



REGIONAL AND INTERNATIONAL INDICATORS ON JUVENILE JUSTICE: THEIR APPLICABILITY AND RELEVANCE IN SELECTED COUNTRIES OF EASTERN EUROPE AND CENTRAL ASIA

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“Statistical data are gathered to answer questions. Therefore, a preliminary step in developing a programme to improve... statistics is the identification of the important questions to be answered.”¹

INTRODUCTION

One of the aims of the in-depth assessments of juvenile justice undertaken in 2008 in Albania, Azerbaijan, Kazakhstan, Turkey and Ukraine was to ascertain the extent to which the data corresponding to global and regional indicators exist,² identify problems or difficulties concerning the definition or use of such indicators, and explore the availability of data on other indicators of particular relevance to the process of developing juvenile justice systems compatible with the rights of children. This study is based on the findings and conclusions of the assessment team regarding data in these countries, which are published separately in five assessment reports, and draws general conclusions and recommendations based on a comparison of their situation.³

This study is intended to help National Statistical Offices and other authorities in the countries assessed to develop more robust and relevant data collection and management systems, by drawing attention to gaps and other issues that require attention as well as to the steps taken in other countries that may shed light on the way forward. It will also be of interest to analysts and policy makers from the justice and child protection field, academic researchers and human rights monitoring bodies. International and regional organizations, which are investing in data collection and analysis so as to nurture better policies for children, will also find it useful, notably the relevance of and limitations to cross-country comparisons. In addition, the authors hope that the study will contribute to the future development of the TransMONEE and UNODC-UNICEF tools for the measurement of juvenile justice indicators and trends.

The first part of this study gives an overview of data management concerning juvenile justice, highlighting some common problems as well as recent advances. The second part considers the interpretation, application and relevance of existing regional (TransMONEE) and international (UNODC-UNICEF) indicators. The third part addresses the disaggregation of data, and the fourth concerns the relevance of other indicators as well as the availability of corresponding data.

The collection and management of data on juvenile offending and juvenile justice was only one of the components of the assessment mission. A thorough evaluation of this aspect of juvenile justice was not possible in the time available, and the information obtained by the assessment team leaves many questions unanswered. It does, however, provide an overview of the general state of data collection and management regarding juvenile justice in these five countries, and highlights the need to treat this as an integral part of efforts to support the development of juvenile justice systems. This study should not be seen as a diagnosis, but rather a call to action.

¹ United Nations, Department of Economic and Social Affairs, Statistics Division, *Manual for the Development of A System of Criminal Justice Statistics*, ST/ESA/STAT/SER.F/89, Series F No. 89, New York, 2003, para. 3.13, p. 13.

² These indicators are the global UNODC-UNICEF Juvenile Justice and the CEE/CIS TransMONEE indicators (crime and child protection indicators). See respectively: <http://www.juvenilejusticepanel.org/en/jji.html> accessed 20 May 2009 and <http://www.moneeinfo.org> accessed 20 May 2009.

³ United Nations Children’s Fund, *Assessment of Juvenile Justice Reform Achievements in Albania; Assessment of Juvenile Justice Reform Achievements in Azerbaijan; Assessment of Juvenile Justice Reform Achievements in Kazakhstan; Assessment of Juvenile Justice Reform Achievements in Turkey; Assessment of Juvenile Justice Reform Achievements in Ukraine*, UNICEF Regional Office for CEE/CIS, Geneva, July 2009.

PART I. Data Collection and Management Systems – An Overview

In most of the five countries covered by the 2008 assessments, the national statistical agency publishes data on juvenile justice. The amount of information varies greatly from one country to another.

In Albania, the Statistical Yearbook published by the Ministry of Justice contains a section on juveniles that includes data on the number of offences committed and the number of juveniles convicted of an offence, disaggregated by offence and by the sentence imposed.⁴

In Azerbaijan, the State Statistical Committee publishes an annual bilingual report on *Crimes and Offences in Azerbaijan*, which contains information on juveniles convicted of offences, disaggregated by offence, and by the age, the sex and the socio-educational background of the offender as well as the circumstances of the offence.

In Kazakhstan, the management of data concerning juvenile justice is not well coordinated. The Agency of the Republic of Kazakhstan on Statistics contributes data on offending by juveniles and on juvenile justice to the TransMONEE project, but does not publish such data on a regular basis.⁵ The Ministry of Internal Affairs published some data on offending by juveniles and on juvenile justice in 2008.⁶ The Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office publishes annually *Analytical and Statistical Information*, which includes data on the number of crimes committed by juveniles.⁷ It also compiles, but does not publish, detailed information on pretrial detention. The data published by different sources are sometimes contradictory.

The most extensive set of data on offending by juveniles and juvenile justice is that published by TURKSTAT, the Turkish Statistical Institute. It appears in three annual, bilingual reports, entitled *Judicial Statistics*, *Prison Statistics* and *Juveniles Received into Security Unit[s]*. *Judicial Statistics* and *Prison Statistics* both contain chapters on juveniles. The relevant chapter of *Judicial Statistics* includes data on the caseload handled by each juvenile court annually; the number of cases involving accused juveniles handled annually by type of court and by status of the case (pending, acquittal, conviction etc.); the number of juveniles prosecuted annually by offence; and the number of juvenile offenders sentenced annually by offence.⁸ Most of these data are disaggregated by the age (11–14 or 15–17 years) and the sex of the offender. *Prison Statistics* contains detailed information on convicted juvenile offenders, but the scope of the information is limited because it covers only those confined in juvenile facilities.⁹ This publication also includes valuable information on persons in pretrial detention, although these data unfortunately are not disaggregated to distinguish between juvenile and adult detainees.

The publication on children 'received' by the police, *Juveniles Received into Security Unit[s]*, was prepared for an extended trial period concerning 27 of Turkey's 81 provinces. The 2008 edition

⁴ Ministria e Drejtësisë, *Vjetari Statistikor 2007*, Tiranë, 2008, p. 84, available at www.justice.gov.al accessed 31 July 2009.

⁵ See Moestue, H., *Lost in the Justice System: Children in conflict with the law in Eastern Europe and Central Asia*, UNICEF Regional Office for CEE/CIS, Geneva, May 2008, Appendix 2.

⁶ Ministry of Internal Affairs, *Analysis of juvenile offences and activities of police on prevention of crimes, homelessness and street children*, Astana, 2008.

⁷ Committee on Legal Statistics and Special Accounts, *Analytical and Statistical Information No. 1*, General Prosecutor's Office, Astana, 2006 (the first and to date only issue).

⁸ *Ibid.*, Tables 3.1.3; 3.1.4; 3.1.5 and 3.1.9, 3.1.10, respectively.

⁹ For example, data on all prisoners admitted to correctional facilities, disaggregated by age, indicated that 513 prisoners under age 18 were admitted in 2006, but the chapter on juveniles only contains information on 78 juvenile prisoners.

is expected to cover the entire country. Data on children 'received' by the police are disaggregated to distinguish those taken into custody as suspects or accused, as well as for other reasons. It is disaggregated by sex, age, offence, province, police force, the circumstances of the offence and the number of those received as suspects referred to prosecutors for further investigation. Information is also provided on the family and the educational and social background of those taken into custody, disaggregated by offence. This is a valuable example of data collection and management in this important but usually poorly documented aspect of juvenile justice.

In Ukraine, the State Statistics Committee publishes a report on juvenile justice every three years.¹⁰ It is based on data obtained from the Ministry of Internal Affairs, the Ministry of Education and Science, the Ministry of Family, Youth and Sport, the courts and the State Department of Penal Implementation, as well as from the regional offices of the State Statistics Committee.

In some countries, restrictive policies concerning the confidentiality of some data are still followed. In Ukraine, information on deaths of prisoners is confidential. In others, the relevant ministries and departments allow generous access to data, even where data collection systems are weak. In Albania, for example, NGO publications on juvenile justice contain a considerable amount of unpublished data provided by the relevant ministries and departments, and by the court system.

Data collection and management potentially serve several different purposes. The most important is that it allows the responsible authorities to better understand offending and the workings and impact of the prevention programmes, law enforcement, the administration of justice and the correctional system. Similarly, it allows them to monitor the implementation and impact of changes introduced into juvenile justice. When data are not only collected and analysed, but also published, they contribute to transparency in government and to the accountability of those responsible for developing and implementing humane and effective policies. The publication of such data also invites civil society and academia to participate more actively in research and critical analysis about the prevention of offending and re-offending. Finally, good data collection and management facilitate compliance with international obligations and expectations, whether preparing the reports that all States parties to the Convention on the Rights of the Child have a legal obligation to submit periodically, or providing international agencies and donors with the kind of information that demonstrates both the need for technical and other assistance and the capacity to use it efficiently.

Evidence confirms that progress is being made. In most of the countries assessed, efforts are underway to centralize data from different parts of the juvenile justice system and to make them available to the public in annual reports and on websites. Problems exist, however. Reluctance to publish information that may occasion criticism of public policies or agencies, while decreasing, continues to prevent the publication of certain data. The old habit of manipulating information to put the performance of an agency in a positive light – for example, by minimizing the gap between offences reported and offenders arrested – contributes to discrepancies between data reported by different parts of juvenile justice systems. Ideology still influences the indicators used, in particular indicators on the social background of offenders and the causes of offending, thus limiting the usefulness of data for the development of more effective approaches to prevention and rehabilitation. Enlightened public servants and representatives of civil society increasingly recognize these problems and strive to develop methods for overcoming them, although such efforts meet resistance. The improvement of data collection systems is not only a technical challenge; it also has social, political and cultural implications.

