GOOD PRACTICES AND PROMISING INITIATIVES IN JUVENILE JUSTICE IN THE CEE/CIS REGION

A UNICEF catalogue of practices documented through the Juvenile Justice Critical Mass initiative
Front cover photo: UNICEF/Geo-2010/Amruvelashvili: Female probationers having a sensitizing session on victims as part of the restorative gesture programme launched in the Tbilisi Probation Office. A two-year partnership project called ‘Reform Options for the Penitentiary and Probation Systems for Convicted Child Offenders in Georgia’ is implemented by the Ministry of Corrections and Legal Assistance and UNICEF with the financial support of the European Union. The aim is to establish a juvenile justice system that is focused on rehabilitation and reintegration of children in conflict with the law into society.
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<th>Description</th>
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<tbody>
<tr>
<td>AFCR</td>
<td>Albanian Foundation for Conflict Resolution and Reconciliation of Disputes</td>
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<td>BMP</td>
<td>behaviour management programme</td>
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<tr>
<td>CEE/CIS</td>
<td>Central and Eastern Europe and the Commonwealth of Independent States</td>
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<td>CEELI</td>
<td>Europe and Eurasia Program of the American Bar Association</td>
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<td>CSO</td>
<td>community service order</td>
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<td>CSW</td>
<td>centre for social work</td>
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<tr>
<td>EC</td>
<td>European Commission</td>
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<td>ECLO</td>
<td>European Commission Liaison Office</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>IPA</td>
<td>Instrument for Pre-Accession Assistance</td>
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<td>IPR</td>
<td>Institute for Penal Reform (Moldova)</td>
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<tr>
<td>JCIK</td>
<td>Juvenile Correctional Institution in Kruševac (Serbia)</td>
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<td>JJ CM</td>
<td>Juvenile Justice Critical Mass</td>
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<td>JJAP</td>
<td>Juvenile Justice Alternative Project (Tajikistan)</td>
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<td>JJCK</td>
<td>Juvenile Justice Code of Kosovo</td>
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<td>LAS</td>
<td>Legal Aid Service (Georgia)</td>
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<td>LCM</td>
<td>Legal Clinic for Minors (Albania)</td>
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<tr>
<td>NGO</td>
<td>non-governmental organization</td>
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<tr>
<td>OPD</td>
<td>Office of Public Defense</td>
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<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
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<tr>
<td>PART</td>
<td>professional assault response training</td>
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<tr>
<td>PSK</td>
<td>Probation Service of Kosovo</td>
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<tr>
<td>SIDA</td>
<td>Swedish International Development Cooperation Agency</td>
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<tr>
<td>TFYR Macedonia</td>
<td>The Former Yugoslav Republic of Macedonia</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNMIK</td>
<td>United Nations Interim Administration Mission in Kosovo</td>
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<tr>
<td>VOM</td>
<td>victim-offender mediation</td>
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Background

In Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS), juvenile offending became a serious problem during the first years of transition to the market economy. Although it has generally decreased since, responses to juvenile justice remain an area of concern. Reports submitted to the UN Committee on the Rights of the Child and other human rights monitoring mechanisms have revealed very alarming conditions and rates of deprivation of liberty in some countries of the region, and it was recommended that all of the CEE/CIS countries bring their juvenile justice systems into line with international standards.

Key findings and conclusions from Lost in the Justice System – Children in conflict with the law in Eastern Europe and Central Asia (UNICEF 2008)

Data provided by National Statistical Offices from 20 countries in Central and Eastern Europe and the Commonwealth of Independent States (CEE/CIS), through the MONEE project, revealed the following:

- There is a grave lack of data on juvenile justice. Poor data collection systems, along with a lack of transparency and data sharing, mean that there is much we simply do not know.
- The minimum age of criminal responsibility (MACR) is generally set suitably high (at 14–16 years), but this is no guarantee that children aged below or above it will be treated appropriately and according to international standards within the justice system.
- The extent to which Local Commissions for Minors are truly diversionary is questionable. It has been argued that local commissions serve a useful diversionary role as they direct children away from judicial proceedings, who therefore avoid unnecessary and potentially counterproductive stigmatization associated with the judicial process. However, the composition and mandates of some of these commissions, especially their powers to authorize a custodial response, are not in line with international standards. It should also be noted that the potential of commissions to be ‘diversionary’ only applies to children who are old enough to be prosecuted. Many children brought before commissions are under the age of criminal responsibility.
- The period between arrest and conviction is a ‘twilight zone’, due to the lack of clear information about children arrested and held in police custody or pre-trial detention.
- ‘Deprivation of liberty’ is still the norm. Reports from all countries in the region clearly show that sentencing children to deprivation of liberty is a common response to juvenile offending, often in the name of ‘rehabilitation’ or ‘education’ rather than purely as a ‘punitive’ measure. Although the ‘educational’ approach sounds progressive on the surface, there is cause for misgiving as many of these institutions do not have the resources to truly rehabilitate children. While it is encouraging to observe a decline in the number of children deprived of their liberty, the numbers are likely to be an underestimate due to the lack of comprehensive data on children in ‘educational’ institutions and in pre-trial detention.
- The use of alternative community-based sentences is being increasingly reported, and there are some examples of countries where legislative change has led to changes in the responses. However, a lack of comparable data across the region hampers ability to monitor progress.
• The placement of children in ‘protective custody’ is a sign of a failing system of care. Children may be taken into custody and placed in institutional care for their own ‘protection’. This phenomenon is evidence of law enforcement and the wider justice system ‘stepping into the vacuum’ created by the lack of effective social services for children and their families. The functions and mandates of the institutions where children are placed are rarely articulated, and they tend to be poorly regulated with no inspections or quality assurance.

• While awareness is growing for the need for prevention and rehabilitation, action is limited. Some efforts are being made in primary prevention (creating safer environments), but little has been achieved on a tertiary level (reintegrating offenders). It is of great concern that some countries are showing an increasing reliance upon the institutionalization of children as a means of prevention. Data on recidivism are currently lacking.

• The common approach of giving children the same type of adult sentences, but shorter – often deemed to be showing ‘leniency’ – is not necessarily in the best interest of the child, nor is it in the best interest of the victim or the community as a whole. In fact, it is argued that this ‘lenient’ approach represents a fundamental misunderstanding of the international standards for juvenile justice. There is particular concern for children who are too young to be prosecuted, as the report has revealed an obvious lack of regulation of specific measures that can be imposed on this category of children, and an absence of preventative and rehabilitative services. Overall, the study reaffirms the need to challenge mindsets and attitudes towards children and their rights, and to tailor justice responses to their individual needs and circumstances.

• The window of opportunity for reform is open. The report has found more indications of progress than of regression, which, coupled with visible examples of good practice, suggests that potential for improvement is currently great. Many countries in the region are experiencing a decline in juvenile offending and economic growth – although the impact of the current economic crisis is to be seen. At the same time, child populations are shrinking, thereby strengthening the argument for investing in ‘human capital’. Sweeping political changes have resulted in increasing receptivity of governments to reform in all areas concerning human rights, further supported by the existence of an increasingly vibrant civil society.

In countries of CEE/CIS, UNICEF now responds to an important number of demands made by governments for access to normative guidance and high quality policy expertise for supporting juvenile justice system reforms tailored to country-specific needs.

The UNICEF Regional Office for CEE/CIS has developed a concept of Critical Mass (CM), whereby a group of countries that has developed experience and/or momentum in a particular field is encouraged to work with a common set of objectives and priorities; strengthen its approaches; actively document and share its experience and lessons learned, drawing upon expertise as well as networks; and use evaluation as a tool for course correction, for the benefit of all countries in the region. Through a consultative process started in 2008, the following set of priorities was identified to respond to programming gaps or needs in juvenile justice reform in the CEE/CIS region:

• Children in conflict with the law who are under minimum age for prosecution as a juvenile

• Diversion

• Alternatives to custodial sentences

• Budgeting for juvenile justice reform
• Reinforcing the use of existing monitoring and accountability mechanisms
• Building wider support for juvenile justice reform.

During 2009, UNICEF supported the sharing of knowledge and experience between countries via a series of regional events on specific aspects of juvenile justice reform (diversion and alternatives, the role of specialist child police units, and legislative reform) as well as the collection of good or promising practices in these areas for the purpose of inclusion in the present catalogue.

This exercise illustrates the marked emergence of diversion and alternatives to custodial measures, benefiting child offenders both above and below the minimum age for prosecution as a juvenile who would otherwise have been sent to closed educational, correctional or penal institutions by administrative or judicial bodies (see in box above the conclusions on administrative detention in Lost in the Justice System, UNICEF 2008). There are a growing number of such good initiatives, even though few are fully documented and analysed against established baselines in CEE/CIS so far. This evaluation and documentation task needs to be further supported. It should aim at better informing players in the justice sector on both what exists and on what works, as an alternative to imprisonment. Special attention should be given to evaluation criteria. For instance, should low rates of re-offending be seen as a central indicator of success, and if so how should they be measured (e.g. based on official rates, on self-reported offences, over which period of time)? Another concern is the risk of net-widening that new juvenile justice services may generate, thus attracting more children into the system than might otherwise have been the case. It is essential that a paramount assessment framework based on the respect and the promotion of children’s rights be developed, beyond the traditional programme evaluation criteria used for this preliminary exercise.

The selection process was also useful in demonstrating that linkages with budgeting, monitoring and accountability systems and processes are still very weak and that there is no experience so far in building wider support for juvenile justice reform beyond circles of specialists. Indeed juvenile justice reform should be part of a broader movement including not only professionals and decision-makers from a variety of sectors (justice, education, health, psychology, etc.), but also civil society and the media, to improve all justice policies and practices involving children. This area remains to be developed in CEE/CIS and it is hoped that future compilations of good practices will contain new initiatives in this field.

Finally, beyond our thematic priorities, legislative reform and improved access to legal aid emerged as crucial cross-cutting aspects of juvenile justice reform which we realised we should continue to document. They constitute foundations to the system in all countries, but the way they are approached can differ greatly from one country to another – for example, from universalist to targeted strategies, from mainstreamed to segregated laws and services. Many lessons remain to be learnt.
Methodology

Examples labelled as ‘promising initiatives’ are recognized as such by practitioners and experts but have not been formally evaluated, while ‘good practices’ have effectively been recognized as such following a formal evaluation. Promising initiatives and good practices are not necessarily supported by UNICEF, but contribute to the reform of the juvenile justice system supported by UNICEF.

Promising initiatives and good practices were identified through:

- UNICEF country offices and partners, including non-governmental organizations (NGOs)
- An independent evaluation of UNICEF’s contribution to juvenile justice reform in four countries in 2007
- Country analytical reports submitted by national statistical offices as background to the regional report *Lost in the Justice System*
- In-depth UNICEF-led assessments of juvenile justice systems in nine countries from 2008 to 2009
- Country-led conferences on good practice in specific areas of juvenile justice reform.

The following global UNICEF criteria were examined in order to document the initiatives and practices and to justify their inclusion:

- **Impact/effectiveness**: The project/programme, upon completion, meets or exceeds the stated outcomes or expectations; and the experience is successful in achieving a sustainable change favouring children’s rights and/or represents an advance in our knowledge on programming.
- **Relevance**: The project/programme responds to the needs of the target population, the partner country’s national development priorities and/or UNICEF’s organizational and/or regional programming priorities.
- **Sustainability**: The project/programme results in lasting changes in favour of children’s rights, including sustainable changes in legislation, public policies, institutional frameworks, national and local capacities, decision-making processes, and attitudes and behaviours of families, communities and service providers, among others.
- **Expanded partnerships and alliances**: The project/programme is successful in creating, strengthening or facilitating partnerships in favour of children’s rights.
- **Leadership, participation and community empowerment**: The project/programme leads to the empowerment of families and communities and/or the increased participation or involvement of families, communities, children and adolescents.

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• **Social, political and financial mobilization:** The project/programme is successful in mobilizing social or political actors in favour of children’s rights; and it attracts resources from other actors and/or leverages resources in favour of children’s rights.

• **Cost-efficiency/financial sustainability:** The project/programme is cost-efficient in terms of financial resources, staff time and other resources. The project/programme is financially sustainable.

‘External interest and replicability’ is another basic criterion that was applied across the board. It is foreseen by UNICEF that other countries will be interested in the documented experiences of the project/programme. To our best knowledge, the project/programme can be replicated in another country. While only one practice was actually replicated (i.e., the Juvenile Justice Project of the Republic of Tajikistan, replicated in the Republic of Azerbaijan), several similar practices resulted from shared models and influences (e.g. free legal aid).
Good practices in other regions

Other regions in the world have a longer history of juvenile justice practice and experience. Good practices are periodically documented at the global level by international agencies and NGOs, as well as by academics. For further information, see for instance:

- The EU supported research project of the University of Greifswald on good practices across Europe: http://www.rsf.uni-greifswald.de/duenkel/english/research/supported-by-the-eu/juvenile-justice-systems.html and related publication *Juvenile Justice Systems in Europe* (Vol. 1-4, March 2010, approx. 2000 pages)

The present catalogue is a very modest and preliminary contribution to documenting good practices and promising initiatives in juvenile justice in the CEE/CIS region. Information was collected from only a limited number of countries where reform has been particularly dynamic – despite having only recently begun in some cases. Other positive initiatives undertaken in the rest of the region will continue to be supported and documented by UNICEF in the future.
FOCUS AREA 1: CHILDREN IN CONFLICT WITH THE LAW UNDER THE MINIMUM AGE FOR PROSECUTION AS A JUVENILE

Determination of the most appropriate age below which a child may not be prosecuted – even before a special juvenile court – is one of the most controversial and high profile issues debated in the context of juvenile justice policy. The minimum age stipulated varies from 6 to 16 worldwide, and the criteria upon which the minimum age is decided are equally diverse and disputable.

Unfortunately, the debate over minimum age has invariably overshadowed a far more significant policy issue, namely the appropriate responses envisaged for a child aged 8, 10, 12, 14 or 16 who is alleged or shown to have committed an offence or crime, regardless of the minimum age set for prosecution as a juvenile offender in the country in question. Certain countries have a very low minimum age but in practice adopt a non-punitive approach. Some other countries with a relatively high minimum age – as is the case for most CEE/CIS countries – make quite frequent use of ‘protective custody’ and other detention measures for underage offenders imposed by non-judicial bodies.

The major negative consequences for a child offender below the minimum age for prosecution as a juvenile can include lack of systematic response; no access to due process or an equivalent guarantee; and removal from parental care and transfer to a residential facility for a potentially lengthy period of time on the basis of a purely administrative decision (this may constitute arbitrary detention and may not be subject to regular review).

The promising initiatives presented here intend to prevent such negative consequences arising and propose tailored and constructive responses to underage offending.

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5 See UNICEF Guidance Note for CEE/CIS: Responses to children who have infringed the law but are under the minimum age for prosecution as a juvenile offender, available at http://www.ceecis.org/ juvenilejustice (in the Tools section).
## Category: Promising juvenile justice initiative

### Focus area 1: Children in conflict with the law under the minimum age for prosecution as a juvenile

### Country: Azerbaijan

### Title: SPECIAL SUPPORT INSTEAD OF SPECIAL SCHOOLS

### Description: Pilot social rehabilitation for children in conflict with the law and their families

### Contact information: Munir Mammadov, Child Protection Officer, UNICEF Azerbaijan, mmammadov@unicef.org

### Summary:
In 2007, UNICEF and its partners began to assist the Government of the Republic of Azerbaijan (mainly the Ministries of the Interior, Justice, and Labor and Social Protection) in the establishment of a pilot diversion scheme and the creation of a social rehabilitation centre for juveniles in conflict with the law. This initiative took place in one of the 11 districts of Baku, as part of a wider partnership between the Government and UNICEF on juvenile justice reform. The decision was taken in 2008 to extend the diversion scheme to two other districts. Although its main focus is on children who have committed an offence, the social rehabilitation centre has also admitted during its first nine months of operation children at risk or displaying ‘antisocial behaviour’ – including children under the minimum age for prosecution as a juvenile. The initiative thus addresses the lack of early prevention and rehabilitation services for this specific group of children and avoids such children having to be placed in closed special schools.

