

Opinion of the European Economic and Social Committee on The prevention of juvenile delinquency. Ways of dealing with juvenile delinquency and the role of the juvenile justice system in the European Union

(2006/C 110/13)

On 10 February 2005, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an opinion on: *The prevention of juvenile delinquency. Ways of dealing with juvenile delinquency and the role of the juvenile justice system in the European Union.*

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 22 February 2006. The rapporteur was Mr Zufiaur Narvaiza.

At its 425th plenary session, held on 15 and 16 March 2006 (meeting of 15 March), the European Economic and Social Committee adopted the following opinion by 98 votes in favour, no votes against and one abstention:

1. Introduction

1.1 Juvenile delinquency is currently an aspect of crime causing growing concern in European societies and has, since the last century, been under continuous scrutiny on an international scale. It should however be pointed out that young people's behaviour often has a greater impact than that of adults, especially if it is negative, thus prompting society to take a particularly adverse view of young offenders. It is also useful to note that in many cases the victims of juvenile delinquency are young people themselves. As a result, the importance that European society attaches to juvenile delinquency means that effective responses must be found, which will have to be built principally on a three-fold foundation: prevention, punitive-educational measures, and the social integration or re-integration of minors and young offenders.

1.2 The EESC believes that shaping a common strategy to combat juvenile delinquency should be amongst the European Union's objectives to which most attention is given: not only because it affects a particularly vulnerable sector of the population (minors and young people, frequently belonging to groups at risk of social exclusion), but also because taking preventive action for today's young offenders means not only seeking their social rehabilitation, but also preventing the adult crime of tomorrow. Although there are already a number of projects and European policies which may have an indirect impact on preventing juvenile delinquency (the European Employment Strategy adopted at the Luxembourg European Council of November 1997, the European Social Agenda adopted at the Nice European Council in December 2000, the European Youth Pact promoting active citizenship adopted at the Brussels European Council of March 2005, etc.), as well as a range of youth-related agreements and resolutions⁽¹⁾ which also

promote the normal process of integrating this sector of the population into society, there is a lack of instruments and measures geared specifically to juvenile delinquency.

1.3 It is no simple task to analyse the state of affairs in EU countries, as each country has its own definition of juvenile delinquency, based on different factors. For some countries, the concept covers behaviour by minors that corresponds to one of the types described in their legislation or criminal law code. In other countries, where the juvenile justice system is based on an educational or welfare model, the range of acts that are pursued under the justice system when committed by minors is extended to include acts which, if committed by an adult, would only be liable to proceedings through administrative or civil channels, or would not even lead to prosecution⁽²⁾. Furthermore, there are significant differences between punitive systems, in that some countries have drawn up laws on punishments for young offenders that include a specific punitive system, and others apply the same punishments to minors as adults while providing for certain limited and reduced punishments. In addition to this, there are differences between the ages of juvenile criminal responsibility: although there is greater agreement on the upper age limit (18, although it may be raised to 21 in some enlargement countries), the lower age limits vary significantly from age 7 to 16⁽³⁾.

1.4 Bearing in mind the limitations created by such differences, it should be pointed out that according to the comparative statistics of the EU Member States, juvenile delinquency accounts for an average of 15 % of all crime, although it can

⁽²⁾ This would apply to what are known as 'status offences' such as running away from home, sleeping rough, etc.

⁽³⁾ There is a closer alignment on the upper limit between EU countries, with the juvenile justice system fully applying in all cases up to the age of 18, although there are some countries which allow for application, to different degrees and according to the case, to young people up to 21 (Austria, Germany, Greece, Italy, the Netherlands and Portugal). Differences in the minimum age of criminal responsibility are more marked: 7 in Ireland; 8 in Greece and Scotland; 10 in England and Wales, and France; 12 in the Netherlands and Portugal; 13 in Poland; 14 in Austria, Estonia, Germany, Hungary, Italy, Latvia, Lithuania, Slovenia and Spain; 15 in the Czech Republic, Denmark, Finland, Slovakia and Sweden, and 16 in Belgium. It should however be borne in mind that in most cases, for those aged between 7 and 13-15, the measures provided are not truly penal or are less rigorous than those laid down for ages between 13-15 and 18-21, detention in centres in many cases being completely ruled out.

