it is done on the basis of a court decision: this is the position of international organizations and experts. They believe that no one, with exception of the court – neither parents/guardians nor government bodies (social services for family, children and youth), including

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30 Materials of the Technical Roundtable of the UNICEF Regional Office for CEE/CIS (Geneva, Switzerland, 7-11 July 2008).
the Ministry of Education and Science – has the right to place a juvenile offender in a specialised facility. This in particular concerns juveniles who have committed criminal offences before reaching the age of criminal responsibility.

**Problem issues:**

1. The majority of experts link the issue of underutilization of schools and vocational schools for social rehabilitation with gaps in the current justice system and with the absence of a juvenile justice system and the institution of court educators. The ongoing reduction in the number of inmates increases the prime cost of maintaining children in these social rehabilitation facilities. As a result, these institutions might be closed. On the other hand, it is absolutely necessary to retain these facilities. Experts recommend reorganization in two areas: first, to reduce the number of institutions for social rehabilitation that admit new inmates only upon the decision of courts; second, to change the specifications of some of these facilities according to needs and demands of present-day society. These issues require additional consideration and analysis to make sure that the reorganization does not harm children’s rights in Ukraine.

3.2.2. **Centres of social and psychological rehabilitation of juveniles of the services for children, and shelters for juveniles (MoFYS)**

Today a number of regulatory and legal acts regulate the activities of the centres of services for family, children and youth in terms of their work with children and young people in conflict with the law. They include:

- Article 11 of the Law of Ukraine ‘On Social Work with Children and Youth’ establishes that social rehabilitation of juveniles who served custodial sentences and young people who were sentenced to restriction of liberty or custodial sentences for a certain term envisages employment; and provision of social, medical, psychological, pedagogical, legal, informational and other social services;
- According to Article 6 of the Law of Ukraine ‘On Social Adaptation of Persons Who Served their Sentences in the Form of Restriction of Liberty or Imprisonment for a Certain Term’, centres of social services for family, children and youth (further referred to as centres) provide informational, legal, labour, psychological, pedagogical, health and other forms of social assistance to persons aged 15-28 years who have been released from custody;
- Article 9 of the Law of Ukraine ‘On Pre-trial Detention’ gives specialists of the centres the right to provide psychological and pedagogical assistance to detained young citizens (aged from 14 to 35 years);
- Joint Order of the Ministry of Family, Youth and Sports and the State Department of Penal Implementation No. 2559/177, issued on 28 October 2005, establishes the order of cooperation between centres of social services for family, children and youth and penitentiary facilities in the organization of social work with juveniles and young people who serve their sentences and are released. In 2007 the State Social Service initiated changes to this Order that fostered greater cooperation between
social services and penitentiary facilities in social work with juveniles and young people who serve their sentences and are released;

- In addition, in 2007, according to Article 16 of the Law of Ukraine ‘On Amnesty’, centres implemented social patronage measures for persons released on amnesty according to the provisions of the Law of Ukraine ‘On Social Adaptation of Persons Who Served their Sentences in the Form of Restriction of Liberty or Imprisonment for a Certain Term’.

Social services for family, children and youth governed by the abovementioned legal acts thus provide social support to juveniles and young people detained in penal and correctional colonies and pre-trial detention centres and who have been released from those facilities. They also help persons sentenced to non-custodial sanctions and persons who have served alternative sentences and are appealing to the social services for assistance.

In 2007 services were predominantly aimed at:

- Fostering adaptation to life in social isolation; preparing prisoners for release or for post-release re-socialisation;
- Addressing psychological issues of an personal and interpersonal nature; addressing health-related issues and problems with dependencies and HIV/AIDS; fostering employment (jobs and training); and addressing various social and economic issues (including housing and coping with everyday life);
- Restoration of lost socially important links (particularly with families).

The main areas of cooperation between centres of social services for family, children and youth and penitentiary facilities included the following:

- Provision of social services to convicts in custody and social follow-up for persons after their release from penal institutions;
- Improvement of the professional competence of staff members of social services and personnel of penitentiary facilities in carrying out social work with convicts;
- Involvement of citizen associations, enterprises, institutions and organizations regardless of ownership, as well as of charitable organizations and individual citizens, in the provision of social assistance.

In order to perform relevant social work with children and young people in conflict with the law, in 2007 the network of centres supported the following:

- 185 units of social follow-up of juveniles and young people in custody and released from custody;
- 12 counselling stations at pre-trial detention centres;
- 3 counselling stations in correctional colonies;
- 25 counselling stations in penal colonies;
- 13 counselling stations within the Criminal Execution Inspection.

Organization of social work with juveniles and youth serving sentences in penitentiary facilities is implemented according to the centres’ functions as established by the law. It covers the following:

- Provision of social and pedagogical, social and medical, psychological, legal and informational services to juveniles and young people serving sentences in penitentiary facilities (in cases of personal requests or requests from the administrations of these facilities to social services);
• Participation in the implementation of specialised training programmes for convicts waiting for release via restoration and strengthening of their socially important links, assistance with a variety of issues related to registration and residence and assistance with employment or education following release;
• Organization of “open days” for centres of social services for family, children and youth at specialised educational facilities;
• Dissemination of informational and reference materials and social advertisement products;
• Consultations for staff members of penitentiary facilities regarding social work with juveniles and youth;
• Participation in the organization of educational and practical workshops for personnel of social and psychological services of penitentiary facilities in social work with juveniles and young people serving sentences in these facilities;
• Involvement of individual citizens, enterprises, institutions and organizations in provision of social assistance to convicts.

Such activities are implemented directly by the centres and their specialised territorial units located near colonies. Centres also organize visits of mobile counselling units to rural and mountainous localities and remote city districts where correctional and penal facilities operate. In 2007 there were mobile services for 10 correctional colonies, 51 penal colonies and 10 pre-trial detention centres. As a rule, the same staff members are involved in such activities: according to senior managers at the State Social Service, this ensures the comprehensiveness and systemic nature of the work.

In 2007, during visits to correctional colonies, specialists provided 1,645 individual services to 832 juveniles and organized 194 group events (lectures, discussions, video lectures, trainings, etc.) for 3,569 participants (some juveniles participated in several events). During individual and group work among inmates staff members of centres disseminated 1,818 copies of informational and educational materials (posters, booklets, leaflets and so on).

Similar activities are held in penal colonies: there are only several juvenile inmates in these facilities, but a significant number of prisoners are defined as ‘young people (aged 18 to 35). Social services are offered to all prisoners. In 2007 individual services (a total of 4,504) were provided to 2,201 persons. In addition, 2,211 group events were organized (with the participation of 33,846 sentenced persons); centres disseminated 7,105 copies of informational and educational materials.

During visits to pre-trial detention centres (SIZO in Ukrainian, or investigation isolators), 741 individual services were provided to 542 persons; 397 group events were organized (with the participation of 7,096 persons); and 942 copies of informational and education materials were distributed.

Work of centres with persons released from penitentiary facilities is conducted in the following areas:
• Social patronage through provision of social and pedagogical, social and medical, social and economic, psychological and legal and informational services;
SOCIAL PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY

- Assistance with the formalization of legal documents and restoration of housing rights; assistance with educational and occupational matters;
- Help with restoration of links with family and the surrounding environment;
- Provision of psychological support in restoration of social links and adaptation to life upon release;
- Development of data banks of clients (former prisoners);
- Support in provision of social assistance to former prisoners by NGOs, enterprises, institutions, organizations and individual citizens.

In 2007, 626 juveniles released from penitentiary facilities appealed to centres of social services for assistance. They received 4,420 services (seven services per juvenile on average). Moreover, centres provided services to 5,513 young people (22,339 services overall; on average four services per client). In general in 2007 social services provided social follow-up to 424 juveniles and 1,325 young people released from penitentiary facilities. The 2007 results of social work with juveniles released from custody are provided in Table 3.3:

**Table 3.3. Performance indicators of social work with juveniles and other young people released from penitentiary facilities**

<table>
<thead>
<tr>
<th>Types of service</th>
<th>Number of persons receiving services</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Juveniles</td>
</tr>
<tr>
<td>Restoration (strengthening) of social links</td>
<td>564</td>
</tr>
<tr>
<td>Restoration (legalization) of documents</td>
<td>242</td>
</tr>
<tr>
<td>Employed</td>
<td>175</td>
</tr>
<tr>
<td>Placed in educational facilities</td>
<td>168</td>
</tr>
<tr>
<td>Registration issues settled</td>
<td>208</td>
</tr>
<tr>
<td>Housing and communal issues settled</td>
<td>154</td>
</tr>
</tbody>
</table>

*Note: The data above concerns juveniles and young people released according to the Law of Ukraine 'On Amnesty'. In 2007 social services were provided to 241 persons from this category. They received 590 services. Seventy-two of them (including 13 juveniles) were placed under the social follow-up regime.

Source: data of the State Social Service, 2008, unpublished

Centres of social services also work with juveniles who have received non-custodial sentences. In 2007 social work was conducted with 5,454 juveniles and 23,768 young people from this category of convict. They received 35,142 services.

As for the work of mobile social work counselling units, centre specialists visited 888 families with juveniles that were non-custodial sanctions and that live in rural and mountainous areas and in remote city districts. The social workers provided 5,365 individual services to 1,858 members of these families and disseminated 1,886 copies of informational and education materials. They also organized 339 group events with the participation of 1,983 persons.

In order to train specialists of regional centres of social services for family, children and youth in the basics of prevention work with juveniles and young
people in custody, the State Social Service for Family, Children and Youth, in co-
operation with the All-Ukrainian Public Centre ‘Volunteer’, organized in 2007 an
educational workshop for regional centre of social services specialists. According
to the workshop agenda, the participants received practical knowledge and skills
in the following areas: the specifics of HIV/AIDS prevention among prisoners; in-
teractive methods of study (the nature, classification and use of a healthy life-
style development approach and prevention of risky behaviour); social education
training and its application in the work with prisoners; ‘case study’ methodology
in educational work; and role-playing in the service of HIV prevention.

Current Ukrainian legislation identifies a long list of state bodies, organi-
zations and institutions that do work that directly targets children and young
people who have committed offences. These include local executive bodies; lo-
cal self-governments; centres for social adaptation; services for children; centres
of social services for family, children and youth; supervisory boards; institutions
for the social protection of the population; health care structures; departments
of internal affairs; employment centres; boarding schools; anti-crisis centres; cen-
tres of psychological assistance; shelters (including shelters for children); social
patronage bodies; and houses for overnight and temporary housing for released
persons.

However, despite this broad range of structures officially authorised to im-
plement measures for the social adaptation of persons who have served time or
custodial sentences, the issue of the re-socialisation of juvenile offenders remains
urgent, and requires comprehensive and systemic approach. In addition, there
exist a number of factors that prevent the centres from doing effective work in
this area. Such factors include:

- Understaffing of relevant services;
- Low and sometimes absolutely inadequate professional levels on the
  part of local staff;
- Lack of specialised knowledge and ongoing programmes for training, re-
  training and advanced training of staff;
- Duplication of functions, which sometimes works against protection of
  children’s rights and interests. As a rule, these functions are meant to
  identify, register and supervise children in conflict with the law;
- The absence of close cooperation and interaction;
- A lack of adequate funding.

All the factors listed above precondition the need to develop a more pro-
gressive system of social rehabilitation of children in conflict with the law, one in
line with all modern requirements. To achieve this goal, in 2007 the State Social
Service for Family, Children and Youth joined the project ‘Re-socialisation of ju-
venile offenders in Ukraine: Development and implementation of methodology
for social and psychological work’. The goal of this project is to lay the foundation
for further improvement of social follow-up of juvenile offenders in Ukraine in ac-
cordance with international norms, regulations best practices and expertise. The
project is expected to run until 2009, resulting in the development of a method-
ology for social and psychological work with juvenile offenders, an effective case
management model and intersectoral cooperation.
3.2.3. The courts

Currently Ukraine lacks specialised courts that specifically consider cases involving children. The Constitution of Ukraine establishes jurisdiction of courts ‘over all legal relations in the state’; it also prohibits ‘establishment of extraordinary or special courts’. This means that courts of general jurisdiction have the authority to consider cases related to civic rights and freedoms. In particular, the Constitution guarantees that ‘the rights and freedoms of an individual and a citizen are protected by the court’. In addition, taking into account the direct effect of constitutional norms, ‘Appeals to the court in defence of the constitutional rights and freedoms of the individual and citizen directly on the grounds of the Constitution of Ukraine are guaranteed’. Chapter II of the Constitution provides for important civil and political rights and freedoms, including equality before the law (Article 24), the right to life (Article 27), the right to dignity (Article 28), the right to freedom and personal inviolability (Article 29), the right to inviolability of dwelling place, the right to privacy of correspondence and freedom from interference in personal and family life (Articles 30-32).

An important illustration of the jurisdiction of courts in cases related to citizen freedoms is the court’s authority to sanction arrest. According to the Constitution, “No one shall be arrested or held in custody other than pursuant to a substantiated court decision...”31. Law enforcement agencies “may hold a person in custody as a temporary preventive measure, the reasonable grounds for which shall be verified by a court within 72 hours” in the event of the urgent necessity to prevent or stop a crime. “Everyone detained has the right to challenge his or her detention in court at any time”32. In reality, the number of persons who were taken into custody as a preventive measure has dropped substantially since 2001, when these duties were transferred from prosecutor’s offices to courts. Currently no data is available on the application of such measures regarding juvenile offenders. However, there are figures about the total number of persons who became subject to this preventive measure: almost 74,000 persons in 2000; 55,600 persons in 2003 and 47,800 persons in 2004.

As we can see, courts are gradually reducing the number of satisfied law enforcement agency filings regarding the custody of persons. This primarily concerns juvenile offenders, for whom the use of custody is the measure of last resort.

Since 2003 there have been launched in Ukraine a number of pilot juvenile-related projects to introduce exemplary juvenile courts in three regions (Kharkiv and Kyiv oblasts and AR Crimea).

One of these projects, called ‘An exemplary juvenile court is a step towards the improvement of the juvenile justice system in Ukraine’, was implemented in 2003-2005 by the Kharkiv Public Centre “Youth for Democracy”. The project had three objectives: 1) to establish an exemplary juvenile court (EJC) on the basis of a district court (Derahichiv rayon court of Kharkiv oblast); 2) to improve the system of social and legal protection of all children under 18 through the system of services for children; 3) to strengthen the role of non-governmental organizations in response to criminal conflicts with involvement of juveniles. Particular attention

31 Article 29 of the Constitution of Ukraine, CCP.
32 Article 29 of the Constitution of Ukraine.
was given to the creation of necessary conditions for the smooth functioning of the EJC, including:

- Relevant professional training of judges;
- Provision of courts with necessary material and technical support directly linked to the organization of trial procedures and their effectiveness;
- Inclusion in EJC activities of social workers responsible for thorough collection of information about individual juveniles and their environment, as well as for the process of re-socialisation;
- Training these social workers and improving their work mechanisms;
- Development of programmes to monitor social worker performance;
- Development of professional standards for social workers and methods to improve their competence;
- Relevant professional training of legal practitioners and lawyers who represent the interests of juveniles;
- Ensuring representation of juveniles’ interests at all stages of the penal process;
- Introduction of restorative justice procedures in the practice of the EJC;
- Training restorative justice programme implementers and improving their work mechanisms;
- Ensuring the effective functioning of the restorative justice team;
- Developing review of court practice regarding juvenile cases;
- Analysis and summary of the joint work of different agencies and institutions in the area of juvenile justice.

With the support of the Ukrainian Centre for Common Ground, the Kharkiv Public Centre ‘Youth for Democracy’ organized three presentations on restorative justice programmes for three target audiences: staff members of rayon services for children; officers of rayon criminal execution inspection units; and judges of district courts and courts of appeal in Kharkiv oblast. The project also conducted awareness-raising and educational work with personnel of rayon units of the criminal police for juvenile affairs and with staff of Kharkiv oblast courts on implementation of restorative programmes. The evidence suggests that at least five juvenile offender cases were resolved by means of mediation.

One of the ideas for improving juvenile trial procedures is to introduce family courts and juvenile courts.

‘It’s probably a sign of the times… we carry out practical work with courts on the basis of personal contact, when you can personally meet the judge and tell him about the conditions in which a child was brought up. Our legislation, at least on paper, establishes the institution of so-called “court educators”. But in reality they don’t work. At the level of judicial inquiry court educators should collect all the information about the child who is subject to a criminal case. Then this educator has to come to the court with the set of documents containing positive information about the child. Unfortunately, we always perceive such children from the negative point of view.’

From in-depth expert interviews

G.B. Ovcharova. ‘Juvenile Justice: The Exemplary Juvenile Court and Restorative Justice in the Project of the Kharkiv Public Centre “Youth for Democracy”.’
3.2.4. The criminal police for juvenile affairs and reception centres for juveniles (MoIA)

According to data of the Department of Criminal Police for Juvenile Affairs of the Ministry of Internal Affairs, as of 1 January 2008 16 (out of 20) reception centres (RCs) for children were functioning in Ukraine. Four institutions of this type (located in the Odessa, Poltava, Sumy and Vinnytsya oblasts) were temporarily out of order because of reconstruction. The number of children placed in functional MoIA reception centres in 2007 reached 624. In different oblasts the use of reception centre capacity varied. The lowest figures were recorded in Zakarpatya (two children), Poltava (four) and Sumy (six) oblasts, as well as in the city of Sevastopol (eight). The highest use of capacity was in reception centres in the city of Kyiv, in Crimea and in Luhansk oblast (see Table 3.4.)

In 2007 MoIA investigation units submitted to courts 801 criminal cases pertaining to children (aged 11-14 years) who committed socially dangerous acts (the procedure is governed by Article 7.3 of the CPC of Ukraine). According to the MoIA, such measures typically apply to persons who do not have a permanent residence, who are not in school, who are disposed to delinquency and use drugs and alcohol, who live in disadvantaged families and who are neglected.

**Table 3.4. Children placed in reception centres for juveniles, 2007**

<table>
<thead>
<tr>
<th>Location of RC</th>
<th>Capacity limit (persons)</th>
<th>Number of children placed in RC during a year</th>
<th>Number of children aged 11-14 years, who committed crimes (persons)</th>
<th>Total cases submitted to court according to Article 7.3 of the CCP</th>
</tr>
</thead>
<tbody>
<tr>
<td>AR Crimea</td>
<td>40</td>
<td>93</td>
<td>7</td>
<td>27</td>
</tr>
<tr>
<td>Vinnytsya oblast</td>
<td>20</td>
<td>32</td>
<td>26</td>
<td>33</td>
</tr>
<tr>
<td>Dnipropetrovsk oblast: city of Dnipropetrovsk</td>
<td>10</td>
<td>25</td>
<td>19</td>
<td>73</td>
</tr>
<tr>
<td>City of Kryvyi Rih</td>
<td>25</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Donetsk oblast: city of Slovyansk</td>
<td>25</td>
<td>21</td>
<td>15</td>
<td>111</td>
</tr>
<tr>
<td>Zhytomyr oblast</td>
<td>25</td>
<td>24</td>
<td>13</td>
<td>38</td>
</tr>
<tr>
<td>Zakarpatya oblast: city of Uzhgorod</td>
<td>20</td>
<td>2</td>
<td>2</td>
<td>16</td>
</tr>
<tr>
<td>Zaporizhya oblast</td>
<td>30</td>
<td>47</td>
<td>4</td>
<td>59</td>
</tr>
<tr>
<td>City of Kyiv</td>
<td>50</td>
<td>110</td>
<td>6</td>
<td>17</td>
</tr>
<tr>
<td>Kirovohrad oblast</td>
<td>25</td>
<td>24</td>
<td>11</td>
<td>22</td>
</tr>
<tr>
<td>Luhansk oblast</td>
<td>30</td>
<td>70</td>
<td>41</td>
<td>55</td>
</tr>
<tr>
<td>Lviv oblast</td>
<td>30</td>
<td>48</td>
<td>37</td>
<td>14</td>
</tr>
<tr>
<td>Mykolaiv oblast</td>
<td>50</td>
<td>29</td>
<td>12</td>
<td>25</td>
</tr>
<tr>
<td>Odessa oblast</td>
<td>Closed for repair</td>
<td>-</td>
<td>-</td>
<td>60</td>
</tr>
<tr>
<td>Poltava oblast</td>
<td>25</td>
<td>(Closed for repair)</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td>City of Sevastopol</td>
<td>15</td>
<td>8</td>
<td>6</td>
<td>11</td>
</tr>
<tr>
<td>Sumy oblast</td>
<td>20</td>
<td>6</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>Kharkiv oblast</td>
<td>50</td>
<td>47</td>
<td>2</td>
<td>47</td>
</tr>
<tr>
<td>Kherson oblast</td>
<td>20</td>
<td>17</td>
<td>8</td>
<td>18</td>
</tr>
<tr>
<td>Chernihiv oblast</td>
<td>25</td>
<td>17</td>
<td>1</td>
<td>9</td>
</tr>
<tr>
<td>Total in Ukraine</td>
<td>535</td>
<td>624</td>
<td>217</td>
<td>658</td>
</tr>
</tbody>
</table>

Source: data of the Department of Criminal Police for Juvenile Affairs of MoIA, 2008, unpublished
Table 3.5. Children detained in ‘transit’ reception centres for juveniles, 2007

<table>
<thead>
<tr>
<th>To the country</th>
<th>12 months of 2007 (persons)</th>
<th>From CIS countries or citizens of Ukraine</th>
<th>12 months of 2007</th>
<th>Girls</th>
<th>Boys</th>
</tr>
</thead>
<tbody>
<tr>
<td>Russian Federation</td>
<td>10</td>
<td></td>
<td></td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>12</td>
<td>Russian Federation</td>
<td>41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moldova</td>
<td>28</td>
<td>Belarus</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>3</td>
<td>Moldova</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>43</td>
<td>Total</td>
<td>48</td>
<td>33</td>
<td>58</td>
</tr>
</tbody>
</table>

Source: data of the Department of Criminal Police for Juvenile Affairs of MoIA, 2008, unpublished

As for the remainder of juveniles who committed offenses, questions regarding their placement in RCs did not arise, because they: 1) receive positive appraisals at their places of residence and education; 2) have permanent places of residence and employed parents who care for them; 3) prior to the offence were not registered by the criminal police or services for children of the rayon state administrations and had never committed other socially dangerous acts. In addition, the majority of such children are being held legally responsible for the first time, which is another important factor in terms of deciding to place them in RCs. There exist certain problems with realising these children's right to defence via the provision of a defence attorney.

Problem issues:

1. One of the key problems with the criminal police for juvenile affairs’ system for preventing juvenile delinquency is the lack of established reporting forms and indicators for evaluating the performance of individual officers and units in general. Since, structurally, the units of criminal police for juvenile affairs belong to the department that deals with criminal offences, their priority is to disclose crimes rather than to prevent juvenile offences. These indicators are used to evaluate the performance of the criminal police unit.

2. Cases when law enforcement officers, in the initial stages of work with juvenile offenders, promise certain ‘discounts’ on sentences if the juveniles admit to additional offences are quite common. Even if juvenile offenders are not forced to do this, their rights during the inquiry process might be violated. The key issue here is that it is impossible to obtain skilled lawyers for these children, because the majority of them are from low-income or disadvantaged families. According to experts, in many instances the ‘free of charge’ lawyers that the courts or investigators provide are implicitly working for the prosecution.

3. Despite the spread of the practice according to which a police officer has to read out the juvenile’s rights and responsibilities at the moment of arrest, there are still cases in which investigative authorities seek court sanc-
tion for an arrest. This is especially so when it comes to holding juveniles for grave offences (including theft by the group of two or more individuals), even though in many cases arrest can be avoided. What is needed is an attorney who can provide a qualified explanation to the court.

4. Another issue is related to apprehension of juveniles involved in vagrancy. These young people are usually referred to reception centres. Experts have doubts about the legality of this referral, since placing underage vagrants in RCs is very similar to arresting them. It has been suggested to establish specialised NGO-run facilities for such children that could provide temporary housing.

5. Investigative authorities are reluctant to provide information about a juvenile charged with crimes to institutions or individuals authorised to conduct mediation procedures. Since such actions are not included in the investigative authorities’ mandates, they often perceive mediation as intervention in an investigative action.

3.2.5. Specialised educational facilities (correctional colonies of SDPI)

Ukraine’s penitentiary system is administered by the State Department of Penal Implementation. In 2008 it celebrated its tenth anniversary (it was established on 22 April 1998). On 12 March 1999 the Criminal Execution Service was withdrawn from the jurisdiction of the Ministry of Internal Affairs. It currently operates as an independent government law enforcement executive body with special status. The State Criminal Execution Service of Ukraine implements common state policy in the area of the execution of criminal penalties. It currently covers three categories of juvenile offenders:

   Category I. Juveniles who have committed crimes and are sentenced to detention by a court as a prevention measure. About 1,200 juveniles are detained in pre-trial detention centres (SIZO).

   Category II. Juveniles who have committed crimes and were sentenced to non-custodial sanctions (public works, correctional works, release of probation). These juveniles (about 5,000 of them) are registered with the criminal police for juvenile affairs.

   Category III. Juveniles sentenced to deprivation of liberty. This is the most problematic category of young offenders, There are 1,900 such adolescents, including 104 females.

In order to carry out custodial sentences for juveniles, the Ukrainian state maintains 10 specialised educational facilities (correctional colonies): nine for boys and one for girls. Until 2006 there were 11 correctional colonies for juvenile convicts in Ukraine.

In addition to the reduction in the number of correctional colonies for juveniles, there has been an overall reduction in the number of their inmates (from 3,268 children at the end of 2000 to 1,902 persons at the end of 2007). This reduction in the number of juvenile prisoners is occurring at the expense of a decrease in the number of convicted male juveniles. The number of female prisoners who did not reach full legal age remains virtually the same, making up 4-5 per cent of the overall number of juveniles sentenced to imprisonment for various terms.
Diagram 3.1. Dynamics of changes in the number juveniles sentenced to custody in correctional colonies, by gender (2000-2007)

Source: data of the State Department of Penal Implementation, 2008

In the past the complexity of work with juveniles in penitentiary facilities was generally preconditioned by their social and pedagogical neglect (every year correctional colonies receive about 30-50 totally illiterate convicts). In recent years, however, there has been growth in the rate of juvenile prisoners from full families who were attending schools or other educational facilities at the moment of their crimes. In addition, there is growth in the share of juveniles who used to attend schools and vocational schools for social rehabilitation of the Ministry of Education and Science. This evidence suggests the need for changes in the approach towards the execution of criminal punishment of juveniles.

Table 3.6. Dynamics of change in the social composition of juvenile convicts who serve their sentences in correctional colonies, % (2000-2007)

<table>
<thead>
<tr>
<th>Social characteristics</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attended schools of general education and other educational facilities</td>
<td>40.8</td>
<td>49.3</td>
<td>47.3</td>
<td>51.6</td>
<td>57.0</td>
<td>50.4</td>
<td>56.4</td>
<td>68.7</td>
</tr>
<tr>
<td>Worked at enterprises and other organizations</td>
<td>7.2</td>
<td>7.5</td>
<td>4.1</td>
<td>4.4</td>
<td>4.4</td>
<td>11.4</td>
<td>11.2</td>
<td>4.9</td>
</tr>
<tr>
<td>Neither worked nor studied</td>
<td>51.4</td>
<td>41.3</td>
<td>47.3</td>
<td>43.2</td>
<td>38.6</td>
<td>36.9</td>
<td>33.9</td>
<td>23.6</td>
</tr>
<tr>
<td>Were brought up in single-parent families</td>
<td>46.7</td>
<td>49.1</td>
<td>47.0</td>
<td>58.1</td>
<td>45.8</td>
<td>51.9</td>
<td>52.3</td>
<td>52.6</td>
</tr>
<tr>
<td>Including orphans</td>
<td>6.7</td>
<td>19.5</td>
<td>18.9</td>
<td>14.6</td>
<td>19.1</td>
<td>20.6</td>
<td>25.1</td>
<td>21.6</td>
</tr>
<tr>
<td>Stayed in specialised institutions of the MoES</td>
<td>5.3</td>
<td>6.6</td>
<td>6.3</td>
<td>6.5</td>
<td>7.0</td>
<td>8.0</td>
<td>9.4</td>
<td>11.0</td>
</tr>
</tbody>
</table>

Source: data of the State Department of Penal Implementation, 2008, unpublished

The Criminal Execution Code of Ukraine contains a separate section dedicated to the order for the implementation and serving of sentences by convicted juveniles. These regulations were developed in compliance with international standards: instead of being punishment-oriented, they pay significant attention to protecting children’s rights and returning them to society. For example, the Code provides for a much broader range of incentives and contacts with the external world for juvenile convicts. Juveniles receive the opportunity to attend cultural and mass events and to see their parents and relatives outside institutions. They can also arrange for
employment outside the facility prior to release. Food, clothes and footwear and communal services are provided to inmates of the colonies free of charge.

Correctional colonies are penal facilities for convicted persons aged from 16 to 18 years (or as young as 14 in the case of especially grave crimes). In order to make sure that the positive results of the corrective process are lasting and to allow a convict to complete his/her education, the convict can be left in a correctional colony until the age of 22 years.

Table 3.7. Dynamics of change of the age contingent of juvenile convicts who serve sentences in correctional colonies, % (2000-2007)

<table>
<thead>
<tr>
<th>Age groups</th>
<th>Years, %</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2000</td>
</tr>
<tr>
<td>From 14 to a full 16 years</td>
<td>13.8</td>
</tr>
<tr>
<td>From 16 to a full 17 years</td>
<td>27.5</td>
</tr>
<tr>
<td>From 17 to a full 18 years</td>
<td>36.0</td>
</tr>
<tr>
<td>Over 18 years</td>
<td>22.0</td>
</tr>
<tr>
<td>Total, persons</td>
<td>3,268</td>
</tr>
</tbody>
</table>

Source: data of the State Department of Penal Implementation, 2008, unpublished

Taking into account that children are often placed in penitentiary facilities because of various social problems, the goal of the State Department of Penal Implementation’s correctional colonies is to reintegrate juvenile offenders into society by creating decent conditions in colonies. It is also to support (and even improve) young people’s health, physical and spiritual development, education, preparation for a healthy social life and development of sustainable contacts with the external world. The colonies implement a comprehensive set of measures to support the following areas of re-socialisation of juvenile offenders:

- Ensuring relevant living conditions that comply with human dignity and general socially accepted norms;
- Support and development of self-respect by minimising the negative consequences of deprivation of liberty and the differences between free life and imprisonment;
- Support and strengthening of socially useful links with families and communities for the benefit of convicts and their families;
- Improving the educational level and teaching professional skills; developing the abilities that will help juveniles to integrate into society upon release.

The system described above contains the necessary means for fostering educational, moral, spiritual and physical development in an individualised manner. Different corrective forms and methods are performed primarily by social and pedagogical service specialists and by pedagogues and psychologists. At the same time, comprehensive system of measures envisages involvement of all staff members of colonies, ensuring re-socialisation through:

- Development and implementation of individual programmes of social and psychological work with convicts;
- Organization of general education and professional and technical training of convicts;
• Involving prisoners in physical training and sports;
• Development of healthy lifestyle skills;
• Organization of useful leisure time and cultural/educational events;
• Spiritual support and help;
• Provision of advice and counselling;
• Psychological support during the serving of a sentence;
• Implementation of the complex of measures for assisting in social rehabilitation upon release from custody.

According to the majority of experts, supporting the re-socialisation process of convicts starts on the first day of incarceration in colonies, when specialists develop individual social and psychological work programmes. These programmes envisage a set of measures aimed at mastering a certain profession, completing secondary education and developing positive abilities and socially important skills and qualities. The psychologists and pedagogues who develop these programmes take into account the juvenile's individual features, behaviour, mental state, level of social neglect and term of sentence.

The peculiar feature of these programmes are that they are developed with the involvement of juveniles themselves; they also envisage periodic progress assessments. Cooperation between the educator and the convict helps the latter to develop a conscious attitude towards the goal of re-socialising during the imprisonment period.

Programmes traffic in moral, legal, aesthetic, physical, labour and other types of education. Special programmes are developed to help convicts to clarify their personal development options, use their leisure time effectively and master useful skills and knowledge. There are educational, health improvement, cultural and other programmes.

One of the main areas for re-socialising imprisoned adolescents is improving their educational levels and teaching them professions. All correctional colonies have secondary schools of general education of the second or third levels. They each year educate 1,500 adolescents, about 700 of whom graduate and receive relevant educational certificates. Convict participation in education is actively encouraged and it is taken into account during assessment. Only a few inmates have previously received professional training, so correctional colonies run vocational schools and colleges under the auspices of the Ministry of Education and Science, which trains specialists in over 20 ‘blue collar’ occupations.

