

Chapter 1

Recommendation CM/Rec(2008)11 of the Committee of Ministers to member states on the European rules for juvenile offenders subject to sanctions or measures

(Adopted by the Committee of Ministers on 5 November 2008 at the 1040th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, in particular through harmonising laws on matters of common interest;

Having regard in particular:

- to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and to the case law of the European Court of Human Rights;
- to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126) and to the work of the committee entrusted with its implementation;
- to the United Nations Convention on the Rights of the Child;

Taking into consideration:

- Recommendation Rec(2006)2 on the European Prison Rules;
- Recommendation Rec(2005)5 on the rights of children living in residential institutions;
- Recommendation Rec(2004)10 concerning the protection of the human rights and dignity of persons with mental disorder;
- Recommendation Rec(2003)20 concerning new ways of dealing with juvenile delinquency and the role of juvenile justice;
- Recommendation No. R (97) 12 on staff concerned with the implementation of sanctions or measures;
- Recommendation No. R (92) 16 on the European rules on community sanctions and measures;
- Recommendation No. R (87) 20 on social reactions to juvenile delinquency;

Taking further into consideration:

- the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines);
- the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules);
- the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules);
- the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules);

Having regard to the Final Declaration and Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, Poland, 16-17 May 2005), and in particular to Part III.2 of the Action Plan entitled “Building a Europe for children”, as well as having regard to Resolution No. 2 adopted at the 28th Conference of European Ministers of Justice (Lanzarote, Spain, 25-26 October 2007);

Considering therefore that common action at European level is needed in order to better protect the rights and well-being of juveniles who enter in conflict with the law and to develop a child-friendly justice system in its member states;

Considering it important in this respect that Council of Europe member states continue to improve, update and observe common principles regarding their national juvenile justice policies and practices and enhance international co-operation in this field,

Recommends that governments of the member states:

- be guided in their legislation, policies and practice by the rules contained in the appendix to this recommendation;
- ensure that this recommendation and the accompanying commentary are translated and disseminated as widely as possible and more specifically among judicial authorities and the police; services entrusted with the execution of sanctions and measures addressing juvenile offenders; penitentiary, welfare and mental health institutions holding juvenile offenders and their staff as well as the media and the general public.

Appendix to Recommendation CM/Rec(2008)11

European rules for juvenile offenders subject to sanctions or measures

The aim of the present rules is to uphold the rights and safety of juvenile offenders subject to sanctions or measures and to promote their physical, mental and social well-being when subjected to community sanctions or measures, or any form of deprivation of liberty.

Nothing in these rules ought to be interpreted as precluding the application of other relevant international human rights instruments and standards that are more conducive to ensuring the rights, care and protection of juveniles. Furthermore, the provisions of Recommendation Rec(2006)2 on the European Prison Rules and of Recommendation No. R (92) 16 on the European rules on community sanctions and measures shall be applied to the benefit of juvenile offenders in as far as they are not in conflict with these rules.

Part I – Basic principles, scope and definitions

A. Basic principles

1. Juvenile offenders subject to sanctions or measures shall be treated with respect for their human rights.
2. The sanctions or measures that may be imposed on juveniles, as well as the manner of their implementation, shall be specified by law and based on the principles of social integration and education and of the prevention of re-offending.
3. Sanctions and measures shall be imposed by a court or if imposed by another legally recognised authority they shall be subject to prompt judicial review. They shall be determinate and imposed for the minimum necessary period and only for a legitimate purpose.
4. The minimum age for the imposition of sanctions or measures as a result of the commission of an offence shall not be too low and shall be determined by law.
5. The imposition and implementation of sanctions or measures shall be based on the best interests of the juvenile offenders, limited by the gravity of the offences committed (principle of proportionality) and take account of their age, physical and mental well-being, development, capacities and personal circumstances (principle of individualisation) as ascertained when necessary by psychological, psychiatric or social inquiry reports.
6. In order to adapt the implementation of sanctions and measures to the particular circumstances of each case the authorities responsible for the implementation shall have a sufficient degree of discretion without leading to serious inequality of treatment.
7. Sanctions or measures shall not humiliate or degrade the juveniles subject to them.
8. Sanctions or measures shall not be implemented in a manner that aggravates their afflictive character or poses an undue risk of physical or mental harm.
9. Sanctions or measures shall be implemented without undue delay and only to the extent and for the period strictly necessary (principle of minimum intervention).

10. Deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts must be undertaken to avoid pre-trial detention.

11. Sanctions or measures shall be imposed and implemented without discrimination on any ground such as sex, race, colour, language, religion, sexual orientation, political or other opinion, national or social origin, association with a national minority, property, birth or other status (principle of non-discrimination).

12. Mediation or other restorative measures shall be encouraged at all stages of dealing with juveniles.

13. Any justice system dealing with juveniles shall ensure their effective participation in the proceedings concerning the imposition as well as the implementation of sanctions or measures. Juveniles shall not have fewer legal rights and safeguards than those provided to adult offenders by the general rules of criminal procedure.