¹⁰ A semi-annual report on the economy also includes a section on crime.

PART II. Data Corresponding to Regional and International Indicators

1) Crimes committed by juvenile offenders

The indicator on crimes committed by juvenile offenders is defined by the TransMONEE matrix as “the number of crimes committed by persons aged 14–17,” disaggregated by the kind of crime, i.e., violent, property, or other.¹¹ The criteria to be used in determining that a crime has been ‘committed’ are not specified.¹² From a legal point of view, this conclusion should be based either on a conviction or an admission of participation in an offence.¹³ However, the term ‘crime rate’ is commonly used to refer to reported crimes, a much larger set. The United Nations Survey of Crime Trends does not use the indicator ‘crimes committed’, but rather separate indicators for crimes registered by the police, persons prosecuted – an intervening category or set – and persons convicted.¹⁴

Data available

In most of the countries covered by the assessments, some data on reported offending by juveniles or on the number of juvenile offenders are available.¹⁵ Turkey appears to be an exception: the assessment team did not identify any data on offending by juveniles.

In Azerbaijan, the annual publication of the State Statistical Committee contains data on both the number of crimes committed by persons aged 14–17 years and the number of persons of this age who have committed crimes, for the years 1995 and 1997–2007.¹⁶ In most, but not all years, the number of juveniles who commit an offence is larger than the number of offences committed by juveniles, because of offences committed by groups of juveniles. The data published by the TransMONEE project as “crimes committed by or with the participation of juveniles” in Azerbaijan are not the number of crimes committed by juveniles, but the number of juveniles who have committed a crime.

In Kazakhstan, data published by the Ministry of Internal Affairs include the number of juvenile offenders and the number of registered crimes involving juveniles investigated by the Ministry.¹⁷ Both data sets cover persons aged 14–18 years and the period 2001–2007. Ukraine, too, compiles data on the number of crimes committed by juveniles as well as the number of juvenile offenders.¹⁸ The data provided by the State Statistics Committee cover juveniles aged 14–17 years for the period 2000–2005. The Ministry of Internal Affairs provided the assessment team with unpublished data on ‘adolescent criminality’ in 2006 and 2007, but it is not clear whether the information refers to the number of offences or offenders.

¹¹ The UNODC-UNICEF Manual does not include this indicator. See United Nations, *Manual for the Measurement of Juvenile Justice Indicators*, Office on Drugs and Crime (UNODC) and UNICEF, New York, 2007.

¹² Azerbaijan is an exception. *Crimes and Offences in Azerbaijan* indicates that the term “person committed crime” [sic] means “persons with solved criminal case registered” by the authorities of the Ministry of Internal Affairs.

¹³ For example, an admission of participation in a criminal act at the time of diversion.

¹⁴ Questionnaire for the Tenth United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, covering the period 2005–2006, Office on Drugs and Crime (UNODC), pp. 2 et seq.

¹⁵ The figures for these indicators differ for two reasons: many offences are committed by groups of adolescents, and many offenders are repeat offenders. The former tends to make the number of offenders greater than the number of offences, while the latter tends to reduce the number of offenders vis-à-vis the number of offences – depending, of course, on how the data are processed.

¹⁶ State Statistical Committee, *Crimes and Offences in Azerbaijan*, Baku, July 2009, Table 4.1 and 4.2. (The criterion used is defined as “persons with solved criminal case registered” by the Ministry of Internal Affairs. *Ibid.*, p. 92.)

¹⁷ [title unknown], Tables 11 and 12.

¹⁸ [title unknown], Table 8. According to this data the number of crimes committed by juveniles is consistently and considerably higher than the number of juvenile offenders (e.g., 23 per cent higher in 2005).

Disaggregation by offence

In all five countries, data are disaggregated by the nature of the offence, and the criteria are more detailed than the three categories (violent crimes, property crimes and 'other') used by the TransMONEE matrix.

In Albania, the Statistical Yearbook published by the Ministry of Justice disaggregates data on offending by each specific offence.¹⁹

In Azerbaijan, data published in *Crimes and Offences in Azerbaijan* are disaggregated by 10 categories. In Kazakhstan, data on offending published by the Ministry of Internal Affairs include separate tables on homicide, rape, intentional injury, hooliganism and five kinds of property offences. These offences account for 90 per cent of those committed by juveniles. Data on crime published by the Office of the General Prosecutor are even more detailed in regard to offences, but the data on offences committed by juveniles published by the Office are not disaggregated by offence.

In Ukraine, data on juvenile offending published by the State Statistics Committee are disaggregated by the TransMONEE categories, because they are collected at the request of UNICEF. The data on offending by juveniles provided to the assessment team by the Ministry of Internal Affairs are disaggregated by 13 different offences, including murder, rape, premeditated assault resulting in serious bodily injury, vehicular homicide, possession of weapons, hooliganism and seven different kinds of property offences. These data illustrate the problem of classifying crimes as either violent or against property: about one third of all crimes against property are defined by the use of or threat of "violence dangerous to life and health."²⁰

Other issues

There are often apparent discrepancies between data on offending from different official sources. In Kazakhstan, for example, according to the information provided to the Committee on the Rights of the Child 4,316 juveniles were prosecuted in 2006.²¹ Data published by the Ministry of Internal Affairs indicate that, of 5,797 crimes by juveniles registered in 2006, the criminal investigation was completed in 3,921 cases, 1,020 cases were closed and 2,793 cases were sent to court. The assessment team was unable to find an explanation for the apparent discrepancy between the number of cases for which investigation 'was completed', the number of cases 'prosecuted' and the number of cases 'sent to court'.

Furthermore, comparison of the data published by TransMONEE as "crimes committed by or with the participation of juveniles" with the data published by the Ministry of Internal Affairs indicates that TransMONEE data are not the number of crimes committed by juveniles, but the number of juveniles who have committed a crime. In most years, the number of crimes committed by juveniles is smaller than the number of juvenile offenders. In 2007, for example, 8,344 juveniles committed 5,383 crimes. This is significant, because it suggests that, while the number of offences committed by juveniles is declining in recent years, the number of offenders is relatively stable. The purported reason for this is the increasing number of offences committed by groups of juveniles.

¹⁹ See *Vjetari Statistikor 2007*, p. 84 available at www.justice.gov.al accessed 31 July 2009.

²⁰ Criminal Code, Article 187 (a crime variously translated as 'brigandism' or 'plunder').

²¹ Committee on the Rights of the Child, Written replies by the Government of Kazakhstan concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the second and third combined periodic report of Kazakhstan, CRC/C/KAZ/Q/3/Add.1, 2007, p. 12.

Another issue that is relevant in at least one country concerns the criteria used to distinguish criminal offences from administrative offences. In Ukraine, official statistics show a decrease in the number of crimes committed by persons under age 18. Part of the reason for this is that data on criminal offences exclude administrative offences and that theft is not a criminal offence unless the value of the property stolen exceeds a certain threshold. Since the threshold is defined in terms of a certain economic indicator²² it has been rising, making thefts that would have been crimes in the past mere administrative offences. The impact of this factor on offending by juveniles has not been calculated, leading to uncertainty as to whether the reported decrease in offending is real or apparent.

2) Children ‘arrested’ or ‘in conflict with the law’

The term ‘arrest’ is defined by the UNODC-UNICEF Manual as “placed in custody by the police... or other security forces because of actual, perceived or alleged conflict with the law.” ‘Conflict with the law’ is, in turn, defined as having “committed or [being] accused of having committed an offence.” The definition adds that “Depending on the local context” the term may also mean “children dealt with by the juvenile justice or adult criminal justice system for reason of being considered to be in danger by virtue of their behaviour or the environment in which they live.” TransMONEE defines this more clearly as “the number of children/juveniles taken into police custody (following arrest on suspicion of having committed an offence)” during a 12-month period.

The application of these definitions in the CEE/CIS region is problematic. One problem, with the TransMONEE definition in particular, is linguistic in nature. Throughout the region, the term ‘arrest’ has a different meaning than in common-law countries and some civil-law countries in Western Europe.²³ The term ‘apprehension’ is used in most of the CEE/CIS region to describe taking a person into custody when, for example, he/she has been found in the process of committing an offence or with evidence of recent participation in an offence (bloody clothing, stolen property etc). The term ‘arrest’ is used mainly to refer to court-ordered detention during the investigation of a crime, i.e., after charges have been placed, before trial. It is also used to refer to a short (e.g., 30–60 days) period of deprivation of liberty as punishment, particularly for administrative offences.

A second problem is conceptual: the presumption that arrest or apprehension by the police is the usual way of entering the juvenile justice system. This may be so when a juvenile is caught in the process of committing an offence, but when a complaint is made, the suspect may simply be ordered to appear at the office of the police or prosecutor for questioning, or eventually to appear in court for a preliminary hearing. These juveniles are suspects and may well be accused of an offence without having been taken into police custody.