The lack of sufficient resources and the redefinition of the project’s aims and scope (prevention, diversion or alternative sentencing) represent a challenge for the future. The possibility of the Government taking over the core financing of the project is currently under negotiation.

### Good practice:
The programme has five staff, including a psychologist, a teacher, a social worker and a sports trainer. Activities offered include counselling (group, individual and family), social work with families, art therapy, IT training, English language lessons, sports and recreational outings. Most children participate in the programme for three to six months. Attendance is dependent upon children’s individual plans; some children attend two or three times a week, others five days a week. Representatives of the police, judiciary, Prosecutor’s Office and Commission of Minors sit on the council that supervises the implementation of the programme.

The age of participants ranges from 10 to 18 years. Most participants are referred to the programme by the Commission of Minors at the suggestion of the police, and some had been convicted and placed in the programme as an alternative sentence. Every participant, as well as his or her parent or legal guardian, must consent to referral to the programme. An initial meeting with a social worker takes place in the child’s home to explain to the child and his or her carer the mission of the centre. The child is then invited to the centre to meet the staff and to be interviewed by psychologists. This also allows the child to observe the work conducted by the centre with other children. The decision of the child to participate or not is taken into account and given careful consideration. Street children are not included since working with children together with their families is an essential part of the programme. Substance abusers are not accepted into the programme either, as a clinic providing medical care in a residential setting exists elsewhere for such children.
From 2007 to 2009, the centre received referrals for around 80 children. Of these, 63 were effectively involved in the programme; the remainder did not meet the required criteria. About one third had committed minor crimes or administrative offences, while the rest were referred for conflict within the family, fighting with peers/teachers at school, or truancy/dropping out of school. Eight children were aged between 10 and 13, a further 40 children were 14 to 16 years old and the final 15 children were 17 to 18 years old.

The project was conceived of as a pilot component of the new array of diversion and alternative sentencing options for juveniles in conflict with the law, but it also constitutes a much-needed specialist secondary/tertiary prevention service for children in conflict with the law who are under the minimum age for prosecution and need to receive attention and care.

**Strategy of implementation:** In Azerbaijan a major concern of the juvenile justice system is the absence of juvenile delinquency prevention and alternatives to custody. This has resulted in imprisonment and placement in closed educational institutions being the most common recourse, even for those who commit minor offences. Courts, local child protection agencies, the Commission on Minors and police child inspectors are thus prevented from diverting children from formal proceedings, and also from developing trust in the positive short- and long-term impact of diversion and alternatives in reducing reoffending rates among children.

In particular, underage offenders (children under the age of 14 who commit any offence, and those aged 14 or 15 who commit minor offences) can have administrative ‘disciplinary measures’ imposed upon them. Some of these measures, such as warnings, reparations to the victim or placement under parental supervision, are non-custodial and one constitutes placement in an open ‘special school’ with parental consent. Another legal provision empowers the Commission on Minors to request that the court place underage offenders who have been involved in a serious crime in a closed vocational school. These provisions are, in principle, compatible with international standards concerning juvenile justice, since they are designed to instil a respect for the law and prevent the commission of new offences.

In practice, however, the proceedings of the Commission on Minors diverge from acceptable standards in several respects and may have counterproductive effects. The various district Commissions are not independent bodies, nor are they impartial. Their composition is variable, and there is no requirement for a quorum on decisions affecting individual children. The most active members include the local government and police representatives. In cases in which children have committed an offence or displayed antisocial behaviour, the police cannot be seen as impartial. In addition, proceedings before a Commission are open to the public, unless the Commission decides otherwise. The participation of a lawyer is not required and the child does not have the right to legal assistance. The child and his or her parent/legal guardian have the right to ‘participate’ in the proceedings and to make representations to the Commission, but there is no right to present witnesses or evidence, or to challenge evidence presented by the authorities. Nor does the law require that the decisions of the Commission comply with the best interests’ principle, or with the principle that deprivation of liberty should be the last resort. Appeals are rarely, if ever, made. While the role and functioning of the Commissions on Minors must still be addressed as part of juvenile justice system reform, providing the Commissions – as well as the judiciary – with community-based alternatives is a first step towards preventing the imposition of inadequate measures to underage offenders through undue process.
The establishment of the centre and diversion scheme was the result of intensive advocacy with representatives of Commissions on Minors and police child inspectors and an awareness raising campaign conducted since early 2006. The centre was founded upon an agreement between UNICEF, the Ministry of the Interior, the Organization for Security and Co-operation in Europe (OSCE) and the NGO Alliance for Children’s Rights. On the Ministry of the Interior’s recommendation, the project was established in the Narimanov district of Baku, where the Commission on Minors had admitted that children referred to them were not receiving proper treatment and support due to lack of services and resources.

In order to develop the legal and administrative grounds for referral by members of the police, judiciary, Prosecutor’s Office and Commissions on Minors, the project team organized training for representatives of the various agencies. As a result, the Coordination Council was established to oversee and guide the project and to allow the project to be put under the guidance of the relevant ministry. A public information campaign was organized at the local level to identify the concerns of parents, schools, police and commissions and to make the diversion and rehabilitation centre fit the needs of children and their families. After intensive work with the Ministry of Education and schools – including visits made by UNICEF to schools in conjunction with representatives of commissions and police child inspectors – schools in the district cooperate fully in the identification of children for referral as well as in the inclusion in education of children participating in the diversion scheme.

**Potential application:** The project is based upon a similar project implemented in Tajikistan with the support of the Children’s Legal Centre (Essex University, UK). Both British partners and Tajik experts visited Azerbaijan to share their knowledge and experience. The project promotes child rights at the local level but also serves as a platform for local law enforcement, judicial and local authority bodies to work together on individual cases. Following the positive impact of the first centre, it is hoped that a second centre will be opened in another part of Baku (depending upon the outcome of a financing decision to be made by the Government of Azerbaijan).

**Progress and results:** The initial results of the pilot project – especially the reaction of the authorities involved in the Coordination Council – are promising. The police reported that had the programme not existed, the children who had been referred there would have found themselves instead in a residential facility. The police also indicated that more children would be referred to the programme were it to have a larger capacity – which shows a risk of net-widening. Some juveniles who have completed the programme have become peer educators. To date, according to the project’s data, only one juvenile has reoffended. Parents and schools can now present children's cases directly to the centre through the Commission on Minors, without the police necessarily being involved. The Steering Committee, which includes the programme’s staff, makes admissions decisions and periodically reviews the cases of admitted children. In August 2008, two cases of juveniles were referred by the court of Narimanov, confirming the interest of the Ministry of Justice in the programme and making it a truly intersectoral initiative. This was considered a great success as it was the first referral made by court.
The project was considered successful by the preliminary evaluation of the Coordination Council. The June 2008 decision to expand the scheme to two additional districts of Baku followed this positive evaluation. The police departments and Commissions on Minors of these districts have already referred 13 children. A special survey is planned for the end of 2009, in which the Coordination Council, parents and children will evaluate the project’s achievements, failures and gaps. Due to the relatively low operational costs and full engagement of the central and local authorities in the process, the model has every chance of being replicated nationwide.

Furthermore, the programme plays a valuable role in improving the collection of statistical data on the justice system. Official numbers of juvenile offenders registered by the police are very low – most of the cases are registered only when they are serious, as minor offences tend to be dealt with by the police through bribes. The programme helps increase understanding of alternatives and provides solutions to the absence of available services at the local level to which children could be diverted. It takes some time to explain that an increase in the number of cases identified since the establishment of the programme is a positive trend, as more juveniles are supported at an early stage before committing a serious offence.

The biggest challenge to the continuation of the programme is its funding. The government has committed to take over the programme as of 2010. UNICEF is the main funding agency so far (50 per cent) but it has very limited resources. Other funding comes from OSCE (30 per cent) and the British Embassy (10 per cent). The Government has allocated personnel to work with the programme. The lack of resources prevented external evaluation in 2008 and this was conducted instead at the end of 2009.

In the future, gaps in regard to child protection standards should be addressed. Adequate measures of confidentiality, referral mechanism and voluntary participation should be reinforced and externally monitored. In addition, the wide spectrum of services provided by the centre (prevention, diversion and alternative sentencing) should be addressed, in order to measure the effectiveness of the approach, identify gaps in practice and laws, and recommend concrete steps for the inclusion of the programme in the regular state child protection system.

Impact/effectiveness: See section on progress, results and challenges.

Relevance: The programme is a direct response to gaps identified in the juvenile justice system reform and the 2006 Committee on the Rights of the Child Concluding Observations for Azerbaijan. The programme increases the understanding of alternatives and addresses the absence of diversion services at the local level.

Sustainability: The programme is being implemented under the auspices of the Ministry of the Interior (signed memorandum of understanding and annual work plans) and in cooperation with the Ministries of Justice and Education, as well as the local level state administration.
Expanded partnership and alliances: A close cooperation was built between UNICEF, the Government and, in particular, the Ministry of the Interior, OSCE and NGO Alliance for Children’s Rights, and also with the British Embassy, the national Parliament, Ministries of Education and Justice and local authorities. The Coordination Council, composed of representatives from all of these agencies, was established to supervise the implementation of the programme.

Leadership, participation and community empowerment: A special public information campaign was organized at the local level to involve parents, schools, police and Commissions on Minors and to adapt the diversion and rehabilitation centre to the needs of children and their families.

Social, political and financial mobilization: The political mobilization was strong and today the programme has become a model promoted by the Ministry of the Interior and the Ministry of Justice. Members of the national Parliament working on new legislation visited the centre.

Cost-efficiency/financial sustainability: Overall resources are still limited for a full-scale project. Negotiations with the Government over its financial contributions are ongoing.
**Category:** Promising practice

**Focus area 1:** Children in conflict with the law under minimum age for prosecution as a juvenile

**Country:** Turkey

**Title:** SPECIAL POLICE AND SERVICES FOR THE YOUNGEST

**Description:** Key changes in law, mandate and organization of police and child protection services foster targeted support, rather than repression, of underage offenders.

**Contact information:** Burge Akbulut, Child Protection Officer, UNICEF Turkey, bakbulut@unicef.org

**Summary:** The Criminal Code adopted by the Republic of Turkey in 2005 increased the minimum age of criminal responsibility from 11 to 12. In addition, it stipulated the requirement that the court evaluate, on the basis of a psychosocial inquiry, the capacity of accused offenders between the ages of 12 and 15 to appreciate the legal meaning and consequences of their actions and their ability to control their behaviour. This provided additional protection against the prosecution of juveniles judged too immature to be held criminally responsible. At the same time, the consolidation of the Children’s Police division since 1997 has resulted in qualitative improvements in the treatment of children in conflict with the law throughout the country. The Social Services and Child Protection Agency has established a number of small, open facilities for underage offenders and offenders given alternative sentences involving placement in residential care.

**Good practice:** New specialised police units: The staff of the Children’s Police includes social workers, psychologists and Internet technicians as well as police officers, and all receive intensive in-service training. In addition, a psychological questionnaire to evaluate candidates has been developed by the Istanbul office, and this was used to screen its entire staff by the end of 2009.

New residential but open facilities: In 2006, the Social Services and Child Protection Agency established a new kind of open facility for children involved in criminal activity. There are presently six such Protection, Care and Rehabilitation Centres, all for boys. Children placed in the centres include those without criminal responsibility, i.e., those under the age of 12 and those aged between 12 and 15 years old who have been found to lack criminal responsibility.

**Strategy of implementation:** In 1997, a special unit in the national police was given responsibility for child victims. In 2001, this unit was converted into a division known as the Children’s Police. Its mandate includes all persons under the age of 18 involved in offences, whether as perpetrators or as victims. The Children’s Police presently has 3,500 officers and staff throughout the country.

In the meantime, the law on juvenile courts was replaced by the Child Protection Law in 2005. This was designed “to regulate the procedures and principles with regard to protecting juveniles who are in need of protection or who are pushed to crime, and ensuring their rights and well-being.” A new Criminal Code, Code of Criminal Procedure and Law on the Execution of Sentences were adopted the same year. These laws established the foundation of the juvenile justice system now in the process of development One of the most important changes made by the new Criminal Code was to raise the minimum age for prosecution or ‘age of criminal liability’ to 12 years.

In addition, amendments made in 2007 to the laws surrounding the Social Services and Child Protection Agency established new institutions specifically for offenders – including underage offenders – and child victims. The aim was, in part, to prevent these groups from being placed in residential facilities with orphans and other children in need of care.
Potential application: This practice is applied nationwide. As such, it has a direct impact upon the overall juvenile justice and child protection systems.

Progress and results: According to an assessment supported by UNICEF in 2009, the consolidation of the Children’s Police division has resulted in qualitative improvements in the treatment of children in conflict with the law throughout the country.

As for the facilities for underage offenders, the assessment mission found that no juveniles had been placed in one facility during its first six months of operation because the courts were unaware of its existence. This is a striking example of the problem of inter-agency coordination. In order to overcome this problem, coordination councils were established at both the central and provincial level. The local coordination councils, which meet every two months, are headed by the deputy governor and involve the Children’s Police, the departments of health, education, probation and social services, plus universities, bar associations and NGOs.

The assessment team was impressed by the efforts to provide care in an open residential facility to children who have been involved in crime but have not been prosecuted. It was too soon to evaluate the impact of these facilities, but their use was considered an interesting practice that should be watched closely. The assessment team was, however, concerned by the lack of due process in proceedings that may lead to placement in such facilities.

Impact/effectiveness: The recent reforms in the juvenile justice system of Turkey have provided an alternative to deprivation of liberty and a more protective environment for children in conflict with the law. Children without criminal responsibility now have access to services and protection more in line with their best interests.

Relevance: The Children’s Police division and the facilities of the Social Services and Child Protection Agency are both effective tools to put in practice the Child Protection Law, the main principles of which include safeguarding the interests and well-being of the juvenile; supporting the juvenile in developing his or her personality, social responsibility and education as appropriate for his or her age and development; and using detention only as a last resort.

Sustainability: The Government of Turkey has been financing the Children’s Police division, child police officers and the facilities of the Social Services and Child Protection Agency. UNICEF has been providing technical support for staff capacity development through in-service training for child police officers. The Children’s Police division has already institutionalized the training within its training curricula and in 2009 began to expand the training using its own resources.

Expanded partnership and alliances: The European Union, UNICEF, the British Council.

Leadership, participation and community empowerment: The Children’s Police division has been receiving very positive feedback from children, communities and professionals working with children, and it is perceived as a specialist, child-friendly unit.

Cost-efficiency/financial sustainability: The Government has developed a judicial reform strategy and the budget allocated to the area of juvenile justice is expected to increase in order to implement this strategy.
FOCUS AREA 2: DIVERSION

Diversion is the channelling of children in conflict with the law away from judicial proceedings towards a different way of resolving the issue, enabling many such children to be dealt with by non-judicial bodies, thereby avoiding the potentially negative effects of formal judicial proceedings and a criminal record.

In the CEE/CIS region, police and justice professionals generally lack the combination of legal discretion, procedures and services that would allow them to divert children away from the formal criminal justice system. Some ‘spontaneous’ diversion may be taking place but this lacks the follow-up necessary to help the child avoid coming into conflict with the law again and the safeguards required to discourage corruption (i.e., bribing the parents of the child to let the child go away). In addition, both police and prosecutors tend to be commended more for their work on the basis of the quantity of cases processed (number of children arrested, charged and proven guilty) rather than on their preventive and supportive role. Hence introducing diversion not only requires new legal and procedural frameworks but also a shift in the roles and aims of the juvenile justice system.

As is demonstrated in the following examples, adequate legal aid and the practice of mediation are two emerging practices that contribute to an increasing number of children being successfully diverted from criminal proceedings.
Category: Good practice

Country: Albania

Focus area 2: Diversion

Title: INTRODUCING MEDIATION AS A FORMAL DIVERSION MEASURE

Description: Victim-offender mediation pilot project to introduce restorative justice in Albania

Contact information: Leon Shestani, Social Services Specialist, UNICEF Albania, lshestani@unicef.org

Summary: Juvenile justice reform in the Republic of Albania between 2006 and 2009 focused on the introduction of alternatives to detention for juveniles. The victim-offender mediation programme was first implemented in 2006 on a pilot basis in the Tirana district of Albania. The programme was extended to three other districts in 2007, and trained mediators now cover 80 per cent of the country’s territory and are active in 4 out of 12 districts. Mediators, lawyers and police officers work together via the programme to refer cases for mediation solutions. From January 2007 to June 2009, 760 cases were referred to mediation in the four districts of Tirana, Shkodra, Durres and Elbasan, which is equivalent to 28 per cent of all cases referred for mediation by the police nationally.