⁽¹⁾ Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council, of 14 December 2000 on the social inclusion of young people (OJ C 374 of 28.12.2000); Resolution of the Council and of the representatives of the governments of the Member States, meeting within the Council of 27 June 2002 regarding the framework of European cooperation in the youth field (OJ C 168 of 13.7.2002); European Commission White Paper on a new impetus for European youth (COM(2001) 681 final); Communication from the Commission to the Council on European policies concerning youth (COM(2005) 206 final).

rise to 22 % in some countries. In any event, it should be noted that the so-called 'unrecorded' crime rate (the percentage or number of offences which is not notified to the official social control authorities, i.e. the police and the courts) consists mostly of crime committed by minors. This is mainly because the offences are generally not serious and because the victims are often minors themselves, and are less likely to contact the relevant authorities.

1.5 Regardless of the picture provided by the statistics at any given time, there is clearly a widespread perception among European countries that juvenile delinquency is on the rise, and that the offences concerned are becoming more serious. Under these circumstances, the public is calling for more effective control mechanisms, leading many countries to stiffen their youth legislation. This serves to underline the need for coordination and guidance measures in order to facilitate European-level governance of this phenomenon, and also for well-designed information policies to help put the over-dramatised perception of the issue, mentioned in the first point of the opinion, into proper proportion.

1.6 Without wishing in any way to detract from the importance of examining the causes of juvenile delinquency (which the following section addresses, albeit in summary form) or the need for a detailed examination of prevention policies (which are also mentioned throughout the present document, but which must in any case be designed to deal with the causes), **the principal aim of the present opinion is to analyse the situation of minors who, on account of their behaviour which infringes the criminal law, are subject to the various juvenile justice systems and the available intervention mechanisms to protect, re-educate and reintegrate them into society, with a view to preventing recidivist behaviour.**

2. Causes of juvenile delinquency

2.1 Many different reasons or circumstances can prompt a minor to commit a crime, and experts in the field have not reached any general consensus on these. However, based on the most widely accepted causes and focusing more closely on those linked to economic and socio-environmental factors (insofar as these will be of most interest in the context of this opinion), we can highlight the following causes:

2.1.1 A broken home, or even difficulty in balancing family life and work, both of which increasingly often result in a lack of attention and an absence of constraints and control for children. As a result, young people sometimes try to fill these gaps

by joining youth gangs focusing on some sort of common symbol (ideological, musical, ethnic, sports-related, etc.), but which are usually characterised by transgressive attitudes. They account for a large proportion of antisocial behaviour (vandalism, graffiti) or actual violence and other crime.

2.1.2 Socio-economic marginalisation or poverty, which also makes it difficult for the minor to integrate properly into society. This marginalisation occurs more frequently among young people from migrant families (unaccompanied child migrants being particularly vulnerable) and in certain 'ghettoes' in large cities. Such areas frequently suffer from a dehumanised urban environment liable to trigger feelings of distress and aggressiveness among their inhabitants.

2.1.3 Truancy and academic failure: at school, this already leads to labelling or social stigmatisation, which often paves the way for antisocial behaviour or delinquency.

2.1.4 Unemployment, which is at its highest among young people and often leads to situations of frustration and despair, creating a breeding ground for delinquent behaviour ⁽⁴⁾.

2.1.5 The broadcasting of violent images and attitudes by certain programmes via some media, or videogames for minors, which helps to create a system of values among young people in which violence is seen as acceptable behaviour.

2.1.6 Abuse of drugs and toxic substances which often causes the addict to commit crimes in order to support his/her addiction. Also, when suffering the effects of these substances or withdrawal symptoms, the usual inhibitions are lowered or removed. Excessive alcohol consumption (even if occasional) should also be mentioned here, as it plays a major role in vandalism and dangerous driving.

2.1.7 Personality and behaviour disorders, either in association with or independently of the factor outlined in the previous point. These usually conspire with other social or environmental factors to make young people act impulsively or unthinkingly, uninfluenced by socially accepted standards of behaviour.

