Alternatives to Pre-Trial and Post Trial Detention for Children in Conflict with the Law in Europe and Central Asia

UNICEF Regional Office for Europe and Central Asia
“Applying alternatives to pre-trial detention and alternatives to post-trial detention tailored to the needs and circumstances of girls/boys in conflict with the law to the maximum extent possible, will decrease the chance of reoffending, avoid the excessive costs of detention, increase children’s constructive role in society, and improve national security.”

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1. **The concept of ‘alternatives to detention’**

When judicial proceedings are initiated in cases of children in conflict with the law, the use of deprivation of liberty should be strictly limited throughout the child justice process and, therefore, the maximum and effective use of alternatives to detention guaranteed. Alternatives to detention refers to “measures that may be imposed on children who are being formally processed through the criminal justice system, at both the pre-trial stage and post-trial stage, that do not involve deprivation of liberty”.\(^1\) Alternatives to detention can be applied from the time of apprehension until the final disposition or sentence for girls/boys who could not or have not been diverted away from judicial proceedings.\(^2\) The overview below shows the main characteristics and differences between the various alternatives, i.e. diversion (Advocacy Brief 2/5 ‘Diversion’), alternatives to pre-trial detention (section 3), alternatives to post-trial detention (‘non-custodial sentences’) (section 4), and restorative justice approaches (section 9 of Advocacy Brief 2/5 ‘Diversion’ & section 4.6).

<table>
<thead>
<tr>
<th>Main characteristics and differences between alternatives applicable in cases of children in conflict with the law</th>
<th>Diversion</th>
<th>Alternatives to pre-trial and trial detention</th>
<th>Alternatives to post-trial detention</th>
<th>Restorative justice approaches</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applies to children in conflict with the law &gt; MACR</td>
<td>Applies to children in conflict with the law &gt; MACR</td>
<td>Applies to children in conflict with the law &gt; MACR</td>
<td>Applies to children in conflict with the law &gt; MACR and child victims/witnesses of crime</td>
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<tr>
<td>Applies from apprehension/arrest until the first trial hearing</td>
<td>Applies from apprehension/arrest until the final disposition/sentence hearing</td>
<td>Applies from the final disposition/sentence hearing until the end of the measure/sentence</td>
<td>Applies to all stages of the justice process, including the post-sentencing stage</td>
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<tr>
<td>Requires the (written) consent of the child (&amp; parents/caregivers)</td>
<td>Can be imposed without the consent of the child (&amp; parents/caregivers)</td>
<td>Can be imposed without the consent of the child (&amp; parents/caregivers)</td>
<td>Requires the (written) consent of the child (&amp; parents/caregivers) &amp; (child) victim</td>
<td></td>
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<tr>
<td>Does not necessarily include restoration of harms &amp; involvement of the victim/others affected by the offence</td>
<td>May include restoration of harms &amp; may involve the victim/others affected by the offence</td>
<td>Does not necessarily include restoration of harms &amp; involvement of the victim/others affected by the offence</td>
<td>Makes the child responsible for restoration of harms &amp; involves the victim/others affected by the offence</td>
<td></td>
</tr>
<tr>
<td>Diversion plan carried out in the community</td>
<td>Awaiting trial in the community</td>
<td>Serving sentence/measure in the community</td>
<td>Restorative agreement carried out in the community</td>
<td></td>
</tr>
<tr>
<td>No trial &amp; no criminal record (if the child complies with the diversion plan)</td>
<td>--</td>
<td>Criminal record</td>
<td>No criminal record (if diversion measure) or criminal record (if sentence)</td>
<td></td>
</tr>
</tbody>
</table>

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\(^1\) UNICEF Toolkit on Diversion & Alternatives to Detention, 2009. Other terms used in the international child justice context are: ‘alternatives to deprivation of liberty’, ‘alternatives to pre-trial detention’/‘alternatives to detention awaiting trial’ and ‘alternatives to post-trial detention’/‘alternative sentences’/‘non-custodial sentences’/‘alternatives to imprisonment’.

