

European Legal Database on Drugs

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Young people and drugs – a legal overview

ELDD Comparative Study

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Contents

1. Introduction	3
<hr/>	
2. International law	4
<hr/>	
3. National laws	5
<hr/>	
The minor as a victim of drugs	5
<hr/>	
The minor as a drug dealer	7
<hr/>	
The minor as a drug user	9
<hr/>	
4. Conclusion	11
<hr/>	
5. Annex of legislation quoted	13
<hr/>	

1. Introduction

Various studies and surveys have shown that involvement with drugs starts at an early age, and frequently before adulthood. In 1999, lifetime prevalence rates of cannabis use among 15-16 year olds in Europe ranged between 8-35%, while up to 4% in some countries had tried Ecstasy¹.

A Eurobarometer survey in Spring 2002 of young people aged 15-24 found that, of 7687 respondents across the EU, 54.9% tended to agreeⁱ with the statement "It is easy to get drugs in or near my school/college", ranging from about 34% in Austria and Finland to 66% in Spain and 69% in Greece. 46% had already been offered cannabis, and 26% had already been offered drugs other than cannabis.

States are interested in protection of the child from drugs, as illustrated by a quick analysis of the national drug strategies. Prevention is one of the main targets outlined in every strategy, with a strong emphasis on prevention programmes in schools and in the family. Mass media campaigns increasingly include those specifically targeted at youth, with a more credible and informative message than the paternalistic "Just say no".

The EU Action Plan on Drugs 2000-2004 also listed the first of its six main targets as "to reduce significantly over five years the prevalence of drug use, as well as new recruitment to it, particularly among young users under 18 years of age". Particular actions foreseen included: studies on attitudes of youth to drugs (as in the Eurobarometer survey, above); inclusion in school curricula of the prevention of drugs in schools; develop and implement preventive actions and strategies particularly for children and young people; prevention of juvenile and urban delinquency; alternatives to prison, especially for young drug offenders.

It is with these aspects in mind that the ELDD researched the legal provisions in national legislations that addressed the issue of drugs and young people. This was looked at in three ways:

- The minor as a "victim" of drugs, whereby adults might expose them to drugs by selling or giving drugs to them; actively encouraging them to take drugs; using drugs near them; or employing them as drug "runners" or resellers;
- The minor as a dealer of drugs, when the criminal penalties usually applied to adult dealers might not apply in the same way, if at all, to a child;
- The minor as a user of drugs, whereby criminal penalties may or may not be applied, and special treatment programs might be linked with parental approval.

The objective was to examine how countries addressed the problem via their legal frameworks, and to see if there was a tendency to define specific offences regarding young people or to leave this to the discretion of the police, prosecution or judicial authorities. Once again, it should be remembered that this is a study primarily of countries' formal drug laws; due to lack of appropriate research resources, it can only include limited insights into how these laws are implemented.

One of the first aspects to come out of the study was the differences in terminology that were used by the various countries. For example, a juvenile is aged 13-17 in Greece, 14-18 in Austria, 10-17 in the UK,

ⁱ 23.4% tended to disagree, and 21.7% did not know.

under 14 in Latvia, and under 21 in Poland. Under relevant UN Rules a juvenile may be every person under 18², or alternatively “a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult”³. In fact, the only common term was that a minor was a person aged under 18, and even this retained some flexibility according to the mental maturity of that person (and married women over 16, in Latvia and Poland). This is in line with the findings of a CND report on drug abuse among youth in March 2001, which noted that “the use and meaning of the terms [children and youth] varies considerably between countries”, but that Art. 1 of the UN Convention on the Rights of the Child defined a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”⁴. For this reason, the terms used in this report are limited to “minor” and “child”, unless specified otherwise by the particular country concerned.