⁽⁴⁾ C.f., in relation to this factor and the poverty referred to in point 2.1.2, the *Thematic Study on Policy Measures concerning Disadvantaged Youth*, currently being drawn up by the European Commission's DG Employment and Social Affairs, and coordinated by the Institute for Regional Innovation and Social Research (IRIS).

2.1.8 Shortcomings in the teaching and passing on of social and civic values — such as obeying rules, solidarity, generosity, tolerance, respect for others, critical self-awareness, empathy, high standards of work, etc., which are being replaced in our 'globalised' societies by more utilitarian values like individualism, competitiveness or hyper-consumption — which in certain circumstances can generate a degree of detachment from society.

2.2 This combination of factors occurs to varying degrees throughout the EU, in societies which are prosperous but where social breakdown has led to this kind of antisocial or deviant behaviour.

2.3 In order to prevent violent behaviour and tackle juvenile delinquency, societies must devise strategies which combine preventive measures with active intervention and punishment. Preventive and intervention-based measures must be designed to ensure the social integration of all minors and young people, principally through the family, the community, peer groups, schools, vocational training and the labour market.

Judicial and punitive measures or responses must always be based on the principles of lawfulness, the presumption of innocence, the right to defence, a scrupulously fair hearing, respect for privacy, proportionality and flexibility. Both the judicial procedure itself, and the choice of measure, as well as its subsequent implementation, should be underpinned by the **principle of the best interest of the child** ⁽⁵⁾.

3. The limitations of traditional juvenile justice systems

3.1 Conventional juvenile justice systems encountered many difficulties in responding and adjusting to the modern reality of delinquency. European criminal justice systems for minors were therefore very slow, inefficient and economically unviable: long waiting periods were common, and the re-offending rates among young offenders were very high. At the same time, the traditional sources of informal social control (school, family, workplace, etc.) became progressively weaker.

3.2 Some countries (particularly the Scandinavian countries) moved away from the paternalistic 'protection model', which emerged in the early part of the 20th century, and under which young offenders were considered to be socially ill (combining and confusing them with other unprotected minors), towards the 'educational' or 'welfare model', a social or community model geared towards juvenile delinquency but which, as it fell outside the judicial system, denied minors the requisite legal protection.

3.2.1 Since the 1980s, various international agreements and treaties relating to juvenile justice (United Nations Standard

Minimum Rules for the Administration of Juvenile Justice ('The Beijing Rules'), 1985; United Nations Guidelines for the Prevention of Juvenile Delinquency ('The Riyadh Guidelines'), 1990; United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990; and Recommendation No R (87) 20 of the Committee of Ministers of the Council of Europe on social reactions to juvenile delinquency) have been driving a gradual change within juvenile justice systems in European countries, with the introduction of the 'responsibility model'. Of particular importance here is the Convention on the Rights of the Child, adopted by the UN General Assembly on 20 November 1989 and ratified by all EU Member States, for whom it is now a mandatory provision. Articles 37 and 40 deal with the present subject. Under the 'responsibility model', the legal position of the minor is strengthened and the juvenile justice system moves closer to the criminal justice system for adults, bestowing the same rights and guarantees on minors. The aim is to bring educational and judicial aspects together, applying a protective model and measures which are clearly educational in nature. In short, the model aims to 'teach responsibility'.

3.3 This model, derived from the above-mentioned international standards, has been progressively incorporated into the laws of the 25 EU Member States.

3.3.1 The responsibility model is based on the following principles:

- Prevention before crackdown: the best way to combat juvenile delinquency is to prevent the emergence of young offenders, and this requires suitable social, occupational, economic and educational assistance programmes (among which programmes to encourage and facilitate proper use of free time and leisure opportunities should not be overlooked).
- Reducing the use of the traditional justice system to the absolute minimum and establishing new justice systems especially geared to juvenile delinquency, leaving other situations which may affect minors (suffering from abandonment, abuse or maladjustment, for example) to other services (social welfare).
- Reducing punitive state intervention, at the same time implementing preventive strategies in the areas of child welfare services, social policy, the labour market, leisure provision and municipal policy in general, and similarly involving the community and other social groups more actively in settling conflicts and seeking viable alternatives, such as family, social workers, school, community, social organisations, etc.