\(^2\) See advocacy brief ‘Diversion of Children in Conflict with the Law from Formal Judicial Proceedings’. 
2. International and European standards on alternatives to detention

The Beijing Rules (1985) recommend the application of alternative measures to pre-trial deprivation of liberty (rule 13.2) as well as post-trial deprivation of liberty (rule 17.1.(b)(c)). The Convention on the Rights of the Child (1989) states that: “the arrest, detention or imprisonment of a child… shall be used only as a measure of last resort” (article 37(b)) and “a variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence” (article 40(4)). The Committee on the Rights of the Child (2019) encourages States Parties to: “provide ample opportunities to apply social and educational measures, and to strictly limit the use of deprivation of liberty, from the moment of arrest, throughout the proceedings and in sentencing” as well as to put in place “a probation service or similar agency with well-trained staff to ensure the maximum and effective use of measures such as guidance and supervision orders, probation, community monitoring or day reporting centres” (paragraph 19). European instruments also promote alternatives to detention. The European Rules for Juvenile Offenders Subject to Sanctions or Measures (2008) promote alternatives to detention at the pre-trial and post-trial stages (rules 10 & 23).

3. Alternatives to pre-trial detention for children in conflict with the law

Alternatives to arrest and pre-trial detention provide an alternative means of supervising children in conflict with the law pending their trial rather than placement in police station cells and pre-trial detention centres or remand homes.³

3.1. Release by the police as soon as possible

It should go without saying that apprehended or arrested children who are brought to police stations and remain uncharged have to be released and handed over to their parents/caregivers immediately. Where the children are charged, they should also generally be released post-charge after the police officer has consulted the prosecutor. In any case, the children need to be handed over to their parents/caregivers on condition that they may have to return to the police station or appear before the court on a specified date if subsequent formal proceedings are initiated. “The rationale behind this… is that the vast majority of crimes committed by children are minor property crimes. Such crimes rarely pose a danger to the public and there is little

³ UNICEF, Toolkit on Diversion and Alternatives to Detention, 2009.
reason for children in these cases to be detained for as long as 24 hours. If further questioning is felt to be necessary, then rather than being detained, the child should be given notice to return to the police station at a stated place, date and time.”

3.2. Release pending trial without or with conditions

A child brought before the court has to be released pending trial, without delay, except in exceptional cases. The court may direct the girl/boy to return to court for further proceedings, such as the trial or in order to decide on pre-trial diversionary measures. Releasing children into the care of their parents/caregivers pending trial can be without or with certain conditions. For example, the court may impose conditions on the child such as:

- Requirement to report regularly to a police station or probation service (or other competent body)
- Being at home at a certain hour
- Attendance at school
- Attendance at a named place at certain times of day
- Periods of curfew
- Requirement not to associate with or contact certain persons
- Requirement not to go to certain places

Where there are serious concerns about the child and in order to avoid any form of pre-trial detention, the court may also impose stronger conditions:

- Close supervision
- Intensive care
- Placement with a family or foster parents

Children should not be required to pay a sum of money as a condition of release. Requiring the payment of bail is likely to impact disproportionately on the most vulnerable and marginalized

4 Commentary on article 33 of the Model Law on Juvenile Justice, 2013.
5 See advocacy brief ‘Deprivation of Liberty of Children in Conflict with the Law in Europe and Central Asia’.
6 See advocacy brief ‘Diversion of Children in Conflict with the Law from Formal Judicial Proceedings’.
8 In the Global Study on Children Deprived of Liberty, 2019, also ‘electronic monitoring’ is mentioned as pre-trial release condition.
girls/boys, whose parents/caregivers may not have the financial means to pay bail, may be unwilling to pay due to estrangement between the child and themselves, or they may be impossible to find. Children are unlikely to have sufficient income/money to pay bail themselves and the practice of requiring a bail payment to be paid into court as security is likely to discriminate against children from poor backgrounds and to result in their being unnecessarily deprived of their liberty.

The Criminal Procedure Code (2009) of Turkmenistan defines relatively clear criteria for the imposition of detention prior to trial and restricts it to exceptional and severe cases (article 516). It also offers some alternatives, including a child-specific form, that is: “transfer of a minor under the supervision of parents or other persons upon writing request” (article 155). In practice, pre-trial release without release conditions is used in most cases and pre-trial detention is rarely ordered.