A vocational training system for adolescents in correctional colonies aims to develop specialists in professions that are in demand on the labour market. During his/her sentence, every adolescent has the opportunity to master a profession (or several crafts) that will help him/her to find a job and set up an independent life upon release. The weakness of the current system of vocational training is the limited list of specialties taught to convicts that are in demand in society.

All adolescents receive diplomas when they complete their general secondary education, as well as state-approved certificates of vocational training. Neither document contains any information about the holder’s confinement in a correctional facility. In addition, convicts get the chance while in custody to study in universities/colleges via distance learning/extramural learning programmes.
An important element of the re-socialisation of juveniles sentenced to imprisonment is the creation of conditions for recreation and leisure and for participation in the cultural life of society. According to State Department of Penal Implementation data, the colonies have organized more than 40 hobby groups/circles for culture, arts and sports; they also maintain clubs and libraries. During their free time young convicts attend/take part in lectures, discussions, quiz games and thematic meetings of an educational, moral, aesthetic and patriotic nature. They also put on concerts and performances and artistic exhibitions and participate in sports competitions.

Every year correctional colonies organize festivals of amateur artistic and creative work and ‘remote’ sports competitions. It has become a tradition for local communities to visit correctional colonies to organize concerts, shows and sports competitions and to participate in other events. Colonies organize Parents’ Days on which parents of convicted juveniles can familiarise themselves with children’s living conditions and meet with educators, teachers and colony administrators.

According to Article 59 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, correctional colonies in Ukraine are to help convicts return to society. Relevant measures start on the first day of incarceration. About six months prior to release, convicts undergo special course of counselling and psycho-correction. The goal is to implement a number of proactive educational and practical measures to improve social adaptation and integration skills; improve adolescents’ knowledge about social and everyday life issues; and promote safe behaviour and healthy lifestyles.

The counselling and psycho-correction course for convicts who are preparing for release from correctional colonies was developed with the support of the UNICEF Office in Ukraine. Within the framework of this project correctional facilities introduced functional models for centres for preparing juvenile convicts for release and for social adaptation sections. Convicts are transferred to these sections six months prior to release to participate in a range of special rehabilitation events. In addition, they get the chance to find jobs outside the facilities, to travel outside to see relatives and to visit cultural and educational events.

During preparation for release and immediately after release, convicted juveniles participate in a state social follow-up programme. This programme is implemented by colonies in partnership with the State Social Service for Family, Children and Youth and certain other government bodies that deal with the social adaptation of children. The network of the institutions and measures of social patronage is defined by the Law of Ukraine ‘On Social Adaptation of Persons Who Served their Sentences in the Form of Restriction of Liberty or Imprisonment for a Certain Term’ (2003). It includes the Ministry of Internal Affairs, the Ministry of Family, Youth and Sports and the Ministry of Labour and Social Policy.

The sphere of competence of these government bodies encompasses social patronage of released persons; the work of special rehabilitation institutions for persons who lack useful social links outside prison; temporary control over the behaviour of released persons; and prevention of illegal actions on their part. Non-governmental and faith-based organizations play an important role in social adaptation, protecting juveniles’ rights and fostering their spiritual growth.
By now the Criminal Execution Service has established a network of partners for re-socialising juveniles. The forms of cooperation range from one-time projects to long-term initiatives that cover both the convicts and staffs of facilities (in terms of improving qualifications in the case of the latter). The resources of NGOs and faith-based organizations are usually used to implement various social projects in the colonies. They are also used to improve conditions; support the material and technical basis for education; promote useful occupations; and ensure the cultural development of adolescents.

Partner relations with local authorities, local self-governments and non-governmental organizations promote the work of guardianship councils in correctional colonies. Their activities are regulated by the laws governing criminal execution and by Resolution of the Cabinet of Ministers of Ukraine No. 429 as of 1 April 2004. The main objectives of guardianship councils are to help colony administrations organize educational and learning processes; to improve colonies' material and technical bases; to address issues pertaining to the social protection of convicts; and to help released persons in employment and in coping with everyday life.

Each correctional colony has a parents’ committee that brings together the parents of sentenced juveniles. Its goal is to make convict education more effective and help the colony’s administration cooperate with the families of sentenced juveniles, as well as to help orphans, persons deprived of parental care and convicts who have lost their socially important links. In order to reinforce the civil society sector that re-socialises sentenced persons and strengthen public control over the realisation of their rights and legal interests, the Department has established public boards within its territorial units.

In improving the re-socialisation system for convicted juveniles in Ukraine, significant attention is paid to international standards and practices in executing the penalties of juveniles. Within the framework of the Council or Europe’s prison partnership programme and other initiatives, the staff members of correctional colonies have gotten familiar with juvenile justice and penitentiary practices in Austria, Denmark, Scotland, the Netherlands, Northern Ireland, Germany and other countries.

3.3. MANAGEMENT OF INSTITUTIONS THAT DEAL WITH JUVENILE OFFENDERS

Currently Ukraine lacks a single management unit to administer institutions that work with juvenile offenders. The country does, however, have a network of structures that deal with juvenile offenders and function under the auspices of a specific central government ministry. For example, units of the criminal police for juvenile affairs are subordinated to the Ministry of Internal Affairs; schools and vocational schools for social rehabilitation work under the Ministry of Education and Science; correctional colonies belong to the system of the State Department of Penal Implementation; criminal execution inspection units are part of the Criminal Execution Service of the State Department of Penal Implementation; local courts and courts of appeal and review are subordinated to the Supreme Court. Administration of the work of various bodies in the area of juvenile delinquency follows a vertical pattern: from the top (central) level to the oblast level,
and further down to the rayon and local levels. In some cases administration over local institutions can be exercised directly from the national level (as in the case of colonies and schools/vocational schools for social rehabilitation).

The negative aspect of this administration is the lack of a single coordination body to develop and instruct all the organizations involved, and later control implementation of directives. According to the law, institutions working with juvenile offenders should turn to each other for help and cooperation. The presence of a single coordination body, however, would significantly improve cooperation.

On the positive side is that administration has improved within certain sectoral systems. The last five years have seen significant changes in work with juvenile offenders and in the structures of these sectoral systems. There were changes in particular within the State Department of Penal Implementation, where ‘forceful methods of influencing’ juveniles ceased to exist and where work with juvenile prisoners is now based on the work of psychologists, social workers and educators. According to penitentiary system staff members, ‘in juvenile colonies even the worst violators are placed in disciplinary isolators only in exceptional cases’.

Second, society has become much more open to discussion of juvenile delinquency; even negative aspects such as violations of children’s rights receive coverage and open discussion at different institutions and organizations (several years ago such issues were simply ignored). This creates incentives for institutions to do better work, because there is always a risk of violations of children’s rights becoming public. Administration within individual departments and institutions is also improving, but experts note that it still fails to meet certain international norms. The main reasons for this inconsistency are a lack of clearly established intersectoral cooperation and the absence of coordinated distribution of functions between various institutions working in juvenile justice.

‘Unfortunately, administration is carried out at the level of the departments that deal with it [prevention of juvenile delinquency]. If we had well-coordinated activities… I mean, if we had a designated centre… If we had a specific organization to which to refer a juvenile offender and it would accept him… If the question relates to employment, we refer him to the social centre; if there is a problem with documents, we refer him elsewhere. If he has nothing to eat, we send him to a third organization, and so on. By now, all action of this kind is organized on the basis of personal contacts between managers, and on the basis of their personal agreements. I mean, we don’t have a system of centralised cooperation. And if the head of a certain institution is negligent, and he doesn’t have such functions, he will never do it.’

*From in-depth expert interviews*

### 3.4. COORDINATION OF INSTITUTIONS THAT DEAL WITH JUVENILE OFFENDERS

Currently Ukraine lacks a single body to coordinate the work of all institutions and organizations that deal with juvenile offenders.

This coordination is partially ensured by the Advisory Council on Juvenile Justice (ACJJ), established at the Institute of Legislation of the Verkhovna Rada in 2006 as a permanent collective and advisory board to provide information support to relevant parliamentary committees and individual members of Parliament.
This Council is mistakenly perceived as a government body that coordinates activities of governmental and non-governmental organizations in the prevention of juvenile delinquency and juvenile justice. In reality, the ACJJ ensures methodological, expert and information support to its member structures, institutions, organizations and academic circles; it also provides information to other stakeholders upon their request.

In 2006-2007 members of the ACJJ took part in the development of a draft Concept of the development of the National Programme ‘National Action Plan on the Implementation of the UN Convention on the Rights of the Child’ until 2016 and in the creation of a legislative basis for introducing a probation system as an alternative to custody. In this context, work with children disposed to delinquency is viewed as a priority. However, the situation is unclear regarding adoption of the Law of Ukraine on the National Programme ‘National Action Plan on the Implementation of the UN Convention on the Rights of the Child’ until 2016. Some sections are specifically devoted to the protection of rights of children of different categories and to a bigger role for communities in the protection of rights and development of children.

Another area of ACJJ activity in 2007-2008 was the organization of meetings with the participation of various governmental and non-governmental organizations that work with juveniles. The goal was to conduct joint review and discussions of the results of pilot projects in the legal protection of juveniles in Ukraine. As of July 2008, five meetings of this kind had been conducted.

In some oblasts, regional coordination councils for children were established within a pilot project framework. In Kharkiv oblast, one was established within the oblast state administration. It brings together staff members of relevant services (the criminal execution inspection of the State Department of Penal Implementation, the oblast department of criminal police for juvenile affairs, the centre of social services for family, children and youth). Similar coordination councils were also established at the rayon level, in the state rayon administrations. When difficulties arise at the local level, relevant official inquires are submitted to higher bodies, which review them as per the administrative order. All services have developed and signed relevant agreements and annual work plans for joint activity. These plans are adequately reflected in the quarterly plans of individual units. Relevant bodies also undertake adequate joint control measures over the implementation of activities that have been planned.

According to experts interviewed in this oblast, the establishment of this council has significantly simplified cooperation between various organizations. In particular, the criminal execution inspection closely cooperates with the services for children, despite that recently any work with convicted juveniles was officially removed from the list of the latter’s functions. Thanks, however, to the established cooperation between the CEI and services for children, as well as to the personal contacts of the heads of both structures, they successfully organize labour and recreation activities for juveniles, organize excursions and provide free medical assistance. Both organizations carry out joint raids and prevention lectures at schools, lyceums and vocational colleges. With the centres of social services for family, children and youth they organize social follow-up measures for juvenile convicts, assist with legalization of documents and provide material and psychological assistance.
The centre of social services for family, children and youth of the Kyivskyi district of the city of Kharkiv, for example, has introduced psychologists in an official capacity. They work with juvenile offenders, conducting psychological tests. On the basis of test results, local specialists develop profiles of juveniles under study. These contain recommendations about the specifics of work with the juveniles in question and their potential courses of action (special attention goes to the question of whether these juveniles will commit crimes in the future or not). Education departments (which also have psychologists) and NGOs do similar work. As for the region’s non-governmental organizations, experts particularly note that government bodies have worked effectively with the NGOs ‘For Democracy’, ‘Ukrainian-American Bureau on Human Rights’, and ‘Childhood’. The Red Cross Society helps juveniles with clothes and material assistance. Some organizations offer free food and nutrition for children. Cooperation programmes between CEI and the Kharkiv oblast department of criminal police for juvenile affairs have been developed, which has helped to intensify information sharing between the agencies. Moreover, they each month compare their lists of registered juveniles and organize joint measures to prevent juvenile delinquency.

3.5. FORMAL AND INFORMAL WORK METHODS FOR STAFF MEMBERS OF DIFFERENT BODIES THAT DEAL WITH JUVENILE OFFENDERS

This section is about formal (or formalised) and informal methods of staff work at various institutions that deal with juvenile offenders, focusing on the regulatory and legal acts (or personal contacts) that guide such activity. For many experts the term ‘formal work methods’ conjures up dishonesty and indifference, even though experts emphasise that the majority of those who work with juvenile offenders are highly skilled professionals who truly care about children and try to help them within the limits of their responsibilities and capacities. In addition, distribution and oversight functions on the part of relevant government agencies make it impossible for structures dealing with juveniles to submit merely formal reports about prevention measures without implementing them in practice. The current situation is that the government structures that deal with juvenile offenders are honest in their efforts to carry out their functions within their financial, technical and human capacities.

Formal work methods at various institutions that deal with juvenile affairs are generally based on current legislative norms; they are also governed by additional arrangements and official agreements. This is particularly the case for the social services for family, children and youth, which are governed by the regulations of the Joint Order of the Ministry of Family, Youth and Sports and the State Department of Penal Implementation. This Order provides the basis for social work with juveniles who are either in or have been released from correctional colonies.

At the same time, the services for family, children and youth carry out prevention work among different groups of young people, using healthy lifestyles promotion and delinquency prevention programmes as benchmarks. These services also use contacts with officers from the criminal police for juvenile affairs and district police inspectors to cover families living in difficult conditions. In some
localities social services for family, children and youth have established counselling points at local units of the criminal police to work with juveniles who received conditional sentences. In some cities (those with specialised facilities for juvenile offenders) the social services develop partner relations with schools for social rehabilitation and correctional colonies. In many cases this cooperation is based on personal contacts between the directors of these facilities, who genuinely want to help children regardless of the presence of formal high-level arrangements or official agreements.

CONCLUSIONS TO SECTION 3.

Preventing juvenile delinquency is the responsibility of a number of government institutions that run under the auspices of the Ministry of Education and Science, the Ministry of Internal Affairs, the Ministry of Family, Youth and Sports, the State Department of Penal Implementation and so on. Each of these government ministries, including its structural units, participates in delinquency prophylaxis programmes in line with its functions. The main focus of the work of these institutions, however, is not the primary prevention of crime, but secondary prophylaxis – prevention of crime among juveniles who have already had conflicts with the law.

Within the Ministry of Education and Science’s system there exists a network of schools and vocational schools for social rehabilitation. These were established to address educational issues and to ensure parallel social rehabilitation of children with deviant behaviour. This is generally considered to be propaedeutic of juvenile delinquency, homelessness and neglect. In 2008 there were 11 schools and three vocational schools for social rehabilitation operating in Ukraine. Most experts say, however, that underutilization is a problem. The ongoing fall in the number of inmates is increasing the prime cost of maintaining children in these social rehabilitation facilities. As a result, they may close. But it is absolutely necessary to retain these facilities. Experts recommend reorganization in two areas: first, to reduce the number of institutions for social rehabilitation that admit new inmates only upon court decision; second, to change the specifications of some of these facilities to take into account the demands of present-day society. These issues require additional consideration and analysis in order that reorganization does not degrade children’s rights in Ukraine.

Centres of social services for family, children and youth also carry out prevention work with juveniles in conflict with the law. In particular, they provide social support to juveniles and young people detained in penal and correctional colonies and pre-trial detention centres. They also provide support to individuals sentenced to non-custodial sanctions and to those serving alternative sentences and who appeal to social services for assistance. A number of factors, however, prevent the centres from being effective. They include poor understaffing of the relevant services; the inadequate professional levels of local staffers; a lack of specialised knowledge and of ongoing training and retraining programmes for staff; duplication of functions that sometimes do not protect children’s rights and interests (as a rule these functions have to do with identifying, registering and su-
pervising children in conflict with the law); an absence of close cooperation and interaction; and a lack of funding.

Courts also have a certain role to play in prevention of juvenile delinquency. Currently Ukraine lacks specialised courts that specifically consider cases involving children. Statistics show that courts are gradually reducing the number of law enforcement agency filings regarding the custody of juvenile offenders that have been satisfied. Given the absence of specialised juvenile courts, the practice of judge specialisation is gaining in popularity – that is, cases involving juveniles are given to specifically designated judges. Since 2003 Ukraine has launched a number of pilot juvenile-related projects pertaining to the introduction of exemplary juvenile courts in three regions of Ukraine (Kharkiv and Kyiv oblasts and AR Crimea). One idea for improving juvenile justice is to introduce family courts and juvenile courts.

A separate network of facilities that work in prevention of juvenile delinquency is subordinated to the Department of Criminal Police for Juvenile Affairs of the Ministry of Internal Affairs. As of 1 January 2008, 16 out of the country’s 20 reception centres for children were functioning. According to experts, one of the key problems with the juvenile delinquency prevention system at the criminal police for juvenile affairs is the lack of established reporting forms and indicators for evaluating the performance of individual officers and units in general. Since structurally the units of the criminal police for juvenile affairs belong to the department that deals with criminal offences, it is obvious that the priority for them is to solve crimes, rather than to prevent juvenile delinquency. These indicators are used to evaluate the criminal police unit’s performance.

Another network of facilities that deal with juvenile delinquency issues belongs to the system of penitentiary facilities of Ukraine, which the State Department of Penal Implementation manages. To implement custodial sentences for juveniles, the Ukrainian state maintains 10 specialised educational facilities (correctional colonies): nine for boys and one for girls. Until 2006 there were 11 correctional colonies for juvenile convicts in Ukraine. Correctional colonies are penal facilities for convicted persons aged from 16 to 18 years (or as young as 14 in the case of especially grave crimes). In order to make sure that the positive results of the corrective process are lasting and to allow a convict to complete his/her education, the convict can be left in a correctional colony until the age of 22 years. According to the majority of experts, in recent years correctional colonies have undergone significant changes in terms of the implementation of international norms and standards in work with juvenile offenders. This explains the relatively high ratings of their work that experts within this project have provided.

The issue of the administration of the work of these institutions remains unresolved. While the organization and implementation of vertical measures within specific sectors has not generated any particular criticism, horizontal administration, given the involvement of non-governmental and governmental organizations (especially at the rayon, town or village level), requires additional attention.

In some oblasts regional coordination councils on children have been established within pilot project frameworks. According to the experts interviewed in these oblasts, the establishment of these councils has significantly simplified cooperation between various organizations.
SECTION 4.
PRE-TRIAL AND TRIAL PROCEDURES WITH THE PARTICIPATION OF JUVENILES: CURRENT PRACTICES IN UKRAINE

4.1. APPREHENSION, ARREST AND PRE-TRIAL DETENTION OF JUVENILES: CHILDREN UNDER INVESTIGATION

A juvenile encounters the law for the first time during his/her contacts with law enforcement officers. The latter on the one hand have to demonstrate that the state protects people’s and legal entities’ legal rights and interests; on the other hand they have to confirm that any person who has committed a crime will be held responsible and bear the burden of punishment. At the same time, representatives of inquiry and pre-trial investigation bodies have to persuade a child who has done wrong that the state, represented by law enforcement officers and judges, is interested in the child’s correction and that, moreover, the state respects and will protect the child’s rights to correction.

According to Article 343 of the Criminal Procedure Code (CPC), detention and custody of a juvenile as a preventive measure should be used as a measure of last resort, when it is preconditioned by the gravity of crime, and given a justification. This procedure should follow the order established by Articles 106, 148, 150, 155 and 157 of the CCP. Taking an underage person into custody should happen only if there are reasons to believe that other, less strict preventive measures may be insufficient.

According to paragraph 13.2 of the Beijing Rules, ‘Whenever possible, detention pending trial shall be replaced by alternative measures’. Taking into account the specific circumstances of the case and the gravity of the crime, and considering the personality, life and education of the juvenile and his/her relations with his/her parents, a court, guided by Article 436 of the CPC, may transfer the juvenile to the supervision of parents, guardians and caregivers. Institutionalised children, meanwhile, can be transferred to the supervision of the administration of an institution.

Article 434 of the CPC requires that parents or persons who substitute for them be informed about the arrest and taking into custody of a child. In the case of a groundless arrest of a juvenile, the court has to immediately cancel the preventive measure or else substitute for it. The court should issue separate resolutions (rulings) about violations of law when it comes to detention of juveniles.

According to Article 59 of the Constitution of Ukraine, pre-trial inquiry bodies in all cases have to ensure the right of juvenile suspects to receive qualified legal assistance. Taking into account the age-specific features of underage persons, the law also grants them the opportunity to use expert legal assistance. The participation of a defence attorney in the pre-trial inquiry and in consideration of criminal cases of juvenile offenders in court is mandatory (paragraph 1, part 1, Article 45
of the CPC). The defender has to participate in the case from the moment charges are brought against the juvenile as a suspect or of the selection of a preventive measure prior to arraignment – from the moment the protocol on detention or the court resolution on the use of a preventive measure is read, but no later than 24 hours after apprehension.

At the moment of apprehension, it is mandatory to explain to the juvenile that he/she has a right to see a legal defence attorney from the moment of detention (Article 106 of the CPC). According to Article 21 of the CPC, prior to the first interrogation of the juvenile as a suspect, the pre-trial inquiry body is obliged to explain to him or her that he/she has the right to a lawyer, and to sign the relevant protocol.

Therefore, according to Articles 21, 43 and 431, clause 1 part 1 of Article 45 and Articles 48 and 106 of the CPC, a juvenile suspect may provide a first explanation only after meeting with his/her defence attorney. The presence of this attorney is also compulsory during interrogation. A juvenile may reject a specific defence attorney, but not the procedure of defence itself. In this case the defence attorney will be substituted according to the order established in part 4 of Article 46 of the CPC.

In many cases juveniles suspected of committing crimes and their legal representatives cannot accord to hire lawyers or other legal experts. In this case investigators can appoint defence attorneys independently. Very often this attorney’s duties are limited to his/her presence during specific investigative actions, where a lawyer's presence is compulsory, and to signing relevant procedural documents. Sometimes this defence attorney can prepare and submit a solicitation. Certain evidence suggests that the services of such a defence attorney are covered by the state in the amount of UAH 17 per day, which represents too small an incentive. It is harder to get a juvenile suspect a defence attorney when the arrest or detention happens late at night and in a small town or village. Attorneys or other legal professionals are rare in rural areas. Unions of attorneys are usually registered and operate in the capital, in oblast and rayon centres and in big cities.

**Problem issues:**

1. Article 161 of the CPC establishes the adversarial nature of the judicial process. However, the current Code does not prescribe a functional mechanism for practically realising this principle. For example, provisions of part 3 of Article 47 of the CPC read that ‘a person who conducts an inquiry, the investigator or the court can appoint a defence attorney according to the order established by the law through the union of attorneys’. This, however, contradicts the Law of Ukraine ‘On the Bar’, issued on 19 December 1992. Neither the CPC nor this Law establish a procedure for appointing a defence attorney. If a person is registered as an entity that is conducting an individual legal practice, even a court cannot appoint him or her a defence attorney for an accused juvenile ‘according to the order established by the law’. That is why the same attorneys are usually being appointed to defend juveniles.

2. The capacities of services for children are not typically used during pre-trial procedures, even though they typically provide follow-up for many
juveniles and have plenty of information about them. The main reason they do not participate is that they are not usually informed about the facts of the offence the juvenile has committed.

3. Current legislation does not foresee the participation of mediators in pre-trial procedures for juvenile offenders. At the same time, juveniles under stress can fail to provide evidence to the investigative authorities, which can be interpreted in an unfavourable way for the juvenile.

4. The legislation does not regulate the procedures related to the preparation of the pre-trial report (profile) on the offender's personality. As a result, such reports are not compulsory. They are submitted only via personal contacts and arrangements between staff members of institutions, and within pilot projects.

‘We had this boy – he was released on the second of the month… Prior to that he stayed in SIZO for three months. He saw things I wish he had never seen. That spoils children. If we do not accelerate the process, it harms children immensely, especially if they find themselves in this environment…’

‘I think that pre-trial procedures don’t comply with any norms or standards. I am absolutely positive of that, because the conditions under which juveniles stay in SIZOs are just horrible. It’s not on the level our country, a European state, should be on. It shouldn’t be like that. Again, if we compare these conditions with those in European country… well, I’m not sure you’ll find this anywhere else. In other countries children stay in normal conditions – they have single cells, single rooms! You never see these two- or three-storey beds and green walls, like we have. What makes things worse is that children stay in the SIZO for a long time. They don’t attend school there. They do have psychologists in these facilities, but I would question effectiveness of their work. Children have no access… well, the number of available books is extremely limited. They never had television until recently. It’s full isolation! How can these kids develop? What about their education?’

From in-depth expert interviews

4.2. CONSIDERATION OF JUVENILE OFFENDER CASES IN COURT

4.2.1. Competence of courts in terms of considering juvenile offender cases

Ukraine lacks specialised juvenile courts that specifically consider juvenile cases. The court system is regulated by the laws of Ukraine, but the establishment and removal of individual courts fall under the sphere of the President’s competence. In general, the court system of Ukraine consists of courts of general jurisdiction and the Constitutional Court of Ukraine (CCU); the Constitution directly prohibits the establishment of any extraordinary or special courts. Courts of general jurisdiction make up a holistic system based on principles of territory and specialization; the system encompasses general courts, specialised economic and administrative courts, military tribunals and the Supreme Court.

Local general courts constitute the lowest level of the court system. These are courts of the first instance, which consider all civil and the majority of criminal and administrative cases, as well as cases pertaining to administrative offences (minor offences that are usually punished by imposition of a fine).
These courts also consider cases involving juveniles. The majority of cases in these courts are considered by individual judges (with the participation of a legal representative, defence attorney and prosecutor in the trial). As of October 2005, there were 666 local (rayon, city district and city) general courts working in Ukraine, with about 4,000 judges. The number of courts in pilot regions where there are juvenile justice projects and systematic work with judges in considering juvenile cases is actually very limited. It is expected that these courts, at least, will lay a foundation for the introduction of juvenile courts in Ukraine and until then will serve as a ‘launching pad’ for measures to improve the effectiveness of juvenile justice.

In addition, every oblast, as well as the Autonomous Republic of Crimea and the cities of Kyiv and Sevastopol, has a general court of appeal. These courts handle appeals of the decisions of local general courts within their territorial jurisdictions. Moreover, they are the courts of first instance for trying the most serious crimes (those, for example, that are punished with life sentences). Each court of appeal operates within a chamber of appeals in civil and criminal cases.

A panel of three judges reviews the appeals. As of October 2005 there were about 1,300 judges working in 27 courts of appeal in Ukraine. The number of court cases involving juvenile offenders that they considered is quite significant.

The Supreme Court of Ukraine is the highest organ in the hierarchy of courts of general jurisdiction in Ukraine. It is the only court of cassation instance for court decisions in civil and criminal cases involving juveniles; the SCU’s responsibility is to ensure equal application of the law by all courts of general jurisdiction. The SCU has 95 judges who are appointed to one of four chambers (for civil, criminal, economic and administrative cases), or to a military judicial division. The SCU also has a Presidium for settling internal and organizational issues and a Plenum, which consists of all SCU judges and the presidents of higher specialised courts and their first deputies. Previously the Plenum could review the decisions of lower courts, but today its role is to establish an overall framework for the court system’s functioning. For example, the Plenum provides courts with explanations regarding application of legislation during cases involving juveniles. Even though these explanations do not have mandatory force, they play an important role in the decisions lower courts make.

Ukraine also has specialised economic and administrative courts, military tribunals and a Constitutional Court. Since these do not deal with juvenile cases directly, this research will not treat them.

Even though the Constitution and the Law on the Court System envisage direct popular participation in the administration of justice through people’s assessors and jurors, the law on procedure should determine their specific functions. To date no efforts have been made to introduce the institution of the jury, but in the Soviet era people’s assessors participated in consideration of cases involving juveniles by courts of the first and second instances. This issue is currently not attracting discussion because legal professionals seem to not support introducing the jury. But judges who deal with juvenile offenders believe that jury courts are necessary.

Ukraine has very broad system of bodies that support the work of the judiciary. The internal activities of courts, their independence and their protection
from outside intervention are the responsibility of the network of \textit{bodies of judicial self-governance}, as established by the Constitution. The highest body in this system is the Assembly of Judges of Ukraine and its executive unit, the Council of Judges of Ukraine. These structures’ decisions are mandatory for all judges in Ukraine.

\textbf{4.2.2. Specialisation of judges in consideration of juvenile cases}

Issues related to choosing candidates for judgeship, bringing judges to disciplinary responsibility and dismissing judges fall within the competence of the High Council of Justice (HCJ) and the judge qualification commissions. The HCJ is a quasi-court constitutional body that plays an advisory role in appointment and dismissal of judges. There are 11 permanent qualification commissions in Ukraine (there are also commissions for economic, administrative and military court judges): the High Qualification Commission of Judges and 10 district qualification commissions.

In general, any person over 25 years of age who has a university degree in law and a record of service of at least three years in the law, and who resides in Ukraine and speaks the official language, can apply to be a judge. There are limitations that prohibit recommending specific persons for judgeships. The following, for example, cannot be judges: persons with limited legal capacity or who are legally incapable, as determined by a court; persons under pre-trial inquiry or subject to court proceedings for criminal matters; persons with unexpunged convictions; and persons with chronic mental or other diseases that might prevent them from fulfilling a judge’s responsibilities.

Additional age- and experience-related requirements exist for candidates for higher-level judgeships. For example, only a person over 30 years of age and who has worked in law for at least five years, including three as a judge, can become a court of appeal judge. SCU judgeships are open to persons of a full 35 years of age who have at least 10 years of service in the law, including five years as judges.

Candidates for the judiciary are not required to pass special training prior to appointment. However, two Ukrainian law schools, the Odessa National Academy of Law and the Yaroslav the Wise National Law Academy of Ukraine in Kharkiv, offer one-year masters programmes in law for future professional judges. New judges do an annual two-week internship at the Academy of Judges of Ukraine (AJU) during their first five years in their positions. The AJU was established according to the Law of Ukraine on the Court System as a state institution of higher education.

Active judges are not required to participate formally in regular refresher courses, even though the Code of Professional Ethics of a Judge states that they have to maintain their professional competence on an adequate level. Judges have many opportunities to participate in a variety of workshops and seminars organized by government bodies, non-governmental organizations and international donors, such as the AJU, the SCU’s Centre for Advanced Training of Judges, courts of appeal, the Ukrainian-Swiss Centre for Judicial Studies, ABA/CEELI, the Council of Europe, the Organization for Security and Cooperation in Europe (OSCE), the International Renaissance Foundation, the United Nations Development Programme (UNDP), the US Agency for International Development.
(USAID) and other organizations. As for the juvenile justice, workshops of this kind are often organized with the support of UNICEF in Ukraine and other organizations. These organizations almost never coordinate their work, however, so training frequently has a spontaneous and sporadic nature.

The AJU has developed its Concept for the national system of training, retraining and advanced training of judges, the staff of the court apparatus and the State Court Administration.\(^{34}\) It envisages mandatory two-year specialised training for candidates for the judiciary and the participation of permanently elected judges\(^{35}\) in one-month refresher courses at least once every five years. These proposals remain on paper, however, because the state continues to ignore the AJU’s financial needs.

**4.2.3. Participation of defence attorneys, legal representatives, parents/guardians and representatives of the social services, inspections and public in court sessions**

Cases submitted to the court according to the order established by Articles 73 or 9 of the CCP, shall be considered by a judge during a court session. The judge issues a court ruling indicating the time and venue of the consideration of the case and the persons to be summoned to court. If failure to remove identified violations of the CPC prevents the court from holding a trial, or if the rights of the juvenile have been violated, or if the pre-trial inquiry is found incomplete or incorrect, the judge rules (according to Articles 246 and 281 of the CCP) to return the case to the prosecutor’s office. That office is to eliminate the case’s faults or conduct additional investigation.

Information about the time and venue of the consideration of the criminal case in court shall be communicated to the juvenile and to his/her legal representative, defence attorney and other persons on the list attached to the case resolution submitted to court. The prosecutor’s office shall also be notified. If the juvenile is registered with the police and services for children, representatives of these authorities may also be invited to participate in the court session, but this is not the rule.

The participation of the juvenile, of his or her defence attorney, of his or her legal representative and of the prosecutor in the court session is obligatory. The participation of other persons, including representatives of social services, child-care authorities, non-governmental organizations and the like is not obligatory. However, we have heard of cases of the participation of representatives of NGOs that deal with reconciling opposed parties. During the session, the court clarifies the information about the personality of the juvenile and the authority of the legal representative; explains the defendant’s procedural rights; and listens to the

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34 The State Court Administration is the central body of executive power, subordinate to the Council of Judges of Ukraine. It ensures organizational support for the functioning of courts, covering financial, material, technical, staffing, informational, and organizational matters; the goal is to ensure the full and independent administration of justice. The system of organs of the SCU consists of the central office in Kyiv and 27 territorial departments in all oblasts, in the AR Crimea and in the cities of Kyiv and Sevastopol.

35 There exist two categories of judges in Ukraine: judges appointed to the position for five years and judges who, upon completion of the five-year term, can be elected by the Verkhovna Rada to permanent service.
explanations of the defendant and his/her legal representative. The court investigates the evidence necessary to settle the case: the fact of the occurrence of a socially dangerous act that can be classified as a crime according to the CC; the guilt of the defendant; and other circumstances that can significantly influence the decision to sentence the juvenile. The prosecutor, defence attorney, legal representative and juvenile express their thoughts. The juvenile is not granted a final plea.