⁽⁵⁾ Article 40 of the Convention on the Rights of the Child, adopted by the UN General Assembly on 20 November 1989.

- Minimising measures or punishments that deprive young people of their liberty, by restricting these to exceptional cases.
- Making the disciplinary response more flexible and diverse, with adaptable measures that can be tailored to the circumstances of the minor, in line with the conditions and progress made in treatment or in the application of the measure, as alternatives to detention.
- Giving young offenders the same rights and guarantees as adults in criminal proceedings (a fair and impartial hearing).
- Putting the official social control bodies involved in the juvenile justice system on a professional, specialist footing. In this context, specialised training should be provided for all those involved in the administration of justice for minors (police, judges, public prosecutors, lawyers and professionals who carry out the various sanctions).

4. New trends in juvenile justice

4.1 Alternatives do exist for dealing with juvenile delinquency, other than traditional detention arrangements. There is an international trend towards additional or complementary systems which allow minors to be treated more effectively and in a way that it is more beneficial to their personal and socio-professional development, while not excluding detention when unavoidable.

4.2 Good European practices in the field of juvenile justice fall into three main areas: prevention, educational treatment in the local community or centres, and socio-occupational integration.

4.2.1 Apart from prevention, which is discussed above, educational treatment should preferably be provided using resources or institutions belonging to the same social environment as the minors concerned, with the aim of equipping them with educational skills or requirements the lack of which caused them to come into conflict with the criminal law in the first place. These minors must be subject to thorough examination by specialists in a range of fields in order to identify educational gaps and determine how to provide them with skills which can reduce the risk of re-offending. Similarly, work needs to be done with the families, to ensure their cooperation and commitment in the process of educating and re-socialising these minors.

4.2.2 Furthermore, young offenders — together with other groups such as disabled people, ethnic minorities, the elderly, etc. — often belong to groups which are or may become socially excluded: their particular needs and difficulties, outlined above, mean that they require targeted help in achieving personal self-sufficiency. Otherwise, they are headed for failure and the ensuing inability to integrate into their environment,

increasing the risk of re-offending and eventually being caught up in the adult criminal justice system.

4.2.3 These young people therefore need to be helped and guided in the process of integration using a wide variety of different paths (integration in social, cultural and linguistic terms, for example). There is no single path which can guarantee the social integration of young offenders, and neither are there any foolproof mechanisms to ensure that a fully-integrated person may not commit antisocial acts. However, there is broad agreement in viewing employment as a key means for drawing young offenders into the sphere of economic and social integration and stability.

4.3 With regard to the development of juvenile justice systems, and reflecting the points made in 3.2 and 3.3 above, it should be noted that, in response to the concept of **retributive justice** (paying for damage caused), the justice system has begun to be seen as a **reparative or restorative system** as a result of shift of emphasis in criminological policy towards the victim (victimology) and restoring a role to victims in the penal process. Restorative justice offers a paradigm for an approach which encompasses the victim, the perpetrator and the community in seeking solutions to the consequences of the conflict caused by the offence. The aim is to encourage reparation for the harm done, to reconcile the parties and strengthen a feeling of collective security. Restorative justice seeks to safeguard the interests of, on the one hand, the victim (with the offender having to recognise the harm done to the victim and to try to provide redress) and, on the other, the community (with the aim of ensuring the rehabilitation of the offender, preventing re-offending and cutting the costs of criminal proceedings) together with the offender (who in this way is not drawn into the criminal justice circuit and whose constitutional guarantees are upheld).

4.4 For offenders, reparation has a specific educational impact in that it prompts them to reflect upon their own guilt by bringing them face-to-face with victims. This may deter them from similar behaviour in the future. It therefore represents an ideal model for the juvenile justice system since it produces little stigmatisation, is highly educational and is less punitive.

4.5 In short, in the last twenty years, the procedures, type of correctional measures and sentences have undergone significant changes in the field of juvenile justice. Non-punitive measures are gaining ground, such as community service, compensation and reparation, mediation with the victim or the community, professional, practical training or special treatment for drug addiction or for other types of addiction, such as alcoholism. This type of measure requires supervision and constant monitoring of the progress and achievements of the minor. These measures are being used more and more frequently, and often take the form of open or semi-open detention, supervision and constant monitoring, probation, electronic tagging, etc., or a combination of several measures. In spite of this, deprivation of liberty, in a detention centre or jail, continues to be a very commonly used method.