This fructuous process has informed decision makers of the need to establish mediation services in Albania. The issue became part of the national policy discussion and led to new legislation on probation and mediation services throughout the country.

Good practice: Despite the lack of legislation specifically authorizing diversion for juveniles, UNICEF partnered with the Albanian Foundation for Conflict Resolution and Reconciliation of Disputes (AFCR) and the Norwegian Mediation Service in 2006 to support a pilot project offering mediation for juvenile offenders in Tirana. The same project provided training activities for police officers, judges and prosecutors. An agreement was signed with the state police concerning the modalities of the project.

In cases of minor offences in which the offenders are between 14 and 21 years of age, specialist juvenile police units may decide to ask both parties if they will agree to mediation. If they do, the matter is referred to AFCR mediators and, if agreement is reached within 40 days, no further action is taken. When the offender is under the age of 18, the mediation outcome may include a financial settlement to be paid by the family of the offender.

The results of the pilot project in Tirana have helped to advance dialogue at policy level with the Ministry of Justice around the legal regulations for an Albanian mediation services institution. The draft law on probation adopted by the Albanian Council of Ministers in September 2008 foresees the creation of a mediation office under the probation service.
**Strategy of implementation:** This project was inspired by the absence of alternatives to detention and the lack of extrajudicial solutions for juveniles in conflict with the law in the Republic of Albania. The introduction of both a dialogue around diversion measures and the pilot model on victim-offender mediation and restorative justice have proved to be very effective in demonstrating the benefits of resolving disputes involving juveniles, which include a positive impact on rates of escalation and recidivism.

The intended outcome was achieved through the fruitful collaboration between UNICEF, AFCR, the Norwegian Mediation Service and the relevant bodies for the referral of cases to mediation – namely the Ministry of Interior, the Ministry of Justice, the police and other NGOs working in the field. Cooperation agreements were formalized between all of these actors. The police played a key role in referring 80 per cent of cases in pilot districts to AFRC before any judicial proceedings took place.

In order to support the development of appropriate mechanisms, protocols and standards on mediation for professionals, basic and advanced training in restorative justice, mediation and juvenile justice was organized for police officers and mediators in the four targeted districts. Study visits to Norway were also arranged for police officials, in order to share knowledge and experience of collaborations between the police and mediation services, especially in cases involving juveniles.

In terms of social mobilization, working with the media helped to satisfy public opinion and to improve the general understanding of restorative justice throughout the country.

An internal project evaluation provided data on the results of the pilot project, which helped to engage the Ministry of Justice in a dialogue around the benefits of mediation. The Ministry consequently took legislative action and programmed the establishment of a mediation services institution.

**Potential application:** After one year of successful implementation in Tirana, the authorities expanded the provision of mediation services to three other districts. Three years on, mediation services are now part of the draft legislation before the Albanian Parliament and will be put in place throughout the country. To achieve this goal, mediation is now being introduced as part of new probation services established in the country.

The introduction of mediation is not a stand-alone action but is part of an overarching aim to raise awareness of alternatives among the authorities and change the behaviour of professionals. Advocacy through forums with experts, case managers and decision makers – as well as the training of professionals – was crucial to the success of the project. The expertise provided by the Norwegian Mediation Service helped UNICEF to increase the impact of the intervention and the quality of the dialogue with decision makers. Since the process of mediation involves the victim and the offender, and as it aims to help parties arrive at an acceptable solution whilst involving the wider community, the use of a similar intervention may be appropriate in post-conflict situations.
**Progress, results and challenges:** The intervention contributed to the improvement of juvenile justice administration by introducing a model driven by the principle of best interests of the child in conflict with the law and uses detention only as a last resort. Through the project, mediators, lawyers and police officers work together to refer cases for mediation. In 2007, the project contributed to 23 per cent of all cases involving juveniles in conflict with the law being referred to extrajudicial solutions. Most cases (695 in total) involved assault resulting in minor injuries, with the remaining cases all involving verbal abuse. Agreement was reached in 732 cases. In Tirana, 18 cases are referred to mediation each month on average.

The project helped to initiate and enhance a dialogue with the Government of Albania around the development of alternatives to detention for juveniles and around the ongoing institution of mediation services in the country.

The comprehensive assessment of the juvenile justice system in Albania conducted by UNICEF in 2008 concluded, “in so far as diversion is concerned, the large number of cases involving juveniles resolved through victim-offender mediation adjudication during the last two years is a very positive development, which can be considered as a good practice.” One concern, though, may be the risk of net-widening, which the project should monitor carefully in the future.

**Impact/effectiveness:** The project is now part of national policy and has been extended following its positive impact. See data for 2007 in the section on progress, results and challenges (above).

**Relevance:** The project responds to the needs of children in conflict with the law as well as to UNICEF’s regional programming priorities. This type of initiative is particularly relevant as it directly aims to reduce the number of juveniles deprived of liberty as well as the number of re-offenders.

**Sustainability:** The project results in lasting modifications in favour of children’s rights, including sustainable changes in legislation, public policies, institutional frameworks, national and local capacities, decision-making processes, and attitudes and behaviours of families, communities and service providers.

**Expanded partnerships and alliances:** In order for the project to achieve its intended results, a strong and fruitful collaboration has been established between UNICEF, AFCR, the Norwegian Mediation Service and the relevant bodies for referral of cases to mediation, in particular the Ministry of Interior, the Ministry of Justice, the police and NGOs working in the field. The movement for introducing restorative justice in South East Europe, guided by UNICEF in conjunction with the European Forum for Restorative Justice, has resulted in many countries showing an increased interest in introducing interventions for juveniles that underline peace and reconciliation in the community.
Leadership, participation and community empowerment: The project led to the empowerment of families and communities as well as to the involvement of families, communities, children and adolescents.

Social, political and financial mobilization: The project was successful in mobilizing social and political actors in favour of children’s rights (see section on progress, results and challenges above).

Cost-efficiency/financial sustainability: The model has been developed in partnership with the Ministry of Justice; the pilot areas have been selected and the services are offered in full partnership with the Albanian State Police; and the recent approval of legislation (November 2008) provides for the handing over of mediation services and their provision throughout the Republic of Albania.
Category: Promising juvenile justice initiative

Focus area 2: Diversion

Country: Serbia

Title: AVOIDING ESCALATION AND SANCTIONS THROUGH MEDIATION

Description: Introduction of victim-offender mediation in three pilot projects

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Summary: Victim-offender mediation (VOM) is a process in which a trained mediator facilitates a victim and an offender to resolve the conflict and to build their own approach to achieving justice. The Law on Juvenile Offenders, which came into force in the Republic of Serbia in 2006, regulates this particular diversionary measure.

In order to integrate VOM into different systems, it was decided to pilot it in three different ways: 1) by opening a victim-offender mediation centre in the city of Niš; 2) by mainstreaming VOM as a conflict resolution approach within a juvenile correctional institution; and 3) by including VOM in the mandate of NGO ‘mobile teams’ providing outreach services in cooperation with 14 centres for social work. This has helped to transform basic concepts and presumptions around juvenile justice and, especially, delinquency prevention. VOM is a key innovation that has contributed to the development of new approaches to social work and to local communities in Serbia assuming greater responsibility for juveniles in conflict with the law.

Good practice: Mediation centre: The mediation centre in the city of Niš was established by the Government of Serbia in partnership with the city’s authorities, its centres for social work (CSW) and UNICEF. This initiative brought together 40 juvenile justice professionals from all of the sectors that deal with children at risk and in conflict with the law. Training by an international expert commenced in 2003, with four training sessions arranged. Local government provided offices for use by the mediation centre and mediators’ fees were covered by a start-up grant from the Ministry of Social Affairs.

By October 2006, 53 cases had been referred to the mediation centre, most by the public prosecutor. The cases referred for mediation represented more than a quarter of all cases involving juvenile offenders investigated in Niš during this period. At this time, agreement had been reached in 35 cases, 7 cases were still pending the outcome and 11 remained unresolved. Offenders who participated in the project considered VOM a meaningful mechanism.

Initially the project focused on VOM for children below the minimum age of criminal responsibility, but the scope was extended to include all juveniles in conflict with the law. The mediation centre was established as a separate entity with a grant from the Ministry of Labour and Social Policy. At the end of the pilot phase, the project’s activities were integrated into the structures of the Niš centres for social work.
Introduction of VOM within the Juvenile Correctional Institution in Kruševac

A mediation centre was opened within the Juvenile Correctional Institution in Kruševac (JCIK). UNICEF helped to define policies and procedures for its operation and provided ongoing support in the form of training for staff and social workers from the local centre for social work. Since 2007, VOM has been applied to more than 130 conflicts between juveniles at the correctional facility. Using this approach, juveniles learned conflict resolution skills and developed more effective means of communicating with their peers.

The initial focus on VOM was expanded to include peer mediation, and staff consequently received training on how to teach peer mediation skills to juveniles. This approach aimed to promote the role of juveniles as mediators in conflict resolution processes and thus reduce violence in the facility.

Capacity-building for the application of VOM by NGO mobile teams in 14 municipalities

The establishment of mobile child protection teams began in 2003 and was led by the NGO, Amity. Initially directed towards child victims of abuse and neglect and those with behavioural problems, the teams soon expanded their activities to also cover delinquency prevention and support to juvenile offenders and their families, including juveniles awaiting trial, sentenced offenders, and those in diversion programmes and post-release support.

The mediators who were trained included NGO representatives from the mobile teams as well as their counterparts in the local centres for social work in the same municipalities. By the end of the project cycle in 2007, 81 mediations had been completed. In 85 per cent of cases agreement was reached. The victims in most cases were juveniles (59 per cent), followed by institutions, the local community and adults. During the follow-up period (three months) recidivism occurred following only 4 of the 65 successful mediations.

In addition, mobile teams conducted meetings and forums to raise awareness of child rights, focusing on the rights of offenders and delinquency prevention. The teams coordinated closely with local government, in particular centres for social work, schools, health clinics, the police and community-based organizations.

Potential application: The methodology used involved the introduction of concepts and principles of restorative justice to all stakeholders in the community by means of round table discussions, working group discussions and high-level training given by international experts. This process has proved to be of key importance in the further development of VOM practice in the country. Work around introducing and exploring the possibility of developing a pilot diversion scheme in other settings and communities also proved worthwhile. The Diversion Scheme Project in Niš was recognized by the Republican Centre for Mediation as a model of good practice to be replicated throughout Serbia.
Strategy of implementation: Victim-offender mediation for children was introduced in parallel with the development of the country’s new juvenile justice law. The strategy used joint lobbying and advocacy efforts directed towards decision makers, juvenile justice professionals, local communities, and university students, professors and authorities. Systematic capacity-building of juvenile professionals and students took place alongside the initiation of several pilot projects at strategically selected sites. The strategy aimed to ensure that pilot diversion models tailored to local conditions were developed and made ready for replication, just as soon as the legislation recognizing diversion of children was endorsed.

Prior to the start of the diversion/restorative pilot project in Niš, various successful European experiences of introducing the restorative justice concept and accompanying practices were shared with Niš juvenile justice professionals. A round table discussion was held at which five potential models of diversion were presented. The participants agreed to develop the one model that best matched the needs, specificities and resources of the local environment, that of victim-offender mediation.

Progress and results: The diversion/restorative justice project in Niš now includes the establishment and operation of the mediation centre (156 VOM cases conducted so far) as well as the mediation service in the JCIK, which uses victim-offender mediation as an effective technique for conflict resolution among inmates (147 VOM cases conducted). The project enabled the dissemination of VOM practice throughout Serbia and initiated community-based mediation in 14 local communities.

To support the mainstreaming and sustainability of the project, the Faculty of Political Sciences at the University of Belgrade introduced VOM to its curricula in September 2005. A national network of more than 200 professional mediators trained to apply victim-offender mediation was established; of this number, 80 are certified trainers.

The establishment of the Niš mediation centre and its network resulted in enhanced community cooperation and an increased number of referrals to VOM. Since July 2007, the conflict resolution and communication skills of 180 children have been improved and 56 mediation cases involving juveniles have been successfully closed in Niš. Training for 50 children in communication skills, restorative justice and mediation generated interest among several local schools in the possibility of introducing peer mediation and youth courts to aid conflict resolution.

Results obtained from the experiences of the three activities piloted were adapted into a training programme accredited by the Institute of Social Policy. In addition, a manual for victim-offender mediation was developed and its use endorsed as part of standard practice by the Republican Centre for Mediation.

The project also led to changes in legislation, which enabled the development of diversion schemes (Law on Mediation, 2005; Juvenile Justice Law, 2006). Furthermore, the knowledge acquired through capacity-building activities allowed for the drafting of seven by-laws. Six of these have been adopted, along with the rule book of the JCIK, which includes VOM as an integral aspect of the disciplinary measures to be implemented. The only by-law not adopted – which covered VOM as a diversionary measure – was rejected because of budgetary implications and ill-defined competencies across sectors. As such, the use of VOM as a diversionary measure in cases referred by the prosecutor’s office or a judge remains a challenge even in the places where pilot initiatives were established. Although diversion has been allowed and codified by the Juvenile Justice Law, the majority of judges and prosecutors still wait for the adoption of by-laws to guide them in their application of legislation.
Impact/effectiveness: The methodology, which aimed to introduce a model of alternatives in three different types of pilot project, was successful in the mainstreaming of its model. This led to the recognition of VOM as a standard practice in Serbia. The European Forum for Restorative Justice and the European Commission Directorate-General for Justice, Freedom and Security both publicly acknowledged the results achieved by Serbia in the development of restorative justice throughout the country.

Relevance: The experiences obtained via all three pilot projects were translated into a refined training programme, which is now accredited by the Institute of Social Policy. In addition, a manual for VOM was developed and its use endorsed as part of standard practice by the Republican Centre for Mediation.

Sustainability: The training of trainers and the designation of responsibility for the further organization and operations of the Niš mediation centre to the Niš Centre for Social Work assured the sustainability of mediation services in Niš.

Expanded partnership and alliances: To implement the three pilot projects, partnerships were established between UNICEF, the European Commission, NGOs, community-based organizations (mobile teams), social sector structures (the mediation centre and centres for social work) and governmental bodies (the JCIK).

Leadership, participation and community empowerment: Improved visibility of the mediation centre and its networking with the Niš community, acquired during the Diversion Scheme Project in Niš, resulted in enhanced community cooperation and an increased number of referrals to the Niš mediation centre (see section on results and progress for further examples).

Social, political and financial mobilization: An important number of meetings and forums to raise awareness of the rights of children were organized. Meanwhile, the centres for social work played an important role in social mobilization and the Ministry of Social Affairs provided some resources (see section on good practice in regard to the opening of the mediation centre).

Cost-efficiency/financial sustainability: No information about the cost-efficiency of the three pilot projects is available. One important lesson learned, however, is that efforts must be made to integrate VOM into existing juvenile justice system processes rather than attempt to open new entities to handle VOM separately – unless these are fully incorporated into the financing system of the central or municipal government from the very beginning.
FOCUS AREA 3: ALTERNATIVES TO CUSTODIAL MEASURES

Alternatives to custodial measures may be given to juveniles formally processed through the criminal justice system at both pre-trial and sentencing stages. Alternatives can be applied from the time of apprehension until the final disposition of juveniles who have not been diverted away from judicial proceedings.

Some alternatives to detention have formally existed in the legislation of most CEE/CIS region countries – and in other regions of the world – for decades, including warnings, fines and suspended sentences. Such traditional measures tend not to be held in high regard by juvenile justice specialists, however. In the absence of adequate investigation of the child’s situation and needs, these measures have generally only served to perpetuate discrimination and criminalization of the most vulnerable young offenders. These juveniles tend to systematically reoffend and end up being more heavily punished because the system does not help them to move away from the root causes of their initial offence. Hence it is felt there is a need for alternatives to custodial measures, which support and monitor children more effectively. Supervised attendance orders and tailored probation measures are just two such examples. Alternatives to custody also leave more room for restorative justice, where the aim is to repair the harm done rather than to punish without taking into account the interests of the victim. Measures such as community work can be an indirect way for the juvenile to restore his or her status and contribute to society. Victim-offender mediation is another measure that a judge may order to determine the final judgement and most appropriate alternative sanction.