14. Any justice system dealing with juveniles shall take due account of the rights and responsibilities of the parents and legal guardians and shall as far as possible involve them in the proceedings and the execution of sanctions or measures, except if this is not in the best interests of the juvenile. Where the offender is over the age of majority, the participation of parents and legal guardians is not compulsory. Members of the juveniles' extended families and the wider community may also be associated with the proceedings where appropriate.

15. Any justice system dealing with juveniles shall follow a multi-disciplinary and multi-agency approach and be integrated with wider social initiatives for juveniles in order to ensure a holistic approach to and continuity of the care of such juveniles (principles of community involvement and continuous care).

16. The juvenile's right to privacy shall be fully respected at all stages of the proceedings. The identity of juveniles and confidential information about them and their families shall not be conveyed to anyone who is not authorised by law to receive it.

17. Young adult offenders may, where appropriate, be regarded as juveniles and dealt with accordingly.

18. All staff working with juveniles perform an important public service. Their recruitment, special training and conditions of work shall ensure that they are able to provide the appropriate standard of care to meet the distinctive needs of juveniles and provide positive role models for them.

19. Sufficient resources and staffing shall be provided to ensure that interventions in the lives of juveniles are meaningful. Lack of resources shall never justify the infringement of the human rights of juveniles.

20. The execution of any sanction or measure shall be subjected to regular government inspection and independent monitoring.

B. Scope and definitions

21. For the purpose of these rules:

21.1. “juvenile offender” means any person below the age of 18 who is alleged to have or who has committed an offence. References to juveniles in these rules shall be regarded as references to juvenile offenders as defined above;

21.2. “young adult offender” means any person between the ages of 18 and 21 who is alleged to have or who has committed an offence and who is subject to these rules because he/she falls under the provisions of Rule 17. References to young adults in these rules shall be regarded as references to young adult offenders as defined above;

21.3. “offence” means any act or omission that infringes criminal law. For the purpose of these rules it includes any such infringement dealt with by a criminal court or any other judicial or administrative authority;

21.4. “community sanctions or measures” means any sanction or measure other than a detention measure which maintains juveniles in the community and involves some restrictions of their liberty through the imposition of conditions and/or obligations, and which is implemented by bodies designated by law for that purpose. The term designates any sanction imposed by a judicial or administrative authority and any measure taken before or instead of a decision on a sanction, as well as ways of enforcing a sentence of imprisonment outside a prison establishment;

21.5. “deprivation of liberty” means any form of placement in an institution by decision of a judicial or administrative authority, from which the juvenile is not permitted to leave at will;

21.6. “institution” means a physical entity under the control of public authorities, where juveniles are living under the supervision of staff according to formal rules.

22. These rules may also apply to the benefit of other persons held in the same institutions or settings as juvenile offenders.

Part II – Community sanctions and measures

C. Legal framework

23.1. A wide range of community sanctions and measures, adjusted to the different stages of development of juveniles, shall be provided at all stages of the process.

23.2. Priority shall be given to sanctions and measures that may have an educational impact as well as constituting a restorative response to the offences committed by juveniles.

24. National law shall specify the following characteristics of the different community sanctions and measures:

- a. the definition and mode of application of all sanctions and measures applicable to juveniles;
 - b. any condition or obligation that is the consequence of the imposition of such sanction or measure;
 - c. the cases in which the consent of the juvenile is required before a sanction or measure may be imposed;
 - d. which authorities are responsible for the imposition, modification and implementation of a sanction or measure and their respective duties and responsibilities;
 - e. the grounds and procedures applicable for the modification of an imposed sanction or measure; and
 - f. the procedures for the regular and external scrutiny of the work of the implementing authorities.
25. In order to meet the specific needs of juveniles, national law shall set out:
- a. the obligation of any competent authority to explain the content and the aims of the legal provisions governing community sanctions or measures to juvenile offenders and, if necessary, to their parents or legal guardians;
 - b. the obligation of any competent authority to aim at the best possible cooperation with juvenile offenders and their parents or legal guardians; and
 - c. the rights of parents and legal guardians of juvenile offenders who may be subject to community sanctions or measures, possible restrictions on their rights and duties in regard to the imposition and implementation of any such sanctions and measures.
26. The decision to impose or revoke a community sanction or measure shall be taken by a judicial authority or, if it is taken by an administrative authority authorised by law, it shall be subject to judicial review.
27. Depending on the progress made by the juvenile, the competent authorities shall, when provided for by national law, be entitled to reduce the duration of any sanction or measure, relax any condition or obligation laid down in such a sanction or measure or terminate it.
28. The rights of juveniles to benefits in respect of education, vocational training, physical and mental health care, safety and social security shall not be limited by the imposition or implementation of community sanctions or measures.
29. Whenever the consent of juveniles or their parents or legal guardians is required for the imposition or implementation of community sanctions or measures, such consent shall be informed and explicit.
- 30.1. If juveniles do not comply with the conditions and obligations of the community sanctions or measures imposed on them, this shall not lead automatically

to deprivation of liberty. Where possible, modified or new community sanctions or measures shall replace the previous ones.

30.2. Failure to comply shall not automatically constitute an offence.

D. Conditions of implementation and consequences of non-compliance

D.1. Conditions of implementation

31.1. Community sanctions and measures shall be implemented in a way that makes them as meaningful as possible to juveniles and that contributes to their educational development and the enhancement of their social skills.

