

“REFORM OF THE JUVENILE JUSTICE SYSTEM IN MOLDOVA” PROJECT

FINAL EVALUATION



The Study was developed and published with methodological and financial support of UNICEF Moldova and Swedish International Development Agency (SIDA).

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The opinions expressed in this book are those of the authors and do not necessarily reflect the policy and views of UNICEF Moldova and Swedish International Development Agency (SIDA).

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May 2012

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ACKNOWLEDGEMENTS

This report was written by Kirsten Anderson, from Coram Children’s Legal Centre, UK. The methodology and data collection tools were designed by the author. Research was carried out by the author, along with Ion Guzun and Sergiu Rusanovschi, Legal Resources Centre, Moldova, who also provided commentary on the draft report. Elizabeth Yarrow, Coram Children’s Legal Centre, provided research assistance in carrying out a review of relevant laws and policy documents. The research process was supervised by Sorin Hanganu, Child Protection Officer, UNICEF Moldova and Elena Laur, Monitoring and Evaluation Officer, UNICEF Moldova.

The author and researchers would like to thank all persons who agreed to be interviewed for the report, and all those who provided quantitative data.

EXECUTIVE SUMMARY

1. Overview of the project

The 'reform of the juvenile justice system in Moldova' project is a four-year project carried out by UNICEF Moldova, and fully funded by the Swedish International Development Agency (SIDA), which provided US\$1,355,000 for the project. The project's goals and objectives, as defined in the original project proposal,¹ are:

- To strengthen the juvenile justice system to ensure child friendly procedures in compliance with the applicable international human rights instruments;
- To align the juvenile justice system in Moldova with European Standards, in accordance with the EU – Republic of Moldova Action Plan and National Development Plan, that is:
 1. strengthen the juvenile justice system
 2. ensure decent detention conditions
 3. improve legislation on alternatives to detention
 4. develop probation service
 5. prevent juvenile delinquency

The expected outputs of the project were defined as:

1. *Continued legal reform*: The penal legislation is revised to address the length of pre-trial detention for children and provisions related to diversion and alternatives for children such as mediation and probation developed.
2. *Development of the Probation Service*: A Probation Service within the Ministry of Justice with specialised staff supervising alternatives in cases with children developed.
3. *Provision of effective legal assistance*: Effective legal assistance by identification and training a pool of ex-officio lawyers to be able to act in cases of children in conflict with the law provided
4. *Provision of services to children in detention*: Services to children in detention by developing specialised educational programmes and materials for children in pre-trial detention, having regard to the range of ages, abilities and average length of stay in pre-trial detention provided and detention conditions improved.
5. *Prevention of juvenile delinquency*: A baseline evidence-based evaluation on causes of juvenile delinquency, including aspects of alcohol and drug abuse (gender and age disaggregated data) conducted and community models to prevent juvenile delinquency established.
6. *Training of juvenile justice professionals*: In-service and pre-service training on juvenile justice is provided by implementing, on a regular basis, the JJ Training Manual and strengthening the capacity of the Law Department within the State University of Moldova to teach children's rights.

The expected results of the project (and the key measurements for defining its success) were defined as:

- To reduce the total number of children in detention by 30%;

¹ UNICEF Moldova – Government of Sweden, *Reform of the Juvenile Justice System in Moldova: Project Proposal*, November 2007, p. 3.

- To reduce by 50% the length of pre-sentence detention of children; and
- To ensure 100% legal representation for all children deprived of liberty.

2. Evaluation objectives and intended audience

The end-of-project evaluation was requested by UNICEF, and its purpose was to evaluate the results and achievements of the project in relation to the project objectives. Specifically the purpose was:

- To evaluate contribution of the project to juvenile justice reform, including contribution to the development of new policies and legislation in the area;
- To provide insight into the current status of juvenile justice / justice for children system and strategic recommendations for the next steps in the reform process relevant for all engaged stakeholders; and
- To evaluate the impact of the reform on children who have been in contact with the law through children's own opinions.

The evaluation was also considered necessary to inform further policy work and programming by UNICEF.

3. Evaluation methodology

A desk review of relevant international and domestic laws, guidelines and policy documents; UNICEF internal and published documents; government documents; and other resources was initially carried out. A methodology and field visit plan was then developed. Available quantitative data on offending by children, and the operation of the juvenile justice system, was analysed and additional quantitative data was sought, in order to measure the impact of the project against the project's expected results. A field visit was then conducted from 19 – 30 September, 2011. Researchers carried out semi-standardised interviews with a range of national-level representatives, rayon-level professionals working in the juvenile justice system, NGOs and children in conflict with the law; and conducted observation visits to detention facilities.

4. Main findings and conclusions

The project was largely successful in achieving expected results. Significantly, from 2007 to 2010, the total number of children in detention dropped by 68%, which far exceeded the expected results as set out before the commencement of the project. As well as a drop in absolute terms of the number of children in detention, the rate of children being placed in pre-trial detention as a proportion of all child accused, and the proportion of children placed in prison of all children sentenced had reduced from 7% and 14% (2007) to 2% and 9% (2010), respectively.

Unfortunately, data on the length of time children spend in pre-trial detention does not appear to be either collected or reported up to a central level where it can be analysed and monitored. Therefore, it was not possible to measure this result.

While there was no quantitative data available on the percentage of children in detention who have been referred to a legal representative, interviews carried out with children in detention and juvenile justice professionals did suggest that all children in detention, as a matter of course, have a

lawyer allocated to them. If they cannot afford a lawyer, one will be supplied through the National Council for Legal Aid.

Relevance of project activities

All of the project activities were found to be relevant to the aims of bringing law and practice in Moldova into compliance with international law and creating a child-friendly juvenile justice system, which also is in accordance with the human rights based approach to development. However, the legal limit on pre-trial detention has only limited relevance, as it does not apply to children held during trial or while awaiting appeal. The absence of quality standards and indicators for legal representatives also impaired the relevance of this project component. To comply fully with international human rights standards, children must have access to quality legal representation. This is necessary to ensure that children have access to justice and can claim their rights.

Effectiveness of project activities

The project activities were mostly effective in creating a child-friendly juvenile justice system, which complies with international standards. The legal developments had the effect of ensuring greater compliance with international law. Training and support to probation officers and detention facilities has had the effect of ensuring that new legal provisions are operationalised and being used by professionals in practice. However, the effectiveness of the legal provisions on mediation and diversion has been limited by the lack of availability of mediators and of high-level support services for children who are diverted out of the criminal justice system.

Amendments limiting the length of pre-trial detention for children have had only limited effectiveness. The legal limit on pre-trial detention does not apply to children during trial or while awaiting appeal, and therefore has not addressed the problem of children spending inordinately lengthy periods of time in detention in these circumstances.

The establishment and development of a probation service has been mostly effective in encouraging the use of diversion and non-custodial sentencing; both requirements under international law. UNICEF has ensured good coverage of probation officers throughout Moldova. However, the effectiveness of probation has been undermined by high staff turnovers, very low salaries, and a lack of social work expertise among probation officers. Nonetheless, probation officers have ensured that the number of pre-sentence reports produced has increased, though they are not produced in all cases. Probation officers are able to monitor children who receive non-custodial sentences. However, the social and psychological support services they are able to offer children are quite limited. The pilot projects in Balti and Leova have been largely effective in ensuring a more 'joined up' approach in the delivery of services for children in conflict with the law, and the placement of psychologists in these projects has been effective in ensuring that these children have at least a general level of social and psychological support.

Legal assistance and services provided by the specially trained public defenders was quite effective; however, since the discontinuation of these lawyers, legal assistance and representation provided to children has not been effective, due to the very low quality of these lawyers.

Improvements to the material conditions in detention facilities have been effective in ensuring that these conditions comply with international human rights standards. The provision of educational programmes in detention facilities has been of limited effectiveness due to the lack of resources and resulting lack of lessons provided to child detainees. Education programmes are also not sufficiently tailored to the individual needs of each detainee. Supporting the placement of psychologists in detention facilities has been somewhat effective.

Impact of project activities

The project activities have mostly had a very positive impact on children in conflict with the law. A large proportion of children are being diverted out of the formal criminal justice system, which inevitably avoids the negative social and psychological impacts of labelling these children ‘criminals’. Children in detention facilities have been positively impacted by vastly improved material conditions, and, to a lesser extent, by educational programmes, psychological support, and aftercare services. The positive impact of the project on children has, however, been impaired by the lack of higher-level services at the community level for children who are diverted or sentenced to non-custodial measures.

Sustainability of the project activities

Project activities are largely sustainable beyond the life of the project. However, unfortunately, it appears that the establishment of public defenders was not sustainable, and the lack of resources available to probation services will impair the ability for the service to deliver quality support to children in conflict with the law beyond the project period.

5. Key recommendations

Recommendations have been grouped and prioritised according to the following categories:

- Short-term: should be finalised within one year
- Medium-term: should be finalised within three years
- Long-term: should be finalised within five years

1. Improve the collection and collation of data

- LONG-TERM: The Government should develop a centralised data collection system on justice for children, using a cross-cutting / inter-ministerial set of indicators and data fields. This could be led by the Ministry of Justice.

2. Improve the quality of legal representation for children

- MEDIUM TERM: An alternative legal aid provision for children in conflict with the law should be developed and implemented. This could be achieved either by re-activating the specialist public defender programme for children in conflict with the law, or by supporting a accreditation system for specialised legal aid lawyers, which could involve the provision of training and registration of specialised lawyers who may take children’s cases. Incentives should be provided to these legal aid lawyers to encourage quality legal representation for children.

3. Development of Probation Service

- LONG TERM: The Ministry of Justice should establish the Probation Department as a separate, independent Department within the Ministry. The Ministry of Justice should support the development of the Probation Service, by providing assistance for the development of a five-year strategy document, and further development and adoption of guidelines and regulations. The Ministry should also support social welfare / psychological training for probation officers, and should work to ensure induction training is developed and implemented, which focuses on social welfare and psychology. It should also consider establishing psychologists in regions other than Balti and Leova to work with probation officers in delivering psycho-social support and services to children who receive diversion measures and children who receive non-custodial sentences.

4. Improve access to services for children at risk of offending and children in conflict with the law with high level needs

- MEDIUM TERM: The Government should support the development of psycho-social services for children who receive diversion measures.
- SHORT TERM: A proportion of the state budget should be allocated to the payment of registered mediators. The Ministry of Justice should consider whether the Probation Service would be the best placed institution to implement mediation.
- MEDIUM TERM: In regions other than Balti and Leova, the Ministry of Justice should consider supporting the work of a psychologist to work with children who receive a non-custodial sentence modelled on the projects in Balti and Leova. On completion of the pilots in Balti and Leova, a thorough evaluation should be carried out and, based on the result of the evaluation, the Ministry should consider supporting the establishment of prevention programmes in other rayons.
- SHORT TERM: The Ministry of Justice should support probation officers in developing aftercare services in Rusca and in pre-trial detention facilities.

5. Improve educational and psychological services for children in detention

- SHORT TERM: The Ministry of Education should increase the budgetary allocation to children in pre-trial detention. The Ministry should ensure that sufficient teaching staff and materials are available to ensure that each child receives a full-time education. Also, the Ministry should support the development of training materials and guidelines on conducting individual assessments of children to ensure that they receive the right level of education and should support the development of remedial educational programmes for children who need them.
- SHORT TERM: The Ministry of Education should develop a procedure to ensure that continuity in education progression is maintained for children who are referred from pre-trial detention facilities to prisons.

- SHORT TERM: An additional psychologist should be appointed at each of the detention facilities in which children are detained.
6. Shorten length of detention during trial and while awaiting appeal
- SHORT TERM: An explicit time limit should be set in law which limits the length of time children may spend in detention during trial and while awaiting appeal. The Ministry of Justice should also support the development of an individual case management monitoring mechanism to measure the length of time each child spends in pre-trial detention, and in detention during trial and while awaiting appeal. Also, a procedure for notification is needed, so that a Judge is made aware when the pre-trial detention limit for each child has been reached.
7. Create specialised juvenile court procedures / juvenile judges
- MEDIUM TERM: Specialist juvenile judges and specialist court procedures for cases involving children should be designated and developed. However, in order to do this, the case allocation system will need to be changed. Specialist judges and procedures could be built into the existing court structure, without the need to establish separate specialist courts.
8. Prohibit use of solitary confinement
- SHORT TERM: The use of solitary confinement contravenes international law, and is harmful to children in detention. A prohibition on the use of solitary confinement should be set out in law, which applies to children in all detention facilities. The Ministry for Justice should investigate and adopt alternative disciplinary measures that could replace solitary confinement, for instance, the removal of privileges, which was been used in Chisinau pre-trial detention facility.

"...We talk about how to behave, how to live in the world...I know now what I did was wrong."

15 year old boy referred to Leova probation office, following sentencing

1. INTRODUCTION

The 'reform of the juvenile justice system in Moldova' project is a four-year project carried out by UNICEF Moldova, and fully funded by SIDA. The purpose of this evaluation is to examine and assess the results and achievements of this reform project.

UNICEF began working in the field of juvenile justice in Moldova in 2001 with the purpose of supporting the Government to address gaps between international juvenile justice laws and domestic laws and practices, which had resulted in children's rights not being fully protected within the system in Moldova. The Government of the Republic of Moldova ('Moldova') acceded to the UN Convention on the Rights of the Child (CRC) on 26 January 1993. In doing so, the government is obliged to undertake all necessary steps, including legislative, administrative and other measures to implement the rights contained in the Convention,² including those rights provided to children in conflict with the law.

Moldova underwent its first periodic review by the UN Committee on the Rights of the Child (CRC Committee) in 2002. In its concluding observations, the CRC Committee, while recognising the efforts made by the government, including the adoption of the 2002 Penal Code, expressed concern that there was no separate system for juvenile justice in Moldova. The CRC Committee also noted that there was no legal provision limiting the period of pre-trial detention, and that "conditions in juvenile detention are very poor and offer little possibility for rehabilitation, and that girls are detained in the same facilities as adult women".³ The Committee made a number of recommendations to the government to bring juvenile justice policy, law and practice in Moldova in conformity with international human rights law.⁴

In 2009, the CRC Committee, while welcoming a number of achievements made by the Government of Moldova, largely reiterated the 2002 concerns and observations and recommended that the Government "establish a separate system of juvenile justice fully in line with the Convention."⁵

UNICEF began working in the field of juvenile justice in Moldova with the purpose of supporting the Government to address these issues. Work commenced in 2001, when UNICEF sponsored a series of round-table discussions with professionals working in the juvenile justice system, and a training-of-trainers workshop for judges, lawyers and police officers.⁶ The following year, a Juvenile Justice Working Group was established under the overall coordination of the National Council for Protection

² Article 4, CRC

³ UN Committee on the Rights of the Child, *Concluding Observations: Moldova, 2002*

⁴ UN Committee on the Rights of the Child, *Concluding Observations: Moldova, 2002*, para. 52. Relevant excerpts are attached at Annex A

⁵ UN Committee on the Rights of the Child, 'Concluding Observations: Moldova', 20 February 2009, CRC/C/MDA/CO/3, paras. 72 and 73.

⁶ UNICEF Moldova, *Annual Report 2001*, p. 14.

of Child Rights, and the reform of the juvenile justice system was identified as a priority within the UNICEF/Government of Moldova Country Programme for 2002 – 2006. In 2003, the Working Group was actively involved in the adoption of inclusions in the Penal Code and Criminal Procedure Code of special procedures for children.⁷ In the same year, a group of national experts concluded an analysis of the situation of children at risk of or in conflict with the law, which was supported by the Juvenile Justice Working Group. The results of this assessment were the basis for the development of a three-year project financed by the Government of the Netherlands which ran from 2003-2005. This three year project had three components: legal reform, policy development and advocacy; capacity-building (training); and “alternatives to deprivation of liberty, social reintegration and legal aid to children.”⁸

UNICEF commenced its latest programme of reform in January 2008, to be implemented over a four-year period. The purpose of this evaluation was to assess this programme of reform spanning January 2008 - December 2011. Funding for the current project is being entirely provided by the Swedish International Development Cooperation Agency (SIDA), and will expire in December 2011. The total funding provided by SIDA is US\$1,355,000.

The project goal, as set out in the original proposal to SIDA, is to “ensure child friendly procedures in compliance with international human rights instruments.”⁹

UNICEF managed the project budget and UNICEF’s Child Protection officer was the project lead. UNICEF also employed a national Justice for Children Expert to work with stakeholders in government, particularly the Ministry of Justice.

2. THE JUVENILE JUSTICE REFORM PROGRAMME

2.1 Social, economic legal and political context

Moldova is a small land-locked country in Eastern Europe, which became an independent republic in 1991. The country is a parliamentary republic, with a President as head of state and a Prime Minister as head of government. However, a strip of territory that is internationally recognised as part of Moldova, on the east bank of the river Nistru, has been under the *de facto* control of the breakaway government of Transnistria since 1990, following fighting prior to Moldova declaring its independence in 1991. The Moldovan parliament granted autonomous status to the Gagauz region, a Turkic-speaking region in the south-west of the country, in 1994.

Moldova has been under the rule of a communist party since 2001. A new parliament was elected in 2009, leading to several months of civil unrest. The political situation has remained unsettled since, with deep divisions between the ruling coalition Government and the opposition. An Acting President, Marian Lupu, was instated in 2010, following his election as Speaker of Parliament.

Children in Moldova

The population of Moldova, at 1st January 2011, was 3,560,430 (excluding the Transnistria region).¹⁰ Around 21 per cent of the population – 745,606 persons – are below the age of 18 years.¹¹ While

⁷ *Criminal Code of the Republic of Moldova 2002; Criminal Procedure Code of the Republic of Moldova 2000* (Title III, Chapter I, Articles 474 – 478).

⁸ UNICEF Regional Office for Central and Eastern Europe / Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova*, January 2010, p. 35.

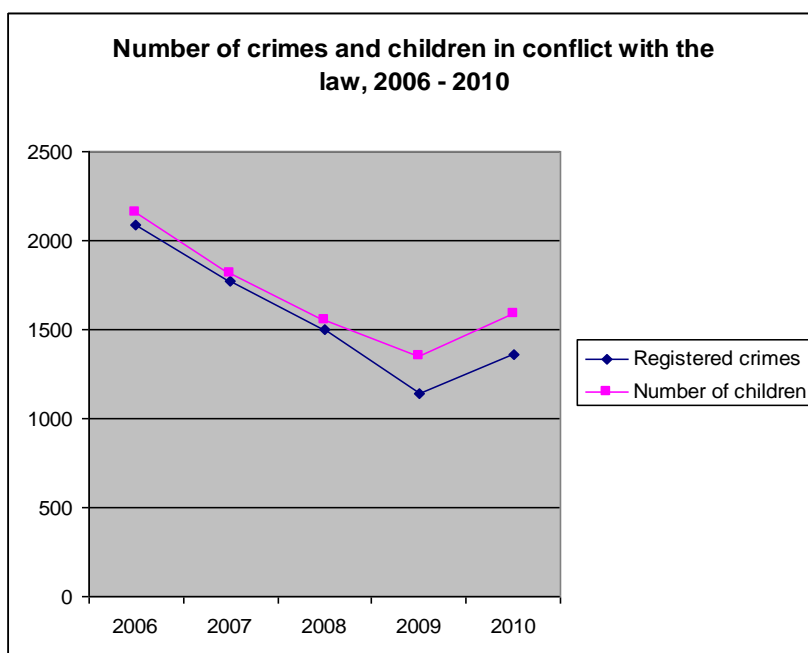
⁹ UNICEF, *Reform of the Juvenile Justice System in Moldova: Project Proposal*, 2008 – 2011, November 2007, p. 3.

economic and living conditions have generally improved in Moldova in the past decade,¹² poverty remains widespread, and Moldova is expected to be one of the countries in the region that is hardest hit by the global economic crisis.¹³ Central and local government budgets were reduced by 20% in 2009, in response to the decrease in government income.¹⁴ A significant proportion of children are currently living in poverty. In 2010, the overall poverty rate was 21.9%, and children in poverty constituted 24.2% of the total child population. This includes 1.9% of children who are living in extreme poverty.¹⁵ Poverty disproportionately affects children in rural areas, where the child poverty rate is around 33%, compared to a rate of 9.8% in urban areas.¹⁶

The number of children living in institutions has fallen in recent years; however, just under 7,000 children were living in institutions in 2010.¹⁷ In tens of thousands of other families, one or both parents are working abroad due to the lack of employment opportunities locally, leaving children without one or both parents.¹⁸

Extent and nature of offending by children

The rate of children who come into conflict with the law has decreased significantly in the past five years, except for an increase from 2009 – 2010. The total number of children in conflict with the law was 1,586 in 2010, compared to 2,160 in 2006.



TransMonee, National Bureau of Statistics

¹⁰ National Bureau of Statistics, www.statistica.md

¹¹ Annual Social Report, p. 108 – 109, <http://mpsfc.gov.md/filerapoarte/RSA%202010%20en.pdf>

¹² From 2000 – 2006, the Gross Domestic Product (GDP) increased by 30% and poverty declined by a half. However, in 2006, 26.5% of Moldovans lived in poverty: UNICEF, Revised Country Programme Document: Republic of Moldova, 26 October 2006, E/ICEF/2006/P/L.16-Rev.1, para. 2.

¹³ Government of Moldova and UNICEF, *Country Programme (2007 – 2011) Mid Term Review*, para. 4.

¹⁴ Ibid, para. 6.

¹⁵ Annual Social Report, p. 108 – 109, <http://mpsfc.gov.md/filerapoarte/RSA%202010%20en.pdf>

¹⁶ Ibid.

¹⁷ TransMonee Statistical Template, UNICEF

¹⁸ Ibid

It was reported by the Ministry of Interior, at a justice for children conference that took place during the author's field visit, that, in the first eight months of 2011, 1071 crimes were registered with 846 child suspects, indicating that, by the end of 2011, there may be a further decrease in the number of children coming into conflict with the law.

In 2010, around 70 children under the minimum age of criminal responsibility (which is 14 years) engaged in criminal behaviour.¹⁹

The majority of crimes committed by children are minor and other property offences, including petty theft (63%), robbery (11%), hooliganism (4%) and drug-related theft (3%).²⁰ However, concerning, the extent of serious offences against the person, including murder and rape, appears to be increasing. Of the total number of rapes committed in Moldova in 2009, 11% were perpetrated by children, as compared to 6% in 2000. Out of the total number of crimes committed in 2009, only 122 were committed by girls, compared to 1,231 which were committed by boys.²¹

There appears to be a strong correlation between low educational attainment and unemployment and criminal behaviour: of the total number of children committing crimes in 2010, 87% were out of school and unemployed.²² 20% of children had one or both parents living out of the country, which is the same as the national average.²³

The number of registered criminal cases involving child victims rose from 365 cases in 2009 to 533 cases for the first 10 months of 2010. This included 164 cases of sexual violence; 80 cases of domestic violence; 37 cases of violence in school; and 18 cases of trafficking.²⁴

Legal Framework

There is no separate juvenile justice act in Moldova, though the Criminal Procedure Code 2003 contains a separate section on 'procedures in cases involving juveniles.'²⁵ However, this does not provide an exhaustive list of provisions applicable to children, and many general criminal procedural laws and rules continue to apply to adults and children alike. The UN Committee on the Rights of the Child in its Concluding Observations to the State both in 2002 and 2009 recommended that a separate juvenile justice law be developed to bring the juvenile justice system fully into compliance with the UN Convention on the Rights of the Child.