4.6 Conversely, the public impact of new phenomena which have been emerging, particularly in major European cities (organised crime, gangs of youths, vandalism in public places, violence in sport, bullying in schools, violence against parents, extremist groups and xenophobic behaviour, linkage between new forms of crime and migration, drug addiction, etc.), has in recent years led some European countries to **toughen up** juvenile criminal law, increasing the maximum sentences applicable and bringing in various forms of custody in secure detention centres, and even holding parents responsible for certain offences on the part of their children.

4.6.1 In this context, it is worth noting the reforms to juvenile criminal law introduced in the Netherlands in 1995 and France in 1996, together with the 1994 UK Criminal Justice and Public Order Act, which increased from one to two years the maximum sentence applicable to minors aged between 15 and 18, and introduced six to 24 month custodial sentences for minors aged between 12 and 14. 'Parenting orders' were also introduced, requiring parents of minors who have committed crimes or played truant to attend weekly courses for up to three months. Parents who repeatedly fail to fulfil their educational duties can be fined up to GBP 1 000.

4.6.2 The problem with measures of this sort is that they remove the burden of responsibility from minors who, according to the modern responsibility-oriented approaches of criminal law, should be the ones called upon to compensate or repair the damage caused. Moreover, in some circumstances, parents (especially those with few economic resources and, consequently, less opportunity to provide their children with care and supervision) can find themselves being unfairly punished if they are unable to produce evidence clearing them of any responsibility. What parents actually need is help in bringing up their children properly, rather than having blame undeservedly heaped on their shoulders.

4.6.3 Some countries are seeing a return to concepts that were considered outdated in the 1980s, such as detention in secure centres, which are also used to provide welfare assistance to unprotected minors. In other words, a return to mixing minors coming under the welfare system with those coming under the juvenile justice system.

5. Current treatment within the EU

5.1 Although the Council of Europe has already specifically addressed the issue of Juvenile Justice on various occasions

(particularly in the abovementioned Recommendation No. R (87) 20 of the Committee of Ministers of the Council of Europe on Social reactions to juvenile delinquency, and, more recently, in Recommendation Rec(2003) 20 of the Committee of Ministers on New ways of dealing with juvenile delinquency and the role of juvenile justice⁽⁶⁾), the same cannot be said of the EU institutions, which have only touched on the matter when dealing with other issues such as crime prevention.

5.2 The basic texts of the European Union and of the European Community provide two approaches to this subject: Title VI of the Treaty on European Union (TEU), on *Provisions on police and judicial cooperation in criminal matters*; and Title XI of the Treaty establishing the European Community (TEC), on *Social policy, education, vocational training and youth*.

5.2.1 Police and judicial cooperation in criminal matters should be governed by Articles 29 *et seq* of the TEU, which set out to provide citizens with a high level of safety within an area of freedom, security and justice. These provisions lay down channels for intergovernmental cooperation in criminal matters at police and judicial level, including aspects such as preventing and combating crime, whether organised or not. In this regard, on 30 April 2004 the Commission presented its *Green Paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union*. The purpose of the Commission's consultation paper is to analyse whether the existence of different systems across the EU raises problems for judicial cooperation between the Member States, and to identify barriers to the implementation of the mutual recognition principle. The document makes no reference to juvenile delinquency or juvenile justice systems, but there would be no obstacle to applying the objectives — which are listed in the introduction — such as custodial and alternative sentences, together with mediation, to these aspects.

5.2.2 At this stage, it is also worth mentioning the AGIS framework programme⁽⁷⁾ adopted by the European Commission on 22 July 2002. The programme promotes police, customs and judicial cooperation and supports the work of professionals in order to help implement European policy in this field. A number of initiatives on mutual recognition of legislation and best practice in the area of juvenile delinquency and justice systems have been launched under the programme.