31.2. Juveniles shall be encouraged to discuss matters relating to the implementation of community sanctions and measures and to communicate individually or collectively with the authorities about these matters.

32. The implementation of community sanctions or measures shall respect as far as possible the existing constructive social networks of the juveniles and the relations to their families.

33.1. Juveniles shall be informed, in a manner and language they understand, as to how the community sanction or measure imposed on them will be implemented and about their rights and duties in regard to its implementation.

33.2. Juveniles shall have the right to make oral or written representations prior to any formal decision concerning the implementation of the community sanctions or measures, as well as the right to apply to alter the conditions of implementation.

34.1. Individual case records shall be established and kept up to date by the implementing authorities.

34.2. Case records shall meet the following requirements:

- a.* information in case records shall only encompass matters relevant to the community sanction or measure imposed and its implementation;
- b.* juveniles and their parents or legal guardians shall have access to the juvenile's case records to the extent that it does not infringe the rights to privacy of others; they shall have the right to contest the contents of the case records;
- c.* information in a case record shall only be disclosed to those with a legal right to receive it and any information disclosed shall be limited to what is relevant for the task of the authority requesting information;
- d.* after the termination of the community sanction or measure, case records shall be destroyed or kept in archives where access to their contents shall be restricted by rules providing safeguards on revealing their content to third parties.

35. Any information about juveniles given to agencies which provide educational or work placements or personal and social assistance shall be restricted to the purpose of the particular action under consideration.

36.1. The conditions under which juveniles carry out community work or comparable duties shall meet the standards set by general national health and safety legislation.

36.2. The juveniles shall be insured or indemnified against the consequences of accident, injury and public liability arising as a result of implementation of community sanctions or measures.

37. The costs of implementation shall in principle not be borne by the juveniles or their families.

38. The relationship between the staff concerned and the juveniles shall be guided by principles of education and development.

39.1. The implementation of community sanctions and measures shall be based on individualised assessments and methods of intervention that are consistent with proven professional standards.

39.2. These methods shall be developed in the light of research findings and best practices in social work, youth welfare and allied fields of activity.

40. Within the framework of a given community sanction or measure various approaches, such as case-work, group therapy, mentoring and day attendance, and the specialised treatment of various categories of offenders shall be adopted to meet the needs of the juveniles.

41.1. Restrictions of liberty shall be proportionate to the community sanction or measure, limited by its aims and shall be placed on juveniles only to the extent that they are necessary for its proper implementation.

41.2. Practical and precise instructions shall be issued to the staff directly responsible for the implementation of community sanctions or measures.

42. Wherever possible, a continuous and long-term relationship shall be maintained between the staff implementing a community sanction or measure and the juvenile, even when the juvenile's place of residence, legal status or type of intervention changes.

43.1. Special attention shall be paid to appropriate interventions for linguistic or ethnic minorities and juveniles who are foreign nationals.

43.2. In case there is a provision to transfer the execution of community sanctions or measures applied to juveniles who are foreign nationals they shall be informed of their rights in this respect. Close co-operation with the juvenile welfare and justice agencies shall be established in order to facilitate the necessary assistance for such juveniles immediately upon arrival in their country of origin.

43.3. In exceptional cases where juveniles who are foreign nationals are to be expelled to their countries of origin after the execution of the community sanctions or measures, efforts shall be made to establish contacts with social welfare authorities in their countries of origin, in so far as such contacts are in the best interest of the juveniles concerned.

44. Juveniles shall be encouraged to make reparation to the best of their ability for any damage or negative effects caused by the offence, in so far as such reparation is within the scope of the community sanctions or measures to which they are subject.

45. Community work shall not be undertaken for the sole purpose of making a profit.

D.2. Consequences of non-compliance

46. Juveniles and their parents or legal guardians shall be informed of the consequences of non-compliance with the conditions and obligations of community sanctions or measures and the rules under which allegations of non-compliance will be considered.

47.1. The procedures to be followed by the authorities reporting or deciding on non-compliance with the requirements of the community sanctions or measures shall be defined clearly.

47.2. Minor transgressions shall be noted in the individual case file but need not be reported to the authority deciding on non-compliance, unless national law requires that this be done. Such transgressions may be promptly dealt with by discretionary means.

47.3. Significant failure to comply with the requirements shall be promptly reported in writing to the authority deciding on non-compliance.

47.4. Such reports shall give a detailed account of the manner in which the non-compliance occurred, the circumstances in which it took place and the personal situation of the juvenile.

48.1. The authority responsible for deciding on non-compliance shall only give a ruling on the modification or the partial or total revocation of a community sanction or measure after making a detailed examination of the facts reported to it.

48.2. If necessary, psychological or psychiatric assessments or observations, as well as social inquiry reports shall be requested.

48.3. The authority shall ensure that juveniles and, where appropriate, their parents or legal guardians have the opportunity to examine the evidence of non-compliance on which the request for modification or revocation is based and to present their comments.