2. International law

Neither the 1961 Single Convention on Narcotic Drugs, nor the 1971 Convention on Psychotropic Substances made express mention of involvement of children in the sphere of drug abuse and trafficking. However, in the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the second paragraph of the Preamble noted that the Parties were “deeply concerned ... particularly by the fact that children are used in many parts of the world as an illicit drug consumers market and for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which entails a danger of incalculable gravity”. The Commentary to the Convention observes that the paragraph was placed towards the beginning of the preamble in view of the importance attached to its content. Involvement of children in drug trafficking was considered as a matter of gravest concern, as outlined by the representative of Peru during the convention.

Under Art. 3 (5) of the substantive provisions of the 1988 Convention, parties should ensure that their courts should take into account factual circumstances that make the [sale or trafficking] offences listed in Art. 3(1) particularly serious, including [Art. 3(5)(f)] “the victimisation or use of minors” and [Art. 3(5)(g)] “the fact that the offence is committed...in an educational institution or social service facility or in their immediate vicinity or in other places to which school children and students resort for educational, sports and social activities.” This is strengthened by Art. 3(7) whereby parties shall ensure that courts bear in mind the serious nature of the [above] circumstances when considering early release or parole of such offenders.

The Commentary observes that the concern embodied in Art. 3(5)(g) is to give the maximum possible protection to children, so it will be properly invoked when children, students or persons attending a social service facility are likely to become involved i.e. it is not necessary to invoke it when an act takes place near a school but it is closed and no schoolchildren are present (late at night for example). Perhaps for similar reasons there is no clear definition of “immediate vicinity”.

Similarly, in the 1990 UN Convention on the Rights of the Child, Article 33 lays down that “States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances”.

As regards punishments, Art. 40(1) of this Convention declares that “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, ... which takes into account

the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.”

More specifically, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") noted that drug addict juveniles under detention pending trial may have particular needs⁵, and that medical and psychological assistance is extremely important for institutionalised juveniles including drug addicts⁶.

Following this, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty recommend that “Juvenile detention facilities should adopt specialized drug abuse prevention and rehabilitation programmes administered by qualified personnel. These programmes should be adapted to the age, sex and other requirements of the juveniles concerned, and detoxification facilities and services staffed by trained personnel should be available to drug- or alcohol-dependent juveniles.”⁷

3. National laws

It is important to remember that this is a study of the provisions actually laid down in the laws. Although a country may not have described certain situations in its laws, the matter may nevertheless be taken into account at the time of prosecution and sentencing. Secondly, this information has been compiled from answers received from the ELDD's network of Legal Correspondents, supplemented by data published on the ELDD, and so information may be incomplete or missing for some countries that may have replied partially or not at all.

The minor as a victim of drugs

The laws in Denmark, Ireland, the Netherlands, and Sweden do not specifically name any drug offence where the minor would be involved as a victim. However, such offences are listed in the legislation of some 16 countriesⁱⁱ, which clearly aim to dissuade adults from somehow encouraging or enabling children to consume drugs.

A variety of actions are specifically prohibited. The most frequently cited is supplying or selling drugs to minors, named in 13 of those countriesⁱⁱⁱ. Encouraging or inducing minors to abuse drugs is a named offence in eight of these countries^{iv}. Of these two offences, analysis of maximum penalties provided show that supply is considered a more serious crime than incitement in all countries except Estonia. Austria provides for “enabling” drug use by minors, Greece addresses “causing a minor to use” such substances, and offences in Belgium are aggravated “if committed with regard to minors”. Luxembourg considers that use of any drug in the presence of minors is a criminal offence (even though cannabis use is not a criminal offence per se), and in Belgium this is named as aggravating circumstances. Another fairly common offence might have repercussions for medical personnel, namely facilitating or administering drugs to minors. This is detailed in the Czech Republic, Estonia, Germany, Malta and Portugal; it is also listed in Latvia and Poland, but only in circumstances of administration against their will and for personal benefit, respectively. Lithuanian law prohibits forcing or otherwise habituating a minor to use drugs.