4. Alternatives to post-trial detention for children in conflict with the law

Alternatives to post-trial detention, also called ‘non-custodial sentences’, provide community-based options for the supervision and rehabilitation of children found guilty of a criminal offence rather than sending them to any form of detention facility.⁹

4.1. Purpose of sentencing

The purpose of a sentence imposed by the court on a child in conflict with the law should be to promote the child’s rehabilitation and reintegration into society.¹⁰ The overall purpose of alternatives to detention is to give opportunities to children who commit offences to learn constructive patterns of behaviour to replace potentially offending behaviour instead of depriving them of their liberty. Any response to children in conflict with the law must be aimed primarily at helping them correct their behaviour and to become productive, law-abiding members of society. Children must be held accountable and made to take responsibility for their actions in order for them to learn that there are consequences to offending behaviour. However, this should be done in a way that teaches them why their behaviour was inappropriate, what effect the offence had on others, and how they can make better decisions in the future. The well-being of the girls/boys and their best interests must be the paramount consideration before a sentence is passed by the court. The Beijing Rules (1985) state that strictly punitive approaches are not

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¹⁰ Beijing Rule 17 (1985); Article 53 of Model Law on Juvenile Justice, 2013.
appropriate: “Whereas in adult cases, and possibly also in cases of severe offences by juveniles, just desert and retributive sanctions might be considered to have some merit, in juvenile cases such considerations should always be outweighed by the interest of safeguarding the well-being and the future of the young person” (commentary on rule 17.1(b)).

4.2. Guiding sentencing principles

Every court that imposes sentences on children found guilty of criminal offences should take into account the following guiding sentencing principles:

• The best interests of the child should be a primary consideration.
• The child is to be dealt with in a manner appropriate to her/his well-being.
• A social inquiry report should be prepared to inform sentencing decisions (see section 4.4.).
• The sentence must be proportionate not only to the circumstances and the gravity of the offence, but also to the child’s age, individual circumstances and needs.
• The sentence should promote the reintegration of the child and her/his assumption of a constructive role in society.
• Recourse to restorative justice processes and measures (encourage the repair of harms done to victims and/or the community) should be given preference whenever possible.
• The sentence imposed must be the one most likely to enable the child to address her/his offending behaviour.
• The sentence must be the least restrictive one possible (non-custodial sentences should be ordered wherever possible).
• Custodial sentences (detention/deprivation of liberty) should be a measure of last resort and for the shortest appropriate period of time and must not be imposed unless all available sentences other than a custodial sentence have been considered and adjudged inappropriate to meet the needs of the child and provide for the protection of society.

12 See advocacy brief ‘Deprivation of Liberty of Children in Conflict with the Law’.
4.3. Prohibited sentences

All international child justice instruments contain limitations on sentences that may be imposed on children in conflict with the law. Sentences that are specifically prohibited for children in all circumstances are:¹³

- Measures that may involve torture or other cruel, inhuman or degrading treatment
- Measures amounting to forced labour
- Capital punishment
- Life imprisonment without the possibility of release
- Indeterminate (custodial) sentences¹⁴

The Committee on the Rights of the Child stresses that corporal punishment as a sanction is a violation of article 37(a) of the Convention on the Rights of the Child (1989), which prohibits all forms of cruel, inhuman and degrading treatment or punishment.¹⁵ The Committee strongly recommends that States Parties abolish the death penalty and all forms of life imprisonment, including indeterminate sentences, for all offences committed by persons who were below the age of 18 years at the time of commission of the offence. Also, the Committee points out that mandatory minimum sentences are incompatible with the child justice principle of proportionality.¹⁶

4.4. Social inquiry report to inform sentencing decisions

The Beijing Rules (1985) require that in all cases of children in conflict with the law, except those involving minor offences, the court should receive a social inquiry report, also called ‘pre-sentence report’, prior to sentencing (rule 16.1).¹⁷ Social inquiry reports assist the court in determining what would be the most effective sentence for the rehabilitation and reintegration of the child. The court should be provided with adequate information about the child, such as

¹³ Article 6(5) of the
¹⁴ An indeterminate or indefinite custodial sentence does not have a fixed length of time. There is no definite period of time set during sentencing and, therefore, also no date for the child’s release from detention. Usually this means that the child has to spend a minimum amount of time in detention before she/he may be considered for release.
¹⁵ See also the Committee on the Rights of the Child’s General Comment No.8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment.
¹⁶ Paragraph 81 of General Comment No.24, 2019.
her/his family and social background; where the child is living and with whom; school career; educational/employment experiences; relationships; physical health; emotional and mental health; lifestyle; positive factors; conditions under which the offence has been committed; the child’s understanding of the offence; previous offences; possible alternatives to detention; and the likely impact on the child of any sentence. It is the court’s duty to order the social inquiry report. Moreover, the court should be under an obligation to consult a social inquiry report before imposing measures depriving children of their liberty. The responsibility for producing the reports varies across countries. Usually, the probation service or appropriate welfare agency or personnel attached to the court prepare social inquiry reports. The reports should not be prepared by the investigating officer, as there is an obvious conflict of interest.

