

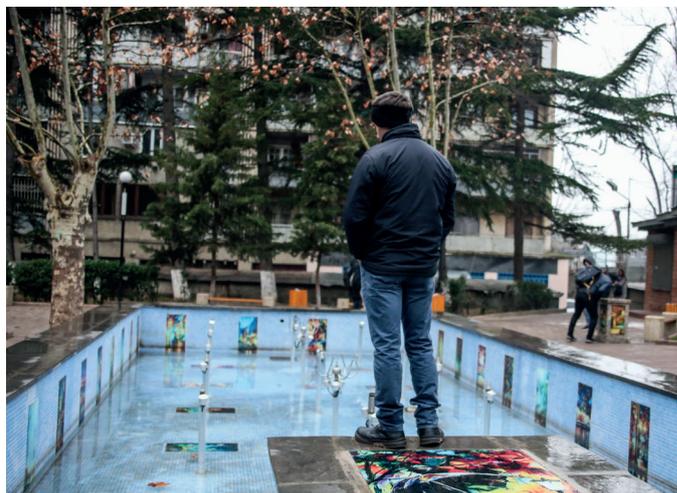
15 years of Juvenile Justice Reforms in Europe and Central Asia. Key results achieved for children and remaining challenges

After some 15 years of work in reforming juvenile justice systems in the Europe and Central Asia region, there has been a significant decline in the rate and overall number of children in detention. While challenges persist across many countries, the combination of high-level commitments by governments and development partners, policy advocacy and technical support to governments have helped advance the rights of children in conflict with the law, who are among the most vulnerable.

Support to Juvenile Justice Reforms in Europe and Central Asia by UNICEF, EU and others.

Since 2000, UNICEF has supported governments and civil society organizations in Europe and Central Asia establish specialized juvenile justice systems that enable children in conflict with the law to benefit from policies and approaches that use detention as a last resort and exceptional measure. In 11 countries and territories in Europe and Central Asia, the total number of children in detention (pre-and post-trial) decreased by almost 60 percent between 2006 and 2012. This work – a direct contribution to improved rule of law and human rights– is often carried out in partnership with the European Union (EU). It mainly involves:

- Bringing national laws and policies in conformity with international and European standards (including EU laws and policies as part of the *EU Acquis Communautaire*), with a focus on the use of deprivation of liberty as a last resort only.
- Piloting and scaling up alternatives to judicial proceedings (so-called diversion) and alternatives to detention.
- Strengthening the capacity of various institutions and professionals working with children in conflict with the law, including social workers, police, judges and prosecutors.
- Improving independent monitoring of child rights violations by strengthening the capacity of National Human Rights Institutions.
- Increasing awareness and demand for legal aid services and strengthening governments' capacities to provide free legal aid for children and families.
- Reinforcing data collection and management at country level to ensure evidence-based policy making.
- Raising awareness of policy and decision-makers, as well as the public, on the benefits of alternatives to detention that respect child rights, are more conducive to public safety and less expensive than detention.



Irakli (identity protected), a 17 year-old from Georgia, came into conflict with the law after throwing a stone and breaking the window of a bus. At the time of the incident, Irakli was 16 years old, he spent a lot of time in the streets and was experiencing psychological violence at home.

Rather than criminal prosecution, Irakli was enrolled into a six-month diversion and mediation programme which included rehabilitation, working closely with a social worker and a mediation process.

"This was a chance for me to change my life in a better way," he said.

Irakli is in his final grade at school and wants to take a culinary course. The Diversion Programme has ended, but he still maintains contact with his social worker.

Georgia's diversion and mediation programme has been implemented throughout the country with the support of UNICEF and the European Union since 2010.