This section presents different types of alternatives to custodial measures, and ways of promoting these, which are currently being developed in the CEE/CIS region.
**Category:** Promising initiative  

**Focus area 3:** Alternatives to custodial measures  

**Country:** Albania  

**Title:** INTRODUCING NEW ALTERNATIVES TO THE SYSTEM, VIA SUPERVISION  

**Description:** Supervision of community service orders and vocational training for juveniles in Tirana to promote reintegration  

**Contact information:** Leon Shestani, Social Services Specialist, UNICEF Albania, lshestani@unicef.org  

**Summary:** The development of alternatives to detention for juveniles in conflict with the law is a key objective of the reform of the juvenile justice system in the Republic of Albania and is supported by UNICEF in partnership with the Swedish International Development Cooperation Agency (SIDA) and the European Commission (EC).  

The supervision of alternative measures to detention was first instigated in Albania by a pilot project run by the Legal Clinic for Minors (LCM). First established in Tirana in partnership with the local prosecution office and district court, the pilot was extended to two other cities in 2009. The project provides community service order (CSO) supervision and vocational training, allowing convicted juveniles to remain in education and to maintain social and family relations.  

**Good practice:** Despite the lack of legislation specifically authorizing supervision of alternative measures for juveniles, this project offers supervision of CSOs to juveniles referred by the Tirana District Court and the Prosecution Office of Tirana. Following the establishment of the juvenile section in Tirana District Court, the first CSO programme was rolled out in September 2007 to provide social work, supervision and psychosocial support to juveniles.  

LCM is responsible for the supervision of alternative measures ordered by the court. Social workers are in charge of monitoring the juveniles, whilst psychologists take care of their psychosocial assessments. The project was extended to two other Albanian cities in 2009.  

Between September 2007 and June 2009, 72 cases of juveniles in conflict with law were referred to the project by the court in Tirana (61 CSO cases and 9 cases of vocational training). So far, 47 juveniles have attended and successfully completed the alternative measures, with only 3 juveniles refusing or failing to comply with the sentences given, resulting in the alternative measure being revoked by the court. Currently, 22 cases are in the process of implementation.  

The results of the pilot project in Tirana helped the partners involved to advance the dialogue with the Ministry of Justice around the legal regulations for the Albanian probation system and probation directorate. The Albanian Parliament adopted the law on probation (law no. 1024, 27 November 2008) in 2008.  

With the support of UNICEF, the LCM conducted an assessment of the implementation of alternative measures so far. The evaluation focused on the legal framework, the judicial practice and the execution of alternative measures from a psychological point of view so as to assess the attendance of juveniles, and their interest and behaviour after completing the alternative measures, etc. The resulting recommendations aimed to improve this framework by guiding the orientation of the new employees of the probation directorate.
Strategy: The project was conducted in a bid to overcome the difficulties in applying alternatives to detention effectively in Albania, which result from the absence of a comprehensive legal framework and, particularly, from the absence of a state structure to supervise the execution of such alternatives. The project also aimed to go some way towards remedying the increasing number of juveniles in conflict with the law, the overcrowding of prisons, the negative effects of imprisonment, the lack of reintegration programmes, and the high rate of recidivism among juveniles.

This intervention aimed to provide evidence of the benefits of alternative measures versus the imprisonment of juveniles in order to inform legislative reforms in juvenile justice.

Following the approval of the legal package authorizing the institution of probation services throughout the country, UNICEF supported the LCM in drafting a handbook on the standards of probation service to serve as a training aid for probation officers. Strong efforts were made to ensure that issues relating to alternative measures are on the national agenda and to encourage changes in legislation and the institutional infrastructure to this end.

Progress, results and challenges: The pilot project contributed to the improvement of juvenile justice administration in Albania by introducing a model that reflects the best interests of the child in conflict with the law and uses detention only as a last resort. The project was able to effectively implement alternative measures by developing a database of reception centres, and a protocol for the execution and supervision of CSOs. Guidelines to assist probation officers in their future activities are already in place.

The LCM, in partnership with UNICEF, prepared and developed training manuals and other informative publications. Some of these, however, have not yet been published.

Impact/effectiveness: During the project’s first year of implementation (August 2007 to September 2008), 26 juveniles were given a CSO. This figure represents 44 per cent of the total number of sentences imposed by the juvenile court of Tirana. Of these 26 cases, only one suspended sentence was revoked because of poor behaviour.

Relevance: The project helped to initiate and continue the dialogue with the government around the establishment and implementation of alternatives to detention for juveniles and the mainstreaming of probation services throughout the country.

Sustainability: The current legal package on alternatives to detention includes the CSO (Article 63 of the Criminal Code, as amended by law no. 10023, 27 November 2008) and probation services have recently been established to take responsibility for the supervision of such sentences.

Expanded partnership and alliances: The successful implementation of the project and its expansion were the result of the strong cooperation between the Government – in particular, the Ministry of Justice – UNICEF, the Tirana District Court, the Prosecution Office of Tirana, the EC, LCM and SIDA.
Leadership, participation and community empowerment: Although some informative materials have already been prepared, strong communication for change focusing on families and communities is still required.

Social, political and financial mobilization: The strong involvement of the judicial bodies combined with the support of public and semi-public institutions and other cooperating organizations allowed for the court to grant CSOs to juveniles.

Cost-efficiency/financial sustainability: Resources for the project were provided by the EC, SIDA and UNICEF. A special part of the national budget is allocated to the country’s probation services.
### Summary:
The Juvenile Justice Code of Kosovo (JJCK) was passed in April 2004 under the authority of the United Nations Interim Administration Mission in Kosovo (UNMIK) as part of an initiative aimed at reforming the criminal justice system in compliance with international and European human rights standards. The JJCK established special procedures for children in conflict with the law and introduced new concepts and institutions into Kosovo law and juvenile justice administration, including diversion measures, a wider range of non-custodial sentences and the establishment of a probation service. The Probation Service of Kosovo (PSK) is a department operating under the umbrella of the Ministry of Justice. PSK works with both adult and juvenile offenders and persons who have been conditionally released. Its staff is drawn primarily from the disciplines of pedagogy, sociology, law and psychology.

Terre des Hommes first piloted a project providing Community Service Orders (CSOs) as an alternative measure to deprivation of liberty in 2001. In 2004, UNMIK and the Department of Justice established PSK, which then adopted the CSO project and extended it nationwide. PSK is the first agency with a mandate to implement, execute and oversee almost all alternative measures and sentences under JJCK.

Recent figures reveal that the system is successful in promoting the use of alternative measures even though there remain important challenges such as the need to ensure quality of services despite the financial constraints that can prevent the recruitment of specialist staff. Recourse to alternative and diversion measures is increasingly taken. In 2008, 187 diversion measures and 296 measures of intensive supervision by parents and probation staff were pronounced.

### Good practice:
PSK is the government agency mandated by JJCK and the Law on Execution of Penal Sanctions to rehabilitate and reintegrate young people in conflict with the law by supervising all persons sentenced with non-custodial punishments or alternative measures, as well as persons released conditionally from prison, especially juvenile offenders. Through its daily work, PSK aims to decrease the number of juveniles in conflict with the law through prevention of recidivism. PSK is in a unique position to protect juveniles and provide them with services in line with their best interests. Services include family, school and community visits; interviews and direct contact; counselling sessions; participation in the investigation and court trials; preparation of social inquiry reports on juvenile offenders; supervision and support of convicted juveniles serving alternative measures and sentences; supervision and support of convicted juveniles addicted to drugs or alcohol and subject to mandatory rehabilitation treatment executed in liberty; supervision and support of convicted juveniles granted conditional release; guidance and support of convicted juveniles following completion of their sentence; and other services foreseen by law.
GOOD PRACTICES AND PROMISING INITIATIVES IN JUVENILE JUSTICE IN THE CEE/CIS REGION

PSK’s mission is to implement the most appropriate measures to prevent and curb crime in general, especially in terms of juvenile delinquency. Furthermore, PSK demonstrates through its services the benefits of alternative measures. By diverting young people as much as possible from the justice system, PSK provides juveniles with greater opportunities to reintegrate with society without serving a custodial sentence.

Strategy of implementation: Before the establishment of PSK, international NGO Terre des Hommes implemented alternative measures in Kosovo. The pilot project, which included the implementation of the community service order (CSO) as an alternative to detention, was first implemented in two regions, Mitrovica and Pristina, and later extended to other regions. PSK was established in 2003, and Terre des Hommes provided assistance to the agency to help increase its technical and institutional capacities for implementing CSOs and other alternative measures stipulated by JJCK. The strategy adopted by PSK to implement and supervise alternative measures under JJCK focused on capacity-building and strengthening of ownership. As part of the joint support of juvenile justice reforms by UNICEF and the European Commission Liaison Office to Kosovo (ECLO), an international probation expert organized three training sessions, each lasting five days. Led by a team of master trainers (all probation officers themselves), the sessions provided an opportunity for probation officers to acquire knowledge of good practice models for social inquiry reports, pre-sentencing reports, juvenile interviewing techniques and juvenile case management procedures.

Following this, the 10 probation officers involved in the training of trainers reviewed modules and adapted training materials to PSK’s needs. The last training session, held by the newly trained probation officers, demonstrated that capacity-building strategies can be used to build ownership of an initiative to reform the juvenile justice system. One of the outcomes of the training sessions was the publication by UNICEF of the summary document containing the reference training material needed for probation trainers to deliver the basic training to all 60 probation officers in Kosovo. PSK officers also participated in 12 multi-sectoral regional round table discussions conducted to strengthen the capacity of juvenile justice professionals in implementing JJCK.

Progress, results and challenges: The training programme was successful in engaging the Ministry of Justice and PSK management in the certification process for probation officers in March 2009. The fact that there are already four certified trainers in PSK reflects the commitment made by the Ministry of Justice to follow up and monitor progress of the probation service trainers. This is also a step towards the strengthened sustainability of PSK’s work on alternatives for juveniles. In 2007, 126 diversion measures, 216 sentences of supervision by parents or probation staff, and 60 community service work measures were pronounced. In 2008, diversion measures were ordered in 187 cases, supervision by parent or probation staff in 296 cases and community service work sentences in 51 cases.

PSK also faces significant challenges in implementing its mandate. The difficulties come from the agency’s lack of specialist and profiled staff, its limited supervision and monitoring capacities, and the absence of a database to strengthen case management and ensure follow-up of clients. Another challenge is the lack of guidelines and protocols around the establishment and coordination of aftercare services between PSK and correctional facilities, although this issue is currently being addressed. Finally, low salaries tend to systematically discourage and de-motivate staff members.
Impact/effectiveness: An important increase in the use of alternatives has been recorded. In 2006, only 27 diversion measures were implemented compared with 126 such measures in 2007 and 187 in 2008. Measures of intensive supervision (by parents or probation staff) were pronounced in 216 cases in 2007 and in 296 cases in 2008.

Relevance: PSK provides a wide range of services aimed at decreasing the rate of offending and enabling professionals to specialize, helping to ensure the better protection of juveniles who do enter the judicial system.

Sustainability: The continual increase in recourse to diversion and alternative measures gives hope that PSK will be systematically embedded in the justice system of Kosovo in the longer term.

Expanded partnership and alliances: The development of PSK was the result of strong cooperation between the Ministry of Justice, the European Commission, Terre des Hommes and UNICEF.

Leadership, participation and community empowerment: The training activities organized for the probation officers indicate Ministry of Justice leadership and ownership of the initiative.

Social, political and financial mobilization: The process of certification of trainers shows that the Ministry of Justice has committed to follow up on and improve the functioning of PSK.

Cost-efficiency/financial sustainability: Since 2004, PSK has been funded by and remains part of the Ministry of Justice. Despite limited resources allocated to its operations (see section on progress and challenges), the agency has become a sustainable national institution.
**Category:** Promising initiative  
**Focus area 3:** Alternatives to custodial measures  
**Country:** The Republic of Moldova  
**Title:** *PROBATION AS AN UMBRELLA OF SERVICES*  
**Description:** Development of alternative measures to detention through the probation service  
**Contact information:** Tanja Colin, Child Protection Specialist, UNICEF Moldova, tcolin@unicef.org

**Summary:** The practice of probation has been in place in the Republic of Moldova since 2001, when it was identified as a suitable alternative to imprisonment by the working group on alternatives from the Institute for Penal Reform (IPR) and the Ministry of Justice of the Republic of Moldova. Community service and mediation in criminal cases were also tested between 2002 and 2006.

A probation service was originally developed in three pilot districts – Chişinău, Ungheni and Cahul – between 2003 and 2006. At the behest of IPR, a nationwide probation service was established within the Department for the Enforcement of Judicial Decisions in January 2007 and is invested with the authority to supervise the enforcement of all criminal and administrative sentences except detention (which is within the competence of the Department of Penitentiary Institutions). In September 2008, the law on probation entered into force. In 2008 approximately 1,000 juveniles benefited from probation and 42 probation offices opened.

**Good practice:** The concept of probation covers three aspects of juvenile justice in the Republic of Moldova: 1) pre-sentence probation consisting of the writing up of social inquiries (called pre-sentence probation reports) together with initial assistance and counselling; 2) sentence probation; and 3) post-sentence probation to support social reintegration after release (support to find a job, obtain social security allowances, etc.). The second aspect constitutes an alternative to detention, while the first and last aspects contribute to the avoidance of custodial sentencing and reoffending.

Pre-sentence probation reports enable courts and criminal prosecution officers to determine the level of social risk that the accused person presents to society. It specifies information necessary for and relevant to the application of a preventive measure or sanction in the given case. During a short period of time (less than 14 days), the probation counsellor collects relevant information from local public administration authorities, the district police inspector, the educational institution or workplace of the offender, and relatives, neighbours and friends. The report is based on this information and mentions measures to be taken and the potential likelihood of the offender reintegrating into society if custodial measures are not applied. On this basis, the judge can apply a non-custodial measure or decide to suspend the enforcement of a custodial sentence by establishing a probation term (release on parole).

The probation term is an alternative measure to detention and can last from between one and five years. It can be applied in cases of offences committed intentionally (punished with up to five years’ deprivation of liberty) or to even more serious offences if committed unintentionally (punished with up to seven years’ deprivation of liberty). A probation term will not be applied in cases of serious and exceptionally serious offences (the general punishments for such categories are more than 12 years of imprisonment) or in cases of recidivism. If the person sentenced to probation does not follow exactly the obligations and interdictions expressed by the court, or commits another offence (including an administrative misdemeanour), the probation term will be cancelled and the person will be sent to prison to serve the original term passed down by the judge.
Another alternative to detention is community service, which is also enforced by the probation service. Community service (from 60 hours to 240 hours) can be imposed as a main sentence or as additional condition during the probation term, as provided for by Article 62 of the Criminal Code.

**Strategy of implementation:** An assessment conducted in 2003 at the request of IPR found that probation needed to be put in place in the Republic of Moldova in order to create the legal space necessary to pass a law on probation or to introduce special provisions on probation in the Criminal Procedural Code – as well as to adopt regulations on probation.

The first working group on probation, created the same year, developed a legal framework on probation, whilst acting as counselling and referral group at the same time. The initial bill on probation was completed in April 2004.

Practical activities for the implementation of the probation service were launched in January 2004 by IPR. This took the form of a pilot on pre-sentence probation of juveniles in the Centru sector of the Chişinău municipality, run in partnership with the UNICEF office in the Republic of Moldova. In 2006, IPR began three other pilots in Bălţi, Telenesti and Făleşti. In 2007, 4 out of 132 pre-trial probation reports (including 102 for juveniles in conflict with law) were requested at the trial stage; in 2008 all 249 pre-trial probation reports were requested at the stage of criminal prosecution (investigation). The policy promoted by IPR was to request pre-trial probation reports as early as possible in order to reduce the amount of contact offenders had with the justice sector, including the avoidance of pre-trial detention.

Specific training was provided to the staff of authorities involved in implementing probation and community service: police officers, judges, prosecutors, defence lawyers and representatives of the justice system in general.