The most relevant laws are the Criminal Code and the Code of Criminal Procedure, which were enacted in 2002 and 2003, replacing previous versions of these laws. Several amendments to these laws were enacted in 2003, 2006, 2007, 2008 and 2009 to bring them into compliance in with international standards on children's rights.

¹⁹ TransMonee, National Bureau of Statistics, 2010

²⁰ Ibid.

²¹ TransMonee, National Bureau of Statistics, 2010. The Ministry of Interior reported at a Justice for Children conference held in September 2011 that, in the first eight months of 2011, 954 boys and 117 girls were arrested.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Section III, Chapter I, Criminal Procedure Code 2003 (Articles 474 – 487).

The Criminal Procedure Code 2003 governs all provisions relating to criminal justice proceedings, including the competence and structure of the court system, the parties and participants in criminal proceedings, arrest, investigation and preventative detention, trial, the execution of sentences and alternatives to detention.

Article 7 of the Criminal Procedure Code provides that: “Criminal proceedings shall be carried out in strict compliance...with international treaties to which the Republic of Moldova is party”, which includes the UN Convention on the Rights of the Child, and that: “If during proceedings the court finds that the legal provision to be applied is contrary to international treaties on human rights and fundamental freedoms to which the Republic of Moldova is party, the court shall directly apply international provisions.”

The Criminal Code of 2002 establishes the age of criminal responsibility, identifies acts that are considered to be criminal offenses, and provides for rules and guidelines regarding sentencing.

2.2 Project Goals and Objectives

The goals and objectives of the project were largely informed by an evaluation of the 2003 – 2005 project that was carried out by an international expert in 2006, which made a number of recommendations about future programme activities.²⁶

The project’s goals and objectives, as defined in the original project proposal,²⁷ are:

- To strengthen the juvenile justice system to ensure child friendly procedures in compliance with the applicable international human rights instruments;
- To align the juvenile justice system in Moldova with European Standards, in accordance with the EU – Republic of Moldova Action Plan and National Development Plan, that is:
 1. strengthen the juvenile justice system
 2. ensure decent detention conditions
 3. improve legislation on alternatives to detention
 4. develop probation service
 5. prevent juvenile delinquency

The priority areas for reform and the expected outputs in each area of the current project are:²⁸

| PRIORITY AREA | EXPECTED OUTPUTS |
|---------------------------|--|
| <i>Primary areas</i> | |
| 1. Continued legal reform | The penal legislation is revised to address the length of pre-trial detention for children and provisions related to diversion and alternatives for children such as |

²⁶ Steven Malby, Children’s Legal Centre, *Evaluation of UNICEF Project: Reform of the Juvenile Justice System in Moldova* (2006).

²⁷ UNICEF Moldova – Government of Sweden, *Reform of the Juvenile Justice System in Moldova: Project Proposal*, November 2007, p. 3.

²⁸ UNICEF Moldova – Government of Sweden, *Reform of the Juvenile Justice System in Moldova: Project Proposal*, November 2007, p. 5 and 18 – 19.

| | |
|---|--|
| | mediation and probation developed |
| 2. Development of the Probation Service | A Probation Service within the Ministry of Justice with specialised staff supervising alternatives in cases with children developed |
| 3. Provision of effective legal assistance | Effective legal assistance by identification and training a pool of ex-officio lawyers to be able to act in cases of children in conflict with the law provided |
| <i>Secondary areas</i> | |
| 4. Provision of services to children in detention | Services to children in detention by developing specialised educational programmes and materials for children in pre-trial detention, having regard to the range of ages, abilities and average length of stay in pre-trial detention provided and detention conditions improved |
| 5. Prevention of juvenile delinquency | A baseline evidence-based evaluation on causes of juvenile delinquency, including aspects of alcohol and drug abuse (gender and age disaggregated data) conducted and community models to prevent juvenile delinquency established |
| 6. Training of juvenile justice professionals | In-service and pre-service training on juvenile justice is provided by implementing, on a regular basis, the JJ Training Manual and strengthening the capacity of the Law Department within the State University of Moldova to teach children's rights |

The project goals, objectives and expected outputs are relevant to the Moldovan context and conform to the principles of rights-based programming, which requires that: development programmes further the realisation of human rights standards; that human rights standards guide all stages of the programming process; and that development activities contribute to the development of the capacities of duty-bearers to meet their obligations and / or for rights holders to claim their rights.²⁹

They are also consistent with objectives contained in key national policy and strategy documents, and UN documents, along with the recommendations made by the UN Committee on the Right of the Child during Moldova's most recent periodic review. In particular, project objectives / goals are consistent with outcomes in the UN Development Assistance Framework (UNDAF) for Moldova for

²⁹ *The Human Rights Based Approach to development cooperation: Towards a common understanding among UN agencies*

the period 2007 – 2012, National Development Strategy for Moldova for 2008 – 2011 and the UNICEF Moldova Country Programme Document (CPD) for 2007 – 2011.³⁰

Ensuring consistency with national strategies and plans and UN programming and strategy documents is essential in ensuring that the project outcomes and outputs will have a positive impact, as they will have the necessary national-level ‘buy in’, and that outcomes are sustainable, as they meet national-level priorities and goals.

As the overall goal of the project is to ensure that the juvenile justice system in Moldova accords with international laws and standards, the recommendations of the UN Committee on the Rights of the Child are a useful measurement by which to examine the project objectives. The project goals / objectives are largely consistent with the recommendations of the UN Committee on the Rights of the Child arising from Moldova’s most recent periodic review by the Committee in 2009.³¹

Assessment of the project goals and objectives

On the whole, therefore, the project’s goals and objectives are comprehensive and holistic. They are based on and designed to address gaps between domestic law and practice and international standards, and therefore highly relevant to the overall goal of bringing juvenile justice laws and practices in Moldova into line with international standards. However, there are some gaps. According to an evaluation of juvenile justice reform in Moldova published in 2010, the project activities “appear to focus more on improving conditions in facilities than on developing the capacity to assist offenders prepare for successful reintegration into society and the community.”³² Also, accountability for rights violations has not been directly addressed by the project, which is particularly concerning, given that “the use of violence by police is amply documented.”³³ There are also no objectives related to improving data collection systems. Under the 2003 – 2005 reform project, the establishment of a comprehensive data collection management system failed due to the lack of willingness on the part of some ministries to share information. The project proposal noted that “statistical data gathering on children in the juvenile justice system is in complete disarray...with insufficient and contradictory information.”³⁴ While the system has been somewhat improved by the collation and publication of data by the National Bureau of Statistics, data is currently still published separately by the Ministry of Interior, Ministry of Justice and Superior Council of the Magistracy.³⁵ Failure to include specific objectives and outputs on developing a centralised data collection system is a shortcoming in the planning of the 2008 – 2011 reform project.

³⁰ Extracts are set out at Annex B

³¹ In 2009, the UN Committee expressed concern that: “there are no alternative procedures to the deprivation of liberty, that children convicted of crimes are held in adult detention facilities, that penalties for serious crimes are still very high, that pre-trial detention remains excessive and that the right to due process is frequently violated.” The Committee made a number of recommendations in relation to children in conflict with the law (UN Committee on the Rights of the Child, *Concluding Observations: Moldova*, 30 January 2009, UN Doc. CRC/C/MDA/CO/3, para. 72).

³² UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova* (2010), p. 37.

³³ UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova* (2010), p. 37.

³⁴ UNICEF, *Reform of the Juvenile Justice System in Moldova* (2002), p. 12.

³⁵ UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova* (2010), p. 15.

Also, the project objectives and goals do not explicitly aim to address discrimination and promote gender equality, which is an important component in itself and also an important element of rights-based programming. The goals and objectives are not based on an assessment of any grounds of discrimination that may exist within the juvenile justice system, for example, a disproportionate representation of particular ethnic groups. Also, the unique needs of girls in the justice system has not been taken into account. While the number of girls in conflict with the law is relatively low in Moldova, girls tend to have unique pathways into crime and particular needs within the criminal justice system. The UN Committee on the Rights of the Child has warned states that, “[s]ince girls in the juvenile justice system may be easily overlooked because they represent only a small group, special attention must be paid to the particular needs of the girl child, e.g. in relation to prior abuse and special health needs.”³⁶ Failure to explicitly address these issues is a shortcoming in the design of the programme’s objectives, goals and activities.

The project goals, objectives and activities do not include child participation, though the evaluation of the project involved using participatory research methods, in which children in conflict with the law were involved in semi-structured interviews. According to Article 12 of the UN Convention on the Rights of the Child, states must “assure to the child who is capable of forming his or her own views freely in all matters affecting the child, the views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” One of the shortcomings in the project design, therefore, is not working to ensure that children participate in decision-making in the juvenile justice system, either on an individual level or at the broader level of policy development.

2.3 Inputs and outputs

Financial inputs

As mentioned, the programme of reform was entirely funded by SIDA, which donated USD 1,355,356.90 for the implementation of the programme, and as at 25 December 2011, only USD 3,236.78 (or 0.24%) had not been spent.³⁷

Financial inputs have not been grouped or managed by UNICEF according to the six project components. Instead, spending has been monitored and financial information collated according to internal UNICEF programme areas. This system presumably conforms to UNICEF internal reporting requirements, but makes it very difficult to assess financial inputs according to the project’s key outputs and results, and in turn, creates some difficulty in making findings as to the efficiency of project expenditure.³⁸

³⁶ UN Committee on the Rights of the Child, General Comment No. 10: Children’s rights in juvenile justice, CRC/C/GC/10, 25 April 2007, para. 40.

³⁷ UNICEF, ‘Utilisation of donor funds and expenditures’ (internal document)

³⁸ See ‘Efficiency’ section in findings, below.

Amounts spent under each of these programme areas are:

| Programme area | Amount spent | Key activities |
|--|---------------------|---|
| Child protection (addressing violence, abuse and neglect against children) | USD 496,557.00 | <p>Training for juvenile justice professionals</p> <p>Materials and equipment for JJ working group, probation offices</p> <p>Education supplies for detention centres</p> <p>Recruitment of teacher in pre-sentence detention facilities</p> <p>Local expert (JJ)</p> <p>Improvement of physical detention conditions</p> <p>Salary of child rights officer</p> |
| Child protection (support for justice for children reform) | USD 493,981.40 | <p>Technical assistance to the MoJ including to establish JJ pilots</p> <p>Training workshops for JJ professionals</p> <p>Salaries for child rights officers</p> |
| Child protection (programme support) | USD 35,688.55 | Internal administrative costs |
| Social policy and advocacy (social policy for children) | USD 30,367.88 | Support for Human Rights Ombudsperson |
| Social policy (social policy) | USD 126,052.69 | <p>Support for Human Rights Ombudsperson and National Council for Human Rights</p> <p>Support to Child Rights Information Centre (NGO) on monitoring of child rights</p> |
| Social policy (Advocacy and communication) | USD 58,639.91 | Youth media activities |
| Social policy (Advocacy and communication) | USD 21,416.05 | Child Rights Monitoring |
| Social policy and advocacy (social policy for children) | USD 6,945.00 | Printing statistical publication |

| | | |
|--|---------------|---|
| Social policy (programme support) | USD 26,188.74 | Internal costs, including salaries for mass media officer and programme support officer |
| HIV/AIDS and vulnerable adolescents (HIV-adolescent health and vulnerable adolescents) | USD 10,000.00 | Situation analysis |
| HIV/AIDS and vulnerable adolescents (Management and human capacity) | USD 965.60 | Staff retreat |

Inputs / Outputs in each of the project's priority areas

The inputs and outputs of the reform programme were structured according to the programme priority areas. As noted above, priority areas were successfully identified to address gaps between international standards and best practice and Moldovan law and practice. While each of the project priority areas were related and converged to contribute to overall project outcomes and results, they are set out here according to the six priority areas, for ease of reference.

(a) Continued Legal and Policy Reform

National Council for the Protection of Child Rights / National Juvenile Justice Working Group

The National Council for Protection of Child Rights (NCPCR) was reactivated in 2010, following an advocacy campaign carried out by UNICEF. UNICEF signed a Memorandum of Understanding with the State Chancellery covering the period June 2010-November 2011, which set out the support that would be provided to the Council by UNICEF. UNICEF employs two full-time members of staff, who constitute the secretariat of the NCPCR, and provide other support for the operation of the Council.

In 2010, the NCPCR decided to re-activate a Working Group on juvenile justice. The National Juvenile Justice Working Group was originally established in 2001, but had since 2008 ceased to function. The NCPCR decided to establish, with UNICEF's support, a working group with a broader remit on Justice for Children. This includes not only children in conflict with the law, but also child victims and witnesses. The Working Group includes representatives of the Ministry of Justice, Ministry of Interior, Ministry of Education and Youth, Ministry of Social Protection, Family and Child, the Supreme Court, the General Prosecutor's Office and NGOs. UNICEF's expert on justice for children is heavily involved in steering the activities of the Working Group. The Working Group meets once a month or once every two months.

The Working Group has also, with UNICEF's support, commissioned national experts to carry out six studies that will assist in implementing the Strategy. The six studies concern different aspects of the juvenile justice system: monitoring pre-trial detention; solitary confinement; complaints procedures; indicators; children under the minimum age of criminal responsibility; and children in conflict with the law.

Law on Probation

In 2008, the Working Group assisted in the drafting of the Law on Probation, which was adopted in June 2008. The law sets out the scope, remit, principles and areas of activity for the probation service and how the service is to be organised and staffed.³⁹

The law contains a number of specific provisions on children: that probation shall be carried out such that it “respects” the “interest” of the juvenile, with the aim of temporarily protecting the juvenile and his/her “socialisation and re-integration in the biological or adopting family, family-type orphanage, as well as in the community”.⁴⁰ It provides that probation actions towards minors shall:

- ensure rehabilitation
- consider the age and personal particularities of the child
- establish and maintaining relations with agencies protecting children’s rights.
- monitor the situation of pre- and post-integration of the child into family life.
- develop the capacity of the family and community to ensure assistance for the child
- foster relations with media that consider the best interests of the child⁴¹

Secondary legislation to help operationalise the Law on Probation started to be developed in 2009 by the Working Group on Justice for Children. The secondary legislation deals with: requirements for hiring staff; operating procedures; job descriptions; and so on. However, it was reported that this secondary legislation has not yet been adopted due to institutional changes of the Probation Service and its subordination to the Department of Penitentiary Institutions.

In addition, in 2010, four Guidelines were adopted on: community participation in the activities of the probation service for children; what children need to know about the probation service; a commentary on the Law on Probation; and guidelines for the specialisation of juvenile probation officers.⁴²

³⁹ The law sets out the main ‘directions’ of the probation service, which are:

- a) to reflect the psycho-social image of the person in conflict with criminal law;
- b) to formulate suggestions for the court with regard to the main activities involving the person in conflict with criminal law necessary in order to facilitate the process of resolving of his/her psycho-social problems;
- c) to deliver information about the person in conflict with criminal law, his family and the social environment he/she originates from;
- d) to ensure co-operation of the person in conflict with criminal law and his/her observance of the conditions established in the respective court decision;
- e) to counsel the probation subjects in resolving their personal problems that resulted in commitment of crime;
- f) to carry out individual and group programs and to focus the community resources on resolving the psycho-social problems of the probation subjects;
- g) to control the persons in conflict with criminal law; and
- h) to coordinate social and therapeutic programs for minors.

⁴⁰ Article 13(1)

⁴¹ Article 13, Law on Probation 2007. This article also states that in carrying out probation activities, the probation counsellor can participate in:

- a) local programs that create juvenile justice and child protection services
- b) monitoring and evaluating protection and justice systems for children and families
- c) creating local and national information systems including data about vulnerable children and families, and protection services that are available.
- d) developing and promoting family and child protection services, and prevention programs for children vulnerable to coming into conflict with the law.
- e) Promoting mechanisms to involve the private sector in improving the situation for children and their families.

⁴² The Government Decision Nr. 827 dated 10.09.2010 on the Organization and Functioning of the Probation Bodies/Services was approved.

Law on Mediation

The Law on Mediation was adopted in 2008 and entered into force on 1 January 2009. The law provides that, in criminal matters, mediation may be requested by the victim or by the accused, or may be suggested by the prosecutor or by the court, at any stage of proceedings.⁴³

UNICEF supported the licensing of Mediators throughout 2009.

Legal provisions on diversion

Several provisions were inserted into the Criminal Code and Criminal Procedure Code in 2008, giving prosecutors and courts the power to impose diversion measures on child offenders, as an alternative to putting a child through the formal criminal justice system. Article 483 of the Criminal Procedure Code was amended and contains a power for the prosecutor to terminate criminal proceedings where a juvenile has committed a minor or “less serious” crime, and where this is their first offence.⁴⁴ In such cases the juvenile may be instead subject to coercive educational measures set out in articles 54 and 104 of the Criminal Code, or referred to a medical institution.⁴⁵

Article 53 of the Criminal Code, which entered into force in February 2008, provides that a person (including a child) may be exempted from criminal liability by a prosecutor or court. Article 54 provides that, “a person who commits for the first time a minor or less serious crime may be exempted from criminal liability according to the provisions of criminal procedure law provided that it was stated that the juvenile’s rehabilitation is possible without assigning criminal liability.” In these cases, a range of coercive educational measures may be applied to the child, including:

- Warnings;
- Placing juveniles under the strict supervision of parents or persons replacing parents or specialised state bodies;
- Requiring juveniles to repair the damage caused taking into consideration their financial conditions;
- Requiring juveniles to follow a course of psychological rehabilitation treatments; or / and
- Placing juveniles in a special education / re-education institution or a medical re-education institution.⁴⁶

Article 55 allows for the imposition of ‘administrative liability’ in lieu of assigning criminal responsibility to a child, where the child commits a first time minor or less serious offence, and admits his or her guilt, and repairs damage caused by the crime. A range of administrative penalties may be imposed.⁴⁷

⁴³ Agreement to participate in mediation is voluntary and does not suspend proceedings. The procedure is the same whether the accused is a juvenile or an adult, except that an educator or psychologist must assist when a juvenile is involved. Mediators are trained by the National Institute of Justice and a Council of Mediators is appointed by the Ministry of Justice. In criminal cases, the mediator’s fees are paid by public funds.⁴³ Article 32 provides that mediation can be applied to criminal cases involving children, and that in such cases, an educator or a psychologist shall assist in the process

⁴⁴ The prosecutor’s decision to exercise this discretion must be confirmed by the decision of an investigating judge “to exempt the juvenile from criminal responsibility”.

⁴⁵ In cases where criminal proceedings are to be terminated, consent is required from the juvenile and his/her legal representative.

⁴⁶ Article 104, Criminal Code

⁴⁷ Article 55(2), Criminal Code

In 2010, UNICEF supported, in the Balti Municipality, the development of a pilot for child-friendly procedures, including through strengthening the capacity of the psychologists, developing psycho-social assistance services as diversion mechanisms and the development of a mediation service.

Legal provisions limiting the length of pre-trial detention

Article 186(4) of the Criminal Procedure Code, provides that “the duration of the preventive arrest of juveniles accused of a crime may be extended for up to four months”. This amendment, enacted in 2009, replaced a provision permitting pre-trial detention for up to seven months.

Other amendments to the Criminal Procedure Code and Penal Code

In 2009, UNICEF promoted the adoption of a number of amendments to the existing criminal and criminal procedural legislation dealing specifically with length of detention. The draft amendments, developed by the Juvenile Justice Working Group in 2008 with UNICEF support, were shared in early 2009 with the Parliament and Government, adopted by the Parliament and enacted in May 2009.⁴⁸

Other Draft amendments

It was reported that the Working Group on Justice for Children has drafted amendments to the Criminal Procedure Code setting out requirements for how judges must interview children (which includes child accused and witnesses), the place a child should be interviewed, how questions should be asked, restrictions on the length of time for which a child can be interviewed and so on. However, these amendments have not yet been adopted, as there is a lack of support for them, and there is a lack of funding to properly implement the reforms (e.g. no special rooms within state institutions to interview children).

Ensuring and measuring implementation of new legal developments

UNICEF supported the training of juvenile justice professionals (see below), in part to ensure that professionals are aware of these new developments and how to apply them. UNICEF also supported IPR to carry out trial monitoring of cases involving children in conflict with the law to measure compliance with international and domestic legal provisions. Cases involving child victims were also monitored. Cases were monitored in Balti and Leova for a one year period (June 2010 – June 2011).

(b) Development of the Probation Service

In 2008, UNICEF supported the establishment of 42 probation offices in Moldova, and a specialised juvenile probation officer in each of the 42 offices. The offices were fully equipped with computers, and other office equipment (fax, photocopy machines and printers). UNICEF also supported the development of an initial training curriculum for probation officers and initial training workshops were carried out in May – August 2009, and, in 2011, for new Probation Officers.

⁴⁸ This included:

1. Amendments to the Criminal Code enacted in May 2009, reducing the maximum sentence for theft from 3 to 2 years, and the maximum sentence for robbery, from 5 to 3 years.
2. The maximum length of imprisonment for children was decreased from 15 to 12.5 years.
3. In 36 articles of the Criminal Code (concerning 36 offences), the minimum sentence was excluded, allowing judges more flexibility to apply more lenient sentences on children, in response to their background and circumstances.

In 2009, UNICEF developed a monitoring mechanism for probation work related to children. The monitoring mechanism, which was designed to cover pre-sentence reports, non-custodial sentences and preparation for release, was developed by an interdisciplinary group within the MoJ. UNICEF also supported, through IPR, capacity-building activities for probation officers in drafting pre-sentence reports.

(c) Provision of Effective Legal Assistance

Access to legal assistance

In early 2008, UNICEF supported the establishment of 46 volunteer ex-officio lawyers from the National Bar Association to work with children in conflict with the law and their families. Training for the lawyers was provided.

In mid-2008, as a result of advocacy by several organisations including UNICEF, the National Council for Legal Aid (NLAC) was established, guaranteeing a state defence lawyer to all citizens who could not afford a private defence attorney. This followed the adoption, in 2007, of the Law on State Guaranteed Legal Aid. The NCFLA was established to administer the legal aid system. Forty-two offices opened, each with a team of public defenders.

In 2009, a network of 10 specialised public lawyers was created, to work within the NLAC. The 10 lawyers received specialised training. In August 2009, the public lawyers started providing legal assistance and representation for children in conflict with the law in five major cities of Moldova, where Court of Appeals are located.⁴⁹ A model best practice guide for child-friendly services was developed.

Two seminars were held in 2010 involving public defenders, focusing on children in conflict with the law, and a guide was developed for public lawyers specialised in providing legal aid services to children in conflict with the law. 500 copies were published and distributed to all public lawyers in Moldova. A Guide for parents and children was also published. This Guide was distributed to children by public lawyers, and 1000 copies have been distributed to the lawyers.