According to Article 44 of the CPC, persons who have the right to practice law in Ukraine, as well as other legal experts with the right to provide legal services, are eligible to serve as defender. The functions of a defender can also be fulfilled by close relatives of the accused/defendant/convicted/acquitted person and by his/her guardians and caregivers, but only in cases and according to the order established by the CCP. The defender can participate in the case at any stage; moreover, his or her participation is compulsory regardless of the age of the accused juvenile (whether he/she has turned 18 years or not). According to Article 370 of the CPC of Ukraine, violation of the right of the accused to a legal defence is a serious violation of criminal procedural law. Violation of the requirements of Article 44 of the CPC regarding the accession of the defender in the case may catalyze returning the case to the prosecutor’s office for additional pre-trial inquiry (Article 246, 281 of the CCP). If this violation occurs at the moment the court imposes the

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### Table 4.1. Consideration of criminal offences committed by juveniles by courts of first instance, 2004-2007

<table>
<thead>
<tr>
<th>Indicator</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Submitted criminal cases on juvenile offences</td>
<td>18,363</td>
<td>15,229</td>
<td>12,397</td>
<td>10,804</td>
</tr>
<tr>
<td>2 Cases conducted</td>
<td>21,821</td>
<td>18,574</td>
<td>14,857</td>
<td>12,857</td>
</tr>
<tr>
<td>3 Completed cases – total</td>
<td>18,453</td>
<td>16,075</td>
<td>12,666</td>
<td>11,061</td>
</tr>
</tbody>
</table>

**Including:**

- With judgement of sentence | 15,705 | 12,669 | 10,352 | 8,295 |
- Cases closed | 1,321 | 2,337 | 1,514 | 2,127 |
- With use of compulsory measures of a medical nature | 59 | 63 | 50 | 37 |
- Returned for additional investigation | 844 | 659 | 474 | 374 |
- Returned to the prosecutor’s office according to Article 2491 of the CPC of Ukraine | 256 | 181 | 135 | 104 |
- Transferred by jurisdiction | 268 | 166 | 141 | 124 |
- Assigned to consideration according to terms in: | | | | |
  - Article 241, CCP | 241 | 122 | 61 | 42 |
  - Article 256, CCP | 863 | 478 | 214 | 161 |
- Total | 1,104 | 600 | 275 | 203 |

4 Cases that remained unconsidered at the end of the reporting period – total | 3,368 | 2,499 | 2,191 | 1,922 |

*Note: % of the number of cases conducted

Source: data of the Supreme Court of Ukraine, 2008, unpublished
sentence, it could be reason for the cancellation of the sentence (point 3 of Article 370 of the CPC) by a higher-level court.

Unlike the official defender, close relatives, guardians or caregivers of the charged juvenile are allowed to participate only after the presentation to the juvenile of the pre-trial inquiry materials; they can participate in the proceedings only in concert with the legal defence attorney or another legal expert. The latter has a legally established right to provide relevant assistance personally or by order of a legal entity.

As in the case of the pre-trial inquiry, if neither juveniles nor their parents/guardians/caregivers can hire an attorney or other legal professional, the state appoints figure, whose participation is however often limited to being presence at the session and signing relevant procedural documents. Sometimes the appointed lawyer may prepare a solicitation.

According to Article 441 of the CPC, courts have to summon the legal representatives of a juvenile who has not yet turned 18. After the defendant reaches this age, the participation of his/her legal representatives in a trial is not obligatory. A legal representative can be removed from participation in the process if the court decides that his/her actions are harming the juvenile defendant’s interests (part 4, Article 441 of the CCP).

**Problem issues:**
1. Even though the participation of representatives of the services for children and the criminal police for juvenile affairs in court sessions is widely supported by experts, it is not yet mandatory (except in pilot regions). When courts do invite representatives of these bodies (which happens rarely), and the representatives do not show up, the courts often ignore the absence. The practice of ignoring court summonses pertaining to juvenile cases is quite widespread among the commissions and inspection bodies that work for children, just as it is among other organizations and institutions.
2. According to Article 445 of the CPC, if a juvenile is released on probation or is given a non-custodial sentence, appointing a public educator must be discussed. As a rule, this legal norm is not executed.

**4.2.4. Circumstances subject to proof in cases of juvenile crimes**

Articles 64 and 23 of the CPC define the circumstances subject to proof in a criminal case; they cover all cases, including offences, that juveniles commit. One of the peculiarities here is that the limits of what is subject to proof keep expanding. In addition to the circumstances established as compulsory for every criminal case, the following issues must be clarified during juvenile cases (as provided in Article 433 of the CPC):

- The age of the juvenile;
- His/her health condition and overall development;
- The characteristics of his/her personality;
- The juvenile’s conditions of life and upbringing;
- The circumstances that negatively affected his/her upbringing;
Table 4.2. Quality of consideration of criminal cases of juveniles by courts of appeal (by number of persons) in 2006-2007.

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<td><strong>Total by courts of Ukraine</strong></td>
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<td><strong>11,171</strong></td>
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<td><strong>328</strong></td>
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Source: data of the Supreme Court of Ukraine, 2008, unpublished
• The presence of adult abettors and other persons who involved the child in criminal activity.

Failure to identify these circumstances is evidence of serious problems with the administration of the case. If this failure is impossible to correct, the court can return the case for additional investigation. In 2007, 374 cases involving juveniles were subject to additional investigation.

In order to clarify the condition of health of a juvenile according to part 2 of Article 433 of the CCP, his parents (or the persons who substitute for them) need to be interrogated. Investigators should learn whether the juvenile has any serious diseases; if he/she has any mental physical disorders; and about his/her logical thinking abilities and whether he or she suffers from developmental retardation in comparison with peers. If a juvenile has been registered for some psycho-neuropsychological disorder or has stayed in the hospital, investigators query the relevant health care facilities. In case of evidence of mental retardation, the court, according to Articles 76 and 433 of the CPC, prescribes forensic psychological expertise or comprehensive psychological expertise to find out whether the juvenile was fully aware and conscious of his/her actions and capable of controlling them. If the data confirm the fact of mental retardation unrelated to a psychological disorder, the court identifies the level of his/her retardation as compared to individuals of the same age.

As a rule, files on cases of juvenile delinquency are supplemented with details from school or another educational establishment and from the juvenile’s residence and workplace. Also necessary is a document from the unit of criminal police for juvenile affairs (pertaining to whether the juvenile was registered with this unit and if so why). Another document comes from the services for children (pertaining to when the services considered the juvenile’s file, to whether he/she was brought to administrative responsibility and so on). In addition, the court identifies the juvenile’s family and domestic conditions and the nature of his/her contacts with his/her environment.

Problem issues:
1. Courts quite often receive several files on the juvenile, prepared by different institutions (e.g., a school, am employer, a service for children); these can contain contradictory information.
2. Strained relations between a juvenile and his/her parents or the persons who substitute for them may provoke emotionally preconditioned negative responses about a child, thus making it more difficult to identify the objective causes of a crime.
3. In analysing the forensics conclusions, judges often encounter diagnoses (psychopathy, mental retardation, organic brain injuries, craniocerebral trauma) that which, according to psychologists and psychiatrists, may serve as a reason for softer punishment. In reality, such conclusions further complicate the work of judges, so it is necessary to develop psychology and psychiatry as sciences within juvenile justice to a greater extent.
4.2.5. Sentencing of juveniles

According to Clause 5.1. of the Beijing Rules, the response to a young offender should be based on consideration not only of the gravity of the offence but also of the offender’s personal circumstances. A person who has committed a crime should be sentenced to punishment that is necessary and sufficient for correcting and preventing future offences.

The peculiarities of criminal responsibility and punishment of juveniles are described in Section XV of the Criminal Code. According to Article 98 of the CC, the list of punitive measures that can be imposed on juveniles is exhaustive. In other words, no other types of punishment can be applied to juveniles.

On the basis of this article, other types of punishment – restriction of liberty, confiscation of property, life imprisonment – cannot be applied to juveniles. This is also preconditioned by the transition to milder primary punishment, as per Article 69 of the CC. The following types of punishment may be imposed on juveniles found guilty of committing a crime: fines, community service, correctional work, arrest, imprisonment for a determined term and such additional punishments as deprivation of the right to occupy certain positions or engage in certain activities. According to Article 66 of the CC, minority status is a circumstance that shall be deemed to mitigate punishment.

The new Criminal Code provides for milder and more humane punishment for juveniles who have committed a crime of minor or medium gravity for the first time. The Code also punishes more severely persons who have committed an especially grave crime related to deprivation of life. According to Article 102 of the CC, imprisonment may not be imposed on a minor who has committed a minor offence for the first time. Imprisonment for up to two years shall be imposed on a minor who has committed a repeated minor offence. A medium grave offence leads to a term of up to four years. A grave offence leads to a term of up to seven years. An especially grave offence involving homicide leads to a term of up to 15 years. The final imprisonment imposed on a minor because of an accumulation of offences or punishments may not exceed 15 years (Part 2 of Article 103 of CC).

Article 99 of the CC contains certain reservations regarding the use of fines against juveniles. According to this Article, a fine may be imposed only on minors who have independent income, personal finances or property on which the penalty can be levied. Application of this type of punishment is thus limited. Part 2 of Article 99 of the CC determines the fine that can be imposed on juveniles: it cannot exceed 500 tax-free minimum incomes.

In civil proceedings, according to Article 1179 of the Civil Code of Ukraine, a minor aged 14 to 18 years shall bear responsibility for damage inflicted on a common basis. Only if a juvenile does not possess property sufficient to compensate the damage will it be compensated partially or in full by his/her parents (or adoptive parents) or caregivers or by the institution that performs caregiving functions, if these fail to prove that the losses were not their fault. Losses caused by several juveniles together are compensated for by proportions agreed between them or by court decision (Article 1182 of the Civil Code).

Article 101 of the CC states that arrest, as a penal measure, implies detaining a minor who has turned 16 by the time of sentencing in isolation in a special
institution for a term of 15 to 45 days. The duration of this period is much shorter for minors than for adults.

Community service may be imposed on a minor of 16 to 18 years of age for a term of 30 to 120 hours (for adults the term is from 60 to 240 hours). It consists of services the minor provides during time in which he or she is not involved in school or at work. This punishment may not exceed two hours per day (as opposed to four hours per day for adults).

Correctional work may be imposed on a minor of 16 to 18 years of age. It is to be performed at the place of his/her employment for a term of two months to one year (as opposed to from six months to two years). A court will establish an amount, ranging from 5 to 10 per cent of salary, that will be deducted in favour of the state (for adults it is from 10 to 20 per cent).

Article 104 of the Criminal Code of Ukraine regulates the discharge of a juvenile from punishment on probation. Discharge on probation is only for minors sentenced to imprisonment (e.g., adults can, in addition to discharge from punishment, be sentenced to correctional works and restriction of liberty). Probation will be affixed for a period of from one to two years (from one to three years for adults). When discharging a minor on probation, a court can place him or her under the care and supervision of another person, upon the consent of the latter. When putting minors on probation, courts can place additional obligations them, as established in part 1, Article 76 of CC. The list of these obligations is exhaustive.

A person who has committed a minor criminal offence for the first time shall be exempt from criminal liability if he/she has reconciled with the victim and compensated the losses or repaired the damage inflicted according to Article 46 of the CC. The court may also consider this circumstance as an attenuating circumstance.

When imposing a punishment on a minor, a court must consider, in addition to the gravity of the crime, the minor's personality and the circumstances of the offence, the conditions of his/her life and upbringing, the influence that adults had, the level of his/her development and other specific features of his/her personality.

4.2.6. Compulsory measures of an educational nature

Based on the Decree of the Plenum of the SCU ‘On the Practice of Court Consideration of Cases with Application of Compulsory Measures of an Educational Nature’, issued on 15 May 2006, the goal of such measures is to ensure the best interests of the juvenile. In addition to a good upbringing, such measures include adequate education, medical treatment, social and psychological assistance, protection from abuse, violence and exploitation and opportunities to adapt to the realities of social life, to improve one’s overall educational and cultural level and to master a profession and gain employment36.

According to part 1 of Article 97 of the CC, a minor who has committed a minor offence for the first time may be discharged from criminal liability provided that his correction is possible without punishment. In such cases, a court will impose compulsory measures of an educational nature. These measures can be imposed on a person aged 14 to 18 who has committed an offence of medium gravity as well as on a person who has committed a socially dangerous act that is classified as an act that is provided for by the Special Part of this Code before attaining the age of criminal liability (11 years of age). Compulsory measures apply:

- In the case of a court decision on the discharge of a minor from criminal liability, according to part 1 of Article 97 of the CC;
- To a person who has committed a socially dangerous act before attaining the age of criminal liability;
- When a person is discharged from punishment according to part 1 of Article 105 of the CC.

If the materials of a case provide other reasons to discharge a minor from criminal liability (e.g. those established by the Articles 45-49 of the CC), and if these are more legally appropriate in terms of the minor’s best interests, these should be selected. Cases of juvenile crime submitted to court according to the order established by Article 232 of the CC, pre-trial inquiry, preliminary consideration and the trial should follow the rules that Chapter 36 of the CPC sets forth.

Evidence shows that courts tend to impose only one compulsory measure of an educational nature – placing a minor under the supervision of his/her parents. They consider this measure to best contribute to juvenile correction and re-education.

4.2.7. Control over execution of court decisions regarding juveniles

The prosecutor’s offices exercise overall control over execution of court decisions regarding juveniles. If necessary, these bodies request assistance from other institutions, including health care facilities, educational and vocational training facilities, dining facilities, financial institutions and so on. The State Department of Penal Implementation conducts regular audits of correctional colonies, while the Ministry of Education and Science conducts inspections of its schools and vocational schools for social rehabilitation.

Evidence shows that the institution of court educators has yet to be established. This is why control over execution of court decisions regarding juveniles is exercised by representatives of other institutions, including services for children, which are responsible for implementation of decisions regarding compulsory measures of an educational nature. Moreover, they have to control juveniles’ behaviour; when juveniles try to evade court-imposed measures, these bodies analyze the cases in order to stop the evasion.

Evasion of compulsory educational measures is when a juvenile systematically and without a legitimate excuse violates or does not perform measures ordered by a court. This can include the following:

- Non-observance of court acts or requirements pertaining to the minor’s behaviour;
SOCIAL PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY

- Absence (or ineffectiveness) of correctional influence and control on the part of parents or the persons who substitute them, or on the part of a pedagogical/labour collective;
- Refusal to compensate property damages;
- Non-fulfilment of the conditions of a mediation/reconciliation agreement;
- Arbitrary leaving a school or vocational school for social rehabilitation;
- Systemic violations of order at schools or vocational schools for social rehabilitation, etc.

Judging from Supreme Court data, courts assigned public educators to six juvenile offenders in 2005, 13 in 2006 and 20 in 2007. Within the framework of this research project we did not study in detail what categories of cases were considered, what courts made decisions and how effective they were.

‘Prosecutor’s offices exercise control over execution of court decisions. They come to us with inspections quite often… moreover, they bring along other specialists in those areas in which prosecutors are not very good: in health care, nutrition, education, vocational training, manufacturing, finances and salaries and so on... These specialists come every month, every quarter. Sometimes we have complex inspections and various targeted audit missions. They inspect us a lot, and we get frequent inspections from our Department of Penal Implementation’.

From in-depth expert interviews

CONCLUSIONS TO SECTION 4.

The current practice pertaining to pre-trial and court procedures with the involvement of juveniles has both positive and negative characteristics. Among the positive ones, experts note that the law establishes for juveniles the right to protection at all stages of the criminal process. It also provides for compulsory notification of a juvenile’s parents/guardians/other responsible persons of the fact that the juvenile has been detained. In addition, the practice according to which police officers explain to juvenile offenders their rights and obligations is quite widespread. The preparation of pre-trial (social and psychological) profiles about juveniles’ personalities is another positive practise.

No legislation regulates the preparation of these pre-trial profiles. The practice is thus not compulsory. It is implemented only due to personal contacts and arrangements between staff members of relevant institutions, as well as within pilot projects. Moreover, services for children are usually not used during pre-trial procedures, even though the services typically provide follow-up for many juveniles and have plenty of information about them. The main reason for this is that the services are usually uninformed about offences committed by juveniles.

The negative aspects of pre-trial procedures for juveniles include (according to experts) limited opportunities on the part of the criminal police for juvenile affairs to inform relevant persons that a child has been arrested (the parents might lack a telephone; the child might not want to tell the police about his/her place of residence; the place of detention might be far from the residence; and so on). There are no premises in which to place adolescents who have been detained while intoxicated by alcohol or drugs (they can legally be interrogated only when
sober). With the exception of places covered by pilot projects, Ukraine’s regions generally have problems getting attorneys and social workers to work with juvenile offenders immediately after apprehension: court-provided lawyers or investigators who defend the juvenile for free often take the prosecution’s side.

Another negative point is the lack of a national analytic database for children who have been arrested in the past. This makes it hard to define a child’s disposition towards crime. Nor are there legal mechanisms for placing wanted children in reception centres. Cases in which investigative bodies seek court sanction to arrest juveniles accused of serious crimes (e.g. theft committed by two or more persons), even though arrest can be avoided, are widespread.

Finally, current legislation does not envisage the participation of mediators in pre-trial procedures for juvenile offenders. Investigative authorities are reluctant to provide information about a juvenile charged with crimes to institutions or individuals authorised to conduct mediation procedures. These authorities often see mediation as unwarranted intervention in investigative action.

In terms of the quality of court procedures for juveniles, experts mention three positive developments: the introduction of exemplary juvenile courts (in Kharkiv and Kyiv oblasts and in Crimea); specialization of juvenile judges; and the decrees from the Plenums of the SCU that explain how juvenile cases should be treated in court.

The negative aspects of court procedures for juveniles include:
- the lack of specialised courts that consider only child-related cases;
- the absence of a regulatory mechanism to make sure that the criminal process is truly adversarial (despite that the CPC declares that it should be adversarial). As a result, there exists no written procedure for appointing defence lawyers for juvenile offenders;
- participation of representatives of services for children and of the criminal police for juvenile affairs in court sessions is merely optional;
- the norm for appointment of a public educator in cases of the release of a juvenile on probation or in the case of a non-custodial sentence is rarely observed;
- the widespread practice of submitting several profiles of the juvenile offender, prepared by different institutions; these may contain contradictory information;
- courts that consider juvenile criminal cases often receive medical/health certificates with diagnoses that complicate the work of judges. It is thus necessary to develop psychology and psychiatry as specific sciences within the juvenile justice system’s framework.
SECTION 5.
CONDITIONS AND STANDARDS OF DETENTION OF JUVENILES IN DIFFERENT TYPES OF SPECIALISED INSTITUTIONS (INCLUDING SCHOOLS AND VOCATIONAL SCHOOLS FOR SOCIAL REHABILITATION AND CORRECTIONAL COLONIES)

5.1. ORGANIZATION OF THE WORK OF INSTITUTIONS FOR JUVENILE OFFENDERS

According to experts, the work of such institutions (and primarily the state-run ones) focuses on the detection and punishment of juvenile offenders rather than on prophylaxis and the prevention of offences that do not imply criminal responsibility. For example, children who have received conditional sentence have indeed committed offences and had conflicts with the law. But they do not undergo incarceration; rather, they live at home under parental supervision. How is educational work with these children to be carried out? The answer is that there is no such work, with the exception of warnings or threats such as ‘You will go to prison for your next offense’. The social services, the psychological centres and the relevant NGOs do no work in this regard. It is as if society forgets that a child’s offence is the reflection of certain problems pertaining to his or her life, problems that have specific causes. Society is reluctant to respond. As a result, children are left to the mercy of fate. Relevant bodies – the Criminal Execution Service and the criminal police for juvenile affairs – seem to take this attitude towards these children: if you make another mistake, we will punish you more severely.

The work of the organs that deal with juvenile offenders thus lacks consistency. Departments, ministries and their structural units perform their own official duties, which creates specific systemic phenomena within specific areas of work. At the same time, intersectoral relations and cooperation between units and institutions within various ministries are regulated by specific agreements and regulations. One example of this is the Joint Order of the State Department of Penal Implementation and the Ministry of Family, Youth and Sports. This document attempts to foster cooperation between two absolutely different structures: correctional colonies and social services of family, children and youth. Other governmental bodies and non-governmental organizations are left outside the bounds of this cooperation, because the current legislation does not establish relevant mechanisms according to which they can participate. Additional agreements have not yet been elaborated.

At the same time, cooperation between different governmental and non-governmental organizations has started within the framework of several pilot
projects in Kharkiv, Odessa and Kyiv oblasts and in the Autonomous Republic of Crimea. According to experts, cooperation between various organizations in protecting the rights of juvenile offenders in these regions has proven to be a success. Yet we lack comparative analysis of the juvenile justice situation in the pilot and other regions; quantitative and qualitative evaluations of the joint work of organizations in the pilot regions is also unavailable. On the other hand, coverage of only four regions with pilot projects reflects the existence of certain ‘pin-point’ actions in the organization of the joint work of structures authorised to work with juvenile offenders and short-term projects meant to achieve specific goals. If funding is cut off these projects can stop at any moment, and any hope for further cooperation between governmental and non-governmental organizations will rely on the good will and desire of their leaders.

In terms of the work of structures directly involved in the detention of juveniles, the majority of complaints were about the conditions of detention after apprehension by the MoIA's criminal police for juvenile affairs. According to the Law of Ukraine on the Services for Children, these agencies have the right to hold juveniles in designated premises for no more than three hours, and for eight hours in extraordinary cases. This should be enough time in which to establish the identities these children and to decide whether to refer them to specialised facilities or return them to their parents. The problem is that local criminal police units lack designated premises for arrested juveniles. In most cases the premises amount to the office of an officer. Nonetheless, the heads of the Department of Criminal Police for Juvenile Affairs talk about the need to create so-called ‘green rooms’ for children in which all conversations can be video-recorded in order to minimise trauma for children during future interrogations.

The length of a child’s detention in a criminal police for juvenile affairs unit depends on why he or she was detained. If he or she was arrested as a victim or witness, the length depends on how long the officer in question needs to collects evidence and explanations. This might take five minutes. In complicated cases (such as when a child is a suspect in the crime), it might take much longer. In this case information can be collected from the child only in the presence of a pedagogue or legal representative (not necessarily the child's parents). Such a person could be a staff member of the services for children, a social worker, a teacher, a child psychologist or a social pedagogue – that is, any legal representative of the detained child. In this case the period of detention depends on the time of the arrival of these legal representatives or of the child's parents at the police station, but it should take no more than three hours. This rule should be carefully observed, because at stake here is the initiation of a criminal case. The documents in question are important procedural elements, so any deviations or violations in its formalization could lead to a rejection on the part of the court.

Police officers call the parents of an arrested child or the child’s school headmaster to inform them about detention. A problem arises if the parents do not have a telephone or if it is impossible to reach the headmaster for any reason. The law exists, but the mechanisms for implementing it do not. Law enforcement officers are obliged to inform the parents of a detained child, but what if the child does not want to say where he or she lives? What if the child is drunk? According to the law, police can interrogate a child only after his or her recovery from intoxi-
Where can the child recover? The criminal police for juvenile affairs lack suitable facilities for that,’ officers say. Quite often a police officer takes the station car and travels to pick up the parents (if he knows their whereabouts) or the headmaster. Here, then, arises another issue pertaining to the material and technical provision of criminal police units.

One solution is the establishment of a network of institutions (centres, not shelters) for the temporary placement of children (similar institutions exist in Estonia and Latvia). They should be of closed type and run by the rayon departments of the criminal police. Children should not stay in them for more than five days. Ukraine has reception centres (in which children are detained for up to 30 days) and shelters for children (in which children are detained for up to 90 days). However, there are no small, closed centres that can render all the necessary support to a detained juvenile, and where there is on duty a social worker who is responsible for the child’s stay (for providing a bed, shower, and food, for example).

Holding children in an RC is regulated by Order No. 384 of the Ministry of Internal Affairs, which was passed back in 1996. In addition, Section 7 of the Law of Ukraine on Services for Children describes how the reception centres should function. There also exist norms on maintenance and nutrition in RCs. There are, in addition, a relevant Order of the Ministry of Health and specific sectoral norms about the premises (about the amount of space, the windows, the number of inmates and so on). The problem is that all these documents require improvement or detailed review: the Order of the MoIA on reception centres; the sanitary and hygienic norms; the nutritional guidelines. First, it is necessary to change the law to specify the areas that will need reform. Reception centres currently fail to fulfil their functions. The capacity of a certain RC is 535 persons, but during the 12 months of 2007 it held 624 children (not simultaneously, however). That works out to 20 persons a month. The capacity of the Uzhgorod reception centre is 20 persons, but during the year they had just two children. Ten staff members serviced them.

Only children against whom a criminal case has been initiated can be transferred to a SIZO. These include children who are awaiting sentence and who need to be isolated from society. Children aged 11-14 years are placed in an RC, while the SIZO receives older children. It is generally considered that a person can be placed in temporary detention isolators if he/she has reached 16 years of age; a child should be held separately from adults. SIZOs are structural units of the Department of Penal Implementation, but only lawyers, legal representatives and investigators have the right to communicate with a child in one during an investigation, after initiation of a criminal case, after the presentation of charges or when a child is held as a suspect.

Problem issues:
1. The use of video recorders in potential special facilities for the short-term detention of juveniles is a problem issue for Ukraine, because the procedure does not clarify whether this recording can be used as evidence or for documentary purposes. It is necessary to change the Code of
Procedure regarding child statements that are recorded (if such facilities are indeed established).

2. The law prescribes that police officers inform parents or other responsible persons about a child’s detention, but there are currently no mechanisms for implementing this law if parents lack a telephone; if a child is unwilling to say where he or she lives, or if the place of detention is far from the child’s residence. Additional problems occur if detained adolescents are intoxicated, because according to the law a child can be interrogated only while sober. Possible solutions include creating a network of institutions for temporary stays of up to five days by detained children (similar institutions operate in Estonia and Latvia). Another solution is a round-the-clock centre of emergency assistance with attorneys and social workers who can start protecting the rights of detained children immediately.

3. Criminal police for juvenile affairs officers would like a single analytical database for all children who have ever been held by the police. Current law clearly defines juveniles disposed to crime as eligible for registration. However, it is difficult to recognize such a disposition at a first glance. When police apprehend an adult, his or her identity is registered in a special catalogue (e.g., it is noted that he or she has committed a crime, received administrative penalties, been in possession of an unregistered weapon, witnessed a criminal case and so on). If any procedural documents are available (like cards, forms, etc.), the identity of the person is clarified at the moment of detention. When a child is arrested, no registration occurs.

4. In 2007 specific changes to the law passed that allowed placing wanted children in reception centres. The law, however, does not say a word about the mechanisms of such placement. According to provisions of the UN Conventions on Human Rights, placing children in an RC should be done only upon relevant court decision. Yet how can such a decision be obtained if the child is being searched for? The court can issue its decision only after the child is found and brought to court. What, though, if the child is found at night, when the courthouses are closed? The only option is a shelter, but a child can flee one easily. This question thus requires additional review. One suggestion is to make decisions on the placement of a child in an RC dependent upon court decision and writ. If a child is present the court makes a decision; otherwise a writ is issued in absentia.

5. Criminal police units need technical equipment. According to experts, on average eight to 10 officers share one computer; one criminal police unit has just one vehicle. Criminal police for juvenile affairs units have a total of 86 cars across Ukraine; they need 239. Some rayon units lack isolators for temporary placement of detainees.

6. A comprehensive approach towards child neglect is needed, one that can be used by the criminal police for juvenile affairs, social services, educational facilities and so on. We do not mean individual organizational documents, but rather a set of regulatory and legal provisions that would clearly define the mechanisms of cooperation between various social ac-
tors in the area of juvenile crime. These documents should form a basis for more specific methodological recommendations.

The militia works around the clock. Social services and educational facilities do not. Here’s an example. At a disco they catch a boy carrying drugs. It doesn’t matter whether he was carrying enough to justify arrest or not. At 10 p.m. they bring this kid to the police station. The question is how to interrogate him. What if he doesn’t want to say where he lives? So they have to call to the school headmaster or a teacher. It’s good if they live nearby. But what if this boy went to a neighbouring village and they brought him to the rayon police station, which is 23 kilometres away from the “disco” village, and 30 kilometres away from his own village? How is this teacher or headmaster supposed to get to the rayon centre? They would be lucky if they had a pilot project for the establishment of juvenile courts (like the BilaTserkva project, funded by the International Renaissance Foundation). Well, in such cases the establishment of a Legal Assistance Centre (free of charge) would be extremely helpful – as a rule, five attorneys work in such facilities around the clock. They get paid for that. So any police officer who makes an arrest or carries out preliminary investigation actions can call there anytime. And this “free” attorney comes over and controls the legality of the actions and the observance of the rights of his/her client. In other words, the juvenile becomes a client automatically. These are independent attorneys, so they are free of any police pressure or anything – moreover, the militia people are aware of that. Well, this is one possible solution [for reducing the duration of detention of juveniles at the criminal police for juvenile affairs].

‘The conditions and standards of holding juvenile offenders in different types of special facilities are… well, different. Right now their material basis has improved significantly. Earlier we had several exemplary facilities – I used to travel to the colony for juveniles in Poltava oblast. I think at that time it complied with all international standards – it was a model colony. When we saw their prisoner transport and felt how they lock 100 locks behind you, and we saw those bars… well, it was very depressing. Anyway, they had a sports area; children put on performances for us, they were wearing good uniforms. All of them were occupied. But the feeling of isolation is extremely depressing. They had equipment and everything. I think that the levels of resource provision comply with standards… it does not depend on the region, but on how these material resources allow these facilities to satisfy the norms and requirements. You have to make sure that everything is clean, and warm, and nice, and cosy, but at the same time it’s modest because of limited budgets. I didn’t see all the facilities, but I saw a lot, and they are all different. SIZOs have tiny premises and plank beds… In general, it is scary to see children in isolation. If we compare our facilities with what we see sometimes on TV, I mean the detention centres abroad, where children have individual rooms equipped with television and everything… Well, we still have plenty of work to do.’

‘…Right now, when public and non-governmental organizations are active, and the doors are open to social services, people can come in and see the conditions. I know that due to different projects we’ve established rooms for psychological work and recovery in which they also hold training sessions for children; we’ve also equipped separate premises in SIZOs with cosy sofas and everything, so a child can come in to feel himself “outside” for an hour or two, and to communicate with a psychologist. Sometimes they even install confessionals – different religious organizations are allowed into these facilities. I know that the Baptists are active in this area. NGOs often come when they have money, but faith-based organizations come regularly because they truly want to help. They bring Bibles; for those who have been released, they also offer assistance in their religious communities, helping people to get over their criminal pasts.’
I visited several colonies and I saw that they have established decent conditions for juveniles – many children didn’t see such conditions at home. Everything is in order, everything is clean and cosy. They have hobbies and entertainment. For many of [the kids] this is something new. The only thing that they lack is freedom. All the rest is provided by the colony.

“We [the correctional colony] receive them [juveniles sentenced to imprisonment] from pre-trial detention centres. They arrive after their sentences have taken force. Children are immediately placed in the quarantine, diagnostics and distribution section. During the first three days we prepare and send special notes to parents and relatives of every inmate regarding his current placement. Notes also contain information about the order of long-term and pre-terms visits, as well as about the types of food products and parcels we can receive. They also explain the working schedule of the facility and give directions for travellers. These notes contain full information on what can be brought along and what cannot. Newcomers stay in the quarantine section for about 14 days; our specialists examine them and work with them. We conduct all medical tests and examinations so that we know about possible diseases and are ready to treat them. Our psychologists start working with them immediately; teachers determine their level of education; educators conduct conversations in order to find out their preferences, interests and planned future professions. They also learn about the children’s working experience, social status (whether he or she is orphan or has parents, or if maybe parents are deprived of their parental rights) and so on. This information about every inmate helps us to develop individual correctional programmes with detailed activities and measures to implement.

“For us they are all the same. We don’t classify them as “good” or “bad” persons or by the offence – whether you have stolen a piece of aluminium or committed a murder. No, for us they are equal. They are placed in the social service section; each inmate receives a bed and a bedside table for personal belongings. Personal stuff is also kept in the room for materials. They also have a dining room. In addition to the canteen, where inmates have breakfasts, lunches and dinners, we also have a section with a refrigerator, kitchen utensils, a dinner table and so on. Any inmate can eat here what he has received from relatives or friends in parcels or packages. The locker room has a section for cultural activities. We also have sports grounds where they can play football or volleyball. We have libraries… Once a week all the inmates go to the bathhouse – at that time we change the bedclothes. While in the bathhouse, our medics conduct examinations and measurements. We also provide barber services here; inmates can also repair their clothes and stuff. We have a special “consumer” section where inmates can sew on buttons and iron and wash their clothes. Bedclothes are washed and processed centrally.