ⁱⁱ Austria, Belgium, the Czech Republic, Estonia, France, Germany, Greece, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Spain, the Slovak Republic and the UK

ⁱⁱⁱ Belgium, Czech Republic, Estonia, France, Germany, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Spain, and Slovak Republic

^{iv} Czech Republic, Estonia, France, Latvia, Lithuania, Poland, Portugal and the Slovak Republic

These situations may be yet further aggravated. Polish law recognises that the act of supplying a minor is more serious if for benefit, and laws in Germany increase the penalty if the adult acts “commercially”. Already penalising victimisation of under-18s, France, the Czech Republic, Estonia, and the Slovak Republic raise penalties further for the adult if the victim is under 15. Penalties in Belgium depend on three age groups of the minor; under 12, 12-15, and 16-17.

Germany, Spain, France and Portugal legally recognise the offence of using a minor as a runner or dealer. In the Czech Republic and the Slovak Republic, general laws penalise the use of minors for criminal purposes.

The laws in Greece, Spain, France, Latvia, Luxembourg, Malta and Portugal list various educational establishments, sports and social facilities as environments which will aggravate a drug supply offence. In Luxembourg, such environment will even aggravate a drug use offence, and in Belgium and the UK, the police are specifically guided to arrest for cannabis possession in or near schools, youth clubs, play areas etc. Latvian law includes cafes or entertainment events in this list of environments. In Greece, inserting drugs in schools leads to a minimum sentence of 15 years in prison. However, the definition of the “vicinity”, “surroundings” or “near” to a school is left to the judge in all countries except Malta, where the punishment increases if the offence took place within 100 metres of the specified establishments. In Germany, a 1989 bill attempted to make drug dealing in or near schools an especially serious offence, but due to difficulties in definition, this was not done. Nevertheless, it may still be interpreted as an especially serious case by the judiciary. Creation of a similar offence has also been discussed in the UK, and dismissed for similar reasons.

To address the influence of certain adults on children, laws in Spain, Luxembourg and Portugal name aggravating circumstances that include abuse of a teacher-pupil special relationship to commit a drug offence. In the Czech Republic and the Slovak Republic, this may be covered by a general clause in the Penal Code for all crimes, when an adult exploits the dependence or obedience of another.

Perhaps to promote that there is an aspect of hierarchical rather than peer relationship when charged with an offence against minors, laws in Austria and Germany lay down a minimum age difference between the offender and victim for the aggravating circumstance to apply: in Austria the offender should be at least 2 yrs older than the (minor) victim, and in Germany the offender must be over 21 while the minor will be under 18, thus at least 3 years older. This may aim to exclude certain situations from prosecution where the involved young people are in the same educational year, but one has attained the age of majority.

No country’s laws go so far as to actually specify drug addiction or drug dealing of a parent as a criterion for which to remove children from a parent. It is left to examination of the wider circumstances surrounding the parenting, culminating in an “inability to care”, if the child risks harm, if the parents are neglecting their duties etc. In Greece, the law permits removal of custody of children if the parents are habitual criminals (and simple consumption of drugs is a crime in Greece). One other particular clause may be found in Latvia, where the child may be separated from the family if the child is seriously threatening its health by using alcohol, narcotic or toxic substances.

The minor as a drug dealer

Given that supplying drugs, or possessing drugs with intent to supply, is a criminal offence in all countries, it seemed logical to start the comparison by examining the age of criminal responsibility in the countries. The range proved to be extremely wide. The age of criminal responsibility was as follows:

Country	Age
Ireland	7 (to be raised to 12)
UK (England and Wales)	10
Netherlands	12
Greece, Poland [France]	13
Germany, Spain, Austria, Estonia, Latvia	14
Denmark, Sweden, Czech Republic, Slovak Republic	15
Lithuania	16 (but 14 for certain offences)

In France, the judge decides if the offender is criminally responsible or not, but the list of penalties available increases from the age of 13. In Greece, the court may decide if the offender is criminally responsible above the age of 13. In Lithuania, the normal age for criminal offences is 16, but certain offences are specified as criminal for over 14s - including stealing drugs, eg from a hospital. The offence of selling drugs is not included in this list, so in theory a 15-yr-old could be criminally punished for stealing drugs, but not for selling them. In Latvia, the age of criminal responsibility is 14, but one can only be punished for an administrative violation (including possession of a small amount of drugs for personal use) from the age of 16.