**Potential application:** On 12 January 2007, as a result of the joint efforts of partners, the criminal section of the Enforcement Department was reorganized as the Probation Division of the Enforcement Department of the Ministry of Justice. The Government, by the same decision, decided to triple the number of Probation Division staff, from 53 to 178 people. The Parliament of the Republic of Moldova adopted the law on probation (drafted by the IPR working group) on 14 February 2008. The law on probation (Article 8) provides that pre-trial probation reports for cases involving juveniles in conflict with law are compulsory. The law on probation suggests innovative mechanisms of pre-trial, community-based, penitentiary and post-penitentiary probation. The spectrum of options is quite developed. The total number of beneficiaries of the probation service in 2008 exceeded 11,000 persons, of which 1,000 were juveniles. The capacity of the Probation Division of the Enforcement Department of the Ministry of Justice remains quite weak, however.

**Progress and results:** According to the assessment of the juvenile justice system of the Republic of Moldova conducted in 2009, the number of persons under the age of 18 being supervised by the Probation Division at the end of 2008 was approximately 1,000. By this time 42 probation offices had opened, each equipped with one officer specializing in juveniles. Earlier in 2008, the initial training curriculum for probation officers had been developed and workshops conducted between May and August. All attendees were officially certified as specialist probation officers.
Some important results were achieved: probation and mediation were introduced and regulated by legislation. The practical implementation of legislative provisions remains deficient, however, because of the considerable discrepancies in practices in Chișinău and other districts, and between district centres and outlying villages.

Monitoring must be strengthened, particularly in regard to the way in which trained professionals use their new skills. In order for the probation system to function, permanent internal and external monitoring should be performed; institutional capacity should be strengthened; and good practices of supervision, assistance and counselling during the probation period (based on the best interests of the child) should be developed and shared.

Important challenges include the adoption of changes in existing normative acts (excluding criminal procedure provisions), by-laws (excluding internal regulations of probation service) and practical implementation of the legislative framework at local level where national and local civil society organizations have a key role to play.

**Impact/effectiveness:** From 2006 to 2008, the percentage of convicted juveniles given some form of alternative sentence increased from 78 per cent to 83 per cent, with almost one quarter of all alternative sentences handed down during this period being community service.

**Relevance:** The implementation of the initiative began with the establishment of a pre-sentence probation institution for minors, which presents many positive aspects in regard to the compliance of the juvenile justice system with international standards. The initiative establishes a more adequate individualization of preventive measures at the stage of criminal prosecution and trial, especially in regard to preventive detention. Furthermore it offers to the court the possibility of effectively applying the individualization principle of criminal sentencing. Finally, it brings justice closer to the community.

**Sustainability:** The probation service has been established within the Department for the Enforcement of Judicial Decisions, and a national law has been passed to regulate its implementation. Official and certified probation officers have been appointed and 42 probation offices have opened.

**Expanded partnership and alliances:** The creation and implementation of a sustainable probation service was the result of a strong partnership between the Government of the Republic of Moldova, UNICEF and IPR.

**Leadership, participation and community empowerment:** The development of the probation system has upgraded the quality of the juvenile justice system and serves as a driving force for other reforms, namely the development of local level social services oriented to the social reintegration of juveniles in conflict with the law.

**Social, political and financial mobilization:** As a new institution, the probation service requires continuous support to strengthen its human, financial and institutional capacities.

**Cost-efficiency/financial sustainability:** Although no specific cost-efficiency study has been undertaken in the Republic of Moldova, the worldwide experience of implementing probation systems suggests that such systems prove to be more efficient than imprisonment in the long run. As for the current situation, the state has increased funding and staffing for the probation service.
### Title: THE JUVENILE JUSTICE ALTERNATIVES PROJECT

**Category:** Good practice  
**Focus area 3:** Alternatives to custodial measures  
**Country:** Tajikistan  
**Description:** Multidisciplinary support to juveniles in conflict with the law in an open setting  
**Contact information:** Furkat Lutfulloev, Child Protection Officer, UNICEF Tajikistan, flutfulloev@unicef.org  

**Summary:** The Juvenile Justice Alternatives Project aims to identify and address the needs of juveniles and their families in order to prevent offending and reoffending. The overall objective is to demonstrate to government and law enforcement bodies the benefits of rehabilitating juveniles within their own communities. From 2004 to 2008 over 250 juveniles participated in the programme; of this number, only 6 have reoffended. Despite its positive impact and results, the project faces challenges around its long-term sustainability.

**Good practice:** The project focus is a non-residential community rehabilitation service, which provides personalized programmes for juveniles that combine individual and family psychosocial work with constructive activities. It provides a range of services such as education, social work and counselling. Children and young people between 10 and 18 years of age who have committed or are at risk of committing a crime can be referred to the project, either by the courts or by the Commission on Minors, as an alternative to a custodial sentence or placement in a closed institution. Juveniles can also be referred to the project by the police, the Criminal Investigation Department or the Prosecutor’s Office as a diversion measure. To be referred, juveniles must live in the project area. Only juveniles who have committed minor, medium or administrative offences – and would otherwise certainly be sent to a closed special school – will be referred to the project. Moreover, as an essential condition, the juvenile must admit his or her offence and consent to being referred to the project.

Juveniles attend the project on a non-residential basis, whilst continuing to live with their families. Staff are trained in prescribed social work methods for working with young offenders and their families. The team comprises an educator, a part-time psychologist and a part-time lawyer, and juveniles have access to health care facilities via the youth centre. The team works with the juvenile and his or her family to assess needs, develop an individual programme of activities and reintegrate the juvenile back into school by liaising with schools and providing remedial education. Juveniles participate in the project for between three and six months (four months, on average) and the team continues to supervise juveniles and provide outreach work when necessary for up to one year afterwards.

**Strategy of implementation:** In cooperation with the Government of the Republic of Tajikistan Commission on Child Rights, UNICEF and the UK Children’s Legal Centre initiated the Juvenile Justice Alternatives Project (JJAP) at the end of 2004. This followed the recommendations of the National Expert Group under the Commission on Child Rights, which had conducted the first situation analysis on juvenile justice in the country. JJAP was originally implemented by local NGO Nasli Navras in conjunction with state Child Youth Centres (the governmental establishments regulated by educational boards at district level).
The first JJAP pilot was set up in the Sino district of Dushanbe at the end of 2004, the second in the Fidarvsi district in 2005, and a further two in the northern Sughd region between 2007 and 2009. UNICEF provided funding for technical assistance and service provider capacity-building, while the operations of the Firdavsi and Sino district centres were supported by the UK Children’s Legal Centre and the Sigrid Rausing Trust.

This project was the first diversion and alternative scheme in the country and, in time, it secured agreement from all law enforcement bodies to participate in the project and to sit on the first inter-agency local juvenile justice body (the steering committee).

The progress of each pilot district is overseen by its own steering committee, which comprises representatives from each of the local referring bodies and meets on a monthly basis. The steering committee reports periodically to the Commission on Child Rights at district level and to UNICEF. According to the JJAP evaluation of 2008, the majority of the referring bodies at local level recognize the importance of the project. The steering committees of pilot districts have very positive perceptions of the effectiveness of the project and advocate for its extension. But while JJAP has the support of local law enforcement and welfare bodies, the evaluation highlighted the fact that not all juveniles who could be assisted by the project were being referred. A reluctance exists among referring bodies to send juveniles who have committed more serious offences.

The project model has now drawn wide support from the national government and from local law enforcement bodies. The rolling out of this model has been recognized by the Government of Tajikistan as a key component of the wider juvenile justice reform programme governmental resolution of December 2007.

Potential application: Originally established in one district of the Tajik capital, the pilot project was later extended to three other districts (one more in the capital and two in the northern Sughd region). Plans are in place to develop two more projects in 2009–2010: the Commission on Child Rights in its resolution from 2008 called for support for extending the practice to 10 more districts. The Swiss Agency for Development and Cooperation will provide financial support to JJAP in 16 districts between 2010 and 2012.

The JJAP model has already been replicated in Azerbaijan, where a tailored scheme is currently in operation. The Tajik experts went to Azerbaijan to share their experiences of implementing the pilot project.

Progress, results and remaining challenges: The JJAP pilot has been developed in response to a recommendation made by a National Expert Group in 2003, which pointed out that recourse to formal trial and detention was taken too often, especially for first time offenders and minor offences. The project has, to date, worked effectively with 300 juveniles.

In terms of results, and according to the evaluation conducted in 2008, an average drop of 42 per cent had been seen in the rate of offending in the Dushanbe districts where JJAP is operational. Furthermore, the evaluation concluded that JJAP provides quality support and services to juveniles and their families, impacting positively on their individual plans and their familial environment. The evaluation recommended expanding the mandate of the project so as to work with more children who have committed both minor and more serious offences.
Moreover, the project led to the appointment of the country’s first juvenile judges, assigned to handle cases involving juveniles in the pilot districts.

The model also promoted the role of social workers in the juvenile justice system and introduced the new concept of working with families to prevent reoffending. The conditions that allow juveniles to participate in the programme should, however, be made more flexible. For example, street children, who often come into conflict with the law, should be offered the same kinds of social services.

A major challenge to JJAP is sustainability as the juvenile justice system is fragmented among different ministries and agencies at the national and local levels. The local authorities owning the buildings (Child Youth Centres) do not charge rent and throughout 2008 paid for water and electricity, but there is no funding stream currently available from central and local government. Ensuring the long-term sustainability of JJAP requires legislative reform. In particular, the Criminal Procedure Code must include an explicit authority for police and prosecutors to divert children who have committed both minor and medium offences to community-based programmes instead of processing them via trial.

**Impact/effectiveness:** Of the 250 children who participated in the project from 2004 to 2008, 6 have reoffended so far.

**Relevance:** The evaluation conducted in 2008 concluded that JJAP was a valuable and effective model for preventing offending and reoffending among children and young people, which could and should be expanded to cover all of Tajikistan.

**Sustainability:** Long-term sustainability remains a challenge as donor support is still required.

**Expanded partnership and alliances:** The implementation of JJAP was the result of a close partnership between UNICEF, the Children’s Legal Centre, the national Commission on Child Rights and other local NGOs.

**Leadership, participation and community empowerment:** A major component of the project is family work. The JJAP teams assess and identify specific problems in order to help juveniles and their families to address these issues and thus improve familial relationships.

**Social, political and financial mobilization:** In 2006–2007, the national round table on juvenile justice adopted resolutions that called for the replication of the JJAP model countrywide. These were endorsed by the Deputy Prime Minister as Chair of the Commission on Child Rights under the Government of Tajikistan on 11 January 2008.

**Cost-efficiency/financial sustainability:** The financial realities of Tajikistan and the lack of qualified and experienced personnel prevent JJAP from being sustainable in the long term.
FOCUS AREA 4: BUDGETING FOR JUVENILE JUSTICE REFORM

“Juvenile justice reforms should entail exploring and comparing the cost-effectiveness of the way children are processed by the justice system ... If more time and money is spent in the early stages of the system on assessment, preliminary inquiry and diversion, then savings with regard to trial and detention, but most importantly incarceration, will be made. Reform will not only enable the government to realize substantial savings, but also ensure that the remaining expenditure is spent more effectively.”

In the CEE/CIS region, few separate, specialist juvenile justice systems exist and so fewer still attempts have been made to systematically cost and project comprehensive juvenile justice budgets. This prevents governments from fully acknowledging and planning for the overall costs – and potential savings – of their crime prevention and criminal justice systems in relation to minors. In most countries, the bulk of spending is still focused on counterproductive preventive/educational/correctional placements, and specific budgets are only beginning to be developed for processes and measures adapted to juveniles, which are labour intensive and involve intersectoral linkages but may result in better outcomes. With decentralization of social services underway in many countries of the region, some costs and responsibilities for the implementation of diversion or alternative measures are gradually being redefined between central ministries and local authorities.

The example presented here shows how legal change can give occasion for a national juvenile justice costing and budgeting exercise.

**Category:** Promising initiative

**Focus area 4:** Budgeting for juvenile justice reform

**Country:** The Former Yugoslav Republic of Macedonia

**Title:** BUDGETING AS AN EMERGING REFORM TASK

**Description:** The national juvenile justice working group on law reform and implementation

**Contact information:** Biljana Lubarovska, Child Protection Officer, UNICEF Macedonia, blubarovska@unicef.org

**Summary:** In June 2009, the new Law on Juvenile Justice came into force in the former Yugoslav Republic of Macedonia. This was a milestone in juvenile justice reform. The drafting process was supervised by a national juvenile justice working group specifically established to coordinate the reform and to develop an action plan, including a budget framework, on the basis of which initial implementation steps were developed.

**Good practice:** The new juvenile justice law establishes the legal and institutional framework for a new system, the main purpose of which is to separate the material, legal and judicial treatment of juveniles from the treatment of adults. The law regulates all aspects of juvenile justice in the Former Yugoslav Republic of Macedonia, including prevention of juvenile delinquency. The process of drafting the law drew upon the results of several analyses conducted by national research institutes as well as a comparative analysis on the legislation, prepared by a law professor who drafted the first text of the juvenile justice law. In line with international standards and the Convention on the Rights of the Child, the law includes the principle of the protection of juveniles and their rights; requires specialization of the system that administers juvenile justice; and promotes reintegration into society and principles of restorative justice to ensure that juveniles are dealt with in a manner appropriate to their well-being and proportionate to both their circumstances and the offence.

The promising element of this process is that the adoption of the law was followed by the delivery of an action plan and budget framework under the aegis of the Ministry of Justice to guide the first two years of implementation of the new law.
Strategy of implementation: A national juvenile justice working group was established under the auspices of the Ministry of Justice to develop the juvenile justice law. It comprises representatives from the Ministries of Justice, Labor and Social Policy, and Internal Affairs; the Academy for Training of Judges and Prosecutors; the National Institute of Social Activities; the Macedonian Bar Association; the Association of Local Self-government; the Faculty for Public Safety; the judiciary and Public Prosecutor’s Office; the Organization for Security and Co-operation in Europe (OSCE); UNICEF; and two other international organizations supporting the reform process. Once the law was finalized and adopted, the role of this working group changed and it became the highest national juvenile justice coordination body. The working group developed the action plan with the following aims:

- Better coordination and exchange of information of relevant national institutions;
- Regular monitoring of progress achieved. The group meets on a regular basis (i.e., every quarter) and prepares implementation reports for submission to the Ministry of Justice; and
- Influencing government decisions on juvenile justice reform. The working group can include recommendations to the Minister of Justice in its implementation reports. Once the Minister adopts the report, it is sent to the Government of the Former Yugoslav Republic of Macedonia for reviews and decisions on follow-up procedures that are mandatory for all ministries.

The activities foreseen in the action plan are directed towards building and strengthening the capacity of the institutions competent for the implementation of the law; the establishment of the legal and secondary legislation framework for its implementation; and the establishment of new institutional forms of juvenile delinquency prevention and an indemnification fund. All of the foreseen activities take into consideration the multidisciplinary and multi-sectoral approach deriving from the law. The financial resources needed for the realization of the action plan shall be provided in part by the state budget, in part by the pre-accession funds of the European Union, and in part by donors. Some of the activities shall be realized with the financial and technical assistance of the UNICEF Skopje office, the OSCE and other international organizations.

Progress, results and challenges: The action plan for the implementation of the law contains details about activities, time frame and financial resources. Some of the activities are already being put in place. The standards for the treatment of juveniles by centres for social work are finalized and a series of training sessions was organized in 2009. Progress has been made to ensure that juvenile justice professionals (judges, prosecutors, lawyers and social protection professionals) receive basic training with support from UNICEF.

Little progress has been made, however, in the allocation of resources (human and financial) to allow centres for social work to implement the law. It is necessary to recruit new staff in order for the centres to respond to their new responsibilities, to establish child-friendly rooms and to create the conditions of alternative measures. The new law also provides for the establishment of ‘disciplinary centres’ to provide educational measures for juveniles in conflict with the law. Furthermore, in terms of policy and legislation, the process of amending the Criminal Procedure Code and the misdemeanour law is still ongoing. Most of the by-laws deriving from the Law on Juvenile Justice and Law on Execution of Sanctions have been developed and adopted by relevant ministries.
Impact/effectiveness: The Law on Juvenile Justice only came into force on 30 June 2009, so it is too early to judge the impact.