“The colony has a medical unit. There we have a psychiatrist, therapist and dentist; we also have a manipulation cabinet. The colony’s inmates pass through all necessary [medical] procedures, similar to those in the rayon polyclinic; they also visit the dentist. Our x-ray equipment is very good – once every six months we conduct radiology examinations for tuberculosis. By the way, we don’t have this disease. In the manipulation cabinet inmates receive various medical procedures.

“The colony has a school for general education, offering curricula for 11 grades. After graduation inmates receive school diplomas and certificates on having completed 11 grades. Classrooms, teachers and exams [are the same as in regular schools]… The juveniles pass exams and receive their certificates. We order plastic-covered diplomas and certificates in Kyiv.

“In terms of professional training, we have a vocational school in our colony where juveniles are trained and receive professional qualifications to be turners, millers and car mechanics. They have different programmes and take work practice courses at
enterprises. Graduates and inmates who don't attend vocational school produce bread trays and foam concrete blocks; they assemble bicycles and manufacture garages and paving slabs. We receive certain business orders and we fulfill them.’

‘Every day they [sentenced juveniles] have two hours of free time. As juveniles, they have a 36-hour workweek; Saturdays and Sundays are days off  – they don’t work. There are only morning classes on Saturdays. After that they have a full-fledged weekend. On these days we organize different competitions and sports events; different organizations come over to give performances and concerts. We organize meetings with interesting people and games of Club of the Funny and Quick-Witted. We also have a library and a chapel room. Juveniles meet with a priest…. We have an arrangement with the Kharkiv eparchy where a parson comes over to see [the inmates]… on Saturdays, Sundays and on big religious holidays’.

‘Lord forbid, but in the case of the injury, illness or death of an inmate we immediately inform the parents and relatives as well as the prosecutor’s office and relevant authorities of the State Department of Penal Implementation… If a kid receives information about the death or illness of a relative (in a letter, for example) we closely observe his condition in this period. He is relieved from work and school. Our psychologists immediately start working with him to remove the stress; educators also come over and try to explain different things. Once we even took an inmate to a funeral, as his mother had died. He stayed there for several days and returned to the colony’.

‘They [colony inmates] live in a closed world and communicate only by means of correspondence. They have the right to call their parents and relatives every month. Every block has a separate room with a TV set and radio; juveniles receive newspapers and magazines. The library is at their full disposal. We also receive many guests: staff members of the services for children, representatives of Cossack associations and other organizations, war veterans, staffers of the Dinara society and of the centres of social services for youth. These people conduct lectures and discussions. A prosecutor comes over to answer different legal questions’.

‘The law gives us very specific rights regarding the use of force and constraint [in correctional colonies]. If a convicted juvenile demonstrates disobedience or rampages, we can use cuffs. There exist no other legally approved measures of leverage. But to tell the truth, we’ve never used them… As for disciplinary measures, according to the Criminal Code of Ukraine these include warning, reprimand, severe reprimand and, as the measure of last resort, placement in the isolator for up to 10 days’.

‘We’ve never received any real, official complaints about actions of the colony’s staff… We try to settle all issues through conversation, explanation and assistance. Well, I’m not aware of any complaints from inmates. We are open to discussing personal matters; administrators make regular rounds in the blocks. And we always ask our inmates for any complaints or requests. We ask whether they have enough food, clothes and footwear; whether they have any conflicts with other inmates or representatives of the administration; whether they have any unresolved issues (like how to receive a passport). But these are not complaints – these are efforts to get answers to important questions. So we explain: you have to provide your birth certificate and extract from the work record book, and you will get your passport. Another inmate was worried about his mom not writing to him. So we call the district inspector or the village council to find out what had happened…’

*From in-depth expert interviews*
5.2. STAFF PREPAREDNESS FOR WORKING WITH JUVENILE OFFENDERS

In the course of discussions about staff preparedness for working with juvenile offenders, almost all experts wished that their training and competence were better. The key issue here is that the majority of those working with juvenile offenders never had specialised training (legal, educational or psychological). They are guided in their work by their rich experience. The majority never received specialised education and/or advance training on innovative approaches to work with juvenile offenders. As in the past, the human resource policies of institutions that deal with children prioritise persons with pedagogical educations, psychologists, social workers and lawyers. But specialists who work in correctional colonies, in schools and vocational schools for social rehabilitation, in units of the criminal police for juvenile affairs and so on require new training.

Currently the development of a set of juvenile justice disciplines is on the agenda for Ukrainian legal education. Only the Odessa Law School of the Kharkiv National University of Internal Affairs, however, offers a special course, ‘Juvenile Justice’, to its students. What inform the course are the priorities of the school, which is subordinated to the Ministry of Internal Affairs: development of skills and knowledge in the protection of children’s rights; prevention of delinquency among children and youth; and ensuring legality and humaneness during pre-trial and court investigations for juveniles and during execution of court decisions. This special course consists of five thematic modules:

- The theoretical aspects of juvenile justice and its history;
- International legal standards on the rights of children and juvenile justice;
- Modern models of juvenile justice, including restorative options;
- The legal, organizational and psychological frameworks of juvenile justice;
- Peculiarities of pilot projects in implementing juvenile justice in Ukraine.

‘Juvenile Justice’ entails 54 academic hours, including 36 hours of work with an instructor. The special course is supplemented with a manual developed by the teachers at the Odessa Law School, by staff members of OVS and by NGO experts (from the Odessa Oblast Mediation Group). The course uses basic didactic forms of education – lectures and seminars with elements of role-playing and training. Special attention is given to the restorative approach in justice. Case study elements are also used in the course, in which students have to resolve specific practical situations from the point of view of the modern Ukrainian justice system, and from the standpoint of restorative justice. It is expected that practical skills and knowledge will undergo more development in the legal clinic that is being established. Unfortunately, other law schools and universities do not have similar programmes. Nor do universities that train pedagogues, psychologists and social workers.

Another important issue in evaluation of the preparedness of the staff members of relevant institutions to work with juvenile offenders is their knowledge about international norms and standards in juvenile justice. Experts note that these questions require additional awareness-raising and explanation. The problem is not that people are unaware of international conventions or regulations. Rather, they know about them, but their knowledge is purely theoretical; often they just don’t understand how to organize work with juveniles and with other organizations working in juvenile justice in order to make it more effective. Staffers at institutions involved in pilot projects in juvenile justice are more knowledgeable. They have had opportunities to visit specialised institutions in other countries; to absorb international experience; and to participate in special training and workshops on juvenile justice. But there are many other institutions that deal with juvenile offenders whose staffs have not participated in pilot projects.

Problem issues:
1. Special educational courses need to be developed, taking into account the specifics of work with juvenile offenders. There also need to be relevant changes in the curricula of higher education institutions that train specialists in law, pedagogy, psychology and social work. This will help to improve professional training.
2. Law schools and universities must all introduce a special course on juvenile justice of the sort that is currently offered only at one institution of higher education in Ukraine. The following categories of student at universities that train lawyers, pedagogues, psychologists and social workers should take the course:
   • Students in pedagogical and social-pedagogical faculties;
   • Law students and law enforcement cadets;
   • Social workers who work with children;
   • Officers of law enforcement agencies and penitentiary facilities (as post-graduate education).
3. Staff members of institutions that work with juvenile offenders need practical manuals on how to work with juveniles disposed to delinquent behaviour; they also need clear definitions of mechanisms for cooperating with organizations that work with juveniles at all stages – from apprehension to detention in specialised institutions.

‘Re-socialisation means a full, normal person’s return to society. When we have more social services and more trained specialists in this area (including our structure), then we will have fewer problems, and the whole system will come into full compliance with international standards. Right now we’re trying to stick to the plan: our specialists master skills, study and implement activities on their own, and of course they have questions. As for what I already said: we need specific changes in legislation and the regulatory base. And we need to train specialists to be able to apply all these norms.’

‘Well, the personnel are not sufficiently trained. The problem is that the specialisation of educational facilities that train relevant specialists is somewhat different from existing needs. Our institute has a social faculty [the respondent probably means a social work faculty]. It seems like they train students in our area of activity, but everything they learn is absolutely different from the specifics of work in closed facilities. Graduates
of the academy of law are trained as specialists. Well, they are great lawyers, but they see the work of the penitentiary system only during practical training. Psychologists have a general academic background, but they are not aware of the specifics of work in crime-related closed institutions. Problems do exist. We need to adapt our psycho-correctional work for this category [juveniles]. The same is true of social programmes. ‘Of course it would be great to have better-trained personnel. Currently we use cadres that have been working here for many years. Their experience is the sign of their preparedness. There are no specific courses for our specialists. There exist certain requirements, and we try to fulfill them. For example, we try to fill instructor position with specialists in pedagogical education, as well as with psychologists, social workers and lawyers… Last year our school received a 10-year licence to conduct teaching and educational work. For the second year in a row our colony took first place in the festival of amateur art among all Ukrainian colonies for juveniles. There were 11 of them in 2006 and 10 in 2007, plus one correctional colony from Moldova. What I mean is that our teachers, psychologists and the whole team work really hard. We receive many guests and conduct a lot of meetings. This means that the level of training of our colony’s staff is much higher than average.’

From in-depth expert interviews

5.3. ISSUES PERTAINING TO KEEPING JUVENILE OFFENDERS IN SPECIALISED FACILITIES

Schools for social rehabilitation. According to experts, there are no particular problems with holding children at these institutions, with the exception of the problem of providing children with footwear. According to the state standard, every child should receive one pair of footwear every two years, but this is insufficient, because children grow. Moreover, the quality of the footwear provided to schools for social rehabilitation is poor. Colonies managements do not know how to address this issue given the current legal norms.

Of much greater importance are other issues, like contradictions with other structures, such as courts. Judges believe that it is better for a juvenile offender to stay with a ‘bad’ mother than go to a ‘good’ boarding school. Top government officials also support this approach, promoting adoption. However, the country does not provide for the practice of adopting 11-year-olds, some of whom are disposed to crime. This is why heads and staff members of schools for social rehabilitation are absolutely sure that the juvenile offenders who find themselves in these facilities should stay there until graduation. They should be given a full secondary education, after which they can go on to higher education or work. If a child leaves a school for social rehabilitation after the ninth grade, he or she returns to his or her ‘old’ environment, the one that contributed to his or her previous criminality. Everything starts over. A child commits another offence (usually a more serious one) and then goes back to a correctional or educational facility.

Another problem with schools for social rehabilitation is their serious under-utilisation (their poor use of their capacity). These schools are filled at one sixth of their full capacity, even though every school of general education in the country has at least two or three students that should be placed in one of them, experts note. Given that large cities have several dozen such schools of general education, this problem could be solved. However, children are referred to these spe-
cialised schools only upon court decision, so the issue of the use of their capacity remains unsettled.

Another problem is an actual inability to resolve the problems of children whose tenures in schools for social rehabilitation have ended. Very often these children have nowhere to go after release – even if their parents are alive, they don’t care much about their children. Experts note that the relevant services often pick these children up and place them in shelters for from one to six months. But juveniles do not get an education in shelters; and after discharge from them they are left again to face the world. One solution that has been suggested is to establish specialised organizations that would provide housing and all vital needs to juveniles who have left schools for social rehabilitation. Children could live in them for two or three months until they arrange their lives. These can be governmental, non-governmental or faith-based organizations.

**Staying in pre-trial detention centres (SIZOs).** One problem with SIZOs is that juveniles are held there for prolonged periods of time due to a lack of coordinated action among different organizations and because necessary documents are lacking. This is particularly true for juveniles who have committed offences prior to achieving full legal age but whose cases for some reason were not tried in a timely manner. According to current norms, they automatically receive adult offender status.

As one of child-care authority staffer pointed out, there was one case of a juvenile offender who lacked an officially appointed guardian for a long period of time. The court ‘ignored’ his case, and while he was in the SIZO he reached full legal age, losing any chance to see his relatives or maintain correspondence – he was fully isolated from the outside world. According to the law there were no violations here, but in reality it is highly doubtful that the absence of parents or guardians makes the situations of such offenders any better. The experts interviewed stated that an offender should not in this way be deprived of the support of society and of people outside.

**Correctional colonies.** Experts say the most urgent issue in the detention of juveniles in correctional colonies is the need for a mechanism for submission of complaints and appeals. The second most important problem is the need to increase the number of meetings with relatives and improve conditions in the cells. These issues demand additional funding and certain changes in the organization of labour in these institutions. As pertains to colonies with limited capacity to ensure vocational training of inmates, these capacities should be strengthened by expanding the range of professions offered to inmates, or by boosting the number of hobby/professional groups.

**CONCLUSIONS TO SECTION 5.**

The conditions for juvenile offenders in different types of specialised facilities (in particular schools and vocational schools for social rehabilitation and correctional colonies) have received generally positive reviews from experts, who believe that they comply with international norms and standards. In addition, these facilities are shifting towards protecting children’s rights and returning them to society. Facilities offer a wide range of incentives and contacts with the outer
world; opportunities to study and visit cultural and mass events; visits with parents and relatives; help with finding a job and so on. Food, clothes and footwear, as well as medical and communal services, are provided free of charge.

The weakness of these facilities is that they remain oriented at detection and punishment of offences, rather than at prophylaxis and prevention of offences that do not bring criminal responsibility. In addition, almost all of them need to improve the qualifications of their staff, aiming at higher international standards in juvenile justice. Staff members need to learn how to work with juveniles and other organizations in the most effective way. Moreover, each type of institution faces its own set of problems:

For reception centres (MoIA):

- Current reporting forms and indicators do not provide for adequate evaluation of prevention work as implemented by individual officers and units of the criminal police for juvenile affairs: their priority is to expose crimes, rather than to prevent juvenile crime;
- Placement of vagrant children in reception centres is considered a violation of children’s rights: they undergo almost the same procedures as juvenile offenders do.

For schools and vocational schools for social rehabilitation (MoES):

- Low use of capacity and high prime costs for keeping children in facilities for social rehabilitation may lead to their closure;
- Organizing so-called alignment classes is a widespread practice;
- Insufficient attention goes to modernizing workshops for the professional training of inmates. This makes them uncompetitive on the labour market;
- An actual inability to resolve the problems of children whose tenures in schools for social rehabilitation have come to an end.

For correctional colonies for juveniles (SDPI):

- Violations of the conditions and terms for holding children in pre-trial detention centres (SIZO) happen because of uncoordinated action on the part of individual organizations; the absence of necessary documents; unclear legal definitions regarding juvenile offenders who have turned 18 years while staying in SIZOs; and so on;
- The most acute issues related to custody of juveniles in correctional colonies are: submission of complaints and appeals by juvenile offenders; the need to increase the number of meetings with relatives; and improving conditions in rooms.
- Some colonies have limited capacities for vocational training of inmates – such opportunities must be scaled up by expanding the list of available professions and by introducing new hobby groups/circles.
SECTION 6.
RE-SOCIALISATION AND SOCIAL INTEGRATION OF JUVENILES IN CONFLICT WITH THE LAW

6.1. PECULIARITIES OF RE-SOCIALISATION OF JUVENILE OFFENDERS

Specific aspects of the work of institutions and structures aimed at the re-socialisation and social integration of juveniles in conflict with the law underwent analysis in previous sections. Here we will add some comments and observations.

The main goal in re-socialising juveniles is to develop their capacity to reintegrate into society and become ordinary citizens. Crimes are often committed by extraordinary personalities who are capable of performing particular actions (including ones that are criminal). These juveniles must therefore be guided in a specific direction, so that they are useful for society. Government institutions, non-governmental and faith-based organizations and social services for family, children and youth and so on do take adequate measures to re-socialise juvenile offenders. Work with juveniles does go on in closed facilities to make them ready to return to society.

The key problem that schools and vocational schools for social rehabilitation face is that children are released to find that they have no housing and that, despite reaching a certain age, they have no job. They can again find themselves in a deadlock, and return to the criminal path. The relevant internal affairs units are informed that the young people are released, but law enforcement agency work in re-socialisation is generally formal. Other services also know about release, but they are not always capable of providing relevant assistance, due to their limited finances.

Correctional colonies use a somewhat different approach. According to experts, three months prior to a juvenile’s release, responsible officers send official inquiries to various institutions and organizations that might accept this juvenile (upon his or her consent). If the organization agrees to accept the juvenile, he/she travels there upon release. If this organization does not accept the young person, then the colony’s staff members send him/her back to his/her residence, notifying the relevant social services and law enforcement agencies. After that they wait for information on possible solutions to the juvenile’s problems. If law enforcement agencies do not confirm the arrival and registration of the released juvenile at the place of residence, the colony starts a search for the juvenile.

Problem issues:
1. Juveniles who leave schools and vocational schools for social rehabilitation after serving their sentences do not know where to go. Often they
have no housing or profession. At the same time they have reached the age where they are ineligible to return to children’s homes or shelters. If they come from socially disadvantaged families or if they are orphans, they usually find themselves in a deadlock, with a high risk of committing a new offence.

2. In its work with juveniles, every organization is guided by the orders of the ministry that regulates its activities in this area. However, there are cases of duplication of similar measures by different organizations, thus undermining adequate distribution of authority and a transparent joint work system. Cooperation between different structures takes place only in specific areas. As a rule, every organization tends to be on its own

“It is extremely difficult to reach the international level, because the entire system of assistance is... well, we have many adolescents who are brought up in families in difficult circumstances, and they don’t have an adequate system for receiving the necessary services for free. Of course, minimum services are available. They can go to certain government bodies or to the social services.

“We implemented several projects. In particular, we involved them in the project and worked together in the area of methodologies for working with such children and the establishment of a centre that could be interesting and attractive for children. Well, this is what I was talking about earlier. What I mean is that we need to give a problem child something interesting if we want to involve him in work – and this will contribute to prevention as well. The current conditions and capacities of governmental institutions are very limited. Modern children are not interested in knitting or something. What are they interested in? That was the topic of our study: what they are interested in, what they would like to do and who their role models are. For example, we bought them table football and ping-pong equipment. In one club we created a football team. We bought the necessary uniforms and equipment. We also purchased a karaoke system. What I mean is that we kept asking children “What would you like to do?” and tried to respond to their answers adequately. In Gorlovka we established a computer class at one NGO, because children told us “We want to work and play on computers”. This is how the system should react. And then these children will come – instead of doing something illegal, they will just play football, because that’s interesting to them. And what do we see in our houses of creative work for children (DDUT)? We see old women who have been sitting there for 30 or more years and who keep on using their outdated methodologies. And instead of the principle “let us do our best to involve more people”, they follow the principle “thank you for coming – now we will work with those who came”. From in-depth expert interviews

6.2. SOCIAL PATRONAGE OF JUVENILES WHO SERVE THEIR SENTENCES AND OF THOSE RELEASED FROM CUSTODY WITH THE PARTICIPATION OF GOVERNMENT STRUCTURES AND SERVICES FOR CHILDREN

According to the Law of Ukraine ‘On Social Adaptation of Persons Who Served Their Sentences in the Form of Restriction of Liberty or Imprisonment for a Certain Term’, social patronage is the set of measures of governmental support and assistance to released persons, with the goal of helping these persons in the
areas of employment, professional reorientation and retraining, establishment of relevant housing conditions, prevention of the influence of criminogenic factors. The Law clearly establishes the participation of the centres of social services for family, children and youth in this work. According to this law, in the context of provision of social services to persons released from custody, citizens aged 15-28 years receive informational, legal, labour, psychological and pedagogical, health and other forms of social assistance.

Other organizations apart from centres of social services for family, children and youth are also involved in social patronage activity. In Ukraine this work is regulated by legal acts that define the status of a child who has committed an offence as a person eligible for social services. These documents also establish the child’s right to social assistance; identify the types of assistance; and define the roles of various institutions and organizations in the provision of assistance. These legal and regulatory acts include the following:

- The Law of Ukraine ‘On Social Adaptation of Persons Who Served their Sentences in the Form of Restriction of Liberty or Imprisonment for a Certain Term’ (as of 10 July 2003; latest edition issued on 28 January 2005);
- The Law of Ukraine ‘On Introduction of Changes to Some Legal Acts of Ukraine On Social Adaptation of Persons Who Serve Their Sentences in the Form of Restriction of Liberty or Imprisonment for a Certain Term’, No. 3167-IV, issued on 1 December 2005;
- The Law of Ukraine ‘On Social Work with Children and Youth’;
- The Law of Ukraine ‘On Pre-trial Detention’;
- The Law of Ukraine ‘On Amnesty’;
- Joint Order of the Ministry of Family, Youth and Sports of Ukraine and the State Department of Penal Implementation of Ukraine No. 2559/177, issued on 28 October 2005, ‘On the order of cooperation between centres of social services for family, children and youth and penitentiary facilities in the organization of social work with juveniles and young people who serve their sentences and are released from these institutions’ (with changes, No. 349/21 of 8 February 2007).

The CECU defines general approaches towards social and educational work with convicts as follows: targeted activities by staff members of penitentiary structures and facilities and other social institutions to achieve the correction and re-socialisation of convicts. The main work areas involve the moral, legal, labour, aesthetic, physical and sanitary/hygienic education of convicts. Activities can take different forms: individual, group and mass. The main emphasis of social and educational work with convicted adolescents is to develop their aspiration towards socially useful work and an honest attitude towards labour and the law.

According to changes that the Law of Ukraine ‘On Social Work with Children and Youth’ has introduced, ‘social rehabilitation also envisages employment assistance; and provision of social and medical, psychological and pedagogical, legal,
informational and other types of services to juveniles who served their sentences in the form of imprisonment, as well as to young people who have served their sentences in the form of restriction of liberty or imprisonment for a certain term.

In 2003, within the Agreement of Cooperation between the State Centre of Social Services for Youth (SCSSY) and SDPI, there was developed and implemented ‘Provisions on the order of cooperation between centres of social services for youth and correctional and labour colonies (CLC) in the organization of social follow-up of convicts detained in CLCs and persons released from custody’. These Provisions established a legal definition of social follow-up as ‘activities aimed at provision of social care, assistance and patronage to socially vulnerable categories of children and young people in order to help them to overcome life difficulties and to preserve and improve their social status. According to this document, the main objectives of social follow-up are to provide social adaptation assistance to this category of citizens; to promote their future education; to address material and everyday issues; and to help restore and strengthen social links. The basics of cooperation between the SCSSY and the SDPI are established by the Joint Order of the Ministry of Family, Youth and Sports and the State Department of Penal Implementation No. 2559/177, issued on 28 October 2005, ‘On the order of cooperation between centres of social services for family, children and youth and penitentiary facilities in the organization of social work with juveniles and young people who serve their sentences and are released from these institutions’ (with changes, No. 349/21 of 8 February 2007).

The main areas of social work cooperation between these institutions include the following:

• Provision of social services to convicts during imprisonment and ensuring social follow-up for persons after their release;
• Improvement of the professional competence of CSSFCY specialists and the personnel of penal institutions in social follow-up of released persons;
• Involvement of citizen associations, enterprises, institutions and organizations regardless of ownership, as well as of charitable organizations and individual citizens, in the provision of social assistance.

The order of cooperation described above clearly regulates the basic functions of the centres of social services for family, children and youth – both during social follow-up of juveniles and young people during the period of the sentence and after their release.

Overall, social patronage of juveniles who have received custodial sentences and/or have been released from penitentiary facilities envisages a comprehensive approach and cooperation between relevant social institutions.

‘The main thing is prevention, so that they don’t end up there [in specialised institutions]. Prevention requires more funding, because it is much cheaper to prevent an offence than to maintain a juvenile offender later. We need to work hard to eliminate any possibilities for repeat offences among them. But to do so we need adequate resources, programmes and trained specialists to raise our work to a higher level. This includes better equipment for the vocational schools and workshops where these adolescents work and master a specialty that is in demand. This also means creating opportunities to earn money for them so that they have a sufficient basis for a new life after release. We have to offer social guarantees for some kind of temporary housing or support – this will help
people after release to put their lives in order and to avoid future offences. These should include state social guarantees, ones that are well-targeted and considered. There has to be targeted financing. If that means school, money should go to school. If that means vocational school, the latter should receive relevant equipment, and so on:  

From in-depth expert interviews

6.3. PARTICIPATION OF NON-GOVERNMENTAL AND FAITH-BASED ORGANIZATIONS IN THE PROCESS OF SOCIAL ADAPTATION OF JUVENILES IN CONFLICT WITH THE LAW

As of today, close to 40 faith-based organizations registered in Ukraine perform spiritual education within the facilities of the State Department of Penal Implementation (as a rule, these are Orthodox, Greek Catholic and Roman Catholic organizations, as well as numerous Protestant denominations)\(^{38}\). There are 297 religious installations in CES facilities, including Sunday schools. There are also 79 churches, chapels and houses of prayer (including 37 in separate buildings) in penal institutions; 15 are currently under construction. Over 300 priests and preachers visit penitentiary facilities and pre-trial detention centres on a regular basis. More than 31,000 convicts regularly attend religious events. There also exists a network of over 70 rehabilitation centres for former prisoners, established by Protestant denominations. Relations between the Department and the churches are legalised by the following agreements:

- The Agreement between the Ukrainian Orthodox Church and the State Department of Penal Implementation of Ukraine, concluded on 25 November 1999.
- An Agreement of Cooperation between the Ukrainian Orthodox Church of the Kyiv Patriarchate and the State Department of Penal Implementation was signed on 19 September 2001.
- An Agreement of Cooperation between the Ukrainian Greek Catholic Church and the State Department of Penal Implementation was concluded on 2 April 2007.
- The day 21 August 2001 saw the creation of the Ukrainian Interdenominational Christian Mission ‘Spiritual and Charitable Care in Institutions of Confinement’, founded by 12 Christian churches and denominations. The relevant Agreement between the Department and the Mission was signed on 7 June 2007.

6.4. ISSUES THAT NEED TO BE ADDRESSED IN THE AREA OF RE-SOCIALISATION AND SOCIAL INTEGRATION OF JUVENILES IN CONFLICT WITH THE LAW

Nowadays any juvenile offender has the right to apply for assistance to functional centres of the social services for family, children and youth, free of charge.

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As a rule, a social worker who receives such a request from a juvenile refers him or her to other specific organizations: employment services, city or rayon executive committees, village councils and so on. The child's parents are also eligible to appeal to these organizations. First they go to the relevant administrative bodies; then their questions are considered individually, depending on the peculiarities of the child and the essence of the request (whether it involves employment or admission to school, health care and so on).

There exist certain problems pertaining to the juvenile offender's access to these organizations:

- The juvenile is not always ready to go to these administrative bodies on his own, so sometimes he has to seek the assistance of mediators – namely, social workers or his parents;
- Not all localities and territories have local social centres that can provide relevant services (if a juvenile offender lives in a small village, for example, he or she will have to travel to the rayon centre to meet a social worker. The cost of transportation is another issue here);
- Parents (let alone juveniles) are not always aware of their right to appeal to administrative bodies to receive assistance for their children. Moreover, their knowledge of the peculiarities of the functioning of these organizations is often inadequate. Due to low level of trust Ukrainians have towards government institutions in general, parents may even opt to avoid resolving their child’s problems (whether they are related to money, education and employment, health care, clothes and footwear and so on) through government institutions;
- Organizations that usually receive applications from juveniles who have served their sentences (or their parents) are not always ready to help or to accept them, e.g. to hire them. What is needed is a system of workplace quotas for juveniles after their release from penitentiary facilities (in which they have acquired appropriate professional training). It would be desirable if a juvenile, along with employment, could obtain temporary housing and assistance with legalizing documents (passports, registrations, etc.) if he or she has failed to do so while in custody.

'Re-socialisation starts after the person has served his sentence, when he has to adapt to society. This is an individual process, and they get prepared for it while staying in penal institutions. This process should be well-organized, and our educational sections do their best, trying to restore family links, because without them it will be extremely difficult. They also conduct training on adaptation and hold discussions and consultations to help the convicts get ready for discharge. They also take the first steps towards reducing the number of mistakes in their future lives. They obtain information on where to get social services from government institutions so that they will be able to come and ask for social assistance, and social workers will have to offer the services or social follow-up. In most cases, if a person genuinely wants to improve, if he has changed his values and attitudes, he will agree to sign the social follow-up contract. If not, several simple services will be enough. But if a person makes absolutely different decisions regarding his own destiny, if he takes up that criminal path … well, then he comes for formal registration and never shows up again, or even flees to somewhere else. “If you want me to come, I will, but if not…” In other words, he is not involved in the process. Re-socialisation is effective only if the adolescent really wants to change. If
he enjoys a positive family environment and his friends’ support, he will help the social worker in the process. In that case we get a positive outcome.’

‘They are absolutely unadapted and unsupported. They come to the social centre with those little suitcases and tell us, we just left a colony or a prison and we’ve come here to you. Please help us! They told us you can help! But how? First there’s the issue of financing. And second, as I have already told you, we have neither shelters nor premises for temporary placement. This system does not work at all. With the exception of an accompanying letter about terms and indicating the date on which to pick up the passport, we don’t provide guarantees to former prisoners.’

*From in-depth expert interviews*

**CONCLUSIONS TO SECTION 6.**

According to current legislation, centres of social services for family, children and youth ensure social support to juveniles and young people detained in penal and correctional colonies and pre-trial detention centres and who return from these facilities. They also provide it to persons sentenced to non-custodial sanctions and persons who serve alternative sentences and appeal to the social services for assistance. Spadework is ongoing to improve the social follow-up system for juvenile offenders in Ukraine so that it is in line with international norms, standards, expertise and best practice models.

However, currently this area of work with juveniles in conflict with the law requires particular attention and elaboration. According to experts, the most complicated issue here is the absence of a comprehensive and systemic approach to the social adaptation of juvenile offenders sentenced to restriction of liberty or custodial punishment.

The social services primarily focus on detection, registration and oversight over children in conflict with the law. In addition, current rehabilitation and resocialisation measures generally target juveniles who have committed offences and who 1) are serving their sentences in specialised facilities and 2) have applied for assistance themselves. However, not all localities and territories have local social centres that can provide relevant services to juvenile offenders. Moreover, juveniles are not always ready to go to these agencies on their own, so sometimes they have to seek the assistance of their parents. The latter, however, are not fully aware of their rights in the context of assistance to a child. Parents of juvenile offenders usually have limited knowledge of programmes and opportunities for rehabilitation of children who have served sentences – they don’t know what services governmental and non-governmental organizations have to offer. The level of public trust towards governmental institutions (including centres of social services) and people’s knowledge of their functions are both low.

Another negative aspect is the absence of close cooperation between centres of social services and other government bodies: local executive bodies, local self-governments, centres of social adaptation, services for children, supervisory commissions, structures of social welfare, health care facilities, law enforcement agencies, employment centres, boarding schools, anti-crisis centres, psychological assistance centres, shelters for children, social patronage institutions and centres for overnight and temporary placement for persons released from custody.
SECTION 7.
CHILDREN DETAINED IN SPECIALISED FACILITIES FOR OFFENCES: RESULTS OF CASE STUDIES

Children’s life stories (case studies) were collected via interviews. In the course of the study we conducted 17 interviews with children in conflict with the law, using specifically developed questionnaires. Interviews were conducted on the territories of specialised facilities, with authorisation from the administrations and the personal consent of the children. Eight respondents were serving sentences in correctional colonies and nine were in schools for social rehabilitation. Of the 17 respondents, 13 are boys and four are girls.

7.1. SOCIAL PORTRAIT OF JUVENILE OFFENDERS AND THEIR RELATIONS WITH FAMILY

It is difficult to characterise the family status of children in conflict with the law, because there formal and actual characteristics collide. Overall, 10 percent of respondents confirmed having both a mother and a father. But for about 30 percent of children the ‘availability’ of parents is a formality, because they do not live together. In other words, only seven out of 17 respondents have a full-fledged family. Two children said that they were orphans. (The parents of one boy died; the other indicated that he had a mother ‘somewhere’ – she used to be in prison and he lost all contact with her. The boy lived with his grandmother and planned to return to her after release.) One respondent noted that he had both mother and father but that he had not seen them for quite a while: they just ‘handed their five children over to the hospital and left’.

– You had a family, but your parents seemed to forget about you. What happened?
– Well, they simply... When we were young kids, they cared for us. Later we grew up and started to work. We started to help people, earned money ...
– You mean you earned money yourself?
– We brought it home. They used it to buy alcohol and cigarettes...

The rest of the respondents named a mother, siblings and grandparents as their relatives.

Four respondents were the only children in their families. The maximum number of children in a family was five. The most widespread are families with two or three children.

The age of the interview young people ranged from 12 to 20 years. Generally speaking, a 20-year-old is not a juvenile, but an administration under certain conditions has the right to extend the term of a person’s stay in the facility up until he or she is 22.
The children affirm that their families love them despite the offences they've committed; almost all of them plan to return to the relatives with whom they previously lived upon release.

Children often note that they have spent a lot of time with their families. It turns out, however, that there was no regular communication between family members. There is a general absence of trusting family relations. The children often note that ‘they have nothing to talk about’ because of deep disparities in interests, attitudes and the way they use their free time.

The majority of families of the interviewed children can be characterised as ‘poor’, but some children came from well-to-do families. Quite often children fail to characterise the material wellbeing of their families, defining it as ‘normal’ (this is not always true, however).