Respondents mentioned that the court may choose to use adult procedures or penalties for offenders aged over 16 in Luxembourg, the Netherlands, Lithuania. On the other hand, for offenders between the ages of 18-21 there is the possibility of certain mitigations to adult prosecutions mentioned in Germany, Greece, Austria, Luxembourg, Poland, Spain, Slovak Republic, and Sweden.

The option for a repressive rather than educational measure increases with age, though not on a level with adult punishments. When the minor has achieved the age of criminal responsibility, France, Germany, Poland and Sweden specifically maintain that the general sentencing principle is to give minors educative or social measures rather than penalties, though German law provides for a stay in a youth detention centre of up to 5, and exceptionally 10, years within the range of measures available. In Sweden, prison (closed juvenile care for 14 days – 4 years) for under-18s is possible but exceptional. Maximum penalties for criminally responsible minors are frequently lower than for adults. In France, Austria, the Czech Republic and the Slovak Republic, maximum penalties for adults are reduced by half, with the Czech and Slovak Republics permitting no more than 5 years in prison. The Greek drug law specifically refers offenders aged under 17 to the application of the Criminal Code rather than the drug law. Ireland exempts minors from the mandatory minimum sentence of 10 years for possession of drugs worth over €12 700. The Netherlands prosecutor service has issued official sentencing guidelines for possession of X grams/pills for young people aged 15-18, reduced by one third if they are younger than 15. Estonia provides for jail up to 10 yrs, with various other care orders, and a fine if the youth has independent income. The Slovak Republic similarly can fine only if the minor has a job, and in Germany, payment (from independent income) may be made to a charitable organisation.

Criminally responsible minors in the UK sentenced for a grave offence (more than 14 yrs prison as a maximum sentence) on indictment can receive the full adult penalty, up to life (this could include possessing Ecstasy with intent to supply). However, there is a wide range of other options, including a

child safety order for an offender under 10, final warnings or reprimands for 10-17s which may involve Youth Offending Team supervision, or discontinuance of prosecution; about 25% of cases against young people are dropped. Latvia gives prison up to 15 yrs or custodial arrest up to 6 mths, or may order a fine, community service or supervision. As of 1 January 2004, Correctional Measures of Compulsion may be ordered for children from 11 yrs old. Lithuania can order educational measures (warning, compensation, restriction, special care or school) to under 16s, with adult penalties possible for over 16s. The law in Poland offers a range of responses, from rebuke to detention, and including a possible driving ban.

In Austria the Juvenile Court Act instructs prosecutors to stop prosecution of any juvenile for an offence with a maximum adult penalty of up to ten years (except if it caused death), if the prosecutor considers that the court will not award measures such as payment of some money or community service. Under the Austrian Drug Law the prosecutor also has the same option that is available to adults – the discretion to suspend prosecution for two years for offences such as dealing – if he considers that it is more appropriate than a formal conviction to stop re-offending. The Criminal Code lowers penalties of 10-20 years to 5-20 years.