The MoJ, however, decided to cease paying for specialised public defenders and the specialist lawyers trained by UNICEF reverted to private / legal aid work. Payment for their legal aid work is now paid on a case-by-case basis.

Children's Ombudsperson

The office of the Child Ombudsperson was created by law in September 2008. UNICEF undertook action to build its institutional capacity to perform independent monitoring of children's rights, investigating complaints from children, and raising awareness of children's rights. Funding was provided to facilitate monitoring visits in institutions across the country to monitor human rights violations. This included a number of juvenile justice institutions (prisons and pre-trial detention facilities), in Lipcani and Balti. Support was also provided to increase the human resources of the office, and in 2010, a Communications Consultant, Legal Consultant and Assistant were appointed.

⁴⁹ Lawyers were placed in: Chisinau (6); Cahul (1); Balti (1); Causeni (1); and Comrat (1).

(d) Provision of Services for Children in Detention

A multi-sector team composed of a psychologist, a child rights expert, an attorney, an architect and an engineer conducted a thorough assessment of all detention and pre-detention facilities and the needs of children incarcerated. An Action Plan was developed and implemented in July-September 2008. Following this, all classrooms in detention centres were renovated (with furniture, blackboards, maps, stationary and textbooks supplied), and books and manuals were distributed to allow children to follow the national curriculum. Jail cells for minors were also refurbished, a playground for children incarcerated with their mothers (children under 3 years of age) was built, and a "Mother and Child Wing" in the Penitentiary Hospital was created.

In July 2008, a group of local community teachers were selected to work with children in pre-sentence detention. UNICEF supported this initiative through advocacy work and by paying the salaries of the teachers. A work group of educational experts developed an educational curriculum for children in pre-sentence detention. The programs were approved by MEY and MoJ, and officially instituted in August 2008. Selected prison staff and community teachers were trained on how to use the programs and create individual educational plans. In 2009, UNICEF assisted the Department of Penitentiary Institutions to further develop the education program for children in detention (both in pre-trial facilities and prisons). The payment of wages of the 12 teachers providing classes in all five detention facilities was included in the state budget commencing 1st January 2009. Teaching manuals for all children in detention were bought and distributed to prisons.

Training on the psycho-social needs of children in detention was provided for 54 Prison staff members in pre-sentence detention facilities, Lipcani detention centre and Rusca detention centre.

In 2010, a guide on legal issues and best practices for the staff working with children in detention was developed, printed and 100 copies were distributed to all staff working with children in detention.

Advocacy activities also focused on ending the use of solitary confinement of children in detention facilities, and a visit was arranged in April 2010 for the French ex-Minister of Justice to Lipcani pre-trial detention facility.

(e) Prevention of Juvenile Delinquency

In 2009, UNICEF commissioned research on trends in juvenile delinquency, which involved the collection of data on the trends in juvenile delinquency and the perceptions of young people on the causes of juvenile delinquency. The research report was shared with government decision-makers and service providers.

In 2010, UNICEF established pilots in Balti and Leova, with the Local Public Authorities of an integrated system of social services, including a cross-sectorial referral mechanism for identification of vulnerable children and families, needs assessments and referral mechanisms to social services. UNICEF also supported the development of psycho-social programmes in seven community centres for children and young people in Balti, aimed at preventing re-offending.

(f) Training of Juvenile Justice Professionals

Specialised in-service training to juvenile justice professionals

In 2008, approximately 200 police officers, 50 lawyers, 40 teachers and prison staff and 40 probation officers received training on issues related to juvenile justice and best practices for working with children in conflict with the law.

In 2009, within the in-service training programme for legal specialists provided by the National Institute of Justice, there were a total of 260 people that received training on various issues related to juvenile justice and best practices, of which there were: 58 prosecutors, 58 judges, 73 lawyers, 54 prison staff (social workers and education staff) and 15 probation officers.

In 2011, three seminars were completed with all specialised juvenile prosecutors, and participants were also offered the chance to visit Penitentiaries and observe the conditions for child detainees. The seminars covered child victims as well as offenders. They included components on interviewing skills and techniques, mediation, psychological issues relating to children in conflict with the law, and investigation methods. Overall, 180 participants were involved in the training. The Institute has also planned seminars for probation officers, which will take place in October and November 2011. This will include one-day training sessions on carrying out social inquiry reports. It is expected that 75 probation officers will undergo this training.

Assistance was offered to a group of four high-level officials from the Ministry of Justice, General Prosecutor's Office, Supreme Court of Justice and Ministry of Interior to attend the Training workshop on Establishing Juvenile Information Systems and Round-Table discussion on Juvenile Justice Reform Assessments, held in June 2010 in Brussels, Belgium.

In September 2010, a study visit to a Romanian Court for Juveniles and Family was carried out to examine child friendly justice procedures.

Induction training for juvenile justice professionals

In 2009, a specialised course on juvenile justice was developed as part of the initial training for 40 prospective judges and prosecutors undertaking courses with the National Institute of Justice, and classes on Juvenile Justice were included in the Master Studies focusing on Criminal Law within the Law Department of the Moldova State University.

In 2010, curricula for the initial training of police officers underwent revision by a multi-sector group of experts to ensure the inclusion of a justice for children module. Two related guides for police officers and prosecutors were developed.

Training of Trainers

In 2008, twelve participants - judges and prosecutors – attended a juvenile justice training of trainers program, and will serve as resource persons in further training activities.

Support was provided to the National Institute of Justice (NIJ). Based on the general ToT manual on Juvenile Justice, developed in 2008, a series of courses on interaction between the judges and prosecutors when dealing with the juvenile cases were delivered during May - June 2010, with the participation of 73 judges and prosecutors.

2.4 Expected Results

The expected results of the project (and the key measurements for defining its success) were defined as:

- To reduce the total number of children in detention by 30%;
- To reduce by 50% the length of pre-sentence detention of children; and
- To ensure 100% legal representation for all children deprived of liberty.

All of these expected results are desirable and relevant to ensuring that the juvenile justice system in Moldova operates in accordance with international laws and standards. However, there is no indication as to how these results / indicators were derived, and how they explicitly relate to international obligations. For instance, as pointed out in the 2010 evaluation of juvenile justice reform,⁵⁰ the goal of a reduction in the total number of children in detention by 30% and the length of pre-sentence detention by 50% appear to be quite arbitrary and are not based on an assessment of the application of the principle that detention should be a last resort and only for the shortest appropriate period of time.⁵¹ Also, in relation to the length of pre-trial detention, the real problem appears to be the length of time spent in detention during trial and while awaiting appeal, yet the results do not require a reduction in this type of detention.

Also, there are no qualitative results or indicators, which is particularly problematic in relation to the third goal. To ensure that 100% of children deprived of liberty have access to legal representation is a laudable and relevant goal, but this goal will be somewhat meaningless if the quality of that representation is very low. Also, international law requires that all children in conflict with the law have access to legal advice and assistance, not just children deprived of their liberty.⁵²

Results / indicators could also have been included which relate to the expected impact of proposed legal and other outcomes of the project, for instance, the extent of the use of diversion; the number / rate of children referred to mediation; the extent to which children who are sentenced receive non-custodial sentences; and so on.

Nonetheless, the available data indicates that these results, as set out in the project proposal, have been achieved.

Total number of children in detention

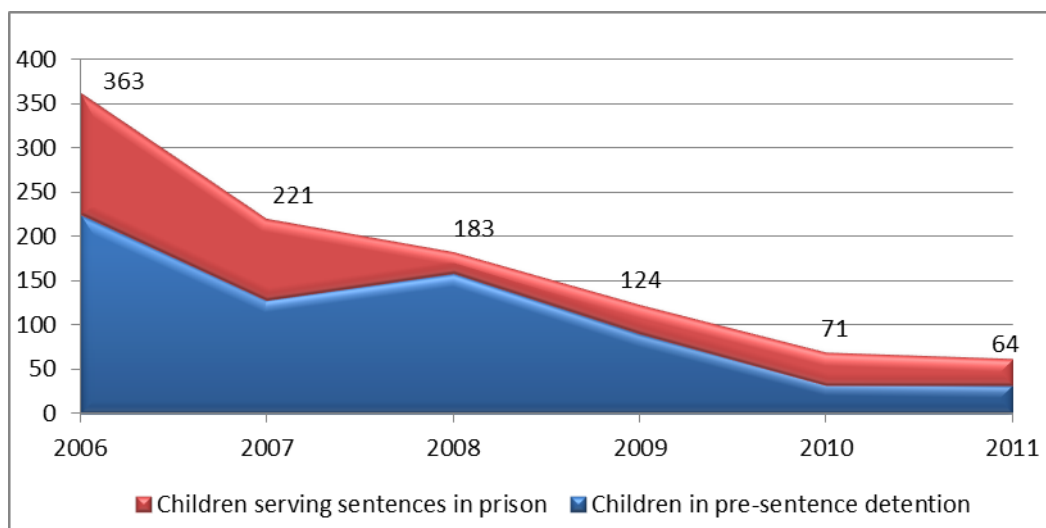
The total number of children in detention (including in pre-trial and post-sentence detention) in 2007, before the commencement of the project, was 221, compared to 71 in 2010, representing a

⁵⁰ UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova* (2010), p. 38.

⁵¹ In accordance with article 37(b) UN Convention on the Rights of the Child

⁵² Article 40(b)(ii) CRC

drop of 68%, though it rose again slightly in 2011 to 103.⁵³ Part of the drop in children held in post sentence detention can be attributed to the amnesty in 2009, which saw the release of a significant number of children from detention. However, as can be seen from the graph below, the number of children in detention was already declining, and has not risen significantly in subsequent years.



Number of children in detention: TransMoonee, National Bureau of Statistics

As well as a drop in absolute terms of the number of children in detention, the rate of children being placed in pre-trial detention as a proportion of all child accused has reduced. In 2007, 7% of all child accused were placed in pre-trial detention, compared to 2% in 2010. As a proportion of all children sentenced, 14% of children were placed in detention in 2007, as compared to 9% in 2010, though this figure reportedly rose slightly to 12% in 2011.⁵⁴ While this represents a significant drop, when compared to figures from 2002, the proportion of children sentenced who are placed in detention appears to be increasing. However, this could be explained by the greater number of children who commit more minor offences being diverted from the formal criminal justice system following reforms to the criminal law, meaning that the sample of children sentenced includes more children who have committed serious offences.

Length of pre-trial detention

Unfortunately, data on the length of time children spend in pre-trial detention does not appear to be either collected or reported up to a central level where it can be analysed and monitored. Therefore, it was not possible to measure this result.

Access to legal representation for children in detention

While there was no quantitative data available on the percentage of children in detention who have been referred to a legal representative, interviews carried out with children in detention and juvenile justice professionals did suggest that all children in detention, as a matter of course, have a lawyer allocated to them. If they cannot afford a lawyer, one will be supplied through the National Council for Legal Aid.

⁵³ Data provided to researchers from MoJ

⁵⁴ Data provided to researchers by MoJ

3. PURPOSE AND SCOPE OF THE EVALUATION

The purpose of the evaluation was to evaluate the results and achievements of the project in relation to the project objectives, that is:

- To evaluate contribution of the project to juvenile justice reform, including contribution to the development of new policies and legislation in the area;
- To provide insight into the current status of juvenile justice / justice for children system and strategic recommendations for the next steps in the reform process relevant for all engaged stakeholders; and
- To evaluate the impact of the reform on children who have been in contact with the law through children's own opinions.

The end-of-project evaluation was required by UNICEF in order to assess the relevance, effectiveness, sustainability, efficiency and impact of the project, as set out in the Terms of Reference.⁵⁵ In addition, it assessed the extent to which the project adopts a rights-based approach (and actively contributes to the promotion of child rights), and identified good practice examples and lessons learnt.

The evaluation was also necessary to inform further policy work and programming. In particular, it is expected that the evaluation will contribute to the formulation of the new joint UNICEF / Government of Moldova Country Programme for 2013 – 2017, which will include provisions relating to the reform of justice for children systems.

4. METHODOLOGY

Research for the evaluation was carried out by an international researcher, with the support of two national researchers, and under the supervision of UNICEF. The international researcher initially completed a desk review of relevant international and domestic laws, guidelines and policy documents; UNICEF internal and published documents; government documents; and other resources.⁵⁶ A methodology and field visit plan was then developed by the international researcher, with input from two national researchers and UNICEF. The researchers analysed available quantitative data on offending by children, and the operation of the juvenile justice system. Additional quantitative data was sought, in order to measure the impact of the project against the project's expected results.

A field visit was then conducted from 19 – 30 September, 2011. Researchers carried out semi-standardised interviews with a range of national-level representatives, rayon-level professionals working in the juvenile justice system, NGOs and children in conflict with the law; and conducted observation visits to detention facilities. An ethical review was conducted and before the field visit took place and ethical guidelines were followed during the field visit. A full methodology and schedule of semi-standardised interviews carried out is attached at Annex E and F.

⁵⁵ The Terms of Reference for the evaluation are attached at Annex C

⁵⁶ A full list of documents that formed part of the desk review is attached at Annex D

Limitations

Not all planned interviews took place, which affected the scope and representativeness of some of the findings. Researchers planned to conduct an interview with an NGO working on child protection issues in the Transnistria region, but were unable to, due to a lack of availability of staff. Therefore, we were not able to evaluate the project's impact and effectiveness in this region, and were not able to examine, in depth, how justice for children programming could be extended into this region in the future. Researchers were also unable to meet with a representative from the Ministry of Interior, and were only able to visit one pre-trial detention facility. While findings and conclusions were drawn from this visit, these may not be representative of pre-trial detention facilities across the country. Also, it was only possible to interview one judge, thereby also limiting the representativeness of the findings drawn from this interview.

In addition, researchers were unable to evaluate the efficiency of the project effectively, due to the way in which financial information relating to the project has been recorded. Financial information was only available to researchers that was recorded against internal UNICEF codes, rather than project components, so it was not possible to relate financial outlay with project outputs and outcomes.

5. FINDINGS AND CONCLUSIONS

5.1 Relevance of project activities

Finding

As the goal of the project was to bring the juvenile justice system into compliance with international and European standards, the relevance of project outcomes is measured against these standards. Overall, the project activities are **mostly relevant** to bringing domestic law into compliance with international and European standards.

Reasoning

The **legal developments** enacted during the project period were very relevant to the project's overall goal of bringing Moldovan law into conformity with international standards. The adoption of the Law on Probation will help to ensure that sentencing principles set out in international law are properly applied to children. The Law on Mediation and provisions on diversion are necessary to bring the law in Moldova into compliance with international law. International law requires states to develop procedures that allow children to be dealt with without resorting to judicial proceedings or a trial ('diversion'), wherever appropriate and desirable, providing that human rights and legal safeguards are fully respected.⁵⁷

The amendments to the Criminal Code and Criminal Procedure Code limiting the length of pre-trial detention and shortening the sentences that may be imposed on children in relation to certain offences bring Moldovan law into greater compliance with international law, which requires that detention only be used as a last resort and for the "shortest appropriate period of time" in the case of children in conflict with the law.⁵⁸ However, the amendments shortening the maximum length of pre-trial detention to four months fail to address the problem of children who are placed in pre-trial

⁵⁷ Article 40(3)(b), CRC; *see also* Rules 6 and 11 of the Beijing Rules.

⁵⁸ Article 37(b), CRC

detention centres during their trial or while they are awaiting their appeal. No time limit has been placed on detention in these circumstances, which exposes children to the risk of a violation of their right not to be deprived of their liberty arbitrarily, and to be detained only for the shortest appropriate period of time.

The **establishment of the Probation Service** is very relevant in the Moldovan context, as it helps to ensure the implementation of international legal standards. According to the Head of the Probation Department, the role of probation officers are: to implement sentences (supervision of conditional and suspended sentences); supervise children who have been diverted; produce pre-sentence reports; collect data for children on probation; participate in court hearings at the request of the court; present evaluations in court; provide social-psychological assistance; maintain cooperation with social services; coordinate juvenile justice institutions; build capacity of children and families; help children find employment; and provide counselling.

According to international standards, pre-sentence reports should be produced and should inform sentencing decisions;⁵⁹ a range of alternative non-custodial sentences should be available as sentencing measures in the case of child offenders, and there is a need to ensure that “appropriate provisions” should be made for a “competent authority” to implement these non-custodial sentences;⁶⁰ and that children at all stages of proceedings should be provided with necessary assistance “in order to facilitate the rehabilitative process.”⁶¹ Also, states are required to ensure that assistance is provided to children in detention before being released from detention to help them reintegrate into society, their family, education and employment.⁶² Prior to the development of the Probation Service, these activities were not being effectively implemented, apart from in several regions in which UNICEF had established probation service pilots. The development of a national probation service is therefore very relevant in ensuring that juvenile justice law and practice in Moldova conforms to international standards.

Under a previous project, UNICEF developed pilot probation offices in several districts, which were evaluated in 2006 as being ‘highly relevant’, ‘very effective’ in ensuring that pre-sentence reports were produced, carrying out supervision of non-custodial sentences and in providing (limited) psychosocial support to children in custody, and as having a ‘significant impact’ on increasing the use of alternatives to detention.⁶³ Basing the development of the national probation service on this model is therefore very relevant in ensuring that an effective and successful probation service was developed.

The provision of **free legal assistance and representation** to children in conflict with the law is an obligation on states in international human rights law. Article 37 of the CRC provides that children shall have prompt access to legal and other appropriate assistance upon arrest. In addition, Article 40(2)(b)(ii) of the CRC provides that the State shall ensure that every child shall be provided with

⁵⁹ Rule 16.1 Beijing Rules provides: “In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate the judicious adjudication of the case by the competent authority.”

⁶⁰ Rule 23.1, Beijing Rules

⁶¹ Rule 24.1 Beijing Rules

⁶² Rule 79, Havana Rules

⁶³ Steven Malby, Children’s Legal Centre, *Evaluation of UNICEF Project: Reform of the Juvenile Justice System in Moldova* (2006).

“legal or other appropriate assistance in the preparation and presentation of his or her defence.” While the CRC does not address the issue of ‘free’ legal aid, the International Covenant on Civil and Political Rights, enshrines the right to free legal assistance for the child if he or she, or the parents, cannot pay for a lawyer. State guaranteed legal representation for children in contact with the justice system was non-existent until 2009. Therefore, the project activities were relevant to ensuring that Moldova juvenile justice laws and practices conform to international standards.

The **improvements to the material conditions of detention facilities**, enhancement of educational and psycho-social support services and the staff education / sensitisation programmes carried out by UNICEF were very relevant in ensuring that the conditions and treatment of children in detention centres comply with international standards. The international framework on juvenile justice provides a very detailed set of standards that are applicable to children who are deprived of their liberty. Article 37(c) of the CRC states: “[e]very child deprived of liberty shall be treated with humanity and respect for inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.”⁶⁴ The Havana Rules provide that juveniles deprived of their liberty have the right to facilities and services that meet all the requirements of health and human dignity.⁶⁵

Rule 38 of the Havana Rules requires that education should be provided, including to children in pre-trial detention, and delivered through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Apart from education, every child should have the right to receive vocational training in occupations likely to prepare him or her for future employment.⁶⁶

The activities focused on **preventing juvenile delinquency** are very relevant to bringing the juvenile justice system in Moldova into compliance with international standards. According to the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines): “The prevention of juvenile delinquency is an essential part of crime prevention in society.”⁶⁷ Comprehensive prevention plans should be instated at every level of government, and should include “in-depth analyses of the problem and inventories of programmes, services, facilities and resources”.⁶⁸ The Rules also provide that policies, programmes and strategies be based on prognostic studies.⁶⁹ Understanding the nature and causes of juvenile delinquency is essential in ensuring that policies and strategies on prevention are responsive and effective.

Ensuring that professionals working in the juvenile justice system are specialised and properly **trained** is very relevant to ensuring that the system complies with international law. Article 40(3) of the CRC requires States to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the criminal law. A justice for children system requires child-specific institutional

⁶⁴ Rule 28 of the *Havana Rules* states “[t]he detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations”.

⁶⁵ Rule 31.

⁶⁶ Rule 42, *Havana Rules*.

⁶⁷ Rule 1.

⁶⁸ Rule 9(a).

⁶⁹ Rule 9(d).

structures. International law requires that specialised units for children to be established within the police, the prosecution, the judiciary, the court administration and social services.⁷⁰

Training of relevant professionals is also essential to ensure that new laws developed as part of this project are effectively implemented. Without adequate training, the effectiveness of these new provisions would be greatly impaired.

5.2 Effectiveness of project activities

Finding

Overall, the outcomes of the reform project have been **mostly effective** in ensuring that the juvenile justice system in Moldova complies with international and European standards, and operates in a child-friendly manner.

The **Working Group on Justice for Children** has been **mostly effective** in keeping justice for children issues on the agenda at government level and in encouraging legal amendments introduced during the reform programme. The **legal reforms** have been **mostly effective** in ensuring that domestic law complies with international law and promotes child-friendly criminal justice procedures. Outcomes achieved under other priority areas, including the development of a **probation service** and **training** have been **mostly effective** in ensuring that the domestic laws are operationalised. Development of probation services has helped to ensure that pre-sentence reports are produced in a majority of cases and that diversion and other alternatives to custody are available in practice, which has in turn greatly decreased the number of children placed in detention. **Training** of professionals has been **very effective** in ensuring that child-friendly procedures are used in the juvenile justice system. Improvements in the **material conditions of detention** have been **very effective** in ensuring that conditions in these facilities meet international standards. However, the development of **education and psychological support in detention** has **not been very effective**. While all children in conflict with the law appear to have **access to a lawyer** as a matter of course, the low quality of these lawyers has undermined the effectiveness of this project component, making it **not very effective**.

Reasoning

The **Working Group on Justice for Children** has led in the development of several key legal reforms relating to children in conflict with the law. However, members of the Group are not decision-makers within their respective Ministries / Departments, but are middle-management level staff. It was reported that the Working Group suffered from poor coordination by the Ministry of Justice, and that reforms were not pushed forward efficiently. Despite these shortcomings, the Working Group led on ensuring the adoption of key juvenile justice laws and provisions, and also worked to include juvenile justice issues in a number of strategy and action plan documents that were developed during the project period. The National Human Rights Action Plan (NHRAP) 2011 – 2014 sets out objectives relating to justice for children.⁷¹ Children's issues were included in the National

⁷⁰ General Comment No. 10, Para. 92, 93 and 94.

⁷¹ These include: including: improving the juvenile justice system (provision of continuous training for juvenile justice professionals; ensuring the implementation of provisions requiring prosecutors and courts to request pre-sentence reports from Probation Services; monitoring law enforcement in cases of children in conflict with the law); ensuring the functioning of the probation service; and strengthening alternative dispute resolution measures. The NHRAP was approved by Parliament on 12 May 2011 (Parliamentary Decision Nr. 90, 12 May 2011).