In conclusion, we can isolate the family's reduced socialisation role in the majority of cases. Schools also play a reduced role in socialising these young people.

7.2. ATTENDANCE AT SCHOOL OR ANOTHER EDUCATIONAL FACILITY

Practically all respondents confirmed that they attended schools and other educational facilities (one attended a vocational school) prior to their offences.

Only two children at the moment of their conflict with the law attended no educational facility. The rest of the respondents did attend school, but with varying regularity. The interviews show that school for them was boring, unimportant and cumbersome. Almost all the children – with a few exceptions – admitted that their academic achievements were poor and that they skipped a lot of classes. For many of them it was not an educational process, but rather just ‘going to school’.

Conditions are very good, but sometimes the problem is that children who previously didn’t want to go to school find it extremely difficult to start going again. I mean, they even learn how to read here, because some of them don’t know how. But if you have the desire, all the necessary conditions are here for you to attend to your studies.

At the moment of the interviews, all the respondents were continuing their educations, with the exception of one girl, a junior in a university distance learning course. It is not always possible for a child to take up his or her education in the grade in which it was abandoned. Quite often, at the moment of the offence, the child’s academic performance was so poor that the word ‘education’ can be used only formally. Formally, a juvenile might have earlier been in the seventh grade, but in the facility he attended the sixth grade (there were no marks testifying to his previous school attendance).

I think girls do very well at school. It’s easy for them. Poor achievements can be observed among children who skipped a year or two of school – they’re not interested in school, it’s not their goal. Here in the colony we have a correctional class, and the children there are truly bad students. They have certain problems, they find it difficult to absorb information, but they try Anyway. In general, I would say, our students exhibit average academic achievements.
It is interesting to note that all the respondents affirm that they are doing better academically than they were prior to the offence. Some of them even note that in the past they could have been excellent students, because they were good at the work; education, however, was not their priority.

Some children take pride in their new academic achievements. At the same time, the children note that they are not all equally successful – some of them do worse at school. Children say about half of their peers get good marks, while the rest are a little below average.

Not a single respondent mentioned that education had nothing to do with success in life. Children generally perceive education as a necessary precondition of success in the future; all of them declared an intention to continue their education. It is difficult here to distinguish between dreams and realistic, conscious plans, but many respondents said that they would like to move on to higher education. Some of them, moreover, would like to study law.

7.3. INVOLVEMENT OF CLOSE RELATIVES (PARENTS, SIBLINGS) IN CONFLICTS WITH THE LAW

Violations of law by close relatives of respondents are not a widespread phenomenon, but they do happen. Some children have a relative who served or is serving a sentence. Overall, six respondents mentioned relatives that had had conflicts with the law. One respondent mentioned his twin brother, who often broke the law but luckily for him had not yet been caught. Another respondent recalled the conviction of his godfather, even though the latter cannot be considered a close relative. One respondent mentioned several people in his immediate environment who had had conflicts with the law, but he did not mention their levels of kinship. These people involved him in crime. Another respondent told the story of his parents, who had had problems with the militia: his mother had stolen three cows in order to sell them, but his father took the blame upon himself. Another respondent mentioned the conviction of brother, but this brother lived separately from the family and was much older than the respondent. One respondent had an older brother who had been sentenced to prison after the respondent himself had. In other words, we cannot say that conflict with the law represents a particular ‘family tradition’.

7.4. AVAILABILITY OF FRIENDS AND RELATIONS WITH THEM

Prior to committing offences, and outside school and the family, all of the children were members of street gangs or groups of kids. Since none of them could assert themselves in the family or at school, they sought and eventually found groups of peers that were ‘like them’.

Interviews demonstrate that almost all respondents had deeply re-evaluated their ideas about what ‘friends’ were. Almost all of them agreed that the people whom they used to call friends in reality were not. They were comrades, companions or good or casual acquaintances, but they were not friends.
Today I understand that they were just companions or acquaintances, not friends. There were just a few friends... What linked us? Well, I was 14, and I enjoyed being with older people.

Before committing their offences, all the respondents had a rather wide circle of contacts, one that encompassed classmates, peers from neighbouring buildings and other people that were often older than the respondents themselves.

I understood that I didn't have true friends. They turned away from me, they considered themselves innocent. I don't think so. I think true friends are a myth...

As a rule, boys name their peers (kids of the same age) as their ‘friends’, and girls usually communicated with other girls of the same age and with older boys. Overall, children tend to call their circle of contacts a ‘company’ rather than a group of friends. Respondents noted a sharp reduction in the number of people with whom they continued to communicate (including people outside the companies). If such relations continue to exist, respondents call them ‘strong, true, reliable’. Some respondents are genuinely surprised that people who previously were not considered friends continue to maintain contacts with them.

When I was free, I would say I had many friends – more than 20. Now, when I’m in this place of confinement, only two of them continue to write me letters – two girls, two of my former classmates. They support me... they promise that after my release they will help me to adapt to outside life, to find a job and to arrange further education. In addition to school and technical school, I plan to enter a university, and they promise me to help as well.

One of peculiarities of institutions where respondents are currently confined is that no one characterises other inmates as friends. Respondents call them ‘classmates’ or people with whom they have to spend their leisure time. When asked whom they would consult in a difficult situation, the children gave different answers: parents, psychologists, teachers and administrators – but never friends.

7.5. PRESENCE OF HARMFUL HABITS SUCH AS SMOKING, DRINKING AND DRUG USE

Practically all respondents had experience with alcohol and smoking prior to committing their offences. All of them assert that no longer practise these habits, which is preconditioned by something more than a lack of opportunity to do so (that is, by the regime of correction). For the majority of respondents, quitting tobacco and alcohol are serious internal commitments. It is doubtful that all such claims are true, but some children will definitely rid themselves of harmful habits.

- What are your friends’ attitudes towards smoking, drinking alcohol or doing drugs?
- Well, we have the 21st century outside... and all that is fashionable. That’s what my friends think. For me it’s not fashionable at all – it destroys beauty.

Alcohol consumption among respondents prior to the offence varied – from one or two bottles of beer to strong alcohol intoxication as a result of vodka
consumption. The youngest age for the initiation of smoking was 10 years (four grade). The children started drinking about a half year after their first cigarette.

Only two respondents admitted that they had consumed drugs prior to their offence; in reality more children might have been doing drugs. This is probably related to the social perception that smoking and alcohol are much lesser ‘sins’ than drug use.

-How about drugs? Do you have experience with them?
  -Yes, I used drugs for about two months, and then I quit.
  -What do you mean, two months? And you just stopped easily?
  -It wasn’t easy. Those pills… You can’t just stop.
  -What did you feel?
  -I saw different images.
  -Images… Interesting images?
  -Yes. But then suddenly I thought about it… and that’s it.

Another respondent told us that he had plenty of opportunities to start doing drugs, but he refused, being terrified of injections. He did, however, inhale glue. No other respondents mentioned practising toxicomania. One respondent once tried to sniff glue, but did not like the sudden dizziness.

It can be concluded that smoking and drinking (and to a lesser extent drug and substance use) were ‘needful things’ for young people in conflict with the law. This thesis is confirmed by such factors as the regularity of use (systemic use), comprehensiveness (it applies to all children, regardless of age and gender) and the early initiation of consumption.

7.6. THE NATURE OF CONFLICT WITH THE LAW: CAUSES (CIRCUMSTANCES, LIFESTYLES) AND PUNISHMENT

As a rule, a child’s confinement in a specialised institution is the consequence of more than just one offence. Prior to that, children often get involved in fights and clashes at clubs, in petty thefts, in anti-social behaviour and so on.

…at first everything occurs at an elementary level: there’s a regular fight between boys for something insignificant, then they take you to the militia after the fight, then they let you go, and then it happens again, from the very beginning. Then you steal for the first time, and then for the second time – and you develop a feeling of impunity. Then you lose control. I can’t say that I come from a poor family and started to steal out of despair. No, I had a normal family; I attended school and took part in different sports clubs. But the itch for easy money just killed me.

As a rule, children tend not to reveal the nature of their conflict with the law – you can only guess (by, for example, analyze the term of their sentence). Seven of the respondents (four boys and three girls) refused to answer questions about the nature of their offense. Girls are generally more reserved regarding this question. It also depends on the age of the convict: the older the person is, the more reluctant he or she is to talk about the nature of his or her conflict with the law.

The most widespread offence that respondents mentioned was theft. In many cases there was more than one theft.
- I came here in October. This is it. I was supposed to go to the fifth grade. But in October they took me to thereception commission, and on 18 October I was here.
  - For what?
  - I committed 41 thefts.
  - And what did you steal?
  - Cellphones, cash registers. There was a supermarket nearby, from there I took about 1,900 dollars, 1,900 hryvnas and 10 cellphones.
  - And how did you get rid of it?
  - My friend and I decided to keep two phones – one for each of us. The other eight devices we just sold or distributed among friends. We finished spending the money in two weeks.
  - How did you spend it?
  - Slot machines. We squandered 200 or 300 hryvnas a day. We were also buying food and vodka. Other guys bought some glue.
  - So in just a few days you...
  - Well, if we happened to steal one or two thousand hryvnas, we used it in a day. We also gave money to the mom of one of our friends – about 500 or 600 hryvnas. When we had no money, she always bought us something to eat.
  - While committing your offences, did you realise that you were violating the law?
  - Well, more or less. But we didn’t think that they would try us in court. At first I was thinking about that, but later my ‘colleagues’ reassured me that I had nothing to worry about: you’re too young, you didn’t turn 14 yet, they’ll never lock you… So I kept on stealing.

Overall seven respondents mentioned this type of crime. But circumstances and the natures of crimes vary considerably – from simple theft of a cellphone to residential burglaries.

- What is the cause of your conflict with the law?
- Well, I wanted to have fun. But fun requires a lot of money. If you need money, you either go to work or go and steal something. I couldn’t work because of my age, but stealing was a perfect solution.

Less common are robberies and plunder, sometimes with infliction of bodily harm of varying degrees of gravity: four respondents mentioned such crimes. Two respondents had two convictions for such offenses. One of them received a conditional sentence for robbery (cellphone), but during the period of the sentence committed another robbery, again of a cellphone. The other respondent received a conditional sentence for residential burglary, and the second sentence was for theft (he did not give any details about that). In both cases he acted under the influence of alcohol.

As a rule, the majority of offences occur in the company of peers or adults. Sometimes persons of full legal age are the catalysts of crime, persuading children that they are immune, precisely because of their minor status.

…I think I was affected…no, not by friends, but by companions, or rather acquaintances, who once had conflicts with the law. They explained to me the situation. They told me about the easy, and quite substantial, money. And my family was in financial crisis. I was a high school student and couldn’t go to work. No time to make money. So I agreed to go with them ‘to do business’. That’s how I eventually ended up here.
7.7. THE PECULIARITIES OF LEGAL PROCEDURES RELATED TO THE OFFENCE (APPREHENSION, ARREST, INVESTIGATION, TRIAL, SERVING OF SENTENCE)

In considering the peculiarities of various court procedures, we have to remember that children have their own visions and judgements, based on their own experience during trial and during serving their sentences. Interviews show that at the moment of detention and during the initial stage of participation in various legal procedures, children had no or very limited legal awareness. The only thing children realised was that they had broken the law. The essence and the nature of the procedures were very vague.

**Militia.** For the majority of respondents, communication with militia officers involved a rather formal procedure, limited to interrogation, protocol and the signing of a recognizance that they would not leave. Children generally believe that police officers just do their jobs; they do not tend to blame the militia for their problems. Sometimes children even express a peculiar gratitude.

…they showed me my place. I mean, otherwise everyone would continue to cover for me. If they had not caught me at that moment, I would have continued doing those things. And eventually I would have ended up in a much more gruesome place. They stopped me right away, and that’s a great plus. When they first brought me here, I didn’t understand that and hated everyone. Well, I was lucky enough. Others received conditional sentences, but they were nice enough to bring me here...

Five respondents could not or would not characterise the participation of the militia in their cases. The rest of the respondents agreed to provide that information, and in most cases the participation of the police was simply formal.

Respondents detained for a relatively long terms in pre-trial detention centres (KPZs and SIZOs) have quite unpleasant memories. They, too, do not blame the militia for their problems, even as they note a certain degree of cruelty in the police actions against them.

When we arrived at the pre-trial detention centre (SIZO), the juveniles were held separately from the adults. There was one adult female who kept an eye on us. Yes, we stayed separately. Nothing humiliating, no offences – nothing of the kind.
- What did you do in addition to interrogations? What was your schedule?
- People from the CSSY came to us. Then we had psychologists who came to talk. There was a library: if you want to study, go ahead. This adult woman – well, she helped us with dictations.
- Was she also a detainee?

They had to feed me, but they didn't. Moreover, they didn't let my mother in until she offered them a bribe. Only after that could she see me. The bribe was too expensive for my mother, so she couldn't come to see me anymore – they wanted too much. Second, after I was arrested, neither my lawyer not my legal representative – my mother or father or relative – was present. And it continued that way all the time.
Yes, she was. She was at fault with the administration. She dictated to us, sometimes she pushed us hard with that. When I came here, girls from other SIZOs told me that they had schools and that they studied. This was a surprise for me. We probably also had a school, but it was purely formal. In reality, we didn’t have any schooling.

- How about food? Or did your parents bring you something to eat?
- Parents brought us parcels. We ate like everyone else. To tell the truth, it was horrible. When I first saw that bread in the Kharkiv SIZO – absolutely black bread – I was a little scared. It seemed like it was not made for humans.

Life is good here. The best thing is this computer class: you know, not everyone has a computer at home. They give us clothes and food; they organize walks. The situation in the SIZO was absolutely different. When I came here and saw the white bread, I asked them, what’s the holiday today?

Investigators from our militia took me to the SIZO for expertise – but not in the car with the convoy, but in the trunk. It happens. Generally speaking, the militia played a very important role in this part of my life. The officers did their jobs, but sometimes they exceeded their authority. They applied physical force to me and to my accomplice. They applied moral pressure against my mom when she tried to protect me, seeing how they took me out of the trunk. They have to act according to the law, but carrying people around in the trunk is illegal. My mother saw bruises. And she said the same thing to the judge, but he just yelled at her during the process, as if she had interfered in the procedure without awaiting her turn.

Generally speaking, children perceive the militia as a ‘necessary evil’ that exists as an objective reality. Some respondents are even grateful to police officers who helped juveniles stop their declines and prevented from committing more serious crimes.

**Court.** Some respondents, particularly those aged 12 to 14, have only a very rough idea about the functions of courts and court procedures.

- The court? Well, it kind of saved me from things that could happen.

Older respondents who have passed through the gamut of court procedures hold certain grudges, first of all when it comes to the fairness of trials. Children believe that they faced bias.

I saw a lot of unfairness in my case. At the very beginning I felt like everything would be fine, but later... It happened that until the court decision... well, it seemed like the victim was going to Russia. It was strange: they summoned him many times, but he never responded to the notes and was leaving the country anyway. In the course of the trial the judge gave me seven years of imprisonment. After that my mother quickly prepared an appeal and hired a lawyer. It turned out that the mother of my first judge worked in the court of appeal. We understood that in my city we would never find a good lawyer. So she went to Kyiv and hired one. And then we all finally learned why there was no procedure at the court of appeal. They summoned my mother to the court of appeal five times, but the session was cancelled on every occasion. Finally we received a paper stating that the court session had taken place and it was closed. From my files I learned that I had a previous conviction, but that’s not true! This is my first case.
Other complaints concern approaches to the definition of the terms of punishment: children believe that in most cases their offence could have been punished using lesser terms of custody.

Children also complained about the terms of inquiry and the trial procedures: one convicted girl spent a full year in a SIZO after the imposition of a court sentence.

**Caregiving organs.** The majority of respondents are unaware of the role of caregiving organs. Only one juvenile gave a positive evaluation of their role: they helped this girl to secure housing.

- Well, they secured housing for me. They let me know that they really care about me.

### 7.8. CONDITIONS FOR STAYING IN SPECIALISED FACILITIES

None of the respondents complained about poor conditions in specialised facilities (regardless of the place of detention, whether a correctional colony or a school for social rehabilitation).

In these closed facilities some children enjoy better living conditions, nutrition and leisure time than they had at home.

- Recently they completed renovation work at school – we had a sponsor …
- What did they do?
- Well, full renovation.
- Is it nice?
- Oh, yes, all the classrooms are so nice; we have new chairs and desks. They also equipped this interactive classroom, I mean, with computers. We use them during our IT classes.

Since children emphasise the presence of order and a specific system that they never had on the ‘outside’, it can be concluded that the well-organized nature of work, education and leisure time also plays an important role. Since the routine in the facilities leaves no space for idling, time spent on education and work becomes more effective. At the same time, one of respondents noted that this organized and regulated regime causes depression.

The biggest deprivation juveniles face is that of liberty.

Amateur art activities in the specialised facilities are quite popular among children, who participate in these activities with great pleasure – artistic achievement is another source of pride. The children's creative talents thus manifest themselves, even if only for short periods of time and given strict rules of conduct. This represents a sort of rest for children.

In answering the question about whom they would consult with if they had problems, the children in most cases mentioned parents or other relatives. But they also often mentioned psychologists and teachers, and sometimes administrators of specialised institutions. It can be concluded that children appreciate the role of psychologists and educators in their lives.

The youngest children complain about the unavailability of sweets.
7.9. OBSERVANCE OF RIGHTS DURING DETENTION AND CUSTODY.

As we mentioned above, at the moment of arrest or apprehension children have only a vague idea about their rights. Some might understand much later that their specific (children’s) rights have been violated.

Some children (five respondents) did not answer the questions regarding observance of their rights during detention. One just did not want to talk about it, while the remaining four seemed not to understand the subject of the questions. Another five respondents never experienced apprehension or detention, because they were either summoned to the police station or brought there for interrogation, and then allowed to go home. In the majority of cases children did not mention the presence of parents/guardians and attorneys. It is interesting to note that children do not remember any occurrences of violation of their rights: they were allowed to go home, so everything was fair.

The rest of the respondents had deep experience with the apprehension and detention procedure. They have quite unpleasant memories of it. Only three respondents believed that all rules and procedures were observed – in apprehension, interrogations in the presence of attorneys and adults and detention in the pre-trial detention centres exclusively with other juveniles. In one case (of these latter three), the participation of a lawyer was very formal: she gave small bits of advice regarding care and then left, never to be seen again.

- And how was custody?
- I was in the KPZ, I stayed in a SIZO …
- Were you held with children of your age or with older people?
- I was kept with peers – all juveniles.
- For how long did you stay there before the trial?
- One year; then six months after the trial. Then I had this Supreme Court session, and only after that they brought me here.
- In other words, your tenure in SIZO lasted for about year and a half?
- Right.
- And how did you spend your time there?
- We were just sitting in the cell, going out for two hours. We also watched TV, read books, wrote letters…well, we did everything we could think of to stay busy.
- Did you do any schoolwork there?
- No, when I was there there were no classes. As far as I know, right now they have school. But not in my time.

Respondents evaluate lawyers according to the following principle: those hired by parents/those provided by the state. The results of the evaluation will not be surprising: the work of those provided by the state is generally poor, as compared to those hired by parents. Children are often uneasy that ‘my parents couldn’t hire a lawyer’, while the state lawyer for them is the ‘personification’ of a lost case.

At the militia they gave us a lawyer. She talked to me and to granny, and she told my grandmother to legalise guardianship. She never waited to the end – she just got up and left. She didn’t help me at all.
In the rest of the cases respondents provided a whole bouquet of examples of violations, including interrogations without an attorney or legal representatives and non-notification of parents of the arrest. Moreover, one respondent said that the police had deceived his mother by saying that her son was not among their detainees. Respondents also mentioned beatings, moral and physical pressure and proposals that they take blame for acts they had not committed in return for promises of future release.

In the criminal system it’s no secret that the role of the militia is negative, especially during inquiry. Detectives, investigators and heads of rayon stations gather in mass for interrogations. They start to ask you questions, and make physical and bodily gestures. In our colony you won’t find a single inmate who had a fair inquiry process. During the inquiry they don’t even notify parents that their child is at the police station. My problem was that my parents learned about my detention too late. And they came to the police station only after four days, when all my bruises had more or less healed. I remember how I was sitting in the rayon unit, and then I heard my mother’s voice asking if I was there. And they told her: no, he is not here…

It wouldn’t be fair to say that violations are committed just for the sake of committing violations. Obviously, officials involved in the search for and detention of juvenile offenders would say that they are not.

They came to arrest me and punched me a couple of times. Then they brought me to the rayon unit, where the investigator also inflicted bodily injuries. When my attorney came over and saw what was going on… well, it all ended there. By the way, during the trial they initiated a criminal case against that investigator who was beating me up. I came to the SIZO and showed off my injuries. It was all included in the case, and that investigator was eventually arrested. He signed documents for me… when he interrogated me, I refused to sign anything… and he said that he didn’t care about my juvenile status… so he just took a pen and signed everything for me. Moreover, he always ignored documents that characterised me from a better angle – he just put them away.

Anyway, the court was very attentive to every detail: where, what, why… Unlike the militia, I have no pretensions to the court.

In conclusion, we can add that violations of the rights of children do occur. There exist many causes for this, including the lack of children’s awareness about their rights; the absence of a system to force the investigative process to observe them; and the unwillingness of bodies of inquiry to complicate their work by adhering to the rules.

7.10. EVALUATION OF SUFFICIENCY OF INFORMATION FOR MAKING COURT DECISION

In the majority of cases the question of sufficiency of information wasn’t even examined: all the facts about the case were extremely clear-cut. For example, a child had stolen a cellphone; its owner dials his own cell number and finds the thief answering it.

Some cases are more complicated, and respondents complain that sometimes courts pass judgement without a sufficient evidence base, and with one moreover that is guided by the claims of the victims.
7.11. EXPERTISE OF TRIAL PARTICIPANTS IN LAW, SOCIOLOGY, PSYCHOLOGY, CRIMINOLOGY

Children did not characterise trial participants in this context, because these matters are beyond the realm of their experience.

7.12. THE VALUES SYSTEM (INCLUDING MORAL VALUES)

The values of children in conflict with the law require separate study, but we can discuss certain aspects of it. The first important fact is that some children do not think about ‘good’ or ‘bad’ while committing a crime. They seem to lack a value system. All their actions aim at satisfying momentary needs or whims.

- What did you feel when you broke the law for the first time?
  - I felt that my authority had grown. I felt that they started to envy me – I was so cool, I didn’t care, I had money and a cellphone. Everyone started to respect me; the girls wanted to be with me...

On the other hand, children’s responses to any unfair treatment is quite strong. In the majority of cases we may observe an egocentrism in terms of children’s positioning of themselves in the system of social coordinates. Children from low-income families feel themselves to be different from the majority of the people who surround them; they don’t understand the causes of this difference and try to improve their situation via crime.

At the same time we observed examples of drastic changes of child’s moral values and re-evaluation of child’s approaches towards his or her place in life. The most important thing here is that the administration of facilities responded adequately.

… when I arrived here, I was 16. It was a time when they had passed this law that you could serve your sentence here until the age of 22 – I mean, you could avoid the colony for adults. I had a clear understanding that from here I would take only the best things. Of course, it’s unpleasant to be in custody, but I worked hard, I was good at my studies and behaved myself. In other words, I did my best to remain here. So after I turned 18, the administration of the colony decided to leave me here until I was 22. You just have to wish for something badly, and you’ll stay – you have to take something good along with you. Even though I’m 20 now, I still feel like a child. I don’t know how I would survive in the adult colony.

- Yes, for example, I like to deal with computers; I know a lot about them, but I didn’t have one at home – I wasn’t thinking about that. But here they gave me an opportunity to do what I wanted, and allowed me to achieve it. I can help any person master a computer – I mean, this is mine.
  - What are your short-term plans?
    - I’m going to pass the examinations to university N to become a programmer. I hope to study there, and on 22 April I have my first exam. So I’ll try to become a student.
7.13. CONTACTS WITH PARENTS AND FAMILIES (VISITS BY PARENTS, GUARDIANS OR OTHER FAMILY MEMBERS DURING THE PERIOD OF CUSTODY)

Meetings with parents for children in conflict with the law are regulated to ensure that parents can see their children from time to time. The other question is how parents make use of these opportunities. For some parents visiting children is a low priority, for a variety of reasons. Parents who generally neglected their children when they were free do not care much about them when they are in prison. About half of the children noted that their parents regularly take advantage of their chances to see them. Children described the regime of monthly short-term meetings and quarterly long-term meetings. The system did not produce complaints or criticism among the juveniles. A few respondents said they had the chance to communicate with parents by telephone.

7.14. AVAILABILITY OF MECHANISMS/A COMPLAINT SYSTEM FOR CHILDREN IN CUSTODY

Not a single respondent complained about the conditions of detention. This is probably why respondents failed to evaluate the complaints system and its effectiveness. Children are unaware of the system for appealing against court decisions, probably because it is not their business, but their parents’ (that is, to use it or not). At the same time there are cases in which the unfairness is obvious, but there is no one to whom to appeal.

...for example, they have a practice of pre-term release. So one guy here submitted the relevant documents. The colony prepares a request to the local service for children. These people have to give an answer on whether they can accept him. I mean, they have to give concrete answers on where he will live, study and work, where he will stay and so on. But they don't make haste with the answers. Moreover, they even can ignore the request.

7.15. JUVENILE NEEDS RELATED TO STAYING IN PENAL INSTITUTIONS

The most serious deprivation respondents mentioned is that of liberty. But the need for freedom cannot be satisfied by a specialised facility.

The only thing that we can have by law, but don't, is a free exit. I know that elsewhere they introduced this principle long ago. Unfortunately, we don't have it. I have never had a chance to go out with my parents until 8 p.m. during their quarterly visit. There's no chance, but we want it badly.

The second most important juvenile need is the need for communication. Quite often children are unhappy with their current circle of contacts. One solution the respondents mentioned is Internet access. At the same time, they understand the necessity of certain limitations on this type of communication.
I was growing up in the company of my brother’s friends, who were 18 and 20... I started to look at life through the eyes of an adult long ago. The boys here are just like little kids. They aren’t interesting to me – they perceive everything as children.

One 13-year-old respondent complained about the absence of sweets; he was sad about the fact that they rarely receive candies.

7.16. CONCLUSIONS TO SECTION 7: THE MOST PROBLEMATIC ISSUES RELATED TO OFFENCES AND PUNISHMENTS

Based on the interviews, among these issues are:

• Loss of parental control over school and especially the extracurricular time of their children – quite often parents (guardians) have no idea about what their children are doing for long periods of time.

• Loss of close relationship between parents and children – children start to lead independent lives (as they understand it), and have very specific views about this independence.

• In such cases strangers or casual acquaintances who often practice asocial lifestyles and who are usually older occupy the places of the parents. ‘Street’ values gradually replace family values.

• Child-care authorities generally tend to be reactive in response to offences by children: they deal with consequences rather than with the causes of these offenses. In turn, parents are more likely to confirm their helplessness regarding their children’s asocial deeds than to go to the child-care authorities to request preventive measures.

• For more than half of the respondents, communication with militia officers is merely formal, limited to interrogation, protocols and the signing of a recognizance not to leave. Sometimes violations of children’s rights do occur (interrogations happen without attorneys and/or legal representatives), but they are not perceived as violations by their children, because the majority of children eventually return home.

• Children held in pre-trial detention centres (such as KPZs and SIZOs) for relatively long periods always cite violations of their rights: non-notification of their parents that they have been detained (and even direct concealment of this fact); interrogations in the absence of adults; and psychological and physical pressure. Researchers believe that law enforcement officers generally treat detained persons as criminals or suspects first and as children second, if at all.

• It seems that court authorities that take into account the rights of victims sometimes share similar views. A vivid example of this was the case of one juvenile who was sentenced to imprisonment for a term that exceeded the maximum established by national legislation.

• According to researchers, advocacy for children in conflict with the law is a crucial problem: a state-provided attorney tends to be ineffective and is viewed as a sign that the case is a lost cause. A privately hired attorney
starts to work much later (sometimes after a significant period of time has elapsed), thus failing to fully protect the child’s rights.

• In some instances we heard about extortion of money by certain representatives of the judiciary, but confirming and/or refuting such claims was not the goal of the study. Thus, with certain caution, we can discuss the element of corruption in the consideration of cases involving juvenile offences.

• The duration of court procedures, which can last up to several years, is an important problem. It would probably be expedient to introduce (at least in large cities) specialised courts for juvenile offenders.

• It should be emphasised that pre-trial and trial procedures in evaluations of children in conflict with the law generate more complaints than do their residencies in the specialised institutions of the Ministry of Education and Science and the Ministry of Justice.
8.1. SOCIAL PORTRAIT OF PARENTS; RELATIONS AND FAMILY ENVIRONMENT

The study organized five focus groups: in Donetsk, Kharkiv, Kherson, Melitopol and Lviv. The groups averaged six to eight persons, generally urban. The average duration of the focus group discussions did not exceed two hours.

8.1.1. Family composition

Despite that the study’s qualitative methods do not ensure full representation, there was a broad spectrum of participants. All possible variants and categories of families of children in conflict with the law seem to have participated in focus groups. The broadest category of participants – accounting for more than two thirds of the total – was that of parents; full families comprised half of this group and single parents comprised the other half. The majority of participants were women (mothers). In the rest of the cases children were represented by guardians who were close relatives (grandmothers, grandfathers, siblings, uncles and aunts) and, in rare cases, by guardians appointed by the state.

The number of children in families varies significantly, from one to five.

[Quote: I have four biological children and one adopted child – I was married for a second time. I have three sons and a daughter, the youngest. The age difference between the first and second sons is seven years. I was very uneasy about the genes, you know. My husband is a miner, eternally drunk. And the job… You had to work in Soviet times. So I took my mother’s work record book and used it to formalise some second employment. I had two jobs. What really helped us is that we lived in the village: you know, daily work from 4 a.m. to 12 p.m., a little farm plot, a garden, land – and all the children helped me. Country life was okay.]

In some cases, in addition to their own biological children, respondents cared for the children of their relatives. Overall, four focus group participants belong to this category: these other children became members of their families due to the death of both parents, or because the biological parents basically abandoned them.

[Quote: We have a full family, two children and two nephews. My sister died, so we all live together. My mother also lives with us (there are three generations under one roof). I am 36 years old.]

In the majority of cases, the material wellbeing of families of focus group participants can be characterised as ‘below average,’ but participants tend to qualify it
as ‘average’. From the conversations it became obvious that only one in every five families can be considered a middle-income family. In other words, only one (sometimes two) participants in one focus group was middle class in terms of prosperity. We did not have parents in the focus groups who could characterise the material wellbeing of their families as ‘well-to-do’. Researchers did not exclude such families; rather, they are simply more difficult to reach. Moreover, there is a growing social distance between the rich and the rest of the population. The issue of crimes by children from prosperous families may become a topic of a separate specialised study.

The majority of participants have a secondary or specialised secondary education. Less than 30 per cent of participants have higher education, and not all of them work in the field they were trained for. Some of them work as market resellers. Almost all participants are 40 to 45 years old, with some rare exceptions. Not a single participant admitted to having conflicts with the law; certain of them confirmed that other members of their families or close relatives had had such problems. In any case, all of them were reluctant to discuss this topic.

8.1.2. Communication between parents and children (frequency, duration, topics of communication).

Judging from the evidence that focus group discussions turned up, we can assume that there exists a serious deficit in communication between adults and children. It is noteworthy that parents rarely talk about this deficit: in answer to direct questions, they say ‘oh yes, we discuss different topics’. But when we started to discuss the mode and duration of this communication, it turned out that it usually occurred early in the morning (before work), in the evening (after work) and over the telephone. Moreover, parents admitted that their children spent more time outside on the streets, in the company of peers. Quite often the latter have more influence on the children than the parents or guardians do. In some rare cases parents directly acknowledged that their communications with their children was sporadic.

Pay is low. You have to take a second job elsewhere. You first see your child at 7 a.m. before going to work. Then you return at 9 in the evening and ask: did you do your homework? All your control is over the telephone. Sometimes it happens like this: you run in, you ask if everything is okay and then you run out.

In addition to a communication deficit, there is the shortage of common topics for communication and a certain estrangement of children from adults – especially when children are unsure of whether their parents or other adults can understand their problems.

My boy is very reserved. Sometimes it’s hard for him to talk about everything. Maybe over some time he might explain the situation. But not immediately. We can discuss certain general topics; if he is ready and wants to communicate, we talk. If he doesn’t want it, that’s it...

Often participants mention the presence of a psychological barrier between them and their children, such as a lack of understanding. Parents even now fail to identify what caused their children’s offenses. Participants indicate that children got new role models who substituted for their parents. While men can retain their
authority, perhaps due to their physical peculiarities, mothers have difficulty doing so.