Relevance: The creation of a working group to supervise the reform is the first step towards ensuring the operational application of the law.

Sustainability: The strong commitment of the Government, the development of capacity-building activities for all professionals dealing with juveniles in conflict with the law, and the secured funding from both domestic and external sources contribute to the sustainability and effective impact of legislative changes.

Expanded partnership and alliances: The working group is a good example of collaboration, sharing of information and regular monitoring and reporting. The group comprises representatives of relevant national institutions and civil partners. The group builds partnerships with the relevant international organizations that support juvenile justice reform, i.e., OSCE and UNICEF.

Leadership, participation and community empowerment: Not applicable.

Social, political and financial mobilization: This practice is an example of coordinated mobilization in the political, technical and financial sphere.

Cost-efficiency/financial sustainability: The financial commitment provided so far by the state has been very limited. But the Instrument for Pre-Accession Assistance (IPA) 2008 allocated a total of 700,000 euros for juvenile justice, which should now ensure financial sustainability.
FOCUS AREA 5: MONITORING AND ACCOUNTABILITY

Accountability mechanisms must exist for professionals to comply with juvenile justice principles and established standards, so that the promotion of children’s rights in the justice system is ensured, with specific attention paid to the elimination of violence against children.

This entails regular internal inspections and support from system components, procedures and agents, with clear and transparent follow-up procedures in cases of non-compliance. The process must be complemented by independent monitoring by child rights and prison ombudsmen and/or human rights institutions, and individual or NGO observers and service providers. Also in existence and use must be relevant complaints mechanisms.

In addition, it is essential that juvenile justice systems are involved in data collection and analysis. In many cases information exists but is neither compiled nor analysed. Indicators and tools for data collection should be modified, when necessary, in order to measure the impact of changes in laws, institutions and policies. For instance, new provisions on diversion and alternative sentencing should lead to the creation of indicators such as ratio of diverted juvenile criminal cases to total number of arrests; ratio of alternatives to total number of convictions; distribution by type of alternatives, etc. More in-depth research on, for example, trends in and background to recidivism, provision of social services to children at risk, needs and views of key players, should also be developed to ensure that the juvenile justice system evolves in response to the changing needs of society.
GOOD PRACTICES AND PROMISING INITIATIVES IN JUVENILE JUSTICE IN THE CEE/CIS REGION

Category: Promising initiative

Focus area 5: Monitoring and accountability

Country: Montenegro

Title: A JUVENILE JUSTICE FOCUS WITHIN A HUMAN RIGHTS MONITORING MANDATE

Description: Reinforcing the role of the Ombudsman’s office in advocating for juvenile justice reform in Montenegro

Contact information: Nela Krnic, Child Protection Specialist, UNICEF Montenegro, nkrnic@unicef.org

Summary: Through an agreement with UNICEF, the Office of the Protector of Human Rights and Freedoms has become an active member of the National Commission for Juvenile Justice Reform and a strong advocate of law and policy reform through intersectoral cooperation.

Good practice: According to the Law on the Protector of Human Rights and Freedoms, the Ombudsman’s role consists of: 1) examining individual or collective complaints against governmental agencies; 2) challenging the legality of laws or regulations that affect human rights; 3) proposing changes or amendments aimed at bringing the law into compliance with Montenegro’s international commitments in regard to human rights.

The child rights team in the Ombudsman’s office has been playing a very positive role in drawing attention to laws and practices that must be changed in order to meet international standards on the rights of juveniles in conflict with the law. In partnership with UNICEF, the office has published a child-friendly Guide on Child Rights to improve the level of information available about child rights, including the rights of juveniles in conflict with law.

In 2006, the Ombudsman’s office published a special report on juveniles in conflict with the law advocating for juvenile justice reform. According to the report, “juvenile offenders are deprived of a series of rights including the right to treatment in compliance with their psychosocial characteristics ... during custody” and that the delay in adjudicating was “the most urgent problem”. Amendments were consequently made to the law in 2006 to establish a limit of six months for trials of juvenile offenders.

Strategy of implementation: The institution of the Protector of Human Rights and Freedoms (Ombudsman) was established in 2003. The office comprises a small team specializing in child rights. In 2006, UNICEF provided support to the office to strengthen its capacity and promote the creation of a Deputy Protector of child rights. To that effect, the Protector established a working group comprising representatives from the Faculty of Law in Podgorica, the Ministry of Justice, the Supreme Court, UNICEF, Save the Children UK, the Council of Europe and Save the Children Norway. A number of meetings were held to define the mandate of the Deputy Protector. Following a round table organized in November 2006 with representatives from the executive, judiciary and legislative powers and NGOs, the working group developed the final version of the amendments to the law establishing the Deputy Protector. This was forwarded to the Parliament of Montenegro in 2007 and discussed in July 2009.
Progress, results and challenges: Amendments made to the law in 2006 established a limit of six months for trials of juvenile offenders, and general awareness of the rights of juveniles in conflict with the law is greater among professionals, thanks to the work of the Office of the Protector. The impact of the specialist post of Deputy Protector and his or her potential focus on juveniles in conflict with the law remains to be seen.

Impact/effectiveness: The capacity-building provided by UNICEF to the Ombudsman’s office has had a clear impact on its work. The Ombudsman had a perceptible impact on the operations of other institutions and on decision-making.

Relevance: The reports of the Ombudsman’s office have been key contributions to juvenile justice reform.

Sustainability: According to the Development Researchers’ Network/UNICEF evaluation of 2007, “there is every reason to believe that the child rights team of the Ombudsman, which is not dependent on external support, is a permanent feature.”

Expanded partnership and alliances: A close cooperation was established between the Ombudsman’s office, the Government of Montenegro and, in particular, the Ministry of Justice, UNICEF and several NGOs. The working group established to revise the law, which comprises representatives of these organizations, illustrates perfectly the working collaboration that drives reform efforts on children’s issues in Montenegro.

Leadership, participation and community empowerment: The Ombudsman’s office participated in awareness-raising activities in the community.

Social, political and financial mobilization: See sustainability.

Cost-efficiency/financial sustainability: See sustainability.
**Category:** Promising initiative  

**Focus area 5:** Monitoring and accountability  

**Country:** Turkey  

**Title:** PARTICIPATORY TRAINING TOWARDS INCREASED ACCOUNTABILITY  

**Description:** Ardıç Programme for the personnel of the Ministry of Justice  

**Contact information:** Burge Akbulut, Child Protection Officer, UNICEF Turkey, bakbulut@unicef.org  

**Summary:** Through exposure to blanket and participatory approaches to child rights training, the wide range of personnel in contact with juveniles deprived of liberty have become more competent and responsible, and thus more accountable to one another and to juveniles. The Ardıç Programme was developed for psychosocial and other professionals working with juveniles in prisons, detention and education centres in the Republic of Turkey, its Turkish consultants providing management training, tools and information with which to work more effectively with juveniles. The modules have led to a positive change in attitude towards the juveniles detained. The Ardıç Programme, developed by the Ministry of Justice, with support from UNICEF and funding from the European Commission, has been adopted into the regular Ministry of Justice training system and is now self-sustaining.  

**Good practice:** One module of the Ardıç Programme was designed to train psychosocial personnel employed in Ministry of Justice establishments (psychologists, social workers and some teachers) in handling children with specific problems, anger management, developing confidence and topic related issues (for example, how to say ‘No’); delivering family training; supporting child victims of sexual abuse; and understanding the role of psychosocial staff vis-à-vis other staff (especially guards). The second module for administrators and staff employed in juvenile prisons, detention centre and education centres provided basic awareness of child rights, with two levels of training adapted to the participant’s function: 1) guards, cooks, drivers and general support staff; and 2) administrators focused on developing schedules for the juveniles.  

The good practice consisted in the fact that, in the end, all of the personnel in contact with juveniles deprived of their liberty were made aware and therefore accountable for respecting child rights. This was achieved via a methodology that empowered and brought together personnel as an interdisciplinary team working in favour of juveniles, rather than against them. The training session content was also developed gradually and in a participatory fashion, ensuring both strong ownership and long-term sustainability.  

**Strategy of implementation:** The development of the training programme began with a participatory needs assessment, in which the modules were elaborated, drafted, tested and reviewed by the staff members themselves. By the end of 2006, 347 staff members had been trained. From this number, 19 master trainers were selected: 9 for the psychosocial group and the remainder for the administrators. The training modules continued throughout 2007 with consultants monitoring training and providing feedback to the trainers. By the end of 2007, the trainers were well established and the training material had been continually updated. In March 2008, the material was ready to be finalized by a design team. Using the training facilities and funds of the Ministry of Justice ensures the sustainability of the training programme.
Progress, results and challenges: The training has encouraged all staff – from senior level to support staff – to gain a comprehensive insight into the roles of their colleagues. This has resulted in a clear understanding of how all professionals support each other in working towards providing adequate responses to juveniles’ needs. The teamwork has also broken down inter-professional and interdepartmental prejudices. The training has improved staff motivation, enthusiasm and morale for two reasons. Firstly, because staff helped to design the programme, and secondly, because the modules provided them with the models and information required to be more resourceful in their roles. This has effectively developed synchronicity between the staff and has encouraged more child-centred approaches.

The positive change in attitude towards detained juveniles is reflected in the nature of the contact between the general staff or managers and the juveniles. Feedback was received during monitoring visits made to several institutions and Ministry of Justice authorities. Separate interviews were conducted with juveniles, psychosocial personnel, guards and administrators. In most institutions, juveniles mentioned a significant change in the attitude of personnel. Juveniles noted the difference by saying, “the staff should be rewarded for their humane approaches.”

In terms of challenges, the high rate of rotation among Ministry of Justice staff remains a major constraint: as only a limited number of trainers were trained, it will be difficult to keep the same number of trainers over the years. Furthermore, there is the risk that trained staff members may be transferred to other institutions, potentially reducing the impact of the training. Consequently, one lesson learned from this experience is that it is necessary to develop a sustainable number of trainers from the beginning. A current challenge for the Ministry of Justice in Turkey is to develop its internal capacity to train its own trainers in the future.

Impact/effectiveness: Following the development phase, during which 347 staff participated in training sessions, around 500 more individuals have been trained by the Ministry of Justice since the beginning of 2008. Highly positive informal feedback has been received, and UNICEF is now working with the Ministry of Justice to develop a formal system to regularly evaluate the impact of training.

Relevance: The activity has helped the different professionals working with the Ministry of Justice to develop a common vision for juveniles and to harmonize their policies.

Sustainability: The new trainers completed their first course in January 2008 and modules are currently being delivered at the four Ministry of Justice training centres. The programmes have been integrated with the Ministry of Justice training system and are self-sustaining. Nevertheless, the next challenge will be to strengthen the internal capacities of the Ministry of Justice so that the training package may be updated as required.

Expanded partnership and alliances: UNICEF was the only partner involved in this initiative.

Leadership, participation and community empowerment: During the informal training evaluation, positive feedback was given by participants as well as by juveniles.

Cost-efficiency/financial sustainability: Originally funded by the European Union, the Ministry of Justice is now regularly implementing the package in its training institutions as part of its mandatory in-service training, using its own resources.
LEGISLATIVE REFORM AND LEGAL AID

Laws in a sense form the skeleton of a system of juvenile justice. Laws often define the roles of the various actors that make up the system. In principle they determine when children will come into contact with the system. They should recognize the rights set forth in articles 37 and 40 of the CRC and establish rules and procedures that give practical meaning to principles such as the ‘last resort’ principle. It is therefore essential to bring the national law into conformity with the CRC and related international standards, as well as the actual implementation of such laws and related legal norms or regulations.

Improved access to free, professional and specialised legal aid for child offenders is emerging as one of the most powerful tools to ensure that legislative change is actually enforced and that children’s rights are respected through due process and tailored responses.
Category: Good practice

Legislative Reform: Building wider support for juvenile justice reform

Country: Serbia

Title: ‘CHILDREN’S CHANCE FOR CHANGE’ LEGISLATIVE REFORM

Description: Adoption process of a comprehensive juvenile justice law based on restorative principles

Contact information: Katlin Brasic, Child Protection Specialist, UNICEF Serbia, kbrasic@unicef.org

Summary: The adoption of the new, comprehensive Law on Juvenile Justice was the cornerstone of UNICEF’s work in the Republic of Serbia. The legal reform was one of the four components defined in the Children’s Chance for Change project launched by UNICEF in 2004. The Law on Juvenile Offenders and Protection of Minors During Criminal Proceedings (for further information, see the Law on Juvenile Justice) was a prerequisite for the creation of a new justice system based upon diversion and restorative justice.

The Law on Juvenile Justice groups together in one document (in the form of *lex specialis*) all relevant provisions for juvenile offenders, victims and witnesses. The law gives a legal basis to juvenile justice reform and clearly recognizes certain forms of restorative justice (for example, apologies, compensation and community service as alternatives and forms of diversion). It also establishes new procedures on the diversion, prosecution and adjudication of accused juveniles as well as on the execution of custodial and non-custodial sentences. The law was developed following a wide-ranging consultative process.

Good practice: The Law on Juvenile Justice was adopted in 2005 and came into force in 2006. It mainly governs offences committed by children aged 14 to 18, but is also used for young adults aged 18 to 21 in exceptional cases and for children of any age involved in criminal proceedings as a witness or victim. The law, for the first time in the history of Serbian legislature, introduced the legal basis for the implementation of restorative justice principles, foreseeing diversion measures, such as victim-offender mediation, community service, etc., as alternatives to standard criminal proceedings. It also stipulates new alternative sanctions (apology to the injured party, compensation for damages, community service, etc.).

In proceedings affecting minors, the law emphasizes urgency and redefines provisions regarding detention, which is more precisely defined as a measure of last resort and suitable only for the shortest appropriate period of time. Furthermore, every professional implicated in criminal justice proceedings involving a juvenile (as a victim, witness or offender) must have specialist knowledge of child rights and criminal justice protection of juveniles. This provision applies to police officers, prosecutors and judges.
As was previously the case, a defence attorney must be present when an accused juvenile is questioned prior to and during the trial. The new law specifies that juvenile suspects may no longer be held in police custody for 48 hours for questioning, and that juveniles, whether victim or suspect, cannot be questioned without the presence of a parent or legal guardian. In residential facilities for convicted juveniles, child rights to education, to religion, to health care, adequate food and clothing, recreation and family visits are recognized, individualized treatment plans are prescribed and solitary confinement is prohibited.

In terms of the protection of child victims/witnesses, the juvenile justice law introduces significant procedural modifications in the presentation of evidence, whereby the hearing of a juvenile as a witness in criminal proceedings may take place twice at maximum (and only in exceptional cases more than twice). Additionally, the provisions foresee the use of technical equipment that enables the juvenile to be located in a separate room or in his or her home, and which allows all parties concerned to ask questions, but only through the judge, psychologist, pedagogue or social worker. Confrontation of the accused by the witness is prohibited. The law calls for the juvenile to be represented by an attorney from the start of the trial process. It also requires that investigative judges, council judges, prosecutors and attorneys working on cases involving child victims/witnesses have attended specialist training in child rights and the protection of juveniles.

**Strategy of implementation**: Since 2001, NGOs had advocated for new legislation on juvenile justice and, in 2002, a draft was produced by the Child Rights Centre – Belgrade with the support of the Danish Centre for Human Rights. UNICEF prepared comments on the draft law and began to support the Child Rights Centre’s work on the draft law in 2003. A number of public round table discussions were organized to ensure an open, participatory process and to mobilize support. An official draft was completed by the Ministry of Justice in 2004. The new Law on Juvenile Justice was adopted in 2005 and came into force on 1 January 2006.

The juvenile justice law called for six pieces of secondary legislation: by-laws relating to the application of diversion orders; regulations on the enforcement of alternatives to detention, on record-keeping and on the execution of the sentences imposed; rules on the work of the Juvenile Justice Council; and ‘house rules’ for juvenile correctional institutions and juvenile prisons. The Child Rights Centre prepared draft regulations and rules with the support of UNICEF and the participation of the staff of two facilities for offenders and of the diversion pilot project. All of these rules and regulations have been approved by the relevant ministries and authorities and have entered into force, except for the regulations on diversion and those on the Council.

