



**Extracts from the Committee on the Rights of the Child (CRC)
Concluding Observations:**

**Technical assistance recommendations referring to the
“Interagency Panel on Juvenile Justice”**

January 2009

*Committee on the Rights of the Child, Fiftieth session
(12 – 30 January 2009)*

<http://www2.ohchr.org/english/bodies/crc/crcs50.htm>

DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA

CRC/C/PRK/CO/4

29 January 2009

Original: English

Unedited version

Administration of juvenile justice

69. The Committee notes that in cases of crimes committed by children between the age of 14 and 17, the child is subject to “public education measures”. In this regard, the Committee regrets the lack of information provided by the State party on these measures, specifically, how and by whom the decision is made to commit a child to these measures; what procedural guarantees exist; what types of sanctions are imposed as “public education measure”; their duration; and whether they fully respect the rights of the child as provided by the Convention.

70. Furthermore, the Committee regrets that the State party has not developed a full-fledged juvenile justice system in compliance with the Convention and other relevant United Nations standards.

71. The Committee reiterates its previous recommendation (CRC/C/15/Add.239, para. 65 (d)) to the State party to provide in its next periodic report detailed information on how the non-judicial approach of the State party conforms to the human rights safeguards enshrined in articles 37, 39 and 40 of the Convention and the nature and application of “public education measures”.

72. The Committee also urges the State party to bring the system of juvenile justice, applicable to children aged between 14 and 18, fully in line with the Convention, in particular



articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules) and the Vienna Guidelines for Action on Children in the Criminal Justice System; and the Committee's general comment No.10 (2007) on children's rights in juvenile justice. In this regard, the Committee recommends that the State party in particular:

- a) Consider the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the State party;
- b) ensure that all professionals involved with the system of juvenile justice are trained on relevant international standards;
- c) take a holistic approach to addressing the problem of juvenile crime (e.g. addressing underlying social factors) advocated in the Convention, using alternative measures to detention such as diversion, probation, counselling, community service or suspended sentences, wherever possible;
- d) ensure that children, before any form of sanctions, including "public education measures", are provided with legal and other assistance at an early stage of the procedure;
- e) ensure that children are provided with basic services (e.g. schooling and healthcare) during the entire procedure;
- f) ensure that punishment imposed, including "public education measures", do not involve any form of corporal punishment;
- g) establish an independent child-sensitive and accessible system for the reception and processing of complaints by children and investigate, prosecute and punish cases of violations committed by law-enforcement personnel and prisons guards; and
- h) be guided in this respect by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20).

73. Furthermore, the Committee strongly recommends that the State party consider seeking technical assistance in the area of juvenile justice from UNICEF and the UN Interagency Panel on Juvenile Justice.



DEMOCRATIC REPUBLIC OF THE CONGO

CRC/C/COD/CO/2

30 January 2009

Original: English

Unedited version

Juvenile justice

Juvenile justice system

88. The Committee notes with interest that the Child Protection Code envisages the establishment of juvenile courts to become operational in two years. Nevertheless, the Committee is concerned that the current justice system for juveniles is experiencing a number of difficulties in terms of functioning, including a lack of adequate facilities to house children in conflict with the law, the absence of systematic judicial assistance and the slow pace at which cases of juvenile offenders are treated. The Committee is also concerned that professionals working with children in conflict with the law lack awareness regarding the rights of the child and the Convention.

89. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee recommends that the State party take the necessary steps to :

- (a) **Ensure the swift establishment of the juvenile court system, which, once established, must be provided with adequate human and financial resources;**
- (b) **Ensure that all the professionals working with the children in conflict with the law receive appropriate training on children's rights; and**
- (c) **Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.**

Age of criminal responsibility

90. The Committee notes with interest that the Child Protection Code sets the minimum age for criminal responsibility at 14. However, as the Code has not been implemented, the Committee is concerned that children below 14 years are being charged and that the children between 16 and 18 often do not benefit from special measures for juveniles provided in the legislation, despite that the age of full criminal responsibility was reduced from 18 to 16 in application of the Ordinance of 4 July 1978.