Amongst these provisions, a tendency to reduce the penalties for minors is visible, as summarised in the following table:

Country	Specific mitigation for minors
Austria	Prosecution (of certain offences) must be stopped if measures unlikely to be awarded. Maximum penalties for adults reduced by half. Penalties lowered from 10-20 years to 5-20 years.
Czech Republic	Maximum penalties for adults reduced by half. No more than 5 years in prison.
Estonia	No more than 10 years in prison.
France	Maximum penalties for adults reduced by half. General principle is educational/social measures, not penalties.
Germany	General principle is educational/social measures, not penalties.
Greece	Under 17s are referred to penalties in Criminal Code rather than drug law.
Ireland	Exempt from minimum 10 years' prison for possession of drugs worth over €12 700.
Luxembourg	Penalties can only be extended up to age 25.
Netherlands	Sentencing guidelines for 15-18 year olds are reduced by 1/3 if offender under 15.
Poland	General principle is educational/social measures, not penalties.
Slovak Republic	Maximum penalties for adults reduced by half. No more than 5 years in prison.
Sweden	General principle is educational/social measures, not penalties.

For an offence of drug dealing by a minor, countries vary according to the duration of criminal record that may be created for the offender. In France, penalties are removed from the record on the age of majority, as are reformatory measures in Greece. Other countries specify a longer record duration from the date of sentence, sometimes varying according to the severity of the offence or sentence; Germany (5-10 yrs), Greece (5-8 yrs for correctional measures), Ireland (3 yrs), the Netherlands (2-4 yrs), Austria (5 yrs), Sweden (5-10 yrs), Estonia (1-10 yrs), the Czech Republic (0-5 yrs), Latvia (0-8 yrs), Lithuania (up to 5 yrs).

When it comes to parental responsibility for the child's actions, in most countries the parent cannot be punished for such offences, unless the parent is also committing an offence such as complicity. In Greece, a court may punish the supervisor of a minor, but this is rarely applied. In Spain and France, parents may be liable in civil law for damage caused by their children; this could theoretically be very significant if their 17-yr-old child supplies a synthetic drug tablet that causes the death of another. In France, penalties for child neglect (including allowing them to commit crime) of up to 2 yrs prison are little implemented, but in December 2002 a guideline to prosecutors from the Ministry of Justice requested them to instigate parent training orders as a form of conditional termination of the case. Authorities in Luxembourg may consider parents as unable to care if their children commit crimes – as might those in Poland, who can even inform parents' employers of their inability to care.

Courts in the UK can issue a parenting order to force parents to keep their children under control – breach is a criminal offence, punishable by a large fine. Similarly, authorities in Ireland can issue parental supervision orders. In the UK, a fine imposed on young offenders is the responsibility of the parent or guardian if the offender is under 16. In Lithuania, the parents of a 14-15yr old can be fined if the child commits the administrative offence of possession of small quantity for personal use. Yet neither they nor the child can be fined if the latter possesses drugs to sell, as the age of criminal responsibility is 16.

The legal attitude towards a minor supplying drugs to his peers (other minors) was not expressed in the laws of any country that replied. Respondents felt that some countries' courts may consider it as aggravating circumstances (selling to minors) but others may not, due to the seller being a minor themselves.

The minor as a drug user

No laws were found that varied the response to the minor as a drug user by age group (apart from the age of criminal responsibility, already discussed above), or drug involved – this will be left to the judge. Considering the level of addiction, in Germany, the law contains provisions relating to drug-addicted offenders in general, which will also be applied (with appropriate modifications) to minors. These provisions postpone the execution of sentence in favour of treatment, offsetting the treatment duration against the sentence and suspending the remainder of the sentence on probation. In Latvia, the Children's Rights Law provides that a child who has become dependent on drugs shall be ensured mandatory special medical treatment and reintegration into society. In most countries an addicted child may also trigger removal from the parents if they are unable to care for it, as discussed above.

Depending on the circumstances of the case, sanctions are available if considered necessary in 9 countries^v, but all respondents indicated a strong or inevitable bias toward various educational or treatment measures. Treatment can be ordered by the court (or made a condition of the sentence) in 14 countries^{vi}, but in practice the issuing of an order for compulsory treatment will take into account the willingness of the minor to follow the treatment. This is frequently reflected in the law itself; parental consent for treatment (or consent of the minor themselves) may be legally required in 8 countries^{vii}. In exceptional circumstances courts may order treatment without consent where they believe there is a real threat to the life or health of the child or other people.