Under article 27 of the Juvenile Justice Code (2015) of Georgia, the child’s individual assessment report shall be prepared by social workers from the probation agency and considered by all other justice authorities, in particular, by the prosecutors in the decision-making on diversion, as well as by the judges at the sentencing stage or when deciding on parole and by the probation agency when enforcing non-custodial sentences and by the penitentiary authorities for the individual planning of a custodial sentence.

4.5. Tailored and proportionate non-custodial measures

National child justice legislation should contain a wide variety of non-custodial measures in order to ensure that girls/boys in conflict with the law are dealt with in a manner that is appropriate to their well-being; takes their age into account; promotes their reintegration and the assuming of a constructive role in society. National laws should also explicitly prioritize the use of non-custodial measures to ensure that institutionalization and deprivation of liberty are used only as measures of last resort and for the shortest appropriate period of time. The Committee on the Rights of the Child emphasizes that the reaction to an offence should always be proportionate, not only to the circumstances and the gravity of the offence, but also to the child’s personal circumstances, such as the child’s age, culpability, circumstances and needs, including, if appropriate, the child’s mental health, as well as the long term needs of society. Where serious offences are committed by children, measures proportionate to the offender’s circumstances and to the gravity of the offence may be considered, including considerations of the need for public safety and sanctions. Weight should be given to the child’s best interests as a primary consideration, as well as to the need to promote the child’s reintegration into society.\(^\text{18}\)

\(^\text{18}\) Beijing Rule 18, 1985; Paragraphs 73 to 76 of General Comment No.24, 2019.
The principle of proportionality also requires that a **time limit** is set by the court for the completion of the non-custodial measure. Where a child is found guilty and convicted of a criminal offence, the **court may consider alternatives to detention**, such as:

- Constructive community-based measures/sentences
- Absolute or conditional discharge
- Attendance at a community-based programme to help the child address her/his offending behaviour
- Intermediate treatment and other treatment orders
- Probation
- Restorative justice order (see section 4.6.)
- Drug or alcohol treatment order
- Attendance at counselling
- Attendance at a day centre/day reporting centre

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The listed non-custodial measures have been successfully practised in a number of countries. In some countries, ‘electronic tagging’ is also used as non-custodial measure. This recently introduced measure can be used to encourage the child’s compliance with other orders, such as a curfew. However, the use of electronic tagging is likely to be limited as it requires considerable technological and human input. It also carries the danger of stigmatising the child. Also, in some countries, fines are used as non-custodial measure. While the use of fines can reduce the use of custodial sentences, the measure discriminates against children from poor backgrounds. Many children in conflict with the law come from financially disadvantaged backgrounds and poverty is often one of the root causes of their offending behaviour. They may encounter difficulty paying the fine on the terms set by the court, which may then lead to further involvement in offending behaviour. Rather than using fines as non-custodial measure, the court may consider ordering the child to pay a small sum of compensation to the victim as a restorative measure or perform community work. A considerable number of States impose fines upon parents in cases where a child does not have the means to pay. This practice is generally regarded as not being in the best interests of the child as it might discourage parents’ becoming active partners in the social reintegration of their child. [Hamilton, C., Guidance for Legislative Reform on Juvenile Justice, UNICEF and Children’s Legal Centre, 2011.]

20. See section 8.3. of Advocacy Brief 2/5 ‘Diversion’ for possible conditions linked to the discharge of the child.

21. Examples of community-based programmes are anger management programmes, anti-aggression training, life-skills course on communication, empathy, resistance to peer pressure, etc.

22. Treatment orders focus on assisting the child with her/his education in order to enable her/him to re-enter school, mental health issues of the child, or the functioning of the child in the family.