91. The Committee recommends that the Child Protection Code is speedily and fully implemented and that the State party considers abolishing the 1978 Ordinance so that the age



for full criminal responsibility is set in accordance with the international accepted juvenile justice standards. In this regard, the State party is encouraged to take into account the Committee's general comment No. 10 on Children's Rights in Juvenile Justice.

Deprivation of liberty

92. The Committee is concerned over reports that children are often held in pre-trial detention for long periods of time (months or years), without trial, and that they are commonly detained together with adults.

93. The Committee recommends that the State party take all necessary measure to:

- (a) **Strengthen the policy of alternative sanctions for juvenile offenders to ensure that children are held in detention only as a measure of last resort and for the shortest period of time;**
- (b) **Ensure that when detention is carried out, it is done in compliance with the law and respects the rights of the child as set out under the Convention and that children are held separately from adults both in pre-trial detention and after being sentenced; and**
- (c) **Ensure that children are not ill-treated in detention, that conditions in detention facilities are not contrary to the child's development and that their rights, including visitation rights, are not violated, and that cases involving juveniles are brought to trial as quickly as possible.**

94. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, sale and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

<i>MALAWI</i>	<i>CRC/C/MWI/CO/2</i>	<i>30 January 2009</i>	<i>Original: English</i>
<i>Unedited version</i>			

Juvenile justice

75. The Committee notes the information in the State party's report that the Child (Care, Protection and Justice) Bill proposed to replace the Children and Young Persons Act would improve the administration of juvenile justice. It also notes the introduction of diversion programmes in four districts where there are child-friendly courts and the fact that a board of visitors visit regularly remand centers and reformatory schools as well as juvenile detention centers. However, the Committee remains concerned at the current situation of the juvenile justice system. In particular, the



Committee reiterates its previous concern that the minimum age of criminal responsibility, still set at seven years remains far too low. The Committee is also concerned that the new legislation proposes ten years which is still too low. It is further concerned at the increasing rate of crime perpetrated by children and that children in need of care and attention are kept in the same institutions as children in conflict with the law. It is also concerned at the practice of detention based upon the procedure of “at the pleasure of the President”.

76. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular the Committee recommends that the State party, while taking into account the Committee’s general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007):

- (a) As a matter of urgency, raise the age of criminal responsibility in accordance with general comment No. 10, notably paragraphs 32 and 33;
- (b) Implement alternative measures to deprivation of liberty such as mediation, probation and community services orders and extend diversion to the whole country;
- (c) Make sure that children in need of care are not treated as children in conflict with the law;
- (d) Ensure that cases involving children in conflict with the law are brought to trial as soon as possible;
- (e) Ensure that all children in conflict with the law have access to free legal assistance and to an independent and effective complaints mechanism;
- (f) Train all professionals working in the Juvenile Justice system on the Convention and other international standards;
- (g) Ensure that deprivation of liberty is used as a sentence of last resort and for the shortest period possible;
- (h) When a child is deprived of liberty (in pre-trial detention or after being sentenced), take all necessary measures to carry out this sentence in compliance with the Convention, in particular respect the following obligations: separation from adults, prohibition of ill-treatment, visitation rights, and access to independent complaint mechanisms;
- (i) Review the procedure of detaining children “at the pleasure of the President” with the view to eliminating it and ensure that children are protected in accordance with the Convention; and
- (j) Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.



Protection of witnesses and victims of crimes

77. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it takes fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

REPUBLIC OF MOLDOVA

CRC/C/MDA/CO/3

30 January 2009

Original: English

Unedited version

Administration of juvenile justice

72. The Committee welcomes the number of achievements made by the State Party in the area of juvenile justice, including improved access to education for children in detention. The Committee is, however, concerned that there are no alternative procedures to the deprivation of liberty, that children convicted of crimes are held in adult detention facilities, that penalties for serious crimes are still very high, that pretrial detention remains excessive and that the right to due process is frequently violated.