48.4. Where the revocation or modification of a community sanction or measure is being considered, due account shall be taken of the extent to which the juvenile has already fulfilled the requirements of the initial sanction or measure in order to ensure that a new or modified sanction or measure is still proportionate to the offence.

48.5. If as a result of non-compliance an authority other than a court revokes or modifies a community sanction or measure, its decision shall be subject to judicial review.

Part III – Deprivation of liberty

E. General part

E.1. Overall approach

49.1. Deprivation of liberty shall be implemented only for the purpose for which it is imposed and in a manner that does not aggravate the suffering inherent to it.

49.2. Deprivation of liberty of juveniles shall provide for the possibility of early release.

50.1. Juveniles deprived of their liberty shall be guaranteed a variety of meaningful activities and interventions according to an individual overall plan that aims at progression through less restrictive regimes and preparation for release and reintegration into society. These activities and interventions shall foster their physical and mental health, self-respect and sense of responsibility and develop attitudes and skills that will prevent them from re-offending.

50.2. Juveniles shall be encouraged to take part in such activities and interventions.

50.3. Juveniles deprived of their liberty shall be encouraged to discuss matters relating to general conditions and regime activities in institutions and to communicate individually or, where applicable, collectively with authorities about these matters.

51. In order to guarantee the continuity of care, juveniles shall be assisted, from the beginning of and throughout any period of deprivation of liberty, by the agencies that may be responsible for them after release.

52.1. As juveniles deprived of their liberty are highly vulnerable, the authorities shall protect their physical and mental integrity and foster their well-being.

52.2. Particular care shall be taken of the needs of juveniles who have experienced physical, mental or sexual abuse.

E.2. Institutional structure

53.1. Institutions or sections of institutions shall provide a range of facilities to meet the individual needs of the juveniles held there and the specific purpose of their committal.

53.2. Such institutions shall provide conditions with the least restrictive security and control arrangements necessary to protect juveniles from harming themselves, staff, others or the wider community.

53.3. Life in an institution shall approximate as closely as possible the positive aspects of life in the community.

53.4. The number of juveniles in an institution shall be small enough to enable individualised care. Institutions shall be organised into small living units.

53.5. Juvenile institutions shall be located in places that are easy to access and facilitate contact between the juveniles and their families. They should be established and integrated into the social, economic and cultural environment of the community.

E.3. Placement

54. The placement of different categories of juveniles in institutions shall be guided in particular by the provision of the type of care best suited to their particular needs and the protection of their physical and mental integrity and well-being.

55. Juveniles shall be placed, as far as possible, in institutions easily accessible from their homes or places of social reintegration.

56. Juveniles deprived of liberty shall be sent to institutions with the least restrictive level of security to hold them safely.

57. Juveniles who are suffering from mental illness and who are to be deprived of their liberty shall be held in mental health institutions.

58. As far as possible, juveniles, and where practicable their parents or legal guardians, shall be consulted about the initial placement and any subsequent transfer from one institution to another.

59.1. Juveniles shall not be held in institutions for adults, but in institutions specially designed for them. If juveniles are nevertheless exceptionally held in an institution for adults, they shall be accommodated separately unless in individual cases where it is in their best interest not to do so. In all cases, these rules shall apply to them.

59.2. Exceptions may have to be made to the requirements for separate detention in terms of sub-paragraph 1 in order to allow juveniles to participate jointly in organised activities with persons in institutions for adults.

59.3. Juveniles who reach the age of majority and young adults dealt with as if they were juveniles shall normally be held in institutions for juvenile offenders or in specialised institutions for young adults unless their social reintegration can be better effected in an institution for adults.

60. Male and female juveniles shall normally be held in separate institutions or units within an institution. Separation between male and female juveniles need not be applied in welfare or mental health institutions. Even where male and female

juveniles are held separately, they shall be allowed to participate jointly in organised activities.

61. Within institutions there shall be an appropriate assessment system in order to place juveniles according to their educational, developmental and safety needs.

E.4. Admission

62.1. No juvenile shall be admitted to or held in an institution without a valid commitment order.

62.2. At admission, the following details shall be recorded immediately concerning each juvenile:

- a. information concerning the identity of the juvenile and his or her parents or legal guardians;
- b. the reasons for commitment and the authority responsible for it;
- c. the date and time of admission;
- d. an inventory of the personal property of the juvenile that is to be held in safekeeping;
- e. any visible injuries and allegations of prior ill-treatment;
- f. any information and any report about the juvenile's past and his or her educational and welfare needs; and
- g. subject to the requirements of medical confidentiality, any information about the juvenile's risk of self-harm or a health condition that is relevant to the physical and mental well-being of the juvenile or to that of others.

62.3. At admission, the rules of the institution and the rights and obligations of the juvenile shall be explained in a language and manner that the juvenile understands.

62.4. Notification of the placement of the juvenile, information on the rules governing the institution and any other relevant information shall be given immediately to the juvenile's parents or legal guardians.

62.5. As soon as possible after admission, the juvenile shall be medically examined, a medical record shall be opened and treatment of any illness or injury shall be initiated.