Key government commitments on access to justice

Convention on the Rights of the Child

- Article 3: In all actions concerning children undertaken by courts of law, the best interests of the child shall be a primary consideration.
- Article 12: Children have the right to be heard in judicial and administrative proceedings affecting them.
- Article 37: No child shall be deprived of liberty unlawfully or arbitrarily. Children deprived of liberty have the right to legal assistance and to challenge their detention.
- Article 40: Every child accused of or convicted breaking the law has the right to be treated in a manner that safeguards their sense of dignity and worth.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Commonly referred to as The Beijing Rules)

- 18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.
- 19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

Results for children

Most children in conflict with the law in Europe and Central Asia have committed petty crimes or minor offences such as vagrancy, truancy, begging or alcohol use. Too often, prejudice related to race, ethnicity or social and economic status may bring a child into conflict with the law even when no crime has been committed, or result in harsh treatment by law enforcement officials. This is why reforms focused on promoting alternatives such as diversion (directing children away from judicial proceedings and towards community solutions), restorative justice (promoting reconciliation, restitution and responsibility through the involvement of the child, family members, victims and communities), and alternatives to custodial sentencing (counselling, probation and community service).

In 2012, UNICEF and the EU commissioned an independent multi-country evaluation¹ to assess the extent to which juvenile justice system reforms in 11 countries and territories in Europe and Central Asia² during the period of 2006 to 2012 have better protected the rights of children.. The evaluation together with other independent evaluations³ illustrated reform achievements, challenges and lessons learned. The major conclusions from these evaluations are:

- The number of children in detention (pre- and post-trial) has fallen by **almost 60 percent** between 2006 – when most of the juvenile justice reforms started in the region – and 2012.

- The number of children diverted from judicial proceedings (diversion is one of UNICEF’s main focus in the reforms) has almost **doubled** during the same period, meaning that these children received support outside of the justice system.
- There have been **uneven reductions in the average length of pre-sentence detention**. In four out of 10 countries for which data is available, there was a decline in the length of pre-sentence detention of children from 2006 to 2012 (Moldova, Armenia, Kyrgyzstan and Montenegro). In the remaining countries/territories, the length of pre-trial detention remained the same or increased.

Proven strategies

- National **legislative and regulatory frameworks and practices** were brought in line with international and European standards. For example, more than 90 percent of practitioners surveyed for the evaluation⁴ believed that legislation and policy in their country had improved during the period.
- **Alternatives to detention and services to support reintegration** of children in conflict with the law have been expanded. The range of options available does not yet cater for all needs, however, and is often limited to urban areas.
- **Capacity-building on child rights** has been institutionalized for judges, prosecutors, social workers and police officers which is a key prerequisite in building a child-friendly justice system and a gateway to equitable access to justice for children.
- **Probation services** have been established where they did not exist and some countries are showing promising practices (for example Albania, Kosovo (UNSCR 1244), Moldova)
- **Quality of services of children in conflict with the law** has improved across the region, according to more than 70 percent of practitioners who were surveyed for the evaluation.
- **Social services, health, education and civil society partners are increasingly involved** at key stages of the juvenile justice process and approaches are more and more inter-sectoral and coordinated.
- **Monitoring by National Human Rights Institutions** has increased. For example, in Azerbaijan, the EU and UNICEF supported the Ombudsman’s National Preventive Group to strengthen monitoring capacity for child rights protection and prevention of violations in closed facilities, including detention places
- **Understanding and recognition of reintegration** as the appropriate approach to deal with young offenders has increased among juvenile justice professionals due to concerted efforts in many countries to build capacities on child rights and child-friendly justice mechanisms.

Reforms in practice – Georgia

The reform of the juvenile justice system, under the umbrella of the wider criminal justice sector reform, demonstrates the commitment of the Government of Georgia to bring the juvenile justice system in line with international standards including European child rights principles. As a result, the country has a functioning diversion programme for first-time juvenile offenders that has been in operation since 2010.

Over 200 young people have been diverted from criminal proceedings. The number of the convicted children serving a jail sentence has reduced by over 50 percent from 180 to approximately 70. Individual sentence planning approach has been introduced in both probation and the penitentiary systems, along with the services of social workers and psychologists.

- **Government ownership and commitment** has increased in many countries, to drive forward the juvenile justice reform process, to promote the outcomes achieved and interest to expand reforms to all children in contact with the law.