^v Spain, France, Germany, Ireland, Latvia, Poland, Sweden, Slovak Republic, and UK

^{vi} Austria, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Luxembourg, Latvia, Poland, Spain, Sweden, the Slovak Republic, and the UK

^{vii} Denmark, Germany, Greece, Ireland, Latvia, Austria, Sweden, UK

Charging a minor with a drug use or drug possession offence may well give rise to creation of a record in the countries concerned, but the type of record varies greatly. No criminal record will be created in Denmark or the Netherlands. In the Czech Republic, Estonia, Latvia, Lithuania and Spain, a record will be created of the offence for internal purposes, and similarly in France, Luxembourg, Austria, the Slovak Republic and Sweden a criminal record will be created, but restricted to the relevant Ministry officials and police services, with possible release to certain sensitive employers such as security services. In Greece, the record will be created if correctional or reformative measures were awarded, but not for therapeutic measures. Records will also be created in Ireland and Poland.

In terms of responses for drug-using children, most countries list general drug care or general juvenile care, but few list special programmes for juvenile drug offenders. In the UK, the Youth Justice Board funded Youth Offending Teams to recruit drug workers to assess and arrange treatment for young people (arrest referral). New legislation will allow drug treatment and testing, including testing on arrest for minors aged 14 and over. In Luxembourg, Médecins sans Frontières – Youth Solidarity work closely with the juvenile court to care for young drug law offenders. In the Netherlands, there are several prevention and education programmes for minors. Two clinical facilities are specially developed for drug-addicted minors.

In Germany, in 2000 the Federal Ministry of Health (BMG) launched the pilot programme “Early Intervention With First-Offence Drug Consumers - FreD” in co-operation with eight federal States (*Länder*). The pilot programme was aimed specifically at providing short-term, targeted aid to 14-21 year-olds, but also to young adults aged up to 25 years, who had become first-time offenders due to their consumption of illegal drugs. In the first instance, this involved the police and the juvenile courts approaching those people against whom criminal proceedings were likely to be dropped, according to the legal provisions. Evaluation results showed that the content and implementation of the FreD treatment offer was perceived by the participants as “effective and helpful”. The pilot programme is now being implemented in the addicts support system in several *Länder* and will be modified for use in other settings like schools.

In Greece, 10 special programmes addressed to young drug users currently exist, supervised by the Ministry of Health. They include counselling programmes, therapeutic programmes and legal support to young drug users. They do not work permanently with court services, but cooperation means that the director of the service informs the prosecutor or the court about the progress of the young offender in the programme.

In Latvia, the state Centre for Drug Abuse Treatment coordinates drug treatment for under-18 year olds. The Czech Republic has compulsory treatment in special facilities for minors. Estonian police will try to prioritise work with juveniles as part of its 97-07 strategy. The Slovak Republic has probation and mediation for minors, but not so common for drugs offences. In Sweden, police, prosecutors and judges receive special training to deal with young offenders.

4. Conclusion

A clear majority of countries studied (16 out of the 20^{viii}) have chosen to insert some form of detailed provisions in their legislation aimed at protecting minors from drugs. The most common of these, and that with the highest penalty, was to single out punishment of those who sell or supply drugs to minors, followed by various other clearly defined offences such as incitement or facilitating minors to use drugs, or using them as resellers. The provisions of the 1988 UN Convention regarding drug possession in the vicinity of schools or sports facilities are visible in the legislative framework of 11 countries, whereas other named offences may have been responses to particular events within the country (eg in France, where the specific crime of using minors to carry or deal in narcotics was created in 1996 due to the rise in such incidents). It can be seen that a few countries prefer to leave the facts of any offence involving minors to judicial interpretation, either as a matter of general principle or as that particular crime proved too difficult to define for the statute book (as in Germany and the UK, dealing near schools, etc). A more detailed study may show just how much each country is changing its laws where necessary in order to implement preventative actions particularly for children and young people, as requested by the European Action Plan on Drugs. A new law may be necessary to define a new offence to close a gap in the legislation that was being exploited, or to give a higher profile or maximum sentence to an offence that already existed in a more general form.