The communications problem is exacerbated by the fact that almost half of all the children of focus group participants work, despite their ‘minority’ status. Only a few of them have full-time employment (after school or vocational school is over); the rest work part-time. Differing schedules mean that parents and children do not meet or communicate. On the other hand, when a child makes his or her money, it leads to greater independence and different evaluations of the roles of parents. It also creates new role models and changes the system of values.

8.1.3. Parents’ focus of interest (hobbies, friends, free time).

Since the material wellbeing of the majority of families of children in conflict with the law is low, the focus of the interests of the families’ parents (guardians) is quite limited – it is primarily aimed at work (in the workplace or at home). Only a few participants mentioned any hobbies. Parents usually spend their free time watching TV; sometimes they may read novels or do embroidery. Hobbies are more widespread among women. For the most part, the friends of our focus group participants are colleagues and neighbours.

I couldn't devote a lot of time to a child – I had two jobs, to earn our bread and to put him on his feet …

8.1.4. Children’s focus of interests (school, leisure time)

Quite often parents failed to answer the question about their children’s interests. Only in some cases did parents confidently speak about their children’s occupations: sports clubs, hobby groups. Sometimes they mentioned computers and in rare cases they mentioned reading fiction. It often seemed that it was impossible to satisfy children’s interests because of a lack of money – for many parents that is the core of the problem.

He found himself in the company of older boys who gave him all care and warmth he needed; they promised him fancy things. At one point he needed a lot of money, but our income was very limited. So, he got his ‘green light’ and his pockets were full of money. That was the end…

According to parents, the focus of interest of their children is often limited to ‘street things’ and to peers with the their children’s own specific interests – parties, showdowns, clubs, alcohol and smoking, cheap entertainment and slot machines. Very often parents complain about their children’s disposition towards ‘passive’ rest – watching endless TV programmes, listening to music. Parents are frustrated by their unwillingness to do basic household things, like washing dishes or cleaning their rooms.

The other side of the problem is the actual neglect of children, when parents just do not want to have anything to do with them – no conversation, no mutual interests. Such cases are not widespread, but they do occur. At best, children receive care from close relatives; at worst, they are left on their own.
My grandson's hobby is computers. But sport is what he loves the most. And it's the fault of his mother and father that he failed – the only thing he needed was them to send the application. I went to the sports lyceum and arranged everything – they wanted to accept him. He passed all the exams and went there for the whole month. But the application from parents never came, even though he waited for it nervously. I went there again, and they tell me: "Who are you? His grandmother? We need the application from his parents!" That's where it all started. He was very frustrated. Was it really hard for them to sit down and write out that application? The poor boy was crying... He went to school in Shyroke, but travelled all the way to the Skadovsk sports centre to practice...

8.1.5. Specific interests of parents and children (alcohol, drugs, gambling/games and disposition towards violence – inside or outside the family; disposition to offences. Frequency)

Focus group participants rarely mentioned alcoholism in their families – there were just a few cases of this. The same is true of drug use. However, smoking is a widespread practice in many families, including among women. Cases of occasional consumption of alcohol by parents (guardians) are quite widespread, but drug use is extremely rare. The attitudes of focus group participants towards alcohol are rather tolerant. At one focus group, female participants even broke into a discussion about what it is better to drink – vodka or light alcoholic beverages.

I used to be in a civil marriage. My partner had a brother with a wife and kid. They often consumed alcohol and drugs, and that's why she died – because of an overdose. In about a year he died too, and the child was left on his own. I decided to take the boy in, because he didn't have any relatives except for his uncle, my civil husband. One year later my husband left me for another woman, but the boy stayed with me. I formalised guardianship and he permanently lived with me. We had very good relations, and I never prohibited him from communicating with his former relatives. Unfortunately, it did him no good.

Only in certain rare cases did participants link offences that a juvenile had committed with his or her family environment, explaining that close relatives directly contributed to the offences or did not attempt to prevent them, thus further promoting the child's delinquent behaviour.

There was only one family in which several children committed different offences; in the rest of the cases one child had committed crimes.

8.1.6. Parents' health (physical and mental)

The majority of parents assess their health as normal for their age, without any mental disorders or deviations. At the same time, almost all participants admitted to having certain psychological pressure caused by problems at work, in the family or with children.

There were no cases of clinical mental disorders among participants, but some of them mentioned certain deviations. Researchers found it inexpedient to get deep into this issue during the focus groups, so it is hard to comment on the following citation.

In my situation a child was growing up in a family where everything seemed good. But the relations between the biological parents – the father and mother – weren't so good. The father was passive and consumed alcohol. And all this gets passed on through the genes.
In some cases parents mentioned the presence of serious diseases – now and in the past. Examples included cardiac surgery, heart attacks (as the result of an offence child had committed) and a three-month coma after the tragic death of a husband. Participants also mentioned manifestations of alcohol and drug abuse in biological parents. One participant suspected having serious health problems, but due to a lack of time and money he was not willing to deal with them.

8.1.7. Children’s health

In the vast majority of cases, the focus group participants assessed the health condition of their children (both physical and mental) as ‘normal’ and ‘the same as in all other people’. In some cases, however, participants mentioned such defects as congenital heart disorders, but in those cases the parents hoped that the children would ‘overgrow’ this disorder. Certain problems with internal organs and related surgical operations also came up. Parents also noted that some children are very ‘tender’ and ‘look younger than their age’, which could be attributed to a lack of good nutrition in early childhood. Sometimes participants mentioned detached and avoidant behaviour on the part of children who also had difficulties communicating with both parents and the surrounding world.

8.1.8. Ideas about of the child’s future prior to and after the offence

Prior to the offence, almost all the parents had certain plans regarding the futures of their children. As a rule, these plans were built around good work, on-going education and starting families. The parents hoped that their children would start earning money of their own, thus reducing the physical and financial burden on the family. In many instances there were not just plans, but real steps and efforts to realise them. Some children had already attended universities or colleges. One kid was professionally involved in weightlifting. The parents cherished hopes about their children’s professional careers; they dreamed to see their children as respected members of society.

Design. I sent him there and I saw that he enjoyed it. It’s not difficult physically – it’s pure creative work.

It is interesting to see how parents lose their hopes about their children’s chances after the imposition of a custodial sentence. The children, in fact, were much more positive about their futures.

They will never hire him. It will be very hard to find a decent job for someone with that reputation.

In the best case, he can become some construction worker. There are no other options – it will be very hard for him to find a job.

Children generally believe that they have to get through and start over. But parents (with a few exceptions) are not so optimistic. Only a few parents expressed a readiness to help their children overcome this unpleasant episode and return
to a normal life. These parents did not just describe a possible future – they said exactly how they were going to create it.

At the same time, both children and parents understand (or at least say they do) success in a similar way: a good education and profession, an occupation that brings pleasure and adequate material remuneration and a happy family. Neither children nor parents talked about continuing a criminal career in the future or earning criminal authority in the underworld.

8.2. OFFENCES COMMITTED BY A CHILD/CHILDREN

The focus group participants generally represented children who had committed very different offences under various circumstances. Conditionally they can be subdivided as follows:

- Petty theft, fights, hooliganism;
- Serious theft (or robbery) in groups, often followed by violence, sometimes with the use of weapons;
- Offences related to operations with illicit drugs.

As a rule, the first type of offence does not lead to arrest and custody. The parents who represent children in this group usually have only a vague idea about various court procedures and the observance of children’s rights during detention, because detention in this case rarely lasts for more than several hours. After that the children are released under recognizance that they not flee. Such an offence usually results in a conditional sentence. Members of this group made up about two thirds of focus group participants.

The other two types of offences of higher gravity often lead to serious consequences: forced arrest and long stays in detention centres before, during and after trial. Moreover, such offences are often punished with imprisonment. The most serious prison term that participants mentioned was 10 years of deprivation of liberty.

8.2.1. The age at which the offence was committed

The youngest age at which children committed offenses, according to the focus group participants, was 12, but parents do not rule out that they could commit them at an even younger age. This was typical for about 30 per cent of the children whose parents/guardians participated in the meetings. Other participants mentioned children who were older when they committed crimes, but they were talking only about registered crime. Beginning criminal activity at the age of 13-14 years is typical for a much greater number of children.

At the age of 14 they formed a gang that stole cellphones. There were older people and we managed to help her to escape punishment – she was 14 back then. Our family is prosperous, but her case is the cause of our family’s pain. She had everything – the best clothes and food. We still don’t understand why our kid got into this.

8.2.2. Circumstances of the offence

The majority of offences are committed in the evening or at night and as a rule in the company of peers or adults. Intoxication is not always an integral at-
Social Practices and Legislation in the Area of Juvenile Delinquency

tribute of the offence. The majority of illegal acts occur in places of entertainment and leisure that are frequented by peers: discos, clubs, cafes, streets and the like. Such acts may include fights, petty theft and robbery. Another group of offences is related to where juveniles work: the most popular offence is theft, but on a much bigger scale here, involving cars, cash desks, and hold-ups of commercial companies. If in the first case an offence is spontaneous (and committed in the company of casual acquaintances), the second group of offences usually requires a leader or organizer (as a rule, an adult).

Another category of offence is related to drugs. Characterizing this category is difficult because even if parents know about their children’s drug situation, they are indisposed to give details.

We’re losing our young generation – their parents cannot support them, and gangsters know how to play on their heartstrings, and take advantage of it. They let young people down and do whatever they want.

The nature of children’s participation in crime varies greatly – from direct to indirect participation.

He had to be on the lookout – that’s what he and his attorney said. We can’t prove anything.

It can involve anything from standing watch and giving a tip-off to participating in a mass brawl or a group beating.

8.2.3. Causes of the offence.

The question about the causes of crime was one of the most difficult for the focus group participants. They often failed to identify the causes – their answers were more about the grounds on which illegal acts took place. In general, these answers can be described as follows:

1. Unmotivated offences: fights as a result of quarrels in public; ‘showdowns’ in the company of peers; the desire to assert oneself among friends and peers.

I think it was caused by adolescent lightheartedness, heated up by alcohol. I admit that I’m at fault: I wasn’t keeping track of where my kid spends his free time.

2. Other causes may include the need for money. Often, very insignificant amounts are in question, such as several dozen hryvnas.

There was this woman wearing a gold chain. They ran up from behind and tore it away. They were probably drunk. He had no money to buy drugs, and selling that chain could help. I guess for him it was the only way.

3. The presence of debts or other obligations also came up as a cause of crime: in order to repay a debt, the child is told to steal something.
4. The desire to make relatively large amounts of money quickly and easily, without any significant effort.

I think it was caused by lack of money – he didn’t want to work, he saw no sense in working.

5. Membership in the group of people disposed towards illegal activity. In such cases the decisions to perform various actions do not depend on the child.

According to respondents, the overall cause of illegal activity or crime among young people was the loss of social links with school and parents (relatives).

8.2.4. Direction of the offence

The most widespread types of offences are petty thefts and robberies, the victims of which are usually from the most vulnerable groups – other children or women. A group of adolescents might snatch handbags, money or cellphones. Participants also mentioned the theft of car audio equipment from parked cars. Only one participant mentioned sexual violence. Offences against health are also common.

She stood up for her boyfriend and beat another girl up. Light bodily injuries, so they initiated a case. But I have experience in this area, so I went and repaid the girl for beating. That’s it.

Offences related to buying and selling drugs are quite widespread (parents mentioned this type of crime more often than children did). It is not the dominant type of offence, but it is not uncommon.

He said he had never used drugs, but obviously they asked him to keep or to resell them – so he got caught. They told him: don’t worry, everything will be fine, since you don’t do drugs. And who became the scapegoat? Where did they find these drugs? They just crossed him up.

A certain share of thefts and robberies caused major material damage: breaking into a cash register, robbing an enterprises and stealing cars, and in one case a truck. Some robberies involved the threat of weapons. In one case a victim also mentioned that an offender had carried a firearm.

I found him a job at a gas station, where a security guard protected the property. So they had a plot to steal a car there, as in ‘we’ll sell it, and then we’ll divide the money’. My boy was 16 and this security guard was 24. So they stole the car and were driving around for three days trying to sell it.

8.2.5. Characteristics of the charged offence in terms of gravity

The majority of focus group participants represented juveniles who had committed offences of medium gravity; cases of serious crime were rare, and only a few participants represented perpetrators of petty crimes (the latter crimes are
characterised by their high frequency, however). None of participants mentioned especially serious crimes.

8.3. AWARENESS OF PARENTS/GUARDIANS OF THE CIRCUMSTANCES OF DETENTION

8.3.1. Time and method of apprehension

In the majority of cases, children were arrested by the police officers that the victim (or sometimes passersby) had called. In some cases children were arrested after a certain delay – while trying to sell stolen items, perhaps, or as a result of a search several days after the offence. In one case private persons who were searching for their stolen property apprehended a child and then handed him over to the militia.

These boys held him in the barn for two days, and then they turned him over to the police. I learned about him only after 10 days of police detention. They were beating him up and tried to pin some additional cases on him.

In many cases children get arrested at the site of the crime by a patrol service immediately after the robbery or in a car they were trying to start; or by the traffic police while driving a stolen car. Cases of prolonged searches in which the juvenile is on a wanted list are extremely rare.

8.3.2. Informing parents about the fact of apprehension

Parents are notified about apprehension in various ways. Sometimes children are picked up at home, so the parents witness the arrest themselves.

According to parents, the practice of telling the arrested person his or her rights is the exception rather than the rule. If arrest occurs at the scene of the crime or outside the child's home, it usually takes from one to several hours to inform the parents that it has occurred.

Sometimes the method of notifying the parents may have very negative consequences.

They called me at work. Can you imagine my condition when my boss called me up and gave me the information? Anyway, I have a right to confidentiality. Who knows, maybe he's innocent and will be released the next day. But you can't stop bad news from spreading…

In some cases parents stay unaware that their children have been arrested for quite a long people – sometimes for over a week. The time period between arrest and first interrogation may vary considerably – from five minutes to several hours. The absence of parents (as well as of attorneys and representatives of other government services that deal with juvenile affairs) from the first interrogation is a widespread practice. Sometimes attorneys are present, but their role is so formal that their ‘presence’ is not worth much.

The speed with which parents are notified is usually affected by the gravity of the offence. In the case of petty crimes, the police inform parents immediately,
after identifying the offender. But in cases of actual or alleged serious crimes, the period between apprehension and notification of parents may last up to several weeks. Such delays can be caused not only by poor work on the part of law enforcement agencies, but also by the impossibility of identifying the offender’s real age. Participants also mentioned cases in which a child’s arrest had been intentionally concealed.

Parents often complained that upon arrest children are not allowed to notify their parents independently. Many of them have cellphones, so it would be easy for them to do so if they had the opportunity. One participant related how the militia proposed to his child to make the call using somebody else’s cellphone. He believes the goal was to pin the theft of that phone on his child. Many parents stated that their children’s telephone accounts went blank after detention or simply ‘disappeared’.

8.3.3. Evaluation of the legality of the procedure of apprehension

In the majority of cases parents (guardians) fail to evaluate whether the law has been followed during arrest, because they are generally unaware of the legal basics of these procedures. In some cases there was no arrest: militia officers visited the offenders at home and proposed going to the rayon department. In many cases the arrest procedure took place at the crime scene, ‘hot on the trail’. Parents generally believe that ‘if you violate the law, you have to bear responsibility’. Unless an offender is placed in a pre-trial detention centre, parents usually don’t care much about the legality of the procedure – the attitude is that it could have been much worse.

If their children are forced to stay in detention facilities for a long time, however – more than several days – parents start to question the detention procedure.

8.3.4. Typical violations of children’s rights. Goals and causes of these violations.

The most widespread violations of children’s rights are:
• Not telling them their rights;
• Reluctance to notify parents about the detention of children; if the latter have cellphones they are prevented or prohibited from informing their parents;
• Interrogation in the absence of the child’s legal representatives; interrogation without an attorney;
• Moral and physical pressure – intimidation, threats;
• Conditions of detention that degrade human dignity.

He wasn’t even 16 at that time. He was arrested in August and he turned 16 only in November. When they brought me to the police station, they told me: you have 10 minutes to communicate. He was cuffed to the radiator and covered with dried blood. His head looked mutilated; the police had knocked out his front teeth…
- It was August – the heat was unbearable. There are two cells and they won't let us in. There were about 10 of them in one cell with one bench. They slept in turns. They were allowed to the toilet only twice a day – so after getting something to drink they used plastic bottles to piss in them. I brought him only something that you cannot shake out. They didn't have spoons or forks either.

- Did they allow you to visit your child?
- Yes. Their food was terrible, so you had to go there at least twice a day to feed him. They gave them something hot and spicy, so the detainees wanted to drink all the time. And then they were taken to wash their faces. I don't know what you call it – the morning 'round' or something. So they closed the hall and followed them to the toilet. If you don't make it, that's your problem. The same procedure took place in the afternoon and at night. Three times a day. If you’re in desperate need – I mean in terms of the toilet – you have to beg them… Well, if you succeed, they remove all the visitors, lock all the doors and then bring you out.

- Were you allowed to see your child?
- No, I saw him only once in three days: on the first day, when he was sitting in the office, handcuffed.

It seems like the reason for these violations is simple – investigators are trying to solve the crime ‘hot on the trail’, before the arrestee can recover his wits and formulate a story. It is much easier to deal with a ‘broken’ personality. The priority is the prompt solution of the case and the filing of materials with the court, rather than honest observance of current legislation. The mental and physical condition of the juvenile interests few besides the parents.

Like I said, when he returned from there he was crying, and it was unclear whether he was happy or sad. And he kept on saying ‘Mom, I’ll never end up there again, I promise’. He became reserved. We had huge problems with his loss of trust – he didn’t want to study and he didn’t care. They kept on telling detainees ‘It’s your fault that you destroyed your own life! No school, no military service… Wherever you go, you’ll have record…’ That’s why he kept repeating ‘I won’t go to school. Why should I? What is the point?’ I went to his coach and asked him to help, to have a positive influence on him. And true, his coach kept on taking him along to different competitions, even though my son’s level of successes went down. If an athlete doesn’t practice for some time, he starts to break down; but the coach and team always took him to different competitions all around Ukraine. We tried to bring him back. I noticed that after the SIZO he started to smoke – near a little window, so that no one noticed. And I tell him ‘Serhiy, stop! You used to have asthma! You can’t smoke!’ He goes, ‘If you had been in there…’ And I answer, ‘I didn’t send you there’.

8.4. CONDITIONS OF CONFINEMENT OF A CHILD IN PRE-TRIAL DETENTION CENTRES

According to parents of children in conflict with the law, the conditions of confinement in pre-trial detention centres (investigation isolators, or SIZOs) can be summed up in just one word: horrible. (The majority of children in the study were lucky enough not to have to stay in them.) No other topic elicited so much negativity from participants. Parents view every aspect of these facilities as an outrage against children and their state of mind. The mere conditions generate complaints: overcrowding, lack of ventilation, terrible sanitary conditions, the absence of health services (according to parents, the main goal of the medics there is to identify how many detainees are still alive), the absence (or poor quality) of bedclothes, terrible
food and so on. The children also mentioned these things in their interviews. The comments below are very typical. Even if a comment refers only to a unique case, it is still evidence of a troublesome situation as regards pre-trial detention.

- They isolate children, and we can't get through. A lawyer means additional money. This means isolation and the inability to speak to the child, and it’s very bad.
- We bring bags without knowing whether they will be delivered.
- Whenever I bring a parcel, I have a separate package – one for my son, and this one is for you, dear SIZO officers. That’s the only guarantee that the other bag will reach my son. I always carry two bags.

   When we asked them why the nutrition was so poor, they told us that the state pays just two hryvnas or so per day per detainee. We bring food, but we need to make sure that the children receive it. The bags go to the administration first and they decide…
- There can be a boss in the cell – he too can take food away.
- They tried to beat him... Everything.

Some participants assumed that certain aspects of detention in SIZO were invented purely to extort bribes from parents, relatives and other people close to the detainees. Parents believe that the SIZO is a terrible thing that mutilates a child’s mentality and mind.

You don’t have to go to their kitchen, you’ll smell the sour cabbage and herring at the SIZO’s entrance.

   In SIZOs they don’t accept parcels. It's a gold mine! One day is enough to learn many things that otherwise you’d never know.

It would be overstatement to say that the terrible conditions that characterise SIZO detention are typical of the entire system. Some parents had stories of more or less acceptable conditions in pre-trial detention centres: children stayed with other juveniles and the conditions were OK (with the understanding that a SIZO is not a spa resort). Some parents of children who stayed in them for short terms talked about a positive impact on the children’s behaviour.

   He stopped drinking and saying and doing stupid things. You wait and see, and you can’t believe that it happened. Who knows? Maybe it was a lesson, and he understood everything right away. Let’s see what happens next, but right now he is still under the place’s influence. If he had stayed there for a day or two – he always thought that we would do our best to get him out – but no, his detention lasted for 10 days. I mean, he saw a lot of things while travelling back and forth between the SIZO and the court.

   If they had released him in 24 hours, he would have returned as a hero. After five days of detention he couldn’t be a hero anymore – that was a lesson for him.

8.5. COURT PROCEDURES

8.5.1. Typical time period between apprehension and initiation of court procedure

   In most instances this time period exceeded one month – three to six months was most typical. We should emphasise once again that not all detainees are held in custody prior to trial – those suspected of committing serious offences primar-
ily are. Overall, the minimum term until court procedures begin is one month; the maximum is nine months, as indicated by participants. It is not always investigation that creates these delays: illness on the child’s part and the need to treat it is another reason.

8.5.2. Evaluations of the duration of the trial

It is difficult to give a general evaluation of the duration of trial, because focus group participants generally distinguish between the process – when the case is actually considered – and the notification of when the trial begins. In very rare cases the judicial process begins on the exact date, as designated. The majority of participants faced various delays or rescheduling of the trial for variety of reasons (non-appearance of parties, the absence of a secretary and so on).

We received at least 10 summons. The procedure started only on the eleventh or twelfth attempt.

The majority of parents still do not know the reasons behind the transfers or reschedulings they experienced, but all note the significant moral and physical burdens on children and on themselves that such phenomena cause.

That’s how fast they are, right. They bring him from the Artemivsk SIZO to Donetsk in a freezing car, cuffed. All the relatives got together to wait for the court session. We come in and hear, ‘No, the secretary is out today’. So they drove him back. And this occurred five times. Eventually I had to hire a van from Artemivsk, because we don’t have a car. What I mean is that they planned court sessions five times before one finally took place. Was it worth it? They were reading the materials for the case for two and a half hours, and eventually they gave him 10 years of imprisonment.

The duration of the court session in which a decision was made could range from several dozen minutes to several hours, according to participants. If we evaluate the term from the moment the investigation is complete and the case is submitted to court to the moment the sentence is announced, it is usually between one and six months. The most typical time frame for court procedures, participants said, was three to four months.

8.5.3. Did the court pose questions about the circumstances of the offence by your child, including the causes, the child’s health at the date of offence, the social environment and the family circumstances and conditions?

About two thirds of participants indicate that the court more or less demonstrated its interest in the various circumstances of the case – both the circumstances of the offence and the personal and social circumstances of the juvenile. However, the judges themselves do not always initiate this interest. In the majority of cases hired attorneys initiated and promoted this interest by attaching relevant materials to the case file.

Such interest does not extend to juveniles who have committed serious crimes. The parents of these children generally agree that the court did not demonstrate much interest in the juvenile’s personality and environment.
8.5.4. Evaluation of the role and place of trial participants: court, advocate, witnesses, staff members of social services

Despite expressing a significant number of complaints about the judicial process, parents of children in conflict with the law gave generally positive responses regarding the work of the court. That statement is true, it should be said, for cases in which juveniles received relatively mild and conditional sentences. In cases where juveniles were charged with serious offences and punished with longer sentences, parents were often negative. They said, first of all, that the sentences were too long, which they called unfair. The second negative factor they mentioned was the court’s disregard for the personality of the accused and for his/her psychological profile and the circumstances of the offence. Parents believe that judges with relevant specialisations and special qualifications should consider especially difficult cases pertaining to crimes committed by children.

“I wish we had a judge who was more or less competent in the area of child psychology, or a female judge. No, we had a male judge. He was just sitting and smiling and looking at my family and a bunch of children.”

Very often participants believe that the result of the trial could have depended on the availability of financial resources, or, putting it simply, on paying bribes.

“They told me about 5,000… I mean, the judge personally told me, bring 5,000 and he won’t spend a single day in prison. I don’t have that money. We’re standing there shocked, and she goes: OK, no money, so you’ll get the full thing. And I was thinking: he’s just 16, a juvenile, he never did anything wrong… Well, they may give him what? Two or three or four years? Eventually she gave him 10 years, while according to the law the maximum sentence was eight years. He stayed in the Donetsk SIZO, and when I came and saw him for the first time… They were pulling my leg for nine months! They were waiting for money from me!

I went to Kyiv, and everywhere it’s money, money! I lived in Kyiv for two weeks just to get an appointment and to meet our district Parliament deputy. Eventually they removed two years from his sentence, thanks to the deputy. I never paid him any money.”

Evaluations of the role of attorneys vary: all of the parents negatively evaluated the work of state-assigned attorneys. Hired legal professionals generally get high ratings. The only negative aspect about the work of hired attorneys is the high cost of their services. Attorneys were usually hired by parents whose children were being detained in SIZOs.

Witnesses in cases also received differing marks, not on the basis of their testimony, but rather on the basis of their not showing up at court, which led to constant reschedulings. Generally speaking, parents dedicated very little time to witnesses, because the main dynamic took place between the offender and the victim.

In almost all cases parents failed to say anything about the participation in trials of staff members of the social services. It appears that their involvement is either sporadic or so insignificant that parents do not notice it enough to evaluate it.

8.5.5. Evaluation of the sentence: fair, unfair, adequate to the offence and so on

In the majority of cases parents evaluate the punishment as adequate to the offence, with the exception of instances when children were sentenced to long pe-
riods of imprisonment. The majority of focus group participants tend to believe that during adjudication courts took into account the minority status of their children. Only in a few cases did parents mention that courts did not consider that status. We are led to believe that courts do take this into account to a greater or lesser extent.

8.6. SERVING OF THE SENTENCE

8.6.1. Place and mode of the serving of the sentence

About two thirds of the children whose parents participated in focus group discussions received conditional sentences in their places of residence. All of them are either continuing their education (the majority) or working. All parents are aware of the limitations conditioned by the sentence; they affirm that the children also do their best to comply with the conditions of the sentence. (These include weekly visits to the commission for juvenile affairs; monthly visits to the city department of the MoIA; and visits with parents once in every three months). Parents also state that in most instances they exercise control over both their children’s behaviour and their visits to official bodies. Some children also see psychologists.

8.6.2. Conditions of the serving of the sentence

The majority of children received conditional sentences. In one case a child was transferred to a shelter, but at the decision of the city education administration, not of the court.

Parents’ evaluations of the conditions in which sentences are served in colonies are quite negative. Parents, however, might not be especially objective.

Conditions are terrible. Even army quarters are better and bigger. The food is poor. They have nothing to do. They had some employment in the past, earning something to live on. But now they just sit in one closed premises, doing nothing.

Some parents said that certain colonies had made certain changes to bring themselves in line with modern requirements. Others said these changes were simply ‘eyewash’ for top-level government visitors.

The son of one parent had already served his sentence, so his words concerned the past, rather than the present. At first the boy was in a colony for juveniles; then, when he turned 18, he was transferred to an adult colony. Adult colonies are also worthy of note.
They put him in the quarantine pit. In the Mariupol colony for children they have this special box. My son stayed in it for 14 days; when they transferred him to Dzerzhynsk under general conditions, they put him in the pit. You can find yourself in this pit for the slightest violation. You say a word or you ask something and you go to the pit for 10 days.

My son returned barefoot and naked. I mean, he came from the Mariupol colony wearing only underwear. They took away all his clothes and brought him to Dzerzhinsk in his underwear. When he entered the colony, he was approached by their boss, I mean the boss among the convicts. They provided him with the best clothes. Well, a new person arrives, and they give you everything: food, clothes, footwear... when he is released, he’ll be their man, bringing money for the common fund. I came in several days and brought him clothes, too. We had a deal and he promised... so he took off everything they gave him and promised not to wear it anymore.

Overall the parents of children serving sentences say that they can visit their children according to the terms established by law – once every three months. The majority of parents usually make use of this opportunity.

8.6.3. Evaluation of the child’s future after the sentence

During focus group discussions parents demonstrated a wide range of expectations regarding the future, from complete pessimism to cautious optimism. Pessimistic attitudes are based on the fact that a child has already ‘blemished’ his/her biography with a criminal record, thus limiting potential opportunities for future education, professional training and employment. Parents are also depressed by the fact that if other crimes occur where they live, their children will be primary suspects. They will be the first that the police will visit.

Cautious optimism is based on the hope that a child will end his/her asocial way of life. Parents hope that children will learn to better control their behaviour, complete their education and enter a profession. They also hope that their children will be more careful in choosing the environments in which they spend time. The majority of parents are not familiar with post-release rehabilitation programmes, and have no confidence in them. Some parents rely on changing the child’s residence and social environment upon release.

CONCLUSIONS TO SECTION 8.

The current system of justice for juveniles requires prompt and drastic changes in all its areas – from detention to the serving of the sentence.

This area – with the exception of the criminal police for juvenile affairs – lacks specialization, including specialization on the part of investigators, attorneys and judges. It is obvious that juvenile crime and child psychology are areas in which specialised knowledge is crucial.

Introducing jury trials could also improve juvenile justice.

In addition, stereotypes among society require elimination. At all stages of pre-trial, trial and post-trial procedures, we should remember that a juvenile offender is a child first, and a suspect or criminal second.

Another problem is that many citizens and public officials believe that any criminal (even a juvenile one) should be punished with imprisonment and the imposition of suffering.
GENERAL CONCLUSIONS AND RECOMMENDATIONS ON IMPROVING THE SITUATION WITH REGARD TO THE PROTECTION OF THE RIGHTS OF JUVENILES

1. There has been in Ukraine a reduction in the number of criminal offences committed by adolescents, but the level of delinquent behaviour among juveniles remains high. According to experts, society is generally indifferent towards this problem, even though government structures have intensified their efforts in this area. Experts note a number of positive changes in Ukraine, such as the presence and spread of generally accepted international standards and modern global trends in juvenile justice. This is reflected in national legislation that ensures practical implementation of progressive international legal acts in the area of protection of juveniles’ rights; in the decrees of Plenums of the SCU on juvenile justice; in joint administrative and regulatory documents; in measures to develop a probation system; in pilot projects using different juvenile justice models; in restorative justice practices; in the specialization of judges; in the system of specialised institutions for juvenile offenders; in cooperation between government bodies, NGOs and international organizations regarding the work with juvenile offenders; in the development and dissemination of materials on juvenile delinquency and juvenile justice; in the development of a juvenile justice indicator system; and elsewhere.

2. Despite the positive changes, experts note a number of urgent issues that need to be addressed. They say that the main problem here is the general absence of juvenile justice as an autonomous system with its own principles, goals, organizational procedures and legal regulations:
   - There exist certain tendencies and individual initiatives that are not formalised in a uniform and clear juvenile justice system;
   - Efforts to develop a domestic juvenile justice model are not systemic; there exist no mechanisms for its implementation;
   - We see more discussions than practical work in this area; society lacks information about modern trends in juvenile justice at the international level;
   - Mass media coverage of juvenile delinquency generally fails to cover all the important issues.

3. As for the legislative and regulatory priorities for protecting the rights of children who have conflicts with the law, experts say that there are norms that regulate state policy on the social protection of children who practise deviant behaviour; the peculiarities of administration of justice for persons under 18; provision of social services to juvenile offenders; and other specific issues directly or indirectly related to juvenile justice.
Experts generally conclude that current Ukrainian legislation does not contradict international norms and standards in the area of protecting the rights of juveniles.

This does not mean that the current legislation is flawless. Its main weakness is the absence of unified legal and regulatory acts that would fully regulate justice for juveniles and the observance of their rights. In addition, the current Ukrainian legal base does not establish a comprehensive approach towards child neglect. Ukraine lacks norms for using mediation in criminal justice as well as specific methodological recommendations for certain structures. Experts believe that the current norms are insufficiently effective, since many offences by juveniles remain unregistered (if they do not establish criminal responsibility). Consideration of criminal cases involving juveniles occurs in the context of general norms and principles of criminal justice. The only difference relates to a certain mitigation of criminal responsibility. The regulatory system does not establish mechanisms for the cooperation of various social players in juvenile crime. The institution of court educators generally does not function.

4. Experts say there are positive changes happening as far as goes the alternatives to custodial sentences that juvenile offenders get:
   - Release on probation is a quite widespread punishment for juvenile offenders;
   - Establishing a probation system for juveniles is being discussed at the highest levels of government; a relevant draft law has been submitted to the Verkhovna Rada for consideration;
   - The country is developing the institution of restorative justice;
   - The staffs of organizations that deal with juvenile offenders support this sort of work; this work is developing actively within the pilot projects.