Other activities that positively contributed to advancing juvenile justice reform in the region include:⁵

- A good situation analysis helped to identify valuable allies among juvenile justice professionals and political decision-makers and created a momentum for reform, for example in Romania, Serbia, and Tajikistan.
- Support to the overall law reforms and adoption of a comprehensive law on juvenile justice created a framework for institutional and policy reform, for example in Serbia.
- Advocacy and support for the creation of intersectoral coordination bodies played a central role in juvenile justice reforms.
- Creation of community based alternatives to detention through coordination between relevant sectors including the police, prosecutors, courts social services and NGOs.
- Strengthening the role of the Ombudsperson Institution, as demonstrated in Montenegro, helped to promote juvenile justice reforms.
- Reform of the policies and practices within correctional facilities for juvenile offenders helped to improve the lives of children in detention but also contributed to the overall juvenile justice reforms, for example in Serbia.

The contribution of UNICEF and the EU

The EU has recognized that well-functioning and responsive legal institutions help to promote development outcomes, encourage governments to uphold human rights and empower people to claim them. Prospects for EU accession or closer association have also played an important role in advancing juvenile justice reforms and promoting access to justice for children.

According to the evaluation, UNICEF has been a key stakeholder for supporting governments on juvenile justice reform through know-how and technical assistance. Collaboration between the EU and UNICEF in this area has helped governments in the region tackle complex reforms through both funding support as well as joint policy advocacy. This was reflected in EU Annual Reports for Accession and Neighbourhood countries and in sector budget support conditionalities linked to justice reforms for children. A reduction in the rate and length of juvenile detention, for example, was closely related to changes in social norms and access to services such as the existence of trained juvenile justice practitioners, particularly judges, prosecutors and police. The development of diversion appeared to be particularly dependent upon the establishment of initial pilot diversion programmes and the existence of informed and trained juvenile justice practitioners, particularly social workers, police and prosecutors.



Irakli speaks to the social worker he was assigned through the Diversion and Mediation Programme in Georgia.

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Remaining Challenges

Much remains to be done to sustain these achievements and to further improve juvenile justice systems, including:

- Further reduce the average length of pre-trial detention based on the experience of countries like Moldova, Montenegro and Kyrgyzstan, which achieved significant declines. This will require cross-country collaboration, learning, and exchange.
- Invest in prevention services, diversion and alternative (non-custodial) sentences by assisting governments to expand and strengthen diversion and non-custodial options, as well as articulate and further advance a larger prevention and access to justice agenda.
- Address challenges linked to the provision of adequate treatment for girls, including adequate conditions for girl detainees. At the heart of this effort is a gender equity agenda, ensuring that girls are not left behind in the reforms.
- Reinforce national capacity on administrative data collection, disaggregation and sharing, and fill the knowledge gaps on design, monitoring and evaluation of reforms and related interventions.

Building on the successes to date, and the confidence secured with governments, it is important to maintain momentum of reform in the field of children's access to justice. The following are essential building blocks:

- Shift the focus towards children who are coming into contact with the law as victims or witnesses of crimes, building on successful work to date and good practice.
- Empower children as actors for juvenile justice reform, and in defense of their own rights regarding the justice system.

- Expand the current efforts on juvenile justice reform to children's access to justice to ensure protection of children's rights in criminal, civil and administrative proceedings.
- Promote the role of national human rights institutions and equality bodies to address violations of children's rights to education, health, social assistance services via formal justice procedures.
- Strengthen the role and capacity of civil society organisations in the administration of juvenile justice and realisation of access to justice to empower vulnerable groups.
- Increase access to information on children's rights and address other obstacles including social norms which exacerbate the vulnerability of children and deny them access to equitable justice.

End Notes

- 1 Multi-country Independent Evaluation: Impact of juvenile justice reforms on children in conflict with the law, www.unicef.org/evaldatabase/index_90389.html, 2015
- 2 Albania, Armenia, Azerbaijan, Georgia, Kazakhstan, Kosovo (UNSCR 1244), Kyrgyzstan, Moldova, Montenegro, Tajikistan and Ukraine.
- 3 Thematic evaluation of Unicef's contribution to juvenile justice system reform - Montenegro, Romania, Serbia and Tajikistan 2007
- 4 Multi-country Independent Evaluation: Impact of juvenile justice reforms on children in conflict with the law, www.unicef.org/evaldatabase/index_90389.html, 2015
- 5 Thematic evaluation of Unicef's contribution to juvenile justice system reform - Montenegro, Romania, Serbia and Tajikistan 2007