It is beyond the scope of this study to examine implementation of the laws, but it would nevertheless be interesting to observe how their implementation reflects the political will expressed in the strategies, and whether or not their impact can be measured. Areas for consideration may be whether the laws offer effective protection of young people, following the UN recommendation that courts should take into account the victimisation of minors when sentencing offenders and considering their early release. Those designing objective school-based education programmes may also have to be careful of laws against encouraging drug use by minors.

Regarding young drug law offenders, it seems that the bias towards education and treatment reported by most countries is in line with the provision in Art 40(1) of the UN Convention on the Rights of the Child, above, which encourages their reintegration into society. Where drug users are concerned, this confirms the trend in the EU of removing custody and imprisonment, and fostering treatment measures. The legal systems also recognise the need for approval by parents or minors themselves of treatment measures proposed for young drug users, perhaps following more successful treatment of adults when participation has a voluntary aspect. Existence of, and access to, a criminal record is also an issue to be kept under consideration, in that those persons who have a criminal record and should declare it to future employers will not find reintegration so easy. In the context of the EU, this variety of laws, legal responses and criminal records may affect one of the founding principles of the European Union, labour mobility, in the case of certain young offenders. Nevertheless, it seems that almost all countries that replied somehow restrict access to the record of a minor when such a record exists.

It is interesting to note that a considerable body of research points towards the breakdown of parental control and the family unit as a major factor in increasing the likelihood of juvenile delinquency and involvement with drugs. Yet few provisions were found in the different countries that aimed to force the parents to take responsibility for the actions of their children. Further and very specialist research would

^{viii} Austria, Belgium, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Malta, Poland, Portugal, Spain, the Slovak Republic, Sweden, and the UK

be needed to evaluate the effectiveness of any such provisions, bearing in mind the policy towards state regulation of the family unit.

Despite the increasing prevalence of drug use and dealing amongst minors, not many specialist programmes for young drug offenders were reported. Yet the prevention of juvenile delinquency and the alternatives to prison for young drug offenders referred to in the EU Action Plan are taking shape, as clearly seen in the actions reported from Germany, Greece, Luxembourg, the Netherlands and the UK. Coordination among civil service structures, already desirable between the Health and Justice sectors for adults, ideally would include Education, Family, Youth Affairs, and Sport as well. Absence of other such schemes reported is no indication of the effectiveness or otherwise of the measures currently used in each country, though statistics for criminal offences committed by minors, such as drug dealing, and their responses will remain difficult to compare in the future, not least due to the wide variations in the age of criminal responsibility.

On this topic, it may be of interest to note that in the USA a number of juvenile drug courts have been established. These are intensive treatment programs established and supervised by juvenile courts to provide specialized services to eligible drug-involved youth and their families. By May 22, 2003, there were 388 juvenile drug courts either in existence or being planned in the United States. Of these juvenile drug courts, 98 were in existence for more than 2 years, 178 were recently implemented, and 112 were being planned⁸. A pilot youth drug court has also been established in New South Wales, Australia, for youth aged 14-18⁹.

¹ European School Survey for Alcohol and other Drugs (ESPAD), 1999.