62.6. As soon as possible after admission:

- a. the juvenile shall be interviewed and a first psychological, educational and social report identifying any factors relevant to the specific type and level of care and intervention shall be made;
- b. the appropriate level of security for the juvenile shall be established and if necessary alterations shall be made to the initial placement;

- c. save in the case of very short periods of deprivation of liberty, an overall plan of educational and training programmes in accordance with the individual characteristics of the juvenile shall be developed and the implementation of such programmes shall begin; and
- d. the views of the juvenile shall be taken into account when developing such programmes.

E.5. Accommodation

63.1. The accommodation provided for juveniles, and in particular all sleeping accommodation, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene, due regard being paid to climatic conditions and especially to floor space, cubic content of air, lighting, heating and ventilation. Specific minimum requirements in respect of these matters shall be set in national law.

63.2. Juveniles shall normally be accommodated during the night in individual bedrooms, except where it is preferable for them to share sleeping accommodation. Accommodation shall only be shared if it is appropriate for this purpose and shall be occupied by juveniles suitable to associate with each other. Juveniles shall be consulted before being required to share sleeping accommodation and may indicate with whom they would wish to share.

64. There shall be regular, unobtrusive supervision by staff of all accommodation, particularly during the night in order to ensure the protection of each juvenile. There shall also be an effective alarm system that can be used in case of emergencies.

E.6. Hygiene

65.1. All parts of every institution shall be properly maintained and kept clean at all times.

65.2. Juveniles shall have ready access to sanitary facilities that are hygienic and respect privacy.

65.3. Adequate facilities shall be provided so that juveniles may have a bath or shower daily if possible, at a temperature suitable to the climate.

65.4. Juveniles shall keep their persons, clothing and sleeping accommodation clean and tidy and the authorities shall teach them to do so and provide them with the means for it.

E.7. Clothing and bedding

66.1. Juveniles shall be allowed to wear their own clothing provided that it is suitable.

66.2. Juveniles who do not have sufficient suitable clothing of their own shall be provided with such clothing by the institution.

66.3 Suitable clothing is clothing that is not degrading or humiliating and is adequate for the climate and does not pose a risk to security or safety.

66.4. Juveniles who obtain permission to go outside the institution shall not be required to wear clothing that identifies them as persons deprived of their liberty.

67. Every juvenile shall be provided with a separate bed and separate and appropriate bedding, which shall be kept in good order and changed often enough to ensure its cleanliness.

E.8. Nutrition

68.1. Juveniles shall be provided with a nutritious diet that takes into account their age, health, physical condition, religion, culture and the activities that they undertake in the institution.

68.2. Food shall be prepared and served hygienically in three meals a day with reasonable intervals between them.

68.3. Clean drinking water shall be available to juveniles at all times.

68.4. Where appropriate, juveniles shall be given the opportunity to cater for themselves.

E.9. Health

69.1. The provisions contained in international instruments on medical care for the physical and mental health of adult detainees are applicable also to juveniles deprived of their liberty.

69.2. The health of juveniles deprived of their liberty shall be safeguarded according to recognised medical standards applicable to juveniles in the wider community.

70.1. Particular attention should be paid to dealing with health hazards linked to deprivation of liberty.

70.2. Special policies shall be developed and implemented to prevent suicide and self-harm by juveniles, particularly during their initial detention, segregation and other recognised high risk periods.

71. Juveniles shall be given preventive health care and health education.

72.1. Medical interventions, including the use of medication, shall be made only on medical grounds and not for purposes of maintaining good order or as a form of punishment. The same ethical principles and principles of consent governing medical interventions in free society shall be applied. A record shall be kept of any medical treatment or any drugs administered.

72.2. Juveniles deprived of their liberty shall never be subject to experimental use of drugs or treatment.

73. Particular attention shall be paid to the needs of:

- a. younger juveniles;
- b. pregnant girls and mothers with infant children;
- c. drug addicts and alcoholics;
- d. juveniles with physical and mental health problems;
- e. juveniles who exceptionally are deprived of their liberty for long periods;
- f. juveniles who have experienced physical, mental or sexual abuse;
- g. socially isolated juveniles; and
- h. other particularly vulnerable offender groups.

74.1. Health-care services offered to juveniles shall form an integral part of a multidisciplinary programme of care.

74.2. In order to provide a seamless web of support and therapy and without prejudice to professional confidentiality and the role of each profession, the work of doctors and nurses shall be closely co-ordinated with social workers, psychologists, teachers, other professionals and staff, who have regular contact with juvenile offenders.

75. Health care in juvenile institutions shall not be limited to treating sick patients, but shall extend to social and preventive medicine and the supervision of nutrition.

E.10. Regime activities

76.1. All interventions shall be designed to promote the development of juveniles, who shall be actively encouraged to participate in them.

76.2. These interventions shall endeavour to meet the individual needs of juveniles in accordance with their age, gender, social and cultural background, stage of development and type of offence committed. They shall be consistent with proven professional standards based on research findings and best practices in the field.