⁽⁶⁾ Other examples could include Resolution (66) 25 on the short-term treatment of young offenders of less than 21 years, Resolution (78) 62 on juvenile delinquency and social change, Recommendation (88) 6 on social reactions to juvenile delinquency among young people coming from migrant families and Recommendation (2000) 20 on role of early psychosocial intervention in the prevention of criminality.

⁽⁷⁾ This programme continues and extends the work of the earlier programmes operating under Title VI: *Grotius II – Criminal, Oisín II, Stop II, Hippocrates and Falcone*.

5.2.3 In connection with Title VI TEU, mention should also be made of the Council Decision of 28 May 2001 setting up a *European Crime Prevention Network* ⁽⁸⁾, which covers all types of crime but focuses particularly on juvenile ⁽⁹⁾, urban and drug-related crime.

5.2.4 With regard to social policy, education, vocational training and youth, Article 137 TEC highlights the activities of Community bodies in order to further the integration of persons excluded from the labour market and the combating of social exclusion. Echoing the points made above, socio-occupational integration is without question one of the two key elements in preventing and combating juvenile delinquency. A large number of strategies, agendas, projects and programmes have been adopted in this sphere by successive European Councils and by the Community institutions, some of which are referred to in point 1.2 above. Prominent among these, on account of its closer links with young offenders, is the *Action Programme to Combat Discrimination* ⁽¹⁰⁾, which comes under Objective 1 of the European Social Fund.

5.3 For its part, the European Parliament has — albeit in outline form — scheduled various measures in the field of protection of minors and has adopted a number of resolutions, including the *European Charter of the Rights of the Child*, adopted by the European Parliament in Resolution A3-0172/1992 of 8 July 1992. Points 8.22 and 8.23 of the Charter lay down a series of safeguards for minors caught up in criminal proceedings, together with the principles and criteria which should govern any sanctions which may be imposed and the resources which should be brought to bear on dealing with young offenders.

6. The utility of a European frame of reference on juvenile justice

6.1 As pointed out above, juvenile delinquency is a concern for many European citizens. Furthermore, there is a clear awareness that this is a common problem for European countries, and that it would be useful for it to be dealt with by the EU institutions. This was reflected in the Eurobarometer of

⁽⁸⁾ OJ L 153 of 8.6.2001.

⁽⁹⁾ An example of the work being carried out by the European Crime Prevention Network is *A review of the knowledge on juvenile violence: trends, policies and responses in the EU Member States*, Fitzgerald, Stevens and Hale, 2004.

⁽¹⁰⁾ An example its application to the juvenile justice system: in Spain the NGO *Fundación Diagrama* (a body which manages custodial sentences imposed by courts on young offenders in many of the country's autonomous regions) co-manages an operational programme with the regional authorities targeting young people who are serving, or have served, custodial sentences or measures imposed by the juvenile justice system. The aim of the programme is to mark out a personalised and comprehensive roadmap to entry into society and employment for these young people, beginning even before they are released from the detention centre. The programme is achieving significant results.

2001 (the first to cover internal security in Member States). According to the survey, 45 % of European citizens feel that policy to prevent juvenile delinquency should be a joint matter for national authorities and EU institutions.

6.2 As pointed out earlier, the UN and the Council of Europe have already established a number of international standards regarding juvenile delinquency and juvenile justice systems. However, they have little or no binding force (with the exception of the Convention on the Rights of the Child, mentioned earlier), and simply bring together a series of minimum rules for the entire international community. Using these rules as a starting point, the EU — given its level of development and greater internal homogeneity — should actively aspire to improve upon internationally-established principles and make them more effective within its own territory.

6.3 Moreover, each of the EU countries could, when drawing up their policies for dealing with the various aspects of juvenile delinquency — prevention, justice, protection and integration — benefit from the experiences and best practices of the other Member States. All the more so since there is a growing similarity between the various causes and outward signs of juvenile delinquency in these countries (drug addiction, racist behaviour, sports-related violence, use of new technologies for criminal purposes, urban vandalism, etc.).