A third problem is whether children taken to police stations because their identity is not known, or because they appear to be in a situation of risk, should be counted, i.e., whether contact of this kind with the police should be equated with being ‘dealt with’ by the juvenile justice or criminal justice system. This is common practice. In Turkey, for example, data from a recent year indicate that only 64 per cent of children and adolescents ‘received’ in police stations were suspected of an offence; some 22 per cent were victims; and the other 14 per cent included children who were lost, who were abandoned, foundlings, runaways, and children begging or working on the street.²⁴

²² The threshold for income that is taxable. (One source stated that the threshold had risen from US\$ 30 to US\$ 150.)

²³ It differs, too, from the meaning of ‘arrestation’ in French criminal law, which is the same as ‘arrest’ in English.

²⁴ Turkish Statistical Institute, *Juveniles Received into Security Unit, 2006: 27 provinces*, TURKSTAT, 2006, Table 2.

Data available

Turkey is the only country covered by the assessments where relatively detailed data on the number of children 'received' by the police are compiled and published. These data are disaggregated by the reason for 'reception' and, as indicated above, the largest category is those suspected of an offence. Data concerning 2008, not yet published, will for the first time cover the entire country.

In Kazakhstan, data published by the Ministry of Internal Affairs in 2008 provide information on 'juveniles brought to the police', which are disaggregated by the reasons for this, namely, the suspected commission of a crime or an administrative offence. In 2007, more than half of juveniles were brought to the police for an administrative offence, and fewer than 10 per cent for a crime; nearly one third (31,000 children) were brought to the police for some other, unspecified reason.

In the remaining countries covered by the assessments, little or no data on this indicator are available. In Albania, data on persons taken into custody apparently are not compiled. The Ministry of Interior reportedly compiles, but does not publish, data from police stations on persons charged with an offence, disaggregated by age.²⁵ It is not known whether these data include persons charged without being taken into custody, or whether they include persons taken into custody for purposes of investigation who are not charged. In Azerbaijan, the assessment team was unable to identify any data on juveniles taken into custody as suspects. In Ukraine, where children suspected of an offence may be held in police custody for up to eight hours without approval of any other authority, data on this practice are not available.

3) Children in detention

The UNODC-UNICEF Manual describes this indicator as "children detained in pre-trial, pre-sentence and post-sentencing in any type of facility (including police custody)." This indicator is defined by the TransMONEE matrix as "the total number of children/juveniles in conflict with the law in closed correctional/punitive institutions or open/semi-open institutions at the end of the year."

This is, in effect, an aggregate indicator, which includes at least three different sets of data: juveniles serving custodial sentences, juveniles detained before and during trial (which in this region usually includes those awaiting the outcome of an appeal), and those in police custody without a court order. In principle, it should also include juveniles sentenced to a medical facility instead of a juvenile correctional, for reasons such as the treatment of substance abuse.

The TransMONEE version also might be interpreted to include the population of special educational facilities for children under the minimum age for prosecution who have been involved in activities that are criminal in nature. Indeed, given the flexible definition of 'children in conflict with the law' used by the regional and international indicators, it might be interpreted even more broadly to cover children who are not offenders, but are placed in the school because of truancy or other behavioural problems.

This may explain why the figures produced by the application of this definition tend to be larger than those produced when the UNODC-UNICEF definition is applied.

The TransMONEE definition of juvenile offenders also excludes children under age 14, which may have the opposite effect. In Ukraine, for example, children aged 11–16 years who have committed offences but are not criminally responsible may be confined in schools for social rehabilitation.

²⁵ The age cohorts are: under 14 years; 14–17 years; and 18 or older.

More than half of the population confined in these schools for the commission of an offence is under age 14.²⁶ This represents about 8 per cent of the population of facilities for accused or convicted juveniles, or 12 per cent of those who have been given a custodial sentence.

Data available

Some of the data corresponding to these indicators are published in all the countries covered by the assessments. In Albania, these data are not published regularly, but can be obtained on request.²⁷ In Kazakhstan, data on juveniles in correctional facilities were made public for the first time in the 'Juvenile Justice System Development Concept' adopted in 2008.

Difficulties of one kind or another exist in the other countries, so that the total number of persons under age 18 in all forms of 'detention' is not known in any of them. One problem concerns children in police custody.

In Turkey, which compiles detailed information on children and the police, data exist on the number of children who enter during the course of a year and what becomes of them ('flow' data).²⁸ The number present at a given date is not compiled. As far as the assessment team was able to determine, none of the other countries compile or publish data on children held in police custody before some legal threshold, such as a court order authorizing pretrial detention, is passed.

Data on the number of juveniles in 'pretrial' detention and serving sentences are published in most countries. However, they usually do not count persons actually below age 18, but those detained for crimes allegedly committed while juveniles and those serving sentences in juvenile facilities. In most of the countries covered by the assessments, juveniles serving sentences in juvenile facilities are allowed to remain there after reaching their 18th birthday, in certain circumstances. In Ukraine, nearly one third of the population of colonies for juvenile offenders is over age 18. A smaller proportion of the population of juvenile units of pretrial detention facilities is over age 18, although they are accused of offences committed as juveniles.

In Turkey, published data indicate the number of juveniles admitted to and released from detention and correctional facilities annually. One piece of data – the number 'remanded until next year' – apparently represents the number in juvenile facilities at the end of the year.²⁹

It should be noted, however, that different sets of data on admissions and release appear to be inconsistent. *Prison Statistics* contains data on 'convicts' under age 18 received into and released from 'prison' and other data on 'juvenile convicts received into juvenile prison and reformatory'. Although, in principle, juveniles are not confined in adult facilities, the number of persons under age 18 received into prison is considerably larger than the number of 'juvenile convicts received into juvenile prison and reformatory'.³⁰ *Judicial Statistics* contains another set of data, on arrested

²⁶ Fifty-three per cent, according to unpublished data provided to the assessment team by the Ministry of Education and Science.

²⁷ Juveniles serving sentences are confined in the juvenile section of a prison, and those awaiting trial, sentencing or the outcome of an appeal are detained in one of six pre-detention facilities. The Prison Department provided the assessment team with detailed information on the number of persons aged 14–18 years in prison and pretrial detention facilities.

²⁸ *Juveniles Received into Security Unit, 2006: 27 provinces*. (As indicated above, the data published to date cover only 27 provinces.)

²⁹ Turkish Statistical Institute, *Judicial Statistics 2005*, TURKSTAT, Ankara, 2007, Table 4.4.2 (616 in 2005); Turkish Statistical Institute, *Prison Statistics 2006*, TURKSTAT, Ankara, 2008, Table 1.3 (56 in 2006).

³⁰ For 2006, the numbers were 513 and 78. *Prison Statistics 2006*, Tables 6 and 10. See also Table 2.2 at p. 39.

persons received into prison and detention facilities by type of facility.³¹ This publication includes data on the number of persons received into juvenile facilities that are much higher than the numbers published in *Prison Statistics*.³²

Another problem is that the legislation of most countries in the region allows convicted juveniles to be given ‘educational measures’ as an alternative sentence. This may result in placement in a special educational facility, which is not part of the correctional system. This population usually is excluded from data generated by the prison system or the relevant ministry. In Kazakhstan, the staff of the school for ‘children with deviant behaviour’ visited by the assessment team said that a small number of students were offenders. In Turkey, none of the annual publications concerning juvenile justice include data on the population of the open ‘care, protection and rehabilitation centres’ for offenders operated by the Social Services and Child Protection Agency. This problem does not arise in Albania, where there are no residential facilities of any kind for underage offenders.

Other issues

In Albania, some published data indicate that the number of juveniles deprived of liberty in January is significantly higher than the number deprived of liberty in December, especially in pretrial detention.³³ The explanation for this phenomenon is unknown, but it does suggest that the number of juveniles detained or imprisoned at the end of the year may not be a reliable indicator of the number of juveniles deprived of liberty during a given year.

4) Children in ‘pretrial’ or ‘pre-sentence’ detention

The TransMONEE definition of this indicator is “the number of children who are placed in pretrial detention during the year.” The UNODC-UNICEF Manual describes it as “children in pre-sentence detention” and expressly excludes those who have been sentenced and are awaiting the outcome of an appeal. It further suggests that this data should be presented as the percentage of the child population that is detained.

Data available

Most of the countries covered by the assessments do not publish data on either version of this indicator. In Albania, only NGO studies contain some data on juveniles in ‘pretrial’ detention. In Azerbaijan, the State Statistical Committee does not publish information on pretrial or pre-sentence detention either. Information on the number of juveniles confined in pretrial detention facilities has been provided to NGOs on request, but the number of accused juveniles placed in pretrial detention annually apparently has never been calculated.

In Kazakhstan, information on the number of juveniles in detention facilities (as opposed to correctional facilities) was cited in an official document for the first time in 2009.³⁴ It is not clear, however, whether the data refer to the population on a given day or to the number admitted to such facilities during the year.

³¹ Ibid., Table 4.4.2.

³² In 2005, 2,802 persons were admitted, compared to 896 reported in Table 6 and 202 reported in Table 10 of *Prison Statistics 2006*.

³³ 27 juveniles deprived of liberty in December 2000; 37 in January 2001; 20 in December 2001; 41 in January 2002; 18 in December 2002; 51 in January 2003; 27 in December 2003, 76 in January 2004; 40 in December 2004; 58 in January 2005. These data refer only to the pretrial detention facility in the capitol. Data from the juvenile section of the prison show a similar trend, but less pronounced. See Korini, E. and Sado, L., *Children in Conflict with the Law in Albania*, Analytical Report, Ministry of Justice and Social Research Centre (INSTAT), Tirana, mimeo, 2006.