Reform of the Justice Sector Strategy, as a result of advocacy by UNICEF and the Working Group. The original draft of the document did not include a section on justice for children. Following advocacy by UNICEF, the Ministry of Justice accepted UNICEF's inputs into the strategy document. The current strategy document, which was approved in first reading on 3 November 2011, includes a sub-section on 'strengthening the justice system for children.'⁷²

Ensuring that an agency or body is focusing on advocating in relation to children in conflict with the law at the government level places this issue on the agenda, where otherwise it may be overlooked. Keeping permanent attention and pressure on government in relation to this issue is what has helped lead to the legislative and policy developments. It is also very important to ensure that there is a coordinated approach to justice for children issues at the national level, as juvenile justice systems inevitably involve a large range of different institutions. While there are shortcomings in the operation of the Working Group, it has been effective in leading key legal and policy developments in the justice for children field, and in keeping children's matters on the agenda in discussions concerning developments of the justice sector.

The Law on Probation 2007, the Law on Mediation 2008 and provision of diversion, along with activities aimed at developing the probation service has resulted in the creation of a non-punitive juvenile justice system that is focused on ensuring a child offender's rehabilitation and reintegration into society, as required by international standards.⁷³ It also promotes the application of sentencing principles based on international standards, as set out above, and promotes the use of non-custodial sentences, in accordance with the UN Convention on the Rights of the Child.⁷⁴

The development of the **probation service**, while largely effective in promoting child friendly juvenile justice systems, has been somewhat undermined by the lack of capacity of probation officers and offices. The coverage of probation officers has also improved over the project period. IPR reported that around 260 probation officers were employed in 2010; an increase from 182. However, the effectiveness of the work of the probation officers is impaired by a number of factors. It was reported that there is a high turnover of probation officers, due to their salary level, which, it was stated is 4 – 5 times lower than that of a bus driver. This also impairs the effectiveness and sustainability of in-service training provided to probation officers. Probationers tend to leave the service within 6 – 7 months, it was reported. Probation officers also do not generally have backgrounds in social work. It was reported by the Deputy Head of Probation that around 90% of probation officers have backgrounds in law, rather than psychology or social work. This impairs their ability to offer social welfare / psychological support to children and families, and perhaps to see the importance of this work and to link up with local child protection / social welfare services. According to IPR, probation officers perform their role as monitors effectively, but they are unable to provide or ensure the provision of social assistance and counselling for children. Young probation officers, it was reported, tend to lack necessary experience in working with children and young people.

⁷² 6.3, p. 65: This sets out the following key priority areas: which sets out the following 'intervention areas': ensuring specialisation of the justice system for children; strengthening the instruments for protecting in criminal proceedings children victims and witnesses of crimes; strengthening the juvenile probation system; ensuring the observance of the rights of children in detention; and strengthening the system of collecting and analysing data on children in contact with the justice system. The strategy was approved in first reading on 3 November 2011.

⁷³ Article 40, CRC

⁷⁴ Article 40, CRC

According to the BoM interviewee in Balti, Probation Officers are not proactive enough, and there are an insufficient number of probation officers available to ensure that they are able to carry out their role effectively. It was reported that Probation Officers tend to carry out office-based work and do not visit children in the community very often. It was also reported that there is a lack of funds to allow Probation Officers to travel to see a child's family and living environment.

It was also reported that the work of Probation Officers is not effectively monitored. Also, there does not appear to be a strategy to develop the Probation Service. Probation Officers could be performing a greater role in the juvenile justice system. Currently, in practice, their role appears to be confined to producing pre-sentence reports, monitoring alternative sentences and providing limited aftercare services.

However, the development of the probation service and training and capacity building activities do appear to have led to more child friendly procedures being applied in practice and to a reduction in the use of custodial sentences. This can be attributed to a number of the project activities:

- It appears that the provisions on **diversion** are being applied extensively in practice, perhaps as a result of in-service training carried out with prosecutors and judges during the project period, increasing the number of children referred out of the criminal justice system all together. According to the Institute for Penal Reform (IPR), the training provided to professionals, and, in particular, the Guide on Child-Friendly Procedures for prosecutors, was largely responsible for the effective implementation of provisions on diversion measures. Prosecutors interviewed demonstrated a very good level of knowledge of the provisions relating to diversion, and about the utility and importance of diversion. It is clear that diversion measures are being applied in less serious cases. It was reported by the prosecutors in Balti, for instance, that diversion will be used for every minor, less serious offence involving a child offender. Before the legal provisions on diversion were introduced, every case was sent to court for trial. For more serious offences, it was reported that it is possible to apply diversion measures in law, but that it is not often considered appropriate in these cases. However, this contrasts somewhat to the report of the IPR trial monitor in Balti, who stated that, throughout the 12 month period in which she was carrying out trial observations, she observed a number of cases coming before the court involving non-serious offences in which diversion measures were not applied. The judge only reverted five cases back to the prosecutor for diversion measures to be applied. According to the trial monitor, there is no culture among non-specialised judges of using diversion, and this has somewhat reduced the use of diversion.

There is a lack of support services for children who receive diversion measures, particularly for children with higher-level needs who may require higher level or more specialised support and services, like psychological assistance, social work interventions or rehabilitative treatment. Where children who are diverted from the criminal justice system can receive appropriate and tailored support, this will reduce the likelihood of them re-offending. It will also encourage the use of diversion by prosecutors (as diversion will be thought to be more effective), and could encourage the use of diversion measures for more serious offences. The prosecutors in Balti reported that they would have more confidence in the use of

diversion measures, and would apply these measures more frequently if there were more services available in practice for children on diversion, in particular counselling and social welfare services, to help the child avoid re-offending. In Leova, UNICEF supports a psychologist to work with children at risk and children in conflict with the law. The juvenile prosecutor interviewed reported that the support offered by the psychologist has encouraged his use of diversion measures.

It appears that formal mediation is used only infrequently, as it is perceived to be less effective. One of the prosecutors in Balti reported sending four or five cases for mediation in the past year. All of the cases were reverted back to the prosecutor as the mediation failed. The use of mediation is also impaired by the lack of mediators available and the lack of government support for mediation – it was reported that the Ministry of Justice does not pay for mediators.

- One of the significant effects of the development of the Probation Service is that **pre-sentence reports** are being prepared for children in conflict with the law. Not only is this a requirement in international law, but it also encourages the use of non-custodial sentences and the application of diversion measures, by highlighting mitigating factors and helping to ensure that a child receives a sentence that is responsive to his or her unique needs and circumstances.

Data provided to researchers by the Probation Service indicates that the number of pre-sentence reports produced is increasing.

| | 2009 | 2010 | 2011 |
|--------------------|-------------|-------------|-------------|
| Police | 16 | 68 | 145 |
| Prosecution Office | 199 | 126 | 267 |
| Court | 3 | 2 | 6 |
| TOTAL | 218 | 197 | 418 |

The data also indicates that the vast majority of pre-sentence reports are requested by the Prosecution Service. This is good practice, as it means that these reports can be used to decide on the application of diversion measures, rather than just in the imposition of sentencing measures by courts.

There was no data available to the researcher on the proportion of cases in which pre-sentences reports are being produced; however, cross-referencing data from the Ministry of Interior on the number of children arrested in 2011 (the first 8 months) and the number of pre-sentence reports produced in that time indicates that pre-sentence reports are by no

means provided in every case. In only 39% of all child suspects was a pre-sentence report produced.

| | |
|--------------------------------|------|
| Number of children arrested | 1071 |
| Number of pre-sentence reports | 418 |

Also, based on information obtained from interviews with professionals, it is clear that the extent of pre-sentence reports varies across regions. The IPR trial monitor in Balti reported that, in the trials that she monitored over a 12-month period, social inquiry reports were used in almost 100% of cases (the only cases in which social inquiry reported were not available were several cases involving children from other districts). However, UNICEF’s Justice for Children Expert reported that, on her estimation, pre-sentence reports are only produced in around 70% of cases of children in conflict with the law. According to IPR, there has been a two-fold increase in the development of pre-sentence reports over the past three years; however, the baseline was nearly zero. Currently, only a fairly low number of reports are being produced and this needs to be addressed. In Leova, professionals reported that pre-sentence reports are not produced in 100% of cases.

While the researcher was not able to conduct a ‘paper analysis’ of the quality of the reports, prosecutors reported that the pre-sentence reports were generally quite comprehensive and of high quality. Prosecutors in Balti, for instance, reported that pre-sentence reports are of good quality, and they will frequently rely on their recommendations. However, it was reported that there was a drop in the quality of reports since IPR stopped supporting the Probation Service by drafting the reports.

- The development of services for children who receive **non-custodial sentences** in Balti and Leova has likely encouraged the imposition of non-custodial sentences. It was reported that the most common non-custodial sentence imposed on children is a suspended or conditional sentence. Where a child receives a conditional or suspended sentence, a series of reporting requirements and restrictions will be imposed on a child, which must be implemented by the juvenile probation officer. In practice, in Leova, the Probation Officer will inform the Bureau on Minors (BoM), which will monitor the child. The BoM can refer the child or family to social services if necessary. If a child breaches the conditions of their sentence (which normally include reporting requirements and curfews etc.), the BoM will inform the Probation Office, which can then refer the child back to court. In Leova, UNICEF, through a local office of IPR, also supports the work of a psychologist to provide services to children who receive non-custodial sentences. The psychologist provides counselling to children on conditional sentences. IPR has started to provide ‘seminars’ or group training / therapy sessions that last for around two hours each and one-to-one counselling for children on a conditional sentence. The seminars have covered such topics as: developing social skills; and a specialist programme for managing anger and aggression. The psychologist can also work with families. The probation office / BoM may also refer children for vocational training (e.g. to Labour Office). UNICEF has also supported the development of a similar model in Balti.

Children should have access to a wide and flexible range of services and support that are capable of responding to their unique needs and circumstances. The model in Leova has proved quite effective in ensuring that children have access to a wide range of support and services. This appears to have been achieved through the support of UNICEF in ensuring that a psychologist is available, full-time, to assist children and their families. It has also been achieved through the coordination of juvenile justice professionals at the local level. The BoM, probation service, IPR and the psychologist appear to work very effectively together, in a coordinated manner. However, it was noted that there is a lack of services and support available for children with higher-level or more specialist needs, such as for children who cannot live with their parents, children with substance abuse problems or children who have mental health concerns.⁷⁵ A more joined-up approach is required between local juvenile justice and child protection services.

- The **training** provided to juvenile justice professionals supported by UNICEF (along with training supported by other organisations) was found to have been very effective in ensuring that professionals are sensitised to juvenile justice principles, international standards and domestic laws. This appears to have been a major component in ensuring the effectiveness in application of new juvenile justice laws in practice. All juvenile justice professionals that were interviewed reported that the training provided to them was of good quality, useful and assisted them in improving their practices in cases involving children in conflict with the law. Juvenile justice professionals interviewed also demonstrated a very good knowledge of juvenile justice laws, including, most indicatively, a high level of knowledge of new laws that were introduced during the project period. They also demonstrated a good knowledge of general juvenile justice principles and concepts contained in international standards, and a good understanding of the causes of juvenile delinquency. The specialised prosecutors that were interviewed, in particular, appear to have been very well trained.

The contributing factors cited to explain the reasons that the training was so effective was: the quality of trainers; the cross-disciplinary nature of the training (particularly the training by psychologists received by prosecutors and judges); and the mix of different professionals attending most training seminars, which allowed professionals to gain a better understanding of each other's roles and of the operation of the system as a whole.

The prosecutors interviewed in Balti, for example, reported that the two specialist juvenile prosecutors had attended 40 – 50 hours of training in total on working with child offenders. They reported that the training was 'good'. In particular, it was effective as there was a good amount of information-sharing between prosecutors and judges at the seminars. Also, the training has enhanced their ability to carry out their role due to the involvement of psychologists at the training seminars. This enabled them to enhance their skills on interviewing and questioning children, and consider the psychological aspects of child offending much better. A juvenile prosecutor in Leova reported that the training by UNICEF was very useful and as a result, his method for dealing with children has 'radically changed.' He didn't know about the psychological aspects of child offending before this training and learning about this has really helped him in his role.

⁷⁵ Lack of such services appears to be a problem for all categories of children in need, not just those in conflict with the law.

The field visits to detention facilities and the study visit to Romania were also effective. It was reported by the National Institute of Justice that the visits to penitentiaries were particularly effective components of the training.

However, the lack of designated specialist juvenile judges was identified as a problem by a number of professionals who were interviewed, and the effectiveness of training has likely been undermined by the lack of specialist judges. The IPR court monitor in Balti reported that, prior to 2008, specialist designated juvenile judges heard cases involving child offenders, and they were very knowledgeable and experienced. After 2008, cases involving child offenders were heard by a non-specialist judge. In contravention of international law, there are still no specialist judges in law or designated formally, though informally, some courts may have a designated juvenile judge, and will allocate work around this. In law, cases must be randomly assigned, and this system operates through digital randomised case allocation software.

The legal reforms on **pre-trial detention** were not very effective in bringing Moldovan law and practice into compliance with international standards. Article 186 of the Criminal Procedure Code provides that a juvenile may be detained during a criminal investigation prior to the case going to court, for a period that does not exceed 30 days, *except for exceptional cases where the period of pre-trial detention may be extended to up to four months*. Although considerably less than the time period an adult may be detained during investigation (up to 12 months), this four month maximum far exceeds the period of detention for juveniles recommended by international institutions. Whilst this is only supposed to happen in exceptional cases, this provision presents a risk that detention for longer periods of time becomes the norm for children in conflict with the law. The CRC Committee has recommended that the period of pre-trial detention before the child is charged (i.e. the period when the child is under investigation) should not exceed 30 days.⁷⁶

Also, while the maximum length of detention before trial is four months, this limit does not apply to detention during trial and appeal. There is no separate provision for juveniles in detention during trial and appeal, the only limit is that the length of time must be “reasonable” (this is the same as for adults).⁷⁷ This provision is very vague and leaves huge manoeuvre for discretion by judges, which may lead to lengthy periods of detention for children during trial and appeal, as well as inconsistency and discrimination in practice.

It was reported that, in the vast majority of cases (around 85%), persons appeal their conviction and the conviction can be challenged by the Supreme Court of Justice / Court of Appeal. Often, the Supreme Court / Court of Appeal will order the case to be re-examined by the original Court. There are cases where this ‘cycle’ has happened three to four times. The original judge cannot examine the same case, so there may be delays while children wait for a judge to re-examine the case. While children are awaiting the appeal, and going through this process, they will continue to be held in pre-trial detention facilities. There is anecdotal evidence that some children are spending three to five years in detention during trial and while awaiting appeal.

⁷⁶ General Comment No. 10, Para. 83

⁷⁷ Article 20, Criminal Procedure Code

The improvements to the material conditions of **detention facilities** were very effective in helping to ensure that the conditions in these institutions comply with international standards; however, the provision of educational, psychological and aftercare services were only of limited effectiveness.

- *Improvement in material conditions*⁷⁸

Most significantly, the materials conditions of the Chisinau pre-trial detention facility appear to have improved since the most recent juvenile justice evaluation published in 2010, which described the conditions in the facility as “inhuman”.⁷⁹ The children’s cells have been refurbished since this evaluation, and appear to be in much better condition. New toilets have been fitted, and toilets are now contained in a completely enclosed room within each cell. Each detainee has a bed (in bunks) and mattresses and bedding appear to be in fairly good condition. Detainees had items of personal property in their cells. Some of the cells had televisions. However, it was noted that heating does not work properly, and that it can get quite cold in winter. Also, showers are in a separate room, and detainees reported only having access to showers once a week, which is not hygienic. However, it appears that UNICEF interventions have been very effective in improving material conditions in this facility.

In Lipcani, the juvenile detention centre is contained in a separate building within a large compound that holds both adult male detainees and boys. Boys are held in a separate building within the enclosure. All rooms were quite clean and in reasonably good condition, all children slept on beds, however mattresses were quite thin and there was not a lot of natural light in the bottom two rooms. Detainees had a number of personal items on their beds. The detainees are never locked into their rooms.

In Rusca Women’s Prison, children are held in a separate room in a corridor with adult detainees (most of whom are elderly women). There were two girls detained at the prison on the day of the visit, and 283 women (the maximum capacity of the prison is 300). Detainees are kept in rooms, which are contained in buildings around a large compound. There is a separate bathroom, which can be accessed at any time. Rooms are in good condition, and each has two bunk beds, a wardrobe, table, mirror, personal effects and some have TVs and DVDs (which are the detainee’s own). There is also one TV for common use. One of the detainees reported that it is ‘freezing’ in the prison in the winter months.

There is also a special unit for women detained with children (up to the age of 3 ½ years). This unit is clean, with suitable furniture, a kitchen, bathroom, laundry and outside playground, built with UNICEF funding in 2008. The Unit and playground are in good material condition.

- *Educational programmes*

In Chisinau pre-trial detention facility, UNICEF has supported the refurbishment and development of a room that is designated as a classroom. The classroom is in good condition, with desks, chairs, a blackboard and textbooks and other materials. According to the Chief of Sector, lessons take place

⁷⁸ Annex G contains a full description of each detention facility made following the visit by researchers in September 2011.

⁷⁹ UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova* (2010), p. 32.

from 11am – 3pm twice a week, and lessons follow the national curriculum. Lessons are conducted by two teachers who are employed by the Ministry of Education, and come from a local community school. Currently, lessons are provided in maths, physics, and the Romanian language. It was reported that a new teacher is to be employed shortly, to provide lessons in geography and history. However, according to children interviewed, educational provision is minimal. The Chief of Sector reported that the Ministry of Education has only provided funding for 20 hours of education a week (only four hours per discipline), and that teachers are not content with their salaries.

Children can only spend time outside for two hours a day. As a result of this, and of the lack of education and other activities for children, they spend a large amount of time locked into their cells. On the day of the visit, children were sleeping or lying around in their rooms and appeared to be very bored, unmotivated and at a loss for what to do.

In Lipcani, children and adults have access to various vocational training programmes. Currently, programmes are offered in woodwork, mechanics and construction / building. Training programmes take place from 8am – 12am every week day, but not during the summer months, and programmes take 8 months to complete. Vocational training programmes take place in a separate building on the premises, and training programmes operate as part of a separate training institute. There are four rooms for vocational training, all containing equipment. However, the equipment appears to be quite dated and it was reported that there is a lack of manuals. There are also no computers, so training programmes in computing cannot be offered.

On completion of vocational training programmes, detainees receive a certificate that is not marked as having been awarded by the detention facility or the Department of Penitentiaries. The training programmes are optional, and detainees can choose which course, if any, they will complete. Children can elect to complete all vocational programmes if they wish. There is also a school on the premises, which is under the control of the Ministry for Education. The national curriculum is taught: grades 7, 8 and 9, every weekday in the afternoon. Children also take part in sporting activities, such as football games.

Children can also take part in a range of work activities, for which they may receive a reduction in their sentence. According to children interviewed, they will be paid around US\$30 a month and will receive a reduction of 5 days to their sentence for every month of work completed.

Children can also carry out a range of farming and horticulture activities, and there are crops and animals (mainly chickens) within the compound. Children also take part in cultural and artistic activities, such as preparing for, and putting on events for national holidays. However, there is a lack of resources for some activities that the staff would like to run (e.g. there are no musical instruments). There is also a church on the premises.

In October, 2010, UNICEF supported a workshop, “OneMinutesJr Films”, at Lipcani prison, in cooperation with the Media Centre for Youth. The workshop aimed at providing the opportunity for children in detention to express themselves, as well as enhance their skills in film-making. Six detained boys aged between 16-21 years developed nine “one minute” films covering different stories from the life of several young juvenile detainees.

In Rusca, school lessons are provided to the child detainees by two teachers from a local village school. Classes are provided up to grade 9. The Ministry of Education pays the salaries of these teachers. Lessons are provided between 8am and 12am two days a week. Detainees may also undertake work from 8am – 5pm Monday to Friday, tailoring (making military uniforms) and other tasks, such as food preparation, cleaning and agricultural work. However, child detainees are not involved in this work. Detainees can also take part in vocational training, and courses are offered in computing (there is a well-resourced computer room); tailoring and beauty therapy / hairdressing. There is a library stocked with books, newspapers and magazines donated by charities. There are also two churches on-site: one Orthodox and another for other denominations.

- *Psycho-social support*

A psychologist has been employed at all of the detention facilities visited by the researchers. In Chisinau pre-trial detention facility, a psychologist visits the children in detention every day. However, there are an insufficient number of psychologists for the number of detainees. There are only two psychologists for all 1,000 detainees and no specialist psychologist for children. According to the children interviewed, the psychologist will visit their cells every day to speak briefly with all of them. If they would like to see the psychologist one-to-one, they may request this.

In Lipcani, there is only one psychologist, and she must support all detainees (adults and children alike). There is also a social worker employed at the prison. The psychologist reported that she had just returned from maternity leave and was preparing to make psychological assessments of all detainees through interviewing and using a range of forms and tools. One – two detainees are being assessed every day. The process was reported to be quite slow, as a significant number of detainees cannot read or write, and this slows the process down. Detainees carry out group sessions on such topics as self-control and behaviour management. Where a detainee is identified as being ‘at risk’, for example, where he has depression, he will be given specialist sessions. The psychologist had attended a number of training sessions, some of which were supported by UNICEF. Training has covered many issues, including legal obligations, how to make a character assessment, how to communicate with children and so on. She recently attended a one-day seminar organised by UNICEF. She reported that the training was ‘very important’ and useful and helped her to improve her work with detainees, and provide better counselling. She reported that she employed new skills acquired during training sessions (interviewing detainees, using entertainment activities as therapy etc.) following the training sessions, and that the child detainees have responded well to these skills and initiatives.

A psychologist is employed at the Rusca; however, there is only one psychologist for all detainees, and no specialist child psychologist.

- *Training and sensitisation of prison staff*

In Chisinau pre-trial detention facility, the children interviewed gave quite positive feedback about their treatment by staff. It was reported by the Chief of Sector that there have been ‘some’ (but not ‘many’) reports of physical violence and abuse, and that physical force will only be applied to detainees by staff as a matter of last resort. For example, the week before the visit, there was a case in which a guard applied physical force against a child, as the child had a blade and was intent on

cutting himself. The child was then placed in a separate cell for two and a half hours to calm him down and the psychologist spoke to the child. He was then placed back into his usual cell. In all cases in which physical force is applied, the prison staff must inform medical officers, the Ombudsperson and the Department of Penitentiary Institutions.

In Lipcani, children who were interviewed gave quite positive feedback on their treatment by the prison's staff, describing the staff as 'good and 'kind'. In Rusca, both of the girls who were interviewed were quite positive about the way staff treated them.

- *Use of solitary confinement*

In Chisinau pre-trial detention facility, it was reported that solitary confinement was banned three months ago. The impetus for this was the advocacy visit, supported by UNICEF, of the French ex-Minister of Justice. Following this visit, during which the use of solitary confinement was raised as a problem, the facility's management banned the use of solitary confinement. Televisions will be used as incentives for good behaviour, with access being denied for bad behaviour. This was cited as an alternative to solitary confinement, which was recently banned at the penitentiary.

In Lipcani and Rusca, solitary confinement can be used for up to seven days as a disciplinary measure. In Lipcani, the solitary confinement cells are located in a separate building in the compound. On the day of the visit, one adult detainee was in solitary confinement. He had a bed and toiletries in the room with him. One child who was interviewed had been placed in solitary confinement twice during his six years at the prison: once of seven days and once for five days. He reported that he was placed in solitary confinement for hitting his teacher. He described the room as very small, and reported that he was made only to sit on a small stool during the day, and was only permitted to be outside for two hours a day. The use of solitary confinement contravenes international law, and is harmful to children in detention.