There are problems in the following areas:
   - In the regulatory and legal acts that are under development, probation is seen as a type of punishment rather than as an alternative to punishment;
   - The range and quality of available alternatives to custodial sentences for juvenile offenders is too limited to satisfy all needs; additional review of the scope of activities in this area is thus required;
   - Currently only a few organizations are eligible to provide such services; there is no licensing system;
   - There are no systemic mass media public information activities about restorative justice programmes and restorative approaches to conflict resolution. There exist no specialised training courses on implementation of restorative justice in the criminal procedure. A course on this topic is not offered to law students.

5. Preventing juvenile delinquency is the responsibility of a number of government institutions under the auspices of the Ministry of Education and Science, the Ministry of Internal Affairs, the Ministry of Family, Youth and Sports, the State Department of Penal Implementation and others. Each of these government ministries, including its structural units, participates in juvenile delinquency prophylaxis programmes in line with its func-
tions. The main focus of the work of these institutions, however, is not the primary prevention of offences, but rather secondary prophylaxis – prevention of crimes among juveniles who have already had conflicts with the law.

6. Within the Ministry of Education and Science’s system there exists a network of schools and vocational schools for social rehabilitation. These were established to address educational issues and to ensure parallel social rehabilitation of children with deviant behaviour problems. This is generally viewed as propaedeutic for juvenile delinquency, homelessness and neglect. In 2008 there were 11 schools and three vocational schools for social rehabilitation operating in Ukraine. However, the majority of experts emphasise that they are underutilised. Ongoing reduction of the number of inmates increases the prime cost of the maintenance of children in these social rehabilitation facilities. As a result, they may close. Yet it is crucially necessary to retain them. Experts recommend reorganising in two ways: first, by reducing the number of social rehabilitation institutions that receive new inmates only upon court decision; second, by changing the specifications of some of these facilities so that they are more in line with the needs and demands of present-day society. These issues demand additional consideration and analysis to ensure that reorganization does not harm children’s rights in Ukraine.

7. Centres of social services for family, children and youth also do prevention work with juveniles in conflict with the law. They provide social support to juveniles and young people detained in penal and correctional colonies and pre-trial detention centres and who return from these facilities; they also provide such support to persons sentenced to non-custodial sanctions and persons serving alternative sentences who appeal to social services for assistance. However, a number of factors prevent the centres from doing effective work in this area. They include: understaffing of services; low and sometimes absolutely inadequate professional levels on the part of local staffs; lack of specialised knowledge and of ongoing programmes for training, retraining and advanced training of staff; duplication of functions, which sometimes hinders protection of children’s rights and interests (as a rule, at question here are functions that identify, register and supervise children in conflict with the law); absence of close cooperation and interaction; and lack of adequate funding.

8. Courts also have a role to play in preventing juvenile delinquency. Currently Ukraine lacks specialised courts that would specifically consider cases involving children. Statistics show that courts are gradually reducing the number of satisfied law enforcement agency filings regarding custody of juvenile offenders. Given the absence of specialised juvenile courts, the specialization of judges is gaining in popularity – cases involving juveniles go to specifically designated judges. Since 2003 Ukraine has launched a number of pilot juvenile-related projects to introduce exemplary juvenile courts in three regions of Ukraine (Kharkiv and Kyiv oblasts and the AR Crimea). One idea for improving trial procedures for juveniles
that experts suggested is to introduce separate courts that deal with family juvenile cases.

9. A separate network of facilities to prevent juvenile delinquency is subordinated to the Department of Criminal Police for Juvenile Affairs of the Ministry of Internal Affairs. As of 1 January 2008, 16 out of Ukraine’s 20 reception centres for children were functioning in Ukraine. According to experts, one of the key problems with the system for preventing juvenile delinquency that the criminal police for juvenile affairs have implemented is the lack of established reporting forms and indicators for evaluating the performance of individual officers and units in general. Since units of the criminal police for juvenile affairs belong structurally to the department that deals with criminal offences, their priority is to disclose crimes rather than to prevent juvenile transgressions. These indicators are used to evaluate the criminal police unit’s performance.

10. Another network of facilities that deal with juvenile delinquency belongs to Ukraine’s penitentiary system, which is managed by the State Department of Penal Implementation. To implement custodial sentences for juveniles, the Ukrainian state maintains 10 specialised educational facilities (correctional colonies): nine for boys and one for girls. Until 2006 there were 11 correctional colonies for juvenile convicts in Ukraine. Correctional colonies are penal facilities for persons aged from 16 to 18 years (in case of especially serious crimes, starting from 14). In order to make sure that the positive results of the corrective process are lasting and to allow a convict to complete his/her education, the convict can be left in a correctional colony until the age of 22 years. According to the majority of experts, in recent years correctional colonies have undergone significant changes in terms of their implementation of international norms and standards in their work with juvenile offenders. This explains the relatively high ratings of their work that the experts within this project gave.

11. One key issue that hinders the effective work of different institutions in the prevention of juvenile delinquency is that Ukraine lacks a single unit to administer and coordinate the abovementioned institutions’ activities at the national and local levels. The country does have, however, a network of structures that deal with juvenile offenders and that function under the auspices of a specific central government ministry. For example, units of the criminal police for juvenile affairs are subordinated to the Ministry of Internal Affairs of Ukraine; schools and vocational schools for social rehabilitation work under the Ministry of Education and Science of Ukraine; correctional colonies belong to the system of the State Department of Penal Implementation; criminal execution inspection units are part of the Criminal Execution Service of the State Department of Penal Implementation; local courts and courts of appeal and review are subordinated to the Supreme Court. Administration of the work of various bodies in juvenile delinquency follows a vertical pattern: from the top (central) level to the oblast level, and further down to the rayon and local levels. In some cases administration can be exercised directly
from the national level to local institutions (as in the case of colonies and schools/vocational schools for social rehabilitation).

On the positive side administration has improved within certain official systems, which has manifested itself as follows:

- The last five years have seen significant changes in approaches towards work with juvenile offenders; the structure of the pertinent governmental systems also changed;
- Society has become much more open to discussions of issues related to juvenile delinquency; even cases in which children’s rights are violated receive coverage and are openly discussed by different institutions and organizations (several years ago they were simply ignored).

The negative aspect of this system of administration is the lack of a single coordinating body to develop and give instructions/directives to all pertinent organizations and later control the implementation of the directives. According to the law, institutions working with juvenile offenders should turn to each other for help and cooperation. The presence of a single coordination body, however, would significantly improve this cooperation.

12. A similar picture characterises the coordination bodies: the problem is that Ukraine lacks a single body to coordinate the work of all the institutions and organizations dealing with juvenile offenders. This coordination is partially ensured by the Advisory Council on Juvenile Justice (ACJJ), established at the Institute of Legislation of the VerkhovnaRada in 2006 as a permanent collective and advisory board to provide information support to relevant parliamentary committees and individual members of Parliament. This Council is mistakenly perceived as a government body that coordinates activities of governmental and non-governmental organizations in the prevention of juvenile delinquency and juvenile justice. In reality the ACJJ ensures methodological, expert and information support to its member structures, institutions, organizations and academic circles; it also provides information to other stakeholders upon their request. True coordination councils on children exist at the oblast level (in certain oblasts only) within pilot projects. According to experts from these regions, these councils have considerably simplified and facilitated cooperation between various organizations.

13. The current practice of pre-trial and court procedures involving juveniles has both positive and negative characteristics. Among the positive, experts note that the law establishes a juvenile’s right to protection at all stages of the criminal process, as well as to compulsory notification of parents/guardians/other responsible persons about the fact of detention. In addition, it is quite a widespread practice for a police officer to explain to a juvenile offender his/her rights and obligations. Another positive practice is preparation of pre-trial (social and psychological) profiles on the juvenile’s personality.

However, legislation does not regulate the procedures related to the preparation of the pre-trial report (profile) on the offender’s personality. As a result, such reports are not compulsory. They are submitted only via personal contacts and arrangements between staff members of institutions, and within pilot proj-
ects. Moreover, pre-trial procedures usually do not use the capacities of the services for children, even though the latter typically provide follow-up for many juveniles and have plenty of information about them. The main reason for this is that services for children are not usually informed about the offence that the juvenile has committed.

The negative aspects of pre-trial procedures for juveniles include (according to experts) limited opportunities on the part of the criminal police for juvenile affairs to inform relevant persons that a child has been arrested (the parents might lack a telephone; the child might not want to tell the police about his/her place of residence; the place of detention might be far from the residence; and so on). There are no premises in which to place adolescents who have been detained while intoxicated by alcohol or drugs (they can legally be interrogated only when sober). With the exception of places covered by pilot projects, Ukraine's regions generally have problems getting attorneys and social workers to work with juvenile offenders immediately after apprehension: court-provided lawyers or investigators who defend the juvenile for free often take the prosecution's side.

Another negative point is the lack of a national analytic database for children who have been arrested in the past. This makes it hard to define a child's disposition towards crime. Nor are there legal mechanisms for placing wanted children in reception centres. Cases in which investigative bodies seek court sanction to arrest juveniles accused of serious crimes (e.g. theft committed by two or more persons), even though arrest can be avoided, are widespread.

Finally, current legislation does not envisage the participation of mediators in pre-trial procedures for juvenile offenders. Investigative authorities are reluctant to provide information about a juvenile charged with crimes to institutions or individuals authorised to conduct mediation procedures. These authorities often see mediation as unwarranted intervention in investigative action.

In terms of the quality of court procedures for juveniles, experts mention three positive developments: the introduction of exemplary juvenile courts (in Kharkiv and Kyiv oblasts and in Crimea); specialization of juvenile judges; and the decrees from the Plenums of the SCU that explain how juvenile cases should be treated in court.

The negative aspects of court procedures for juveniles include:
- the lack of specialised courts that consider only child-related cases;
- the absence of a regulatory mechanism to make sure that the criminal process is truly adversarial (despite that the CPC declares that it should be adversarial). As a result, there exists no written procedure for appointing defence lawyers for juvenile offenders;
- participation of representatives of services for children and of the criminal police for juvenile affairs in court sessions is merely optional;
- the norm for appointment of a public educator in cases of the release of a juvenile on probation or in the case of a non-custodial sentence is rarely observed;
- the widespread practice of submitting several profiles of the juvenile offender, prepared by different institutions; these may contain contradictory information;
- courts that consider juvenile criminal cases often receive medical/health certificates with diagnoses that complicate the work of judges. It is thus necessary to develop psychology and psychiatry as specific sciences within the juvenile justice system's framework.

14. The conditions in which juvenile offenders are maintained in different types of specialised facilities (in particular in schools and vocational schools for social rehabilitation and in correctional colonies) received generally positive reviews from experts, who believe that they comply with international norms and standards. In addition, these facilities are shifting towards protecting children's rights and returning them to society. Facilities offer a wide range of incentives and contacts with the outer world; opportunities to study and visit cultural and mass events; visits with parents and relatives; help with finding a job and so on. Food, clothes and footwear, as well as medical and communal services, are provided free of charge.

The weakness of these facilities is that they remain oriented at detection and punishment of offences, rather than at prophylaxis and prevention of offences that do not bring criminal responsibility. In addition, almost all of them need to improve the qualifications of their staff, aiming at higher international standards in juvenile justice. Staff members need to learn how to work with juveniles and other organizations in the most effective way. Moreover, each type of institution faces its own set of problems:

For reception centres (MoIA):
- Current reporting forms and indicators do not provide for adequate evaluation of prevention work as implemented by individual officers and units of the criminal police for juvenile affairs: their priority is to expose crimes, rather than to prevent juvenile crime;
- Placement of vagrant children in reception centres is considered a violation of children's rights: they undergo almost the same procedures as juvenile offenders do.

For schools and vocational schools for social rehabilitation (MoES):
- Low use of capacity and high prime costs for keeping children in facilities for social rehabilitation may lead to their closure;
- Organizing so-called alignment classes is a widespread practice;
- Insufficient attention goes to modernizing workshops for the professional training of inmates. This makes them uncompetitive on the labour market;
- An actual inability to resolve the problems of children whose tenures in schools for social rehabilitation have come to an end.

For correctional colonies for juveniles (SDPI):
- Violations of the conditions and terms for holding children in pre-trial detention centres (SIZO) happen because of uncoordinated action on the part of individual organizations; the absence of necessary documents; unclear legal definitions regarding juvenile offenders who have turned 18 years while staying in SIZOs; and so on;
- The most acute issues related to custody of juveniles in correctional colonies are: submission of complaints and appeals by juvenile of-
fenders; the need to increase the number of meetings with relatives; and improving conditions in rooms.

- Some colonies have limited capacities for vocational training of inmates – such opportunities must be scaled up by expanding the list of available professions and by introducing new hobby groups/circles.

15. According to current legislation, centres of social services for family, children and youth ensure social support to juveniles and young people detained in penal and correctional colonies and pre-trial detention centres and who return from these facilities. They also provide it to persons sentenced to non-custodial sanctions and persons who serve alternative sentences and appeal to the social services for assistance. Spadework is ongoing to improve the social follow-up system for juvenile offenders in Ukraine so that it is in line with international norms, standards, expertise and best practice models.

However, currently this area of work with juveniles in conflict with the law requires particular attention and elaboration. According to experts, the most complicated issue here is the absence of a comprehensive and systemic approach to the social adaptation of juvenile offenders sentenced to restriction of liberty or custodial punishment.

The social services primarily focus on detection, registration and oversight over children in conflict with the law. In addition, current rehabilitation and re-socialisation measures generally target juveniles who have committed offences and who 1) are serving their sentences in specialised facilities and 2) have applied for assistance themselves. However, not all localities and territories have local social centres that can provide relevant services to juvenile offenders. Moreover, juveniles are not always ready to go to these agencies on their own, so sometimes they have to seek the assistance of their parents. The latter, however, are not fully aware of their rights in the context of assistance to a child. Parents of juvenile offenders usually have limited knowledge of programmes and opportunities for rehabilitation of children who have served sentences – they don’t know what services governmental and non-governmental organizations have to offer. The level of public trust towards governmental institutions (including centres of social services) and people’s knowledge of their functions are both low.

Another negative aspect is the absence of close cooperation between centres of social services and other government bodies: local executive bodies, local self-governments, centres of social adaptation, services for children, supervisory commissions, structures of social welfare, health care facilities, law enforcement agencies, employment centres, boarding schools, anti-crisis centres, psychological assistance centres, shelters for children, social patronage institutions and centres for overnight and temporary placement for persons released from custody.

16. According to the results of case studies on juvenile offenders, the most problematic issues pertaining to offence and punishment are:

- Loss of parental control over school and especially the extracurricular time of their children – quite often parents (guardians) have no idea about what their children are doing for long periods of time.
• Loss of close relationship between parents and children – children start to lead independent lives (as they understand it), and have very specific views about this independence.
• In such cases strangers or casual acquaintances who often practice asocial lifestyles and who are usually older occupy the places of the parents. ‘Street’ values gradually replace family values.
• Child-care authorities generally tend to be reactive in response to offences by children: they deal with consequences rather than with the causes of these offenses. In turn, parents are more likely to confirm their helplessness regarding their children’s asocial deeds than to go to the child-care authorities to request preventive measures.
• For more than half of the respondents, communication with militia officers is merely formal, limited to interrogation, protocols and the signing of a recognizance not to leave. Sometimes violations of children’s rights do occur (interrogations happen without attorneys and/or legal representatives), but they are not perceived as violations by their children, because the majority of children eventually return home.
• Children held in pre-trial detention centres (such as KPZs and SIZOs) for relatively long periods always cite violations of their rights: non-notification of their parents that they have been detained (and even direct concealment of this fact); interrogations in the absence of adults; and psychological and physical pressure. Researchers believe that law enforcement officers generally treat detained persons as criminals or suspects first and as children second, if at all.
• It seems that court authorities that take into account the rights of victims sometimes share similar views. A vivid example of this was the case of one juvenile who was sentenced to imprisonment for a term that exceeded the maximum established by national legislation.
• According to researchers, advocacy for children in conflict with the law is a crucial problem: a state-provided attorney tends to be ineffective and is viewed as a sign that the case is a lost cause. A privately hired attorney starts to work much later (sometimes after a significant period of time has elapsed), thus failing to fully protect the child’s rights.
• In some instances we heard about extortion of money by certain representatives of the judiciary, but confirming and/or refuting such claims was not the goal of the study. Thus, with certain caution, we can discuss the element of corruption in the consideration of cases involving juvenile offences.
• The duration of court procedures, which can last up to several years, is an important problem. It would probably be expedient to introduce (at least in large cities) specialised courts for juvenile offenders.
• It should be emphasised that pre-trial and trial procedures in evaluations of children in conflict with the law generate more complaints than do their residencies in the specialised institutions of the Ministry of Education and Science and the Ministry of Justice.
17. During focus group discussions parents demonstrated a wide range of expectations regarding the future, from complete pessimism to cautious optimism. Pessimistic attitudes are based on the fact that a child has already ‘blemished’ his/her biography with a criminal record, thus limiting potential opportunities for future education, professional training and employment. Parents are also depressed by the fact that if other crimes occur where they live, their children will be primary suspects. They will be the first that the police will visit.

Cautious optimism is based on the hope that a child will end his/her asocial way of life. Parents hope that children will learn to better control their behaviour, complete their education and enter a profession. They also hope that their children will be more careful in choosing the environments in which they spend time. The majority of parents are not familiar with post-release rehabilitation programmes, and have no confidence in them. Some parents rely on changing the child’s residence and social environment upon release.

18. The current system of justice for juveniles requires prompt and drastic changes in all its areas – from detention to the serving of the sentence. This area – with the exception of the criminal police for juvenile affairs – lacks specialization, including specialization on the part of investigators, attorneys and judges. It is obvious that juvenile crime and child psychology are areas in which specialised knowledge is crucial. Introducing jury trials could also improve juvenile justice.

19. In addition, stereotypes among society require elimination. At all stages of pre-trial, trial and post-trial procedures, we should remember that a juvenile offender is a child first, and a suspect or criminal second. Another problem is that many citizens and public officials believe that any criminal (even a juvenile one) should be punished with imprisonment and the imposition of suffering.
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30. The Resolution of the Cabinet of Ministers of Ukraine No. 14 as of 16 January 2008 ‘On Approval of the Programme of Actions of the Cabinet of Ministers of Ukraine “Ukrainian Breakthrough: for People, not for Politicians”’.
32. Decree of the Plenum of the Supreme Court of Ukraine ‘On Application of Legislation on Responsibility for Involvement of Juveniles in Criminal and other Asocial Activities’.
33. Decree of the Plenum of the Supreme Court of Ukraine ‘On Practice of Court Application of Legislation in Cases of Offending by Juveniles’.
35. Joint Order of the Ministry of Family, Youth and Sports of Ukraine and the State Department of Penal Implementation of Ukraine No. 2559/177, issued on 28 October 2005, ‘On the order of cooperation between centres of social services for family, children and youth and penitentiary facilities in the organization of social work with juveniles and young people, who serve their sentences and are released from these institutions’.
ANNEX 1. GUIDE FOR EXPERT INTERVIEWS

Dear Expert!

The Centre of Social Expertise at the Institute of Sociology of the National Academy of Sciences of Ukraine is conducting the sociological survey ‘ANALYSIS OF CURRENT PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY AND THEIR COMPLIANCE WITH INTERNATIONAL NORMS AND STANDARDS’. We ask you to give answers to several questions in a free format. We guarantee the full confidentiality of your answers. They will be used in generalised form only.

Thank you for your cooperation!

1. How would you characterise Ukrainian society’s response to the current condition of juvenile delinquency and global trends in juvenile justice development?
   What are the main peculiarities of Ukrainian society’s response (including government institutions and non-governmental organizations) to offences committed by juveniles?
   What key factors are determining the development of the juvenile justice system in Ukraine today?
   How can you describe the transformation of the Ukrainian justice system in the context of protection of children’s rights? What is the progress of this transformation?
   What do you know about the introduction of restorative justice in criminal cases involving juveniles, as well as about the implementation of probation in Ukraine?
   What is the most suitable juvenile justice system for Ukraine?
   What are the most urgent issues at the current stage of the reform of the juvenile justice in Ukraine?

2. How can you characterise the current situation in the area of prevention of juvenile delinquency?
   With what organizations in the area of prevention/prophylaxis of juvenile delinquency do you cooperate the most? How is this cooperation manifested?
   What is the mechanism for managing the work of various institutions in the area of juvenile justice today? What positive and negative aspects of this administration can you mention? Has it changed in the last five years? How does it comply with international norms and standards?
   What is the mechanism for coordinating the work of various services in the juvenile justice system, including NGOs (vertical and horizontal coordination)?
   How widespread are formal and informal work methods for staff members representing different institutions in prevention of juvenile delinquency?
What collisions and problems are most typical for:
- The system for preventing juvenile delinquency;
- The functioning of specific institutions and organizations?

3. How can you characterise current pre-trial and court procedures with the involvement of juveniles in the context of international norms and standards?

**Pre-trial procedures:**

How widespread are violations by representatives of relevant bodies during the apprehension, arrest and pre-trial detention of a juvenile offender?

Do they always observe requirements for apprehension, arrest and custody?

How accessible for detained juveniles under investigation are such elements as placement overnight; provision of food, water and clothes; access to work and the possibility of receiving remuneration; participation in education or vocational training programmes; the possibility of using writing implements or reading books and magazines?

How are detainees provided with medical and legal services? Can they use the services of their own doctors (dentists) and lawyers?

Do prisoners have opportunities to contact (and to have personal meetings with) parents, relatives and friends (including notification about the fact of detention), as well as with attorneys and social workers?

How widespread are violations of inquiry procedures regarding juveniles (including the use of force)?

What is the average time period between apprehension of a juvenile and trial?

What are the most acute issues related to pre-trial procedures with the involvement of juvenile detainees under investigation?

**Court procedures:**

What courts usually receive the cases of juvenile offenders for consideration?

How widespread is the socialisation of judges in considering cases involving juveniles?

Who participates in the trial processes of juveniles?

What circumstances subject to proof in cases of juvenile delinquency?

How widespread is the practice of preparation of pre-trial files (reports) on the personality of an offender?

What is the typical duration of a trial?

What payments are made by the parents/guardians of a child in the course of the trial?

Are there any peculiarities in the imposition of sentences on juveniles?

How is execution of court decisions regarding juveniles ensured (how widespread is the work of court educators)?

What are the most important issues related to court procedures with the participation of juveniles?
4. How do conditions and standards of custody for juvenile offenders in different types of specialised institutions (including schools and vocational schools for social rehabilitation and correctional colonies) comply with international norms and standards?

   Please characterise the work of facilities for juvenile convicts according to the following criteria:
   - Arrival, transfer and displacement
   - Classification and placement
   - Physical environment and living conditions
   - Education, vocational training and labour
   - Recreation
   - Religion
   - Health services
   - Notification on illness or death of relatives
   - Communication with the external world
   - Restriction of physical coercion and the use of force
   - Disciplinary procedures
   - Inspection of the work of institutions
   - Complaints from juvenile convicts and response to complaints
   - Preparedness of personnel to work with juveniles

   What issues related to the custody of juvenile offenders in specialised institutions require urgent intervention?

5. What is your vision of the re-socialisation and social integration of juveniles in conflict with the law? How do these processes comply with international norms and standards?

   How is re-socialisation of sentenced juveniles manifested?
   What institutions/services participate in this process?
   How is social patronage/follow-up of juveniles released from penitentiary facilities implemented?
   How do juveniles released from penitentiary facilities resolve the issues pertaining to housing, education and employment?

   Please characterise the participation of non-governmental and faith-based organizations in the process of the social adaptation of juveniles in conflict with the law.

   What issues pertaining to the re-socialisation and social integration of juveniles in conflict with the law require additional attention?

6. Do you have any proposals or suggestions regarding improving the work of specialised services and/or the administration of juvenile justice in the country?

7. What issues pertaining to the development/activities of juvenile justice organizations that were not included in our conversation would you like to dwell on?
ANNEX 2. GUIDE FOR CONDUCTING FOCUS GROUP DISCUSSIONS

Guide for parents/guardians whose children have committed offences

Topic: ANALYSIS OF CURRENT PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY AND THEIR COMPLIANCE WITH INTERNATIONAL NORMS AND STANDARDS

Introductory Section:

Moderator:
♦ Introduces him/herself;
♦ Introduces his/her assistant;
♦ Introduces the project and project implementer (Centre of Social Expertise) and Ordering Party of the project (UNICEF representative office in Ukraine);
♦ Explains goals and objectives of focus group interviews, in particular:

Evaluation of current practices in the area of juvenile justice and development of relevant proposals to improve them

♦ Explains the procedure of the focus group interview; guarantees anonymity and confidentiality of answers; points out the voluntary nature of answers;
♦ Suggests that participants introduce themselves (name and level of kinship – mother, father, guardian)

Assistant:
♦ During introductions of participants, develops a list of them (e.g., Participant 1 - Oleksandr); writes down age and kinship;
♦ Using this list, records interviews, marking the first and key phrases to control the text;
♦ Keeps time and checks the voice recorder in the course of interview

MAIN SECTION:

Moderator! During focus group discussions please make regular reference to the name of the project, ‘Analysis of Current Practices and Legislation in the Area of Juvenile Delinquency and their Compliance with International Norms and Standards’; and remind participants of the main sets of questions/topics of discussion, if necessary

Family and environment

In the introduction to Section 1 the moderator has to explain the importance of this section to the research: it will help to identify the peculiarities of the family environments of children who have committed offences.

1. Please tell me about your family (composition – full/single-parent family; the number of generations that live together; age and education of parents; area of employment; material wellbeing of the family; number of children, their age and occupation).
2. How do you communicate with your children? (frequency, duration, topics of discussion).
3. How would you characterise your relations with the law? How about your children and other close relatives? Are any of them serving a sentence in the penitentiary system?
4. What is your and your children’s circle of interests? (hobbies, friends, leisure time)
5. Do you have any specific interests? (alcohol, drugs, gambling/games, disposition towards violence inside or outside the family, disposition to offences). If ‘yes’, what is the frequency with which you ‘pursue’ your interests?
6. How would you evaluate the condition of your health (physical and mental)?
7. How would you evaluate the condition of your child/children’s health?
8. How did you imagine the future of your child prior to the offence? What about now? Does your child have a chance to achieve success in life? How do you understand success?

Moderator! If necessary, please add that parents’ perception of life success is often reflected in the behaviour of their children, causing development of similar interests, goals and values. Quite often children strive to repeat their parents’ life models and patterns.

Parents/guardians’ perception of the offence committed by their child/children

In the introductory part to Section 2 the moderator has to explain the importance of this section to the research. This will help to identify parents/guardians’ attitudes towards the offence committed by their child/children.
1. At what age did your child (children) commit the offence?
2. Please characterise the time and place of the offence (morning, evening, night, in school, at work, leisure time).
3. Please describe the circumstances of the offence (e.g. the child’s condition: normal/alcohol intoxication/narcotic intoxication; place and method: independently or in the company of peers/adults/mixed company).
4. What was the cause of the offence?
5. At what was the offence aimed? (e.g., against life and health; against property, against both; against public order or public morale; against sexual integrity (violent actions of a sexual nature)
6. How serious was the offence which your child was charged for? (e.g., minor, moderate, serious crime, especially serious crime).

Parents/guardians’ awareness of the circumstances of the child’s detention

In the introductory part to Section 3 the moderator has to explain the importance of this section to the research: it will help to identify parents/guardians’ awareness of the circumstances of a child’s arrest. It will also help to generate the parents/guardians’ evaluation of how the legal procedures related to the child’s arrest and detention complied with current Ukrainian legislation.
1. Who arrested your child and when and how?
2. How did it occur (what were the circumstances of apprehension)?
3. For how long did your child have the status of an "arrested person"?
4. Were you informed of your child's detention? If 'yes', please tell who provided you with this information and when and how.
5. Was your detained child made familiar with his/her rights?
6. How much time passed between the child's arrest and the point at which his/her parents/guardians were informed of this fact?
7. How much time passed between the child's arrest and first interrogation? Who was present at the interrogation? Did you or your relatives attend this process? How about a lawyer or representatives of other government services that deal with children's issues?
8. Do you think the procedure of detention and inquiry of your child was compliant with the law?

Evaluation of the conditions in which children stayed in pre-trial detention centres

In the introductory part to Section 4 the moderator must explain the importance of this section to the research: it will help in identifying the conditions in which children stay in pre-trial detention facilities.

1. For how long did your child stay in the pre-trial detention centre?
2. How would you evaluate conditions in the pre-trial detention centre (bed sheets, food, water, books and stationary, medical and legal services, etc.)?
3. Did you (or members of your family) see the child during his/her detention in the SIZO? If 'yes', then how many times? If 'no', what was the reason for that?
4. Did your child receive visits from an attorney or social worker while staying in the pre-trial detention centre? If 'yes', who was it – a hired professional or a worker appointed by the authorities? If the child did not receive such visits, please explain why.
5. Did you have opportunities to see the child? Did you use them? If 'no', please, explain why.
6. Do you think your child was subject to any pressure (physical, mental or moral) during his/her stay in the SIZO?
7. How did your child change while staying in the pre-trial detention centre (including his/her physical and mental condition)? How would you evaluate the consequences of the child's stay in the SIZO?

Parent/guardian evaluation of child’s participation in court procedures

In the introductory part to Section 5 the moderator must explain the importance of this section to the research: it will help in generating parent/guardian evaluations of child participation in court procedures.

1. How much time passed from the child's detention to the first court session?
2. How would you evaluate the speed of the court process (from the initiation of the case to adjudication)? (e.g., quick, slow).
3. How did the child feel during the trial?
4. Did the court pose questions about the circumstances of the offence by your child, including the causes, the child’s health on the date of the offence, social environment, family circumstances and conditions?

5. Who participated in the trial? How would you evaluate the roles of the trial participants, including the judge, attorney, witnesses, experts and staff of the social services?

6. What was the court’s sentence? How fair was it? (e.g. fair, unfair, adequate to the offence, inadequate and so on)

7. Was the youth of your child taken into account in the imposition of the penalty?

8. What aspect of the court procedures impressed you the most? (e.g., organizational, psychological, financial)

**Parent/guardian evaluation of how children served sentences**

In the introductory part to Section 6 the moderator must explain the importance of this section to the research: it will help in generating parent/guardian evaluation of the conditions in which the child served his/her sentence and the organization of that sentence.

1. How did your child’s sentence start?
2. Where and how was it served?
3. How would you evaluate the conditions under which it was served? What is the basis for your conclusions?
4. Did you have any meetings with your child during his/her sentence? If ‘yes’, then how often? If ‘no’, please explain why.
5. What should be changed in the penal system in terms of sentences for juvenile offenders?

**Social rehabilitation**

In the introductory part to Section 7 the moderator must explain the importance of this section to the research: it will help to identify the extent to which parents are aware of social rehabilitation services.

1. How do you see your child’s future after he/she serves his/her sentence?
2. Do you know anything about any services (institutions) to which you or your child can turn for assistance after the serving of the sentence?
3. Do you know about any services (institutions) that deal with children who have served their sentences? If ‘yes’, how would you characterise their work?

**CONCLUDING SECTION:**

Moderator! Please inform the focus group participants that the interview is complete. Thank the participants for their participation. Also remind the participants that the interviews are anonymous; all answers will be transcribed (transferred into an electronic format), processed for analysis and destroyed. Inform the participants about how important their answers are to this study. Offer them tea or coffee as a sign of acknowledgement and gratitude for their participation.
ANNEX 3. GUIDE TO INTERVIEWS WITH CHILDREN IN CONFLICT WITH THE LAW

ANALYSIS OF CURRENT PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY AND THEIR COMPLIANCE WITH INTERNATIONAL NORMS AND STANDARDS

Introductory Section:

Interviewer:
♦ Introduces him/herself;
♦ Introduces the project and project implementer (Centre of Social Expertise) and Ordering Party of the project (UNICEF representative office in Ukraine);
♦ Explains goals and objectives of in-depth interview, in particular:

Evaluation of current practices in the area of juvenile justice, and development of relevant proposals to improve them
♦ Explains the procedure of the in-depth interview; guarantees anonymity and confidentiality of answers; points out the voluntary nature of answers; stresses that the respondent may refuse to participate in the interview at any moment without explaining the reasons why;
♦ Reminds children that child respondents can participate in in-depth interviews only upon consent of their parents/caregivers or of social workers/pedagogues

MAIN SECTION:

Moderator! During focus group discussions please make regular reference to the name of the project, ‘Analysis of Current Practices and Legislation in the Area of Juvenile Delinquency and their Compliance with International Norms and Standards’, and remind participants of the main sets of questions/topics of discussion, if necessary

1. Family and environment
   1. How old are you?
   2. Do you have a family? (Moderator! In case of a negative answer, go to the next set of questions!)
   3. Please describe the composition of your family (all family members that live with you: parents, siblings).
   4. Who among your close relatives lives separately from you?
   5. How would you evaluate your relations with your parents? Do they love you? Do you love them?
   6. For how long do you usually communicate with parents in one day?
   7. Did any of your close relatives (parents, siblings) have any conflicts with the law?