³⁴ Juvenile Justice Development Concept Republic of Kazakhstan 2009–2011, p. 3 of the English translation.

In Turkey, the annual report *Judicial Statistics* includes data on the number of persons admitted into and discharged from juvenile detention and correctional facilities during the course of the year, as well as the number remaining in such facilities at the end of the year. These data are disaggregated by sex, by citizenship (Turkish or foreign) and by facility.

In Ukraine, data reported by the State Statistics Committee have included information on children 'taken into custody (arrested)'. These data were prepared in answer to a request from UNICEF, and were intended to respond to the TransMONEE indicator. It appears, however, that the data actually describe arrest in the sense the term is used by Ukrainian legislation, i.e., detention before and during trial and appeal, by order of a prosecutor or court.

6) Duration of pre-sentence detention

The UNODC-UNICEF Manual defines this indicator as "the time spent in detention before sentencing." There is no similar TransMONEE indicator.

None of the countries covered by the assessments compile and publish data on this indicator on a regular basis.

7) Child deaths in detention

Information on the number of child deaths in detention is not compiled systematically in any of the countries covered by the assessments. UNICEF was informed that this data is confidential in Ukraine. Anecdotal evidence of deaths of juveniles in detention or correctional facilities was identified in an earlier study in Kazakhstan,³⁵ but since this problem is not monitored systematically and transparently, it is not possible to know what progress, if any, has been made.

8) Separation from adults

This indicator is defined by the UNODC-UNICEF Manual as "the percentage of children in detention not wholly separated from" adult prisoners or detainees.³⁶ Juveniles are considered not wholly separated from adults if they are housed in the same cells or dormitories, or if there is contact between juveniles and adults in exercise areas, dining halls or other common areas. The purpose of this indicator, according to the Manual, is to identify the percentage of juveniles deprived of liberty that are either vulnerable to exploitation and abuse by adult prisoners and detainees, or confined in facilities that do not 'cater to their needs'.

There is no similar TransMONEE indicator.

In most of the countries covered by the assessments, few juvenile suspects, detainees and convicted prisoners deprived of liberty are separated from adults, as separation is defined above. In none of them do the authorities compile data on the number of juvenile detainees and prisoners separated or not separated from adults, as such. In general, data are compiled on the number of prisoners or detainees confined in each institution, the implication being that those confined in juvenile facilities are juveniles, and those in adult facilities, adults.

³⁵ Back in 2005, questions asked during study visits, such as: "Have any teenagers died in detention? When and why?" were answered by the following: "I've heard about such cases many times. Staff members beat detainees," "Yes, in a remand home, because of a stomach problem," "Yes, but I don't know why," "Yes, one boy hanged himself," "Yes, died of bodily blows (a fight between children), in Taraz, where I served my sentence." According to the data obtained, there had been two deaths in one colony in the previous 12 months, one from suicide by hanging, and the other from tubercular meningitis.

³⁶ The TransMONEE project does not include this indicator.

Some data specifically identify juveniles confined in facilities intended primarily for adults. Data from Ukraine, for example, identify the number of adolescent girls held in the prison for women. Information provided to the assessment team in Albania indicates the number of juveniles confined in detention facilities intended primarily for adults. These subgroups generally represent a relatively small portion of juveniles deprived of liberty, however. More importantly, juveniles in such facilities can experience quite different degrees of separation from adults. To take the example of Albania, juveniles in the largest ‘pretrial’ detention facility are housed in a separate facility within the detention complex, while juveniles in other detention facilities are confined in a separate cell in a corridor where the other cells contain adults.

The problem with this indicator is that it treats juveniles not separated from adults as a single category, when in reality it is composed of subgroups living in very different circumstances. For example, in all of the countries assessed except one, convicted boys serve sentences in correctional facilities exclusively for juvenile offenders, but may be allowed to remain there after reaching age 18. Consequently, all such juvenile facilities have prisoners who are young adults and who mingle freely with prisoners under age 18, but this practice reportedly has little or no adverse consequences for younger prisoners, most of whom are 16 or 17 years of age.

On the other hand, in some ‘pretrial’ detention facilities where juveniles are ‘wholly separated’ from adults, separation results in living conditions much harsher than those enjoyed by adults confined in the same facility (eating in cells, lack of access to open areas etc.). Conditions in which juvenile prisoners are detained with young adults in juvenile facilities may well be much more humane than conditions in adult facilities where small numbers of juveniles are detained in complete separation from adults.

Insofar as females are concerned, in all but the largest countries, the number of adolescent girls detained and serving sentences is too small to confine them in a facility without adults.³⁷ Indeed, in most of the countries covered by the assessments, it is too small to house them separately from adults. In some countries, confining adolescent girls with adult women is seen as beneficial for the girls; in others, it is seen as undesirable but unavoidable.

Data available

In Albania, only two facilities offer adequate separation between adult and juvenile prisoners, and only for male juveniles. Of 72 juveniles in the custody of the Prison Department at the time of the assessment mission, 31 were confined in facilities meeting this standard of separation.

In Azerbaijan, the only persons under age 18 confined in adult facilities are female juvenile offenders (when there are any), and suspects confined in police stations temporarily before a court has determined whether ‘pretrial’ detention is warranted. However, offenders serving sentences for offences committed while under age 18 may be allowed to remain in juvenile facilities for some time after reaching their 18th birthday.³⁸ There is a special facility for juveniles detained before trial and sentencing within a larger detention complex, but selected adult detainees are placed in the juvenile unit to help maintain order. The administration argues that this is in the best interests of the juvenile detainees. For these diverse reasons, few if any juvenile prisoners and detainees are ‘wholly separated’ from adults.

³⁷ In Ukraine, 105 women under age 18 were serving sentences in 2008, while in Azerbaijan, not a single adolescent girl was serving a sentence.

³⁸ In 2006, there were 16 boys aged 16–17 years in the juvenile correctional facility, and 45 aged 18–19 years. See NGO Alliance for Children’s Rights, *Monitoring the Juvenile Justice Administration in Azerbaijan*, Baku, 2007, p. 29.

In Kazakhstan, only female juvenile offenders are confined in correctional facilities for adults. All convicted boys serve sentences in one of four correctional facilities, but some are allowed to remain there after reaching their 18th birthday.³⁹ There are no pretrial detention facilities exclusively for juveniles, but the assessment team was unable to obtain information on the degree of separation between juveniles and adults in adult detention facilities. Similarly, little information was available on the issue of separation of juveniles and adults temporarily in police custody.

In most detention and correctional facilities in Turkey where the population includes juveniles, there is contact between juveniles and adults. Insofar as juveniles serving sentences are concerned, the main reason is that some juvenile offenders who reach age 18 are allowed to remain in juvenile correctional facilities.⁴⁰ Adolescent girls serving sentences serve them in the women's prison, in contact with adult prisoners. With respect to 'pretrial' detention a new model facility for detainees under age 21 has opened near the capital. In this facility, detainees under age 18 are separated from those aged 18–21 years, but this is the only detention facility of its kind. Other detention facilities reportedly are unable to ensure adequate separation between juvenile and adult detainees, but the assessment team was not able to observe conditions in any other detention facility.

In Ukraine, as indicated above, the population of correctional facilities for juveniles consists entirely of persons sentenced as juveniles, but nearly one third is aged 18–22 years. Thus, the entire juvenile population of the 10 colonies does not meet the UNODC-UNICEF criteria for separation from adults. In the 'pretrial' detention facility visited by the assessment team the section for males under age 18 met the above-mentioned criteria for separation. The section for women where adolescent girls are detained does not but, given the small number of female offenders under age 18 who are detained before trial, strict compliance with the principle of separation probably would not be in their best interests.

9) Contact with parents and family

This indicator is defined by the UNODC-UNICEF Manual as "the percentage of children in detention who have been visited by, or visited, parents or guardian or an adult family member during the last three months."

Data on this indicator are not published nor collected systematically in any of the countries covered by the assessments, for any kind of facilities in which juveniles may be confined. In Ukraine, the State Department of Penal Implementation uses the indicator "offenders who do not have or have lost socially beneficial connections in the outside life," and considers that 70 per cent of the male juvenile population and 90 per cent of the female juvenile population serving sentences come within that category.

10) Convictions

This indicator is defined by the TransMONEE matrix as "the number of juveniles convicted during the year," disaggregated by sex, by age and by type of crime, i.e., violent, property, or other.⁴¹ The term 'juveniles', as indicated above, is defined as persons aged 14–17 years, i.e., those who have not yet reached age 18.

The UNODC-UNICEF Manual does not use this indicator.

³⁹ In one of the juvenile facilities visited by the assessment team, for example, 11 of 83 prisoners were over age 18.

⁴⁰ The same policy applies to the open facilities operated by the Social Services and Child Protection Agency for children under the minimum age for prosecution involved in criminal activity and juvenile offenders who receive alternative measures.

⁴¹ The UNODC-UNICEF Manual does not include this indicator.