- *Aftercare services*

Probation officers have been somewhat effective in providing aftercare services to children in detention, to help prepare them for release back into the community. In Lipcani Penitentiary, a Probation Officer will visit the Penitentiary once a week to assess and prepare detainees for release. However, according to staff at the prison, due to the remote location of the prison (outside the town centre), and the lack of transport available to Probation Officers, they tend to visit the prison only once every two to three weeks. This process will commence six months before the detainee is scheduled to be released. Probation officers will work with social services to provide support to children who need assistance finding accommodation or employment. According to the prison staff, social services will mediate with a child's family, or secure a child a place at an orphanage or a placement centre for adults. Probation will also place information and relevant contact details within the prison for the use of detainees. According to the staff at the facility in Lipcani, prior to the establishment of the Probation Service, detainees were not provided with aftercare services. Now, probation officers are aware of the needs of child detainees well before their release, and this has helped to ensure a continuity of services and support for children. The psychologist reported that the probation officers are quite effective in their provision of aftercare services. Comparing their work between 2008 (at which point she went on maternity leave) to now, the probation service has improved in their delivery of aftercare services.

In Rusca Penitentiary, however, the Deputy Head of the prison reported that aftercare services are inadequate. Probation officers attend the prison at least twice a month, but the service they are able to provide is limited.

There is no aftercare support provided to children leaving the Chisinau pre-trial detention facility. Children will either be transferred to Lipcani prison (where they have been convicted and sentenced) or will be taken home. If the child turns 18, they can be transferred to an adult penitentiary. According to the Chief of Sector, Probation Officers do not provide aftercare support to children leaving pre-trial detention, as their priority is to adult detainees. They are under a legal obligation to assist adults to find a job on being released from detention, and they do not have this obligation in relation to children.

The **legal services** provided to children by the specialist trained public defenders were reportedly of high quality. One of these lawyers was interviewed by the researchers. She was found to be very knowledgeable about juvenile justice laws and procedures, and very proactive in ensuring that her clients received high quality services and in enforcing other juvenile justice professionals (in particular, prosecutors) to follow the correct legal procedures. Other professionals reported that these lawyers were of high quality and well trained. Some expressed regret that the funding for these lawyers had ceased.

However, following the MoJ's decision to cease funding specialist public defenders, cases involving children are distributed among a list of lawyers who carry out a mixture of legal aid and private client work in the local area. It appears that all children in conflict with the law will, as a matter of course, be provided with legal assistance / representation. However, professionals reported that the quality of lawyers who provide representation to children in conflict with the law is highly variable. The IPR trial monitor in Balti reported that, based on her monitoring of trials over a one-year period, the performance of defence lawyers during court hearings were found to be of varying quality; some were quite good, while others were 'very bad'. 100% of children had lawyers, but lawyers were found to be of low quality in around half of all of the cases observed. In some cases, it was reported that the lawyers did not even discuss the issues with the relevant parties before the hearing, and that the children did not even know who their lawyers were. The prosecutors interviewed in Balti reported that the specially trained public defenders were very good, but, regretfully, after funding for these lawyers ended, the quality of legal representation had dropped. They reported that 'regular' lawyers were of low quality.

Children interviewed unanimously expressed disappointment and frustration at the quality of their lawyers (regardless of whether the lawyer was funded by legal aid or privately funded). They reported that they do not get to speak to their lawyers and that their lawyers do not explain what is going on or discuss things with them, that they are not proactive, that they cannot get into contact with them, they are disinterested, and do not visit them while they are in detention. Some children interviewed reported that their lawyers had failed to inform them that they have a right to appeal.

There appears to be a disincentive for lawyers to take on legal aid case work, as opposed to private client work. A legal aid cases will only pay around half that of a private client case. It was also

reported that lawyers must wait up to a year after a case has ended to be paid by the state for the work. This also results in children not receiving continuity in representation, which is important if a child is to build up a relationship of trust with the lawyer and for the lawyer to properly understand the complexities of the case and have a good knowledge of the personality and background of the child. As lawyers tend to prioritise private client work, if a private case is referred to a lawyer, the lawyer will prioritise this and, where a private client is referred to the lawyer and the timing of the client's case is incompatible with the timeline for a legal aid case involving a child offender, the lawyer will tend to drop the legal aid case, even if the lawyer had formerly represented the child client. There also appears to be a disincentive for spending time with child clients, due to the payment structures for legal aid case work. Lawyers will be paid on completion of particular legal procedures, rather than on the number of hours spent on a case.

In 2010, 300 complaints from children were received by the **Child Ombudsperson** relating to violations of children's rights. All of these complaints were investigated and action was taken on 194 cases.

It is too early to examine the effectiveness and impact of the research on **prevention of juvenile offending** in informing the development of successful prevention strategies. However, it is worth noting that juvenile justice officials (both at the national and rayon levels) demonstrated a good level of understanding of the social and other causes and risk factors for children coming into conflict with the law.

It was reported that, in general, programmes and services aimed at preventing children from coming into conflict with the law are limited, particularly in relation to children most at risk. Effective juvenile justice prevention strategies should involve multi-disciplinary teams, not just law enforcement officials, working at the local level. Yet, it was reported that there is currently only one Social Worker for every 3,000 people, and the remit of Social Workers includes not only children in conflict with the law, but persons with disabilities, elderly people and so on. Juvenile justice issues at the local level are perceived to be policing matters, rather than social welfare matters. There appears, in particular, to be a lack of services and support for children who do not have parental care (e.g. children who have parents that are living abroad).

In Balti and Leova, in which UNICEF have supported the development of pilot programmes for children at risk of coming into conflict with the law, a more 'joined up' approach between juvenile justice and child protection / social welfare systems was evident. In these districts, at risk children will be registered with the Bureau on Minors, which will monitor these children. The BoM can refer cases to the local Child Protection Commission, which is a multi-disciplinary body composed of a range of local level service providers. Where children are registered as 'at risk', they will have an assessment of their needs (which involves input from relevant service providers – health, psychological etc.), and a programme will be devised which can include group sessions, training and one-to-one counselling sessions.

However, professionals reported that there is a lack of services for children at risk of offending at the local level, particularly tertiary level support for children most at risk, and children with 'higher level'

needs (e.g. children with alcoholic parents, mental health problems or children from very poor families).

5.3 Impact of project activities

Finding

Project activities had a mainly positive impact on promoting the rights of children in conflict with the law. However, the end of the public defender programme and low quality of subsequent legal service provision, along with the legal provisions on the length of time in pre-trial detention have not had a particularly positive impact on children.

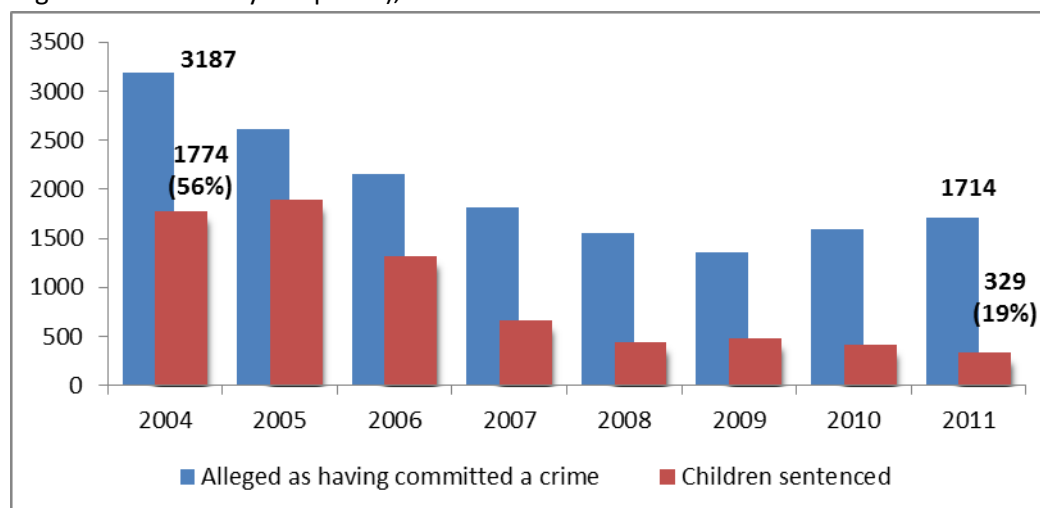
Reasoning

Reduction in the number of children in detention

It is very likely that the project reforms activities have contributed to the significant reduction in the number of children in detention. Provisions on diversion, amendments to the Criminal Code allowing judges more flexibility in sentencing and the adoption of the Law on Probation, which requires probation officers to submit pre-sentence reports, have likely had a big impact on the reduction of the number of children in custody.

- *Increased use of diversion*

The data indicates that the vast majority of cases involving child offenders are now being diverted out of the formal criminal justice system, which has helped to ensure that children are much less likely to receive custodial sentences. Figures for children alleged as having committed a crime (i.e. registered as such by the police), and children sentenced between 2004 and 2011 are as follows:



As illustrated by the above table, the number of children sentenced, of all child suspects, has decreased by 81% between 2004 and 2011. In 2004, 56% of children alleged as having committed a crime have been sentenced. In 2011, only 19% of these children have been sentenced, which could indicate an increase in the practice of diverting children away from the judicial process. However, the cases in which children were registered but were not sentenced includes not only cases that were diverted, but also cases that were dismissed due to a lack of evidence. It is also likely that in a significant number of cases that are recorded as 'sentenced' in the data, diversion measures were applied and confirmed by the judge. According to data provided to researchers by the General

Prosecutor’s Office, in 2010, 430 cases⁸⁰ involving juveniles were ‘sentenced’: 208 sentences were passed, while in 188 cases, the decision was made to terminate proceedings and apply diversion measures: 91 cases applied article 109 of the Criminal Code; article 55 was applied in five cases; article 54 was applied in 18 cases; one amnesty was given and one child was referred to a medical placement. Therefore, it is likely that in an even greater number of cases involving child offenders, diversion measures were applied.

Therefore, it is difficult to determine the extent of diversion. However, it is likely to be quite high. It was reported by the representative of the General Prosecutor’s Office that diversion is being applied in around 50% of all cases involving child suspects. Most frequently, articles 109, 54 and 104 of the Criminal Code are applied.

Data was provided to researchers by the prosecutor’s office in Balti. This data indicates that, in around 50% of cases in 2009 and 32% in the first nine months of 2011, diversion measures were applied.

| | 2009 | 2010 (Jan – Sept) |
|--|------|-------------------|
| Total children who had cases disposed of | 98 | 63 |
| Total children sentenced in court | 50 | 43 |
| Total children diverted | 48 | 20 |

In the vast majority of these cases, article 109 (reconciliation between parties) was applied to divert the child out of the criminal justice system.

The juvenile prosecutor in Leova reported that approximately 70% of juvenile cases now stop at the prosecution stage, as the case is diverted following ‘reconciliation’ (article 109 CPC).

The new provisions on diversion have therefore had a very significant positive impact on children in conflict with the law. A great number of children are now being absolved of criminal responsibility for less serious offences, as required by international law. However, as noted above, the impact of these measures is reduced due to the lack of psycho-social services available in practice where diversion measures have been applied. This inevitably reduces the rehabilitative effect of diversion for children.

- *Use of pre-sentence reports*

While there was no quantitative data available to the researcher to establish whether the use of pre-sentence reports had an impact on the number of children who receive diversion measures or non-custodial sentences, information obtained from interviews with professionals, for instance in Leova and Balti, indicates that pre-sentence reports increase the use of diversion and non-custodial sentences. It was reported by the specialist juvenile probation officer in Leova that, following a pre-

⁸⁰ This figure contradicts the data supplied by TransMonee. This evaluation found that juvenile justice data collection and collation is not uniform or consistent in Moldova.

sentence report submitted to the court recently, the court sentenced a child who was convicted of murder to a non-custodial sentence. Without the report, it was believed that the child would have been given a custodial sentence. The report contained information on the reasons the child committed the offence, and these were relied on by the judge as mitigating factors. It was reported by the IPR trial monitor in Leova that, in every case she has observed, the judge will consider the recommendations of the social inquiry report and will normally follow these recommendations. Since May 2011, no custodial sentences have been imposed in Leova.

Length of time in pre-trial detention

While there was no quantitative data available on the length of time children spend in pre-trial detention, there is anecdotal evidence that children are spending lengthy periods of time (well beyond four months) in pre-trial detention facilities, most commonly while awaiting an appeal.

One child that was interviewed in Chisinau pre-trial detention facility had been in the facility for almost six months. He had pleaded guilty and received a custodial sentence of two years. He was placed in pre-trial detention, as the prosecutor lodged an appeal against his sentence. However, he had also been subsequently charged with additional offences, so it was unclear whether the time in pre-trial detention was for the first series of offences (awaiting the prosecutor's appeal) or the second series of charges. Another child who had been charged with rape had been in detention for 14 months, while preparing for and awaiting his appeal. A child interviewed in Rusca detention facility reported that she had been in pre-trial detention (in Chisinau) for one year and nine months.

It was also reported that pre-trial detention is still being used not only as a last resort (e.g. where the child is a danger to his or herself or to the community). The Chief of Sector at Chisinau pre-trial detention facility reported that there is a lack of social services in the community to respond to children who have higher levels of need (e.g. where parents have substance abuse problems). Where there is a risk to these children in being placed with their parents, judges tend to place them in detention while they are awaiting their trial.

Impact of support to development of non-custodial sentencing options and aftercare

Measures to develop support and services for children who receive non-custodial services in pilot areas appeared to have a positive impact on children. In Leova, it was reported by the BoM, probation officer and IPR representative that having access to a psychologist to work more intensively with children in conflict with the law and their families had the effect of improving parenting and communication skills of parents and that this has had a very positive impact on the behaviour of children. A child interviewed in Leova who was on a conditional sentence reported that, as part of his conditional sentence, the IPR representative helped him get into a vocational school and the BoM and probation officer monitor his attendance at school. He has also been provided with psychological support by the psychologist, which appears to have had a positive impact on his behaviour. He stated that: "we talk about how to behave, how to live in the world...I know now what I did was wrong." He reported that he likes seeing his probation officer, as she is 'kind'.

A child who was interviewed in Lipcani reported that he had received aftercare services by a probation officer and social worker employed at the facility. The child was due to be released from

detention in 15 days after spending six years in prison. The probation officer and social worker had helped him to secure a job on release, which he expressed positive feelings about. He also expressed quite positive feelings about his release generally.

Provision of free legal assistance

The development of specially trained public defenders appeared to have had a very positive impact on children in conflict with the law. While no quantitative data was available to the researcher to measure the impact of legal representation provided by the specialist public defenders, such as a comparison of the rate at which diversion measures were applied and the rate of non-custodial sentences awarded by children represented by these lawyers as compared to other children, information obtained from interviews indicates that these lawyers had a positive impact on outcomes received for child clients and on ensuring that the juvenile justice laws were properly implemented in practice. The former specialist public defender that was interviewed demonstrated a very good level of knowledge not only of relevant laws and procedures, but of the wider social aspects of child offending. She gave an example of a child suspect who was expelled from school as a result of being suspected of having committed a crime. She reported that she discussed the matter with the child's school and the child was re-enrolled into school. She reported that the specialised lawyers also negotiated a lot with prosecutors for the use of diversion measures, and actively encouraged the use of diversion wherever possible. Also, these specialist public defenders implemented informal reconciliation between child offenders and victims to ensure that children could be diverted under article 109 of the Criminal Code.

The specialised legal aid lawyer who was interviewed stated that she was concerned that prosecutors do not ensure that an adult (e.g. a teacher) is present during questioning of a child suspect, in contravention of domestic law. She made objections to the evidence obtained during such interviews being used in court. She reported that this helped to ensure that prosecutors follow the right procedures. She gave another example of a prosecutor using mediation in a case in which a child did not admit guilt (in contravention of domestic law). The defence lawyer sought to have the mediation agreement annulled. She was successful, the case was referred to another prosecutor, and the child was ultimately released.

Due to the discontinuation of the specially trained public defenders for children and the low quality of the services offered by general legal aid lawyers, this component has not had a very positive impact on children in conflict with the law. While, importantly, it appears that all children in conflict with the law are provided with a lawyer at an early stage, the low quality of the general lawyers has minimised the positive impact of this representation. At the Chisinau pre-trial detention facility, for instance, the Chief of Sector reported that, based on an informal review of children's files, lawyers are not providing an effective defence for children in conflict with the law. He gave an example of a very small child who was accused of stealing something very heavy (that he obviously could not have lifted) – in his view, a good defence was obvious based on an examination of the documents, but was overlooked by the lawyer.

A child in Lipcani, convicted of murder, reported that his lawyer missed a deadline for an appeal to be lodged. The child lodged an out-of-time appeal himself, but was not granted the extension by the court, and as a result, he was unable to make an appeal against his conviction.

Children tend only to see their lawyers in court, and this impairs the ability of the child to build up a relationship of trust with the lawyer, and for the lawyer to adequately prepare a defence and other submissions, e.g. relating to diversion / mediation or sentencing. Children interviewed reported that their lawyers (both legal aid and private lawyers) do not respond to their calls, they only tend to see them when they are in court and that they do not visit the children in detention. One child interviewed in Chisinau pre-trial detention facility reported that she did not get to speak to her lawyer at all before appearing in front of the judge. This is a big problem, and will mean that children may not be adequately defended, which may result in an unfair trial, wrongful convictions, or a heavier sentence than appropriate being imposed on the child.

According to interviews carried out with staff at the Children's Ombudspersons office, there is a low awareness of the existence of the Ombudsperson, especially in rural areas. This will inevitably impair the ability for children in conflict with the law to access individual complaints mechanisms.

Improvement of conditions of detention

The support provided for improving detention conditions and providing training to staff in detention facilities has had a positive impact on child detainees. Children interviewed generally gave quite positive feedback about their treatment by staff, and the improvement of detention conditions inevitably has a positive impact on the health and wellbeing of child detainees.

The development of education programmes in detention facilities has been uneven, and has likely had only a minimal impact on children, particularly in Chisinau pre-trial detention facility. Detainees in Lipcani provided quite positive feedback on the vocational programmes and on the quality of teachers in both the vocational and regular school. Though several children reported that they would like to continue education beyond grade 9, but this is not offered.

However, children in Chisinau pre-trial detention facility reported that the educational provision is uneven, and teachers do not always show up. Children appear to do lesson, on average, only once or twice a week for one hour. The girl interviewed reported that she does not get access to the lessons at all (the lessons take place in the boys corridor), and that she would like to receive lessons. Children are therefore, at best, receiving far less education than they would if they were attending a school in the community. This has the impact of severely disrupting a child's education and making it very difficult for the child to return to education on release from pre-trial detention. Children receive lessons by cell; however, they are not divided into cells according to their educational level, but rather their type of offence and age. Therefore, educational programmes do not appear to be individually tailored and do not follow individual assessments of children. This will minimise the impact of these programmes. Educational programmes, to be effective, must be tailored: just teaching the national curriculum may not be sufficient for many children. It was reported that a high proportion of children in detention cannot read or write, and will need specialised lessons. The staff at the prison did, however, report that there is a literacy programme, and a number of other programmes supported by various NGOs (e.g. education about national holidays, sports activities, screening films etc.).

Children detained in Rusca reported that classes are only provided two mornings a week. This very limited educational provision is not likely to have a significant impact on the educational attainment of these children.

The provision of psychologists in detention facilities appears to have had a positive impact on detainees, though this has been limited by there only being one psychologist in each facility, who are required to work with both adults and children. Detainees who were interviewed in Lipcani reported that they are able to speak to a psychologist around once a month. One child reported that it is good to be able to talk to her and that he can talk freely, and that this is helpful. Another child, aged 17, reported that he spoke every day to the psychologist, who has taught him to behave and communicate properly with people. He reported that this has had a good impact and has helped him a lot. He reported that his time in the prison has helped him to 'have respect' and to 'avoid conflict with people' (the detainee had been sentenced to 3 ½ years in detention following conviction for an assault). In addition to scheduled meetings, children reported that they are able to request to see the psychologist if they need to. An 18 year old boy that was interviewed reported that he spoke to the psychologist several times a week on his own initiative and that it was 'useful' and 'good to talk to someone', and that this helped him understand the law and what he should do on his release. In Rusca, one detainee reported that she has only seen the psychologist once in 1 ½ years and would like to see her more. The other detainee reported that she has seen the psychologist 'many times' and that this had helped her.

Prevention of juvenile offending

The lack of programmes and services available to children at risk at the local level likely impairs the ability for the system to reduce rates of juvenile offending and re-offending, and for children at risk to receive the tailored support that they need.

Training

The training has likely had a very positive impact on children in conflict with the law. Training has been instrumental in ensuring that the new legal provisions adopted during the project period are being applied in practice, which has had a very positive impact on children in conflict with the law. The vastly increased use of diversion for instance, as set out above, can be attributed, in large part, to the training sessions. The National Institute of Justice also reported that, following the training seminars, there was an increase in the number of social inquiry reports produced, as judges were found to be requesting them more frequently. They also reported that the training on international standards was helpful and that they are applying the knowledge that they gained during these seminars, for example, when interviewing children.

The training has also had the effect of sensitising professionals, particularly judges and prosecutors, to the psycho-social aspects of child offending and improving interviewing techniques. This has likely had a very positive impact on children. The IPR trial monitor in Balti reported that prosecutors appear to be more and more qualified and better trained, with improved skills in interviewing children.

The training has also likely led to a change in mentality and approach towards children in conflict with the law. Training sessions and seminars have helped promote cross-disciplinary skills (e.g. legal

professionals more sensitive to psycho-social aspects of child offending and more likely to use child-friendly interview techniques, and demonstrated a high level of commitment to rehabilitation / reintegration as the fundamental aim of juvenile justice, rather than punishment). The National Institute for Justice reported that, following training sessions carried out in 2009 and 2010 with prosecutors and judges, which involved visits to penitentiaries, judges expressed concern and frustration at the conditions in which children were being detained. This led to an attitude change among these judges on the suitability of detention for children in conflict with the law. It will likely have the impact of a reduction in the extent of custodial sentences imposed on children.

5.4 Efficiency

As noted above, it is difficult to measure the project's efficiency, as the financial data available to the researcher is presented according to internal UNICEF streams and codes, rather than project-specific categories. It is therefore difficult to effectively monitor the efficiency of project activities according to the project's key components.

5.5 Sustainability

Finding

All of the project components are very likely to be sustainable beyond the life of the project, with the exception of the specialised public defenders. Also, the development of education programmes in detention facilities is only somewhat sustainable.

Reasoning

Legal reforms are, by their very nature, sustainable. It is highly likely that the laws and legal provisions enacted over the project period will continue to apply beyond the project period, without UNICEF support. However, in order to advocate for further legal and policy reforms, it is recommended that UNICEF continue to support the National Council for the Protection of Child Rights and the National Justice for Children Working Group.