77. Regime activities shall aim at education, personal and social development, vocational training, rehabilitation and preparation for release. These may include:

- a. schooling;
- b. vocational training;
- c. work and occupational therapy;
- d. citizenship training;
- e. social skills and competence training;
- f. aggression-management;

- g.* addiction therapy;
- h.* individual and group therapy;
- i.* physical education and sport;
- j.* tertiary or further education;
- k.* debt regulation;
- l.* programmes of restorative justice and making reparation for the offence;
- m.* creative leisure time activities and hobbies;
- n.* activities outside the institution in the community, day leave and other forms of leave; and
- o.* preparation for release and aftercare.

78.1. Schooling and vocational training, and where appropriate treatment interventions, shall be given priority over work.

78.2. As far as possible arrangements shall be made for juveniles to attend local schools and training centres and other activities in the community.

78.3. Where it is not possible for juveniles to attend local schools or training centres outside the institution, education and training shall take place within the institution, but under the auspices of external educational and vocational training agencies.

78.4. Juveniles shall be enabled to continue their schooling or vocational training while in detention and those who have not completed their compulsory schooling may be obliged to do so.

78.5. Juveniles in detention shall be integrated into the educational and vocational training system of the country so that after their release they may continue their education and vocational training without difficulty.

79.1. An individual plan shall be drawn up based on the activities in Rule 77 listing those in which the juvenile shall participate.

79.2. The objective of this plan shall be to enable juveniles from the outset of their detention to make the best use of their time and to develop skills and competences that enable them to reintegrate into society.

79.3. The plan shall be oriented towards preparing juveniles to be released as early as possible and give an indication of appropriate post-release measures.

79.4. The plan shall be implemented and updated regularly with the participation of the juveniles, the outside agencies concerned and as far as possible their parents or legal guardians.

80.1. The regime shall allow all juveniles to spend as many hours a day outside their sleeping accommodation as are necessary for an adequate level of social interaction. Such a period shall be preferably at least eight hours a day.

80.2. The institution shall also provide meaningful activities on weekends and holidays.

81. All juveniles deprived of their liberty shall be allowed to exercise regularly for at least two hours every day, of which at least one hour shall be in the open air, if the weather permits.

82.1. The institution shall provide sufficient work for juveniles which is stimulating and of educational value.

82.2. Work shall be adequately rewarded.

82.3. When juveniles participate in regime activities during work time they shall be rewarded in the same way as if they were working.

82.4. Juveniles shall receive adequate social security coverage similar to that provided in free society.

E.11. Contact with the outside world

83. Juveniles shall be allowed to communicate through letters, without restriction as to their number and as often as possible by telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive regular visits from these persons.

84. Arrangements for visits shall be such as to allow juveniles to maintain and develop family relationships in as normal a manner as possible and have opportunities for social reintegration.

85.1. Institutional authorities shall assist juveniles in maintaining adequate contact with the outside world and provide them with the appropriate means to do so.

85.2. Communication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime, but such restrictions, including specific restrictions ordered by a judicial authority, shall nevertheless allow an acceptable minimum level of contact.

85.3. Any information received of the death or serious illness of any near relative shall be promptly communicated to the juvenile.

86.1. As part of the normal regime, juveniles shall be allowed regular periods of leave, either escorted or alone. In addition, juveniles shall be allowed to leave the institution for humanitarian reasons.

86.2. If regular periods of leave are not practicable, provision shall be made for additional or long-term visits by family members or other persons who can make a positive contribution to the development of the juvenile.

E.12. Freedom of thought, conscience and religion

87.1. Juveniles' freedom of thought, conscience and religion shall be respected.

87.2. The institutional regimen shall be organised so far as is practicable to allow juveniles to practise their religion and follow their beliefs, to attend services or meetings led by approved representatives of such religion or beliefs, to receive visits in private from such representatives of their religion or beliefs and to have in their possession books or literature relating to their religion or beliefs.

87.3. Juveniles may not be compelled to practise a religion, follow a belief, attend religious services or meetings, take part in religious practices or to accept a visit from a representative of any religion or belief.

E.13. Good order

E.13.1. General approach

88.1. Good order shall be maintained by creating a safe and secure environment in which the dignity and physical integrity of the juveniles are respected and their primary developmental goals are met.

88.2. Particular attention shall be paid to protecting vulnerable juveniles and to preventing victimisation.

88.3. Staff shall develop a dynamic approach to safety and security which builds on positive relationships with juveniles in the institutions.

88.4. Juveniles shall be encouraged to commit themselves individually and collectively to the maintenance of good order in the institution.

E.13.2. Searching

89.1. There shall be detailed procedures regarding searching of juveniles, staff, visitors and premises. The situations when such searches are necessary and their nature shall be defined by national law.

89.2. Searches shall respect the dignity of juveniles concerned and as far as possible their privacy. Juveniles shall be searched by staff of the same gender. Related intimate examinations must be justified by reasonable suspicion in an individual case and shall be conducted by a medical practitioner only.

89.3. Visitors shall only be searched if there is a reasonable suspicion that they may have something in their possession that threatens the safety and security of the institution.

89.4. Staff shall be trained to carry out searches effectively, while at the same time respecting the dignity of those being searched and their personal possessions.

E.13.3. Use of force, physical restraint and weapons

90.1. Staff shall not use force against juveniles except, as a last resort, in self-defence or in cases of attempted escape, physical resistance to a lawful order, direct risk of self-harm, harm to others or serious damage to property.