Data available

Most of the countries assessed publish some data on the number of juveniles convicted annually. In Albania, these data are published in the Statistical Yearbook published by the Ministry of Justice, disaggregated by offence.⁴² In Azerbaijan, the State Statistical Committee publishes the number of convictions annually, disaggregated by the crime or type of crime. Eleven categories are employed for this purpose. The number of convictions is also disaggregated by age (14–15 or 16–17 years) and by sex.

In Kazakhstan, data on convictions were first published in 2007 in a written reply to questions of the Committee on the Rights of the Child.⁴³ The data were disaggregated by sex, by age group (14–15 or 16–17 years) and by the gravity of the offence.⁴⁴ Such data are not yet published on a regular basis, however.

In Turkey, the annual publication *Judicial Statistics* contains detailed data on the caseload of juvenile and other courts, including information on sentences and other dispositions, disaggregated by court, by sex and by three age groups (11–14 years; 15–17 years; and 18 or older).⁴⁵ *Judicial Statistics* also contains data on juvenile cases disaggregated by offence, but it is unclear whether they refer to convictions or all judgments.⁴⁶ Information on convictions of juvenile offenders is also posted on the website of the Ministry of Justice. These data are disaggregated by sex, by age (12–15 or 16–18 years) and by type of court, but not by type of crime.⁴⁷ (The lower threshold was changed from 11 to 12 years because the minimum age for prosecution as a juvenile was raised in 2005.)

In Ukraine, the State Statistics Committee compiles data on convictions of juveniles disaggregated by sex and by the three types of crime specified in the TransMONEE matrix (i.e., violent, property, or other). Such data are only published every three years, however.

Other issues

In Albania, Azerbaijan, Kazakhstan and Ukraine, children aged 14–15 years may only be prosecuted as juvenile offenders for certain serious crimes. It is not clear how data on juveniles of this age group who commit other offences – offences for which they cannot be prosecuted – are treated.

It was not possible to cover the issue of administrative offences during the assessments, so the extent to which data on offending include administrative offences, or data on them are compiled and published separately, is unknown.

11) Custodial sentences

This indicator is defined by the UNODC-UNICEF Manual as “the percentage of sentenced children who receive a custodial sentence,” i.e., a sentence of confinement to an open/semi-open or closed facility. The TransMONEE matrix limits this to children aged 14–18 years.

The TransMONEE matrix requests that the data be disaggregated by the ‘duration of imprisonment’ and specifies six categories for this purpose: up to 1 year; 1–2 years; 2–3 years; 3–4 years;

⁴² *Vjetari Statistikor 2007*, p. 84.

⁴³ CRC/C/KAZ/Q/3/Add.1, pp. 1–12. The data was: Situation Analysis Medium Term Review of the Country Programme of Cooperation between UNICEF and the Government of the Republic of Kazakhstan, Astana, 2007, Annex 19.

⁴⁴ Four categories recognized by Kazakh criminal law are used: minor, ordinary, serious and very serious.

⁴⁵ *Judicial Statistics 2005*, Table 3.1.4.

⁴⁶ *Ibid.*, Table 3.1.10, whose title refers to both ‘cases judged’ and ‘defendants sentenced’.

⁴⁷ See online database of Ministry of Justice: <http://www.uyap.gov.tr> accessed 20 May 2009.

4–5 years; and more than 5 years. The UNODC–UNICEF Manual uses different criteria for disaggregation and includes four categories for sentences of less than one year. Neither the UNODC–UNICEF nor the TransMONEE indicators generate data on the number of juveniles given the maximum sentence allowed by law, which in most countries covered by the assessments is 10 years.⁴⁸

Data available

Data on custodial sentences have been published in Kazakhstan and Ukraine, but not on a regular basis. Data on the number of juveniles given custodial sentences are published annually in Azerbaijan and Turkey, but the length of sentences is not disaggregated according to the criteria proposed by TransMONEE.

In Albania, the Statistical Yearbook published by the Ministry of Justice indicates the number of convicted juveniles given custodial sentences, disaggregated by offence and by the length of the sentences. Four categories are used: sentences of less than two years; 2–5 years; 5–10 years; and 10–25 years.⁴⁹

In Azerbaijan, data on the sentences published by the State Statistical Committee are disaggregated by the length of the sentence, but only two categories are used: sentences of less than five years and sentences of more than five years.⁵⁰ These data are further disaggregated by offence or category of offence.⁵¹

In Turkey, data on the caseloads of criminal and juvenile courts published annually in *Judicial Statistics* include information on sentences of ‘imprisonment’, disaggregated by the age of the defendant.⁵² *Prison Statistics* contains data on the number of juveniles who enter correctional facilities during the year, disaggregated by age (12–14 or 15–17 years), by sex and by 21 kinds of offences. Information on the length of sentences is not available.

Other issues

In all five countries, prisoners can be released after serving part of their sentence, and in some they also may be pardoned or amnestied. Data on juvenile prisoners benefiting from these possibilities are not compiled systematically, and the length of sentences actually served is not known. In Ukraine, one authority estimated that most juvenile prisoners are released after serving only one third of the sentence imposed. No data were produced to support this statement but, if true, they serve as a reminder of the need to interpret data on sentences imposed in context.

One kind of sentence that is not contemplated by the TransMONEE indicators is the sentence of imprisonment to the time already spent in ‘pretrial’ detention. In at least one country some informants indicated that sentences of this kind are common, which may raise questions as to whether detention is in effect being used inappropriately to punish offenders before they are given a fair hearing.

⁴⁸ Sentences of more than 10 years were eliminated in 2008.

⁴⁹ In 2007, there were 198 convictions, of which 173 received custodial sentences; all 173 custodial sentences were for two years or less. See *Vjetari Statistikor 2007*, p. 84.

⁵⁰ *Crimes and Offences in Azerbaijan*, Table 4.9. (In 2007, almost half of imprisonment sentences were for more than five years.)

⁵¹ *Ibid.*, Table 4.11.

⁵² *Ibid.*, Table 3.1.4.

12) Alternative sentences

The TransMONEE matrix requests information on the kind of sentence imposed on convicted juveniles. Twelve categories are used: committal to a penal institution; committal to an educational/correctional institution; pre-sentence diversion; formal warning/conditional discharge; apology; fine/financial compensation; community service or corrective labour; supervision order; probation order; postponement of sentencing; release from sentencing; and other. The language used in this definition is misleading, because some of these dispositions (e.g., pre-sentence diversion, postponement of sentencing) obviously are not sentences.

The UNODC-UNICEF Manual does not use this indicator.

Data available

In Kazakhstan and Ukraine, data on custodial and non-custodial sentences have been published, but not on a regular basis. Data on the juveniles given non-custodial sentences are published annually in Azerbaijan and Turkey. The categories of non-custodial sentences used in recording data on this subject are, as one would expect, those recognized by national law, which are not identical to those suggested by TransMONEE.

In Albania, data on sentencing of juveniles contained in the Statistical Yearbook published by the Ministry of Justice refer only to one non-custodial sentence, the fine.⁵³

In Azerbaijan, data on juveniles convicted published in *Crimes and Offences in Azerbaijan* are disaggregated by the kind of sentence imposed. In addition to imprisonment, the categories used include community service, fine, 'conditional conviction' and 'reformatory works'. 'Conditional conviction' is similar to probation, although there is no probation service to supervise and assist the convict.⁵⁴ 'Reformatory works' is an obligation imposed on persons with employment to pay part of their earnings to the State for a certain period of time. Sentences imposed on juvenile offenders are also disaggregated by the crime for which the offender was convicted. In 2007, for example, most juveniles convicted of simple theft were given fines or conditional sentences, and about one in five was given a custodial sentence. Of these, five juveniles were given a sentence of five years or more.

The data on sentencing provided by Kazakhstan to the Committee on the Rights of the Child in 2007 are disaggregated by six kinds of sentences. In addition to imprisonment, they include suspended sentences, restriction of liberty, community service, fines and punitive deductions from earnings. More than half of all sentences imposed each year from 2000 to 2005 were suspended sentences, the equivalent of probation. The next largest category is sentences of imprisonment. Fines, sentences to community service and punitive deductions from earnings are few.

In Turkey, *Judicial Statistics* includes data on the sentences imposed by each kind of court, including juvenile courts, disaggregated by the sex and by the age of the offender (11–14 years; 15–17 years; and 18 or older).⁵⁵ Under Turkish law, the equivalent of probation or a suspended or conditional sentence is not strictly speaking a sentence, but rather a postponement of sentencing. This explains the paradox that the types of sentences recorded in official data include 'sentencing postponed'. The only two other kinds of sentences identified, other than imprisonment, are fines and 'other'. Similar data are published on the website of the Ministry of Justice.

⁵³ In 2007, only 8 per cent of convicted juveniles received this sentence. See *Vjetari Statistikor 2007*, p. 84.

⁵⁴ In 2007, 44 per cent of convicted juveniles received a conditional conviction, compared to 27 per cent who received a sentence of imprisonment.

⁵⁵ *Judicial Statistics 2006*, Table 3.1.4.