Since the Law on Juvenile Justice foresees the specialization of juvenile justice professionals and stipulates mandatory training for judges, prosecutors, attorneys, law enforcement officials and social workers, UNICEF has supported the capacity-building of juvenile justice professionals. By the decision of the Judicial Training Center of Serbia – the authorized institution for enhancement of the juvenile professionals – juvenile justice professionals have to attend three modules of training in order to gain the required certificate and have the authority to participate in proceedings where juveniles are involved (whether as offender, witness or victim). More than 3,000 participants from the judiciary, police and social services sector – including staff from correctional and educational institutions – have been trained on the procedural specifics of the juvenile justice law and the content of its sub-laws. This round of training also represented an opportunity for participants to exchange experience gained so far in the implementation of the new law.
A third cycle of training in select district court centres covered topics such as the application of alternatives to detention, diversion orders, the psychology of minors, etc. Furthermore, UNICEF supported the round of training on ethical and psychological standards of police conduct with juveniles for 300 police officers, holders of provisional certificates and their supervisors, members of the Law Enforcement Republican Team for Combating Juvenile Delinquency and police academy professors. In addition, a number of training sessions were organized on victim-offender mediation to prepare the way for the successful implementation of the procedural specifics of the juvenile justice law.

**Potential application:** The full application of Serbia’s Law on Juvenile Justice requires the development of an operational plan for its implementation. When it comes to regulating the procedures for child victims/witnesses, proceedings still vary greatly across different courts. Some have invested significantly in following new procedures, whereas others, partly because of the lack of technical equipment, do not fully comply.

Further advocacy efforts are required to ensure that the government provides resources for technical equipment and that it puts in place a system to monitor the application of procedural modifications. The inspection services, for example, must be given a clear mandate and the competencies to fulfil this remit. Additional challenges include providing child victims access to rehabilitation services, a process that is not covered by the current regulations.

**Progress, results and challenges:** In terms of the implementation of the Law on Juvenile Justice, the main advancement that has been made is the certification of legal professionals (prosecutors, judges, attorneys and police inspectors) to deal with cases of juvenile offending.

The application of diversionary schemes and alternative sanctions is slow. According to the data of the Institute for Social Protection, 134 juveniles were diverted from criminal proceedings in 2007 and 125 juveniles in 2008. In regard to the number of cases in which juveniles were reported (3,434 cases) and charged (2,501 cases), it appears that the possibilities for using diversionary schemes remain many and varied. The pending adoption of the by-law on diversions should provide greater procedural detail for juvenile justice professionals. But there remains a dearth of appropriate diversionary services to which the judiciary may refer juveniles.

Alternatives to detention are more frequently applied than detention: in 2007 1,996 juveniles were convicted and only 111 offenders were sent to detention. The special services required for the application of alternatives are insufficiently established in the system, however. This is particularly true in the case of community work – a measure applied in just 58 cases in 2008. While regional courts deal with cases of juvenile offending, cases in which the victim/witness is a child can be dealt with at any level (including by municipal courts). Evidence suggests that such cases are treated with greater urgency, but the use of special technical equipment to record children’s testimonials is limited due to the lack of such resources in all courts.

UNICEF Serbia has prompted the establishment of the Juvenile Justice Council, as stipulated by the new law. The next step is to support the Council in developing a clear operational plan that will become an integral part of the National Plan of Action for Children, currently being revised by the Serbian National Council for Child Rights. There also exists the need to develop recommendations for changing the way that data is collated.
Impact/effectiveness: Some 300 police officers and other key personnel have been trained in child rights and ethical and psychological standards of police conduct with juveniles. More than 3,000 professionals from the police, judiciary and correctional facilities were trained in the new Law on Juvenile Justice. In 2008, 125 juveniles were diverted from the criminal process. Of the 1,996 juveniles convicted in 2007, only 111 offenders were sent to detention. The law has led to the premise of a protective environment for juveniles in conflict with the law.

Relevance: The new law requires that police, judges and prosecutors receive mandatory training in child rights. It also legally recognizes the existence of restorative justice in the judicial system of Serbia and aims to ensure better protection for child victims and witnesses.

Sustainability: The main challenge of this project is the effective application of the law and, in particular, of the provisions on diversion. The adoption of by-laws is necessary to implement the appropriate procedures and social services.

Expanded partnership and alliances: The adoption of the Law on Juvenile Justice was the result of a strong partnership between the Government of Serbia, in particular the Ministry of Justice, and UNICEF, as well as the Swedish International Development Cooperation Agency and other NGOs.

Leadership, participation and community empowerment: Community empowerment was another aspect of the juvenile justice project and this has been addressed, notably by the implementation of 14 mobile teams that make home visits and provide mediation services to outlying villages. This was recognized as a beneficial practice and integrated into the new law as one of the diversionary schemes.

Social, political and financial mobilization: The law was adopted following a consultative process. Round table discussions were organized to mobilize support and no real opposition to the adoption of the law emerged.

Cost-efficiency/financial sustainability: The sustainability of the project is clear, but without UNICEF support the innovative parts of the legislation will not be implemented thoroughly enough.

External interest and replicability: Serbia’s experience could be very useful to countries interested in drafting a separate juvenile justice law or to those that do not mention diversionary schemes and alternative sentences in their current legislation.
**Category:** Promising initiative  

**Legal Aid:** Alternatives to custodial measures  

**Country:** Albania  

**Title:** SUCCESSFULLY COMBINING LEGAL AND PSYCHOSOCIAL SUPPORT  

**Description:** Development and mainstreaming of legal and psychosocial assistance to juveniles in conflict with the law through the Legal Clinic for Minors  

**Contact information:** Leon Shestani, Social Services Specialist, UNICEF Albania, Ishestani@unicef.org  

**Summary:** The development and mainstreaming of legal and psychosocial assistance to juveniles in conflict with the law has been an important component of the reform of the juvenile justice system in the Republic of Albania. Before the adoption of the law on free legal aid (law no. 10039, 22 December 2008), children and minors who entered the justice system did not automatically benefit from quality legal and psychological services, despite the entitlement under domestic legislation that provided for pro bono attorneys to assist individuals involved in criminal proceedings.  

During the eight years of its implementation, the Legal Clinic for Minors (LCM) initiative has played an important role in overcoming gaps in the system through the provision of free legal and psychosocial assistance, including administrative intervention and mediation.  

**Good practice:** In collaboration with the police, pre-trial detention centres, prosecution offices, district courts, the Courts of Appeal and the Serious Crimes Court, the LCM in Tirana, Korça and Shkodra have developed a process for the identification and referral of minors in need of legal representation.  

In each case, the lawyer can offer advice and representation at the police station, during interrogation by the prosecution office, and in the course of investigation and preparation of a legal defence; representation in court; and legal services in prison, if required. Psychosocial assistance is provided in pre-detention facilities in Tirana, Korça, Shkodra, and once a week psychologists visit the juvenile prison in Vagarr. Psychological support aims to build trust, provide a listening ear and give guidance, as well as to monitor signs of psychological distress so that early action may be taken. The presence of the LCM psychologists is also assured in all legal proceedings from the identification of the case to psychosocial preparation before release. Every year the LCM provides legal assistance to between 80 and 100 cases in Tirana, and to between 30 and 40 cases in Shkodra and Korça combined. Psychosocial assistance is provided by the LCM to between 100 and 120 juveniles in Tirana, and to between 30 and 40 juveniles in Shkodra and Korça.
Strategy of implementation: This project addresses key gaps in legal protection that result from a combination of conflict of interest (the public prosecutor appoints the attorney of the defendant), lack of detailed procedural rules for the appointment of pro bono attorneys, poor professional competence of appointed attorneys, and the lack of a mechanism to monitor the attorney’s performance while defending juveniles on a pro bono basis.

The LCM initiative has enforced a human rights approach in supporting juvenile cases at all stages of the legal procedure. Project evaluation data supported the dialogue with the Ministry of Justice around the need to take legislative action on the improvement and approval of the law on free legal aid. As a result, the LCM initiative has informed the drafting process of the law on free legal aid approved by the Albanian Parliament in 2008. Guidelines were also created to help professionals better perform their duties, and internships for social science faculty students have been developed by the LCM initiative with the support of UNICEF.

Progress and results: The experience and results of the LCM initiative are helping UNICEF and the NGO Peace through Justice to advance a dialogue with the Ministry of Justice at policy level to advocate for the establishment of juvenile sections at district courts and prosecution offices; the implementation of alternatives to detention for juveniles, by amending the juvenile justice legal package (Criminal Code and Criminal Procedure Code on the involvement of the psychologist in investigations and judicial proceedings); and the institutionalization of probation services in Albania.

Impact/effectiveness: Annually, the initiative has provided legal assistance to juveniles in 80 to 100 cases in Tirana, and 30 to 40 cases in Shkodra and Korça; and psychosocial assistance to 100 to 120 juveniles in Tirana, and to 30 to 40 juveniles in Shkodra and Korça (see section on good practice above).

Relevance: Not only has the LCM initiative allowed juveniles to receive legal and psychosocial assistance as required by international standards, but it is also contributing to the improvement of the Albanian juvenile justice system as a whole by promoting a more balanced use of available measures and services.

Sustainability: The law on free legal aid was adopted in December 2008. Services provided through the LCM represent a model that has the potential to be transferred fully and work in parallel with newly established structures such as the State Commission on Legal Aid and the probation directorate.

Expanded partnership and alliances: The intended outcome of the LCM initiative was achieved through the intersectoral collaboration between UNICEF, LCM, pre-detention centres, juvenile sections of district courts and prosecution offices, the Ministry of Justice and others. A memorandum of understanding has been signed with these structures for case identification and management.

Leadership, participation and community empowerment: Not applicable.

Social, political and financial mobilization: No information available.

Cost-efficiency/financial sustainability: No specific costing study has been conducted.
Category: Promising initiative

Legal Aid: Building wider support for juvenile justice reform

Country: Azerbaijan

Title: **LEGAL AID, ALSO FOR THE BENEFIT OF CHILD OFFENDERS**

Description: Promoting free-of-charge legal aid for juveniles in conflict with the law through the establishment of the Children’s Rights Legal Clinic model

Contact information: Munir Mammadov, Child Protection Officer, UNICEF Azerbaijan, mmammadov@unicef.org

Summary: UNICEF and its NGO partner Alliance for Children’s Rights, working in close collaboration with the Ombudsman’s office and the Organization for Security and Co-operation in Europe (OSCE) office in Baku, established the Children’s Rights Legal Clinic in Baku in 2007. The main purpose of this project is to model the provision of free legal aid, legal counselling, legal support and representation in trials for vulnerable children and their families in order to promote appropriate reform of the juvenile justice system in the Republic of Azerbaijan. The project is a tool to raise awareness of children’s rights and to build capacity among professionals from the judiciary, police and social sector.

The project is small in scale, with only two staff and two volunteers, but it has already dealt with 73 cases, of which 10 involved juveniles in conflict with the law. Seven of these cases were closed in favour of the juveniles involved and two resulted in alternatives to detention being applied. The Legal Clinic also reviewed the cases of children in specialist, semi-open institutions under the minimum age for prosecution as a juvenile and initiated the official review with the Ministry of Education. The ultimate objective of this project is to implement a well functioning legal aid service that could be further replicated across the country following a commitment by central government.

**Good practice:** The Legal Clinic has developed partnerships with the Commission on Minors in five cities and districts of the country and has spread the word about its work via a poster and leaflet campaign in Baku in order to reach out to children and concerned adults. The Legal Clinic’s lawyers have been involved in 73 criminal and administrative juvenile cases, which were all tried in favour of children and their families. The Legal Clinic has also built strong connections with the police child inspectors in three districts of Baku. Consequently, the inspectors inform the Legal Clinic every time they arrest a child.

The Legal Clinic has also worked with local schools in those same three districts to organize a number of seminars and meetings with teachers and parents to promote its services. Special brochures were produced for children and parents to explain the rights of juveniles in police detention and trial procedures. The Legal Clinic also works with law students at several universities located in Baku. The students are sent to the Legal Clinic for internships, where they gain practical skills. This is the fastest-growing area of the Legal Clinic’s work and is hugely important as it aims to ensure that future lawyers, prosecutors and judges understand how to work with juveniles and respect their rights.

The Ombudsman’s office and UNICEF promote the Legal Clinic as a model for the provision of free legal aid to vulnerable families with children as a response to the total absence of such support in the country.
Strategy of implementation: In 2007, the Alliance for Children’s Rights, with the support of OSCE, monitored several trials involving children. Serious concerns were raised by the NGO, including around the lack of experience of working with juveniles of lawyers who were formally present during trial; the difficulties judges faced in conducting a fair trial and making a just decision because of their lack of skills and knowledge; and the lack of understanding amongst prosecutors and judges of alternative sentences to imprisonment that could be handed down to juveniles. These concerns led to the establishment of the Legal Clinic, the first aim of which was to present ways of providing legal aid and guidance to juveniles/parents/lawyers and to demonstrate how juveniles could receive full representation during trials. Furthermore, the Legal Clinic aims to mediate between the prosecutor, judge, the juvenile’s family and the local child protection authorities in order to improve the application of alternatives to custodial sentences.

The Legal Clinic was established in Baku to cover the Narimanov district, where the Government of Azerbaijan and UNICEF were implementing other pilot initiatives in juvenile justice. Following the pilot’s initial success it was decided to expand the scope of the Legal Clinic to the whole of the capital city. Over the next six months, the Legal Clinic acquired sufficient practical experience, trained its lawyers, recruited students as volunteers and decided to reach out to further regions of the country. Booklets and posters were disseminated to schools, police offices and courts in Baku and other regions of the country.

One of the goals of the project was to provide a practical site for students and practitioners in the juvenile justice field to gain skills and knowledge in child rights – as well as sensitize these individuals to the need to protect child rights within the justice system. As law students and international law faculties do not receive sufficient training or education in this area, the universities welcomed the possibility for their students to benefit from the knowledge provided by the Legal Clinic. Around 50 students from different universities undertook practical work within the Legal Clinic between 2007 and 2008. Cooperation with courts and police offices in targeted districts was established to help support child-friendly procedures within the justice system, not least the provision of free legal aid and the participation of parents/legal guardians in legal proceedings.

Potential application: The Legal Clinic was established with the support of a small team of lawyers trained in the field of juvenile justice. The Clinic is a solution for countries in which the judicial system has some deficiencies because it is still in the process of development and where advocacy efforts are either undeveloped or lack the necessary experience in child rights. It is also a good tool for allowing young lawyers to acquire legal experience and, at the same time, increase their child rights capacities, making them more sensitized to the protection of child rights within the justice sector.
Progress and results: According to the Legal Clinic’s report, the number of appeals by juveniles/parents and the number of referrals by different agencies (including government agencies) have both increased. The Clinic has won seven juvenile cases in court and in August 2008 two children were referred to alternatives to imprisonment by the Baku City Narimanov District Court. It is hoped that this has set a precedent for the other courts in Baku.

The Legal Clinic has trained more than 50 students, all of whom have completed a practical internship. The Clinic organized more than five large-scale meetings with parents, teachers, juveniles and police officers in three districts of Baku in order to promote child rights and its own free services. In 2008, the Clinic reviewed the cases of all children in the Ministry of Education’s specialist, semi-open institutions for children under the minimum age of criminal responsibility. It appeared that the vast majority of these children had spent more than two to three years in institutions and that their placements had never been reviewed.

The biggest challenge to the continuation of the project is funding. UNICEF is the main agency covering the costs of the project but it has very limited resources for juvenile justice reform in Azerbaijan. Limited financial support is also provided by OSCE, but the overall resources are insufficient for a full-scale project.

Impact/effectiveness: From November 2007 to June 2009, 203 juveniles and their families benefited from legal aid. Out of 27 criminal cases involving juveniles, 7 were closed in favour of children and the Narimanov district court applied alternatives in 2 cases.

Relevance: The Legal Clinic was established to remedy the absence of free legal aid and has enabled the training of lawyers and students in child rights and restorative justice.

Sustainability: So far, the state has neither committed to supporting the project with resources allocation nor political support. Negotiations to build mutually beneficial relationships with several universities will continue. It is hoped that in return for providing universities with a base for the practical training of law students, the Legal Clinic would receive some financial support from the relevant institutions.

