Interventions with children in conflict with the law and their families – a multi-system approach

Ines Cerovic - Director of the Child Rights Centre, Belgrade, Serbia
Diversions at the heart of juvenile justice policy

• A juvenile justice system based on the rights of the child is critical to safeguard an operational justice for children system.

• A child rights approach to juvenile justice demands that formal or informal means other than the criminal justice system are used to deal with children in conflict with the law, paying special attention to children’s development and evolving capacities.

• The promotion of reintegration and the provisions of innovative and effective community-based sanctions, rather than retribution, should be at the heart of juvenile justice policy.
Juvenile justice in Serbia

• Many States parties to the CRC have integrated relevant international principles in their national legislations and have invested significant efforts to develop policy and practice in line with these standards.

• Since 2006, the Republic of Serbia has a *lex specialis* - Juvenile Justice Law that deals with children in conflict with the law – it represents a milestone in the reform of Serbian J4C and its harmonisation with relevant international standards – establishing an independent JJ system, specialised JJ benches in courts and mandatory specialisation of relevant professionals.

• Minimum age of criminal responsibility - MACR is set at 14 years of age.

• By far the most common offences committed by juvenile offenders are thefts, making 52,5% of all criminal offences committed by juveniles in 2016. A significant number of offences are violence-related and range from physical harm to sexual abuse and other forms of violence and amount to around 19,3%.
Diversions

• The JJL introduced diversionary measures – in cases punishable by a fine or imprisonment up to 5 years/confession/attitude towards the offence and victim.

• 5 diversions: settlement with the injured party (apology, mediation, damage compensation), regular school attendance, community/humanitarian work, counselling, drug/alcohol treatment – they can be combined.

• Diversions are ordered by judge/prosecutor – selection is done in cooperation with CSW as guardianship authority and child offenders’ parents/guardians.
Diversion implementation deficits

• Despite the progressive legislative solutions, soon after the J JL adoption, it was observed that the law was facing serious implementation deficits or was not being implemented at all.
  - the J JL is partly imprecise, esp. regarding the distribution of competences and budgetary obligations;
  - the bylaw on diversions is yet to be adopted;
  - lack of capacities of JJ professionals to implement diversions.

• The greatest challenge that remains is proper application of international standards and national legislation by relevant bodies that deal with children in conflict with the law in practice.
Reform endeavours

• In order to tackle the identified challenges, the Serbian MoJ initiated reform of the JJ system in 2010 through two interlinked projects:
  
  1) with donor support from the Norwegian Ministry of Foreign Affairs - from 2010 to 2014,
  
  2) with EU support through IPA funds, implemented by UNICEF in partnership with ministries in charge of justice and social welfare – from 2014 to 2017 (also covered victims and witnesses, civil proceedings and free legal aid provision).

• A baseline study on implementation of diversions carried out (10 towns, 90 respondents) showed that diversions were applied in only 1.69% of the cases in 2010.

• The main reform priority was on modelling of diversions to allow prioritizing restorative approaches and reintegration, approaches focused on interventions with child offenders and their families and reduction of recidivism. The project aimed at filling in the gaps left after the adoption of the JIL in 2006 and the fact that it was not followed by any procedural and practical instructions on how to implement the newly established institutes.
Reform strategy

• **Drafting of the missing secondary legislation** and **developing comprehensive standards and procedures** for implementation of diversions - successfully bridged the observed lack of a formal bylaw and enabled application of diversions in practice through piloting.

• Establishment of a **specific model of cooperation – the so-called ‘JJ teams’** in four largest cities in Serbia in which the courts of appeal are seated - consisted of JJ judges, prosecutors and CSW representatives.

• **Supporting a range of certified NGOs and special organizational units of CSWs** that have already been recognised as service providers for children in social protection system to implement diversions. The JJ teams further coordinated with other NGOs, companies and public institutions, **forming a network of entities** where diversions could be actually implemented in local communities.