90.2. The amount of force used shall be the minimum necessary and be applied for the shortest time necessary.

90.3. Staff who deal directly with juveniles shall be trained in techniques that enable the minimal use of force in the restraint of aggressive behaviour.

90.4. There shall be detailed procedures concerning the use of force, including stipulations on:

- a. the various types of force that may be used;
- b. the circumstances in which each type of force may be used;
- c. the members of staff who are entitled to use different types of force;
- d. the level of authority required before any force is used;
- e. the reports that must be completed once force has been used; and
- f. the process for reviewing the above reports.

91.1. Handcuffs or restraint jackets shall not be used except when less intensive forms of the use of force have failed. Handcuffs may also be used if essential as a precaution against violent behaviour or escape during a transfer. They shall be removed when a juvenile appears before a judicial or administrative authority unless that authority decides otherwise.

91.2. Instruments of restraint shall not be applied for any longer time than is strictly necessary. The use of chains and irons shall be prohibited.

91.3. The manner of use of instruments of restraint shall be specified in national law.

91.4. Isolation in a calming down cell as a means of temporary restraint shall only be used exceptionally and only for a few hours and in any case shall not exceed twenty-four hours. A medical practitioner shall be informed of such isolation and given immediate access to the juvenile concerned.

92. Staff in institutions in which juveniles are deprived of their liberty shall not be allowed to carry weapons unless an operational emergency so requires. The carrying and use of lethal weapons in welfare and mental health institutions is prohibited.

E.13.4. Separation for security and safety reasons

93.1. If in very exceptional cases a particular juvenile needs to be separated from the others for security or safety reasons, this shall be decided by the competent

authority on the basis of clear procedures laid down in national law, specifying the nature of the separation, its maximum duration and the grounds on which it may be imposed.

93.2. Such separation shall be subject to regular review. In addition, the juvenile may lodge a complaint in terms of Rule 121 about any aspect of such separation. A medical practitioner shall be informed of such separation and given immediate access to the juvenile concerned.

E.13.5. Discipline and punishment

94.1. Disciplinary procedures shall be mechanisms of last resort. Restorative conflict resolution and educational interaction with the aim of norm validation shall be given priority over formal disciplinary hearings and punishments.

94.2. Only conduct likely to constitute a threat to good order, safety or security may be defined as a disciplinary offence.

94.3. National law shall determine the acts or omissions that constitute disciplinary offences, the procedures to be followed at disciplinary hearings, the types and duration of punishment that may be imposed, the authority competent to impose such punishment and the appellate process.

94.4. Juveniles charged with disciplinary offences must be informed promptly and in a manner and language they understand of the nature of the accusation against them and be given adequate time and facilities to prepare their defence; be allowed to defend themselves in person or with the assistance of their parents or legal guardians or, when the interests of justice so require, through legal assistance.

95.1. Disciplinary punishments shall be selected, as far as possible, for their educational impact. They shall not be heavier than justified by the seriousness of the offence.

95.2. Collective punishment, corporal punishment, punishment by placing in a dark cell, and all other forms of inhuman and degrading punishment shall be prohibited.

95.3. Solitary confinement in a punishment cell shall not be imposed on juveniles.

95.4. Segregation for disciplinary purposes shall only be imposed in exceptional cases where other sanctions would not be effective. Such segregation shall be for a specified period of time, which shall be as short as possible. The regime during such segregation shall provide appropriate human contact, grant access to reading material and offer at least one hour of outdoor exercise every day if the weather permits.

95.5. A medical practitioner shall be informed of such segregation and given access to the juvenile concerned.

95.6. Disciplinary punishment shall not include a restriction on family contacts or visits unless the disciplinary offence relates to such contacts or visits.

95.7. Exercise under the terms of Rule 81 shall not be restricted as part of a disciplinary punishment.

E.14. Transfer between institutions

96. Juveniles shall be transferred when the initial criteria for placing them or the further promotion of reintegration into society can be met more effectively in another institution or when serious security and safety risks make such a transfer essential.

97. Juveniles shall not be transferred as a disciplinary measure.

98. A juvenile may be transferred from one type of institution to another if prescribed by law and if ordered by a judicial or administrative authority after an appropriate inquiry has been conducted.

99.1. All relevant information and data relating to the juvenile shall be transferred in order to ensure continuity of care.

99.2. The conditions under which juveniles are transported shall meet the requirements of humane detention.

99.3. The anonymity and privacy of the juveniles being transported shall be respected.

E.15. Preparation for release

100.1. All juveniles deprived of their liberty shall be assisted in making the transition to life in the community.

100.2. All juveniles whose guilt has been determined shall be prepared for release by special forms of interventions.

100.3. Such interventions shall be included in the individual plan under the terms of Rule 79.1 and shall be implemented in good time prior to release.

101.1. Steps shall be taken to ensure a gradual return of the juvenile to life in free society.

101.2. Such steps should include additional leave, and partial or conditional release combined with effective social support.