² United Nations Rules for the Protection of Juveniles Deprived of their Liberty, para. 11(a)

³ United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), para.2.2(a)

⁴ United Nations, Economic and Social Council, Commission on Narcotic Drugs, 44th session, 20-29 March 2001 Item 5 (b) of the provisional agenda *Drug demand reduction: world situation with regard to drug abuse, in particular among children and youth*, E/CN.7/2001/4

⁵ Beijing Rules, part 13 and Commentary

⁶ Beijing Rules, part 26 and Commentary

⁷ United Nations Rules for the Protection of Juveniles Deprived of their Liberty, para. 55

⁸ <http://www.whitehousedrugpolicy.gov/publications/factsht/juvenile/196879.pdf>

⁹ http://www.legalaid.nsw.gov.au/lac/lac.nsf/pages/youth_drug_court_program

5. Annex of legislation quoted

United Nations

1988 Convention Against Illicit Traffic; Preamble, Art.3
1990 Convention on the Rights of the Child, Art. 33, 40

Austria

Narcotic Drug Act 1997, s.11-13, 27, 35, 42
Juvenile Court Act 1988, s.1, 4, 5, 6, 7
Civil Code s.146c
Criminal Code s.36
Rehabilitation Act s.6

Belgium

Law of 24 February 1921 concerning the trafficking of poisonous, narcotic, psychotropic, disinfectant and antiseptic substances, and those substances which may be used to make illicit narcotic or psychotropic substances Art.2bis, 7, 11
Royal Decree of 31 December 1930 regulating narcotic substances, and relative to reduction of risks and therapeutic advice Art.26bis, 28
Ministerial Directive of 3 May 2003 on the prosecution policy regarding possession and small sales of illicit drugs

Czech Republic

Criminal Code Art.34, 187, 188, 188a

Denmark

Act on Social Service s.40, 42

Spain

Penal Code, Art 369, 372,
Ley Organica 5/2000, de 12 de enero, reguladorade la responsabilidad penal de los menores, Art.7
Civil Code Art.1903

Estonia

Penal Code s.33, 44, 45, 87, 185-187
Punishment Register Act s.25
Narcotic Drugs and Psychotropic Substances Act, s.15
Juvenile Sanctions Act, s.1-3

France

Penal Code, Art. 227-18, 222-29, 222-39, 222-44
Public Health Code, Art.L-3421, 3423, 3424
Law of 16 July 1949 on youth publications, art.14

Law of 17 June 1998 on prevention and repression of sex crimes, including protection of minors; Art 32.

Germany

Narcotics Act s.29, 29a, 30, 30a, 31, 35, 36, 38

Youth Courts Law s.1, 5, 7, 9, 10-18, 105

Greece

Law 1729/87 Art.6, 8, 17

Law 228/95, Art.17, 18

Criminal Code, Art 121, 122, 123, 127, 360

Ireland

Children's Act 2001, s.78-94, 108, 111-141, 142-156, 258

Criminal Justice Act 1999, s.4

Latvia

Criminal Code s.11, 63, 251, 252, 253

Children's Right Law s.3, 27, 49, 52, 57

Law on Using Correctional Measures of Compulsion against Children 2002, s.2- 7, 14

Lithuania

Penal Code Art 13, 82, 97, 261, 263, 264

Administrative Law Violations Code Art 44

Luxembourg

Law of 19 Feb 1973 concerning the sale of medical substances and the fight against drug addiction, Art 7-10, 25

Law of 10 August 1992 on protection of youth, Art 1, 4, 15, 32

Netherlands

Guideline of Public Prosecution Service for criminal prosecution in child cases

Malta

Medical and Kindred Professions Ordinance 1901, s.120A

Dangerous Drugs Ordinance 1939, s.22

Poland

Act of 24 April 1997 on counteracting drug addiction, s. 5, 45, 46

Act of 26 October 1982 on procedures in minors cases, Art. 3, 5, 7, 9, 12, 17.

Penal Code Art 10, 54.

Sweden

Penal Code Ch.1 s.3, Ch.29 s.3, 7, Ch.30 s.5, Ch.31 s.1, 1a
Social Services Act (2001:453), Ch.5 s.1
Care of Young Persons (Special Provisions) Act (1990:53), s.3
Young Offenders (Special Provisions) Act (1964:167), s.2, 6, 7, 25, 26

Slovak Republic

Penal Code s.11, 33, 34, 74-89, 187, 188^a

United Kingdom

Crime and Disorder Act 1998, s.65, 66