In Ukraine, data compiled by the State Statistics Committee earlier in the decade referred to only two categories of 'alternative' sentences: 'public works/fines' and 'suspended sentence involving deprivation of liberty'. The latter is the equivalent to what in some other countries is called a conditional sentence, or probation. From 2002 to 2005, the data compiled also contained information on convicted juveniles 'released from punishment'.⁵⁶

Other issues

In several of the countries assessed, judges have some discretion to impose on convicted juveniles the kind of measures ordinarily reserved for children too young to be prosecuted as juvenile offenders, instead of the kind of sentences normally imposed on juvenile offenders. Such decisions are usually recorded generically without specifying the precise kind of measure imposed, which may include placement in a residential facility that is not part of the correctional system. In Ukraine, for example, a judge may, in appropriate cases, impose 'compulsory correctional measures' instead of 'punishment'.⁵⁷ There are five kinds of 'compulsory correctional measures': warnings, conditions regarding conduct, supervision, compensation of the victim, as well as confinement in a school for social rehabilitation. Thus dispositions, which in principle are intended as 'alternative sentences', may in fact involve the deprivation of liberty.

13) Pre-sentence diversion

The UNODC-UNICEF Manual defines this indicator as "the percentage of children diverted or sentenced who enter a pre-sentence diversion scheme," adding that it is intended to measure "the number of children diverted before reaching a formal hearing."⁵⁸ The definition is confusing. On one hand, juveniles who are sentenced cannot enter a pre-sentence diversion scheme; on the other, diversion before any hearing takes place would be only part of diversion. In the CEE/CIS region, where diversion is a relatively new phenomenon, responsibility for diversion lies with the prosecutor, not the police. Consequently, most diversion happens between preliminary hearings and trial. Furthermore, it is unclear why the percentage of offenders diverted should be calculated with reference to the total number diverted or sentenced, rather than the number accused or prosecuted. The Manual recognizes that what constitutes diversion "will need to be identified in the local context," but this does not obviate the need to clarify the basic definition.

Data available

Data on diversion are not compiled systematically in any of the countries covered by the assessments, except Turkey. In Turkey, data published on the website of the Ministry of Justice indicate the number of cases dismissed by reason of mediation or reconciliation between the victim and the accused. In 2006, 3,689 juvenile cases were resolved in this way, as compared to 10,862 that ended in a verdict of conviction or acquittal.⁵⁹

In some of the other countries, diversion has been authorized recently or is still being piloted, which may explain why data on diversion are not being collected systematically. In Ukraine, for example, although diversion is now authorized by the Code of Criminal Procedure,⁶⁰ experimentation with diversion is just beginning in a limited number of jurisdictions. Data on diversion are not compiled by the State Statistics Committee at present.

⁵⁶ See below the meaning of this sentence.

⁵⁷ Criminal Code, Article 105.

⁵⁸ The TransMONEE matrix does not include this indicator.

⁵⁹ See online database of the Ministry of Justice: <http://www.uyap.gov.tr> accessed 20 May 2009.

⁶⁰ Code of Criminal Procedure, Article 510, paras. 1 and 2.

In Albania, the information on diversion obtained by the assessment team was supplied by the NGO that provides mediation, the only form of diversion presently in use, in certain districts. It covers young adults aged 18–21 years as well as juveniles, and are not expressed as a percentage of the cases brought in those districts.

In some of the countries assessed, data show large gaps between the number of crimes reportedly committed by juveniles and the number of juveniles convicted, or between the number prosecuted and the number convicted, but it is not possible to distinguish between cases diverted and cases in which evidence was insufficient, or cases closed for other reasons.

In Azerbaijan, for example, 428 juveniles reportedly committed an offence in 2007, but only 305 (71 per cent) were convicted. The number of juveniles prosecuted who are not convicted is small, which means that a substantial number of cases must have been resolved before trial.⁶¹ Prosecutors may close an investigation if sufficient evidence is not obtained, if the evidence shows that the suspect or accused is not guilty, and circumstances similar to diversion (e.g., remorse and reparation of the damage). In order to understand how the system works, it is necessary to know how many cases are closed because the juvenile is not guilty, and how many are closed through diversion. The annual publication of the State Statistical Committee contains detailed information on criminal investigations, including data on the time spent in different stages of the investigation, but these data are not disaggregated to distinguish between cases involving juveniles and those involving adults.

In Kazakhstan, the Criminal Code allows certain cases to be closed on grounds that there has been reconciliation and compensation of the victim. Data published by the Ministry of Internal Affairs in 2008 provide information on the number of cases closed, but do not specify the reason they were closed. In 2006, for example, 1,020 were closed. However, the closure of 21 cases on the ground of reconciliation and compensation during a pilot project was considered to be an important advance. This indicates that most of the cases classified as 'closed' in the data cited above were closed on other grounds.

14) Aftercare

This indicator is defined by the UNODC-UNICEF Manual as "the percentage of children released from detention receiving aftercare." There is a problem with the way this indicator is defined, because aftercare programmes are generally considered important for offenders released from custodial facilities after serving a sentence, not for those released from pretrial detention because, for example, they are not convicted or because they are given a non-custodial sentence. There is some ambiguity as to whether this indicator is meant to apply only to juveniles still under age 18 when released, or whether it should also apply to those who are convicted of crimes committed while under age 18 but are over age 18 when released.

The TransMONEE programme does not use this indicator.

Data available

National post-release programmes do not exist in most of the countries covered by the assessments, and no data on this indicator were identified in any of them. Moreover, in most countries, there are no data on the number of juveniles released from correctional facilities into the community, as opposed to those who are transferred to adult facilities, or those who are released from juvenile facilities after becoming young adults.⁶² The denominator to be used in calculating the percentage of released juveniles entering post-release programmes is thus unknown.

⁶¹ In 2003, 268 juveniles were prosecuted and 269 convicted; in 2004, 293 were prosecuted and 299 convicted.

⁶² The exception is Turkey, where the number of juvenile offenders released before reaching age 18 is published in *Prison Statistics*, but no data are available on their living situation or any assistance provided.

PART III. Data Available on Other Relevant Indicators

1) Offences committed by children below the minimum age for prosecution as juvenile offenders

Data on the number of younger children involved in criminal activity annually or the number of offences in which they are involved annually are important, because they can be used to analyse the need for preventive activities and to evaluate the effectiveness of existing preventive activities.

Most of the countries covered by the assessments do not publish data on this subject. In Albania, offences committed by children under age 14, who do not have criminal responsibility, are recorded by the State Police and cited in studies on the subject.⁶³ One study indicates that offences committed by children under age 14 accounted for 19 per cent of all offences committed by persons under age 18 registered by the police.⁶⁴ Another study indicates that more than one third of the property crimes committed by persons under age 18 were committed by children under age 14.⁶⁵ This information underlines the need for programmes designed to prevent offending and re-offending by younger children and, more generally, the utility of data on this subject.

In Turkey, data on children 'received' by the police published by TURKSTAT are disaggregated not only by the reason they are 'received', but also by age. Thus it is possible to identify the number of children below age 6 and children aged 7–11 years who are taken into custody as suspects.⁶⁶ In 2006, for example, 83 boys and 105 girls below age 6 and 1,901 children (1,125 boys and 776 girls) aged 7–11 years were taken into custody as suspects.⁶⁷ These figures have some interest, although they no doubt represent only a fraction of the number of children under age 12 involved in crime.

In Ukraine, it is artificial to limit these data to crimes committed by or with the participation of persons aged 14 years or older. Children aged 11–14 years can be tried for acts punishable under the Criminal Code, even though they do not have criminal responsibility for such acts. If they are found to have committed such acts, they may be confined to a school for social rehabilitation, for a period of up to three years.

2) Juveniles charged with an offence or prosecuted

Charging a juvenile with an offence and deciding to prosecute are important turning points in the handling of cases of juveniles suspected of involvement in an offence. It is not possible to understand adequately the functioning of a juvenile justice system by looking at data on offending or pretrial detention on one hand, and sentencing on the other, without taking into account the most important intervening decision, i.e., to place charges or prosecute.

The decision to place charges implies a decision to prosecute. The two indicators are not identical, however: the prosecutor may decide, after charges have been placed, not to proceed with prosecution.

⁶³ See, for example, Haxhiymeri, E., *Juvenile Delinquency in Albania*, Children's Human Rights Centre of Albania, Tirana, 2007, p. 11.

⁶⁴ Mandro, A., *Juvenile Justice in Albania*, Children's Human Rights Centre of Albania, Tirana, 2007, p. 30, covering the period 2003–2006.

⁶⁵ *Ibid.*, p. 97 (223 of 622, in 2006). In contrast, they committed only 16 per cent of crimes against the person.

⁶⁶ The minimum age for prosecution is 12 years.

⁶⁷ *Juveniles Received into Security Unit, 2006: 27 provinces*, Table 2. (Data refer to two reasons for 'receiving' children, both concerning presumed or alleged participation in an offence, even though they are too young to be prosecuted as juvenile offenders.)

This may be done because a decision has been made that diversion is appropriate. The decision to drop charges and not to prosecute also may be taken for other reasons, e.g., the discovery of evidence that the accused did not commit the act, or was not sufficiently mature to be held responsible, or has a valid defence (duress, self-defence), or that an error has been made with regard to the nature of the offence. For present purposes, however, the decision to place charges and to prosecute is so closely related as to be considered nearly equivalent.

Diversion is not a substitute indicator, because it is based on the presumption that the offence has been committed, whereas a decision not to prosecute is often based on the lack of evidence that the suspect has committed an offence. Moreover, diversion may take place before a suspect is charged with an offence or, less frequently, after trial has begun.