6.4 Similarly, factors arising from on-going European integration, such as the removal of border controls and free movement of persons, give further backing to the idea of common rules on the juvenile justice system: young people can move freely between Community countries, not to mention border regions, which extend for thousands of kilometres between the 25 Member States. Greater homogeneity and/or coordination between relevant national laws and policies could prevent or reduce some risks or new situations generated by this greater mobility (such as, for example, the possibility of a young offender living in one country being convicted for an offence committed in another EU country).

6.5 Furthermore, since countries often use their juvenile justice systems as a test bench for future reforms to adult criminal law systems, the coordination and approximation of juvenile justice systems could, in turn, help to bring national criminal law systems closer. As mentioned earlier, this objective is already one of the EU's aims, and significant progress has already been made (Eurowarrant, mutual recognition and implementation of sentences, etc.). In addition, in the field of

juvenile delinquency legislation is relatively recent (the oldest dating from the early 20th century), meaning that launching a process of alignment would not arouse as much reluctance or cause as many difficulties as it would in the adult criminal justice systems, that have a long history in which deep-rooted historical, cultural and legal factors have all played a part.

6.6 Similarly, it is important to recognize the effect that a Community frame of reference could have in limiting or preventing regressive trends in the treatment of juvenile delinquency and the juvenile criminal justice system that, as mentioned above, are apparent in certain EU Member States.

6.7 Clearly, from both the preventive/social angle and the repressive/judicial angle, the common phenomena in this area in EU countries underscore the need for a joint framework to deal with this issue. Indeed, the Council of Europe has called for this in its Recommendation Rec(2003)20, signalling *'the need for separate and distinct European rules on community sanctions and measures and European prison rules for juveniles'*.

7. Proposals on a European juvenile justice policy

7.1 The above points suggest the following **general lines of approach**:

7.1.1 All the EU Member States are, to varying extents, witnessing roughly similar phenomena which also require comparable responses: breakdown in the traditional instruments of informal social control (family, school, work), the emergence of ghettos in major urban centres where a significant proportion of the population is at risk of social exclusion, new forms of juvenile delinquency (violence at home and at school, youth gangs, urban vandalism), drug and alcohol abuse, etc.

7.1.2 The youth justice models of the EU Member States have gradually been converging since the 1970-1980s, following the appearance of the international legal instruments mentioned in point 3.2.1 above. The *responsibility* model, generally combined with *restorative* or *reparative justice*, is spreading. However, significant differences between Member States persist (prominent among them the age of juvenile criminal responsibility, as seen above).

7.1.3 A wide range of reasons, discussed in detail earlier in this document — similar socio-economic and political circumstances between the Member States, legal traditions which are sometimes very close and in others at least not irreconcilable, social policies impinging upon youth crime prevention which are already funded or supported by Community budgets —

plead in favour of progressive uniformisation of models and systems for prevention, protection, action and treatment regarding juvenile delinquency and juvenile justice.

7.1.4 Lastly, several other factors support the idea of increased approximation, coordination and exchange:

7.1.4.1 Action on juvenile delinquency and juvenile justice is not restricted to the judicial sphere (where the differing legal models and traditions may constitute an obstacle), but seeks to be interdisciplinary and multi-institutional, bringing together other branches of knowledge — such as the social and behavioural sciences — and widely varying institutions, authorities and organisations (national, regional and local administrations, different kinds of social services, police and court structures, non-profit organisations, private companies working through corporate social responsibility projects, family associations, economic and social players, etc.), who often operate in an uncoordinated manner.

7.1.4.2 The information society, technological progress, the opening up of borders and other similar factors are certainly contributing significantly to the spread of the phenomena mentioned in point 7.1.1 above ⁽¹⁾, although the simple 'copy-cat' effect of such behaviour should not be overlooked either (amplified by the broadcasting of events by the mass media): all these changes are occurring at breakneck pace, and European countries cannot afford to ignore them.

7.2 In the light of all the above, the EESC believes that the following steps should be taken to frame a Community policy on juvenile delinquency and the juvenile justice system:

7.2.1 Firstly, it is essential to have **up-to-date, comparable statistical data** on the state of juvenile delinquency in the EU-25, to provide a reliable picture of the problem, its real dimensions and how to tackle it, taking into account — amongst other variables — possible differences between young male and female offenders.