Expanded partnership and alliances: The pilot was implemented in partnership with UNICEF, OSCE, the Ombudsman’s office and the Alliance for Children’s Rights. Police and schools promoted the model in the three districts covered and agreements were signed with universities to instruct students on child rights. In 2009, the Ombudsman’s office referred several cases to the Legal Clinic.

Leadership, participation and community empowerment: Collaboration with police, schools and Commissions on Minors was established. Meetings with teachers and parents were organized to raise awareness about the Legal Clinic’s work. In 2009, Legal Clinic staff members and police child inspectors organized meetings in 15 schools to raise awareness among juveniles and encourage school leadership on child rights, juvenile delinquency, early prevention measures, rehabilitation and psychological work. Throughout 2008 and 2009, television programmes were initiated and/or jointly organized by the Clinic and some government agencies and parliamentary bodies to address child protection and juvenile justice issues.
Social, political and financial mobilization: Data collection and analysis of referred cases enabled the Legal Clinic to provide civil society and government with feedback on the situation of children in the country. This information helped to make recommendations to the government in regard to reforming the system. The Legal Clinic has consequently organized several training courses and seminars to improve the capacity of professionals.

Cost-efficiency/financial sustainability: A grave lack of resources is the main challenge for the continuation of the project. UNICEF and OSCE are the main donors but this support is limited. This model aims to encourage the government to take over a full-scale, nationwide project. In the meantime, the Legal Clinic plans to expand its participation in other programmes targeting legal awareness-raising, human and child rights education, and monitoring and reporting on the child rights situation, which would enable it to raise funds for its operations over the long term.

External interest and replicability: The pilot project is a good model for countries in which no legal aid services exist. The implementation does not need huge funds but requires a strong investment by lawyers and local authorities. Building partnerships with universities or other educational institutions has a positive impact on sustainability: the involvement of volunteers in the Legal Clinic’s work decreases running costs and frees up paid staff lawyers to work on more serious cases while volunteers deal with paperwork, counselling and the monitoring of court hearings. Around 25 students and graduates of Baku Slavic University, Azerbaijan University, Tefekkur University and other educational institutions have been involved in the Legal Clinic’s work to date.
**Category:** Promising initiative  

**Legal Aid:** Building wider support for juvenile justice reform  

**Country:** Georgia  

**Title:** ENSURING EQUAL ACCESS TO JUSTICE FOR THE VULNERABLE  

**Description:** Making free legal aid available for juveniles in conflict with the law  

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**Summary:** In Georgia, Legal Aid Service (LAS) is the state agency coordinating the legal aid system established in 2007 and governed by the Law on Legal Aid Service of June 2007. Its mission is to provide all socially indigent persons in Georgia with timely and effective legal aid that fully considers their interests. All persons under the age of 18 are automatically entitled to free legal aid. Services provided include representation in criminal cases from the time of the arrest by the police to the court hearing, and legal counselling.

Currently, LAS has 10 bureaux that provide free legal aid to the socially indigent population, covering almost the whole territory of Georgia. The LAS strategy for 2009–2013 aims to improve the conditions of access to this service and to address any remaining gaps, for example, better defining the conditions to benefit from the services and extending its mandate to administrative and civil cases.

**Good practice:** LAS provides free legal advice in criminal cases to the ‘socially vulnerable’, i.e., the poor. Since 1 January 2009 only indigent persons are allowed to receive state legal aid. According to the law, persons under the age of 18 fall automatically within this category, which means that no other condition is requested for juveniles to benefit from this service (Order 284, December 2008).

Legal aid comprises representation by a lawyer in criminal cases and in cases involving the sentencing of a person to compulsory psychiatric treatment to all detained – either accused or convicted persons – at the pre-trial investigation stage and during court hearings. Furthermore, consultation centres provide legal consultation on specific issues and draft legal documents where necessary.

Police and prosecutors are obliged to inform LAS immediately upon the arrest of a child and to ensure that a lawyer is always present during interviews conducted by the police and prosecutor. No such interview may commence without a lawyer in attendance. The provision for juveniles allows for stronger protection than that afforded adults, for whom legal counsel is not obligatory until charges are brought at the pre-trial stage. The LAS provision of legal counsel from the moment of arrest of children is also supplemented by provisions in the criminal procedural code of Georgia that stipulate the right of a child to have a responsible adult other than legal counsel also present during interviews with police.

LAS works on various projects that aim to ensure delivery of a high quality legal service. A strong human resource function is the major precondition for attaining that goal. The level of qualification of the lawyers, consultants and other personnel employed by the system is directly linked to the effectiveness of the service.
**Strategy of implementation:** In 2008, LAS regional offices cooperated with local media to prepare 30 television programmes and interviews, 7 newspaper inserts and 2 radio interviews for publication or broadcast by the mass media. Moreover, within the framework of the Mobile Legal Aid project, 30 mobile consultations were held by representatives from bureaux and consultation centres in various regions.

One objective of the 2009–2013 strategy is to increase public awareness of the state funded legal aid system in order to overcome the negative stereotype associated with the concept of the public lawyer. As a consequence, LAS plans to conduct several activities to raising public awareness over the next four years. The following strategy has been designed:

- To increase the number of legal aid offices (bureaux/consultation centres) with a view to covering the whole territory of Georgia.
- To review and simplify the eligibility procedure for receiving legal aid.
- To ensure uninterrupted functioning of the Contracted Public Lawyers’ Register (which implies the revision of the Register, and revision of the reimbursement principle and amount of reimbursement).
- To provide free legal aid for civil and administrative cases through the development of appropriate legislation.
- To improve communication with representatives of ethnic minorities (via translators and local level communications).

**Progress, results and challenges:** LAS lawyers represented some 11,000 accused persons in 2008, including an estimated 30 per cent of all accused juveniles in Georgia. Specifically, lawyers were appointed to 10,218 criminal cases and to 978 cases where the sentencing of a person to compulsory psychiatric treatment is reviewed by the court. Moreover, 4,765 consultations were rendered and 1,134 units of various legal documents were drafted. All staff attorneys are trained to represent juveniles, but none are assigned exclusively to this area. The team that conducted the assessment of the juvenile justice system in Georgia in 2008 was impressed by the staff lawyers interviewed, in terms of both their motivation and their understanding of child rights.

The bureaux are already functioning in various regions of Georgia: Samegrelo (Zugdidi and Poti), Adjara (Batumi), Imereti (Kutaisi and Zestaphoni), Shida Kartli (Gori), Kvemo Kartli (Rustavi), Kakheti (Telavi) and Tbilisi. Apart from the bureaux, the Ambrolauri and Ozurgeti Consultation Centers offer free legal consultations to the inhabitants of the Guria and Racha regions. Yet there are still some territories where the right to legal aid is not guaranteed. Samtskhe-Javakheti, where the majority of ethnic minorities live, is among such regions. Most inhabitants of the region do not know the Georgian language, which inhibits their access to justice. The existence of a legal aid bureau in such a region would guarantee better access to justice and promote the integration of national minorities in society.

The distance between the different bureaux is still problematic. Another concern is the extension of the mandate of LAS to administrative and civil cases as part of its future plans. As LAS is a government agency supervised by the Ministry of Corrections and Legal Assistance, a conflict of interest could arise when LAS takes on administrative and civil cases as the agency would not be able to ensure independent representation.
**Impact/effectiveness**: Legal aid is considered to be a significant cornerstone of public welfare and the rule of law. It guarantees access to justice for all persons deprived of the opportunity to benefit fully from the advantages offered by the legal system. In 2008 more than 3,000 children benefited from LAS.

**Relevance**: Legal aid is a valuable tool to promote child rights, especially for juveniles who are in conflict with the law and who are often submitted to violations of their rights during trial proceedings.

**Sustainability**: The system is governed by the Law on Legal Aid Service adopted in June 2007. Legal aid bureaux already function in ten regions of Georgia and the strategy developed for 2009–2013 plans to extend LAS to the whole territory as well as to improve conditions for access and especially for ethnic minorities.

**Expanded partnership and alliances**: Some meetings were held in 2008 with the participation of the public defender’s representatives and various NGOs. The Open Society Georgia Foundation also provided lawyers with the case management computer software known as *Case Bank*, with the aim of collecting statistical data.

**Leadership, participation and community empowerment**: Numerous activities were developed to raise awareness about LAS and some such activities have already been planned as part of the 2009–2013 strategy.

**Social, political and financial mobilization**: Social mobilization was initiated through local media and television programmes.

**Cost-efficiency/financial sustainability**: Not evaluated yet.
**Category:** Promising juvenile justice initiative  

**Legal Aid**  

**Country:** Ukraine  

**Title:** ALLOWING DIVERSION THROUGH TARGETED LEGAL INTERVENTION  

**Description:** Implementation of free-of-charge legal aid through the Office of Public Defense  

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**Summary:** Kharkiv Office of Public Defense (OPD) was involved in a pilot project that aimed to promote a model for the provision of free-of-charge legal aid to needy persons. Under the project, the office’s defenders provide free defence to their clients and advocate the wider use of restorative and conciliatory justice. Since the opening of the first public defence office in Kharkiv, 250 juveniles have benefited from legal aid – in many cases, enabling diversion.  

**Good practice:** Kharkiv OPD comprises 13 public defenders (including the project coordinator), plus a lawyer, a deputy director and an accountant. Kharkiv OPD provides comprehensive client-oriented defence. Public defenders are selected on a competitive basis by a commission that includes representatives of the Ministry of Justice of Ukraine and the Regional Collegium of Lawyers as well as NGOs. Public defenders work full time on a contractual basis. They may represent exclusively the interests of Kharkiv OPD’s clients. Public defenders regularly participate in continuing professional development training organized by the American Bar Association Europe and Eurasia Program (also known as CEELI), Kharkiv Human Rights Protection Group and the International Renaissance Foundation. They also possess mediation skills acquired in seminars organized by the Ukrainian Centre for Common Ground. Since formal specialization in juvenile justice does not exit, public defenders study juvenile psychology and juvenile justice independently, in their own time.  

Clients, in particular juveniles, are represented in pre-trial investigations and in court so as to ensure due process and encourage tailored judicial or non-judicial measures. For example, Kharkiv OPD facilitates the placement of convicted drug addicts in specialist medical institutions for drug addiction treatment. Following completion of treatment, the office’s defender provides the court with a medical report, which effectively closes the criminal case and releases the client from criminal liability.  

Public defenders involve mediators in court hearings to help reconcile victims and juvenile offenders. This mediation results in the closure of criminal cases or the use of correctional measures other than the removal of juveniles from society.
The office aims to involve its public defenders in criminal cases from the early stages of the criminal procedure. Kharkiv OPD has consequently introduced a 24-hour service (including weekends and holidays) so that the public defender may intervene whilst the juvenile is still in police custody, with the aim of avoiding recourse to pre-trial detention if at all possible. To encourage the prosecutor to desist from sending the accused to detention during investigation and trial, the public defender proposes a personal parole that involves the juvenile being released into the care of two persons with the appropriate authority, who will take responsibility for the juvenile and attest to his or her good behaviour during investigation and trial.

Applying the principles of active defence, the office’s defenders appeal on behalf of their clients in courts and prosecutor’s offices of every level against the unlawful initiation of criminal cases, unlawful detention, unlawful house search under pretence of site inspection, and use of mental or physical pressure during interrogation and pre-trial investigation. Special attention is paid to the protection of the rights and legal interests of juveniles who are criminally persecuted.

The persons offered free-of-charge legal aid are those who are detained on suspicion of a crime, juveniles, persons with physical or mental disabilities, and persons who do not understand the language of court procedure. This process is also mandatory when the article of the Criminal Code stipulates life imprisonment; when a person has been detained longer than three hours; and for those who have committed an administrative offence leading to an administrative arrest.

The main department of the Ministry of Internal Affairs of Ukraine in Kharkiv oblast informs Kharkiv OPD of each new detention and arrest within two hours, so that a confidential meeting between the suspect and a public defender may be organized. Suspects are not interrogated by the police prior to this meeting.

**Strategy of implementation:** Kharkiv OPD opened on 1 August 2006 with the financial support of the International Renaissance Foundation, following the Decree of the President of Ukraine No. 509/2006, dated 9 June 2006, approving the Concept on the Reform of the System of Free Legal Aid.

The International Renaissance Foundation and the Ministry of Justice have together initiated project implementation. Kharkiv OPD’s lawyers cooperate with other NGOs interested in solving the social and other problems of the needy, in particular juveniles. The office’s cooperation with the Kharkiv office of the Depaul Foundation, for example, has been exemplary. The Depaul Foundation’s representatives have requested Kharkiv OPD’s assistance on numerous occasions, particularly in regard to legal aid provision for their juvenile clients. Ten juveniles have received qualified legal assistance in their criminal cases following requests by the Foundation.

The main difficulty faced by the project is that the Ukrainian criminal procedure is clearly aimed at punishment. It is very difficult to rely on principles of equality being observed among the parties in criminal cases, including those cases that involve juveniles. Public defenders are deprived of the right to collect evidence and have no opportunity to oppose allegations as such. Similar offices of public defence have since opened in the cities of Bila Tserkva and Khmelnytsky.
Progress, results and challenges: Since its opening in 2006, Kharkiv OPD has provided free-of-charge legal aid to more than 2,000 needy persons, including 250 juveniles. As a result of this intervention, pre-trial investigation bodies and courts closed 86 criminal cases and released 99 persons from criminal liability. Analysis of the criminal cases considered by the office’s defenders suggests that the overwhelming majority of offences are related to property crimes (43.1 per cent), followed by drug-related crimes (16.2 per cent), crimes against life and health (15.7 per cent), public order crimes (11 per cent), traffic violations (3.9 per cent). Analysis of the office’s work since 2006 suggests that approximately 15 per cent of those persons who received legal aid have since reoffended. This trend would need to be studied in the longer term and against general official statistics, as well as self-reported offending trends, to be considered as an indicator of impact of the programme. It is worth noting, though, that the majority of re-offenders appeared to come from vulnerable groups, including juveniles from needy, single parent families, in lack of support.

Since 1 February 2009, the office’s work has encompassed Kharkiv’s seven administrative territorial districts, covering a population of almost 1 million people. The project is currently planning to establish a special group of public defenders to exclusively provide legal aid in criminal cases involving juveniles. Four or five more public defenders should be employed by Kharkiv OPD to better meet clients’ needs. This increase in personnel would ensure a more timely and efficient defence for each client. Mandatory training in child rights and juvenile justice for all persons involved in Kharkiv OPD is a much-needed development.

One main challenge is the need to adopt new national legal instruments to sustain good practices in juvenile justice. Once the law on legal aid will be enacted, a national programme of free-of-charge legal aid could be implemented with the financial and political backing of central government.

Impact/effectiveness: From 2008 to 2009, 15 alternatives to deprivation of liberty during investigation and trial were pronounced and 5 cases re-qualified (from serious to less serious crimes).

Relevance: Kharkiv OPD is a valuable tool, particularly in regard to the common practice of questioning juveniles without an attorney present in order to exert pressure on them and obtain information that is not admitted into evidence.

Sustainability: As soon as the Decree is officially adopted, it is foreseen that a full national initiative will be implemented with other public defence offices opening throughout Ukraine. Until such times, the project will continue to be sustained by the International Renaissance Foundation. Two new offices have already opened.

Expanded partnership and alliances: At the present stage of project implementation, the project receives indirect UNICEF support via cooperation with mediators from the Youth and Democracy research centre and training organized for lawyers by different NGOs (see section under good practice).
Leadership, participation and community empowerment: Cooperation with the mass media was established to raise public awareness. The director of the office has participated several times in television interviews to dispense information on the services provided by Kharkiv OPD. Brochures were developed and disseminated among the population.

Social, political and financial mobilization: A national council to reform the system of free legal aid has been established and is chaired by the Deputy Minister of Justice. The council comprises lawyers and human rights activists and plays a valuable role in advocating the development of public defence offices throughout the country.

Cost-efficiency/financial sustainability: If the law on free legal aid is adopted, the Ministry of Finance will commit to providing funding to develop the project on a national scale. Otherwise the International Renaissance Foundation will continue to support the initiative.
Notes