2. Education
   1. Do you attend school or any another educational facility? What grade are you in? How would you characterise your academic achievements?
   2. Does education represent another step towards success for you? Or you can do without it?
3. Do you have any excellent students among your friends? How about students with poor and average academic records?
4. Do you smoke? Do you consume alcohol and/or drugs?
5. What are your friends’ attitudes towards alcohol and drugs?

3. The nature of the conflict with the law
1. Did your friends ever have any conflicts with the law?
2. Is this your first conflict with the law?
3. What was the cause of this conflict?
4. While doing it, did you know that you were breaking the law?
5. What did you feel when you broke the law for the first time?
6. Did you think about the consequences that would materialise after your offence became known to the people in your environment and the law enforcement agencies?
7. Where do obtain information about the law?
8. If you have an important, vital problem, where would you turn for advice? For help?
9. Do you know any government institutions (or people who represent them) who work in the area of children's problems (besides schools)?
10. Do you trust these institutions (people)? Do you know children who have received help from these institutions?

4. Evaluation of the role of formal and informal institutions in the case of a child’s conflict with the law
1. Given your experience, characterise the role of the following institutions in your case
   ✓ Militia,
   ✓ Court,
   ✓ Child-care bodies,
   ✓ Parents,
   ✓ Friends and relatives,
   ✓ School.

5. Evaluation of conditions in the specialised institution
1. Do you have something here that you did not have outside the institution?
2. What things that you had prior to conviction do you miss the most?
3. What can you have according to the law that you don’t have?
4. What are your plans for the nearest future?

6. Children's evaluation of the fairness of the consideration of their cases
1. Did you personally experience any unfairness in the consideration of your case?
2. In what did this unfairness consist?
3. During the consideration of your case, did you suffer from any violation of laws that protect your rights?
4. How did these violations manifest themselves?
5. Other children may also have conflicts with the law, but the law enforcement agencies are not aware of them yet. What would you advise these children?
6. Do you want to share something else with us, something we did not discuss?

**CONCLUDING SECTION:**

*Interviewer!* Please inform the respondent that the interview is complete. Thank the respondent for his/her kind participation. Also remind the respondent that the interview was anonymous; all answers will be transcribed (transferred into an electronic format), processed for analysis and destroyed. Inform the respondent about how important his/her answers are for this study.
### ANNEX 4. STATISTICAL DATA ON JUVENILE DELINQUENCY STATUS IN UKRAINE

**Table 4.** Selected characteristics of sentenced juveniles who are registered with units of the Criminal Execution Inspection of the Department (as of 1 January 2008)

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Total</th>
<th>Including females</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered as sentenced juvenile at the end of the reporting period</td>
<td>4,985</td>
<td>3.7</td>
</tr>
<tr>
<td>Place of residence prior to conviction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City</td>
<td>2,853</td>
<td>57.2</td>
</tr>
<tr>
<td>Township</td>
<td>642</td>
<td>12.9</td>
</tr>
<tr>
<td>Village</td>
<td>1,490</td>
<td>29.9</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14-16 years</td>
<td>1,062</td>
<td>21.3</td>
</tr>
<tr>
<td>16-18 years</td>
<td>3,923</td>
<td>78.7</td>
</tr>
<tr>
<td>Category of adjudication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deprivation of right to occupy certain position or to perform certain activity</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Public works</td>
<td>13</td>
<td>0.3</td>
</tr>
<tr>
<td>Correctional works</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Release on probation</td>
<td>4,972</td>
<td>99.7</td>
</tr>
<tr>
<td>Information about sentence</td>
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<td></td>
</tr>
<tr>
<td>First-time offender</td>
<td>4,600</td>
<td>92.3</td>
</tr>
<tr>
<td>With previous conviction/including multiple convictions</td>
<td>385/22</td>
<td>77/5.7</td>
</tr>
<tr>
<td>Committed crime</td>
<td></td>
<td></td>
</tr>
<tr>
<td>On one's own</td>
<td>1,885</td>
<td>37.8</td>
</tr>
<tr>
<td>In the group</td>
<td>3,100</td>
<td>62.2</td>
</tr>
<tr>
<td>With participation of adults</td>
<td>764</td>
<td>15.3</td>
</tr>
<tr>
<td>Crime committed under intoxication</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alcohol</td>
<td>524</td>
<td>10.5</td>
</tr>
<tr>
<td>Drug</td>
<td>10</td>
<td>0.2</td>
</tr>
<tr>
<td>Toxic</td>
<td>4</td>
<td>0.08</td>
</tr>
<tr>
<td>Classification of the crime</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mild gravity</td>
<td>213</td>
<td>4.3</td>
</tr>
<tr>
<td>Medium gravity</td>
<td>881</td>
<td>17.7</td>
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<tr>
<td>Serious crime</td>
<td>3,839</td>
<td>77</td>
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<tr>
<td>Especially serious crime</td>
<td>52</td>
<td>1</td>
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<tr>
<td>Related to drugs</td>
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<td>4</td>
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<tr>
<td>Search</td>
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<td></td>
</tr>
<tr>
<td>On a wanted list</td>
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<td>0.2</td>
</tr>
<tr>
<td>Data on occupation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Study in general schools and other educational facilities</td>
<td>3,278</td>
<td>65.7</td>
</tr>
<tr>
<td>Work in enterprises/other institutions</td>
<td>338</td>
<td>6.8</td>
</tr>
<tr>
<td>Do not work and study</td>
<td>1,369</td>
<td>27.5</td>
</tr>
<tr>
<td>Data on family</td>
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<td></td>
</tr>
<tr>
<td>Brought up in a single-parent family</td>
<td>1,971</td>
<td>39.5</td>
</tr>
<tr>
<td>No parents (orphans)</td>
<td>354</td>
<td>7.1</td>
</tr>
<tr>
<td>Brought up in a problem family</td>
<td>741</td>
<td>14.8</td>
</tr>
<tr>
<td>Stay in specialised facilities of MoES</td>
<td>155</td>
<td>3.1</td>
</tr>
<tr>
<td>Social/correctional and psychological work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>By centres of social services for family, children and youth</td>
<td>4,483</td>
<td>89.9</td>
</tr>
<tr>
<td>By NGOs</td>
<td>1,376</td>
<td>27.6</td>
</tr>
<tr>
<td>Number of sentenced persons of young age (under 35 years)</td>
<td>77,338</td>
<td>57.3</td>
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</table>

Source: Data of the Department of Criminal Execution Inspection at the State Department of Penal Implementation, 2008, unpublished
### Table 2. Comparative statistical data for 1992-2007 on sentenced juveniles and types of penal punishment given to juveniles (persons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Convicted persons, who committed crimes in the age of 14-16 years (persons)</th>
<th>Of all convicted juveniles</th>
<th>Deprivation of liberty for the term of 1 year</th>
<th>Conditional sentence</th>
<th>Release on probation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>Deprivation of liberty for the term of 1 year</strong></td>
<td><strong>Conditional sentence</strong></td>
<td><strong>Release on probation</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>Deprivation of liberty for the term of 1 year</strong></td>
<td><strong>Conditional sentence</strong></td>
<td><strong>Release on probation</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>Deprivation of liberty for the term of 1 year</strong></td>
<td><strong>Conditional sentence</strong></td>
<td><strong>Release on probation</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>Deprivation of liberty for the term of 1 year</strong></td>
<td><strong>Conditional sentence</strong></td>
<td><strong>Release on probation</strong></td>
</tr>
<tr>
<td>1992</td>
<td>39.2 2670.1 116.972</td>
<td>970.1 610 44.285</td>
<td>5.58 29.3</td>
<td>263.95 1.139</td>
<td>675.9 2687.3 1.129</td>
</tr>
<tr>
<td>1993</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>1994</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>1995</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>1996</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>1997</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>1998</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>1999</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
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<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2001</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2002</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2003</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2004</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2005</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2006</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
<tr>
<td>2007</td>
<td>116.972 2722 11.864</td>
<td>841.3 54.4</td>
<td>15.08 1.139</td>
<td>675.9 2687.3 1.129</td>
<td>6.16 1.094</td>
</tr>
</tbody>
</table>

Source: Data of the Supreme Court of Ukraine, 2008, unpublished.
### Table 2. Comparative statistical data on the application of compulsory measures of an educational nature to juveniles, 1994-2007

| Years | Total | 11-14 years | 14-16 years | 16-18 years | In a single-parent family | Outside the family (in residential institutions) | Girls | Did not work or study | Group of fences | Including with participation of adults | Were registered by law enforcement agencies | Obligated to apologise | Given a warning | Transferred under supervision | Obligated to compensate damages | Limitation of behaviour and specific requirements | Referred to specialised educational facility | Schools for social rehabilitation | Vocational schools for social rehabilitation |
|-------|-------|-------------|-------------|-------------|---------------------------|-----------------------------------------------|-------|----------------------|----------------|--------------------------------------|-----------------------------------------------|----------------------|----------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|-----------------------------|--------------------------------|--------------------------------|
| 1994  | 3608  | 1551        | 1012        | 1045        | 1348                      | 289                                           | 648   | 101                  | 289            | 648                                  | 1648                                                           | 579                  | 47             | 432                                           | 2758                                           | 58               | -                           | 250                     | 63                          |
| 1995  | 6236  | 3432        | 1835        | 969         | 2627                      | 435                                           | 873   | 203                  | 435            | 873                                  | 2893                                                           | 364                  | 56             | 581                                           | 4863                                           | 71               | -                           | 577                     | 88                          |
| 1996  | 6825  | 3965        | 2024        | 836         | 2901                      | 481                                           | 975   | 184                  | 481            | 975                                  | 3629                                                           | 523                  | 63             | 548                                           | 5551                                           | 71               | -                           | 502                     | 90                          |
| 1997  | 6602  | 3389        | 1123        | 2889        | 237                      | 419                                           | 1055  | 3527                 | 665            | 677                                  | 2889                                                           | 489                  | 28             | 5379                                          | 30                                                             | -                | 529                        | 147                     |
| 1998  | 6259  | 3232        | 2103        | 924         | 2775                      | 408                                           | 869   | 3342                 | 788            | 569                                  | 2775                                                           | 491                  | 21             | 5057                                          | 33                                                             | -                | 564                        | 93                      |
| 1999  | 5155  | 2900        | 1644        | 611         | 2332                      | 395                                           | 672   | 2897                 | 807            | 410                                  | 2332                                                           | 375                  | 3              | 4266                                          | 3                                                             | -                | 435                        | 74                      |
| 2000  | 5150  | 2914        | 1727        | 509         | 2340                      | 160                                           | 361   | 586                  | 868            | 405                                  | 2901                                                           | 357                  | 19             | 4219                                          | 16                                                             | -                | 450                        | 89                      |
| 2001  | 4686  | 2707        | 1481        | 498         | 2197                      | 300                                           | 533   | 2532                 | 956            | 377                                  | 2197                                                           | 323                  | 14             | 3760                                          | 57                                                             | 6                | 433                        | 93                      |
| 2002  | 4228  | 2417        | 1342        | 969         | 2080                      | 222                                           | 327   | 496                  | 809            | 367                                  | 2080                                                           | 416                  | -              | 3246                                          | 12                                                             | 65              | 432                        | 67                      |
| 2003  | 4605  | 2863        | 1391        | 351         | 2328                      | 266                                           | 333   | 526                  | 2326           | 979                                  | 2328                                                           | 388                  | -              | 3600                                          | 12                                                             | 78              | 464                        | 63                      |
| 2004  | 4947  | 3287        | 1371        | 289         | 2581                      | 274                                           | 395   | 404                  | 2228           | 757                                  | 2581                                                           | 402                  | -              | 3906                                          | 29                                                             | 75              | 466                        | 69                      |
| 2005  | 3883  | 2619        | 978         | 286         | 1877                      | 252                                           | 331   | 298                  | 1621           | 618                                  | 1877                                                           | 412                  | -              | 2989                                          | 1                                                             | 65              | 358                        | 58                      |
| 2006  | 2741  | 1508        | 979         | 254         | 1388                      | 158                                           | 286   | 230                  | 944            | 373                                  | 1388                                                           | 273                  | -              | 2165                                          | 1                                                             | 59              | 197                        | 46                      |
| 2007  | 2248  | 1137        | 880         | 231         | 1159                      | 130                                           | 211   | 225                  | 821            | 355                                  | 1159                                                           | 214                  | -              | 1773                                          | 1                                                             | 42              | 172                        | 46                      |

Source: Data of the Supreme Court of Ukraine, 2008, unpublished
### Table 3. Characteristics of persons who served their custodial sentences in specialised correctional institutions (colonies) of the State Criminal Execution Service of Ukraine in 2000-2007

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of correctional colonies at the end of reporting period</td>
<td>11</td>
<td>1</td>
<td>11</td>
<td>1</td>
<td>11</td>
<td>1</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Number of sentenced persons at the beginning of reporting period</td>
<td>3303</td>
<td>156</td>
<td>3268</td>
<td>165</td>
<td>2687</td>
<td>129</td>
<td>2889</td>
<td>118</td>
</tr>
<tr>
<td>Total convicts who entered during the year</td>
<td>3407</td>
<td>151</td>
<td>3452</td>
<td>150</td>
<td>3113</td>
<td>116</td>
<td>2902</td>
<td>115</td>
</tr>
<tr>
<td>Total convicts who left during the year</td>
<td>3442</td>
<td>142</td>
<td>4033</td>
<td>186</td>
<td>2911</td>
<td>127</td>
<td>2909</td>
<td>101</td>
</tr>
<tr>
<td>Number of sentenced persons at the end of reporting period</td>
<td>3268</td>
<td>165</td>
<td>2687</td>
<td>129</td>
<td>2889</td>
<td>118</td>
<td>2882</td>
<td>132</td>
</tr>
<tr>
<td>Type of crime</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intentional homicide</td>
<td>175</td>
<td>5</td>
<td>176</td>
<td>7</td>
<td>171</td>
<td>6</td>
<td>136</td>
<td>5</td>
</tr>
<tr>
<td>Intentional grave bodily injury</td>
<td>102</td>
<td>3</td>
<td>85</td>
<td>3</td>
<td>86</td>
<td>3</td>
<td>98</td>
<td>10</td>
</tr>
<tr>
<td>Rape</td>
<td>126</td>
<td>4</td>
<td>87</td>
<td>3</td>
<td>83</td>
<td>3</td>
<td>82</td>
<td>3</td>
</tr>
<tr>
<td>Brigandage</td>
<td>424</td>
<td>13</td>
<td>31</td>
<td>13</td>
<td>335</td>
<td>12</td>
<td>362</td>
<td>13</td>
</tr>
<tr>
<td>Robbery</td>
<td>404</td>
<td>12</td>
<td>29</td>
<td>12</td>
<td>359</td>
<td>12</td>
<td>413</td>
<td>14</td>
</tr>
<tr>
<td>Including aggravating circumstances</td>
<td>288</td>
<td>9</td>
<td>22</td>
<td>159</td>
<td>6</td>
<td>194</td>
<td>54</td>
<td>0</td>
</tr>
<tr>
<td>Theft</td>
<td>1653</td>
<td>51</td>
<td>63</td>
<td>1404</td>
<td>52</td>
<td>50</td>
<td>1629</td>
<td>56</td>
</tr>
<tr>
<td>Hoarding</td>
<td>222</td>
<td>7</td>
<td>12</td>
<td>130</td>
<td>48</td>
<td>6</td>
<td>89</td>
<td>3</td>
</tr>
<tr>
<td>Including malicious or especially malicious</td>
<td>164</td>
<td>5</td>
<td>2</td>
<td>86</td>
<td>3</td>
<td>41</td>
<td>46</td>
<td>0</td>
</tr>
<tr>
<td>Other crimes</td>
<td>165</td>
<td>5</td>
<td>9</td>
<td>134</td>
<td>5</td>
<td>10</td>
<td>117</td>
<td>4</td>
</tr>
</tbody>
</table>

*Note: *All values are in the units of 1000.*
| Age | From 14 to full 16 years | 454 | 14 | 52 | 360 | 13 | 9 | 354 | 12 | 14 | 326 | 11 | 16 | 370 | 11 | 230 | 9 | 53 | 167 | 8 | 12 | 115 | 6 | 5 |
|     | From 16 to full 17 years | 899 | 28 | 75 | 762 | 28 | 36 | 821 | 28 | 39 | 839 | 29 | 45 | 897 | 28 | 40 | 862 | 32 | 19 | 593 | 27 | 27 | 405 | 21 | 20 |
|     | From 17 to full 18 years | 1177 | 36 | 36 | 1052 | 39 | 57 | 1205 | 42 | 38 | 1268 | 44 | 55 | 1352 | 42 | 101 | 1085 | 40 | 50 | 919 | 42 | 77 | 770 | 41 | 38 |
|     | Over 18 years of age | 739 | 22 | 2 | 513 | 19 | 27 | 509 | 18 | 27 | 449 | 16 | 26 | 617 | 19 | 2 | 521 | 19 | 26 | 536 | 24 | 4 | 612 | 32 | 41 |
| Period of sentence | Up to one year | 39 | 1 | 14 | 0,5 | 2 | 15 | 0,5 | 0 | 18 | 1 | 4 | 15 | 0,5 | 5 | 14 | 0,5 | 1 | 13 | 1 | 2 | 12 | 1 | 3 |
|     | From 1 to full 2 years | 308 | 9 | 32 | 319 | 12 | 16 | 291 | 10 | 19 | 192 | 7 | 12 | 192 | 6 | 16 | 157 | 6 | 19 | 105 | 5 | 11 | 90 | 5 | 12 |
|     | From 2 to full 3 years | 695 | 21 | 56 | 476 | 18 | 34 | 467 | 29 | 25 | 413 | 27 | 16 | 388 | 12 | 32 | 358 | 13 | 34 | 264 | 12 | 33 | 231 | 12 | 22 |
|     | From 3 to full 5 years | 1683 | 51 | 61 | 1407 | 52 | 47 | 1504 | 52 | 46 | 1813 | 63 | 79 | 1982 | 61 | 65 | 1576 | 58 | 62 | 1380 | 62 | 52 | 1032 | 54 | 41 |
|     | Over 5 years | 543 | 17 | 15 | 471 | 18 | 36 | 612 | 28 | 24 | 446 | 16 | 21 | 659 | 20 | 36 | 593 | 22 | 32 | 453 | 45 | 24 | 537 | 28 | 26 |
| Serve custodial sentence | For the first time | 3176 | 97 | 162 | 2613 | 97 | 126 | 2793 | 97 | 117 | 2805 | 97 | 131 | 3157 | 98 | 152 | 2667 | 99 | 147 | 2158 | 98 | 119 | 1868 | 98 | 103 |
|     | For second or more times | 92 | 3 | 3 | 74 | 3 | 3 | 96 | 3 | 1 | 77 | 3 | 1 | 79 | 3 | 2 | 31 | 1 | 1 | 57 | 3 | 1 | 34 | 2 | 1 |
| Cases of previously applied release on probation (Article 104 of CCU) | 1101 | 34 | 52 | 1139 | 42 | 36 | 1372 | 48 | 31 | 1357 | 53 | 40 | 1825 | 56 | 44 | 1844 | 68 | 68 | 1266 | 58 | 52 | 1147 | 60 | 56 |
| Prior to conviction | Studied at schools of general education or other educational facilities | 1335 | 41 | 64 | 1324 | 49 | 44 | 1367 | 47 | 52 | 1486 | 52 | 51 | 1843 | 57 | 114 | 1360 | 50 | 102 | 1249 | 56 | 84 | 1306 | 69 | 27 |
|     | Worked in companies and other institutions | 236 | 7 | 4 | 202 | 8 | 1 | 119 | 4 | 17 | 128 | 4 | 20 | 142 | 4 | 23 | 308 | 11 | 22 | 247 | 11 | 3 | 94 | 5 | 4 |
|     | Neither worked nor studied | 1681 | 51 | 97 | 1111 | 41 | 84 | 1367 | 47 | 49 | 1245 | 43 | 61 | 1250 | 39 | 17 | 995 | 37 | 24 | 750 | 34 | 33 | 448 | 24 | 73 |
|     | Were brought up in a single-parent family | 1529 | 47 | 101 | 1320 | 49 | 85 | 1357 | 47 | 60 | 1675 | 58 | 72 | 1483 | 46 | 60 | 1401 | 52 | 59 | 1159 | 52 | 49 | 1000 | 53 | 52 |
|     | Including orphans | 222 | 7 | 19 | 172 | 20 | 17 | 256 | 19 | 11 | 244 | 15 | 14 | 283 | 19 | 10 | 288 | 21 | 12 | 291 | 25 | 28 | 216 | 22 | 15 |
|     | Stayed in specialised institutions of the MoES | 175 | 5 | 0 | 178 | 7 | 0 | 182 | 6 | 5 | 186 | 7 | 21 | 226 | 7 | 22 | 217 | 8 | 16 | 209 | 9 | 17 | 210 | 11 | 16 |

Source: State Department of Penal Implementation of Ukraine, 2008, unpublished
### Table 5. Generalised information about inmates of shelters for children run by the Ministry of Family, Youth and Sports of Ukraine (12 months of 2007)

#### Overall number of shelters

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Number of shelters</th>
<th>Planned capacity of shelters</th>
<th>Number of inmates in shelters at the end of reporting period</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>01</td>
<td>Total</td>
<td>95</td>
<td>4,060</td>
<td>20,593</td>
</tr>
</tbody>
</table>

#### Movement of contingent of inmates

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Planned capacity of shelters</th>
<th>Number of inmates at the beginning of reporting period</th>
<th>Placed during the reporting period</th>
<th>Number of inmates who stayed in shelters during the reporting period</th>
<th>Left during the reporting period</th>
<th>Number of inmates at the end of reporting period</th>
<th>Age of inmates (from column 4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>From 3 to 6 years</td>
</tr>
<tr>
<td>01</td>
<td>Total</td>
<td>4,060</td>
<td>3,086</td>
<td>17,507</td>
<td>20,593</td>
<td>17,657</td>
<td>2,936</td>
<td>3,471</td>
</tr>
</tbody>
</table>

Including:

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Total capacity of shelters</th>
<th>Number of inmates at the beginning of reporting period</th>
<th>Placed during the reporting period</th>
<th>Number of inmates who stayed in shelters during the reporting period</th>
<th>Left during the reporting period</th>
<th>Number of inmates at the end of reporting period</th>
<th>Age of inmates (from column 4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>02</td>
<td>Boys</td>
<td>X</td>
<td>1,756</td>
<td>11,080</td>
<td>12,836</td>
<td>11,191</td>
<td>1,645</td>
<td>1,927</td>
</tr>
<tr>
<td>03</td>
<td>Girls</td>
<td>X</td>
<td>1,330</td>
<td>6,427</td>
<td>7,757</td>
<td>6,466</td>
<td>1,291</td>
<td>1,544</td>
</tr>
</tbody>
</table>

#### Place of residence (registration) of inmates

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Total number of inmates who stayed in the institution during the reporting period:</th>
<th>In urban areas</th>
<th>In rural areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>20,593</td>
<td>11,683</td>
<td>8,910</td>
</tr>
<tr>
<td>01</td>
<td>Total</td>
<td>20,593</td>
<td>11,683</td>
<td>8,910</td>
</tr>
</tbody>
</table>

Including children who prior to institutionalisation lived in:

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Total number of inmates who stayed in the institution during the reporting period:</th>
<th>In urban areas</th>
<th>In rural areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>02</td>
<td>Including children who prior to institutionalisation lived in:</td>
<td>18,456</td>
<td>10,474</td>
<td>7,982</td>
</tr>
<tr>
<td>03</td>
<td>The region where the institution is located</td>
<td>1,917</td>
<td>1,071</td>
<td>846</td>
</tr>
<tr>
<td>04</td>
<td>Other regions of Ukraine</td>
<td>198</td>
<td>127</td>
<td>71</td>
</tr>
<tr>
<td>05</td>
<td>Other CIS countries</td>
<td>22</td>
<td>11</td>
<td>11</td>
</tr>
</tbody>
</table>

#### Education of inmates

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Total number of inmates of 7 years of age and older</th>
<th>Boys</th>
<th>Girls</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>B</td>
<td>17,122</td>
<td>10,909</td>
<td>6,213</td>
</tr>
</tbody>
</table>

Including those who:

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Total number of inmates of 7 years of age and older</th>
<th>Boys</th>
<th>Girls</th>
</tr>
</thead>
<tbody>
<tr>
<td>02</td>
<td>Primary general education</td>
<td>5,132</td>
<td>3,180</td>
<td>1,952</td>
</tr>
<tr>
<td>03</td>
<td>Basic general secondary education</td>
<td>9,919</td>
<td>6,391</td>
<td>3,528</td>
</tr>
</tbody>
</table>

Including those who completed:

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Total number of inmates of 7 years of age and older</th>
<th>Boys</th>
<th>Girls</th>
</tr>
</thead>
<tbody>
<tr>
<td>04</td>
<td>5-7 grades</td>
<td>4,932</td>
<td>3,228</td>
<td>1,704</td>
</tr>
<tr>
<td>05</td>
<td>7-9 grades</td>
<td>4,987</td>
<td>3,163</td>
<td>1,824</td>
</tr>
<tr>
<td>06</td>
<td>Complete general secondary education</td>
<td>582</td>
<td>341</td>
<td>241</td>
</tr>
<tr>
<td>07</td>
<td>Did not study at all</td>
<td>834</td>
<td>537</td>
<td>297</td>
</tr>
<tr>
<td>08</td>
<td>Did not study for more than one year</td>
<td>655</td>
<td>460</td>
<td>195</td>
</tr>
</tbody>
</table>
### Social characteristics of inmates

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Of the total number of inmates:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Have full family</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Have single-parent family</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Come from families in crisis</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Orphaned children and children deprived of parental care in schools of general education, children's homes and technical schools and colleges</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Orphaned children and children deprived of parental care in foster families and children's homes of family type</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Orphaned children and children deprived of parental care in families of guardians and caregivers</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Total</td>
<td>5,166</td>
<td>10,844</td>
<td>8,476</td>
<td>3,717</td>
<td>28</td>
<td>838</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Characteristics of inmates in terms of health condition

<table>
<thead>
<tr>
<th>Line #</th>
<th>Indicator Name</th>
<th>Code, MKX - 10</th>
<th>Total number of inmates</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Total, persons</td>
<td>X</td>
<td>20,593</td>
<td></td>
</tr>
<tr>
<td>Including:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>02 Almost healthy</td>
<td>X</td>
<td>7,602</td>
<td></td>
</tr>
<tr>
<td>03 With diseases, total:</td>
<td>A00 – 98</td>
<td>12,991</td>
<td></td>
</tr>
<tr>
<td>Including:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>04 Some infections and parasites</td>
<td>A00 - 99</td>
<td>5,331</td>
<td></td>
</tr>
<tr>
<td>05 including tuberculosis</td>
<td>A15 – A19</td>
<td>186</td>
<td></td>
</tr>
<tr>
<td>06 HIV-related diseases</td>
<td>B20 – B24</td>
<td>44</td>
<td></td>
</tr>
<tr>
<td>07 Mental and behavioural disorders</td>
<td>F00-F09,F20-F99</td>
<td>1,566</td>
<td></td>
</tr>
<tr>
<td>08 Respiratory system diseases</td>
<td>J - 45</td>
<td>3,961</td>
<td></td>
</tr>
<tr>
<td>09 Other diseases</td>
<td>X</td>
<td>4,724</td>
<td></td>
</tr>
</tbody>
</table>

### Reasons for institutionalisation of juveniles

<table>
<thead>
<tr>
<th>Line #</th>
<th>Total number of inmates</th>
<th>Placed in institutions because of:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Vagrancy, neglect, begging</td>
<td>Abusive treatment</td>
<td>Physical violence</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01</td>
<td>20,593</td>
<td>11,324</td>
<td>1,604</td>
</tr>
</tbody>
</table>
### Placement of inmates who left the institution

<table>
<thead>
<tr>
<th>Line #</th>
<th>Left during the reporting period</th>
<th>Placed, total</th>
<th>Including:</th>
<th>From Line 1 – the number of inmates who independently left:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01</td>
<td>17,657</td>
<td>16,179</td>
<td>8,389</td>
<td>2,445</td>
</tr>
</tbody>
</table>

*transferred to other shelters, reception centres for juveniles, centres for social and psychological rehabilitation of children

### Number of staff at the end of the reporting period

<table>
<thead>
<tr>
<th>Line #</th>
<th>Pedagogical staff</th>
<th>Medical staff</th>
<th>Maintenance staff</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of positions in staff list</td>
<td>Actual number of workers</td>
<td>%</td>
</tr>
<tr>
<td>A</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>01</td>
<td>1,260.6</td>
<td>1,171.9</td>
<td>93</td>
</tr>
</tbody>
</table>

### Key indicators of material and technical provision

<table>
<thead>
<tr>
<th>Line #</th>
<th>Name</th>
<th>Item number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>01</td>
<td>Vehicles, total</td>
<td>124</td>
</tr>
<tr>
<td></td>
<td>Including:</td>
<td></td>
</tr>
<tr>
<td>02</td>
<td>Motor cars</td>
<td>38</td>
</tr>
<tr>
<td>03</td>
<td>Trucks</td>
<td>8</td>
</tr>
<tr>
<td>04</td>
<td>Buses</td>
<td>1</td>
</tr>
<tr>
<td>05</td>
<td>Minivans</td>
<td>77</td>
</tr>
<tr>
<td>06</td>
<td>Computers</td>
<td>456</td>
</tr>
<tr>
<td>07</td>
<td>Faxes</td>
<td>105</td>
</tr>
<tr>
<td>08</td>
<td>Copiers</td>
<td>144</td>
</tr>
<tr>
<td>09</td>
<td>Office/living space on balance of orphanages</td>
<td>9,495,512</td>
</tr>
<tr>
<td>10</td>
<td>Including space on lease</td>
<td>1,187</td>
</tr>
<tr>
<td>11</td>
<td>Rented space</td>
<td>19,968.05</td>
</tr>
</tbody>
</table>

### Funding of shelters

<table>
<thead>
<tr>
<th>Line #</th>
<th>Name</th>
<th>Budget funding</th>
<th>Off-budget earnings (raised funds)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Maintenance costs planned by the owner</td>
<td>Actually received funds</td>
</tr>
<tr>
<td>A</td>
<td>B</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>01</td>
<td>Total (UAH)</td>
<td>89,715,841</td>
<td>86,512,946</td>
</tr>
</tbody>
</table>

*money that was not spent because of partial (non 100%) occupancy of institutions

*Source: Data of the Ministry of Family, Youth and Sports, 2008, unpublished*
### LIST OF ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AJU</td>
<td>Academy of Judges of Ukraine</td>
<td></td>
</tr>
<tr>
<td>CEI</td>
<td>Criminal Execution Inspection</td>
<td></td>
</tr>
<tr>
<td>CES</td>
<td>Criminal Execution Service</td>
<td></td>
</tr>
<tr>
<td>VRU</td>
<td>VerkhovnaRada of Ukraine</td>
<td></td>
</tr>
<tr>
<td>SCU</td>
<td>Supreme Court of Ukraine</td>
<td></td>
</tr>
<tr>
<td>SDPI</td>
<td>State Department of Penal Implementation of Ukraine</td>
<td></td>
</tr>
<tr>
<td>SCA</td>
<td>State Court Administration</td>
<td></td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
<td></td>
</tr>
<tr>
<td>CCU</td>
<td>Criminal Code of Ukraine</td>
<td></td>
</tr>
<tr>
<td>CMU</td>
<td>Cabinet of Ministers of Ukraine</td>
<td></td>
</tr>
<tr>
<td>CPC</td>
<td>Criminal Procedure Code of Ukraine</td>
<td></td>
</tr>
<tr>
<td>CCU</td>
<td>Constitutional Court of Ukraine</td>
<td></td>
</tr>
<tr>
<td>MoIA</td>
<td>Ministry of Internal Affairs of Ukraine</td>
<td></td>
</tr>
<tr>
<td>MoFYS</td>
<td>Ministry of Family, Youth and Sports of Ukraine</td>
<td></td>
</tr>
<tr>
<td>MJ</td>
<td>Ministry of Justice of Ukraine</td>
<td></td>
</tr>
<tr>
<td>MoES</td>
<td>Ministry of Education and Science of Ukraine</td>
<td></td>
</tr>
<tr>
<td>NGO</td>
<td>non-governmental organization</td>
<td></td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
<td></td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
<td></td>
</tr>
</tbody>
</table>
SOCIAL PRACTICES AND LEGISLATION IN THE AREA OF JUVENILE DELINQUENCY

L. Amdzhadin, O. Honcharuk