73. The Committee reiterates its previous recommendation (CRC/C/15/Add192) that the State party establish a separate system of juvenile justice fully in line with the Convention. In addition, the Committee recommends that the State party, taking into account General Comment No. 10 on children's rights in juvenile justice (CRC/C/GC/10) and the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20):

- (a) consider the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the State party;
- (b) ensure that all professionals involved with the system of juvenile justice are trained on relevant international standards;
- (c) consider introducing alternatives to the deprivation of liberty, such as diversion, reconciliation and mediation;
- (d) consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time;
- (e) protect the rights of children deprived of their liberty and monitor their conditions of detention;
- (f) ensure that children remain in regular contact with their families while in the juvenile justice system;



- (g) ensure that a review of detention is made on a regular basis with the aim of reducing it;
- (h) take the holistic approach to addressing the problem of juvenile crime (e.g. by addressing underlying social factors) advocated in the Convention;
- (i) provide children with basic services (such as schooling and healthcare) as well as legal and other assistance at an early stage of the legal proceedings;
- (j) establish an independent, child-sensitive and accessible system for the reception and processing of complaints by children and investigate, prosecute and punish cases of violations committed by law-enforcement personnel and prisons guards; and
- (k) request further technical assistance in the area of juvenile justice and police training from the UN Interagency Panel on Juvenile Justice.

*NETHERLANDS CRC/C/NLD/CO/3 30 January 2009 Original: English
Unedited version*

Administration of juvenile justice

77. The Committee reiterates its concern that there is an increasing use of pre-trial detention for juveniles in the Netherlands, that there is still a possibility of 16 and 17 year olds being tried under adult criminal law, and that 16 and 17 year olds can be convicted to life imprisonment in the Netherlands Antilles.

78. The Committee recommends that the State party

- a) ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), in the light of General Comment no. 10 on children's rights in juvenile justice (CRC/C/GC/10);
- b) consider reviewing its legislation with the aim to eliminate the possibility of trying children as adults;
- c) eliminate life imprisonment sentence of children; and
- d) ensure that the deprivation of liberty of juvenile offenders is used only as a measure of last resort and for the shortest appropriate period of time.



Juvenile justice

85. The Committee notes with interest that legislation provides for the creation of children's divisions in the courts of first and second instance. Nevertheless, the Committee regrets that the revision of the Penal Code, begun in 2003, has not been completed. The Committee is concerned that the State party does not have an appropriate mechanism to monitor the effective application of pre-trial detention, that children may be held in custody together with adults, and that detention centres are overcrowded. The Committee is further concerned that children in conflict with the law may receive penalties of up to ten years in prison for serious crimes.

86. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular the Committee recommends that the State party, while taking into account the Committee's general comment No. 10 on the administration of juvenile justice (CRC/C/GC/10, 2007):

- (a) **Take all necessary measures, including strengthening the policy of alternative sanctions for juvenile offenders, to ensure that children are held in detention only as a last resort and for as short a time as possible;**
- (b) **Take all necessary measures to ensure that when detention is carried out, it is done so in compliance with the law and respects the rights of the child as set out under the Convention, that the ten-hour time limitation for custody and the general conditions of pre-trial detention are respected and that children are held separately from adults both in pre-trial detention and after being sentenced;**
- (c) **Take all necessary measures to ensure that children are not ill-treated in detention, that conditions in detention facilities are not contrary to the child's development and meet international minimum standards, and that cases involving juveniles are brought to trial as quickly as possible;**
- (d) **Take the necessary steps to ensure that persons working with children in the justice system, juvenile judges, etc. receive appropriate training;**
- (e) **Seek technical assistance and other cooperation from the United Nations Interagency Panel on Juvenile Justice, which includes UNODC, UNICEF, OHCHR and NGOs.**



Protection of witnesses and victims of crimes

87. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).