102.1. From the beginning of the deprivation of liberty the institutional authorities and the services and agencies that supervise and assist released juveniles shall work closely together to enable them to re-establish themselves in the community, for example by:

- a. assisting in returning to their family or finding a foster family and helping them develop other social relationships;

- b.* finding accommodation;
- c.* continuing their education and training;
- d.* finding employment;
- e.* referring them to appropriate social and health-care agencies; and
- f.* providing monetary assistance.

102.2. Representatives of such services and agencies shall be given access to juveniles in institutions to assist them with preparation for release.

102.3. These services and agencies shall be obliged to provide effective and timely pre-release assistance before the envisaged dates of release.

103. Where juveniles are released conditionally, the implementation of such conditional release shall be subject to the same principles that guide the implementation of community sanctions and measures in terms of these rules.

E.16. Foreign nationals

104.1. Juveniles who are foreign nationals and who are to remain in the country in which they are held shall be treated in the same way as other juveniles.

104.2. As long as a definite decision is not yet taken on whether to transfer foreign juveniles to their country of origin, they shall be treated in the same way as other juveniles.

104.3. If it has been decided to transfer them, they shall be prepared for reintegration in their countries of origin. Where possible there should be close co-operation with the juvenile welfare and justice agencies in order to guarantee the necessary assistance for such juveniles immediately upon arrival in their country of origin.

104.4. Juveniles who are foreign nationals shall be informed of the possibilities of requesting that the execution of their deprivation of liberty take place in their country of origin.

104.5. Juveniles who are foreign nationals shall be allowed extended visits or other forms of contacts with the outside world where this is necessary to compensate for their social isolation.

105.1. Juveniles who are foreign nationals and are held in institutions shall be informed, without delay, of their right to request contact and be allowed reasonable facilities to communicate with the diplomatic or consular representative of their state.

105.2. Such juveniles who are nationals of states without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the state which takes charge of their interests or the national or international authority whose task it is to serve the interests of such persons.

105.3. Institutional and welfare authorities shall co-operate fully with diplomatic or consular officials representing such juveniles in order to meet their special needs.

105.4. In addition, foreign juveniles facing expulsion shall be provided with legal advice and assistance in this regard.

E.17. Ethnic and linguistic minorities in institutions

106.1. Special arrangements shall be made to meet the needs of juveniles who belong to ethnic or linguistic minorities in institutions.

106.2. As far as practicable, the cultural practices of different groups shall be allowed to continue in the institution.

106.3. Linguistic needs shall be met by using competent interpreters and by providing written material in the range of languages used in a particular institution.

106.4. Special steps shall be taken to offer language courses to juveniles who are not proficient in the official language.

E.18. Juveniles with disabilities

107.1. Juveniles with disabilities should be detained in ordinary institutions in which the accommodation has been adapted to meet their needs.

107.2. Juveniles with disabilities whose needs cannot be accommodated in ordinary institutions shall be transferred to specialised institutions where these needs can be met.

F. Special Part

F.1. Police custody, pre-trial detention, and other forms of deprivation of liberty prior to sentencing

108. All detained juvenile offenders whose guilt has not been determined by a court shall be presumed innocent of an offence and the regime to which they are subject shall not be influenced by the possibility that they may be convicted of an offence in the future.

109. The particular vulnerability of juveniles during the initial period of detention shall be taken into consideration to ensure that they are treated with full respect for their dignity and personal integrity at all times.

110. In order to guarantee the through care for such juveniles, they shall be assisted immediately by the agencies that will be responsible for them after their release or while they are subject to custodial or non-custodial sanctions or measures in the future.

111. The liberty of such juveniles may be restricted only to the extent justified by the purpose of their detention.

112. Such juveniles shall not be compelled to work or take part in any interventions or activities which juveniles in the community cannot be compelled to undertake.

113.1. A range of interventions and activities shall be available to detained juveniles whose guilt has not been determined.

113.2. If such juveniles request to participate in interventions for juveniles whose guilt has been determined, they shall, if possible, be allowed to do so.

F.2. Welfare institutions

114. Welfare institutions are primarily open institutions and shall provide closed accommodation only in exceptional cases and for the shortest period possible.

115. All welfare institutions shall be accredited and registered with the competent public authorities and shall provide care meeting the required national standards.

116. Juvenile offenders who are integrated with other juveniles in welfare institutions shall be treated in the same way as such juveniles.

F.3. Mental health institutions

117. Juvenile offenders in mental health institutions shall receive the same general treatment as other juveniles in such institutions and the same regime activities as other juveniles deprived of their liberty.

118. Treatment for mental health problems in such institutions shall be determined on medical grounds only, shall follow the recognised and accredited national standards prescribed for mental health institutions and shall be governed by the principles contained in the relevant international instruments.

119. In mental health institutions safety and security standards for juvenile offenders shall be determined primarily on medical grounds.

Part IV – Legal advice and assistance

120.1. Juveniles and their parents or legal guardians are entitled to legal advice and assistance in all matters related to the imposition and implementation of sanctions or measures.

120.2. The competent authorities shall provide juveniles with reasonable facilities for gaining effective and confidential access to such advice and assistance, including unrestricted and unsupervised visits by legal advisers.

120.3. The state shall provide free legal aid to juveniles, their parents or legal guardians when the interests of justice so require.