Data on this indicator were not found in most of the countries covered by the assessments. In Azerbaijan, data on the number of criminal cases filed annually is published in *Crimes and Offences in Azerbaijan*, but they are not disaggregated by the age of the accused. In Turkey, *Judicial Statistics* includes data on the number of cases filed in juvenile courts annually, as well as the number of cases filed in criminal courts, disaggregated by the age of the defendant.⁶⁸ This makes it possible to calculate the number of cases against juveniles prosecuted annually.

3) Re-offending

Data on re-offending, or recidivism, are of two kinds: data on persons arrested, charged or convicted of an offence who have offended (or been arrested or charged) previously, and data generated by self-reporting surveys. No self-reporting surveys on offending by juveniles have been conducted in the countries covered by the assessments.

The utility of data based on apprehension or conviction is limited by the large number of crimes that are unreported or unsolved. Particular issues arise with regard to repeat offending by juveniles: is criminal conduct that took place before a child was old enough to be prosecuted taken into account? Should juvenile offenders who re-offend as adults be counted?

Despite these and other difficulties, data on offenders who have committed offences previously are useful. They can help target prevention policies and evaluate the impact – positive or negative – of the treatment given to convicted offenders. The value of these data is enhanced when they are disaggregated by the nature of the offence, which facilitates the analysis of ‘criminal careers’ and desistance.

Some data on re-offending are available in most of the countries covered by the assessments. In Albania, data on offending published officially do not refer to re-offending. One NGO study containing data on juveniles sentenced by the Tirana court reported that there were no repeat offenders over a three-year period, while another study on seven districts reported that 12 per cent of the juveniles sentenced were repeat offenders.⁶⁹ This discrepancy illustrates the importance of consolidating and publishing relevant data officially.

In Kazakhstan, data published by the Office of the General Prosecutor identify the number of offenders who have committed offences previously, but this figure is not disaggregated to differentiate

⁶⁸ *Judicial Statistics 2005*, Tables 3.1.3 and 3.1.4.

⁶⁹ *Juvenile Delinquency in Albania*, pp. 47–48 (covering years 2002, 2004 and 2006); Hysi, V. and Saliu, E., *Observance of the Rights of Juvenile Offenders in Criminal Proceedings*, Albanian Helsinki Committee, Tirana, 2007, p. 15.

between adult and juvenile offenders.⁷⁰ Data published by the Ministry of Internal Affairs do indicate the number of juvenile offenders who are repeat offenders, although the definition of the indicator used for this purpose is unknown.⁷¹

In Turkey, *Prison Statistics* indicates the number of offenders who enter prison sentenced as recidivists.⁷² This figure applies only to adults, since sentences imposed on juveniles may not be increased because of a prior offence.⁷³

In Ukraine, data on the number of juveniles charged with an offence are disaggregated to indicate the number who was charged 'repeatedly'.⁷⁴ The definition of this indicator is not known. Data collected by the State Department of Penal Implementation include the number of juvenile offenders serving sentences who were "previously made answerable for criminal offences." According to unpublished data provided to the assessment team, this figure is presently 61 per cent of the population. This does not include re-offending by children under the minimum age for prosecution or juveniles who do not receive custodial sentences.

The data available suggest that compiling data on re-offending by juveniles would not be difficult, and also illustrate some of the ways it can be relevant. If a relatively high percentage of juveniles serving custodial sentences are convicted of theft, for example, the decision to impose a custodial sentence must be weighed in the light of their prior offending. The characteristics of juveniles involved in repeat offending and the nature of the crimes they commit shed light on the effectiveness of the treatment of first offenders.

The information available also reveals, however, the limitations of the data on re-offending compiled in these countries at present, and suggests that their potential value is not being realized.

⁷⁰ *Analytical and Statistical Information No.1*, p. 20.

⁷¹ Mimeograph document dated 2008, Table 13. (According to this source, during the years 2003–2007, the percentage fell from 8 per cent to 4.5 per cent.)

⁷² *Prison Statistics 2006*, Table 2.1.2. Under Article 58 of the Criminal Code, whether a prior offender is sentenced as a repeat offender depends on the number of years between the prior and subsequent offences and similar factors.

⁷³ Criminal Code, Article 58(5).

⁷⁴ Twelve per cent in 2005, the last year for which published data were available at the time of the assessment mission (unpublished data provided to UNICEF).

PART IV. Disaggregation of Data

The Committee on the Rights of the Child has suggested that statistical data incorporated into the reports of States parties on the implementation of the Convention on the Rights of the Child should be disaggregated by age, gender, ethnicity/religion, disability and any other relevant category.⁷⁵

The UNODC-UNICEF Manual suggests that data should be disaggregated by gender, ethnicity, offence and district of origin. It also suggests that data on juveniles deprived of liberty be disaggregated by the kind of facility in which they are confined. The proposed categories are police stations, juvenile detention facilities, 'juvenile rehabilitation facilities/schools' and 'prison', defined as "detention facility housing both children and adults."

In Albania, where a limited amount of data on juvenile justice is published on a regular basis, data refer to offenders in general, juveniles and women. Data on juvenile offenders are not disaggregated by sex, and data on female offenders are not disaggregated by minority/majority.⁷⁶ The same is true of data published thus far in Kazakhstan. In Azerbaijan, some data on offending by juveniles are disaggregated by sex, and in Turkey, most of the detailed data published annually are disaggregated by sex. In Ukraine, another country where a limited amount of data on offending by juveniles and juvenile justice is published on a regular basis, the only data disaggregated by sex are those on juveniles 'arrested'.⁷⁷ Unpublished information provided to the assessment team shows that more raw data are disaggregated by sex.

In all the countries covered by the assessments, the law distinguishes between juvenile offenders of different age groups. In Albania, Azerbaijan, Kazakhstan and Ukraine, juveniles aged 14–15 years may be prosecuted only for more serious offences; in Turkey, juveniles aged 12–15 years may be prosecuted only after case-by-case consideration of their maturity.

In Azerbaijan, Turkey and Ukraine, published data differentiate between younger and older juvenile offenders. This is very useful in understanding the dynamics of offending by juveniles.

In Azerbaijan, Kazakhstan and Ukraine, data on the social and educational background of offenders are available. This includes whether the offender was living with both parents, one parent or in some other circumstance, the level of schooling completed, and whether the offender was a student, employed or unemployed at the time of the offence. Information on the circumstances of the offence is also compiled and published, in particular, whether the offence was committed by an individual acting alone, by a group of juveniles or under the influence of an adult, and whether the offender was under the influence of alcohol or drugs at the time. In Turkey, similar data on juvenile prisoners are published in *Prison Statistics*.

This information is interesting, but there also is reason to be concerned that it may correspond to a simplistic approach to the causation of offending. There appears to be no data on the interaction between different social and other circumstances that correlate with a higher risk of offending, no analysis of the correlation between various risk factors and specific kinds of offences, and no effort to identify the factors that may protect juveniles belonging to high-risk groups from involvement in

⁷⁵ Committee on the Rights of the Child, General Guidelines regarding the form and content of periodic reports to be submitted by States parties under Article 44, paragraph 1(b) of the Convention on the Rights of the Child, CRC/C/58/Rev.1, 2005, para. 6(d).

⁷⁶ The term 'sex' refers to biological differences and seems more realistic in this context than 'gender', which refers to social and cultural differences.

⁷⁷ These data actually refer to juveniles detained before and during legal proceedings, as indicated above.

offending. In addition, as mentioned elsewhere, there are no data on actual offending, as opposed to reported offending.

With the exception of Albania, all of the countries covered by the assessments have large ethnic, religious or linguistic minorities. In none of them are data disaggregated by any of these criteria, although, in some, the authorities expressed the opinion that certain kinds of offences are associated with certain minorities. In most, if not all, of these countries, this reflects an ideological commitment to the idea that all citizens are equal, and ethnicity, language or religion are irrelevant. In Turkey, a representative of the Prison Department gave voice to this position saying, "If we knew whether they belong to a minority, we might discriminate against them." It is more plausible to think that knowledge of the ethnicity of offenders may help identify issues that should be taken into account in the development of policies concerning offending by juveniles, the prevention of offending, law enforcement or the rehabilitation of offenders.

The issue of disability may not seem very relevant to juvenile justice, at first glance. However, in some developed countries research suggests that a high percentage of juvenile offenders have mental or psychological disabilities, which have important implications for both prevention and rehabilitation.⁷⁸ Whether this is true for countries in other parts of the world is unknown, but the assessments suggest that such disabilities also may be a contributing factor to offending in this region.⁷⁹ The compilation of data on offenders with disabilities would be an important first step towards clarifying this issue.

⁷⁸ See, for example, Kazdin, Allan E., 'Adolescent Development, Mental Disorders, and Decision making of Delinquent Youths' in *Youth on Trial: A developmental perspective on juvenile justice*, edited by Thomas Grisso and Robert G. Schwartz, University of Chicago Press, 2000, pp. 33–65.

⁷⁹ The correlation between school leaving and offending is one factor suggesting the possibility of a causal relationship. In two facilities visited by the assessment team in 2009, medical staff indicated that a significant percentage of juvenile detainees had developmental or mental disorders.