23. Probation orders generally contain conditions such as an obligation to report to a particular person, often a probation officer, at a particular time or to attend a particular place such as school. If the child breaks the probation condition(s), she/he will be referred back to the court. Probation conditions should be realistic and proportionate and should not set the child up for failure. For instance, requiring a child to travel long distances regularly in order to meet with a probation officer, without ensuring that the child can pay for her/his travel, is likely to lead to the child’s breaching the probation order.

24. Group counselling provides a good opportunity for children to learn positive patterns of behaviour. It allows them to be reintegrated into the community and contribute towards helping their peers. In many cases the underlying problems contributing to the child’s offending behaviour need to be addressed. Courts should make counselling orders only where the social inquiry report has identified problems.
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- Community service order\textsuperscript{25}
- Education order\textsuperscript{26}
- (Intensive) Supervision order\textsuperscript{27}
- Restrictive community-based measures/sentences\textsuperscript{28}
- Exclusion order
- Curfew order
- Prohibited activity order
- Measures/sentences involving removal from parental supervision\textsuperscript{29}
- Short-term fostering order
- Residence order
- Care order
- Suspended (custodial) sentence\textsuperscript{30}

\textsuperscript{25} A community service order requires a child to undertake unpaid work for a certain number of hours for the benefit of the community. Such orders should require children to carry out constructive and interesting activities and not hard labour. Community service orders have proved to be more effective when children are able to learn new skills and feel that they have made a positive and useful contribution to their community.

\textsuperscript{26} Education orders are often used in conjunction with another community-based order. As children who are in conflict with the law have frequently missed periods of schooling or have learning difficulties, educational orders are useful and can require a child to attend classes as part of her/his reintegration process. These measures are most helpful when they are tailored to the individual needs of the child and help the child to attain the same level of education as their peers so that she/he can re-enter school.

\textsuperscript{27} Supervision orders generally contain conditions that the child must comply with, often involving meeting with a supervisor at a specified time or participating in a specified activity/programme.

\textsuperscript{28} Exclusion orders, prohibited activity orders and curfew orders focus on keeping children away from people and situations which are likely to cause further offending. Such orders are appropriate where a child's offending is linked to a particular activity or particular persons. Prohibited activity can include a prohibition on contacting certain people with whom the child has committed offences or who are generally regarded as contributing to the child's offending behaviour. This is particularly useful where a child is a member of a gang. A curfew order should be considered where there is a clearly identified time-based pattern of offending behaviour by the child and a curfew would prevent further offending. Curfews should not be so long that they effectively amount to house arrest, nor should they prevent children from attending school or taking part in other regular and constructive activities, but they could cover either a specific time of day during which the child is known to engage in offending behaviour, or the evening and night. An exclusion order implies that the child has to stay away from a particular place or area, and is useful where there is an identifiable geographic or physical pattern to the offending.

\textsuperscript{29} Internationally, it is agreed that girls and boys in conflict with the law should not be removed from parental supervision, whether partly or entirely, unless the circumstances of their case make this necessary. Separation of children in conflict with the law from their parents/caregivers is a measure of last resort. The threshold for removal of a child is not generally met simply by the parents' failing to prevent their child from committing a criminal offence, nor is the fact that the child has committed an offence enough of itself to warrant her or his removal (commentary on article 53 of the Model Law on Juvenile Justice, 2013). Care orders imply that the child is removed from her or his parents into the care of another individual, usually another family member or a foster parent, or an institution such as a residential children's home.

\textsuperscript{30} A suspended sentence is a custodial sentence the implementation of which is suspended for a period of time. Provided that the child does not commit a further offence and complies with any conditions attached to the suspended sentence, the custodial part of the sentence will not take effect. However, if there is a breach of the conditions or the child commits another offence, the custodial part of the sentence will then be activated. Conditions attached to a suspended sentence may include a requirement that the child comply with curfew provisions or take part in specified community-based activities (commentary on article 53 of the Model Law on Juvenile Justice, 2013).
In Serbia, non-custodial educational measures are stipulated in the Juvenile Justice Law (2006) and are very often used in practice. The non-custodial measures are: court admonition (article 13); increased supervision by parent or guardian (article 15); in foster family (article 16); by guardianship authority (article 17); with daily attendance in relevant rehabilitation and educational institution for children (article 18). According to article 14 of the Juvenile Justice Law, the court may order one or more non-custodial measures. These are: apology to the injured party; compensation for the damages caused; regular classes and work attendance; qualification for an occupation in compliance with the child’s abilities and talents; participation, without remuneration, in work of humanitarian organizations; perform community work of social, local or environmental character; involvement in particular sports activities; undergoing relevant check-ups and drug and alcohol treatment programmes; participation in individual or group therapy in relevant institution or counselling centres; attending vocational training classes or preparing for exams in a designated field of study; not to leave his/her place of permanent or temporary residence unless guardianship authority or the court grants him/her special permission to leave.