The establishment of the **Probation Service** is likely to be sustainable beyond the project period. The Probation Service has been established in law, which will assist in ensuring the Service is effectively embedded into the juvenile justice system, and sustainable beyond the project period. Induction training has also been developed by UNICEF, which will help to ensure that training of probation officers will continue beyond the funding period. However, it was reported that the Service already suffers from a lack of resources and funding, and this will have a negative impact on the extent and quality of services that are offered by the Service should UNICEF be unable to continue to fund any elements of the Service.

Unfortunately, the establishment of **specialised public defenders** was not sustainable. UNICEF advocated for the state to take over funding of the specialised public defenders, but this did not happen, as the state did not allocate the budget to employ the lawyers and pay their salaries. According to a member of the NLAC, the MoJ reported that there was a significant deficit in the legal aid budget and it was unable to take over financial responsibility for the project. As the legal aid budget is reportedly in deficit and there has been a recent increase in cases referred for legal aid from 8,000 a year to 23,000 a year, there are huge funding problems for legal aid.

The improvements to **material conditions in detention facilities** are sustainable, as children will benefit from these inputs well beyond the project period. The provision of support for the development of educational programmes in pre-trial detention facilities is somewhat sustainable. Based on the research conducted at Chisinau pre-trial detention facility, the Ministry of Education now pays the salaries for teachers; however, the extent of educational provision is much less than children who are educated in the community. The psychologists' salaries are also now paid by the government (the Ministry of Justice), which means that this input has also proved to be sustainable.

The support provided to undertake the **study on juvenile delinquency** is likely to be sustainable, as this can be used to inform policy and strategy development beyond the project period. The sustainability of the pilots in Leova and Balti will depend on whether the government will support the 'roll out' these programmes to other rayons.

The in-service **training** sessions have limited sustainability, particularly in juvenile justice institutions that have a high staff turnover (e.g. probation). However, in supporting the development of induction or 'pre-service' training for juvenile justice professionals, UNICEF has helped to create a sustainable system in ensuring that all newly appointed professionals receive training on juvenile justice, beyond the project funding period. Also, the support provided for training of trainers activities is likely to be sustainable, provided that these professionals do not quickly move out of their respective institutions.

6. CONCLUSIONS

Relevance of project activities

All of the project activities are relevant to the aims of bringing law and practice in Moldova into compliance with international law and creating a child-friendly juvenile justice system, which also is in accordance with the human rights based approach to development. However, the legal limit on pre-trial detention has only limited relevance, as it does not apply to children held during trial or while awaiting appeal. The absence of quality standards and indicators for legal representatives also impaired the relevance of this project component. To comply fully with international human rights standards, children must have access to quality legal representation. This is necessary to ensure that children have access to justice and can claim their rights.

Effectiveness of project activities

The project activities were mostly effective in creating a child-friendly juvenile justice system, which complies with international standards. The legal developments had the effect of ensuring greater compliance with international law. Training and support to probation officers and detention facilities has had the effect of ensuring that new legal provisions are operationalised and being used by professionals in practice. However, the effectiveness of the legal provisions on mediation and diversion has been limited by the lack of availability of mediators and of high-level support services for children who are diverted out of the criminal justice system.

Amendments limiting the length of pre-trial detention for children have had only limited effectiveness. The legal limit on pre-trial detention does not apply to children during trial or while

awaiting appeal, and therefore has not addressed the problem of children spending inordinately lengthy periods of time in detention in these circumstances.

The establishment and development of a probation service has been mostly effective in encouraging the use of diversion and non-custodial sentencing; both requirements under international law. UNICEF has ensured good coverage of probation officers throughout Moldova. However, the effectiveness of probation has been undermined by high staff turnovers, very low salaries, and a lack of social work expertise among probation officers. Nonetheless, probation officers have ensured that the number of pre-sentence reports produced has increased, though they are not produced in all cases. Probation officers are able to monitor children who receive non-custodial sentences. However, the social and psychological support services they are able to offer children are quite limited. Simply monitoring children who receive non-custodial sentences will not be sufficient in most cases to ensure that children are effectively rehabilitated, that their unique needs are addressed and that they do not re-offend. The pilot projects in Balti and Leova have been largely effective in ensuring a more 'joined up' approach in the delivery of services for children in conflict with the law, and the placement of psychologists in these projects has been effective in ensuring that these children have at least a general level of social and psychological support.

The provision of aftercare services for children leaving detention is a requirement in international law. Aftercare services have been delivered by probation officers. However, it appears that these services are being effectively delivered in Lipcani, but not in other facilities.

Legal assistance and services provided by the specially trained public defenders was quite effective; however, since the discontinuation of these lawyers, legal assistance and representation provided to children has not been effective, due to the very low quality of these lawyers.

Improvements to the material conditions in detention facilities have been effective in ensuring that these conditions comply with international human rights standards. The effectiveness of the provision of educational programmes in detention facilities has been of limited effectiveness due to the lack of resources and resulting lack of lessons provided to child detainees. Education programmes are also not sufficiently tailored to the individual needs of each detainee. Supporting the placement of psychologists in detention facilities has been somewhat effective. In order for detention facilities to be a rehabilitative environment for children, as required in international law, it is essential that children have access to psychological support. However, as there is only one psychologist in each facility, a child's access to this support will be limited.

Impact of project activities

The project activities have mostly had a very positive impact on children in conflict with the law. A large proportion of children are being diverted out of the formal criminal justice system, which inevitably avoids the negative social and psychological impacts of labelling these children 'criminals'. Children in detention facilities have been positively impacted by vastly improved material conditions, and, to a lesser extent, by educational programmes, psychological support, and aftercare services. The positive impact of the project on children has, however, been impaired by the lack of higher-

level services at the community level for children who are diverted or sentenced to non-custodial measures.

Sustainability of the project activities

Project activities are largely sustainable beyond the life of the project. However, unfortunately, it appears that the establishment of public defenders was not sustainable, and the lack of resources available to probation services will impair the ability for the service to deliver quality support to children in conflict with the law beyond the project period.

7. RECOMMENDATIONS

While the project has been largely effective and had a positive impact on children in conflict with the law, in a number of areas, the project could have been more successful. The juvenile justice system in Moldova now operates, to an improved extent, in compliance with international standards. However, challenges remain. It is recommended that stakeholders consider implementing the recommendations set out below.

UNICEF should be able to ensure that the programme transitions from its focus on 'juvenile justice' to a focus on 'justice for children' quite easily. The Working Group on Justice for Children already adopts this approach and the Strategy for Reform of the Justice System includes child victims / witnesses as well as children in conflict with the law. This Strategy, referred to above, should be used as an entry point for future UNICEF programming on justice for children.

Recommendations have been grouped and prioritised according to the following categories:

- Short-term: should be finalised within one year
- Medium-term: should be finalised within three years
- Long-term: should be finalised within five years

6.1 Improve the collection and collation of data

- **LONG TERM:** Comprehensive data on children in conflict with the law is not collected centrally, analysed and regularly monitored. For example, data is not routinely collected and monitored on the length of time children spend in pre-trial detention. The Government should develop a centralised data collection system on justice for children, using a cross-cutting / inter-ministerial set of indicators and data fields. This could be led by the Ministry of Justice.

6.2 Improve the quality of legal representation for children

- **MEDIUM TERM:** An alternative legal aid provision for children in conflict with the law should be developed and implemented. This could be achieved either by re-activating the specialist public defender programme for children in conflict with the law, or by supporting a accreditation system for specialised legal aid lawyers, which could involve the provision of training and registration of specialise lawyers who may take children's cases. Incentives

should be provided to these legal aid lawyers to encourage quality legal representation for children; for instance, payment (which could be capped) based on the number of hours spent with their clients, rather than for payment following completion of particular legal procedures; 'top up' funding for lawyers for child's cases; or target-based payments (based, e.g. on the extent to which diversion is used). The quality of work on cases involving child offenders should be subject to rigorous and continuous monitoring, with penalties applying where this work does not meet quality indicators.

6.3 Development of Probation Service

- **SHORT TERM:** The Ministry of Justice should establish the Probation Department as a separate, independent Department within the Ministry.
- **LONG TERM:** The Ministry of Justice should support the development of the Probation Service, by providing assistance for the development of a five-year strategy document, and further development and adoption of guidelines and regulations. The Ministry should also support social welfare / psychological training for probation officers, and should work to ensure induction training is developed and implemented, which focuses on social welfare and psychology. It should also consider establishing psychologists in regions other than Balti and Leova to work with probation officers in delivering psycho-social support and services to children who receive diversion measures and children who receive non-custodial sentences.

6.4 Improve access to services for children at risk of offending and children in conflict with the law with high level needs

- **MEDIUM TERM:** The Government should support the development of psycho-social services for children who receive diversion measures. It will not be sufficient for all children in conflict with the law simply to be monitored; many children will require a higher level of support or services to prevent their re-offending and ensure their rehabilitation. Having these services available in practice at the local level will not only assist children and help prevent re-offending, but will also likely encourage the use of diversion measures.
- **SHORT TERM:** A proportion of the state budget should be allocated to the payment of registered mediators. The Ministry of Justice should consider whether the Probation Service would be the best placed institution to implement mediation.
- **MEDIUM TERM:** In regions other than Balti and Leova, the Ministry of Justice should consider supporting the work of a psychologist to work with children who receive a non-custodial sentence modelled on the projects in Balti and Leova. On completion of the pilots in Balti and Leova, a thorough evaluation should be carried out and, based on the result of the evaluation, the Ministry should consider supporting the establishment of prevention programmes in other regions.
- **SHORT TERM:** The Ministry of Justice should support probation officers in developing aftercare services in Rusca and in pre-trial detention facilities.

6.5 Improve educational and psychological services for children in detention

- **SHORT TERM:** The Ministry of Education should increase the budgetary allocation to children in pre-trial detention. Children in pre-trial detention, according to international law, should receive the same amount and quality of education as children in the community. The Ministry of Education should ensure that sufficient teaching staff and materials are available to ensure that each child receives a full-time education. Also, the Ministry should support the development of training materials and guidelines on conducting individual assessments of children to ensure that they receive the right level of education and should support the development of remedial educational programmes for children who need them.
- **SHORT TERM:** The Ministry of Education should develop a procedure to ensure that continuity in education progression is maintained for children who are referred from pre-trial detention facilities to prisons.
- **SHORT TERM:** An additional psychologist should be appointed at each of the detention facilities in which children are detained.

6.6 Shorten length of detention during trial and while awaiting appeal

- **SHORT TERM:** An explicit time limit should be set in law which limits the length of time children may spend in detention during trial and while awaiting appeal. The Ministry of Justice should also support the development of an individual case management monitoring mechanism to measure the length of time each child spends in pre-trial detention, and in detention during trial and while awaiting appeal. Also, a procedure for notification is needed, so that a Judge is made aware when the pre-trial detention limit for each child has been reached.

6.7 Create specialised juvenile court procedures / juvenile judges

- **MEDIUM TERM:** Specialist juvenile judges and specialist court procedures for cases involving children should be designated and developed. However, in order to do this, the case allocation system will need to be changed. It was reported that, according to the designers of the random case management system (Millennium Challenge Corporation), it is possible to build judge specialisations into the digital random case allocation system. The system should be able to allocate cases, within the random allocation system, to specialist juvenile judges. This already works with other specialist courts (e.g. commercial courts, military courts). It was reported that IPR has carried out a feasibility study on the development of specialist juvenile courts, which was supported by UNICEF. It was found that it would not be feasible to establish a juvenile court in every district, as in some districts, there are only four cases involving child offenders a week, on average. However, specialist judges and procedures could be built into the existing court structure, without the need to establish separate specialist courts.

6.8 Prohibit use of solitary confinement

- **SHORT TERM:** The use of solitary confinement contravenes international law, and is harmful to children in detention. A prohibition on the use of solitary confinement should be set out in law, which applies to children in all detention facilities. The Ministry for Justice should investigate and adopt alternative disciplinary measures that could replace solitary confinement, for instance, the removal of privileges, which was been used in Chisinau pre-trial detention facility.

8. **LESSONS LEARNT AND BEST PRACTICES**

The following **best practices** were identified by the researcher:

- The support provided to the Juvenile Justice / Justice for Children Working Group facilitated the legal developments which were the framework for many of the project's positive results. It also appeared to place children's issues on the agenda in government dialogue on general human rights and criminal justice strategy development and planning. Placing a child rights officer within the Working Group was good practice: it allowed UNICEF to work across relevant government ministries (in an inter-ministerial team), build relationships with government policy makers and influence strategy development, policy and law in the promotion of the rights of children in conflict with the law. This was key to ensuring the success and sustainability of the reforms.
- Developing a team of public defenders for children in conflict with the law was good practice; however, it was not sustainable in this particular context. These lawyers provided essential support to children, allowed them to access justice and claim their rights. Also, the lawyers assisted in ensuring that juvenile justice professionals followed the law, and also in entrenching a culture of compliance within juvenile justice institutions (e.g. police offices and public prosecutor's offices).
- The provision of extensive training of juvenile justice professionals was good practice. Legal reforms are necessary to achieving a child rights-compliant juvenile justice system. However, without devoting resources to providing continuous, quality training to professionals, laws will inevitably not be followed and provisions that are new in the Moldovan context (such as diversion), will have been used far less frequently.

The researcher identified the following **lessons learnt**:

- In establishing an access to justice mechanism (e.g. a legal aid service) for children in conflict with the law, quantitative measurements of success are insufficient. The quality of the legal service is highly important. Quality standards and indicators should also be developed and used.
- In order to encourage the use of diversion measures, not only must the power be available in law and understood by relevant juvenile justice professionals, there should also be sufficient social and psychological services available at the local level to respond to the needs of a wide range of children.

- Educational programmes in detention facilities will be limited in effectiveness and impact unless they are capable of being tailored to the needs and standards of individual children and provide the same quantity and quality of education as that available at schools in the community. Quantitative and qualitative indicators and standards should be developed to ensure that educational provision is sufficient.

ANNEX A: UN Committee on the Rights of the Child 2009: Recommendations to the Government of Moldova in regards administration of juvenile justice

72. The Committee welcomes the number of achievements made by the State Party in the area of juvenile justice, including improved access to education for children in detention. The Committee is, however, concerned that there are no alternative procedures to the deprivation of liberty, that children convicted of crimes are held in adult detention facilities, that penalties for serious crimes are still very high, that pretrial detention remains excessive and that the right to due process is frequently violated.

73. The Committee reiterates its previous recommendation (CRC/C/15/Add192) that the State party establish a separate system of juvenile justice fully in line with the Convention. In addition, the Committee recommends that the State party, taking into account General Comment No. 10 on children's rights in juvenile justice (CRC/C/GC/10) and the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20):

- (a) consider the establishment of juvenile courts and the appointment of trained juvenile judges in all regions of the State party;
- (b) ensure that all professionals involved with the system of juvenile justice are trained on relevant international standards;
- (c) consider introducing alternatives to the deprivation of liberty, such as diversion, reconciliation and mediation;
- (d) consider deprivation of liberty only as a measure of last resort and for the shortest possible period of time;
- (e) protect the rights of children deprived of their liberty and monitor their conditions of detention;
- (f) ensure that children remain in regular contact with their families while in the juvenile justice system;
- (g) ensure that a review of detention is made on a regular basis with the aim of reducing it;
- (h) take the holistic approach to addressing the problem of juvenile crime (e.g. by addressing underlying social factors) advocated in the Convention;
- (i) provide children with basic services (such as schooling and healthcare) as well as legal and other assistance at an early stage of the legal proceedings;
- (j) establish an independent, child-sensitive and accessible system for the reception and processing of complaints by children and investigate, prosecute and punish cases of violations committed by law-enforcement personnel and prisons guards; and
- (k) request further technical assistance in the area of juvenile justice and police training from the UN Interagency Panel on Juvenile Justice.

ANNEX B: Relevant justice for children goals and outcomes in national and UN policy and strategy documents

National Development Strategy for Moldova for 2008 – 2011

“The National Development Strategy for 2008 – 2011 is the main internal medium-term strategic planning paper, which defines the development objectives of the Republic of Moldova by 2011 and identifies the priority measures and actions to achieve these objectives.”

Outcomes include: strengthening the juvenile justice system (1.2.3); ensuring decent detention conditions (1.1.5 I); improving legislation on alternatives to detention (1.1.5 V); developing the Probation service (91.1.5 VI); securing free access to justice (1.1.6); and preventing juvenile delinquency (1.1.3 VI).

Strategy for Strengthening the Judicial System and Action Plan for the Implementation of the Strategy for Strengthening the Judicial System, 2007

The strategy was adopted by Parliament in July 2007 as part of the Government’s commitments to European integration. One of the nine components of the strategy is: “streamlining the system of justice for minors”, and the four objectives / activities are: evaluate the needs in terms of staff and infrastructure; reform the law to increase due process and simplify legal proceedings; improve the specialisation of judges and train staff; and set up the infrastructure for a well functioning juvenile justice system (Annex, section 7).

United Nations Development Assistance Framework for Moldova

A key outcome identified in the framework is: “The juvenile justice system strengthened to ensure child friendly procedures in compliance with the applicable international human rights instruments” (1.2.3).

The Framework provides that: “Justice system functioning will benefit from new reform proposals and performance monitoring and assessment systems for the judicial system. Judges, lawyers, and law enforcement officials will be equipped with new skills to administer the justice system, in compliance with international human rights instruments. The juvenile justice system will be strengthened...” (p. 12).

UNICEF Moldova Country Programme Document (CPD) for 2007 – 2011

The Programme Document provides that: “Support will be given to the Government to reform juvenile justice in the areas of legislation, policy and institutional capacity-building. The capacity of professionals will be strengthened to implement the recently established national curriculum on children’s rights, and to mainstream into the justice system alternatives to the deprivation of liberty for children” (para. 28).

ANNEX C: TERMS OF REFERENCE

Final Evaluation of the Project “Reform of the Juvenile Justice System in Moldova”

Background

During the last six years, the number of juvenile prisoners serving sentences has fluctuated between a high of 138 in 2006 and a low of 36 in 2010. This low figure is due in large part to an amnesty in 2008 but, even before, the number of juveniles (boys and girls) serving sentences was 119. There were 39 juveniles in pre-sentence detention facilities in 2010.

UNICEF’s support to the development of juvenile justice began in 2001, with the sponsorship of a series of round-table discussions. In 2002 UNICEF supported the preparation of a situation analysis by a group of national experts, followed by UNICEF support to the government to reform the juvenile justice system. Based on the achieved results, a project was designed and supported by the Swedish International Development Cooperation Agency (Sida). This project, which is the object of the current evaluation, was planned to be implemented over a 4 years period (January 2008 – December 2011).

The project goal is to strengthen the Juvenile Justice system to ensure child friendly procedures in compliance with the applicable international human rights instruments. It also seeks to align the juvenile justice system in Moldova with European standards in accordance with the EU – Republic of Moldova Action Plan and the 2008-2011 National Development Plan (NDP). The NDP explicitly provides for strengthening the juvenile justice system, ensuring decent detention conditions, improving legislation on alternatives to detention, developing the Probation Service, as well as for preventing juvenile delinquency.

The main results foreseen to be achieved by the project were to reduce the total number of children in detention by 30 per cent, to reduce by 50 per cent the length of pre-sentence detention of children and ensure 100 per cent legal representation for all children deprived of liberty.

Project objectives are:

1. Support the completion of juvenile justice reform in legislation, policy and capacity-building;
2. Further develop alternatives to the deprivation of liberty, before and after sentencing, through probation, community service work and mediation;
3. Further develop legal and psychosocial assistance for children in conflict with the law, child victims and child witnesses;
4. Develop appropriate prevention services and programmes.

Both, the overall objective of the project and the main results planned to be achieved are consistent with the outcomes provided by the United Nations Development Assistance Framework (UNDAF) for Moldova for the period 2007 to 2012 and the UNICEF Moldova Country Programme Document (CPD) for the period 2007-2012.

During the project implementation an assessment of the Juvenile Justice Reform has been carried out in 2009 by an independent international consultant with the purpose to determine the progress of the broader reform. The project was evaluated in 2010 as part of the broader evaluation of Sida intervention in social sector in Moldova.

Important partners in project implementation include: Ministry of Justice, the Ministry of the Interior, the General Prosecutor’s Office, the Supreme Court and Superior Council of the Magistracy, the National Council for the Protection of the Rights of the Child, the Department of Penitentiary Institutions, the Probation Service, the Ombudsman for Children, the National Institute of Justice

and the Legal Aid Service. Other partners included civil society organisations, such as the Institute for Penal Reform, Center for Information and Documentation on Child Rights, Interaction etc.

Purpose and use of the evaluation

The reform of the juvenile justice care system evolved, especially through the last 6 years. This project was designed to be the main driver of changes in this area and has produced a number of deliverables throughout the period of its duration since January 2008. Therefore, this evaluation has overall and specific objectives:

The overall objective is to evaluate the results and achievements of the project in relation to the project objectives.

The specific objectives are:

- To evaluate contribution of the project to the juvenile justice reform, including contribution to the development of new policies and legislation in the area;
- To provide insight into the current status of juvenile justice/justice for children system and strategic recommendations for the next steps in the reform process relevant for all engaged stakeholders.
- To evaluate the impact of the reform on children that have been in contact with the law through children's own opinions.

Use of the evaluation results

The evaluation results will be an important source of information for the further policy work and programming.

As UNICEF and the Government of Moldova are starting to plan their joint Country Programme Document, the evaluation will contribute to the formulation of the new Country programme for the period 2013-2017 which will include provisions related to justice for children reform.

Also, it is expected that evaluation results will contribute to formulate the justice for children part in the broader Justice Sector Reform Strategy, planned to be developed in late 2011.

Scope and focus

The scope and focus of the evaluation takes into consideration the following criteria and evaluation questions:

- assessing relevance / To what extent is the Project responding to the priorities defined in the National Development Strategy and National Strategy for Strengthening the Judicial System?

- To what extent the Project inputs were timely and relevant for development of new policies and legislation?
- To what extent does the Project respond to the needs of the target groups?
- To what extent and how the Project took into account existing institutional and human capacities and results of the previous efforts as a basis for planned interventions?
- Were the Project objectives set realistically to be achieved in a given period of time?

- assessing effectiveness / To what extent does the Project meet the outcomes as defined by the Project log-frame?

- Have the planned results been achieved to date (quantitative and qualitative)?
- To what extent and how did the Project respond to the changing external conditions and unplanned (both positive and negative) effects relevant to the planned results? What

strategies have been used to take into account a changing environment? Were these strategies successful?

- To what extent did the project contribute to decreasing the number of children in detention? Are professional capacities of legal staff built to respond to children's needs?
- To what extent and how did the Project respond to changing UNICEF internal conditions (Guidelines on Justice for Children)?
- To what extent did the project contribute to increasing ratio of the children in alternative measures versus those in detention? What is the extent to which children are diverted from the justice system? What do children themselves think about improvements in this matter (has there been improvements? What/what not? Etc). Have the necessary standards / amendments to the relevant by-laws been developed?
- To what extent has the project contributed to the realization of the rights of children in the justice system?

- assessing sustainability / To what extent are the project outcomes achieved, sustainable?