7.2.2 From the quality point of view, the Committee is convinced that there should be a series of **minimum standards or guidelines** between the Member States covering all aspects from the way the police and courts deal with young people in conflict with the criminal law right through to reeducation and resocialisation. These standards should take the principles laid down in the Convention on the Rights of the Child, especially Articles 37 and 40, and the international guidelines contained in the conventions cited in point 3.2.1 above, as a starting-point for further detailed developments and implementation.

⁽¹⁾ It is worth pointing to the apparently important role played in the disturbances in French cities in November 2005, of chat services, e-mail, blogs, mobile phones, etc.

7.2.3 The first step in preparing these minimum standards would be to gain the most detailed knowledge possible of the different situations and experiences in each of the Member States. There could be different ways of doing this, but one might be to gather information through surveys sent to all the Member States, and supplemented later by meetings of groups of experts and professionals in the field to exchange experiences and best practices. These meetings could be put on a stable footing, setting up an **expert network**, with membership and functions tailored to the specific objective in view. It would also be helpful for the Commission to publish a **green paper** on the subject, in order to target reflection and debate more accurately, and to reach as many institutions, organisations and individuals as possible.

7.2.4 In conjunction with the above measures, or at least as the next step in furthering mutual knowledge and convergence between juvenile justice models in the Member States, a **European observatory** on juvenile delinquency should be created. This would facilitate not only the study of the issue, but would also help to disseminate the results and provide advice and support for the appropriate authorities and institutions in their decision-making. In other words, it must be ensured that the results of these research and study efforts do not remain purely academic, but help in the adoption of practical policies and strategies ⁽¹²⁾.

7.3 Without prejudice to the above, and given that the various issues which touch upon juvenile delinquency and the juvenile justice system are dealt with individually by various **European Union policies** (freedom, justice and security; youth; education and training; employment and social affairs), there is a need for **operational coordination** between all the services and agencies involved so that juvenile delinquency can be addressed on an interdisciplinary and multi-institutional basis best suited to it, as indicated several times in the present opinion.

7.4 In view of the specific features of juvenile delinquency, together with its inherently dynamic and changing character, it is essential that all those working with the young people involved — judges, prosecutors, lawyers, police officers, offi-

cial, mediators, social workers, probation workers, etc. — receive the most specialist, and constantly up-dated, training possible. The Community institutions have a key role to play in this respect, through the instruments outlined above (expert networks, observatory, etc.) and others such as exchange programmes for professionals between Member States, networking, new distance training methods such as e-learning, etc. Community programmes should be introduced to try to provide these specific training needs. Moreover, any advances made in the field of juvenile justice in the EU would boost the status of this area of knowledge and encourage the development of specialist research in European universities, which must be brought into the entire process.

7.5 Similarly, given that the issue has an obvious social and civic dimension, care should be taken not to overlook all directly relevant civil society organisations and professionals in the process ('third sector' bodies, associations, families, NGOs, etc.), since they can contribute to shaping and subsequently implementing whatever programmes and strategies are introduced within the EU.

7.6 With regard to the social integration and re-integration of minors and young offenders — the third foundation mentioned in point 1.1 — any future Community policies will also have to take account of the role of trade union and employers' organisations and their specific channels for dialogue when mapping out paths towards the socio-occupational integration and re-integration of socially-excluded minors. All the relevant players must therefore be committed, since socio-occupational integration is one of the vital means of re-integrating these minors into society.

7.7 Lastly, the EESC is aware that if all these policies are to be carried forward, they must be matched by budget resources. The European Commission should therefore introduce budget lines to assist in protecting minors and preventing juvenile delinquency, and to deal with young offenders, through either existing projects or initiatives (such as those aimed at eliminating social exclusion and supporting young people's integration into society and employment) ⁽¹³⁾, or programmes specifically designed for the purpose.

Brussels, 15 March 2006.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND

⁽¹²⁾ A European Parliament Proposal for a Resolution (B5-0155/2003) for the establishment of a European juvenile delinquency monitoring centre was presented by a large group of MEPs as far back as 21 February 2003,.

⁽¹³⁾ Examples of such projects and programmes currently under way are AGIS, Daphne II, Equal and the Action programme to combat discrimination.