When considering the conditions to be attached to a non-custodial measure, the court takes into account the needs and rights of the sentenced child, the needs of the victim(s) as well as the needs of society. The court may order more than one non-custodial measure and will determine whether such measures should run concurrently or consecutively. At the beginning of the application of a non-custodial measure, the child receives an explanation of the conditions attached to it, including the child’s rights and obligations. This explanation is provided both orally and in writing. In case a girl/boy breaches the conditions attached to a non-custodial measure, the court considers the modification or revocation of the measure based on a careful examination of the facts provided by both the supervising officer and the child. Where a non-custodial measure is modified or revoked, the court seeks a more appropriate form of non-custodial measure for the child and does not automatically impose a custodial measure. The revocation or modification can be challenged by the child at any time (right to appeal).

4.6. Restorative justice approaches

Restorative justice approaches can be applied at any stage of the child justice proceedings, including as a non-custodial measure. It can either function as a stand-alone measure or in combination with other measures such as a probation or treatment order. There are many types of restorative justice practices implemented worldwide.

31 Article 54 of the Model Law on Juvenile Justice, 2013.
sentences typically include practices such as victim-offender mediation, family/group conferencing and sentencing circles. A restorative justice process can be described as “any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator”. Central to this approach is a focus on dialogue and steps towards restoration of the harms caused. To achieve this, restorative justice welcomes the involvement of all the parties interested in the offence committed by a child, including the community, with the expectation to have a positive impact on the child’s rehabilitation and reintegration, and to reduce/eliminate the risk of victimization, stigmatization and recidivism. The rights of the child in conflict with the law should always be protected without neglecting the needs of the victim, who may often be a child as well. Restorative justice illustrates very well that when all parties concerned feel as if they are treated fairly and with trust, they experience genuine relief at being heard and grateful for having had opportunity to express themselves in a safe environment. Both the Committee of the Rights on the Child and the Council of Europe promote restorative justice approaches in cases of children in conflict with the law.

4.7 Monitoring and review of non-custodial sentences

Children in conflict with the law must receive whatever assistance they need to support their successful completion of a non-custodial measure(s) with the goal of fully promoting their rehabilitation and reintegration into society. The Committee of the Rights on the Child encourages the establishment of a probation service, or similar agency, with well-trained staff to ensure the maximum and effective use of non-custodial measures. The paramount consideration for any non-custodial measure should be the needs of the child. Therefore, it is also necessary to review the non-custodial measure on a regular basis and adjust it accordingly if it no longer meets the needs of the child. The review is undertaken by the court. If the child has shown a particularly strong effort to comply with the non-custodial measure and/or has responded favourably, the court may consider early termination of the measure.

35 European Rule 12, 2008; Paragraph 74 of General Comment No.24, 2019.
36 Paragraph 19 of General Comment No.24, 2019.
4.8. Criminal records of children in conflict with the law

In line with the right to privacy of children in conflict with the law and the child justice purpose of full rehabilitation and reintegration, children's criminal records should be kept strictly confidential and closed to third parties. All girls/boys in conflict with the law should have the chance to begin their adult life with a clean criminal record. Third parties, such as future employers or other authorities the child will eventually have to deal with, must not be allowed to know about the existence of criminal records. Moreover, records of children in conflict with the law should not be used in any subsequent adult proceedings involving the same offender.37 Where a person commits a criminal offence after reaching 18, neither the police, the prosecutor nor the competent court may refer to, or make any use of, recorded criminal offences that were committed by the accused when a child.

5. References on alternatives to detention

International legal instruments:
- Committee on the Rights of the Child’s General Comment No.8 on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, 2006.
- European Rules for Juvenile Offenders Subject to Sanctions or Measures, 2008.

Other references:
- UNODC, Model Law on Justice in Matters Involving Children in Conflict with the Law, Vienna, 2013.