- What is the level of ownership within the Government and what are the prospects for further development of related interventions after the end of external support? To what extent have relevant target groups (the ministries, experts, NGOs, beneficiary groups) been involved in the project planning, monitoring and implementation?
- To what level and how has the project provided links / contributions to the policy level?
- How well is the project contributing to institutional capacities of involved actors / stakeholders? Is the project embedded in system structures / mechanisms? To what extent have the national human (professional / expert) resources at both national and local level been empowered to continue transferring knowledge?
- To what extent the project managed to increase capacity of the child justice system in Moldova? To what extent has the project contributed to creating reform momentum, increasing acceptance of the need and willingness to promote child justice reforms?
- What is the financial / economic viability for sustainability of project outcomes?

- assessing efficiency / To what extent did the management of the project ensure timelines and defined were kept to?

1. How well have the implementation of activities been managed? To what extent are activities implemented as scheduled, how flexible was the project in adapting to changing needs?
 - How well have the financial resources been used?
 - Did the project ensure co-ordination with other similar interventions to encourage synergy and avoid overlaps?

- assessing impact /To what extent and in what way did the project succeed in improving the situation of children in contact with the law, especially the poor, vulnerable and marginalised ones?

Additional criteria to be used assessed to the extent possible are as follows:

- *Coverage*: Which groups have been reached and what is the different impact on those groups? Have vulnerable children been reached, including girls, children from low-income families, ethnic minorities, children left behind due to migration etc.?
- *Coordination*: What was the role of the MoJ and other key justice actors in coordination of the activities? What was the role of UNICEF and other donor agencies?
- *Coherence*: What are areas and ways of cooperation with other UN and donor agencies' in regard to juvenile justice/justice for children goals and objectives? What is the existing national policy on children in contact with the justice system? Is there coherence across policies of different donor agencies and national stakeholders? (this criteria should be assessed to the

extent possible)

- *What do the children in contact with the law think themselves in terms of improvements of their situation, especially the poor, vulnerable and marginalized? What has been improved and what has not been improved? What are their recommendations for the future in this regard?*

In addition to this, the following approaches and issues should be considered:

Assessing human rights-based approach and relevant cross-cutting issues / To what extent do the project outcomes contribute to achievement of children's rights and to what extent have they contributed to addressing key cross-cutting issues?

- Does the project actively contribute to the promotion of child rights?
- To what extent and how the project ensures an non-discrimination and equity focus?
- Is the project gender sensitive?
- Does the project use child participation? How are the views of children being fed back into the project planning and activities?

Assessing potential application of lessons learned / Identify at least three good practice examples and at least five lessons learnt:

- What are the main good practice examples that could be identified? How / where could these examples be used / what are the potentials for replication?
- What are the main lessons learned? What is their relevance for further planning and programming in the field of justice for children/ how can they be linked/taken account of in planning and implementation of other relevant projects, programmes and initiatives? Focus on gender (and human rights) issues should be ensured.

Evaluation process and methods

The evaluation methodology will be guided by the Norms and Standards of the United Nations Evaluation Group (UNEG)⁸¹. The evaluation methodology will be further defined by Evaluation Team.

Stakeholders participation

During evaluation process the following stakeholders will be consulted through interviews and/or focus groups with representatives of target beneficiaries, including children (who are/have been in contact with the law?, particularly focusing on vulnerable children, both girls and boys from different age groups), and their families, legal professionals, Ministry of Justice, the Ministry of the Interior, the General Prosecutor's Office, the Supreme Court and Superior Council of the Magistracy, the National Council for the Protection of the Rights of the Child, the Department of Penitentiary Institutions, the Probation Service, the Ombudsman for Children, the National Institute of Justice, the Legal Aid Service and involved civil society organisations such as Institute for the Penal Reforms, Interaction NGO etc. The identification of relevant representatives from above mentioned stakeholders will be done in consultation with UNICEF CO and the institutional contractor.

Confidentiality: evaluators should be sensitive to beliefs and act with integrity and respect to all stakeholders. In the report evaluators should ensure confidentiality of information regarding

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UNEG Norms:

<http://www.uneval.org/indexAction.cfm?module=Library&action=GetFile&DocumentAttachmentID=1491>

UNEG Standards:

<http://www.uneval.org/indexAction.cfm?module=Library&action=GetFile&DocumentAttachmentID=1496>

individual children. Evaluators may not share findings with media in Moldova or abroad concerning individual children or individual institutions.

Evaluation team composition and qualifications

There are two options:

Option A (preferred by UNICEF): the Institutional Contractor hires the international consultant

Option B: there would be two separate contracts, one for the local institutional contractor and one for the international consultant.

Evaluation team is supposed to be composed from a locally based external institution/ consulting firm (Institutional contractor) and one International consultant. The institutional contractor will provide one national consultant to assist the international expert. The requirements for both international and national consultants are listed below. The local based agency should have a proven expertise in evaluation of projects, policies, formulation of sector plans, planning of programmes and coordination of research work, particularly in justice / justice for children domain.

The Evaluation Team will in the inception phase develop a detailed methodology and a plan of evaluation. The consultants will use the desk review to get familiar with the policy basis, relevant project documents and deliverables of the Project. Existing information sources are listed in this ToR and will be made available to the consultants.

The international consultancy involves 25 working days, including 10 working days in country (one mission) involving field visits to project regions and validation meeting with counterparts.

Accountabilities

Key tasks that Evaluation team is responsible for carrying out are:

- Develop more detailed evaluation methodology and work plan – draft to be submitted to UNICEF for approval, including key instruments
- Desk review of relevant documents and reports
- To conduct field visits to Moldova and meet with selected partners and stakeholders
- De-briefing meeting with UNICEF and other partners
- Prepare the draft report with key findings, recommendations and lessons learned based on all sources of information used
- Based on feed-back provided by UNICEF prepare the final report with all key findings, recommendations (including prioritisation of key strategic recommendations⁸²) and lessons learned following the UNICEF Evaluation Report Standards.
- Prepare presentation and two pages of key findings

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Prioritization of strategic recommendations

The following should be clearly stated in the Evaluation report (i) the intended use (how the evaluation process and results will be used and by whom), and (ii) prioritization of key strategic recommendations.

1. Requirements for effective evaluation recommendations
2. To ensure programmatic and technical relevance, key stakeholders should be consulted during the development of recommendations.
3. The evaluation team should highlight key strategic recommendations, suggesting an appropriate sequencing in the implementation of recommendations whenever possible.
4. Recommendations should be firmly based on evidence and analysis.
5. Recommendations should clearly identify the specific operational units/offices/divisions responsible for its implementation. (If this hasn't been done it should be done in the response.

The International Consultant will be responsible for guiding the evaluation process:

- The development of methodology and evaluation plan and ensuring that inputs provided by the the national consultant and feed-back provided by UNICEF are integrated into final evaluation work plan to be submitted to UNICEF;
- conducting desk review of selected documents / reports in close cooperation with the national consultant;
- conducting field-visit and interviewing key stakeholders / beneficiaries in close cooperation with the national consultant, including taking the key role in preparing for and realizing debriefing with UNICEF and key justice partners;
- compiling the draft report with inputs provided by the national consultant;
- integration of comments / feed-back given by UNICEF into the final evaluation report.

Responsibilities of the local team/ national consultant:

- Assist in the preparatory work of the appraisal in advance of the arrival of the international expert in Moldova
- Assist the international expert in the design of the questionnaires for the interviews (if any);
- Collect and select project documents for evaluation;
- Coordinate and support evaluation activities: focus groups, meetings, etc;
- Brief the international expert about key relevant issues of the national justice/juvenile justice system;
- Gather relevant information and organize this information in English;
- Propose specific recommendations for the respective Ministries, stakeholders;
- Comment on the intermediate and final evaluation reports and provide inputs as appropriate;
- Accomplish other tasks to assist the international expert as required.
- Translate the report into Romanian, have it designed and printed in 2 languages, organise launch

UNICEF programme staff will be accountable for reviewing/approving the evaluation methodology and intermediate and final evaluation results. The institutional contractor will be accountable for coordination of stakeholders' involved, organizing field-visits, focus groups, and other logistical issues such as translation and transportation.

Qualifications

The competencies required from the members of the Evaluation team are the following:

- Technical expertise on juvenile justice/justice for children;
- Experience of conducting project and programme evaluations;
- Good communication and presentation skills / ability to express concisely and clearly ideas and concepts in written and oral form;
- Experience in working with UN / UNICEF (desired);
- Knowledgeable of UN evaluation policy;
- Ability to keep with strict deadlines.

The qualifications and skill areas required include:

International consultant:

- Advanced University degree in related field.
- Expertise in the area of juvenile justice;
- Extensive evaluation expertise and experience;
- Proven knowledge of the region;
- Team leadership competencies;
- Excellent report writing skills;

- Excellent written and spoken English;
- Knowledge of Romanian and/or Russian would be an asset;

National consultant provided by the institutional contractor:

- University degree in related field
- Proven knowledge of the area of juvenile justice / justice for children / child care;
- Experience in project evaluations would be an asset;
- Excellent written and spoken Romanian, fluency in English.

Supervision arrangements

The evaluation will be managed by the UNICEF Country Office, by the Monitoring and Evaluation Officer and Child Protection Officer. The management of the evaluation will include development of the terms of reference, assignment of the evaluation team, liaison between the evaluation team and partners / stakeholders involved, as well as quality assurance of the report.

Procedures and logistics

Time frame for this work assignment is from April until October 2011.

Meetings and field visits will be organized by UNICEF and the institutional contractor.

For international consultant UNICEF premises will be available during the time spend in Moldova if needed. Printer, photocopying services, and other similar services will be provided by UNICEF. It is expected that consultants will bring own laptop.

It is expected that all logistics related to the evaluation will be provided by the local partner contracted by UNICEF Moldova CO. Any specific information - regarding work schedule considerations, special procedures, for example on security, travel conditions and socio-cultural conditions that may influence data collection; reporting requirements apart from products to be delivered will be provided by the UNICEF Moldova CO.

The report – in both its format and content - will have to comply with the UNICEF Evaluation Report Standards, which will be made available to the Evaluation Team at the beginning of the consultancy. The report will have to contain an assessment of the evaluation methodology, including its limitations.

UNICEF reserves the right to withhold all or a portion of payment if performance is unsatisfactory, if work/outputs are incomplete, not delivered for failure to meet deadlines.

ANNEX D: DOCUMENTS CONSULTED FOR DESK REVIEW

UNICEF and United Nations documents:

- Project Proposal
- Project Reports (2008, 2009, 2010) including project outputs
- UNICEF Annual Reports (2008, 2009, 2010)
- UNICEF Country Programme Document (2007-2012) and Mid-Term evaluation (2009),
- Review Report “UNICEF Project on the Reform of the Juvenile Justice System in Moldova”, Gheorghe Caraseni, 2008
- Assessment of juvenile justice reform achievements in Moldova, UNICEF, 2010
- Sida Social Sector Evaluation Report, Sida, draft, 2011
- SG Guidance Note on the UN approach to justice for children
- Committee on the Rights of the Child, Consideration of reports submitted by States parties under Article 44 of the Convention, Concluding observations, second and third periodic report of the Republic of Moldova, CRC/C/MDA/CO/3, 2009
- United Nations, *Manual for the Measurement of Juvenile Justice Indicators*, Office on Drugs and Crime (UNODC) and UNICEF, New York, 2007

Legislation and Government documents:

- National Development Strategy
- National Strategy for Strengthening the Judicial System
- Criminal Code, Law No. 985-XV of 18 April 2002
- Code of Criminal Procedure, Law No. 122-XV of 14 March 2003
- Law on Child Rights, No. 338-XIII of 15 December 1994
- Code on Execution of Criminal Law Sanctions (Chapter 14)
- Action Plan on the Protection of Children’s Rights and Prevention and Combating of Juvenile Delinquency for 2008–2010
- Judiciary System Strengthening Strategy, adopted by the Parliament in Decision No. 174-XVI of 19 July 2007
- National Strategy for Community Action to Support Children in Difficulty for 2007–2009, Government of Moldova and Children’s High Level Group, Chisinau, 2007

ANNEX E: METHODOLOGY

METHODOLOGY AND PLAN FOR FIELD VISIT (19 – 30 SEPTEMBER)

GOALS OF EVALUATION

To evaluate the results and achievements of the project in relation to the project objectives, that is:

- To evaluate contribution of the project to juvenile justice reform, including contribution to the development of new policies and legislation in the area;
- To provide insight into the current status of juvenile justice / justice for children system and strategic recommendations for the next steps in the reform process relevant for all engaged stakeholders; and
- To evaluate the impact of the reform on children who have been in contact with the law through children's own opinions.

PROJECT OBJECTIVES⁸³

- To strengthen the juvenile justice system to ensure child friendly procedures in compliance with the applicable international human rights instruments.
- To align the juvenile justice system in Moldova with European Standards, in accordance with the EU – Republic of Moldova Action Plan and National Development Plan, that is:
 1. strengthen the juvenile justice system
 2. ensure decent detention conditions
 3. improve legislation on alternatives to detention
 4. develop probation service
 5. prevent juvenile delinquency

Priority areas:

1. Continued legal reform
2. Development of the Probation Service
3. Provision of effective legal assistance

Secondary areas:

4. Provision of services to children in detention
5. Prevention of juvenile delinquency
6. Training of juvenile justice professionals

MEASUREMENTS / RESULTS

- To reduce the total number of children in detention by 30%
- To reduce by 50% the length of pre-sentence detention of children
- To ensure 100% legal representation for all children deprived of liberty

⁸³ UNICEF Moldova – Government of Sweden, *Reform of the Juvenile Justice System in Moldova: Project Proposal*, November 2007, p. 3.

DATA COLLECTION METHODOLOGY

Information to be collected

See table below, outlining the type of data to be collected.

How data will be collected

Qualitative data

A desk review will analyse legal and policy developments against international and European standards.

A series of semi-standardised interviews will be carried out with local-level JJ professionals and children who have been in conflict with the law, and a series of unstructured interviews will be carried out with national level representatives. This will allow us to analyse how the reforms have impacted on the operation of the JJ system in practice, and will allow us to assess the extent to which the legal and policy developments have been implemented in practice.

Quantitative data

Quantitative data (central-level collated data would be preferable) will be collected from the relevant institutions in order to examine the extent to which legal reforms have been implemented in practice and the effectiveness and impact of the project activities on increasing the protection of children's rights in the juvenile justice system. Relevant indicators from the UNODC / UNICEF *Manual for the Measurement of Juvenile justice Indicators* will be used and adapted to the Moldovan context.

Interviews to be carried out

National level representatives

- Ministry of Justice
- Ministry of Interior
- General Prosecutor's Office
- Supreme Court and Superior Court of the Magistracy
- National Council for the Protection of the Rights of the Child
- Department of Penitentiary Institutions
- Probation Service – national level representative
- Ombudsman for Children
- National Institute of Justice
- Legal Aid Service

CSOs etc.

- Institute for Penal Reform
- SIDA
- National Council for Free Legal Aid
- University of Moldova Law Department (?)

- Centre for Information and Documentation on Child Rights
- UN Country Team: Human Rights, Justice and Gender sub-group

Professionals working directly with children in conflict with the law

Ideally, it would be good to do a round of these interviews in 2 – 3 different regions / areas, with a mixture of rural and urban locations. Possibly: Chisinau, Balti and / or Leova

- Police officers
- Prosecutors
- Magistrates / Judges
- Probation Officers
- Criminal defence lawyers

Children and detention facilities

- Children in police stations
- Children in pre-trial detention facilities (it would be good to visit two pre-trial detention facilities, if possible)
- Children in post-sentence detention (Lipcani and Rusca)
- Children who are currently undergoing or who have completed measures supervised by the Probation Service: diversion, mediation, community service, supervision orders

5 – 10 children from each facility / probation service would be a good number, with a sufficient mixture of boys and girls.

When visiting pre-trial and post-sentence detention facilities, we will aim to look around the facility and interview some of the staff who are responsible for managing the facility and some who work there (social workers, wardens) and probation officers who are responsible for organising / implementing aftercare for children leaving detention.

Ethical Guidelines

Researchers will follow strict ethical guidelines when collecting data, and particular guidelines will be followed when children are involved. The CCLC Researcher leading the evaluation has expertise in carrying out research with children and young people, including with children in conflict with the law and particularly vulnerable children.

Do no harm and best interests of the child

It is of the utmost importance to ensure that research carried out with children and young people does not cause them harm. The welfare and best interests of the participants will be the primary consideration in data collection. The research will be guided by the UN Convention on the Rights of the Child, in particular Article 3.1 which states: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts or legislative bodies, the best interests of the child shall be a primary consideration.” Due to the sensitivity of the research topics, particular care will be taken to ensure that questions are asked sensitively and in a child-friendly manner that is appropriate to the age of the participants. Clear language will be used which avoids

victimisation, blame and judgement. Where it is clear that the interview is having a negative effect on a participant, the interview will be stopped. Any child protection concerns will be identified and dealt with appropriately (see below).

Voluntary participation

Participation in the study will be on a voluntary basis for adults and children involved. No incentives will be provided. Researchers will explain to participants in clear, age-appropriate language that they are not required to participate in the study, that they may refuse to answer any questions and may stop the interview at any time. Researchers will carefully explain that refusal to participate will not result in any negative consequences.

Informed consent

At the start of all interviews, adult and child participants will be informed of the purpose and nature of the study and request the verbal consent of the participants to conduct the interview. Special effort must be made to explain the nature and purpose of the study in clear, age-appropriate language, where children are being interviewed. Where researchers are not certain that a participant has understood the nature and purpose of the study and the involvement of the participant, they will request the participant to relay the key information back to them. Participants will also be advised that the information they provide will be held anonymously.

Anonymity

For adult participants, while names of interviewees will not be recorded, job titles / positions of interviewees will be recorded at the interview and in the report. Interviewees will be informed of this. Child participants will be told that their identities will be kept confidential throughout the process of data collection as well as in the analysis and writing up the study findings. The following measures will be used to ensure anonymity:

- Researchers will not record the name of participants and will ensure that names are not recorded on any documents containing data collected for the study, including on transcripts of interviews;
- Interviews will take place in a separate room which ensures that the participant's answers are not overheard;
- CCLC will store all data on a secure, locked server, to which persons who are not employed by the Centre cannot gain access. All employees of the CCLC, including volunteers and interns, receive a criminal record check before employment commences; and
- Research findings will be presented in such a way so as to ensure that individuals are not able to be identified.

Addressing child protection concerns

During the interviews, participants may disclose information that raises child protection concerns (i.e. information indicating that they are currently at risk of or are experiencing violence, exploitation or abuse). Prior to the data collection taking place, researchers should be provided with copies of the child protection policies and procedures of each institution from which participants are recruited

and should familiarise themselves with child protection referral mechanisms and child protection focal points. Participants should be advised before the interview or focus group commences that, should any information they provide indicate that they are at risk of abuse or exploitation, then researchers will need to follow the relevant child protection procedures, and should explain these procedures and why they will be used to participants.

Participants will always be interviewed with at least two persons present (two researchers or one researcher and one translator).

Ensuring the physical safety and well-being of researchers and participants

Interviews and focus group discussions will all take place on the premises of the institutions through which participants are recruited into the study (i.e. probation offices, detention facilities). As noted above, participants will always be interviewed with at least two persons present (two researchers or one researcher and one translator).

DATA TO BE COLLECTED

| Priority Areas | Goal/s | Activities / expected outputs | Effectiveness and impact | |
|---------------------------|--|---|--|---|
| | | | Quantitative data | Qualitative data |
| 1. Continued legal reform | Domestic law fully implements international and European standards | <p>1.1 Amendment of CC and CPC to all for comprehensive diversion:</p> <ul style="list-style-type: none"> • Power for imposition of non-custodial educational measures by prosecutor / judge outside formal trial; • Passing of draft law on mediation (procedural requirement in CPC for suspension or cessation of penal proceedings when case is referred for mediation; • Assignment of responsibility for the supervision of prosecutorial suspension to social assistance and probation service, in longer term <p>1.2 Comprehensive review of the work of the Commission for Juvenile Affairs and the amendment of the Regulation of the Commission for Minors</p> <p>1.3 Amendment of CPC re. pre-trial detention:</p> <ul style="list-style-type: none"> • Inclusion in law of duty not to hold an individual in pre-trial detention for longer than strictly necessary for carrying out investigation and for no longer | <p><i>Diversion:</i> Percentage of children diverted out of the formal criminal justice system out of all children arrested since the beginning of the project, disaggregated by age, type of offence, gender, ethnicity, region</p> | <p><i>Desk review:</i> Extent to which domestic laws / amendments have been implemented</p> <p>Analysis of legal developments against international and regional standards to identify contribution of project to ensuring compliance and identify gaps with UNCRC and other international standards (Beijing Rules, Riyadh Guidelines, UN Rules on Juveniles Deprived of their Liberty etc.)</p> <p><i>Interviews with local-level professionals and children:</i> Extent to which the legal developments have been implemented in practice (see interview</p> |

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| | | <p>than maximum time limit</p> <ul style="list-style-type: none"> • Reduction in maximum time limit for which a child may be held in pre-sentence detention to 3 months • Inclusion in law of specific duty to complete the formal trial within a reasonable period; • Inclusion in law of a duty for the court to regularly review the requirement of pre-sentence detention during trial <p>1.4 Passing draft law on probation, with necessary amendments to CC and CPC:</p> <ul style="list-style-type: none"> • Mandatory request of a pre-sentence probation report by the prosecutor • Mandatory presentation of the probation report at trial and requirement for court to take recommendation into account when sentencing • Power for a judge to request and receive a brief preventative measures information report from the probation service prior to making a decision on preventative measures • Power of probation officers to supervise or assist with: prevention of juvenile delinquency, diversion (including | <p><i>Pre-trial detention:</i> Average length of time of pre-trial detention of all children leaving pre-trial detention in a 12 month period (2005 – 2010, if possible), disaggregated by age, type of offence, gender, ethnicity, region</p> <p><i>Probation / alternative sentences:</i> Number of pre-sentence probation reports submitted by probation service since law passed against number of children sentenced, disaggregated by age, type of offence, gender, ethnicity, region</p> | <p>question schedules)</p> <p>Impact of legal developments on beneficiaries (see interview question schedules)</p> |
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| | | <p>prosecutorial suspension); social assistance for children in pre-sentence detention; implementation of alternative measures, including CSW and suspended sentences; social assistance for children sentenced to detention, including preparation for release and provision of suitability-for-release reports to the court; and reintegration and rehabilitation following release from detention.</p> <p>1.5 Extension of the possibility to apply alternative sentences, including extending the application of a suspended sentence to repeat offenders</p> <p>1.6 Introduction of requirement for the court that imposes a sentence on a child to be responsible for active review of the sentence, together with mechanism for petition for review of the sentence by the child or his/her representative</p> | <p>Percentage of children who receive non-custodial sentences, of all children sentenced, during a 12-month period (2005 – 2010, is possible), disaggregated by age, type of offence, gender, ethnicity, region</p> | |
| <p>2. Development of probation service</p> | <p>To reduce the total number of children in detention by 30%</p> <p>To reduce by 50% the</p> | <p>2.1 Advocate through the Juvenile Justice Working Group, for the passing of the draft law on probation, which should:</p> <ul style="list-style-type: none"> • Establish a probation service that | <p>Number of children entering detention facilities (pre-trial and post-sentence) over a 12-month period from 2005</p> | <p><i>Interviews with probation officers, police, magistrates, defence lawyers and children: quality and</i></p> |