PART V. Conclusions

Progress has been made in the development of data collection systems concerning offending by juveniles and juvenile justice. The most advanced systems, amongst the five countries covered by the assessments carried out in 2008, are in Azerbaijan and Turkey. The data published by the State Statistical Committee of Azerbaijan cover many important indicators, are disaggregated by age group, sex and offence, and are published annually with a delay of two years or less. In Turkey, the degree of detail available in the annual publication *Judicial Statistics* and the report *Juveniles Received into Security Unit[s]* is impressive. There is still room for improvement, however, in particular with regard to juveniles in detention and correctional facilities.

In Albania, the Statistical Yearbook published by the Ministry of Justice contains a section on juveniles that includes data on the number of offences committed and the number of juveniles convicted of an offence, disaggregated by offence and by the sentence imposed.⁸⁰ Kazakhstan has just begun to make data on juvenile justice public. In Ukraine, the State Statistics Committee publishes a triennial report on juvenile justice, based on the TransMONEE indicators.

In most of the five countries assessed, published data contain information not solicited by regional or international indicators, nor by the reporting guidelines of the Committee on the Rights of the Child. This includes the age group to which the juvenile belongs (e.g., 12–15 or 16–17 years); whether the child lives with both parents, one parent or in some other situation; the level of education completed and whether the juvenile is enrolled in school, employed or neither. In most of these countries, information on the circumstances of the offence also are compiled and published, in particular, whether the offence was committed by an individual acting alone or in a group, whether it was committed under the influence of an older person, or whether it was committed under the influence of alcohol or an illegal drug. In addition, the offences committed are identified in greater detail than requested by international monitoring bodies.

In most of the five countries, there are important gaps or deficiencies in the data available. They include the following:

- data on offending do not always distinguish clearly between the number of offences committed by juveniles and the number of juveniles involved in the commission of an offence; and the criteria for deciding which events to count are not identified clearly;
- there are no data on unreported offending;
- in most countries, there are no data on the participation of younger children (those too young to be prosecuted as juveniles) in activities that are criminal in nature;
- in most countries, there are no data on the number of juveniles charged with an offence or prosecuted, which makes it difficult to appreciate the significance of data on offending, on pretrial detention and on convictions;
- data on the length of detention before and during legal proceedings are generally not available, although this is one of the most critical aspects of juvenile justice throughout the region;
- the criteria used for collecting data on re-offending should be clarified and, if necessary, modified to enhance their value for the design, planning and evaluation of prevention and rehabilitation;

⁸⁰ Vjetari Statistikor 2007, p. 84.

- data should be compiled on the number of offenders with disabilities, in particular mental disabilities and disorders; and
- data should be disaggregated by ethnicity.

Data are collected for different purposes. Data collection and management systems can be seen as a pyramid having three levels. The base consists of data collected for operational purposes by all the institutions and agencies involved in juvenile justice: the police, prosecutors, courts, correctional facilities, and others. The middle level consists of the selected data generated by such operational systems that have broader relevance and utility for the development of comprehensive national policies and plans regarding juvenile justice. The relevant indicators must be developed; measures must be taken to ensure that the corresponding data are reliable and that data from different sources are compatible; and data must be channelled to those responsible for elaborating comprehensive national policies regarding juvenile justice.

The peak of the pyramid consists of data on a small number of indicators intended essentially for an international audience. Nearly all States are parties to the Convention on the Rights of the Child, and as such have a legal obligation to periodically provide the Committee on the Rights of the Child with data relevant to compliance with their obligations under the Convention, including those concerning juvenile justice. The indicators developed by UNICEF regionally and internationally are designed, at least in part, to assist States in meeting this obligation. In addition, international donors understandably expect to be provided with data that document the need for programmes they are asked to support, and will help measure their impact. It is essential, however, not to confuse this kind of data with those needed to develop plans, programmes and policies. Regional and international indicators have limited meaning and relevance out of context, and are only a fraction of the data required to develop coherent and effective policies and plans.

At present international support for the development of data systems focuses on the third area, the peak of the juvenile justice data pyramid. The assessments show, however, that most of the five countries studied urgently need assistance for the development of data collection and analysis systems that can be used to implement national policies, programmes and plans, and to monitor their impact.

Although the further development of existing regional and international indicators is not first priority, the findings of the assessment team, as indicated above, suggest some changes that would facilitate their use and enhance their value. They can be summarized as follows:

- the indicator 'children arrested' should be replaced by one on reported offences attributed to juveniles or on juveniles suspected of offending, or, preferably, one indicator on each;
- it may be useful to retain an indicator on 'children taken into police custody', without equating it with the total number of children entering into contact with the juvenile justice;
- criteria for the disaggregation of data on offences should be more detailed as is the practice in all of the countries assessed, except Ukraine;
- consideration should be given to including an indicator on the involvement in criminal activity of children too young to be prosecuted;
- an indicator should be added on the number of children charged with an offence or prosecuted;
- it may be more useful and realistic to disaggregate the number of juveniles deprived of liberty by the kind of facility in which they are detained rather than their legal status (pre-/post-sentence);
- the existing indicator on 'children detained with adults' should be redefined in light of the issues described above;

- consideration should be given to the utility of an indicator on persons convicted of offences committed as juveniles still serving sentences after reaching age 18 or transferred to adult prisons because they have reached the age of majority;
- consideration should be given to the use of an indicator on the length of custodial sentences served, in addition to the length of sentences imposed;
- consideration should be given to abandoning the indicator on children in detention who visit or are visited by family members;
- consideration should be given to abandoning the indicator on deaths in custody, or replacing it with one concerning the prevalence of violence or injuries;
- the definition of 'diversion' should be clarified;
- consideration should be given to adding one or more indicators on re-offending, such as the number of juveniles given or serving custodial sentences previously diverted or convicted of an offence, or the number of juveniles charged, prosecuted or convicted who were previously diverted or convicted of an offence.

Annex 1: Fifteen global indicators on juvenile justice

Indicators		Definition
Quantitative indicators		
1	Children in conflict with the law	<ul style="list-style-type: none"> Number of children arrested during a 12-month period per 100,000 child population
2	Children in detention (core)	<ul style="list-style-type: none"> Number of children in detention per 100,000 child population
3	Children in pre-sentence detention (core)	<ul style="list-style-type: none"> Number of children in pre-sentence detention per 100,000 child population
4	Duration of pre-sentence detention	<ul style="list-style-type: none"> Time spent in detention by children before sentencing
5	Duration of sentenced detention	<ul style="list-style-type: none"> Time spent in detention after sentencing
6	Child deaths in detention	<ul style="list-style-type: none"> Number of child deaths in detention during a 12-month period, per 100,000 children detained
7	Separation from adults	<ul style="list-style-type: none"> Percentage of children in detention not wholly separated from adults
8	Contact with parents and family	<ul style="list-style-type: none"> Percentage of children in detention who have been visited by, or have visited parents, guardian or an adult family member in the last three months
9	Custodial sentencing (core)	<ul style="list-style-type: none"> Percentage of children sentenced receiving a custodial sentence
10	Pre-sentence diversion (core)	<ul style="list-style-type: none"> Percentage of children diverted or sentenced who enter a pre-sentence diversion scheme
11	Aftercare	<ul style="list-style-type: none"> Percentage of children released from detention receiving aftercare
Policy indicators		
12	Regular independent inspections	<ul style="list-style-type: none"> Existence of a system guaranteeing regular independent inspection of places of detention Percentage of places of detention that have received an independent inspection visit in the last 12 months
13	Complaints mechanisms	<ul style="list-style-type: none"> Existence of a complaints system for children in detention Percentage of places of detention operating a complaints system
14	Specialized juvenile justice system (core)	<ul style="list-style-type: none"> Existence of a specialized juvenile justice system
15	Prevention	<ul style="list-style-type: none"> Existence of a national plan for the prevention of child involvement in crime

Annex 2: Crime indicators, TransMONEE database 2008 and 2009⁸¹

Crime indicators for year 2007	Albania	Azerbaijan	Kazakhstan	Turkey	Ukraine
Crimes committed by or with the participation of juveniles (absolute numbers)	Not available	428	8,344 – since 2002 number includes underage offenders (younger than 14 years)	Not available	18,963
Number of juveniles placed in correctional/educational/punitive institutions, at the end of the year	Not available	Not available	Not available	Not available	2,374
Juvenile sentencing rate per 100,000 population aged 14–17	Not available	42	229	Not available	460
Juveniles sentenced for criminal activity (in thousands)	Not available	0.3	2.7	Not available	11.2
Registered juvenile crime rate per 100,000 population aged 14–17	Not available	58	714 – since 2002 number includes underage offenders (younger than 14 years)	Not available	781

Crime indicators for year 2006	Albania	Azerbaijan	Kazakhstan	Turkey	Ukraine
Crimes committed by or with the participation of juveniles (absolute numbers)	749	431	8,799	Not available	19,888
Number of juveniles placed in correctional/educational/punitive institutions, at the end of the year	Not available	Not available	Not available	Not available	1641
Juvenile sentencing rate per 100,000 population aged 14–17	Not available	32	199	Not available	541
Juveniles sentenced for criminal activity (in thousands)	Not available	0.2	2.4	Not available	13.9
Registered juvenile crime rate per 100,000 population aged 14–17	295	58	728	Not available	772

⁸¹ It should be noted that data extracted from the TransMONEE database may not correspond to the data presented in the five assessments. This is due, on one hand, to the different data collection methodologies used by the TransMONEE project and the state statistical committees and, on the other hand, to the definition of indicators that often vary according to the States.

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