• **Capacity building of professionals – multisectoral training** for JJ teams: judges, prosecutors and CSWs professionals and a more in-depth training for CSW professionals and service providers.

• **Support to the JJ Council** – an advisory body with potential to initiate, coordinate and monitor reforms of the JJ system.
Interventions with child offenders and their families

- The next step was development of interventions with child offender and his/her family as a way of increasing quality of diversions.
- Interventions are community-based and stem from a highly multi-sectoral process involving a team of JJ prosecutors and judges, CSW professionals and local specialised service providers.
- General approach of the interventions is holistic and systemic, viewing a child as part of the system in which he/she belongs.
- The approach is strength-based and resilience-oriented, based on a view that each child, even one with the most complex problems and disadvantages has potential to develop positively when connected to the right combination of opportunities, supports and relationships.
Interventions implementation

• Based on the **careful assessment of each child**, carried out in partnership with the child **with strong focus on his/her active participation** in the whole process, his/her age and development needs, expressed behavioural problems, characteristics of family and social background, different interventions are combined in order to achieve optimal effects of diversionary measures.

• **Improvement of children’s personal capacities, social competences and interpersonal relations** in different settings: family, school, peer group and local community.

• A special **focus is put of the child’s family**, through improvement of parental skills and strengthening mutual family relations.

• Interventions are based on the **already available, however scattered services in the local community** (e.g. drug treatment, assistance in learning, sport activities, family counselling) that may correctionally impact children and family in order to maintain their natural environment and avoid introduction of new and much costly services.

• Special **focus was put on education** aspect through improvement of regular school attendance, prevention of early drop out and assistance in learning. This also required cooperation with teaching staff and school psychologists.

• Interventions are consisted of **counselling and therapeutical work with children and families**, socio-educative workshops, sport, leisure and creative activities, education and professional strengthening and cooperation with family.
Results

- According to official social protection data for 2016, the total number of court referrals to diversionary schemes has increased to **28.3 per cent** of the total number of reported cases of juvenile offending, with 1032 diversionary measures ordered in 2016 (in both piloting and non-piloting towns).

- **More than 500 JJ professionals were trained** on different aspects of diversions implementation – in particular on systemic approach in working with families of children with behavioural issues with the aim to develop tools to address antisocial youth behaviour and on engaging parents to take an active role in the process of reintegration of juvenile offenders and on modalities of cooperation with schools and local community.

- The practice of providing support to juvenile offenders have been captured in the *Handbook for working with juvenile offenders and their families* which has ensured that modelling intervention is widely defined and well documented throughout the country.

- A whole set of different **manuals and guidelines** to enable all professionals to apply diversions were developed.

- The Belgrade University study on outcomes for children who were ordered diversions, finalised in 2017, showed that the actual quality of interventions provided greatly benefited the children’s development and contributed to changes in their behaviour. The positive results of the implemented interventions were closely tied to the support and cooperation of the broader community.

- It has become evident that the successful implementation of diversionary measures rests on **coordinated action and harmonized reform of the justice and social welfare systems** but also the enhanced cooperation with the education and health systems. The reform process accelerated its impact by connecting stakeholders with a common purpose of influencing a more child-friendly justice system.
Recommendations

• Further extend the network of service providers to diversify the offer of diversions throughout the country.

• Continuation of training activities for judges, prosecutors and CSW staff, and in case of non-piloting towns, the necessity to form JJ teams, in order for diversions to become a widespread practice.

• Urgent amendment of the JYL which should be followed by enacting missing by-laws.

• Re-strengthen the Juvenile Justice Council, as a coordination body which can be a strong actor in further system reform.

• Specific approach when dealing with vulnerable groups (e.g. Roma children, girls, children belonging to national minorities) is required through specific set of programmes and adequate capacity building for the professionals working with them in the judicial, police, social welfare and other relevant systems should be developed.
Thank you!

Please contact us at: inescerovic@yahoo.com or visit our website at: www.cpd.org.rs.