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| | length of pre-sentence detention of children | <p>is an independent department within the Ministry of Justice;</p> <ul style="list-style-type: none"> • Transfer the functions of the Enforcement’s Department alternative sentences section and the social workers of the Penitentiary department responsible for reintegration to the new probation service department <p>2.2 Contribute to the development of the PS by ensuring that:</p> <ul style="list-style-type: none"> • Probation Officers employed by IRP within pilot projects are transferred to MoJ • Probation Officers, in addition to responsibility for preparing pre-sentence reports, and supervision of CSW and suspended sentences, are progressively responsible for: preparation of a brief preventative measures information report within 24 hours of arrest to be provided to the judge; • Supervision of and provision of social assistance to children receiving prosecutorial suspension; provision of social assistance to children during non-custodial preventative measures; social assistance to | <p>until 2010, disaggregated by age, type of offence, gender, ethnicity, region</p> <p>Average length of time of pre-trial detention of all children leaving pre-trial detention in a 12 month period (2005 – 2010, if possible), disaggregated by age, type of offence, gender, ethnicity, region</p> | <p>effectiveness of probation office services</p> <p><i>Interviews with probation officers, police, magistrates, defence lawyers and children: quality and effectiveness of probation office services</i></p> <p>Quality and timeliness of pre-sentence and preventative measures information reports</p> |
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| | | <p>children released from detention</p> <ul style="list-style-type: none"> Extend the probation activities to the penitentiary system, including Lipcani (for boys). In particular: probation activities in Lipcani to focus on provision of social assistance to children in advance of release from Lipcani detention centre and coordination of social reintegration and rehabilitation of children thereafter; Probation Officers in Lipcani will seek to work with the penitentiary commission responsible for recommendations for early release of children. Advocate for effective cooperation between local authorities providing places of work for CSW and district Enforcement officers | <p>Percentage of children, of all children released from prison, who receive aftercare services over a 12 month period from 2006 – 2010, disaggregated by age, type of offence, gender, ethnicity, region</p> | <p><i>Interviews with probation officers, staff of Lipcani and children in or having left Lipcani detention centre:</i> Quality and effectiveness of aftercare services provided to children leaving Lipcani detention centre</p> |
| <p>Provision of effective legal assistance</p> | <p>100% of children deprived of liberty have legal representation</p> | <ul style="list-style-type: none"> Support the identification, initial training and continued refresher training of a pool of ex-officio lawyers able to act in cases of children in conflict with the law; Ensure, through cooperation with the National Bar Association, Ministry of Justice and Public Defence Institute (established by IRP and Soros Foundation) that an ex-officio lawyer from this pool is | <p>Percentage of all children deprived of liberty over the past 12 months, who have a legal representative, disaggregated by age, type of offence, gender, ethnicity, region</p> | <p><i>Interviews with children, defence lawyers, prosecutors and judges / magistrates:</i> Quality and impact of legal representation (length of time spent with each child, communication with children, preparation</p> |

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| | | <p>appointed as soon as possible after the arrest of a child and, in any event, prior to the hearing.</p> <ul style="list-style-type: none"> • Support the quality of legal assistance provided by the pool of ex-officio lawyers by providing additional payments to such lawyers on a case-by-case basis, either through the use of 'top-up' or increased fees, or by ensuring the expedient payment of fees • Support visits to lawyers from this pool to places of detention for monitoring purposes by facilitating contact between lawyers and the Penitentiary Department, and providing travel costs. | | time allocated etc.) |
| Provision of services to children in detention | | <ul style="list-style-type: none"> • Pay one full time teacher in each of the four pre-sentence detention facilities in Moldova to provide structured education for a period of two years • Provide educational materials and equipment to each of the detention centres concerned • Advocate for the continuation of payment of the salaries of such teachers by the Penitentiary Department at the end of this period • Support the development of a specialised educational program and materials for children in pre- | Percentage of children, of all children in detention, who have access to education, over a 12 month period (from 2005 – 2010, if possible) | <p><i>Interviews with staff and children at detention centres:</i> Quantity and quality of education provision (including teaching, equipment and materials)</p> <p><i>Interviews with staff and children at Lipcani and Rusca:</i> Services available for children in detention in practice and quality and accessibility of the</p> |

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| | | <p>sentence detention, having regard to the range of ages, abilities and average length of stay in pre-sentence detention</p> <ul style="list-style-type: none"> • Support existing staff working with pre-sentence detention facilities, Lipcani detention centre, and Rusca (women and girls) detention centre by: providing training on the psychosocial needs of children in detention and in preparation of their release; and assisting in the development of appropriate psychosocial programs and resource materials that can be integrated into the regular facility regime. • Improve physical detention conditions for children in all detention institutions in which children are detained – 4 pre-sentence places (Chisinau, Balti, Cahul, Rezina) and 2 execution penitentiaries (Lipcani and Rusca) | | <p>services</p> <p><i>Observation and interviews with staff and children in Lipcani, Rusca and at least two pre-trial detention centres:</i> Material conditions in the detention centres – do they meet international standards?</p> |
| Prevention of juvenile delinquency | | <ul style="list-style-type: none"> • Conduct research that identifies: the reasons for conflict with the law amongst children; and the relevant protection and prevention services for vulnerable children and options for cooperation at community level that could help to prevent delinquency amongst children, | Number of children arrested in a 12-month period from 2005 – 2010, disaggregated by age, type of offence, gender, ethnicity, region | <p><i>Interviews with national-level representatives:</i> Influence of research on government policy and practice</p> <p><i>Interviews with national-level</i></p> |

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| | | <p>particularly at risk and children who have been diverted.</p> <ul style="list-style-type: none"> • Advocate for the development of a multi-disciplinary service such as a 'child offending team' or 'family assistance centre' that could direct children and families to appropriate community-based services at the pre-offending or early-offending stage | | <p><i>representatives and local-level professionals:</i> Existence and quality of prevention services</p> |
| Training of juvenile justice professionals | | <ul style="list-style-type: none"> • Monitor the use of the JJ Training Manual within in-service training programmes and provide refresher training to national trainers on juvenile justice • Organise additional periodic training seminars on particular priority areas of law and practice, such as the use of pre-sentence detention • Ensure that relevant provisions of national law are included and up-to-date within in-service training programmes by offering further technical assistance in the development of training curriculum • Strengthening the capacity of the Law Department within the State University of Moldova to teach children's rights | Number and type of professionals provided with training | <p><i>Interviews with local-level professionals:</i></p> <p>Quality of training delivered</p> <p>Impact and effectiveness of training (level of knowledge of JJ standards, norms and laws)</p> |

ANNEX F: SCHEDULE OF INTERVIEWS CONDUCTED DURING FIELD VISIT

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| National-level (government) | <p>Ministry of Justice (Head of General Department of Legislation) National Institute of Justice (Executive Director, Deputy Director and Chief of Section for Continuous Training) Ombudsperson for Children (Head of Department for Protection of Children’s Rights and Counsellor of the Ombudsman for Children) National Council for the Protection of the Rights of the Child (Secretariat) Lawyers specialised on children’s cases (lawyer) Probation Service (Deputy Head) National Council for Free Legal Aid (Head) General Prosecutor’s Office (Head of Unit, Minors and Human Rights) Department of Penitentiaries (Deputy Head of Directorate for Educational, Psychological and Social Assistance Activities)</p> |
| National-level (other) | <p>UNICEF expert, Justice for Children Centre for Information and Documentation on Children’s Rights Institute for Penal Reform SIDA</p> |
| Penitentiaries | <p><i>Penitentiary No 13 (pre-trial, Chisinau):</i></p> <p>Chief of Sector Chief of Education Service Psychologist 2 boys (16 and 17 years) 1 girl (17 years)</p> <p><i>Lipcani Penitentiary:</i></p> <p>Chief of Section Psychologist Deputy Director of Vocational School Head Teacher and two Teachers 4 boys (22, 17, 18 and 19 years)</p> <p><i>Rusca Penitentiary:</i>⁸⁴</p> <p>Deputy Head of Penitentiary 2 girls (16 and 18)</p> |

⁸⁴ Both the psychologist and educator were absent on the day of the visit, so researchers were unable to interview these professionals.

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| <p>Rayon-level juvenile justice professionals</p> | <p><i>Balti:</i>⁸⁵</p> <p>Child Protection Commission (Secretary) Prosecutor's Office (Head Prosecutor, 1 juvenile prosecutor, 2 general / juvenile prosecutors) Institute for Penal Reform: Monitor in children's cases Bureau on Minors (Chief of Bureau) District Court Judge (Interviewed in Chisinau)</p> <p><i>Leova:</i>⁸⁶</p> <p>Bureau on Minors (Chief of Bureau) Probation Office (Head of Office) Institute for Penal Reform (Head and monitor in children's cases) Prosecutor Children on probation (1 boy, 16 years)</p> |
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⁸⁵ In Balti, researchers were unable to meet with any Probation Officers

⁸⁶ In Leova, researchers were unable to meet with a Judge

ANNEX G: OBSERVATIONS FROM VISITS TO DETENTION FACILITIES

1. Chisinau pre-trial detention facility (Penitentiary No, 13)

The detention facility holds both child and adult detainees. Boys are held in four cells in a separate floor of a building in the compound, and will be separated into cells according to their type of offence and age. The corridor has capacity to hold 24 boys (6 per cell), and there are offices for staff in the rooms opposite the boy's rooms. Girls are held together with adult women detainees in a separate wing to the adult male and boy detainees. There were 17 children detained on the day of the visit (1 girl and 16 boys), ranging in age from 15 – 17 years. It was reported that in the past two years, the maximum number of children detained at any one time was 25, which is a contrast to several years ago, when it was not uncommon for 70 children to be detained at any one time.

The materials conditions of the facility appear to have improved since the most recent juvenile justice evaluation published in 2010, which described the conditions in the facility as “inhuman”.⁸⁷ The children's cells have been refurbished since this evaluation, and appear to be in better condition. Perhaps most significantly, new toilets have been fitted, and toilets are now contained in a completely enclosed room within each cell. Each detainee had a bed (in bunks) and mattresses and bedding appeared to be in fairly good condition. Detainees had items of personal property in their cells. Some of the cells had televisions. However, it was noted that heating does not work properly, and that it can get quite cold in winter. Showers are in a separate room, and detainees reported only having access to showers once a week, which is not hygienic. Detainees receive three meals a day. There is a separate room that is used as a classroom. The classroom is in good condition, with desks, chairs, a blackboard and textbooks and other materials. The classroom was developed with funding from UNICEF.

The children interviewed gave quite positive feedback about their treatment by staff. It was reported by the Chief of Sector that there have been ‘some’ (but not ‘many’) reports of physical violence and abuse, and that physical force will only be applied to detainees by staff as a matter of last resort. For example, the week before the visit, there was a case in which a guard applied physical force against a child, as the child had a blade and was intent on cutting himself. The child was then placed in a separate cell for two and a half hours to calm him down and the psychologist spoke to the child. He was then placed back into his usual cell. In all cases in which physical force is applied, the prison staff must inform medical officers, the Ombudsperson and the Department of Penitentiary Institutions.

Children may make complaints, both to the prison administration (internal) and to external institutions. There are two boxes in every corridor in which children can place complaints either to the prison administration or external institutions. A post officer collects the mail directly from these boxes. The post is not monitored by the prison administration, unless there is a suspicion that mail contains a prohibited item.

The facility will be monitored once a week by either: the Department of Penitentiaries, the General Prosecutor's Office, the Centre for Human Rights or the Ombudsperson. These bodies can issue

⁸⁷ UNICEF Regional Office for Central and Eastern Europe/Commonwealth of Independent States, *Assessment of Juvenile Justice Reform Achievements in Moldova* (2010), p. 32.

recommendations, which the prison will be given some time to implement. According to the children interviewed, persons carrying out monitoring visits will not speak to any children one-to-one, but will briefly visit the cells and ask all of the children if everything was OK.

According to the Chief of Sector, lessons take place from 11am – 3pm twice a week, and lessons follow the national curriculum. Lessons are conducted by two teachers who are employed by the Ministry of Education, and come from a local community school. Currently, lessons are provided in maths, physics, and the Romanian language. It was reported that a new teacher is to be employed shortly, to provide lessons in geography and history. There are plans, supported by Norlam, to develop sports sessions and provide televisions and playstations for detainees. Televisions will be used as incentives for good behaviour, with access being denied for bad behaviour. This was cited as an alternative to solitary confinement, which was recently banned at the penitentiary. It was reported that solitary confinement was banned three months ago. The impetus for this was the advocacy visit, supported by UNICEF, of the French ex-Ministry of Justice. Following this visit, during which the use of solitary confinement was raised as a problem, the facility's management banned the use of solitary confinement.

There is also a literacy programme, and a number of other programmes supported by various NGOs (e.g. education about national holidays, sports activities, screening films etc.). Illiteracy was reported to be widespread among children in conflict with the law (including in particular, children in detention).

Children receive lessons by cell; however, they are not divided into cells according to their educational level, but rather their type of offence and age.

A psychologist visits the children in detention every day. However, there is an insufficient number of psychologists for the number of detainees. There are only two psychologists for all 1,000 detainees and no specialist psychologist for children. According to the children interviewed, the psychologist will visit their cells every day to speak briefly with all of them. If they would like to see the psychologist one-to-one, they may request this.

Children can only spend time outside for two hours a day. The rest of the time, when they are not attending lessons, they spend locked into their cells. On the day of the visit, children were sleeping or lying around in their rooms and appeared to be very bored, unmotivated and at a loss for what to do.

There is no aftercare support provided to children leaving the detention facility. Children will either be transferred to Lipcani prison (where they have been convicted and sentenced) or will be taken home. If the child turns 18, they will be transferred to an adult penitentiary. According to the Chief of Sector, Probation Officers do not provide aftercare support to children leaving pre-trial detention, as their priority is to adult detainees. They are under a legal obligation to assist adults to find a job on being released from detention, and they do not have this obligation in relation to children.

2. *Juvenile detention centre in Lipcani*

The juvenile detention centre is contained in a separate building within a large compound that holds both adult male detainees and boys. Boys are held in a separate building within the enclosure. There were 53 boys detained at the facility on the day of the visit, across three large rooms. All rooms were quite clean and in reasonably good condition, all children slept on beds, however mattresses were quite thin and there was not a lot of natural light in the bottom two rooms. Detainees had a number of personal items on their beds. The detainees are never locked into their rooms. They eat three times a day, and detainees described the food as 'OK', and they have access to showers only once a week (not with adult detainees). Children who were interviewed gave quite positive feedback on their treatment by the prison's staff, describing the staff as 'good and 'kind'.

Children and adults have access to various vocational training programmes. Currently, programmes are offered in woodwork, mechanics and construction / building. Training programmes take place from 8am – 12am every week day, but not during the summer months, and programmes take 8 months to complete. Vocational training programmes take place in a separate building on the premises, and training programmes operate as part of a separate training institute. There are four rooms for vocational training, all containing equipment. However, the equipment appears to be quite dated and it was reported that there is a lack of manuals. There are also no computers, so training programmes in computing cannot be offered.

On completion of vocational training programmes, detainees receive a certificate that is not marked as having been awarded by the detention facility or the Department of Penitentiaries. The training programmes are optional, and detainees can choose which course, if any, they will complete. Children are elect to complete all vocational programmes if they wish. There is also a school on the premises, which is under the control of the Ministry for Education. The national curriculum is taught: grades 7, 8 and 9, every week day afternoon. Detainees who were interviewed provided quite positive feedback on the vocational programmes and on the quality of teachers in both the vocational and regular school. Though several children reported that they would like to continue education beyond grade 9, but this is not offered. Children also take part in sporting activities, such as football games.

Children can also take part in a range of work activities, for which they may receive a reduction in their sentence. According to children interviewed, they will be paid around US\$30 a month and will receive a reduction of 5 days to their sentence for every month of work completed.

Children can also carry out a range of farming and horticulture activities, and there are crops and animals (mainly chickens) within the compound. Children also take part in cultural and artistic activities, such as preparing for, and putting on events for national holidays. However, there is a lack of resources for some activities that the staff would like to run (e.g. there are no musical instruments). There is also a church on the premises.

There is only one psychologist at Lipcani prison, and she must support all detainees (adults and children alike). There is also a social worker employed at the prison. The psychologist reported that she had just returned from maternity leave and was preparing to make psychological assessments of all detainees through interviewing and using a range of forms and tools. One – two detainees are

being assessed every day. The process was reported to be quite slow, as a significant number of detainees cannot read or write, and this slows the process down. Detainees carry out group sessions on such topics as self-control and behaviour management. Where a detainee is identified as being 'at risk', for example, where he has depression, he will be given specialist sessions. The psychologist had attended a number of training sessions, some of which were supported by UNICEF. Training has covered many issues, including obligations, how to make a character assessment, how to communicate with children and so on. She recently attended a one-day seminar organised by UNICEF. She reported that the training was 'very important' and useful and helped her to improve her work with detainees, and provide better counselling. She reported that she employed new skills acquired during training sessions (interviewing detainees, using entertainment activities as therapy etc.) following the training sessions, and that the child detainees have responded well to these skills and initiatives. Detainees who were interviewed reported that they will be able to speak to a psychologist around once a month. One child reported that it is good to be able to talk to her and that he can talk freely, and that this is helpful. Another child, aged 17, reported that he spoke every day to the psychologist, who has taught him to behave and communicate properly with people. He reported that this has had a good impact and has helped him a lot. He reported that his time in the prison has helped him to 'have respect' and to 'avoid conflict with people' (the detainee had been sentenced to 3 ½ years in detention following conviction for an assault). In addition to scheduled meetings, children reported that they are able to request to see the psychologist if they need to. An 18 year old boy that was interviewed reported that he spoke to the psychologist several times a week on his own initiative and that it was 'useful' and 'good to talk to someone', and that this helped him understand the law and what he should do on his release.

Detainees can see visitors, and visits can be either of short-term or long-term duration (1 – 3 days). There are five visitor rooms in a separate corridor and a kitchen and bathroom, where detainees can stay with their visitors.

Probation Officers will help prepare detainees for release. A Probation Officer will visit the Penitentiary once a week to assess and prepare detainees for release. However, according to staff at the prison, due to the remote location of the prison (outside the town centre), and the lack of transport available to Probation Officers, they tend to visit the prison only once every two – three weeks. This process will commence six months before the detainee is scheduled to be released. Probation officers will work with social services to provide support to children who need assistance finding accommodation or employment. According to the prison staff, social services will mediate with a child's family, or secure a child a place at an orphanage or a placement centre for adults. Probation will also place information and relevant contact details within the prison for the use of detainees. According to the staff at the facility in Lipcani, prior to the establishment of the Probation Service, detainees were not provided with aftercare services. Now, probation officers are aware of the needs of child detainees well before their release, and this has helped to ensure a continuity of services and support for children. The psychologist reported that the probation officers are quite effective in their provision of aftercare services. Comparing their work between 2008 (at which point she went on maternity leave) and now, the probation service has improved. Training that the psychologist has attended has allowed her to understand better the role of probation officers, and to identify which institution is responsible for which duty.

According to one child who was due to be released from detention in 15 days after spending six years in prison, the social worker had helped him to secure a job on release, which he was quite positive about. He also expressed quite positive feelings about his release generally.

If a child turns 18 while detained at Lipcani, the court will decide where to place the detainee. According to the facility's staff, the vast majority of children remain at Lipcani until they turn 23.

Complaints may be made either to the prison administration or to the General Prosecutor's Office. According to staff, there have been many complaints filed, but not many have been found to be genuine. Post boxes are provided for both. Detainees demonstrated a good level of knowledge of how to make complaints.

Solitary confinement can be used for up to 7 days as a disciplinary measure. The solitary confinement cells are located in a separate building in the compound. On the day of the visit, one adult detainee was in solitary confinement. He had a bed and toiletries in the room with him. One child who was interviewed had been placed in solitary confinement twice during his six years at the prison: once for 7 days and one for 5 days. He reported that he was placed in solitary confinement for hitting his teacher. He described the room as very small, and reported that he was made only to sit, and was only permitted to be outside for two hours a day.

3. Rusca Women's Penitentiary

Rusca women's penitentiary has a capacity of 300, and there were 283 female detainees in the facility on the day of the visit, including two girls under the age of 18. The facility has 101 members of staff (around 50% of whom are female), including a psychologist, physician (who was on maternity leave at the time of the visit), and an empty post for a gynaecologist. Children are held in a separate room in a corridor with adult detainees (most of whom are elderly women). Detainees are kept in cells and rooms which are contained in buildings around a large compound. There is a separate bathroom, which can be accessed at any time. Rooms each have two bunk beds, a wardrobe, table, mirror, personal effects and some have TVs and DVDs (which are the detainee's own). There is also one TV for common use. Detainees have three meals a day, and the children interviewed reported that the food was 'OK'. Both of the girls who were interviewed were quite positive about their treatment in the prison, though one reported that some of the adult detainees do not treat her well, and use abusive language against her, and another reported that it is 'freezing' in the prison in the winter months.

There is also a special unit for women detained with children (up to the age of 3 ½ years). This unit is clean, with suitable furniture, a kitchen, bathroom, laundry and outside playground, built with UNICEF funding in 2008.

There are three different 'regimes' in the Penitentiary, differentiated by the level of restriction on the movement of detainees: initial, common and re-socialising. All detainees are, on arrival, placed on the initial regime, where they spend two hours every day in an outdoor cell and can wander about the compound only with guards. During the 'common' regime, detainees are kept in rooms which are not locked, and can travel about the compound without guards.

Detainees may undertake work from 8am – 5pm Monday to Friday, tailoring (making military uniforms) and other tasks, such as food preparation, cleaning and agricultural work. However, child detainees are not involved in this work. Primary school lessons are provided to the child detainees by a two teachers from a local village school. Classes are provided up to grade 9. The Ministry of Education pays the salaries of these teachers. Lessons are provided between 8am and 12am two days a week.

A psychologist is employed at the prison; however, there is only one psychologist for all detainees, and no specialist child psychologist. One detainee reported that she has only seen the psychologist once in 1 ½ years and would like to see him more. The other detainee reported that she has seen the psychologist ‘many times’ and that this had helped her.

Detainees can also take part in vocational training, and courses are offered in computing (there is a well-resourced computer room); tailoring and beauty therapy / hairdressing. There is a library stocked with books, newspapers and magazines donated by charities. There are also two churches on-site: one Orthodox and another for other denominations.

The disciplinary measures are set out in an enforcement code, and include: a warning; chores / work; solitary confinement (up to seven days); and a declaration that will result in the detainee being placed back into a previous ‘regime’.

Complaints may be made to any guard, who must report this to the prison’s administration, and detainees can send external complaints to other institutions. The detainees, however, reported that they did not know how to make a complaint (though they had never wanted to).

The Deputy Head of the prison reported that aftercare services are inadequate. Probation officers attend the prison at least twice a month, but the service they are able to provide is limited.